

**BOARD BILL NO. 35**

**INTRODUCED BY: ALDERMAN TERRY KENNEDY**

1 An ordinance recommended by the Board of Public Service to conditionally vacate above surface,  
2 surface and sub-surface rights for vehicle, equestrian and pedestrian travel in the westernmost 150  
3 feet of the 15 foot wide east/west alley in City Block 3765-N as bounded by Fountain, Aubert,  
4 Enright and Kingshighway in the City of St. Louis, Missouri, as hereinafter described, in accordance  
5 with Charter authority, and in conformity with Section 14 of Article XXI of the Charter and imposing  
6 certain conditions on such vacation.

7 BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

8 **SECTION ONE:** The above surface, surface and sub-surface rights of vehicle, equestrian  
9 and pedestrian travel, between the rights-of-way of:

10  
11 A portion of the east and west alley in Block 1 of "Aubert Place" a subdivision  
12 recorded in Plat Book 5, Pages 3 and 4, City of St. Louis Records, located in City  
13 Block 3765 N and being more particularly described as follows:

14  
15 Commencing at the intersection of the Southerly line of Fountain  
16 Avenue (89 feet wide) and the Easterly line of North Kingshighway  
17 Boulevard (100 feet wide); thence along said Easterly line South 07  
18 degrees 24 minutes 11 seconds West 207.50 feet to the Northerly line  
19 of a 15 foot wide east land west alley, being the Point of Beginning of  
20 this description; thence along said Northerly line and defining the  
21 portion of the alley to be vacated South 83 degrees 36 minutes 35  
22 seconds East 150.00 feet to the Northerly extension of the 20 foot  
23 wide north and south alley; thence along said extension South 07  
24 degrees 24 minutes 11 seconds West 25.00 feet to the Southerly line  
25 of the aforesaid East and West alley to be vacated; thence along said  
26 Southerly line North 38 degrees 06 minutes 29 seconds West 14.02  
27 feet; thence continuing along said southerly line North 83 degrees 36  
28 minutes 35 seconds West 140.00 feet to the aforesaid Easterly line of  
29 North Kingshighway Boulevard; thence along said Easterly line  
30 North 07 degrees 24 minutes 11 seconds East 15.00 feet to the Point  
31 of Beginning of this description and containing 2300 square feet  
32 (0.053 acres), more or less. Subject to all easements, conditions and  
33 restrictions of record, if any.

34  
35 are, upon the conditions hereinafter set out, vacated.

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1           **SECTION TWO:** Kings Food Phillips, Inc. proposes to use vacated area to consolidate  
2 property for commercial development.

3           **SECTION THREE:** All rights of the public in the land bearing rights-of-way traversed by  
4 the foregoing conditionally vacated alley, are reserved to the City of St. Louis for the public  
5 including present and future uses of utilities, governmental service entities and franchise holders,  
6 except such rights as are specifically abandoned or released herein.

7           **SECTION FOUR:** The owners of the land may, at their election and expense remove the  
8 surface pavement of said so vacated alley provided however, all utilities within the rights-of-way  
9 shall not be disturbed or impaired and such work shall be accomplished upon proper City permits.

10          **SECTION FIVE:** The City, utilities, governmental service entities and franchise holders  
11 shall have the right and access to go upon the land and occupation hereof within the rights-of-way  
12 for purposes associated with the maintenance, construction or planning of existing or future  
13 facilities, being careful not to disrupt or disturb the owners interests more than is reasonably  
14 required.

15          **SECTION SIX:** The owner(s) shall not place any improvement upon, over or in the area(s)  
16 vacated without: 1) lawful permit from the Building Division or Authorized City agency as  
17 governed by the Board of Public Service; 2) obtaining written consent of the utilities, governmental  
18 service entities and franchise holders, present or future. The written consent with the terms and  
19 conditions thereof shall be filed in writing with the Board of Public Service by each of the above  
20 agencies as needed and approved by such Board prior to construction.

21          **SECTION SEVEN:** The owners may secure the removal of all or any part of the facilities  
22 of a utility, governmental service entity or franchise holder by agreement in writing with such  
23 utilities, governmental entity or franchise holder, filed with the Board of Public Service prior to the  
24 undertaking of such removal.

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1           **SECTION EIGHT:** In the event that granite curbing or cobblestones are removed within  
2 the vacated area, the Department of Streets of the City of St. Louis must be notified. Owner(s) must  
3 have curbing cobblestones returned to the Department of Streets in good condition.

4           **SECTION NINE:** This ordinance shall be ineffective unless within three hundred sixty  
5 (360) days after its approval, or such longer time as is fixed by the Board of Public Service not to  
6 exceed three (3) days prior to the affidavit submittal date as specified in the last section of this  
7 ordinance, the owner(s) of the area to be vacated must fulfill the following monetary requirements, if  
8 applicable, as specified by the City of St. Louis Agencies listed below. All monies received will be  
9 deposited by these agencies with the Comptroller of the City of St. Louis.

- 10       1)    CITY WATER DIVISION to cover the full expenses of removal and/or relocation of  
11            Water facilities, if any.
- 12       2)    CITY TRAFFIC AND TRANSPORTATION DIVISION to cover the full expense of  
13            removal, relocation and/or purchase of all lighting facilities, if any. All street signs must  
14            be returned.
- 15       3)    CITY STREET DEPARTMENT to cover the full expenses required for the adjustments  
16            of the City's alley(s), sidewalk(s) and street(s) as affected by the vacated area(s) as  
17            specified in Sections Two and Eight of the Ordinance.

18           **SECTION TEN:** An affidavit stating that all of the conditions be submitted to the Director  
19 of Streets for review of compliance with conditions 365 days (1 year) from the date of the signing  
20 and approval of this ordinance. Once the Director of Streets has verified compliance, the affidavit  
21 will be forwarded to the Board of Public Service for acceptance. If this affidavit is not submitted  
22 within the prescribed time the ordinance will be null and void.

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