

**VILLAGE OF DOWNERS GROVE  
REPORT FOR THE VILLAGE COUNCIL MEETING  
AUGUST 18, 2009 AGENDA**

<b>SUBJECT:</b>	<b>TYPE:</b>	<b>SUBMITTED BY:</b>
ROW Vacation: 4501 Lee Avenue	Resolution ✓ Ordinance Motion Discussion Only	Tom Dabareiner, AICP Community Development Director

**SYNOPSIS**

An ordinance has been prepared vacating a dedicated and partially improved portion of the Grant Street right-of-way adjacent to the property located at 4501 Lee Avenue. Pursuant to Village Code six (6) affirmative votes are required for approval of the ordinance.

**STRATEGIC PLAN ALIGNMENT**

The Five Year Plan and Goals for 2008-2013 identified *Preservation of our Residential and Neighborhood Character*. Supporting this goal is the objective *Tolerance of Neighborhood Private Development*.

**FISCAL IMPACT**

Pursuant to the Right of Way Vacation Policy, the petitioner should compensate the Village for the vacated property. The fair market value is based on the latest assessment of land adjacent to the right-of-way. The south half of the right-of-way would be encumbered by easements. Therefore, the value of this portion of the land (4,256 square feet) would be discounted as recommended by the Village’s land acquisition legal counsel. The table below summarizes the estimated value:

<b>Property Address</b>	<b>Assessed Land Value</b>	<b>Square Feet</b>	<b>ROW Land encumbered by easement (square feet)</b>	<b>Land value per square foot (encumbered by easement)</b>	<b>ROW Land not encumbered by easement (square feet)</b>	<b>Land value per square foot (not encumbered by easement)</b>	<b>Total adjusted estimated cost of right-of-way</b>
4501 Lee Avenue	\$122,790	45,695	4,256	\$0.89	9,029.8	\$2.69	<b>\$28,106.37</b>

Staff is recommending payment for the vacation of the right-of-way. Staff estimates the fair market value of the property to be \$28,106.37 for the south half of the right-of-way to be vacated.

**UPDATE & RECOMMENDATION**

This item was discussed at the August 11, 2009 workshop. Staff recommends approval on the August 18, 2009 active agenda.

**BACKGROUND**

The 66-foot wide by 402.6-foot long Grant Street right-of-way runs east and west and is located east of Lee Avenue, immediately south of Lee-Grant Park. The petitioner is requesting the Village vacate the 33-foot wide by 402.6-foot long south half of the existing Grant Street right-of-way adjacent to the

property at 4501 Lee Avenue. This portion of the right-of-way is currently improved with a 12-foot wide extension of Grant Street that predominately serves as a private driveway for residence at 4501 Lee Avenue. The Grant Street right-of-way east of this property was vacated in 1993 to the adjacent property owners and is currently improved with a trail.

Per the Village's Right-of-Way Vacation Policy (Resolution #2003-58), staff contacted the utility companies and outside public agencies (including the Police, Fire and Public Works Departments, School Districts, Sanitary District and Downers Grove Park District) to determine if any rights to the public right-of-way should be retained. Currently AT&T and ComEd have utility poles in the Lee Avenue right-of-way with guy wire cables partially located in the Grant Street right-of-way to be vacated. There are no other utilities in the right-of-way. The Downers Grove Park District has expressed interest to acquire the north half of the right-of-way in the future.

Staff recommends retaining a ten-foot wide public utility and access easement along the new north property line to contain the existing guy wire cables and to accommodate future Grant Street trail extension. The easement provisions will include a requirement to allow permanent public access and will match the existing ten-foot wide easement on adjacent property to the east. As such, the petitioner will not be able to construct any permanent structure including a fence within this easement. Staff is also recommending retaining a ten-foot wide public utility easement along the rear (east) property line. The petitioner has been informed of this requirement and does not object to it.

The Plan Commission considered the vacation at their August 3, 2009. One member of the public spoke at the meeting and requested the Village maintain rights to extend the path to the east. The Plan Commission recommended unanimous approval of the request. Staff concurs with this recommendation.

**ATTACHMENT**  
Ordinance

**VILLAGE OF DOWNERS GROVE**  
**COUNCIL ACTION SUMMARY**

**INITIATED:** Applicant                      **DATE:** August 18, 2009  
(Name)

**RECOMMENDATION FROM:** Plan Commission                      **FILE REF:** PC-16-09  
(Board or Department)

**NATURE OF ACTION:**

- Ordinance
- Resolution
- Motion
- Other

**STEPS NEEDED TO IMPLEMENT ACTION:**

Motion to Adopt “AN ORDINANCE VACATING A CERTAIN PORTION OF A RIGHT-OF-WAY LOCATED ADJACENT TO 4501 LEE AVENUE IN THE VILLAGE OF DOWNERS GROVE”, as presented.

**SUMMARY OF ITEM:**

Adoption of the attached ordinance will vacate a 33-foot wide by 402.6 foot long right-of-way (the south half of Grant Street right-of way) located east of Lee Avenue and adjacent to 4501 Lee Avenue.

**RECORD OF ACTION TAKEN:**

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ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE VACATING A CERTAIN PORTION OF A  
RIGHT-OF-WAY LOCATED ADJACENT TO 4501 LEE AVENUE  
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 a 402.6 foot long by 33-foot wide right-of-way (the south half of the Grant Street right-of-way located east of Lee Avenue adjacent to the property located at 4501 Lee Avenue, Downers Grove, Illinois) 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 partially improved 402.6 foot long by 33 foot wide right-of-way that runs east and west immediately located north of and adjacent to 4501 Lee Avenue (PINs 09-06-312-001)

Described as:

Lot 1 in Jensen's Resubdivision of Lot 12 in Branigar Brothers Ogden Avenue Farms, being a subdivision situated in the Southwest Quarter of Section 6, Township 38 North, Range 11 East of the Third Principal Meridian, according to the plat of said Jensen's Resubdivision, recorded August 15, 1952 as Document 659615 in DuPage County, Illinois,

(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 and/or Access Easement" 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 August 3, 2009.
2. Prior to execution of the plat, the petitioner shall pay the Village a total of \$28,106.37.
3. Any portion of the remaining Grant Street extension damaged or demolished during construction of the new residence shall be fully restored with grass.

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.

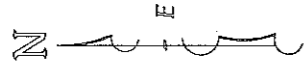
SECTION 5. That a certified copy of this ordinance and an accurate Plat of the Vacated Right-of-Way, which specifically includes the easement language contained in Section 2 of this ordinance, shall be filed for record by the Clerk of the Village of Downers Grove in the Office of the Recorder of Deeds,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

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Mayor

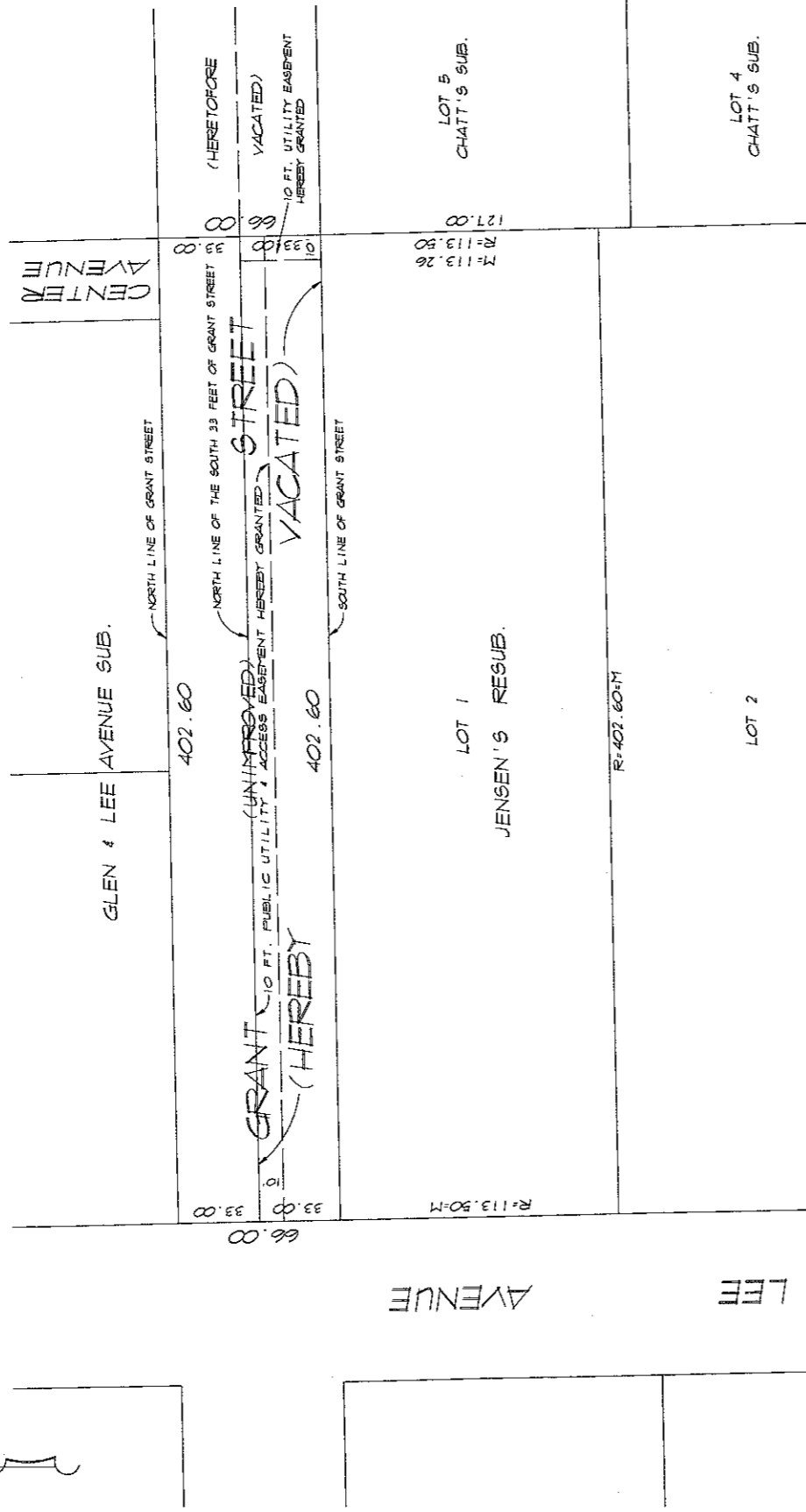
Passed:  
Published:  
Attest: \_\_\_\_\_  
Village Clerk



SCALE: 1" = 40 FEET

# PLAT OF VACATION

OF THE SOUTH 33.0 FEET OF THAT PART OF GRANT STREET LYING EAST OF THE EAST LINE OF LEE AVENUE AS EXTENDED NORTH, BEING ALSO THE WEST LINE OF LOT 1 IN JENSEN'S RESUBDIVISION AS EXTENDED NORTH, AND LYING WEST OF THE EAST LINE, AS EXTENDED NORTH, OF SAID LOT 1 IN JENSEN'S RESUBDIVISION ACCORDING TO THE PLAT THEREOF RECORDED AUGUST 15, 1952 AS DOCUMENT 659615, IN DU PAGE COUNTY, ILLINOIS.



### COUNTY RECORDER'S CERTIFICATE

STATE OF ILLINOIS )  
COUNTY OF DU PAGE ) SS.

THIS INSTRUMENT \_\_\_\_\_ WAS FILED FOR RECORD IN THE  
RECORDER'S OFFICE OF DU PAGE COUNTY, ILLINOIS, ON THE \_\_\_\_\_ DAY OF  
\_\_\_\_\_ A.D., 2009 AT \_\_\_\_\_ O'CLOCK \_\_\_\_ M AND WAS RECORDED  
IN BOOK \_\_\_\_\_ OF PLATS ON PAGE \_\_\_\_\_

\_\_\_\_\_  
COUNTY RECORDER

### VILLAGE OF DOWNERS GROVE

STATE OF ILLINOIS )  
COUNTY OF DU PAGE ) SS.

APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D., 2009  
BY THE COUNCIL OF THE VILLAGE OF DOWNERS GROVE.

ATTEST: \_\_\_\_\_ BY: \_\_\_\_\_ MAYOR  
VILLAGE CLERK

### SURVEYOR'S CERTIFICATE

STATE OF ILLINOIS )  
COUNTY OF DU PAGE ) SS.

I, RICHARD J. STEINBRECHER, AN ILLINOIS REGISTERED LAND SURVEYOR, HEREBY  
CERTIFY THAT I HAVE PREPARED THIS PLAT FROM EXISTING PLATS AND RECORDS FOR THE  
PURPOSE OF VACATING A PUBLIC RIGHT OF WAY AND RESERVING A PUBLIC UTILITY EASEMENT  
THEREIN, AND THAT IT IS A CORRECT REPRESENTATION OF THE AREA DESCRIBED HEREIN.  
WEST CHICAGO, ILLINOIS, JUNE 10, 2009,  
REVISED JULY 17, 2009.

STEINBRECHER LAND SURVEYORS, INC. BY



RICHARD J. STEINBRECHER  
PROFESSIONAL ILLINOIS LAND SURVEYOR 3583  
LICENSE EXPIRES NOVEMBER 20, 2010

PREPARED FOR: ATTY. JIM RUSS  
AND FOR: JIM RUSS & PHILLIP PC  
4915 MAIN STREET  
DOWNERS GROVE, IL 60515

### Steinbrecher Land Surveyors, Inc.

Professional Land Surveying  
Design Firm Corporation No. 184-003126  
141 S. Neilnor Blvd. West Chicago, IL 60185-2844  
(630) 293-8900 Fax 293-8902

### 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, INCLUDING BUT NOT LIMITED TO AMERITECH, NIJOR GAS, COMMONWEALTH Edison COMPANY, DOWNERS GROVE SANITARY DISTRICT, AND THE DU PAGE 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, CABLES, AND OTHER TRACES, PIPES, CONDUITS, ALONG UNDER AND THROUGH SAID NECESSARY 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 INTERFERE WITH THE AFORESAID USES AND PURPOSES. ALL SUCH 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.