

ORDINANCE #66144
Board Bill No. 340

An ordinance recommended by the Board of Public Service providing for the vacation and abolition of the public right-of-way and subsurface rights in A PORTION OF STADIUM PLAZA as legally described in exhibit a attached hereto and incorporated herein by this reference, under certain terms and conditions; providing that this ordinance shall become effective upon certain notice by the Mayor or his designee; and providing a severability clause.

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

SECTION ONE. The following public right-of-way and public subsurface rights are hereby vacated and abolished, with certain reservations of rights and conditions.

The public right-of-way and surface rights of vehicle, equestrian and pedestrian travel and public subsurface rights in and between the right-of-way of a portion of Stadium Plaza which is located in the City of St. Louis, Missouri, as legally described on Exhibit A attached hereto and incorporated herein by this reference, is, upon the conditions hereinafter setout, vacated.

SECTION TWO. Gateway Stadium, L.L.C. and Gateway Parking, L.L.C. plan to consolidate/redevelop the vacated right-of-way and surrounding areas into a new ballpark pursuant to the Blighting and Insanitary Study and Redevelopment Plan for the South Downtown Redevelopment Project Area approved by Ordinance No. 65668 (the "Ballpark Project").

SECTION THREE. The owners of the land may, at their election and expense, remove the surface pavement of said vacated street provided, however, all utilities within the right-of-way shall not be disturbed or impaired and such work shall be accomplished upon proper City permits, and provided further, that any cobblestones or granite curbing within the right-of-way to be vacated that are removed shall be conveyed to a location to be designated by the Director of Streets of the City.

SECTION FOUR. The City, utilities, governmental service entities and franchise holders shall have the right and access to go upon the land and occupation hereof within the right-of-way for purposes associated with the maintenance, construction or planning of existing or future facilities, being careful not to disrupt or disturb the owner's interest more than is reasonably required.

SECTION FIVE. The owners shall not place any improvement upon, over or in the land traversed by the right-of-way without a lawful permit from the City and written consent of the utilities, governmental service entities and franchise holders, present or future; and such consent together with the terms and conditions thereof shall be filed in writing with the Board of Public Service and approved by such Board prior to the undertaking of any such construction concerning the right-of-way.

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

SECTION SEVEN. This vacation shall be ineffective unless within three hundred and sixty-five days (1 year) after its approval, or such longer time as is fixed by the Board of Public Service not to exceed seven hundred and thirty days (730) (2 years) from approval or override, the owners of the land subservient to the right-of-way concerned shall deposit a sum with the Comptroller of the City of St. Louis for the use and benefit of the City Water Division estimated by said Division to be sufficient to cover the full expense of removal and relocation of Water facilities, if any; further, such owner or owners shall within said time deposit an additional sum of money with the Comptroller of the City of St. Louis for the use and benefit of the City Traffic and Transportation Division estimated by said Division to be sufficient to cover the full expense of removal of all lighting facilities, if any; upon such deposit being made to the benefit of the Water Division and the Traffic and Transportation Division, they shall proceed as is reasonably expedient to accomplish all work required and all useful access and occupation shall be accorded, further, such owner or owners shall within said time, deposit an additional sum with the Comptroller of the City of St. Louis estimated by the said Board as sufficient to defray; the expenses required for the adjustment of the City's streets including curbs, sidewalks, driveways, roadway drainage connections and inlets, grading, paving sidewalks and roadways and road signage; provided further that said owners shall, under direction of the Director of Streets of the City of St. Louis, accomplish the aforesaid adjustments, at their own expense, but in the event said owners fail to accomplish such within allowable time, according to the direction of the Director, the Director shall cause the same to be performed and upon his certification of expenses, the Comptroller shall appropriate said deposit, or so much thereof as required to defray such expenses to the City or others; no claims or demands whatever arising out of such vacation or adjustment shall be made or prosecuted by owners, their heirs, successors or assigns; and the Comptroller after determining the total cost of the foregoing to the City shall return any unexpended part of said deposits to the owner or owners.

SECTION EIGHT. An affidavit stating that all of the conditions of this ordinance have been/will be fulfilled and/or complied with must be submitted to the Board of Public Service for acceptance seven hundred and thirty days (730) (2 years) from the date of the signing and approval of this ordinance. If this affidavit is not submitted within the prescribed time the ordinance will be null and void.

SECTION NINE. This vacation shall become effective immediately upon notice by the Mayor or his designee to the Register that all financing for the Ballpark Project has been secured; provided, however, that the effective date of this Ordinance shall not be less than thirty (30) days from the date of approval of the same by the Mayor.

SECTION TEN. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

EXHIBIT A

Street Vacation Part of Stadium Plaza (variable width)

A tract of land being part of Stadium Plaza, variable width, in Block 6466 of the City of St. Louis, Missouri, and being more particularly described as follows:

Beginning at the northwesterly corner of Spruce Street as conditionally vacated by Ordinance #65861 of the records of the Recorder of Deeds Office in the City of St. Louis, Missouri; thence North 14 degrees 35 minutes 01 second East 265.98 feet to a point of curvature to the right, having a radius of 20.00 feet; thence northeasterly along last said curve an arc length of 32.50 feet to the point of tangency; thence South 72 degrees 19 minutes 12 seconds East 1.30 feet to a point on a curve on the westerly line of Tract 4 of "Civic Center Subdivision Plat 2", a subdivision according to the plat thereof recorded in Plat Book 35 Pages 34-35 of the records of said Recorder of Deed Office; thence along last said westerly line the following courses and distances: Southwesterly along last curve to the left whose radius point bears South 78 degrees 51 minutes 53 seconds East 1,352.00 feet, with a chord which bears South 07 degrees 18 minutes 58 seconds West 180.10 feet, an arc length of 180.23 feet to a point of compound curvature, Southeasterly along last said curve to the left whose radius point bears South 86 degrees 30 minutes 10 seconds East 175.00 feet, with a chord which bears South 32 degrees 07 minutes 39 seconds East 203.87 feet, an arc length of 217.62 feet to a point of reverse curvature on the northerly line of said Spruce Street; thence Northwesterly along last said northerly line and last said curve to the right, whose radius point bears North 22 degrees 14 minutes 52 seconds East 2984.99 feet, with a chord which bears North 65 degrees 52 minutes 05 seconds West 196.27 feet, an arc length of 196.31 feet to the POINT OF BEGINNING and containing 14,792 square feet or 0.340 acres, more or less according to calculations performed by Stock and Associates Consulting Engineers, Inc. on December 9, 2003.

Approved: February 9, 2004