



Office of the City Clerk

City Hall
121 N. LaSalle St.
Room 107
Chicago, IL 60602
www.chicityclerk.com

Legislation Text

File #: O2015-4710, Version: 1

COMMERCIAL ORDINANCE

WHEREAS, the City of Chicago ("City") is a home rule unit of local government pursuant to Article VII, Section 6 (a) of the 1970 constitution of the State of Illinois and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, the properties at 1200-1232 N. Clark , 1201-1207 N. LaSalle , 100-114 W. Division and 118-130 W. Division are owned by Jewel Food Stores, Inc., an Ohio corporation; and

WHEREAS, Jewel Food Stores, Inc. proposes to use the portion of the alley vacated herein, at a plane at and above 20' above grade (34.81' above Chicago City Datum), for construction of a mixed use thirty-five (35) story building; and intends to use the area below that plane 20' above grade for a perpetually open public way easement for ingress and egress, both as more fully described in the Easement Agreement attached hereto and made a part hereof as Exhibit A; and

WHEREAS, the City Council of the City of Chicago, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be subserved is such as to warrant the vacation of part of public alley, described in the following ordinance; now therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:

SECTION 1.

THAT PART OF A NORTH-SOUTH 18 FOOT WIDE PUBLIC ALLEY LYING EAST OF LOT 16 AND LYING WEST OF LOT 17, IN CHICAGO LAND CLEARANCE COMMISSION NO. 3, BEING A SUBDIVISION IN THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 30, 1962 AS DOCUMENT NO. 18461871, APRIL 30, 1962 AS DOCUMENT NO. 18461872, AND MAY 4, 1962 AS DOCUMENT NO. T-2032004, IN COOK COUNTY, ILLINOIS, AND BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 16; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 16, SAID LINE BEING ALSO THE WEST LINE OF SAID NORTH-SOUTH 18.0 FOOT WIDE PUBLIC ALLEY, A DISTANCE OF 31.0 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 51 MINUTES 23 SECONDS EAST, 18.00 FEET TO A POINT IN THE WEST LINE OF SAID LOT 17, SAID WEST LINE BEING ALSO THE EAST LINE OF SAID NORTH-SOUTH 18.0 FOOT WIDE PUBLIC

ALLEY;

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THENCE SOUTH 00 DEGREES 01 MINUTES 25 SECONDS EAST, ALONG SAID WEST LINE OF LOT 17, 69.67 FEET; THENCE NORTH 89 DEGREES 50 MINUTES 50 SECONDS WEST, 18.00 FEET TO A POINT IN THE EAST LINE OF LOT 16; THENCE NORTH 00 DEGREES 01 MINUTES 25 SECONDS WEST, ALONG SAID EAST LINE OF LOT 16, 69.67 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS AND CONTAINING 1,254 SQUARE FEET (0.0288 ACRES) MORE OR LESS. THIS LAND DESCRIBED HEREIN IS SUBJECT TO AN INGRESS / EGRESS EASEMENT BELOW THE HORIZONTAL PLANE AT 34.81 FEET CITY OF CHICAGO DATUM FOR UNIMPEDED VEHICULAR AND PEDESTRIAN PUBLIC TRAFFIC, THE TERMS OF WHICH ARE MORE FULLY DESCRIBED IN THE ORDINANCE AUTHORIZING SAID VACATION as shaded and legally described by the words "HEREBY VACATED" on the plat hereto attached as Exhibit B, which drawing for greater clarity, is hereby made a part of this ordinance, be and the same is hereby vacated and closed, inasmuch as the same is no longer required for public use and the public interest will be subserved by such vacation.

SECTION 2. The Commissioner of Transportation is hereby authorized to accept and approve a redevelopment agreement, reservation of easement agreement, or similar instrument restricting the use and improvement of the public way vacated in Section 1 of this ordinance to a perpetual easement for continued, unimpeded, open public pedestrian and vehicular access below the limiting plane depicted on the attached Plat of Vacation herein made part of this ordinance, and for such use and improvements that are accessory, as that term is defined in the Chicago Zoning Ordinance, subject to the approval of the Department of Transportation, and the Corporation Counsel as to form and legality.

SECTION 3. The City of Chicago hereby reserves for the benefit of The Peoples Gas Light and Coke Co. an easement to operate, maintain, repair, renew and replace existing underground facilities and to construct new facilities in all of the area to be vacated, with the right of ingress and egress at all times for any and all such purposes. It is further provided that no buildings or other structures shall be erected on said easement herein reserved for The Peoples Gas Light and Coke Co. or other use made of the said area which would interfere with the construction, operation, maintenance, repair, removal, or replacement of said facilities, or the construction of additional facilities. Any future vacation-beneficiary prompted relocation of Peoples Gas facilities lying within the herein vacated will be accomplished by Peoples Gas, and done at the expense of beneficiary of the vacation.

SECTION 4. The City of Chicago hereby reserves for the benefit of Commonwealth Edison, AT&T/SBC and RCN, their successors or assigns, a non-exclusive utility easement to operate, maintain, construct, replace and renew overhead wires, poles, and associated equipment and underground conduit, cables, and associated equipment for the transmission and distribution of electrical energy, telephonic and associated services under, over and along the alley herein vacated, with the right of ingress and egress. The grade of the vacated public way shall not be altered in a manner so as to interfere with the operation and maintenance of Commonwealth Edison, AT&T/SBC, and /or RCN facilities. No buildings, permanent structures or obstructions shall be placed over Commonwealth Edison, AT&T/SBC, and /or RCN facilities without express written release of easement by the involved utility. Any future vacation-beneficiary prompted relocation of

Commonwealth Edison, AT&T/SBC, and /or RCN facilities lying within the area herein vacated will be accomplished by Commonwealth Edison, AT&T/SBC, and /or RCN, and done at the expense of beneficiary of the vacation.

SECTION 5. The vacation herein provided for is made upon the express condition that within 180 days after the passage of this ordinance, Jewel Food Stores, Inc. shall deposit in the City Treasury of the City of Chicago, a sum sufficient to defray the costs of removing paving and curb returns, and constructing sidewalk and curb at the entrance to that part of the alley(s) hereby vacated, in accordance with current Department of Transportation's Regulations for Opening, Repair and Construction in the Public Way and its appendices.

SECTION 6. The vacation herein provided for is made upon the express condition that within 180 days after the passage of this ordinance, Jewel Food Stores, Inc. shall pay or cause to be paid to the City of Chicago as compensation for the benefits which will accrue to the owner of the property abutting said part of public alley hereby vacated the sum of _____ dollars (\$ _____) which sum in the judgment of the body will be equal to such benefits.

SECTION 7. The vacation herein provided for is made upon the express condition that within one hundred eighty (180) days after the passage of this ordinance, Jewel Food Stores, Inc. shall file or cause to be filed for record in the Office of the Recorder of Deeds of Cook County, Illinois a certified copy of this ordinance, together with an attached plat as approved by the Superintendent of Maps and Plats.

SECTION 8. This ordinance shall take effect and be in force from and after its passage. The vacation shall take effect and be in force from and after its recording.

Vacation and Public Way Easement Approved:

Rebekah Scheinfeld Commissioner of Transportation

Approved as to Form and Legal
Richard Wendy Deputy Corporation Counsel

Honorable Brian Hopkins Alderman, 2nd Ward

COUNTY INGRESS, EGRESS

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PLAT OF VACATION

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EXHIBIT A

**RESERVATION OF EASEMENT AGREEMENT WITH VACATION
OF PUBLIC RIGHT OF WAY**

(The Above Space For Recorder's Use Only)

This Reservation of Easement Agreement ("Agreement") is made on or
as of the **day of** , **2015, by and between the CITY OF CHICAGO,**
an Illinois municipal corporation ("City"), by and through its Department of Transportation ("CDOT")
having its principal offices at City Hall, 30 North LaSalle Street, 5th Floor, Chicago, Illinois 60602 and

JEWEL FOOD STORES, INC. ("Jewel Food Stores"), an Ohio corporation, with its principal offices located at 250 Parkcenter Boulevard, Boise, Idaho 83726.

RECITALS

WHEREAS, Jewel Food Stores holds legal title to certain parcels of real property which are located at 1200-1232 N. Clark, 1201-1207 N. LaSalle, 100-114 W. Division and 118-130 W. Division; and

WHEREAS, on July 29, 2015, the City Council of the City, adopted an ordinance (the "Ordinance"), a copy of which is attached as Exhibit A and incorporated herein, which such Ordinance provided for the vacation of:

THAT PART OF A NORTH-SOUTH 18 FOOT WIDE PUBLIC ALLEY LYING EAST OF LOT 16 AND LYING WEST OF LOT 17, IN CHICAGO LAND CLEARANCE COMMISSION NO. 3, BEING A SUBDIVISION IN THE NORTHEAST QUARTER OF SECTION 4, TOWNSHIP 39 NORTH, RANGE 14, EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED APRIL 30, 1962 AS DOCUMENT NO. 18461871, APRIL 30, 1962 AS DOCUMENT NO. 18461872, AND MAY 4, 1962 AS DOCUMENT NO. T-2032004, IN COOK COUNTY, ILLINOIS, AND BEING DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHEAST CORNER OF SAID LOT 16; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 16, SAID LINE

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BEING ALSO THE WEST LINE OF SAID NORTH-SOUTH 18.0 FOOT WIDE PUBLIC ALLEY, A DISTANCE OF 31.0 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89 DEGREES 51 MINUTES 23 SECONDS EAST, 18.00 FEET TO A POINT IN THE WEST LINE OF SAID LOT 17, SAID WEST LINE BEING ALSO THE EAST LINE OF SAID NORTH-SOUTH 18.0 FOOT WIDE PUBLIC ALLEY; THENCE SOUTH 00 DEGREES 01 MINUTES 25 SECONDS EAST, ALONG SAID WEST LINE OF LOT 17, 69.67 FEET; THENCE NORTH 89 DEGREES 50 MINUTES 50 SECONDS WEST, 18.00 FEET TO A POINT IN THE EAST LINE OF LOT 16; THENCE NORTH 00 DEGREES 01 MINUTES 25 SECONDS WEST, ALONG SAID EAST LINE OF LOT 16, 69.67 FEET TO THE POINT OF BEGINNING, IN COOK COUNTY, ILLINOIS AND CONTAINING 1,254 SQUARE FEET (0.0288 ACRES) MORE OR LESS. THIS LAND DESCRIBED HEREIN IS SUBJECT TO AN INGRESS / EGRESS EASEMENT BELOW THE HORIZONTAL PLANE AT 34.81 FEET CITY OF CHICAGO DATUM FOR UNIMPEDED VEHICULAR AND PEDESTRIAN PUBLIC TRAFFIC, THE TERMS OF WHICH ARE MORE FULLY DESCRIBED IN THE ORDINANCE AUTHORIZING SAID VACATION (together, the "Vacated Property"); and

WHEREAS, the vacation provided for in the Ordinance is conditioned upon the execution and recording by Jewel Food Stores of this Agreement providing that the Vacated Property shall be subject to a perpetual, non-exclusive dedicated access area with a non-exclusive, perpetual easement for continued, unimpeded open public pedestrian and vehicular access without build over (together, the "Reserved Easement"), as depicted on the Plat of Vacation attached hereto as Exhibit B and made a part hereof; and

WHEREAS, pursuant to the terms and conditions of the Ordinance and this Agreement, Jewel Food Stores agrees to the reservation of the Reserved Easement on the Vacated Property for the use and improvement of the public way vacated in the Ordinance to a perpetual, non-exclusive dedicated access area with a non-exclusive, perpetual easement for continued, unimpeded open public pedestrian and vehicular access without build over, and for such use and improvements that are accessory, as that term is defined in the Chicago Zoning Ordinance, subject to CDOT approval, and the Corporation Counsel as to form and legality; and

WHEREAS, any improvements proposed by Jewel Food Stores, its successors and/or assigns, that may impact the Reserved Easement shall be subject to CDOT's prior review and approval.

NOW, THEREFORE, FOR AND IN CONSIDERATION OF THE FOREGOING RECITALS, THE MUTUAL AGREEMENTS CONTAINED HEREIN AND OTHER GOOD AND VALUABLE CONSIDERATION, THE RECEIPT AND SUFFICIENCY OF WHICH ARE HEREBY

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ACKNOWLEDGED, CITY AND JEWEL FOOD STORES AGREE AS FOLLOWS:

1. Recitals Incorporated. The recitals set forth above are incorporated herein by this reference and shall be deemed terms and provisions hereof, the same as if fully set forth in this Section 1.

2. Easement Reservation. Jewel Food Stores hereby agrees with the reservation of the Reserved Easement made in the Ordinance and as set forth in this Agreement, as a condition to the vacation of the public way in the Ordinance and in favor of Jewel Food Stores as beneficiary of the Vacated Property.

3. Covenants Run with Land. All provisions of the Ordinance and this Agreement, including the benefits and burdens of the Reserved Easement, shall run with the land and are binding upon and inure to the benefit of all parties having or acquiring any right, title or interest in or to any portion of, or interest or estate in, the Vacated Property.

4. Notices. All notices and communications given pursuant to this Agreement shall be in writing and shall be deemed properly served if delivered on the first day following delivery to an overnight courier service or on the third day after deposit in the U.S. mail as registered or certified mail, return receipt requested, postage prepaid as follows:

If to City:

City of Chicago Department of Transportation 30 North LaSalle
Street, Suite 1100 Chicago, Illinois 60602 Attn: Commissioner

With a copy to:

City of Chicago Department of Transportation 30 North LaSalle
Street, 5th Floor Chicago, Illinois 60602 Attn: Deputy Commissioner,
Project Development

With a copy to:

City of Chicago Department of Law 121 North LaSalle

Street Room 600
Chicago, Illinois 60602 Attn: Deputy Corporation Counsel
Real Estate and Land Use Division

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If to
Jewel Food Stores, Inc.

Jewel Food Stores, Inc. 250 Parkcenter
Boulevard Boise, Idaho 83726 Attn: James
Perkins
Chief Operating Officer

With a copy to:

Richard Klawiter
DLA Piper LLP (US)
203 North LaSalle Street, Suite 1900
Chicago, Illinois 60601-1293

Addressees may be changed by the parties by notice given in accordance with the provisions hereof.

Signatures appear on the following page.

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IN WITNESS WHEREOF, City of Chicago and Jewel Food Stores, Inc. have caused this instrument to be executed and delivered as of the day and year first above written.

CITY OF CHICAGO,
an Illinois municipal corporation

BY:
Rebekah Scheinfeld
Commissioner
Department of Transportation

JEWEL FOOD STORES, INC.,

an Ohio corporation

BY:

NAME:
TITLE:

This instrument was prepared by:

Karen Bielarz Senior Counsel City of
Chicago Department of Law 121 North
LaSalle Street Room 600
Chicago, Illinois 60602 (312) 744-6910

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STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that Rebekah Scheinfeld personally known to me to be the Commissioner of the Department of Transportation of the City of Chicago, an Illinois municipal corporation, and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and being first duly sworn by me acknowledged that as the Commissioner, she signed and delivered the instrument pursuant to authority given by the City of Chicago, as her free and voluntary act and as the free and voluntary act and deed of the corporation, for the uses and purposes therein set forth.

GIVEN under my notarial seal this _____ day of _____, 2015.

NOTARY PUBLIC

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

I, _____, a Notary Public in and for said County, in the State aforesaid, do hereby certify that _____, personally known to me to be the _____ of Jewel Food Stores, Inc., and personally known to me to be the same person whose name is subscribed to the foregoing instrument, appeared before me this day in person and being first duly sworn by me severally acknowledged that as such Manager, he signed and delivered the instrument pursuant to authority given by the _____ of Jewel Food Stores, Inc. as his free and voluntary act and deed of Jewel Food Stores, Inc., for the uses and purposes therein set forth.

GIVEN under my notarial seal this _____ day of _____, 2015.

NOTARY PUBLIC

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EXHIBIT B

PLAT OF VACATION (attached)

Kdb: CDOT Reservation of Easement Jewel Foods Store 072915

EXHIBIT 'f3"

PLAT OF VACATION

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CDOT #04-42-1 4-3660

ANTHONY A. BEALE

Alderman, 9th Ward 34 East 112th Place Chicago, Illinois 60628 telephone- (773) 785-1100
Fax. (773) 785-2790 e-mail: ward09@cityofchicago.obg <mailto:ward09@cityofchicago.obg>

COMMITTEE MEMBERSHIPS

Transportation & Public Way (Chairman)

Budget and Government Operations

Committees, Rules and Ethics Education and Child Development
Finance

Public Safety Workforce Development and Audit

To the President and Members of the City Council:

Your Committee on Transportation and Public Way begs leave to report and recommend that Your Honorable Body pass A proposed vacation of a 69.67' length of the 18' wide alley in the block bounded by West Division Street, North Clark Street, North LaSalle Street, and West Goethe Street. This ordinance was referred to the Committee on June 17, 2015.

This recommendation was concurred unanimously by a viva voce vote of the members of the Committee with no dissenting

vote.

(Ward 2)

Respectfully submitted,

Anthony^se

Chairman