

REPORT / RECOMMENDATION



To: MAYOR AND COUNCIL

Agenda Item #: VI. B.

From: Wayne D. Houle, PE, Director of Engineering

Action

Discussion

Date: January 22, 2013

Information

Subject: Public Hearing – Vacation Request, Roadway Easement Adjacent to 5250 Benton Avenue, Resolution No. 2013-12

Action Requested:

If the Council so desires, approve attached Resolution No. 2013-12 that reassigns ownership of the City owned parcel to the adjoining neighbor located at 5250 Benton Avenue, with the exception of the westerly 10-feet to be reassigned subject to a utility easement.

Information / Background:

This request is from the owner of 5250 Benton Avenue. The owner had quit claimed the property in 1957 to the Village of Edina to be used for street purposes. Due to the fact that the quit claim deed specified that the property was to be used for street purposes, staff followed the right-of-way vacation process.

Private and public utilities have been contacted to be sure that there are no conflicts with reassigning the ownership. Centerpoint and Xcel Energy do have utilities located along the westerly property line. Century Link, Comcast, and City of Edina do not have utilities within this area. Therefore, staff recommends that we retain the westerly 10-feet to be used for utility purposes.

No streets have been constructed within the proposed vacation area and the Edina Comprehensive Plan does not indicate future roadways, sidewalk or trails within the proposed vacation area.

Attachments:

Resolution No. 2013-12
Public Right Of Way Vacation Application with sketch
Quit Claim Deed
Notice of Public Hearing



**RESOLUTION NO. 2013-12
PROPERTY OWNERSHIP REASSIGNMENT**

WHEREAS, a petition was received on December 14, 2012, from the property owner of 5205 Benton Avenue requesting the vacation of existing public right-of-way located adjacent to their property; and

WHEREAS, this property was Quit Claim Deeded to the City by the same property owner on October 24, 1957; and

WHEREAS, two weeks published and posted notice was given and the hearing was held on January 22, 2013, at which time all persons desiring to be heard were given an opportunity to be heard thereon; and

WHEREAS, the City Council deems it to be in the best interest of the City and of the public that said vacation be made; and

WHEREAS, the City Council has determined that the right-of-way is not needed for public purposes, with the exception of the westerly ten feet; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Edina, Hennepin County, Minnesota:

1. That the following described right-of-ways are hereby vacated:
The west thirty (30) feet of Lot Seven (7), Block One (1), Codes Highview Park, according to recoded plat thereof, Hennepin County Minnesota.
2. That the property owner shall execute a Public Utility Easement that dedicates the following described area:
The west ten (10) feet of Lot Seven (7), Block One (1), Codes Highview Park, according to recoded plat thereof, Hennepin County Minnesota.
3. That the Mayor and the City Manager are authorized to execute all documents necessary, in the opinion of the City Attorney, to effect the transfer of this property.

Dated: January 22, 2013

Attest: _____
Debra A. Mangen, City Clerk

James B. Hovland, Mayor

STATE OF MINNESOTA)
COUNTY OF HENNEPIN) SS
CITY OF EDINA)

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Resolution was duly adopted by the Edina City Council at its Regular Meeting of January 22, 2013, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this _____ day of _____, 20____.

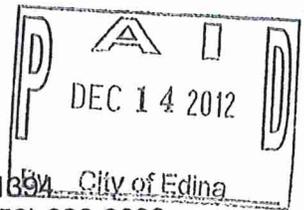
City Clerk

EDINA PUBLIC WORKS & PARK MAINTENANCE FACILITY



City Of Edina, Minnesota
DEPARTMENT OF ADMINISTRATION

4801 West 50th Street, Edina, Minnesota 55424-1834
Phone (952) 927-8861 TDD (952) 826-0379 Fax (952) 826-0390



PUBLIC RIGHT OF WAY VACATION APPLICATION

Applicant: Jeanne B. Nordby (Print Name)
Address: 5205 Benton Ave., Edina, MN 55436
Telephone No. 952-929-5731 Fax No. -

I hereby petition the City Council of the City of Edina to vacate all of the following described public right of way pursuant to M.S. 412.851 and Edina Code Section 820:

- Street, Alley, Utility Easement, Drainage Easement, Other: 1957 future roadway easement - never proposed

Legal description of the area proposed to be vacated (Please note all legal descriptions shall be transmitted electronically in a Word documents to the City of Edina City Clerk: Dmangen@edinamn.gov):

The West Thirty (30) feet of Lot Seven (7), Block One (1), Codes HighView Park

Does the area proposed to be vacated or any part thereof terminate at or abut upon any public water?

Yes No

Please note if the area requested to be vacated terminates at or abuts upon any public water, no vacation shall be made unless written notice of the petition is served by certified mail upon the commissioner of natural resources by the City of Edina thirty days before any Council action.

- Attach a copy of a scaled drawing showing in full detail the area proposed to be vacated.
Include the vacation fee of \$450.00 with your application.

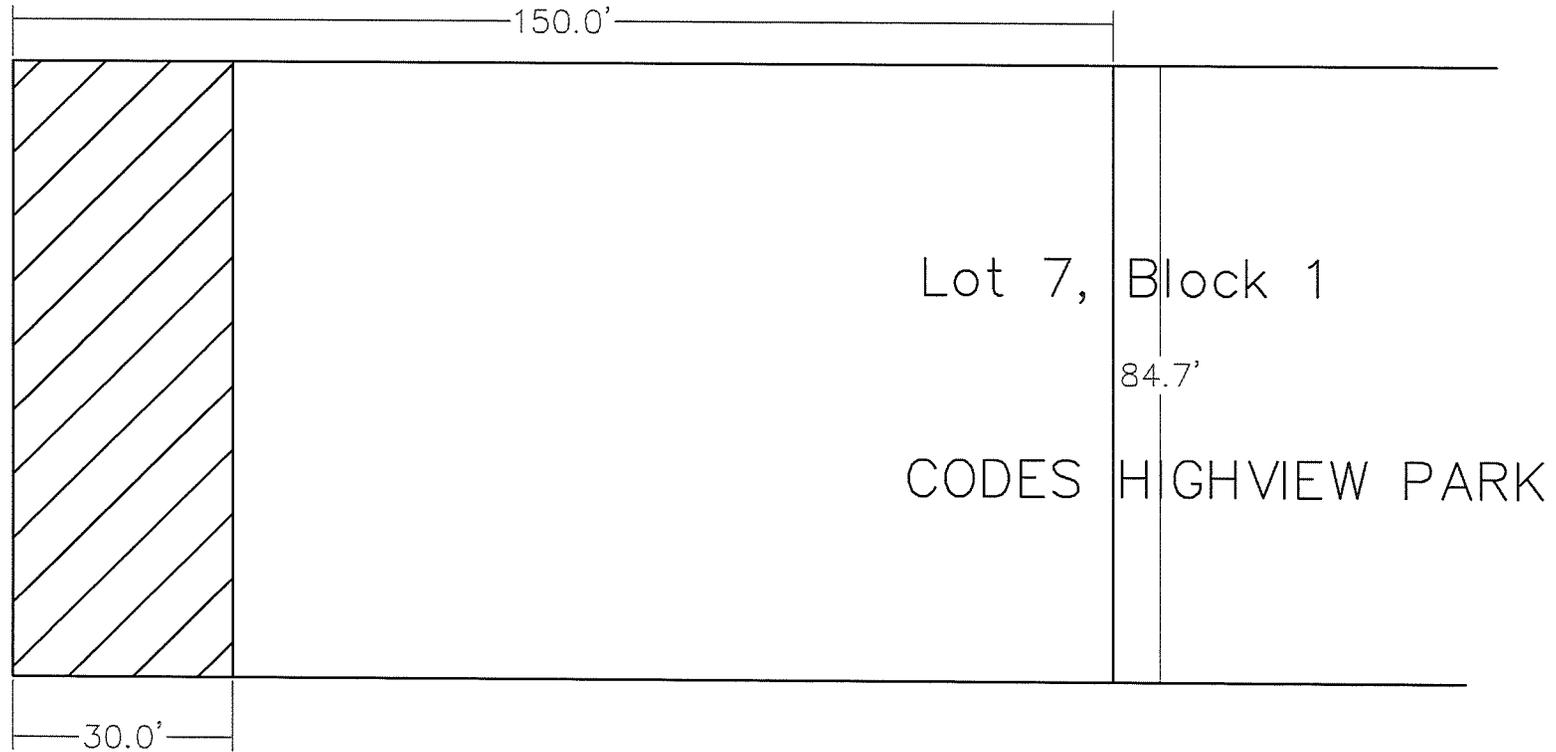
THE MINNESOTA DATA PRACTICES ACT requires that we inform you of your rights about the private data we are requesting on this form. Private data is available to you, but not to the public. We are requesting this data to determine your eligibility for a license from the City of Edina. Providing the data may disclose information that could cause your application to be denied. You are not legally required to provide the data, however, refusing to supply the data may cause your license to not be processed. Under MS 270.72, the City of Edina is required to provide the Minnesota Department of Revenue your MN Tax ID Number and Social Security Number. The Department of Revenue may supply information to the Internal Revenue Service. In addition, this data can be shared by Edina City Staff, Department of Public Safety, Hennepin County Auditor, Bureau of Criminal Apprehension, Hennepin County Warrant Office, Ramsey County Warrant Office and other persons or entities deemed necessary for verification of information submitted in the application. Your signature on this application indicates you understand these rights.

I request that my residence address and telephone number be considered private data. My alternative address and telephone number are as follows:

Address Telephone Number

Date Initiated 11-30-12 Signature Jeanne B. Nordby

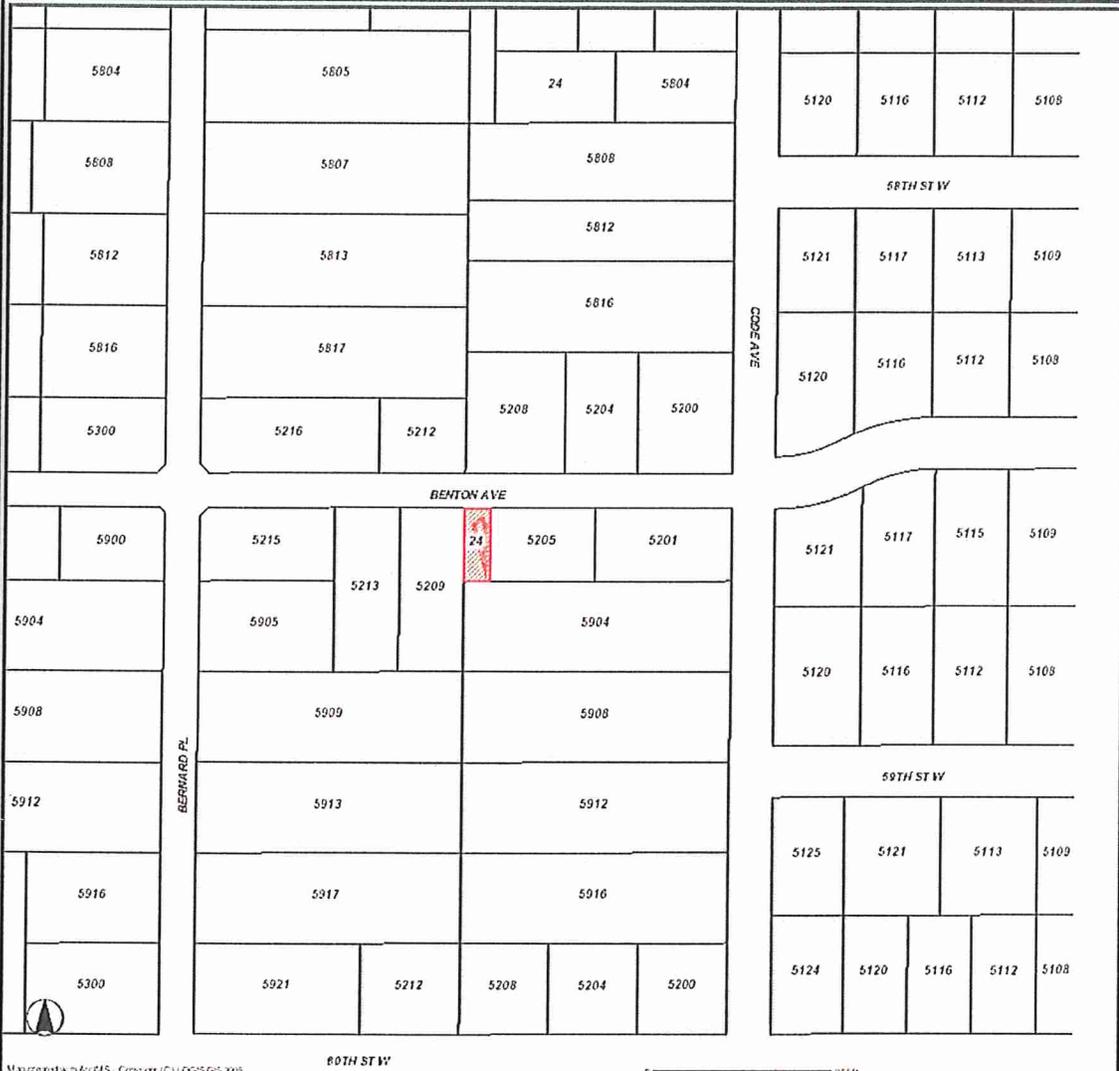
BENTON AVE.



Proposed Vacation of Quit Claim Deed for street purposes

The West Thirty (30) feet of Lot Seven (7), Block One (1), Codes Highview Park, according to the recorded plat thereof, Hennepin County Minnesota.

Vacation Request Adjacent To 5205 Benton



- Legend**
- Selected Features
 - Surrounding House Number Labels
 - House Number Labels
 - Street Name Labels
 - City Limits
 - Creeks
 - Lake Names
 - Lakes
 - Parks
 - Parcels

Map created by ArcGIS - Copyright (C) 2005 ESRI

60TH ST W

0 200ft



PID: 3311721320012

**5205 Benton Ave
Edina, MN 55436**





BENTON AVE

BENTON AVE



<p>Parcel ID: 33-117-21-32-0011</p> <p>Owner Name: Vil Of Edina</p> <p>Parcel Address: 24 Address Unassigned Edina, MN 00000</p>	<p>A-T-B: Abstract</p> <p>Market Total: \$0</p> <p>Tax Total: \$0.00 (Payable: 2012)</p>	<p>Map Scale: 1" ≈ 50 ft.</p> <p>Print Date: 12/16/2012</p> 
<p>Property Type: Residential</p> <p>Home-stead: Non-Homestead</p> <p>Parcel Area: 0.06 acres 2,539 sq ft</p>	<p>Sale Price:</p> <p>Sale Date:</p> <p>Sale Code:</p>	<p>This map is a compilation of data from various sources and is furnished "AS IS" with no representation or warranty expressed or implied, including fitness of any particular purpose, merchantability, or the accuracy and completeness of the information shown.</p> <p>COPYRIGHT © HENNEPIN COUNTY 2012</p> <p></p>

Doc. No. 308266A

QUIT CLAIM DEED

Individual to Corporation.

Howard W. Nordby and Jeanne B.

Nordby, husband and wife.

to

Village of Edina

NOV 12 57 2 6 34 \$ 001.00

Office of Register of Deeds,

State of Minnesota,

County of HENNEPIN

I hereby certify that the within Deed was filed in this office for record on the

5 day of NOV 1957, at 2 o'clock P.M. and was duly recorded in Book 2149 of Deeds, page 2644.

DONALD C. BENNYHOFF

Register of Deeds

By *[Signature]*, Deputy

Taxes for the year 19... on the lands described within, paid this day of 19...

County Treasurer

By _____, Deputy

Taxes paid and Transfer entered this

day of 19...

County Auditor

By _____, Deputy

348

E J

Recording Fee \$1.00

same as their free act and deed.

(See Note)

(See Note)

[Signature]

Notary Public HENNEPIN County Minn.

My commission expires JANUARY 12, 1960

Note: The blank lines marked "See Note" are for use when the instrument is executed by an attorney in fact.

Filed for record on the 12 day of Nov A.D. 1957 at 3:30 o'clock P.M.

TRANSFER ENTERED

NOV 12 1957

ROBERT F. FRISVOLD, ASST. HENNEPIN COUNTY, MINN.

DEPUTY

DEED BOOK 2149 PAGE 296

3092604

This Indenture, Made this 24th day of October, 1957,
between Howard W. Nordby and Jeanne B. Nordby, husband and wife

of the County of Hennepin and State of Minnesota,
part 1st of the first part, and Village of Edina,
a corporation under the laws of the State of Minnesota, party of the second part,

Witnesseth, That the said part 1st of the first part, in consideration of the sum of
One (\$1.00) Dollar and other good and valuable consideration DOLLARS,
to them in hand paid by the said party of the second part, the receipt whereof is
hereby acknowledged, do hereby Grant, Bargain, Quitclaim, and Convey unto the said party of
the second part, its successors and assigns, Forever, all the tract or parcel of land lying and being
in the County of Hennepin and State of Minnesota, described as follows, to-wit:

DEED BOOK 2149 PAGE 297

The West Thirty (30) feet of Lot Seven (7), Block One (1),
Code's Highview Park, according to the map or plat thereof
on file and of record in the office of the Register of
Deeds in and for Hennepin County, Minnesota.
This deed is given for street purposes only.

**To Have and to Hold the Same, Together with all the hereditaments and appurtenances there-
unto belonging or in anywise appertaining, to the said party of the second part, its successors and assigns,
Forever.**

In Testimony Whereof, The said part 1st of the first part have hereunto set their
hand the day and year first above written

XERO COPY

XERO COPY

XERO COPY

XERO COPY

JOHN E. CARDARELLE AND ASSOCIATES

ENGRS. & SURVEYORS

WE 9-7590

MINNEAPOLIS

CERTIFICATE OF SURVEY

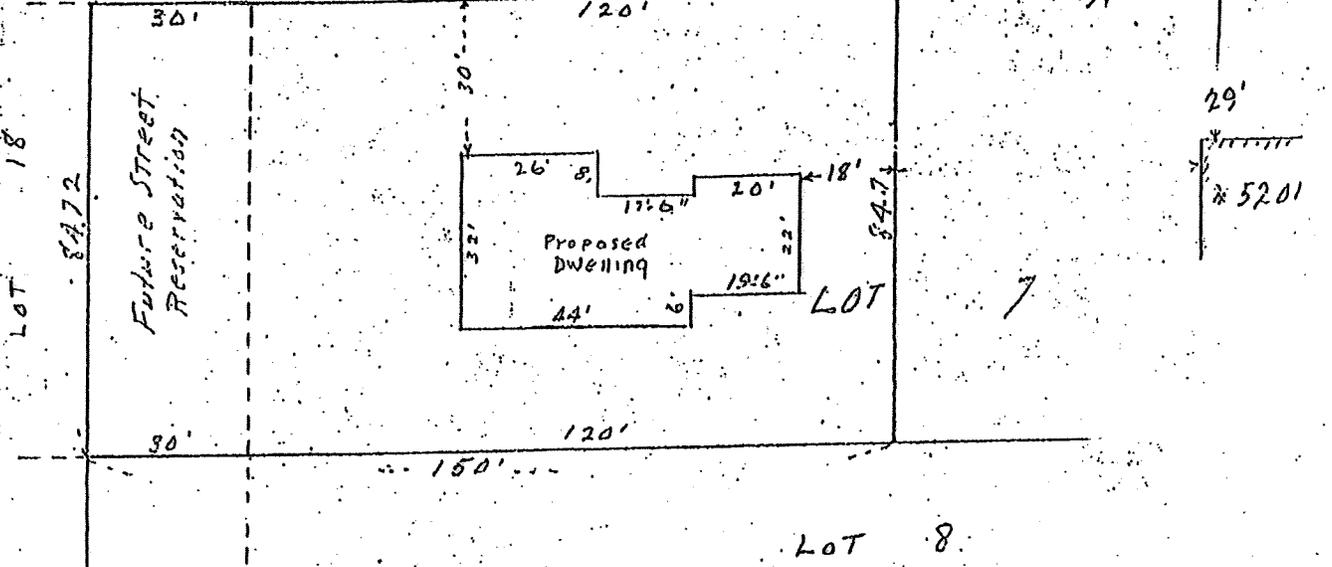
Cardarelle Highview

1" = 30'

8588

5205 Benton

Ave.



This is a true and correct representation of a survey of the boundaries of the land herein described. It does not purport to show improvements or encroachments, if any. It also shows the location of a proposed building but no stakes have been set for such location. Described as follows: The Westerly 150 feet of Lot 7 Block 1, Codes Highview Park, Village of Edina, Minnesota, subject to an easement for a future roadway over the Westerly 30 feet thereof. Dated this 17th day of September, 1957.

Scale:
1" = 30'

John E. Cardarelle
 JOHN E. CARDARELLE
 STATE REG. NO. 500

CITY OF EDINA
4801 WEST 50TH STREET
EDINA, MINNESOTA 55424
NOTICE OF PUBLIC HEARING ON
VACATION OF PUBLIC RIGHT-OF-WAY EASEMENT
IN THE CITY OF EDINA
HENNEPIN COUNTY MINNESOTA

NOTICE IS HEREBY GIVEN that the City Council of the City of Edina, Minnesota will meet on January 22, 2013 at 7:00 P.M. in the Council Chambers at 4801 West 50th Street for a scenic and open space easement to be vacated:

PROPOSED LEGAL DESCRIPTION OF RIGHT-OF-WAY EASEMENT TO BE VACATED:

The West Thirty (30) feet of Lot Seven (7), Block One (1), Codes Highview Park, according to the recorded plat thereof, Hennepin County Minnesota.

All persons who desire to be heard with respect to the question of whether or not the above proposed street right of way and utility and drainage vacation is in the public interest and should be made shall be heard at said time and place. The Council shall consider the extent to which such proposed street vacation affects existing easements within the area of the proposed vacation and the extent to which the vacation affects the authority of any person, corporation, or municipality owning or controlling electric, telephone or cable television poles and lines, gas and sewer lines, or water pipes, mains, and hydrants on or under the area of the proposed vacation, to continue maintaining the same or to enter upon such easement area or portion thereof vacated to maintain, repair, replace, remove, or otherwise attend thereto, for the purpose of specifying, in any such vacation resolution, the extent to which any or all of such easement, and such authority to maintain, and to enter upon the area of the proposed vacation, shall continue.

BY ORDER OF THE EDINA CITY COUNCIL
Debra Mangen, City Clerk

Dated December 18, 2012

PLEASE PUBLISH IN THE Edina SUN CURRENT, THURSDAY, JANUARY 3, 2013
SEND TWO AFFIDAVITS OF PUBLICATION
BILL TO EDINA CITY CLERK