

# REPORT / RECOMMENDATION



**To:** MAYOR AND COUNCIL

**Agenda Item #:** VI. A.

**From:** Chad A. Millner, PE, Director of Engineering

**Action**

**Date:** September 16, 2014

**Discussion**

**Information**

**Subject:** Public Hearing – Consider Vacation of Public Right-of-Way, 7151 York Avenue,  
Resolution No. 2014-101

## **Action Requested:**

Approve attached Resolution No. 2014-101.

## **Information / Background:**

This request comes from Mesaba Capital in relation to the Continental Apartments Project. The existing street and utility easement is 30-ft wide with the easterly 10-ft dedicated to a utility easement. The applicant is requesting vacating the easterly 10-ft of the easement or the 10-ft utility easement. The City would retain the remaining westerly 20-ft of the easement.

The applicant will be using this additional 10-ft to construct elements of the project closer to York Avenue. This will create engagement between the public and private spaces with the use of sidewalks and landscaping features.

The City has storm sewer, sanitary sewer, and watermain facilities on the west side of York Avenue and a fiber optic cable located under the sidewalk in front of 7151 York Avenue. Attached is a graphic showing the location of public utilities. This vacation will not impact public utilities.

CenterPoint Energy does not object to this vacation. Xcel Energy has a primary electric line located within the 30-ft easement that the applicant may have to work with if it's within their construction limits. CenturyLink and Comcast were unresponsive to our request for review.

Staff recommends City Council approve Resolution No. 2014-101.

## **Attachments:**

Resolution No. 2014-101

Public Right Of Way Vacation Application with sketches

Notice of Public Hearing

Graphic of City Utilities



**RESOLUTION NO. 2014-101  
VACATING UTILITY EASEMENT**

**WHEREAS**, a petition was received on July 28, 2014, from Mesaba Capital requesting vacation of a 10 foot utility easement per document number 1033725, item number 6; and

**WHEREAS**, two weeks published and posted notice was given and the hearing was held on September 16, 2014, 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 easement is not needed for public purposes;

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

1. That the following described easement is vacated:

An easement for utility purposes over under and across the east 10 feet of the west 30 feet of Lot 2, Block 3, Yorktown, according to the recorded plat thereof, Hennepin County, Minnesota.

2. 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: September 16, 2014

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 September 16, 2014, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
City Clerk

**ENGINEERING DEPARTMENT**

7450 Metro Boulevard • Edina, Minnesota 55439  
www.EdinaMN.gov • 952-826-0371 • Fax 952-826-0392



City Of Edina, Minnesota
DEPARTMENT OF ADMINISTRATION

4801 West 50th Street, Edina, Minnesota 55424-1394
Phone (952) 927-8861 TDD (952) 826-0379 Fax (952) 826-0390

PUBLIC RIGHT OF WAY VACATION APPLICATION

Applicant Mesaba Capital BO NICKOLOFF, MANAGING PARTNER

Address 5201 EDEN AVENUE #250 EDINA, MN 55436

Telephone No. 952-715-3072 Fax No. 952-830-1980

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 24-191:

- Street [checked] Alley [ ] Utility Easement [checked] Drainage Easement [ ] Other [ ]

7151 York Ave?

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):

10'-0" UTILITY EASEMENT PER DOC NO. 1033725
ITEM NO. 16 SCHEDULE

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

- Yes [ ] No [checked]

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.

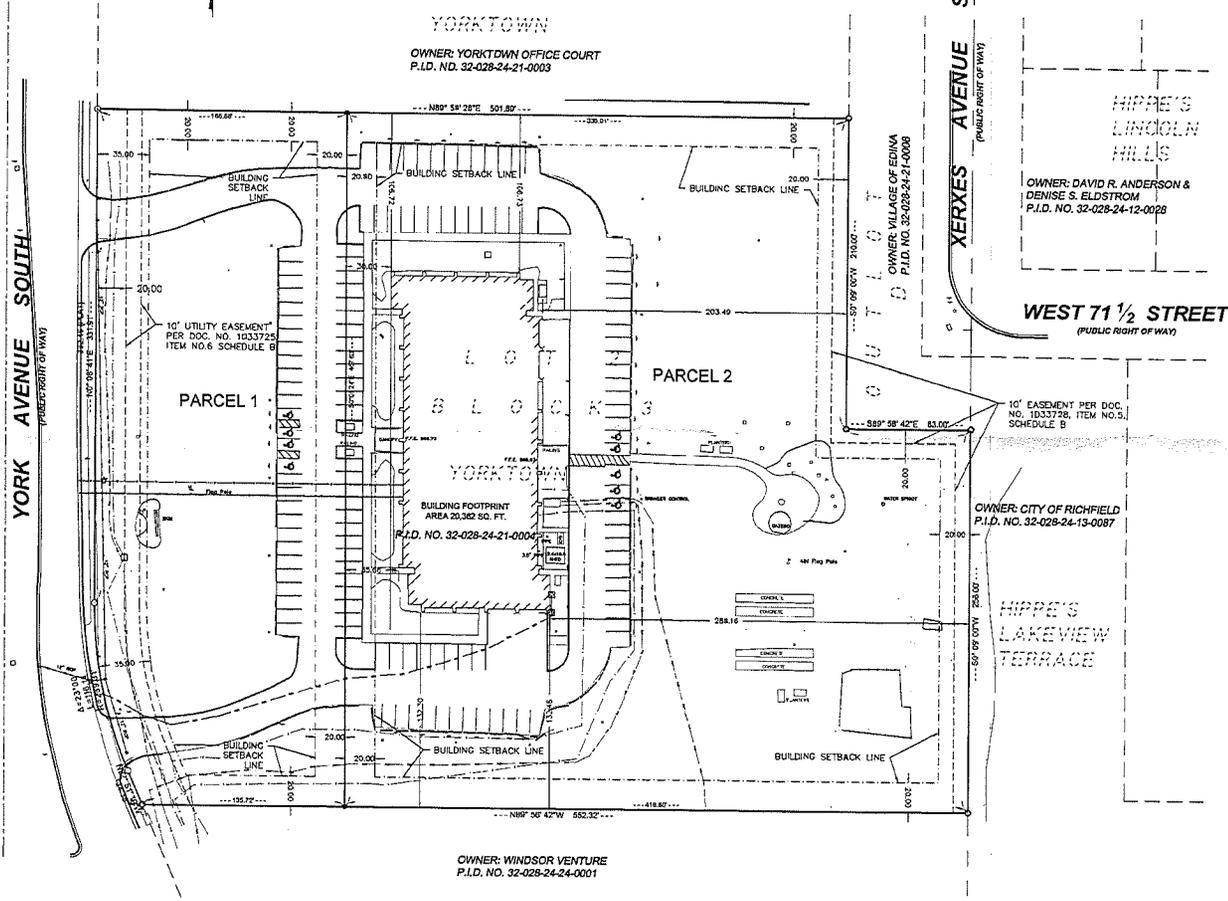
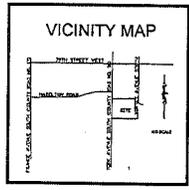
- Attach a copy of a scaled drawing showing in full detail the area proposed to be vacated.
Include the vacation fee of \$450.00 with your application.

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 7/28/14 Signature [Signature]



**LEGEND**

- Denotes Iron Monument Found
- Denotes Iron Monument Set

**NOTES:**

1. Bearings are based on the Hennepin County Coordinate Datum (NAO 83-91A).
2. Area Parcel 1 = 78,885.59 Sq. Ft. (1.795 Acres).
3. Area Parcel 2 = 177,805.52 Sq. Ft. (4.082 Acres).
4. Subject property is identified as being in "Zone X, Area of Minimal Flooding" on Flood Insurance Rate Map, Panel No. 275550451E, effective date September 2, 2004.
5. Property is Zoned PSR-4 (Planned Senior Residence - 4) with the following setback requirements:  
Front Yard = 25 Feet  
Side Yard (Street) = 20 Feet  
Rear Yard = 20 Feet  
Side Yard (Rear) = 25 Feet
6. Easements shown are contained in Old Republic National Title Insurance Company File No. 20001-1 dated April 22, 2014.
7. Utilities shown as evident on site and by locations provided by Gaspar State One Call, per Ticket No. 122071887. ALL UTILITY LOCATIONS SHOULD BE OBTAINED PRIOR TO ANY EXCAVATION.
8. There are 111 standard strip/pad parking spaces and 0 handicapped spaces.

**SURVEY ITEM PER SCHEDULE D:**

- ITEM 1-4, 7 and 18 are not survey related.
- ITEM 5: Soils and open space assessment(s) over part of subject premises as evidenced by Document No. 1033728, is depicted hereon.
- ITEM 6: Utility assessment(s) over part of subject premises as shown in the recorded plat of Yorktown, is depicted hereon.
- ITEM 8: Groundwater/Soils/Utilities Assessment(s) over subject premises in favor of Comcast of Arkansas/Florida/Louisiana/Mississippi/Tennessee, Inc., as created in Document No. 5089736, is a blanket assessment and is not depicted hereon.
- ITEM 9: Restrictions, covenants and conditions as contained in Document No. 1033727 which contain no forfeiture provisions, are not depicted hereon.

**LEGAL DESCRIPTION:**

**Parcel 1**  
All that part of Lot 2 Block 3, "Yorktown", according to the recorded plat thereof, Hennepin County, Minnesota. Being Registered land as is evidenced by Certificate of Title No. 841570, lying west of a line described as follows: Beginning at a point 186.89 feet east along the north line from the northwest corner of Lot 2 to a point 133.72 feet east along the south line from the southwest corner of Lot 2 and there terminating.

**Parcel 2**  
All that part of Lot 2 Block 3, "Yorktown", according to the recorded plat thereof, Hennepin County, Minnesota. Being Registered land as is evidenced by Certificate of Title No. 841570, lying east of a line described as follows: Beginning at a point 106.88 feet east along the north line from the northwest corner of Lot 2 to a point 133.72 feet east along the south line from the southwest corner of Lot 2 and there terminating.

**CERTIFICATION:**

I hereby certify to HUD, Yorktown Housing Group, Inc., Oak Grove Commercial Mortgage, LLC, Old Republic National Title Insurance Company and Guaranty Commercial Title, Inc., that:  
I made an on the ground survey per record description of the land shown herein located in Edina, Hennepin County, Minnesota, on August 8, 2012; and that it and this map were made in accordance with the HUD Survey Instructions and Report, HUD 820746, and the requirements for an ALTA/ACSM Land Title Survey, as defined in the 2011 Minimum Standard Detail Requirements for ALTA/ACSM Land Title Surveys.  
To the best of my knowledge, belief and information, except as shown hereon: There are no encroachments either way across property lines; site lines and lines of actual possession are the same; and the premises are free of any 100-year return frequency flood hazard; and such flood free condition is shown in the Federal Flood Insurance Rate Map, Community Panel No. 275550451E.

*Calvin H. Hedlund*  
CALVIN H. HEDLUND, LAND SURVEYOR  
MINNESOTA LICENSE NO. 5042

DATE: 8/14/12

REV.	DESCRIPTION	BY	DATE
	7151 York Ave. S., Edina, Minnesota 55435		
<b>ALTA/ACSM LAND TITLE SURVEY</b>			
<b>FOR: YORKTOWN HOUSING GROUP, INC.</b>			
	<b>Gorm Surveying, Inc.</b>		DRAWN BY: R.W.C. DATE: 05-16-2014
	1846 HARBET AVENUE, S.P. ROUTE 102 LOOMISTON, MINNESOTA 55450 (612) 836-0400 FAX 612-836-0415		HORIZONTAL SCALE IN FEET 0 20 40 80
CHECKED BY: FILE: Yorktown ALT 8.dwg	DATE:	JOB NUMBER 14-012	SHEET 1 OF 1

Legal Description for 10 foot utility easement per Doc. No.1033725.

An easement for utility purposes over under and across the east 10 feet of the west 30 feet of Lot 2, Block 3, Yorktown, according to the recorded plat thereof, Hennepin County, Minnesota.

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

CERTIFICATE OF MAILING NOTICE

I, the undersigned, being the duly qualified acting City Clerk of the City of Edina, Minnesota, hereby certify that on the following date **Sept. 2, 2014**, acting on behalf of said City, I deposited in the United States mail copies of the attached **Notice of Public Hearing On Vacation of Public ROW Easement (7151 York Ave)** (Exhibit A), enclosed in sealed envelopes, with postage thereon duly prepaid, addressed to the persons at the addresses as shown on the mailing list (Exhibit B), attached to the original hereof, which list is on file in my office, said persons being those appearing on the records of the County Auditor as owners of the property listed opposite their respective names, as of a date **13 days** prior to the date of the hearing; and that I also sent said notice to the following corporations at the indicated addresses whose property is exempt from taxation and is therefore not carried on the records of said County Auditor.

NAME

ADDRESS

WITNESS my hand and the seal of said City this 3rd day of Sept., 2014.

Debra A. Manger  
Edina City Clerk



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**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 hold a public hearing on Tuesday, September 16, 2014 at 7:00 p.m. in the Council Chambers at 4801 West 50th Street to consider the requested vacation of the following public right-of-way easement:

**PROPOSED DESCRIPTION**

An easement for utility purposes over, under and across the east 10 feet of the west 30 feet of Lot 2, Block 3, Yorktown, according to the recorded plat thereof, Hennepin County, Minnesota (7151 York Avenue).

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

September 2, 2014

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**ENGINEERING DEPARTMENT**

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Yorktown Office Court  
7101 York Avenue So  
Edina, MN 55435

Durham Apartments  
7201 York Avenue So  
Edina, MN 55435

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**PID: 3202824210004**  
 7151 York Ave S  
 Edina, MN 55435

**Owner/Taxpayer**

**Owner:** Yorktown Housing Group Inc  
 YORKTOWN HOUSING GROUP INC  
**Taxpayer:** C/O HEARTLAND BANK  
 14125 CLAYTON RD  
 CHESTERFIELD MO 63017

**Tax District**

**School Dist:** 273  
**Sewer Dist:**  
**Watershed Dist:** 1

**Parcel Area:** 5.85 acres  
 254,805 sq ft

**Torrens/Abstract:** Torrens  
**Addition:** Yorktown  
**Lot:** 002  
**Block:** 003  
**Metes & Bounds:**

**Tax Data (Payable 2014)**

**Market Value:** \$15,808,800  
**Total Tax:** \$199,175.94  
**Property Type:** Low Income Rental  
**Homestead:** Non-Homestead  
**Year Built:** 1972  
**Sales**

**Sale Code:**  
**Sale Price:** \$10,215,300  
**Sale Date:** 07/1996

Legend  
Measure

Parcel: 3460, 3210, 6975, 3100, 6941, 6945, 69

Neighborhood

Street

City

County

7000

Southdale Service Center

7029, 300930, 7037, 7045, 300430

7101, 7151, 7201, 7200, 7355, 7315

3383, 3301, 3443, 7230, 7298

719, 24, 703, 700, 200ft

YORKTOWN OFFICE COURT

DURHAM APTS.

EASEMENT

SERVES AVENUE SOUTH

FROMENADE

YORKTOWN PARK

City Utilities

YORK AVES

YORK AVES

SANITARY SEWER

FIBER OPTIC CABLE

STORM SEWER

WATER MAIN

7151 YORK Ave

↑  
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