

FEB 18 2008

ORDINANCE NO. 2632

Wally Jaffner
City Clerk

**AN ORDINANCE TO APPROVE A PUBLIC SIDEWALK
EASEMENT FROM THE ST. ELIZABETH'S HOSPITAL OF
THE THIRD ORDER OF ST. FRANCIS, AN ILLINOIS NOT-
FOR-PROFIT CORPORATION, ON PROPERTY HAVING
THE ASSIGNED ADDRESS OF 399 EDELWEISS DRIVE IN
THE CITY OF COLUMBIA, ILLINOIS ON WHICH PROPERTY
THE COLUMBIA FAMILY HEALTH P.C. IS LOCATED AND
TO AUTHORIZE THE MAYOR TO EXECUTE AND DELIVER
THE SAID EASEMENT FOR AND ON BEHALF OF THE CITY**

WHEREAS, the City of Columbia, Illinois (the "City") has determined that it is necessary and appropriate and in the public interest, safety and welfare to construct and install a public sidewalk on, over, along and across property belonging to the St. Elizabeth's Hospital of the Third Order of St. Francis, an Illinois not-for-profit corporation, on which property there is currently located and operated the Columbia Health Center, P. C., which property has the assigned address of 399 Edelweiss Drive, Columbia, Illinois and which sidewalk will allow for pedestrian travel for ingress and egress to the Columbia Centre Shopping Center at or near the intersection of Valmeyer Road and Edelweiss Drive in the City;

WHEREAS, it is necessary and appropriate that the City acquire a public right-of-way easement for said public side walk from the owner of said property on, over, along and across which the City intends to construct and install said public sidewalk;

WHEREAS, St. Elizabeth's Hospital of the Hospital Sisters of the Third Order of St. Francis, as the owner of said property, has agreed to provide the required Public Sidewalk Easement for right of way located along the frontage of its subject property at 399 Edelweiss Drive, Columbia, Illinois to the City on the terms set forth in the Municipal Public Side Walk Easement which is approved and authorized by this ordinance;

WHEREAS, the City has found and determined and does hereby declare that it is necessary that the acquisition of the easement be concluded so that the City can proceed with the installation of its public side walk and it is necessary and appropriate that the City enact this ordinance to approve and authorize the City to acquire the easement subject to the terms set forth in the Municipal Public Side Walk Easement so that the City can acquire the subject easement required for the accomplishment of its public side walk project at on near the intersection of Valmeyer Road and Edelweiss Drive in the City.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

Section 1. The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2. Attached hereto is a Municipal Public Side Walk Easement from St. Elizabeth's Hospital of the Hospital Sisters of the Third Order of St. Francis, an Illinois not-for-profit corporation. The City hereby approves the form of the Municipal Public Side Walk Easement and does hereby authorize and direct the Mayor to sign the same (acknowledging the City's acceptance of the easement involved and the City's agreement to do and perform the City's obligations undertaken in the Municipal Public Side Walk Easement) and does hereby authorize and direct the City Clerk to attest the same and affix thereto the corporate seal of the City.

Section 3. The City Council hereby authorizes and directs the City Attorney, Tom D. Adams, to record in the office of the Monroe County, Illinois Recorder the fully executed and attested Municipal Public Side Walk Easement aforesaid (along with a Temporary Construction Easement obtained from the same property owner at the time the legal representative of the property owner executed the Municipal Public Side Walk Easement) and thereafter to file them with the permanent real estate records of the City.

Section 4. This Ordinance shall be in full force and effect from and after its passage and approval, as provided by law.

Alderman Agne moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Niemietz, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Agne, Niemietz, Row, Hejna, Oberfell and Mayor Hutchinson.

NAYS: None.

ABSENT: Aldermen Unnerstall and Stumpf.

ABSTENTIONS: None.

PASSED by the City Council and APPROVED by the Mayor this 18th day of February, 2008.



KEVIN B. HUTCHINSON, Mayor

ATTEST:

Wesley J. Hoeffken

WESLEY J. HOEFFKEN, City Clerk

(SEAL)

Return Deed to:
dams and Huetsch
Attorneys at Law
P. O. Box 647
Columbia, IL 62236

MUNICIPAL PUBLIC SIDE WALK EASEMENT DEED

The undersigned GRANTOR, ST. ELIZABETH'S HOSPITAL OF THE HOSPITAL SISTERS OF THE THIRD ORDER OF ST. FRANCIS, an Illinois Not-For-Profit Corporation, located at 211 South Third Street, City of Belleville, County of St. Clair and State of Illinois, for and in consideration of the payment of the sum of One Dollar (\$1.00) and for other good and valuable consideration in hand paid, the receipt and sufficiency of which is hereby acknowledged by the GRANTOR, does hereby CONVEY and WARRANT to the CITY OF COLUMBIA, ILLINOIS, a Municipal corporation and body both corporate and politic created and existing under and by virtue of the laws of the State of Illinois (hereinafter referred to as the "CITY" or the "GRANTEE"), a permanent and perpetual public side walk easement, being the perpetual right to construct, install, alter, repair, remove, replace and maintain a public side walk, and all appurtenances appertaining thereto, in, on, along, over, through and across the following described property of the GRANTOR, to wit:

Part of Tax Lot 2A of U.S. Survey 416, Claim 492, Township 1 South, Range 10 West of the Third Principal Meridian, Monroe County, Illinois, and being more particularly described as follows:

Beginning at the most easterly corner of a 0.803 acre more or less parcel conveyed to St. Elizabeth's Hospital of the Hospital Sisters of the Third Order of St. Francis by deed dated November 21, 1983 and recorded in Deed Record Book 142 at Page 132 in the Monroe County records; thence South 51 degrees 43 minutes 35 seconds West, an assumed bearing along the southeasterly line of said St. Elizabeth's Hospital parcel, a distance of 144.00 feet; thence along the southerly line of said St. Elizabeth's Hospital parcel, 50.27 feet along a tangent curve to the right having a radius of 32.00 feet, with a central angle of 90 degrees 00 minutes 00 seconds, and a chord which bears North 83 degrees 16 minutes 25 seconds West, a chord distance of 45.25 feet; thence North 38 degrees 16 minutes 25 seconds West, along the southwesterly line of said St. Elizabeth's Hospital parcel, a distance of 168.00 feet to the most westerly corner of said St. Elizabeth's Hospital parcel; thence North 51 degrees 43 minutes 35 seconds East, along the northwesterly line of said St. Elizabeth's Hospital parcel, a distance of 10.00 feet; thence South 38 degrees 16 minutes 25 seconds East 185.00 feet; thence North 51 degrees 43 minutes 35 seconds East 166.00 feet to the northeasterly line of said St. Elizabeth's Hospital parcel; thence South 38 degrees 16 minutes 25 seconds East, along the easterly line of said St. Elizabeth's Hospital parcel, a distance of 15.00 feet to the point of beginning.

As shown on Exhibit 1 attached hereto and made a part hereof.

PERMANENT PROPERTY INDEX NO._____.

PRIOR DEED: Book 142, Page 132.

Situated in the City of Columbia, County of Monroe and State of Illinois.

Concomitant and coextensive with the right herein granted is a further right in GRANTEE, its successors and assigns, contractors and agents, at all times, to have ingress to and egress from all points on and along said public side walk easement tract. Since the easement uses and purposes for GRANTEE are for public side walk uses and purposes, the CITY shall have no obligation to mow the grass, trim weeds or otherwise maintain the surface of the ground except as herein otherwise provided. The CITY, as GRANTEE, and its successors and assigns, by and through their agents, servants and contractors, shall have the right to remove trees, bushes, undergrowth and any other obstructions interfering with the location, construction and maintenance of its public side walk installed in, on, along and across the easement tract.

The GRANTOR its legal representatives, successors and assigns, shall not make nor suffer any encroachment or obstructions interfering with the GRANTEE'S use of the easement tract for its intended public side walk use and purpose and the right of the GRANTEE in the easement tract to use the same for its intended public side walk use and purpose. The GRANTOR, its legal representatives, successors and assigns, shall have the right to use and enjoy the easement tract provided the utilization and enjoyment shall not interfere with the GRANTEE'S use of the same for its intended purpose (including the construction, maintenance, repair, replacement, inspection and operation of the public sidewalk) and provided further, that the GRANTOR shall not construct, install or maintain any building, sign, or tree or other permanent structures on the easement tract without the prior written consent of the GRANTEE. The GRANTOR shall not grant easements to any other utility service providers or other persons or parties for subterranean use of the easement tract without first obtaining the written consent of the GRANTEE.

The GRANTEE will restore the surface of the ground after each and every entry.

The terms, covenants and conditions of this easement deed shall inure to the benefit of and shall be binding upon the legal representatives, successors and assigns of the respective parties hereto.

IN WITNESS WHEREOF the undersigned GRANTOR has made, executed and delivered this Public Side Walk Easement Deed to the GRANTEE, for the uses and purposes hereinabove set forth this _____ day of _____, 2008.

ST. ELIZABETH HOSPITAL of the HOSPITAL
SISTERS OF THE THIRD ORDER OF ST.
FRANCIS, an Illinois Not-For-Profit Corporation

BY: _____
President

ATTEST:

Secretary

STATE OF ILLINOIS)
)
COUNTY OF MONROE) SS

The undersigned, a Notary Public in and for the County, in the State aforesaid, hereby certifies that _____ and _____, who are personally known to me and known to me to be the President and Secretary, respectively, of ST. ELIZABETH HOSPITAL of the HOSPITAL SISTERS OF THE THIRD ORDER OF ST. FRANCIS, an Illinois Not-For-Profit Corporation, and being the same person whose names are subscribed to the foregoing easement deed, appeared before me, this date, in person and acknowledged that they signed and delivered said deed as their free and voluntary act and deed, and as the free and voluntary act and deed of said Not-For-Profit Corporation, for the uses and purposes therein set forth.

Given under my hand and Notary Seal this _____ day of _____, 2008.

Notary Public

SIGNATURE OF GRANTEE

The undersigned GRANTEE has executed this Deed to acknowledge its agreement and commitment to do and perform all obligations undertaken in the above Easement Deed incumbent on the GRANTEE to be done and performed by the GRANTEE.

CITY OF COLUMBIA, ILLINOIS, a
Municipal Corporation

BY: _____
KEVIN B. HUTCHINSON, Mayor

ATTEST:

WESLEY J. HOEFFKEN, City Clerk

(SEAL)

(STATE OF ILLINOIS)
() SS
COUNTY OF MONROE)

The undersigned, a Notary Public in and for the County and State aforesaid, does hereby certify that KEVIN B. HUTCHINSON and WESLEY J. HOEFFKEN, personally known to me and known to me to be the Mayor and City Clerk, respectively, of the City of Columbia, Illinois whose names are subscribed to the foregoing document, appeared before me this day in person, and acknowledged that they signed and delivered the said document as their free and voluntary act and deed and as the free and voluntary act and deed of said City, pursuant to an enabling ordinance of said City which was first enacted, for the uses and purposes hereinabove set forth.

Given under my hand and Notary Seal this _____ day of _____, 2008.

Notary Public

THIS DOCUMENT PREPARED BY:

(TOM D. ADAMS #13439
ADAMS AND HUETSCH
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