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ORDINANCE NO. F-0221

**AN ORDINANCE VACATING
A PORTION OF AVERY AVENUE, EAST OF WOOD STREET**

WHEREAS, written application has been filed with the City of Wheaton, Illinois ("City"), requesting the vacation of a portion of a certain right-of-way commonly known as Avery Avenue lying east of Wood Street; and

WHEREAS, the vacation petition has been filed pursuant to the provisions of Chapter 58, Article IV, of the City Code; thereafter, pursuant to notice as required by the City Code, a public hearing was conducted by the City Council on February 23, 1998, to consider the vacation; and

WHEREAS, the City has determined that the vacation of the right-of-way legally described herein will promote the health, safety, and welfare of the City and its residents.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Wheaton, DuPage County, Illinois, pursuant to its home rule powers, as follows:

Section 1: The following described right-of-way commonly known as a portion of Avery Avenue lying east of Wood Street is vacated:

THE SOUTH 33' OF THAT PART OF AVERY AVENUE LYING EAST OF THE WEST LINE OF BLOCK 4 (EXTENDED NORTH TO THE NORTH LINE OF AVERY AVENUE AND LYING WEST OF THE EAST LINE OF BLOCK 4 (EXTENDED NORTH TO THE NORTH LINE OF AVERY AVENUE) ALL IN EAST WHEATON, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 39 NORTH, RANGE 10 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED APRIL 2, 1889 AS DOCUMENT 40813, IN DUPAGE COUNTY, ILLINOIS.

Section 2: The vacation provided for in this ordinance is subject to the following conditions and requirements:

- A. The petitioner shall pay to the City the sum of \$3.00 per square foot for a total of Ten Thousand Dollars (\$10,000), which represents the fair market value of that portion of Avery Avenue which is vacated pursuant to the provisions of this ordinance.
- B. The petitioner shall provide letters from Commonwealth Edison, Northern Illinois Gas, Ameritech and Jones Spacelink indicating they have no interest or objection to the proposed right-of-way vacation.
- C. The City shall reserve to itself a perpetual utility easement over the entire right-of-way to be vacated.

D. The City shall declare a restrictive covenant on the right-of-way to be vacated. The covenant shall limit use of the vacated right-of-way for parking accessory to the use of the Second Baptist Church and its successors, if any. The covenant shall run with and bind the real estate in perpetuity; provided, however, the City may release the covenant, in whole or in part, pursuant to legislative enactment of an Ordinance.

Section 3: It shall be a condition precedent to the effectiveness of this ordinance and the recording and filing of the plat of vacation as provided for in Section 4 that the conditions contained in Section 2 of this ordinance be satisfied.

Section 4: The Mayor is authorized and directed to execute the plat of vacation, dated February 1, 1998, prepared by Engineering Resource Associates; and the City Clerk is authorized and directed to attest to the signature of the Mayor. The plat of vacation shall be recorded in the Office of the Recorder of Deeds, DuPage County, Illinois, along with a certified copy of this ordinance, at the expense of the petitioner, and shall be filed in the office of the DuPage County Clerk, DuPage County, Illinois.

Section 5: All ordinances or parts of ordinances in conflict with these provisions are repealed.

Section 6: This ordinance shall become effective from and after its passage, approval, and publication in pamphlet form in the manner prescribed by law.

ATTEST:

Emily M. Conoley
City Clerk



Mayor Carr

Roll Call Vote

Ayes:	Councilman Mork Councilwoman Davenport Councilman Eckhoff Councilman Gresk Mayor Carr Councilwoman Johnson
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Nays:	None
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Absent:	Councilman Johnson
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Motion Carried Unanimously

Passed: March 16, 1998
Published: March 17, 1998