

BOARD OF WORKS RESOLUTION NO. 1,2007

**A RESOLUTION CONCERNING THE USE OF PRIVATE STREETS
IN THE CITY OF VALPARAISO**

WHEREAS, the use of private streets has proven to be problematic for the City in several instances; and

WHEREAS, the use of private streets eliminates the ability for proper enforcement of traffic and parking regulations, and

WHEREAS, the use of private streets complicates matters of code enforcement as they may relate to abandoned vehicles and other infractions, and

WHEREAS, the use of private streets prohibits or, at best complicates, providing various municipal services such as trash collection, snow plowing and/or pavement maintenance, and

WHEREAS, it is often unapparent to purchasers of lots that a street is private and not maintained or served by the City and will require him to pay fees over and above the normal property taxes in order to receive services that normally are provided by the City, and that realization of said requirement often becomes problematic for the owner and the City, and

WHEREAS, under certain circumstances private streets may be an acceptable or desirable condition for a development, and

WHEREAS, the City currently has no definitive policy regulating the use of private streets or providing for conditions when and where they might be used, and the Board of Public Works and Safety (Board) is desirous of having such a policy,

NOW THEREFORE BE IT RESOLVED that said Board has considered and approves such policy as stipulated below:

1. Privately owned and/or maintained streets or drives serving more than one property, hereafter called Private Ways, shall not be allowed in any development except as follows:

- a. Private Ways through, to, or between parking areas in commercial, industrial, or multi-family (more than 4 units per building) developments where the property is under one ownership. Examples of such drives are those at Compass Point Apartments, Windridge Apartments and Masters Apartments. The decision whether or not an exception is granted under this paragraph shall rest with the Site Review Committee.
- b. Private Ways through, to, or between parking areas in commercial or industrial developments where the property is under multiple ownerships and the parcels being served are to be primarily used by national and/or regional corporations or franchises. Examples of such drives are those in Valparaiso Marketplace, Valparaiso Walk/Menards and Porter's Vale. The decision whether or not an exception is granted under this paragraph shall rest with the Site Review Committee.
- c. Unique situations where economic considerations, the character of the land or the surrounding development are such that a public way cannot reasonably be provided. However, the inability to meet zoning aerial requirements or setbacks shall not be a basis for consideration for this exception.
- d. Private Ways that meet or exceed City Standards but, because of unique operation or maintenance issues are determined to be in the best interest of the City to not accept into the City public road system.

2. If and when private ways are permitted, they shall meet the following conditions and/or requirements:

- a. The Private Way shall meet all design and construction standards as if they were public ways. This includes any site fees, inspections and meeting normal acceptance requirements.
- b. Under exceptions provided in section 1-b above, there shall be cross easements provided to ensure the continued access to all properties.
- c. For any Private Way there must be adequate provisions in place for the enforcement of traffic and/or parking violations, removal of unlicensed or abandoned vehicles, maintenance, snow-plowing and street sweeping of those ways and trash collection. Said provisions shall be acceptable to the City, in full force and effect and with full legal standing prior to the issuance of any Occupancy Permit for any units in the development, and shall run with the land.
- d. In some circumstances where Private Ways are permitted, the City may require that said private way be held in one ownership, such as a Property Owners Association, rather than multiple ownerships.
- e. Street name signs on Private Ways shall indicate that the street is private.
- f. Under no circumstance shall Private Ways be allowed to compromise public safety.

3. The Board shall consider all requests for exceptions under section 1-c above and no permits shall be issued for the development unless the exception is granted by said Board. No exceptions shall be granted until the Board is satisfied that the provisions, required in section 2 above, are adequate to protect the health, safety and welfare of the residents/tenants of the development and the interests of the City of Valparaiso and its public.

4. The Board shall hear and rule on all requests for relief from the provisions of this policy. The Board's decisions may be appealed to the City of Valparaiso Board of Zoning Appeals.

ALL OF WHICH HAVING BEEN RESOLVED by the Valparaiso Board of Public Works

and Safety this 21st day of November 2007.

Absent

Jon Costas, Mayor

John Hardwick, Member

David L. Pilz, Member

ATTEST:

Sharon Swihart, Clerk Treasurer