

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

**INITIATED:** Village Attorney      **DATE:** November 4, 2003  
(Name)

**RECOMMENDATION FROM:** Plan Commission      **FILE REF:** \_\_\_\_\_  
(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 PUBLIC RIGHT-OF-WAY IN THE VILLAGE OF DOWNERS GROVE (A PORTION OF MIDDAGH AVENUE)", as presented.

**SUMMARY OF ITEM:**

Adoption of the attached ordinance shall vacate a portion of Middaugh Avenue.

**RECORD OF ACTION TAKEN:**

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

**AN ORDINANCE VACATING A CERTAIN PORTION OF A  
PUBLIC RIGHT-OF-WAY IN THE VILLAGE OF DOWNERS GROVE  
(A PORTION OF MIDDAUGH AVENUE)**

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 public right-of-way in said Village hereinafter more particularly described; and

WHEREAS, there are, or may be, 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 there is evidence of significant pedestrian use in this area or that this right-of-way provides access to or otherwise connect significant pedestrian destination;

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 all that part of the following described property, to wit:

**THAT PART OF THE MIDDAUGH AVENUE RIGHT OF WAY LYING WESTERLY OF AND ADJACENT TO LOT 110 IN BRANIGAR BROTHER'S DOWNERS GROVE FARMS SUBDIVISION IN SECTIONS 17 AND 18, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS:**

**COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 110; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 110 FOR A DISTANCE OF 214.91 FEET FOR A POINT OF BEGINNING; THENCE CONTINUING NORTH ALONG SAID WEST LINE OF LOT 110 FOR A DISTANCE OF 144.92 FEET TO THE NORTHWEST CORNER OF SAID LOT 110; THENCE WEST AT RIGHT ANGLES TO THE LAST DESCRIBED LINE FOR A DISTANCE OF 68.00 FEET TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF SAID MIDDAUGH AVENUE AS DEDICATED BY DOCUMENT NUMBER R74-034807; THENCE SOUTH ALONG SAID WEST RIGHT-OF-WAY LINE FOR A DISTANCE OF 144.92 FEET; THENCE EAST AT RIGHT ANGLES TO THE LAST DESCRIBED LINE FOR A DISTANCE OF 68.00 FEET TO THE POINT OF BEGINNING, IN DUPAGE COUNTY, ILLINOIS**

(hereinafter referred to as the "Vacated Middaugh Avenue"), is hereby vacated and closed, 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. Upon vacation, title to the westerly 35 feet of Vacated Middaugh Avenue shall vest in with abutting owner to the west.

SECTION 3. A perpetual easement is hereby reserved upon, over, under, along and across the westerly 35 feet of the Vacated Middaugh Avenue in favor of the Village of Downers Grove, permitted franchise holders of the Village of Downers Grove, and public utilities including, but not limited to, Commonwealth Edison Company, SBC Ameritech, and Northern Illinois Gas Company, their successors and assigns; said easements being for the installation, construction, maintenance, operation, repair, renewal and reconstruction of public service facilities, together with the right of access thereto, including both the right to clear and keep cleared such trees, branches, roots, bushes and other obstructions on the surface or in the subsurface thereof and the right of prior approval of the location and placement of buildings or other structures that may hereinafter be erected or otherwise constructed on the easement property. The plat of vacation shall include such language, and be in such form as approved by the Village Attorney to provide such easements.

SECTION 4. Upon vacation, title to the easterly 33 feet of Vacated Middaugh Avenue shall vest in with abutting owner to the east.

SECTION 5. That the westerly 5 feet of the easterly 33 feet of Vacated Middaugh Avenue shall be subject to a perpetual public pedestrian access/utility access easement and is hereby reserved upon, over, under, along and across; running north and south in favor of the Village of Downers Grove, permitted franchise holders of the Village of Downers Grove, and public utilities including, but not limited to, Commonwealth Edison Company, SBC Ameritech, and Northern Illinois Gas Company, their successors and assigns; said easements being for the installation, construction, maintenance, operation, repair, renewal and reconstruction of public service facilities, together with the right of access thereto, including both the right to clear and keep cleared such trees, branches, roots, bushes and other obstructions on the surface or in the subsurface thereof and the right of prior approval of the location and placement of buildings or other structures that may hereinafter be erected or otherwise constructed on the easement property. The plat of vacation shall include such language, and be in such form as approved by the Village Attorney to provide such easements.

SECTION 6. That the Mayor and Clerk of the Village of Downers Grove are hereby authorized to sign the plat of vacation of the Vacated Middaugh Avenue described herein.

SECTION 7. That a certified copy of this ordinance and an accurate map of the Vacated Middaugh Avenue 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.

SECTION 8. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 9. 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:

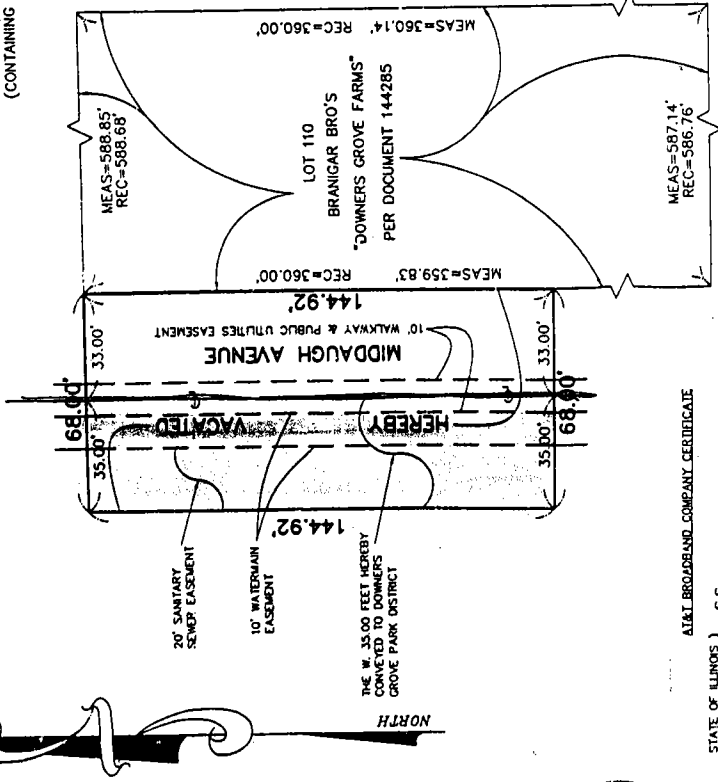
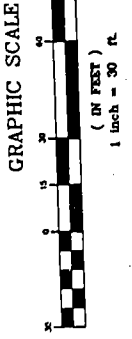
Published:

Attest: \_\_\_\_\_

Village Clerk

1\wp8\ord.03\vac-Middaugh

# PLAT OF VACATION AND GRANT OF EASEMENT



THAT PART OF THE MIDDAUGH AVENUE RIGHT OF WAY LYING WESTERLY OF AND ADJACENT TO LOT 110 IN BRANIGAR BROTHERS DOWNERS GROVE FARMS SUBDIVISION IN SECTIONS 17 AND 18, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT 110; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 110 FOR A DISTANCE OF 214.91 FEET FOR A POINT OF BEGINNING; THENCE CONTINUING NORTH ALONG SAID WEST LINE OF LOT 110 TO THE NORTHWEST CORNER OF SAID LOT 110; THENCE WEST AT RIGHT ANGLES TO THE LAST DESCRIBED LINE FOR A DISTANCE OF 68.00 FEET TO THE POINT OF BEGINNING; IN DUPAGE COUNTY, ILLINOIS.

(CONTAINING 9,854.56 SQ. FT.)

### UTILITY EASEMENT PROVISIONS (U.L.E.)

AN EASEMENT FOR SERVING THE SUBDIVISION AND OTHER PROPERTY WITH ELECTRIC, COMMUNICATIONS, GAS, CABLE TV, AND WHEN PERMITTED BY THE FOLLOWING, SHALL BE GRANTED TO COMMONWEALTH Edison Company, Northern Illinois Gas Company, Illinois Bell Telephone Company and ANY CABLE TV SERVICE SUPPLIER DESIGNATED BY THE VILLAGE OF DOWNERS GROVE (GRANTEES) THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, JOINTLY AND SEVERALLY TO INSTALL, OPERATE, MAINTAIN AND REPAIR OVERHEAD AND UNDERGROUND TRANSMISSION AND DISTRIBUTION OF GAS, CABLE TELEVISION, ELECTRICITY AND SIGNALS, OR AS PERMITTED BY THE AFOREMENTIONED SERVICES, OTHER MUNICIPAL OR UTILITY SERVICES, IN OVER, UNDER, ACROSS, ALONG AND UPON THE SURFACE OF THE OVER AND UNDER CROSS AND UPON THE PROPERTY DESIGNATED ON THE PLAT FOR STREETS AND ALLEYS, TOGETHER WITH THE RIGHT TO INSTALL REQUIRED SERVICE CONNECTIONS OVER OR UNDER THE SURFACE OF EACH LOT TO SERVE IMPROVEMENTS HEREON, TO SERVE TO OVERHANGING UTILITY RIGHT-OF-WAY OR REMOVE TREES, BUSHES AND ROOTS AS MAY BE REASONABLY REQUIRED INCIDENT TO THE RIGHTS HEREIN GIVEN, AND THE RIGHT TO ENTER UPON THE SUBDIVIDED PROPERTY FOR ALL SUCH PURPOSES OBSTRUCTIONS SHALL NOT BE PLACED OVER GRANTEES FACILITIES OR IN UPON OR ABOUT THE PROPERTY WITHIN THE DOTTED LINE MARKED AFTER INSTALLATION OF ANY SUCH FACILITIES, THE GRADE OF THE SUBDIVIDED PROPERTY SHALL NOT BE ALTERED IN A MANNER SO AS TO INTERFERE WITH THE PROPER OPERATION AND MAINTENANCE OF SUCH FACILITIES. GRANTEES SHALL BE PERMITTED TO CROSS SAID AREAS AT RIGHT ANGLES THERETO.

STATE OF ILLINOIS ) S.S.  
COUNTY OF DU PAGE )

VILLAGE ENGINEER OF THE VILLAGE OF DOWNERS GROVE, ILLINOIS, HEREBY CERTIFY THAT THE LAND IMPROVEMENTS DESCRIBED IN THE ANNEXED PLAT AND THE PLANS AND SPECIFICATIONS THEREFORE MEET THE MINIMUM REQUIREMENTS OF SAID VILLAGE AND HAVE BEEN APPROVED BY ALL PUBLIC AUTHORITIES HAVING JURISDICTION THEREOF.

DATED AT DOWNERS GROVE, DU PAGE COUNTY, ILLINOIS, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_

VILLAGE ENGINEER  
STATE OF ILLINOIS ) S.S.  
COUNTY OF DUPAGE )  
APPROVED BY THE VILLAGE MAYOR AND THE VILLAGE CLERK OF THE VILLAGE OF DOWNERS DUPAGE COUNTY, ILLINOIS, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D. 2001, IN A ORDINANCE NUMBER \_\_\_\_\_

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

STATE OF ILLINOIS ) S.S.  
COUNTY OF DUPAGE )

COUNTY CLERK OF DUPAGE COUNTY, ILLINOIS, DO HEREBY CERTIFY THAT I HAVE RECEIVED ALL STATUTORY FEES IN CONNECTION WITH THE ANNEXED P AND NO REDEEMABLE TAX SALES AGAINST ANY OF THE LAND INCLUDED IN THE ANNEXED P

GIVEN UNDER MY NAME AND SEAL OF THE COUNTY CLERK AT WHEATON, ILLINOIS, THIS \_\_\_\_\_ A.D. 2001.

DUPAGE COUNTY CLERK \_\_\_\_\_

STATE OF ILLINOIS ) S.S.  
COUNTY OF DUPAGE )  
THIS INSTRUMENT NUMBER \_\_\_\_\_ WAS FILED FOR RECORD IN THE RECORD  
DUPAGE COUNTY, ILLINOIS, AFORESAID, ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_  
AT \_\_\_\_\_ O'CLOCK \_\_\_\_\_ M.

### DOWNERS GROVE SANITARY DISTRICT CERTIFICATE

STATE OF ILLINOIS ) S.S.  
COUNTY OF DU PAGE )  
THIS PLAT OF VACATION APPROVED AND ACCEPTED BY DOWNERS GROVE SANITARY DISTRICT ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D.: 20 \_\_\_\_\_

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_

### NICOR GAS COMPANY CERTIFICATE

STATE OF ILLINOIS ) S.S.  
COUNTY OF DU PAGE )  
THIS PLAT OF VACATION APPROVED AND ACCEPTED BY NICOR GAS COMPANY ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D.: 20 \_\_\_\_\_

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_

### A1&L BROADBAND COMPANY CERTIFICATE

STATE OF ILLINOIS ) S.S.  
COUNTY OF DU PAGE )  
THIS PLAT OF VACATION APPROVED AND ACCEPTED BY A1&L BROADBAND COMPANY ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D.: 20 \_\_\_\_\_

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_

### AMERITECH TELEPHONE COMPANY CERTIFICATE

STATE OF ILLINOIS ) S.S.  
COUNTY OF DU PAGE )  
THIS PLAT OF VACATION APPROVED AND ACCEPTED BY AMERITECH TELEPHONE COMPANY ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ A.D.: 20 \_\_\_\_\_

BY: \_\_\_\_\_ TITLE: \_\_\_\_\_
