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**THE VILLAGE OF BLOOMINGDALE**  
DUPAGE COUNTY, ILLINOIS

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**ORDINANCE**  
NUMBER 2021-33

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**AN ORDINANCE  
VACATING OLD GARY AVENUE  
SOUTH OF ARMY TRAIL ROAD WITHIN  
THE VILLAGE OF BLOOMINGDALE**

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Franco Coladipietro, Mayor  
Pamela S. Hager, Village Clerk

Vince Ackerman  
William Belmonte  
Bill Bolen  
Frank Bucaro  
Patrick Shannon  
Judi Von Huben

Village Board

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Published in pamphlet form by authority of the  
President and the Board of Trustees of the Village of Bloomingdale  
on this the 23rd day of August, 2021

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**ORDINANCE NUMBER 2021-33**

**AN ORDINANCE  
VACATING OLD GARY AVENUE  
SOUTH OF ARMY TRAIL ROAD WITHIN  
THE VILLAGE OF BLOOMINGDALE**

**WHEREAS**, the Village of Bloomingdale, DuPage County, Illinois (the "Village") is a home rule unit of local government under Article VII, Section 6 of the 1970 Illinois Constitution;

**WHEREAS**, a home rule unit may exercise any power and perform any function pertaining to its government and affairs, including but not limited to the power to regulate for the protection of the public health, safety, morals and welfare; to license, to tax; and to incur debt;

**WHEREAS**, pursuant to its home rule powers and 65 ILCS 5/11-91-1, the Corporate Authorities of the Village have determined that the public interest will be subserved by vacating a certain portion of Old Gary Avenue south of Army Trail Road within the corporate limits of the Village, being legally described in Exhibit A and depicted in Exhibit B (hereinafter referred to as the "Vacated Property");

**WHEREAS**, 65 ILCS 5/11-91-1 et seq. requires an ordinance of vacation shall be passed by the affirmative vote of at least three-fourths of the trustees then holding office with the vote taken by ayes and noes, and entered on the records of the corporate authorities; and

**WHEREAS**, the Corporate Authorities are of the opinion that it is in the best interests of the residents of the Village of Bloomingdale to vacate Old Gary Road Avenue South of Army Trail Road within the Village of Bloomingdale.

**NOW, THEREFORE, BE IT ORDAINED** By the President and Board of Trustees of the Village of Bloomingdale, DuPage County, Illinois, a home rule municipality, and in the exercise of its home rule powers as follows:

### **Section One - Recitals**

The Corporate Authorities hereby find that all of the recitals hereinbefore stated as contained in the preamble to this Ordinance are full, true and correct and do hereby, by reference, incorporate and make them part of this Ordinance as legislative findings.

### **Section Two – Old Gary Avenue Vacated**

That Old Gary Avenue south of Army Trail Road, which is legally described in Exhibit A, and depicted in Exhibit B attached hereto and made a part hereof (the "Vacated Property"), being located entirely within the corporate limits of the Village, and not an unincorporated area, is hereby vacated, subject to the further provisions as outlined below. That the title to the Vacated Property shall be vested in the entirety to GW Bloomingdale, LLC., an Illinois limited liability corporation the adjoining property owner to the east of, and abutting the Vacated Property commonly known as 440-452 West Army Trail Road.

### **Section Three – Reservation of Village and Public Utility Easements**

That this vacation shall be subject to reservation of utility easements to the Village and to any public utility owning such utilities for the maintenance, renewal and reconstruction of any existing utilities currently located upon, beneath or over the Vacated Property. Said easement reservations will be documented pursuant to a Plat of Easement prepared and recorded against the Vacated Property prior to the recording of this Ordinance. Upon vacation, GW Properties Bloomingdale, LLC shall grant non-exclusive easements to the Village of Bloomingdale, Commonwealth Edison, Nicor Gas, AT&T, Inc. and Comcast Corporation (hereinafter individually and collectively referred to as the "Benefitting Parties"), as the case may be, owning such facilities, and to their respective licensees, successors and assigns, to operate, maintain, protect, repair, alter, modify, supplement, replace, move, abandon, access, inspect or remove, from time to time, any now currently existing storm sewers, sanitary sewers, gas mains, water mains, cables, and electric lines, and all appurtenances and equipment incidental thereto (hereinafter collectively referred to as the "Facilities"), together with right of access thereto, in,

on, over, under, across and through portions of the above-described Vacated Property in the Village of Bloomingdale, County of DuPage, State of Illinois (hereinafter also referred to as the "Easement Property"), for serving the Vacated Property and other property with water, sanitary sewer, storm drainage, street lighting, electric service, communication, gas service and other public utilities if applicable, as described and subject to the terms included on either the Plat of Vacation or other instrument to effect conveyance of said Easement Property. GW Properties Bloomingdale, LLC shall have the right to use the Easement Area for any purpose which is not inconsistent with or will not interfere with the rights and privileges granted to the Benefitting Parties by the easements reserved herein, including, without limitation, the right of GW Properties Bloomingdale, LLC to construct and maintain, or permit to be constructed or maintained, asphalt or concrete parking areas, driveways, sidewalks, curbs, lighting, landscaping, drainage structures, other utilities, temporary or permanent signage, and other similar improvements, on, over, under, across or through the Easement Property. GW Properties Bloomingdale, LLC shall not erect or maintain any permanent building on or over the Easement Property.

#### **Section Four – Authorization and Direction**

That the Village President is hereby authorized and directed to execute this Ordinance, and any necessary instruments to convey the Easement Property, and the Village Clerk is hereby authorized and directed to attest to such execution and to cause a certified copy of this Ordinance, and any necessary instruments to convey the Easement Property to be recorded in the Office of the Recorder of Deeds of DuPage County, Illinois.

#### **Section Five – Exercise of Home Rule Powers**

This ordinance represents the Village of Bloomingdale's exercise of its home rule powers to the extent that this ordinance preempts or conflicts with Illinois statute to the extent permitted under the Constitution of the State of Illinois.

### **Section Six - Passage Clause**

That this Ordinance shall take full force and effect from and after its passage, approval and publication as provided by law. This ordinance shall not take effect until the Consent (a copy of which is attached hereto and made a part hereof as Exhibit C) is executed by the owner, thereby memorializing its agreement to be bound by the terms and conditions contained within this ordinance.

### **Section Seven - Other Actions Authorized**

The officers, employees and/or agents of the Village shall take all actions necessary or reasonably required to carry out and give effect to the intent of this Ordinance and otherwise to consummate the transactions contemplated herein, and shall take all actions necessary in conformity therewith including, without limitation, the execution and delivery of all documents required to be delivered in connection with the transaction contemplated herein.

### **Section Eight - Authorization of Expenditures**

The Corporate Authorities hereby authorize and direct the expenditure of all costs related to the execution of the Agreement, additionally, the Village is authorized and directed to allocate and spend all necessary funds to fulfill the requirements of the Agreement and of this Ordinance. To the extent that any requirement of bidding would be applicable to the transactions contemplated hereunder, the same is hereby waived.

### **Section Nine - Acts of Village Officials**

That all past, present and future acts and doings of the officials of the Village that are in conformity with the purpose and intent of this Ordinance are hereby, in all respects, ratified, approved, authorized and confirmed.

### **Section Ten - Recording**

This Ordinance shall be entered into the minutes and upon the journals of the Board of Trustees of the Village of Bloomingdale, and recorded at the DuPage County Recorder of Deeds.

**DECIDED** pursuant to a roll call vote as follows:

	YES	NO	ABSENT	PRESENT
Vince Ackerman	X			
William Belmonte	X			
Bill Bolen	X			
Frank Bucaro	X			
Patrick Shannon	X			
Judi Von Huben	X			
Franco A. Coladipietro (only if necessary)				
<b>TOTAL</b>	<b>6</b>	<b>0</b>	<b>0</b>	

**PASSED AND APPROVED** by the Village of Bloomingdale Board of Trustees on the  
23rd day of August, 2021.

  
\_\_\_\_\_  
Franco A. Coladipietro,  
Village President

ATTEST:

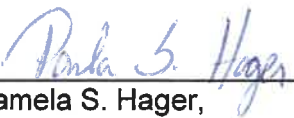
  
\_\_\_\_\_  
Pamela S. Hager,  
Village Clerk

Exhibit A

LEGAL DESCRIPTION

THAT PART OF OLD GARY AVENUE IN THE NORTH HALF OF SECTION 20 TOWNSHIP 40 NORTH RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED BY COMMENCING AT THE NORTHWEST CORNER OF LOT 6 IN EMRO LAND COMPANY SUBDIVISION, RECORDED AS DOCUMENT R83-29820; THENCE SOUTH 00 DEGREES 05 MINUTES 48 SECONDS EAST, ON THE WEST LINE OF LOT 6, 16.27 FEET TO THE POINT OF BEGINNING, BEING THE SOUTHWEST CORNER OF LAND CONVEYED TO THE COUNTY OF DUPAGE BY DOCUMENT R99-065121; THENCE CONTINUING SOUTH 00 DEGREES 05 MINUTES 48 SECONDS EAST 173.21 FEET TO THE NORTH LINE OF THE ILLINOIS CENTRAL RAILROAD (NOW CANADIAN NATIONAL RAILWAY); THENCE NORTHWESTERLY, ON SAID NORTH LINE, 88.72 FEET, MORE OR LESS, TO THE WEST LINE OF THE EAST 33 FEET OF THE NORTHWEST QUARTER OF SAID SECTION 20; THENCE NORTH 00 DEGREES 05 MINUTES 48 SECONDS WEST ALONG SAID WEST LINE TO ITS INTERSECTION WITH THE WESTERLY EXTENSION OF THE SOUTH LINE OF LAND CONVEYED BY DOCUMENT R99-065121; THENCE SOUTH 88 DEGRESS 37 MINUTES 02 SECONDS EAST 83.02 FEET TO THE POINT OF BEGINNING, IN VILLAGE OF BLOOMINGDALE, DUPAGE COUNTY, ILLINOIS

No Common Address or PIN: Old Gary Avenue right-of-way is located south of Army Trail Road in the Village of Bloomingdale, DuPage County, Illinois.

Owner: Village of Bloomingdale  
201 South Bloomingdale Road,  
Bloomingdale, Illinois 60108

Exhibit B  
Plat of Vacation



Exhibit C

Consent

The undersigned, Mitch Goltz, owner of the Subject Property, described in the foregoing Ordinance 2021-33 ("Ordinance"), having read a copy of the Ordinance, do hereby accept, concur, and agree to develop, use and maintain the Subject Property in accordance with the terms and conditions stated in the Ordinance, to the extent that the Owner has use and control over the Subject Property as of the date of the approval of the Ordinance. This consent shall be binding upon all parties in interest and all successors and assigns to the Subject Property.

DATED this \_\_\_\_ day of \_\_\_\_\_, 2021.

GW BLOOMINGDALE, LLC,  
an Illinois limited liability company

\_\_\_\_\_  
GW Property Group, LLC-Series 25,  
A Delaware limited liability company  
Its Manager

The Mitchell Goltz Living Trust  
Dated June 11, 2014, A Member

\_\_\_\_\_  
Mitchell Goltz, Trustee

\_\_\_\_\_  
Shai Wolkowicki, A Member

SUBSCRIBED AND SWORN to before me  
this \_\_\_\_ day of \_\_\_\_\_,  
2021.

\_\_\_\_\_  
Notary Public  
(SEAL)