

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL WORKSHOP
DECEMBER 9, 2008 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
Right-of-Way Vacation 3946 & 4000 Venard Road	Resolution ✓ Ordinance Motion Discussion Only	Tom Dabareiner, AICP Community Development Director

SYNOPSIS

An ordinance has been prepared vacating an unimproved right-of-way adjacent to the properties located at 3946 & 4000 Venard Road.

STRATEGIC PLAN ALIGNMENT

The Five Year Plan and Goals for 2007-2012 identified *Preservation of Our Residential and Neighborhood Character*. Supporting this goal are the objectives *Tolerance of Neighborhood Private Redevelopment* and *Continuing Reinvestment in the Neighborhoods*.

FISCAL IMPACT

Staff is recommending the petitioners compensate the Village for the right-of-way to be vacated. Staff estimates the fair market value of the property to be \$7,371 for the entire right-of-way.

RECOMMENDATION

Approval on the December 16, 2008 active agenda per the Plan Commission's recommendation.

BACKGROUND

The petitioners are requesting the Village vacate a twenty (20) foot wide right-of-way that runs east and west and is adjacent to the properties at 3946 and 4000 Venard Road. Currently, the right-of-way is unimproved and functions as vacant green space between petitioners' properties. The petitioners are proposing to split the property equally.

Per the Village's right-of-way vacation policy (Resolution 2003-58), staff contacted the utility companies and public entities (including the Police Department, Fire Department and Public Works Department) to determine if any rights to the alley should be retained. Comcast and AT&T have requested a utility easement be retained along the west property line for the existing utility lines and poles running north and south. As such, a five-foot wide easement will be retained along the rear (west) property line of the right-of-way to match the existing five-foot wide easement on adjacent properties. Staff is also recommending retaining a five-foot wide easement on each side of the future common property line between 3946 and 4000 Venard Road. The petitioners have been informed of this requirement and do not object to the easements.

Per the Village's Right-of-Way Vacation Policy, the Village Council may require compensation for the vacated property. The fair market value is based on the latest assessment of land adjacent to the right-

of-way. The fair market value of the right-of-way to be vacated will be discounted for the 3,000 square feet of land encumbered by a utility easement. The table below summarizes the estimated value:

Property Address	Assessed Land Value	Square feet	Land Value per Square foot	ROW Land encumbered by easement (square feet)	ROW Land not encumbered by easement (square feet)	Total adjusted estimated cost of right-of-way
3946 Venard Road	\$50,230	26,550	\$1.89	1,500	1,450	\$3,685.5
4000 Venard Road	\$34,880	18,437.5	\$1.89	1,500	1,450	\$3,685.5
Total				3,000	2,900	\$7,371

The Plan Commission considered the vacation at their November 3, 2008 meeting and recommended unanimous approval. Staff concurs with this recommendation.

ATTACHMENTS

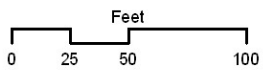
Aerial Map

Ordinance

ROW Division Map

Staff Report with attachments dated November 3, 2008

Minutes of the Plan Commission Hearing dated November 3, 2008



3946-4000 Venard Road ROW Vacation

ORDINANCE NO. _____

**AN ORDINANCE VACATING A CERTAIN PORTION OF AN UNIMPROVED
RIGHT-OF-WAY ON VENARD ROAD
IN THE VILLAGE OF DOWNERS GROVE**

WHEREAS, it has been determined by the Council of the Village of Downers Grove in DuPage County, Illinois, that it is in the public interest to vacate a certain portion of an unimproved 295-foot long by 20-foot wide right-of-way (the unimproved right-of-way located on the west side of Venard Road, approximately 700 feet north of Drove Avenue and adjacent to the properties located at 3946 and 4000 Venard Road, Downers Grove, IL) in said Village hereinafter more particularly described; and

WHEREAS, there are certain public service facilities situated in said portion of said right-of-way, and the Village Council has determined that it is necessary and in the public interest to reserve such rights-of-way and easements as are in the judgment of the Council necessary or desirable for continuing public service by means of those facilities and for the maintenance, renewal and reconstruction thereof; and

WHEREAS, the required public notice has been given and a public hearing respecting said vacation has been conducted in accordance with applicable law; and

WHEREAS, the Village Council, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant the vacation of said portion of said right-of-way.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows:

SECTION 1. That the following described property, to wit:

The 20 foot wide walk and park dedication between Lots 42 and 43 of Arthur T. McIntosh and Company's Downers Grove Acres, being a subdivision in part of the East Half of Section 6, Township 38 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded on June 26, 1924 as Document 179451 in DuPage County, Illinois.

The existing 20 foot wide right of way is located between the following properties:

The North Half of Lot 42 in Arthur T. McIntosh and Company's Downers Grove Acres, being a subdivision in part of the East Half of Section 6, Township 38 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded on June 26, 1924 as Document 179451 in DuPage County, Illinois, commonly known as 4000 Venard Road, Downers Grove, IL (PIN 09-06-203-013)

and

Lot 43 in Arthur T. McIntosh & Company's Downers Grove Acres, being a subdivision in part of the East Half of Section 6, Township 38 North, Range 11 East of the Third Principal Meridian, according to the plat thereof recorded on June 26, 1924 as Document 179451 in DuPage County, Illinois, commonly known as 3946 Venard Road, Downers Grove, IL (PIN 09-06-203-012).

Commonly known as the 20 foot wide by 295 foot long vacant right-of-way located on the West side of Venard Road, approximately 700 feet North of Drove Avenue, Downers Grove directly between the properties located at 3946 and 4000 Venard Road (Adjacent to PINs 09-06-203-013 and -012)

(hereinafter referred to as the "Vacated Right-of-Way"), is hereby vacated, and that it is hereby declared that the same is no longer required for public use and that the public interest will be served by such vacation.

SECTION 2. Easements are hereby reserved for and granted to the Village of Downers Grove, County of DuPage, and to utility companies operating under franchise from the said Village including, but not limited to, AT&T, Commonwealth Edison Company, Comcast, the Downers Grove Sanitary District and their respective successors and assigns jointly and severally, over all of the areas marked "Public Utilities Easement Reservation" on the plat of vacation of the Vacated Right-of-Way as described herein for the perpetual right, privilege and authority to construct, reconstruct, repair, inspect, maintain and operate various utility transmission and distribution systems and community antenna televisions systems and all necessary connections, appliances and other structures and appurtenances as may be deemed necessary by said Village and for any and all municipal purposes, over, upon, along, under and through said indicated easements, together with right of access across the property to do any of the above work. The right is also granted to cut down, trim or remove any trees, shrubs or other plants that interfere with the operation of the utilities. No permanent buildings or structures shall be placed on said easements, but same may be used for gardens, shrubs, landscaping, driveways, fences and other purposes that do not then or later interfere with the aforesaid uses and rights. All installations shall be subject to the ordinances of the Village of Downers Grove. Easements are hereby reserved for and granted to the Village of Downers Grove and other governmental authorities having jurisdiction of the land over the entire easement area for ingress, egress and the performance of any and all municipal and other governmental services.

SECTION 3. This vacation shall be subject to the following conditions:

1. The vacation shall substantially conform to the staff report dated November 3, 2008 and Plat of Vacation prepared by Intech Consultants, Inc. dated August 5, 2008, except such plans may be modified to conform to Village Codes and Ordinances.
2. Prior to final Village Council consideration, the Petitioners shall pay the Village a total of \$7,371.

SECTION 4. That the Mayor and Clerk of the Village of Downers Grove are hereby authorized to sign the plat of vacation of the Vacated Right-of-Way described herein.

SECTION 5. That a certified copy of this ordinance and an accurate Plat of the Vacated Right-of-Way, which specifically includes the easement language contained in Section 2 of this ordinance, shall be filed for record by the Clerk of the Village of Downers Grove in the Office of the Recorder of Deeds, DuPage County, Illinois, at the Petitioner's expense.

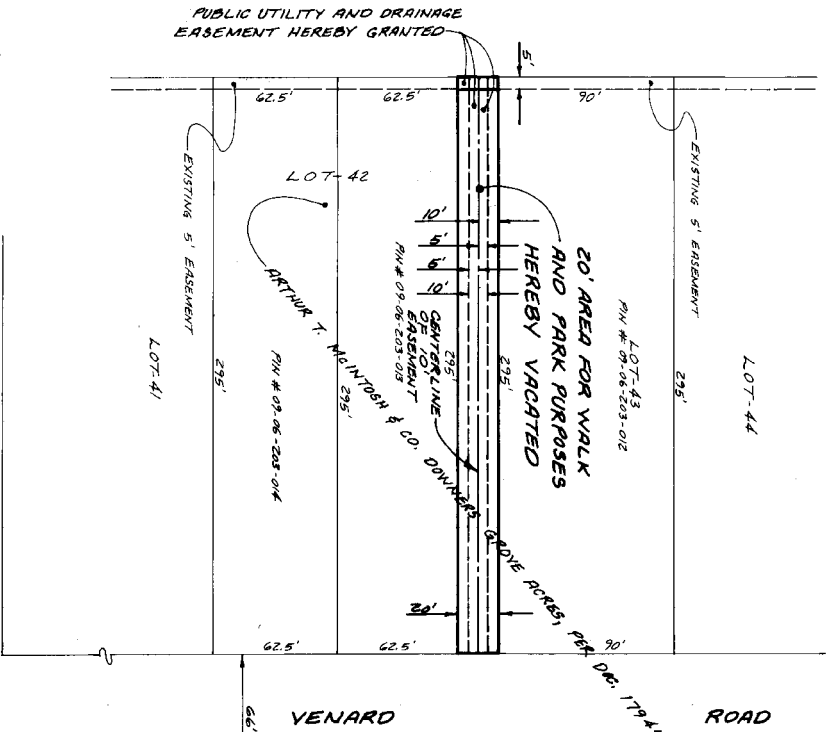
SECTION 6. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. That this ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as provided by law.

Mayor

Passed:
Published:
Attest: _____
Village Clerk

**PLAT OF VACATION
FOR DEDICATED WALK AND PARK**



DESCRIPTION OF VACATED PROPERTY:
THE 20 FOOT WALK AND PARK DEDICATION BETWEEN LOTS 42 AND 43 OF ARTHUR T. MCINTOSH AND CO. DOWNERS GROVE ACRES, BEING A SUBDIVISION IN PART OF THE EAST HALF OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO DOCUMENT 179451 IN DU PAGE COUNTY.

NEW LEGAL DESCRIPTION OF THE NORTH HALF OF LOT 42, DOWNERS GROVE ACRES, BEING A SUBDIVISION IN PART OF THE EAST HALF OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO DOCUMENT 179451 IN DU PAGE COUNTY, ILLINOIS.
THE SOUTH HALF OF THE 20 FOOT WALK AND PARK DEDICATION BETWEEN LOTS 42 AND 43 OF ARTHUR T. MCINTOSH AND CO. DOWNERS GROVE ACRES, BEING A SUBDIVISION IN PART OF THE EAST HALF OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO DOCUMENT 179451 IN DU PAGE COUNTY.

NEW LEGAL DESCRIPTION OF LOT 43, DOWNERS GROVE ACRES, BEING A SUBDIVISION IN PART OF THE EAST HALF OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO DOCUMENT 179451 IN DU PAGE COUNTY, ILLINOIS.
TOGETHER WITH THE NORTH HALF OF THE 20 FOOT WALK AND PARK DEDICATION BETWEEN LOTS 42 AND 43 OF ARTHUR T. MCINTOSH AND CO. DOWNERS GROVE ACRES, BEING A SUBDIVISION IN PART OF THE EAST HALF OF SECTION 8, TOWNSHIP 39 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO DOCUMENT 179451 IN DU PAGE COUNTY.

PUBLIC UTILITY AND DRAINAGE EASEMENT PROVISIONS

AN EASEMENT IS HEREBY GRANTED TO THE VILLAGE OF DOWNERS GROVE, ILLINOIS AND TO PUBLIC UTILITIES AND OTHER SERVICE PROVIDERS OPERATING UNDER FRANCHISES OR OTHER AUTHORITY FROM SAID VILLAGE, TO USE AND MAINTAIN UNDERGROUND AND OVERHEAD CONDUITS, PIPES, CABLES, AND OTHER STRUCTURES AND EQUIPMENT FOR THE TRANSMISSION AND DISTRIBUTION OF ELECTRICITY, GAS, WATER, SEWERAGE, AND OTHER SERVICES. THE EASEMENT SHALL INCLUDE THE RIGHT TO REPAIR, RECONSTRUCT, REPAIR, INSPECT, MAINTAIN AND OPERATE SAID UTILITIES, TRANSMISSION AND DISTRIBUTION SYSTEMS, AND CONNECTIONS, APPLIANCES AND OTHER STRUCTURES AND EQUIPMENT. THE EASEMENT SHALL BE DEEMED NECESSARY BY SAID VILLAGE OVER AND ABOVE ANY OTHER EASEMENTS OR RIGHTS OF ACCESS TOGETHER WITH THE RIGHT OF ACCESS ACROSS THE PROPERTY FOR NECESSARY MEN AND EQUIPMENT TO DO ANY OF THE ABOVE WORK. THE EASEMENT SHALL BE DEEMED NECESSARY BY SAID VILLAGE OVER AND ABOVE ANY OTHER EASEMENTS OR RIGHTS OF ACCESS TOGETHER WITH THE RIGHT OF ACCESS ACROSS THE PROPERTY FOR NECESSARY MEN AND EQUIPMENT TO DO ANY OF THE ABOVE WORK. THE EASEMENT SHALL BE DEEMED NECESSARY BY SAID VILLAGE OVER AND ABOVE ANY OTHER EASEMENTS OR RIGHTS OF ACCESS TOGETHER WITH THE RIGHT OF ACCESS ACROSS THE PROPERTY FOR NECESSARY MEN AND EQUIPMENT TO DO ANY OF THE ABOVE WORK. THE EASEMENT SHALL BE DEEMED NECESSARY BY SAID VILLAGE OVER AND ABOVE ANY OTHER EASEMENTS OR RIGHTS OF ACCESS TOGETHER WITH THE RIGHT OF ACCESS ACROSS THE PROPERTY FOR NECESSARY MEN AND EQUIPMENT TO DO ANY OF THE ABOVE WORK.

VILLAGE OF DOWNERS GROVE

STATE OF ILLINOIS)
COUNTY OF DU PAGE)
APPROVED BY THE VILLAGE OF DOWNERS GROVE BY ORDINANCE
NUMBER _____ DAY OF _____ A.D. 20____
VILLAGE OF DOWNERS GROVE, ILLINOIS
MAYOR _____
CLERK _____

DU PAGE COUNTY RECORDER'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF DU PAGE)
THIS INSTRUMENT WAS FILED FOR RECORD IN _____
THE RECORDER'S OFFICE OF DU PAGE COUNTY, ILLINOIS, ON THE _____ DAY OF _____ AT _____ O'CLOCK _____
M., AND WAS RECORDED IN BOOK _____ AT _____ OF PLATS _____
RECORDED OF DEEDS _____

SUPERVISOR'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF DU PAGE)
I, THE SUPERVISOR OF SAID VILLAGE, HAVE REVIEWED THE INSTRUMENT AND RECORDS FOR THE PURPOSE OF VACATION AS KNOWN HEREOF.
DATED THIS 29th DAY OF _____ A.D. 20____

MAYOR OF SAID VILLAGE



RTSCH CONSULTANTS, INC.
SURVEYORS / ENGINEERS
5415 S. MOUNTAIN AVENUE, DOWNERS GROVE, ILLINOIS 60415
TEL: (630) 944-5656 FAX: (630) 944-5032
E-MAIL: COMMUNICATIONS@RTSCH.COM
ILLINOIS REGISTRATION NO. 154-050040



3932

3946

4000

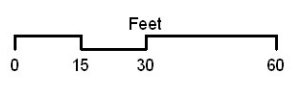
4004

4014

3,000 sq. ft. total area of utility easement

5-FOOT WIDE EASEMENT

5-FOOT WIDE EASEMENT



3946-4000 Venard ROW Division



**VILLAGE OF DOWNERS GROVE
REPORT FOR THE PLAN COMMISSION
NOVEMBER 3, 2008 AGENDA**

SUBJECT:	TYPE:	SUBMITTED BY:
PC-25-08 3946 & 4000 Venard Road	Right-of-way Vacation	Damir Latinovic, AICP Planner

REQUEST

The petitioners are requesting vacation of an unimproved 20-foot wide right-of-way located west of Venard Road. The right-of-way would be equally divided in half between the two adjacent properties 3946 and 4000 Venard Road.

NOTICE

The application has been filed in conformance with applicable procedural and public notice requirements.

GENERAL INFORMATION

OWNER: Village of Downers Grove
801 Burlington Road
Downers Grove, IL 60515

APPLICANTS: Anthony and Gwen Achilles
3946 Venard Road
Downers Grove, IL 60515
&
Richard Binder
4000 Venard Road
Downers Grove, IL 60515

PROPERTY INFORMATION

EXISTING ZONING: R-2 Single Family Residence District (Surrounding Properties)
EXISTING LAND USE: Unimproved Alley.
PROPERTY SIZE: Approximately 5,900 square feet (20-foot wide public right-of-way proposed to be vacated).
PINS: 09-07-203-012 (3946 Venard Road), 09-06-203-013 (4000 Venard Road)

SURROUNDING ZONING AND LAND USES

	ZONING	FUTURE LAND USE
NORTH:	R-2 Single Family Residence District	Residential 0-6 DU/Acre
SOUTH:	R-2 Single Family Residence District	Residential 0-6 DU/Acre
EAST:	R-2 Single Family Residence District	Residential 0-6 DU/Acre
WEST:	R-2 Single Family Residence District	Residential 0-6 DU/Acre

ANALYSIS

SUBMITTALS

This report is based on the following documents, which are on file with the Department of Community Development:

1. Application/Petition for Public Hearing
2. Project Narrative
3. Plat of Vacation

PROJECT DESCRIPTION

The petitioners are requesting the Village vacate a 20-foot wide and 295-foot long right-of-way that runs east and west and is located west of Venard Road adjacent to the properties at 3946 and 4000 Venard Road. The right-of-way is currently unimproved and functions as vacant green space between the petitioners' properties. The property owners propose to divide the right-of-way in two equal ten-foot wide by 295-foot long halves. The requested vacation is summarized in the table below:

Property Address	Requested Width	Approx. Increase in Area
4936 Venard Road	10 ft.	2,950 square feet
4000 Venard Road	10 ft.	2,950 square feet

Per the Village's Right-of-Way Vacation Policy (Resolution #2003-58), staff contacted the utility companies and outside public agencies (including the Police Department, Fire Department and Public Works Department, School Districts, Sanitary District and Downers Grove Park District) to determine if any rights to the public right-of-way should be retained. Currently Comcast and AT&T have utility poles and overhead lines running north-south along the west property line of the right-of-way and adjacent properties. There are no other utilities in the right-of-way.

The utility providers do not have an objection to the vacation of the right-of-way. Comcast and At&T have requested a utility easement be retained along the west property line for the existing utility lines and poles running north and south. Staff is recommending retaining a five-foot wide easement along the rear (west) property line of the right-of-way to match the existing five-foot wide easement on adjacent properties. Staff is also recommending retaining a five-foot wide easement on each side of the future common property line between 3946 and 4000 Venard Road per *Section 20.305 Easements and Public Utilities* of the Subdivision Ordinance. The petitioner has been informed of this requirement and does not object to the easements.

COMPLIANCE WITH FUTURE LAND USE PLAN

The subject property is an unimproved right-of-way which functions as vacant green space between adjacent properties. According to the Future Land Use Plan, the properties surrounding the right-of-way are designated as Residential (0-6 DU/Acre). The use of land will not be significantly altered as the required side yard setbacks on adjacent properties will prevent construction within most of the right-of-way area. Staff believes the proposed vacation and use is consistent with the designation on the Future Land Use Map. The proposal is also consistent with other Village planning documents.

COMPLIANCE WITH ZONING ORDINANCE

All surrounding properties are zoned R-2, Single Family Residence district. The addition of the ten-foot wide portion of the right-of-way to the two adjacent properties will increase each property by 2,950 square feet. The side yard setback requirements will increase from 7 feet to 7.5 feet for 4000 Venard Road

and from 9 feet to 10 feet for 3946 Venard Road. No new buildings or uses are proposed for the portion of the right-of-way to be vacated.

PUBLIC SAFETY REQUIREMENTS

The Fire Department and the Police Department have reviewed the plans for the vacation and noted no objections to the vacation of the alley.

NEIGHBORHOOD COMMENT

Staff has not received any written neighborhood comment regarding the proposal at this time.

FINDINGS OF FACT

Compliance with the Procedure to be Followed in the Vacation of Streets, Alleys, and Public Rights-of-Way (Resolution #2003-58)

Staff believes the request complies with the Village policy outlined in Resolution #2003-58 and recommends vacating the entire right-of-way to the petitioners. The right-of-way is not used for public traffic and is currently used as vacant green space. Staff believes the right-of-way does not need to be retained for the general health, safety and welfare of Village residents.

The utility providers affected by the vacation have noted that an easement along the west property line is required to continue maintenance of the existing utilities. Staff believes the existing utilities and public needs can be addressed with an easement and is recommending retaining a five-foot wide utility easement along the west (rear) property line of the right-of-way. This easement is in-line with the existing five-foot wide utility easement on adjacent properties. Additionally, staff is also recommending retaining a five-foot wide easement on each side of the future common property line between 3946 and 4000 Venard Road per *Section 20.305 Easements and Public Utilities* of the Subdivision Ordinance. As such, a total of 3,000 square feet of land will be encumbered by a utility easement. The retention of this easement is necessary and essential to the Village. If easements are not retained and future improvements are needed, the Village would have to purchase easements from property owners. This could impact the ability of the Village to provide improvements.

Staff recommends that the petitioners provide the Village with compensation for the vacated alley. Based on recent discussions with the Village Council, staff believes the petitioners should compensate the Village fair market value of the vacated property. The fair market value is based on the latest assessment of land adjacent to the right-of-way. When land will be encumbered with an easement, land is generally valued at one-third (1/3) of the value of the same property that does not have an easement. As such, the fair market value of the right-of-way land to be vacated will be discounted for the total of 3,000 square feet of land to be encumbered by a utility easement as outlined on the attached right-of-way division map. The table below summarizes the estimated value:

Property Address	Assessed Land Value	Square feet	Land Value per Square foot	ROW Land encumbered by easement (square feet)	ROW Land not encumbered by easement (square feet)	Total adjusted estimated cost of right-of-way
3946 Venard Road	\$50,230	26,550	\$1.89	1,500	1,450	\$3,685.5
4000 Venard Road	\$34,880	18,437.5	\$1.89	1,500	1,450	\$3,685.5
Total				3,000	2,900	\$7,371

Based on the land value assessment model, the petitioners are required to pay the Village a total of \$7,371.

RECOMMENDATIONS

The proposed right-of-way vacation is compatible with the surrounding zoning and land use classifications. Based on the findings listed above, staff recommends that the Plan Commission make a motion recommending approval of a right-of-way vacation associated with PC 25-08 to the Village Council subject to the conditions below:

1. The vacation shall substantially conform to the staff report dated November 3, 2008 and Plat of Vacation prepared by Intech Consultants, Inc. dated August 5, 2008, except such plans may be modified to conform to Village Codes and Ordinances.
2. Prior to final Village Council consideration, the petitioner shall submit a Mylar copy of the revised Plat of Vacation indicating the five-foot wide utility easement on each side of the future common property line between 3946 and 4000 Venard Road.
3. Prior to final Village Council consideration, the petitioners shall pay the Village a total of \$7,371.

Staff Report Approved By:

Tom Dabareiner, AICP
Director of Community Development

TD:dl
-att

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WIEDEL, HUDZIK, RUSS & PHILIPP

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Of Counsel
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Telephone 630/969-2300
Fax 630/969-1342

September 10, 2008

[†]Also Licensed in Wisconsin
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Village of Downers Grove
801 Burlington
Downers Grove, IL 60515-4776

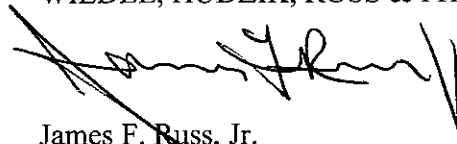
Dear Jeff:

Enclosed, please find Petitions for right-of-way vacation of a walkway easement. The properties are located at 4000 Venard and 3946 Venard Road in Downers Grove, IL. Once you have had an opportunity to review these Petitions, please contact me.

Please note that both owners are interested in obtaining one-half of the easement. I look forward to your early response.

Sincerely,

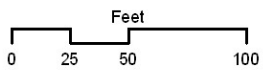
WIEDEL, HUDZIK, RUSS & PHILIPP



James F. Russ, Jr.

JFR/brd

Enclosure



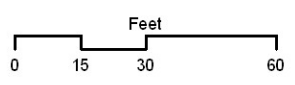
3946-4000 Venard Road ROW Vacation



3,000 sq. ft. total area of utility easement

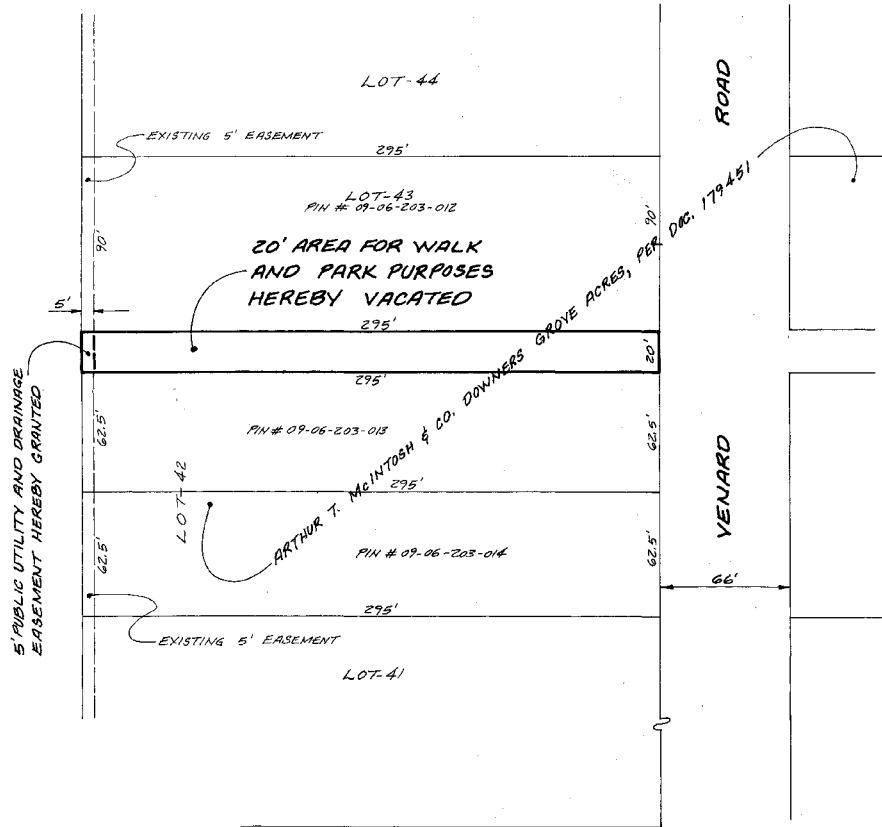
5-FOOT WIDE EASEMENT

5-FOOT WIDE EASEMENT



3946-4000 Venard ROW Division

PLAT OF VACATION FOR DEDICATED WALK AND PARK



DESCRIPTION OF VACATED PROPERTY
 THE 20 FOOT WALK AND PARK DEDICATION BETWEEN LOTS 42 AND 43 OF ARTHUR T. MCINTOSH AND CO. DOWNERS GROVE ACRES, BEING A SUBDIVISION IN PART OF THE EAST HALF OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED ON JUNE 26, 1924 AS DOCUMENT 179451 IN DU PAGE COUNTY.

NEW LEGAL DESCRIPTION OF THE NORTH HALF LOT 42
 THE NORTH HALF OF LOT 42 IN ARTHUR T. MCINTOSH AND CO. DOWNERS GROVE ACRES, BEING A SUBDIVISION IN PART OF THE EAST HALF OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED ON JUNE 26, 1924 AS DOCUMENT 179451 IN DU PAGE COUNTY, ILLINOIS.

TOGETHER WITH
 THE SOUTH HALF OF THE 20 FOOT WALK AND PARK DEDICATION BETWEEN LOTS 42 AND 43 OF ARTHUR T. MCINTOSH AND CO. DOWNERS GROVE ACRES, BEING A SUBDIVISION IN PART OF THE EAST HALF OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED ON JUNE 26, 1924 AS DOCUMENT 179451 IN DU PAGE COUNTY.

NEW LEGAL DESCRIPTION OF LOT 43
 LOT 43 IN ARTHUR T. MCINTOSH AND CO. DOWNERS GROVE ACRES, BEING A SUBDIVISION IN PART OF THE EAST HALF OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, ACCORDING TO THE PLAT THEREOF RECORDED ON JUNE 26, 1924 AS DOCUMENT 179451 IN DU PAGE COUNTY, ILLINOIS.

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PUBLIC UTILITY AND DRAINAGE EASEMENT PROVISIONS

AN EASEMENT IS HEREBY GRANTED TO THE VILLAGE OF DOWNERS GROVE, ILLINOIS AND TO PUBLIC UTILITIES AND OTHER SERVICE PROVIDERS OPERATING UNDER FRANCHISES OR OTHER AUTHORITY FROM SAID VILLAGE, INCLUDING, BUT NOT LIMITED TO, AMERITECH, NICOR GAS, COMMONWEALTH EDISON COMPANY, DOWNERS GROVE SANITARY DISTRICT, AND THE DUPAGE WATER COMMISSION AND THEIR SUCCESSORS AND ASSIGNS, OVER ALL OF THE AREAS ON THIS PLAT, MARKED "PUBLIC UTILITIES AND DRAINAGE EASEMENT", FOR THE PERPETUAL RIGHT, PRIVILEGE AND AUTHORITY TO CONSTRUCT, RECONSTRUCT, REPAIR, INSPECT, MAINTAIN AND OPERATE VARIOUS UTILITY TRANSMISSION AND DISTRIBUTION SYSTEMS, AND COMMUNITY ANTENNA TELEVISION SYSTEMS AND ALL NECESSARY CONNECTIONS, APPLIANCES AND OTHER STRUCTURES AND APPURTENANCES AS MAY BE DEEMED NECESSARY BY SAID VILLAGE, OVER, UPON, ALONG, UNDER AND THROUGH SAID INDICATED EASEMENTS, TOGETHER WITH RIGHT OF ACCESS ACROSS THE PROPERTY FOR NECESSARY MEN AND EQUIPMENT TO DO ANY OF THE ABOVE WORK, THE RIGHT IS ALSO GRANTED TO CUT DOWN, TRIM OR REMOVE ANY TREES, SHRUBS OR OTHER PLANTS THAT INTERFERE WITH THE OPERATION OF THE UTILITIES, NO PERMANENT BUILDINGS SHALL BE PLACED ON SAID EASEMENTS, BUT SAME MAY BE USED FOR GARDENS, SHRUBS, LANDSCAPING, PAVED PARKING AND DRIVEWAYS AND OTHER PURPOSES THAT DO NOT THEN OR LATER INTERFERE WITH THE AFORESAID USES AND RIGHTS. ALL INSTALLATIONS SHALL BE SUBJECT TO THE ORDINANCES OF THE VILLAGE OF DOWNERS GROVE.

EASEMENTS ARE HEREBY GRANTED TO THE VILLAGE OF DOWNERS GROVE AND OTHER GOVERNMENTAL AUTHORITIES HAVING JURISDICTION OF THE LAND, OVER THE ENTIRE EASEMENT AREA FOR INGRESS, EGRESS AND THE PERFORMANCE OF MUNICIPAL AND OTHER GOVERNMENTAL SERVICES.

PETITIONERS:

VILLAGE OF DOWNERS GROVE

STATE OF ILLINOIS)
) SS
 COUNTY OF DU PAGE)
 APPROVED BY THE VILLAGE OF DOWNERS GROVE BY ORDINANCE
 NUMBER _____
 DATED THIS _____ DAY OF _____, A.D., 20____
 VILLAGE OF DOWNERS GROVE, ILLINOIS
 MAYOR: _____
 CLERK: _____

DU PAGE COUNTY RECORDER'S CERTIFICATE

STATE OF ILLINOIS)
) SS
 COUNTY OF DU PAGE)
 THIS INSTRUMENT _____ WAS FILED FOR RECORD IN
 THE RECORDER'S OFFICE OF DUPAGE COUNTY, ILLINOIS, ON THE
 DAY OF _____, A.D. 20____ AT _____ O'CLOCK
 _____ M., AND WAS RECORDED IN BOOK _____ OF PLATS
 ON PAGE _____
 RECORDER OF DEEDS _____

SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS)
) SS
 COUNTY OF DU PAGE)
 THIS IS TO STATE THAT I, THOMAS E. FAHRENBACH, ILLINOIS PROFESSIONAL
 LAND SURVEYOR #35-2128 HAVE PREPARED THE ANNEXED PLAT FROM
 EXISTING PLATS AND RECORDS FOR THE PURPOSE OF VACATION AS
 INDICATED HEREON.
 DATED THIS 5TH DAY OF AUGUST, A.D., 2008
 Thomas E. Fahrenbach
 ILLINOIS PROFESSIONAL LAND SURVEYOR #35-2128
 My License Expires/Retires 11-30-2008



ITECH CONSULTANTS, INC.
ENGINEERS / SURVEYORS
 5413 WALNUT AVENUE DOWNERS GROVE, ILLINOIS
 TEL: (630) 964-5656 FAX: (630) 964-5052
 E-MAIL: CAD@ITECHCONSULTANTS.COM
 ILLINOIS REGISTRATION No. 124-001040

PREPARED ON: 8-5-2008

PC-25-08 A petition seeking vacation of the 20-foot wide by 295-foot long vacant right-of-way located on the West side of Venard Road, approximately 700 feet North of Drove Avenue and adjacent to 4000 & 3946 Venard Road, Downers Grove, IL (PIN's 09-06-203-013, 09-06-203-012); James F. Russ, Jr., Attorney/Petitioner; Village of Downers Grove, Owner

Chairman Jirik swore in those individuals who would be speaking on File PC-25-08

Mr. Latinovic, Village Planner, stated the petitioners have requested the Village vacate a 20-foot wide and 295-foot long right-of-way that is adjacent to their properties, 3946 and 4000 Venard Road. The right-of-way is currently unimproved and is used as green space between the two properties. The property owners propose to divide the right-of-way into two equal ten-foot wide halves. Staff contacted the utility companies and other public agencies; i.e. the Park District, Police Department, Fire Department, etc. to determine if any of their utilities exist in the right-of-way. Currently Comcast and AT&T have utility lines and poles running north-south along the west property line of the right-of-way and adjacent properties. No other utilities were present in the right-of-way.

Mr. Latinovic reported all properties adjacent to the petitioners' properties are zoned R-2, Single Family Residence District. The addition of the ten-foot wide portion of the right-of-way to the two adjacent properties will increase each property by 2,950 square feet. The side yard setback requirements will increase from 7 feet to 7.25 feet for 4000 Venard Road and from 9 feet to 10 feet for 3946 Venard Road. The Fire Department, the Police Department, and the Public Works Department have reviewed the plans for the vacation and have no objections to it.

Staff reported the request complies with the Village policy for right-of-way vacation and recommends vacating the entire right-of-way to the petitioners. The right-of-way is not used for public traffic and does not need to be retained for the general health, safety and welfare of Village residents. Staff recommended retaining the five-foot wide easement along the rear (west) property line of the right-of-way for the existing north-south utility lines and poles, which would match the existing five-foot wide easement on adjacent properties. Staff also recommended retaining a five-foot wide easement on each side of the future common property line between 3946 and 4000 Venard Road.

Mr. Latinovic relayed that the proposed easements represented a total of 3,000 square feet of land that will be encumbered by a utility easement. The retention of this easement is necessary and essential to the Village. If easements were not retained and future improvements were needed, the Village would have to purchase easements from the property owners, which could impact the ability of the Village to provide improvements. Easement rights prohibited construction on the land except for fences or asphalt driveways.

Based on recent discussions among Village Council, staff believes the petitioners should compensate the Village the fair market value of the vacated property. The fair market value was based on the latest assessment of land adjacent to the right-of-way. Mr. Latinovic explained that when land will be encumbered with an easement, land is generally valued at one-third the value of the same property that does not have an easement. Therefore, the fair market value of the right-of-way land to be vacated, discounted for the 3,000 square feet of land to be encumbered by an easement, is \$7,371.00.

Based on the findings listed above, staff recommended that the Plan Commission make a positive recommendation to the Village Council.

Mr. Matejczyk inquired if anything in the petitioner's proposal would preclude ComEd obtaining an easement on the right-of-ways in the future, wherein Mr. Latinovic explained the 10-foot wide easement was being retained along the center of the easement and could be used by any utility company. Current widths of the 3946 and 4000 Venard lots are 90 feet wide and 62.5 feet wide, without the ten-foot easements. Compared to other lots in the area, the widths were similar. Mr. Cozzo also noted a similar right-of-way on the other side of Venard, which was unimproved.

As to the 4000 Venard property being vacant, staff understood it was recently purchased by a developer. Chairman Jirik inquired whether the Village Council adopted a policy about the fair market value for a vacated right-of-way. Mr. O'Brien explained the Village policy states an appraisal at Council's discretion shall be used to determine valuation. He clarified the Plan Commission was basically recommending whether the right-of-way should be vacated. Furthermore, he stated in more recent examples the Village Council required full payment for vacated alleys based on staff's recommended formula. Mr. O'Brien explained the price of an appraisal can be more expensive than the land.

Chairman Jirik suggested the fair market value for vacation be worked out with the petitioner in a uniform and consistent approach, possibly through a Village Council policy, and that the Commission take no action on staff's Recommendation Number 3. In response, Mr. O'Brien explained there is a difference between the methods used for residential evaluations and commercial evaluations, and noted the method used to determine the fair market value of the right-of-way is based on an actual Village policy and is consistent with previous cases. Chairman Jirik then voiced his misunderstanding of staff's recommendation Number 3 and asked that Recommendation Number 3 remain.

Mr. James Russ, Esq., 4915 Main Street, Downers Grove, Illinois, on behalf of both petitioners, stated the Binders owned the 4000 property while the Achilles owned the northern parcel. Mr. Russ explained the Binders' intent is to tear down the current building on the 4000 property and construct a new home. Part of the vacation is to add the land to the property to better meet the setbacks. He stated there is no intention to divide the lots. Mr. Russ stated in the original Plat of Subdivision the easement was for park and walkway purposes. After researching the site at the County, it was discovered that the land was not dedicated to anyone on the plat. After speaking with the Legal

Department, it was determined the Village of Downers Grove had authority over the property. He did speak with the school district and park districts and neither knew about the easements nor did they want the easements.

Mr. Russ stated the easement traveled from Venard directly to Bellaire School, and the school was not interested in the parcel because the school did not want students cutting through the area. Mr. Russ relayed a few more easements existed in the subdivision, and he did not know their original intent. He stated staff did speak to him about the costs associated with the vacation of the land, and the owners are aware of the required payments. The owners were fine with retaining the five-foot easements. Mr. Russ also felt the utility companies would never have a right to use the easements since it was originally designated for park and walkway purposes, but now the utility companies could use the property since the easements are being created and defined.

No questions arose from the commissioners.

Chairman Jirik opened up the meeting to public comment.

Mr. Tony Achilles, 3946 Venard Road, Downers Grove, Illinois, indicated prior to the Binders purchasing the 4000 parcel, the prior owner and he investigated the same issues and could not determine who was responsible for the parcel. However, he stated his wife, in speaking with school representatives, recalled that the land was originally intended for a walkway for the students.

Hearing no further public comment, Chairman Jirik closed the public comment portion of the meeting.

WITH RESPECT TO FILE PC 25-08, MRS. HAMERNIK MADE A MOTION THAT THE PLAN COMMISSION RECOMMEND APPROVAL OF A RIGHT-OF-WAY VACATION ASSOCIATED WITH PC 25-08 TO THE VILLAGE COUNCIL SUBJECT TO THE FOLLOWING THREE CONDITIONS BELOW:

- 1. THE VACATION SHALL SUBSTANTIALLY CONFORM TO THE STAFF REPORT DATED NOVEMBER 3, 2008 AND PLAT OF VACATION PREPARED BY INTECH CONSULTANTS, INC. DATED AUGUST 5, 2008, EXCEPT SUCH PLANS MAY BE MODIFIED TO CONFORM TO VILLAGE CODES AND ORDINANCES.**
- 2. PRIOR TO FINAL VILLAGE COUNCIL CONSIDERATION, THE PETITIONER SHALL SUBMIT A MYLAR COPY OF THE REVISED PLAT OF VACATION INDICATING THE FIVE-FOOT WIDE UTILITY EASEMENT ON EACH SIDE OF THE FUTURE COMMON PROPERTY LINE BETWEEN 3946 AND 4000 VENARD ROAD.**
- 3. PRIOR TO FINAL VILLAGE COUNCIL CONSIDERATION, THE PETITIONERS SHALL PAY THE VILLAGE A TOTAL OF \$7,371.**

MR. COZZO SECONDED THE MOTION.

ROLL CALL:

**AYE: MRS. HAMERNIK, MR. COZZO, MR. BEGGS, MR. MATEJCZYK,
MR. QUIRK, MR. WAECHTLER, MR. WEBSTER, CHAIRMAN JIRIK**

NAY: NONE

MOTION CARRIED. VOTE: 8-0