

ORDINANCE NO. 18-36

**AN ORDINANCE OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS APPROVING THE VACATION OF A PORTION OF THE BARRINGTON AVENUE RIGHT-OF-WAY AND A PLAT OF VACATION**

**WHEREAS**, the Village of East Dundee ("Village") is a home rule unit of local government pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and has the authority to exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, the President and Board of Trustees of the Village have the authority to vacate public rights-of-way pursuant to Division 91 of the Illinois Municipal Code, 65 ILCS 5/11-91-1, *et seq.*; and

**WHEREAS**, the Village has jurisdiction and control over a portion of the Barrington Avenue right-of-way with an approximate length of forty-five and forty-three hundredths feet (45.43'), and an approximate width of twelve feet (12'), running in an east-west direction along the southern boundary line of property with a common address of 215 Barrington Avenue, East Dundee, Illinois 60118 ("ROW Parcel"), as depicted and legally described in the "Plat of Vacation of Part of Barrington Avenue, in the Village of East Dundee, Kane County, Illinois" attached hereto as EXHIBIT A and made a part hereof ("Plat"); and

**WHEREAS**, the ROW Parcel is Village-owned property that may be vacated, in the sole discretion of the President and Board of Trustees of the Village; and

**WHEREAS**, Next Treasure LLC ("Adjacent Owner"), the legal owner of 215 Barrington Avenue, East Dundee, Illinois 60118, as legally described in EXHIBIT B attached hereto and made a part hereof ("Adjacent Property"), desires to acquire the ROW Parcel upon its vacation. The Adjacent Property is adjacent and contiguous to the ROW Parcel. The Adjacent Owner shall, as compensation for receiving the vacated ROW Parcel, grant to the Village a perpetual easement on the ROW Parcel to install, operate, maintain and remove from time to time above ground and underground facilities and appurtenances used in connection with water, sanitary sewer and/or storm drainage systems of the Village, and any other public utilities expressly permitted by the Village, all as further detailed on the Plat. In the estimation of the Village Board, the compensation provided for in this Ordinance, and the relief from the burden and responsibility of having to maintain the ROW Parcel, represents adequate and fair compensation for the Village to vacate the ROW Parcel to the Adjacent Owner; and

**WHEREAS**, the President and Board of Trustees of the Village considered the proposed vacation of the ROW Parcel at a duly and properly noticed public hearing held on October 15, 2018; and

**WHEREAS**, the Village desires to vacate the ROW Parcel to the Adjacent Owner subject to the conditions set forth in this Ordinance; and

**WHEREAS**, pursuant to Division 91 of the Illinois Municipal Code, 65 ILCS 5/11-91-1, *et seq.*, the President and Board of Trustees have determined that the public interests of the Village will be best served by vacating the ROW Parcel solely to the Adjacent Owner, subject to the terms and conditions set forth in this Ordinance;

**NOW THEREFORE BE IT ORDAINED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS, AS FOLLOWS:**

**SECTION 1: Incorporation.** That each Whereas paragraph above is incorporated by reference into this Section 1 and made a part hereof as material and operative provisions of this Ordinance.

**SECTION 2: Vacation.** That pursuant to 65 ILCS 5/11-91-1, the Village vacates the ROW Parcel to the Adjacent Owner. The ROW Parcel is vacated solely to the Adjacent Owner, subject to the terms and conditions in this Ordinance, including that the Adjacent Owner accept the terms and conditions in this Ordinance and execute the acknowledgment in this Ordinance, as conditions precedent to the vacation of the ROW Parcel to the Adjacent Owner.

**SECTION 3: Approval of Plat.** That the Plat is approved, and the Village accepts the easements in the Plat. The Village President and Village Clerk are authorized to execute the Plat and such other documents as necessary to effectuate the vacation of the ROW Parcel. The Village Administrator is authorized to approve minor revisions to the Plat prior to finalization and recording of the Plat.

**SECTION 4: Easements and Encumbrances.** That this Ordinance does not affect any easements or encumbrances existing as of the date of this Ordinance.

**SECTION 5: Additional Consideration.** That as a material inducement for the Village to approve this Ordinance and the Plat, the Adjacent Owner agrees to defend, indemnify and hold harmless the Village, its representatives, officers, appointed and elected officials, President and Trustees, agents, engineers, attorneys, volunteers and employees from and against any and all claims, actions, suits, damages, judgments, costs, expenses and liabilities of any kind, including the reasonable fees and expenses of any attorneys, expert witnesses, staff time and consultants, court costs and fines, asserted against them or sought to be imposed upon them, individually, jointly or severally, and which arise directly or indirectly out of or in connection in any way with the vacation of the ROW Parcel, this Ordinance, or the use of the ROW Parcel following its vacation, including, but not limited to, damage claims under 65 ILCS 5/11-91-1. The Adjacent Owner agrees to waive and relinquish any and all claims or actions that it may have against the Village, its representatives, officers, appointed and elected officials, President and Trustees, agents, engineers, attorneys, volunteers and employees arising

out of, connected with, or in any way associated with the vacation or any use or activity by the Adjacent Owner relative to its use of the ROW Parcel following its vacation.

**SECTION 6: Recording.** That the Village shall cause a certified copy of this Ordinance and the original of the Plat to be recorded with the Kane County Recorder of Deeds, at the cost of the Adjacent Owner, upon which the ROW Parcel shall be vacated and title to the vacated ROW Parcel shall pass solely to the Adjacent Owner of the Adjacent Property. The rights and obligations of the Adjacent Owner in this Ordinance, including but not limited to those in Section 5, shall run with title to the Adjacent Property and shall be binding on all future owners of the Adjacent Property or any portion thereof.

**SECTION 7: Severability.** That if any Section, paragraph or provision of this Ordinance shall be held to be invalid or unenforceable for any reason, the invalidity or unenforceability of such Section, paragraph or provision shall not affect any of the remaining provisions of this Ordinance.

**SECTION 8: Repeal.** That all ordinances, resolutions, motions or parts thereof in conflict herewith shall be and the same are hereby repealed.

**SECTION 9: Effect.** That this Ordinance shall be in full force and effect forthwith upon its adoption, approval and publication in pamphlet form as provided by law.


**ADOPTED**, by a vote of at least three-fourths of the Board of Trustees, per 65 ILCS 5/11-91-1, this 15th day of October, 2018, pursuant to a roll call vote as follows:

AYES: Trustees Lynam, Selep, Wood, Hall and Andresen

NAYES: Ø

ABSENT: Trustee Mahony

**APPROVED** by me this 15th day of October, 2018.

  
\_\_\_\_\_  
Lael Miller, Village President

**ATTEST:**

  
\_\_\_\_\_  
Katherine Holt, Village Clerk

Published in pamphlet form this 17<sup>th</sup> day of October, 2018, under the authority of the Village President and Board of Trustees.

Recorded in the Village records on October 17<sup>th</sup>, 2018.

**ACKNOWLEDGMENT BY ADJACENT OWNER**

The undersigned Adjacent Owner, titleholder of record of the Adjacent Property, acknowledges hereby the reasonable of the above and foregoing terms and conditions in this Ordinance, and hereby accepts the said terms and conditions.

Next Treasure LLC, titleholder of record of the Adjacent Property

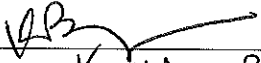
By:   
Name: Kaitlen Bergeron  
Date: 10-13-18

EXHIBIT A

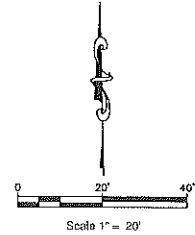
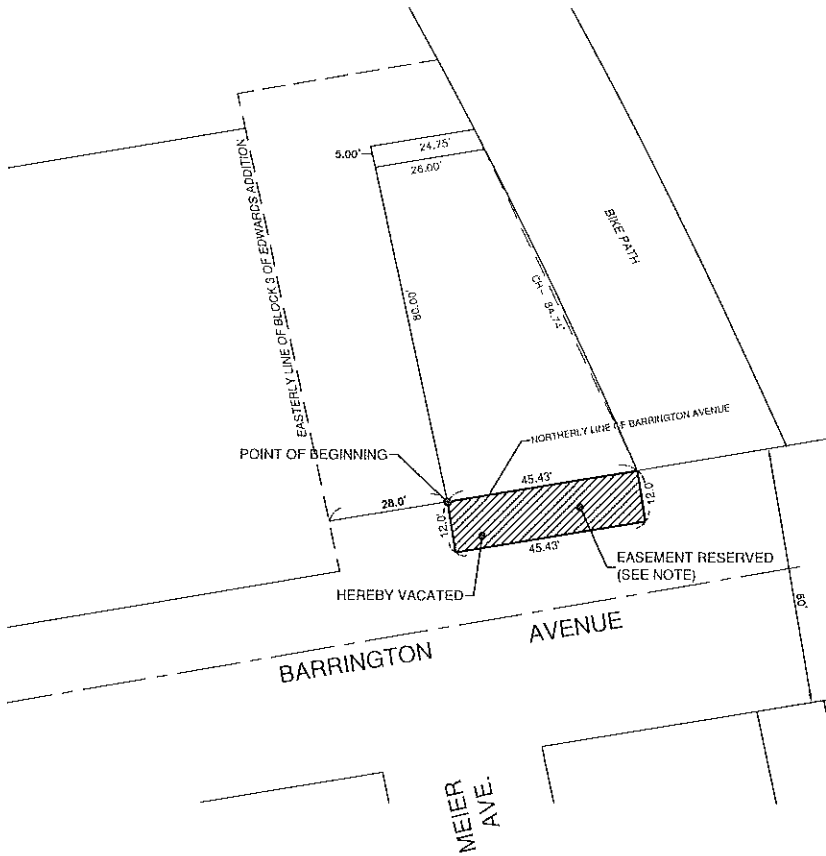
**PLAT OF VACATION OF PART OF BARRINGTON AVENUE,  
IN THE VILLAGE OF EAST DUNDEE, KANE COUNTY, ILLINOIS**

(attached)

# PLAT OF VACATION

OF

OF PART OF BARRINGTON AVENUE, IN THE VILLAGE OF EAST DUNDEE,  
KANE COUNTY, ILLINOIS.



**LEGAL DESCRIPTION FOR BARRINGTON AVENUE RIGHT-OF-WAY VACATION WITH RESERVATION OF EASEMENT:**

THAT PART OF BARRINGTON AVENUE IN THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN, BOUND AND DESCRIBED AS FOLLOWS: BEGINNING AT THE INTERSECTION OF THE NORTHERLY LINE OF BARRINGTON AVENUE AND A LINE 28 FEET EAST OF (AS MEASURED ALONG THE NORTHERLY LINE OF BARRINGTON AVENUE) AND PARALLEL WITH THE EASTERLY LINE OF BLOCK 3 OF EDWARDS ADDITION TO THE VILLAGE OF EAST DUNDEE; THENCE EASTERLY ALONG THE NORTHERLY LINE OF SAID BARRINGTON AVENUE, 45.43 FEET; THENCE SOUTHERLY, PERPENDICULAR TO THE LAST DESCRIBED LINE, FOR A DISTANCE OF 12.0 FEET; THENCE WESTERLY, PARALLEL TO AND 12.0 FEET DISTANCE FROM THE NORTHERLY LINE OF SAID BARRINGTON AVENUE, FOR A DISTANCE OF 45.43 FEET; THENCE NORTHERLY, PERPENDICULAR TO THE LAST DESCRIBED LINE, FOR A DISTANCE OF 12.0 FEET, TO THE POINT OF BEGINNING, IN THE VILLAGE OF EAST DUNDEE, KANE COUNTY, ILLINOIS.

CONTAINING 0.013 ACRES MORE OR LESS.

**NOTE:**  
THE VILLAGE OF EAST DUNDEE, COOK AND KANE COUNTIES, ILLINOIS HEREBY RESERVES AN EASEMENT OVER, UNDER, ACROSS, ALONG, AND UPON THE SURFACE OF THE VACATED RIGHT OF WAY TO INSTALL, OPERATE, MAINTAIN AND REMOVE FROM TIME TO TIME ABOVE GROUND AND UNDERGROUND FACILITIES AND APPURTENANCES USED IN CONNECTION WITH WATER, SANITARY SEWER OR STORM DRAINAGE SYSTEMS OF THE VILLAGE, AND ANY OTHER PUBLIC UTILITIES EXPRESSLY PERMITTED BY THE VILLAGE.

**COUNTY CLERK'S CERTIFICATE**

STATE OF ILLINOIS }  
COUNTY OF KANE } SS.

I, \_\_\_\_\_, COUNTY CLERK OF KANE COUNTY, ILLINOIS, DO HEREBY CERTIFY THAT THERE ARE NO DELINQUENT GENERAL TAXES, NO UNPAID FORFEITED TAXES, AND NO REDEEMABLE TAX SALES AGAINST ANY OF THE LAND INCLUDED IN THE PLAT HEREIN DRAWN. I FURTHER CERTIFY THAT I HAVE RECEIVED ALL STATUTORY FEES IN CONNECTION WITH THE PLAT HEREIN DRAWN.

GIVEN UNDER MY HAND AND SEAL AT GENEVA, KANE COUNTY, ILLINOIS, THIS \_\_\_\_ DAY OF \_\_\_\_\_ AD., 2018.

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

**CERTIFICATE OF VACATION APPROVAL**

STATE OF ILLINOIS }  
COUNTY OF KANE } SS.

THIS PLAT OF VACATION WITH RESERVATION OF EASEMENT HAS BEEN APPROVED BY THE VILLAGE BOARD OF TRUSTEES OF THE VILLAGE OF EAST DUNDEE, ILLINOIS AT A MEETING HELD ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, A.D., 20\_\_\_\_.

\_\_\_\_\_  
VILLAGE PRESIDENT

\_\_\_\_\_  
VILLAGE CLERK

**KANE COUNTY RECORDER'S CERTIFICATE**

STATE OF ILLINOIS }  
COUNTY OF KANE } SS.

THIS INSTRUMENT NO. \_\_\_\_\_ WAS FILED FOR RECORD IN THE RECORDER'S OFFICE OF KANE COUNTY, ILLINOIS, ON THE \_\_\_\_ DAY OF \_\_\_\_\_, A.D., 20\_\_\_\_ AT \_\_\_\_ O'CLOCK, \_\_\_\_ M.

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

**SURVEYOR'S CERTIFICATE**

STATE OF ILLINOIS }  
COUNTY OF KANE } SS.

I, JOSEPH D. HEINZ, ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3551, DO HEREBY CERTIFY THAT I HAVE SURVEYED THE ABOVE DESCRIBED PROPERTY AND THAT THE PLAT HEREON DRAWN CORRECTLY REPRESENTS SAID SURVEY.

DATED AT EAST DUNDEE, ILLINOIS  
THIS 27TH DAY OF SEPTEMBER, 2018 A.D.



ILLINOIS PROFESSIONAL LAND SURVEYOR NO. 3551  
LICENSE EXPIRES 11-30-20  
DESIGN FIRM REGISTRATION NO. 184-002048

GERALD L. HEINZ & ASSOCIATES, INC.  
CONSULTING ENGINEERS & LAND SURVEYORS  
206 NORTH RIVER STREET  
EAST DUNDEE, ILLINOIS 60118

PLAT OF VACATION  
215 BARRINGTON AVE  
EAST DUNDEE, ILLINOIS

VILLAGE OF EAST DUNDEE  
120 BARRINGTON AVE  
EAST DUNDEE, IL 60118

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DATE: 09/27/2018  
JOB NO.: ED-2166  
SCALE: 1"=20'  
SHEET 1 OF 1

## EXHIBIT B

### LEGAL DESCRIPTION OF THE ADJACENT PROPERTY

Parcel 1:

That part of the Northwest Quarter of the Southwest Quarter of Section 23, Township 42 North, Range 8 East of the Third Principal Meridian bounded and described as follows: Beginning at the intersection of the North line of Barrington Avenue and a Line 28 feet East of (as measured along the North line of Barrington Avenue) and parallel with the Easterly line of Block 3 of Edwards Addition to the Village of East Dundee; thence Northerly along said parallel line 80.0 feet; thence Easterly at right angles to the last described course, 26.0 feet to a line that is parallel with and 25.0 feet Southwesterly, measured radially from the center line of the Chicago and Northwestern Railway Company's Main Track as said Track is now located and established; Thence Southeasterly along the last described parallel line a chordal distance of 84.74 feet to the intersection with the Northerly line of said Barrington Avenue; Thence Westerly along the Northerly line of said Barrington Avenue, 45.43 feet to the point of beginning, all in the Village of East Dundee, Kane County, Illinois.

Parcel 2:

That part of the Northwest Quarter of the Southwest Quarter of Section 23, Township 42 North, Range 8 East of the Third Principal Meridian bounded and described as follows: Commencing at the intersection of the North line of Barrington Avenue and a line 28 feet East of (as measured along Barrington Avenue) and parallel with the Easterly line of Block 3 of Edwards Addition to the Village of East Dundee; thence Northerly along said parallel line 80.0 feet for a place of beginning; Thence continuing Northerly along said parallel line 5.0 feet; Thence Easterly at right angles to the last described course, 24.75 feet; more or less, to a line that is parallel with and 25.0 feet Southwesterly, measured radially, from the center line of the Chicago and Northwestern Railway Company's Main Track as said Track is now located and established; thence Southeasterly along the last described parallel line a chordal distance of 5.31 feet, more or less, to a point of intersection with a line drawn through the place of beginning and perpendicular to the East line of Block 3 of aforesaid Edward's Addition; Thence Westerly along said perpendicular line 26.0 feet to the place of beginning, all in the Village of East Dundee, Kane County, Illinois.

PIN: 03-23-303-011

Commonly Known As: 215 Barrington Avenue, East Dundee, Illinois 60118

SCALE 1"=20'

# Plat of Survey

OF PROPERTY DESCRIBED AS: PARCEL ONE; THAT PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN BOUNDED AND DESCRIBED AS FOLLOWS; BEGINNING AT THE INTERSECTION OF THE NORTH LINE OF BARRINGTON AVENUE AND A LINE 24 FEET EAST OF (AS MEASURED ALONG THE NORTH LINE OF BARRINGTON AVENUE) AND PARALLEL WITH THE EASTERLY LINE OF BLOCK 3 OF EDWARDS ADDITION TO THE VILLAGE OF EAST DUNDEE; THENCE NORTHERLY ALONG SAID PARALLEL LINE 80.0 FEET; THENCE EASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, 28.0 FEET TO A LINE THAT IS PARALLEL WITH AND 25.0 FEET SOUTHWESTERLY, MEASURED RADIALLY FROM THE CENTER LINE OF THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY'S MAIN TRACK AS SAID TRACK IS NOW LOCATED AND ESTABLISHED; THENCE SOUTHEASTERLY ALONG THE LAST DESCRIBED PARALLEL LINE A CHORDAL DISTANCE OF 84.74 FEET TO THE INTERSECTION WITH THE NORTHERLY LINE OF SAID BARRINGTON AVENUE; THENCE WESTERLY ALONG THE NORTHERLY LINE OF SAID BARRINGTON AVENUE 48.43 FEET TO THE POINT OF BEGINNING, ALL IN THE VILLAGE OF EAST DUNDEE, KANE COUNTY, ILLINOIS, AND SUBJECT TO A LICENSE FOR AN ELECTRIC POWER LINE AS SAME IS NOW SITUATED ON THE ABOVE PREMISES; ALSO SUBJECT TO TAXES FOR 1985 AND YEARS THEREAFTER. THIS ABOVE DESCRIBED PROPERTY INCLUDES AN EASEMENT FOR SEWER THRU THE PROPERTY DESCRIBED IN DOCUMENT 1043788 FILED FOR RECORD IN RECORDER'S OFFICE OF KANE COUNTY ILLINOIS AT 3:59 O'CLOCK P.M. ON MARCH 31, 1985, BOOK 2278, PAGE 411.

PARCEL TWO. THAT PART OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 23, TOWNSHIP 42 NORTH, RANGE 8 EAST OF THE THIRD PRINCIPAL MERIDIAN BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE INTERSECTION OF THE NORTH LINE OF BARRINGTON AVENUE AND A LINE 28 FEET EAST OF (AS MEASURED ALONG THE NORTH LINE OF BARRINGTON AVENUE) AND PARALLEL WITH THE EASTERLY LINE OF BLOCK 3 OF EDWARDS ADDITION TO THE VILLAGE OF EAST DUNDEE; THENCE NORTHERLY ALONG SAID PARALLEL LINE 80.0 FEET FOR A PLACE OF BEGINNING; THENCE CONTINUING NORTHERLY ALONG SAID PARALLEL LINE 8.0 FEET; THENCE EASTERLY AT RIGHT ANGLES TO THE LAST DESCRIBED COURSE, 34.74 FEET; MORE OR LESS TO A LINE THAT IS PARALLEL WITH AND 25.0 FEET SOUTHWESTERLY, MEASURED RADIALLY, FROM THE CENTER LINE OF THE CHICAGO AND NORTHWESTERN RAILWAY COMPANY'S MAIN TRACK AS SAID TRACK IS NOW LOCATED AND ESTABLISHED; THENCE SOUTHEASTERLY ALONG THE LAST DESCRIBED PARALLEL LINE A CHORDAL DISTANCE OF 8.31 FEET, MORE OR LESS, TO A POINT OF INTERSECTION WITH A LINE DRAWN THROUGH THE PLACE OF BEGINNING AND PERPENDICULAR TO THE EAST LINE OF BLOCK 3 OF AFORESAID EDWARDS ADDITION; THENCE WESTERLY ALONG SAID PERPENDICULAR LINE 28.0 FEET TO THE PLACE OF BEGINNING, SUBJECT TO A LICENSE FOR AN ELECTRIC POWER LINE AS THE SAME IS NOW SITUATED ON THE ABOVE PREMISES, ALL IN THE VILLAGE OF EAST DUNDEE, KANE COUNTY, ILLINOIS.



Order No. 10020

Ordered by Timothy K. Mahoney  
Attorney at Law

Property Address: 215 Barrington Ave.  
East Dundee, IL

DISTANCES ARE GIVEN IN FEET AND  
DECIMAL PARTS THEREOF

- INDICATES IRON STAKE FOUND
- INDICATES IRON STAKE SET
- INDICATES FENCING
- INDICATES CONCRETE

PLAT NOT VALID WITHOUT EMBOSSED SEAL

STATE OF ILLINOIS  
COUNTY OF KANE

55 MARCH 19 2010

This is to certify that this plat and the survey on which it is based was made under my direction. This professional service conforms to the current Illinois minimum standards for a boundary survey.

Michael J. Morray, P.A.S. No. 2943

My License expires on September 30, 2010

Any discrepancy in measurements should be promptly reported to surveyor for explanation or correction.

**MJM CONSULTING, INC.**  
40W580 ATCHISON DRIVE  
HAMPSHIRE, IL 60140-9005  
TEL (847) 888-8303

*Exhibit A*



# MOCKING BIRD PATIO LAYOUT

