

Memorandum
Public Works Department
Community and Economic Development Department

To: Rock Island City Council
Subject: ROW Vacation at Parcel 101274
Date: December 30, 2020



A request has been made to vacate a section of the 42nd Avenue right-of-way. The section in question is approximately one hundred thirty-two feet (132') in length and forty feet (40') wide. It is oriented east-west and is situated between the Rock River and the remainder of 42nd Avenue which is oriented north-south. A City storm sewer runs along the southern edge of the section before emptying into the river. A map is included for reference.

The adjacent property owner to the south, Mr. John VanNorman, would like to have the southern twenty feet (20') conveyed to him. The adjacent property owner to the north, Mr. John Vize, would like the northern twenty feet (20') conveyed to him. Neither wish to build any structures or create any new pavement in the vacated right-of-way. Instead, they only want to use the section to expand their side yards.

Mr. Vize, has a 2009 right of access agreement with the City. The agreement explicitly states that the City retains the right to vacate the ROW provided an access easement is put in place.

Neighbors were contacted about the potential vacation. A few expressed concerns about a loss of direct river access. However, due to the topography of the shore, the right-of-way has never served as a safe river access to the surrounding neighborhood.

The Public Works, CED, Police, and Fire Departments all agree that there is no useful municipal purpose for the section of right-of-way and do not have a need to access the river at this location. None object to the vacation. Utility companies were also contacted and had no objection to the vacation provided that appropriate utility easements remained in place.

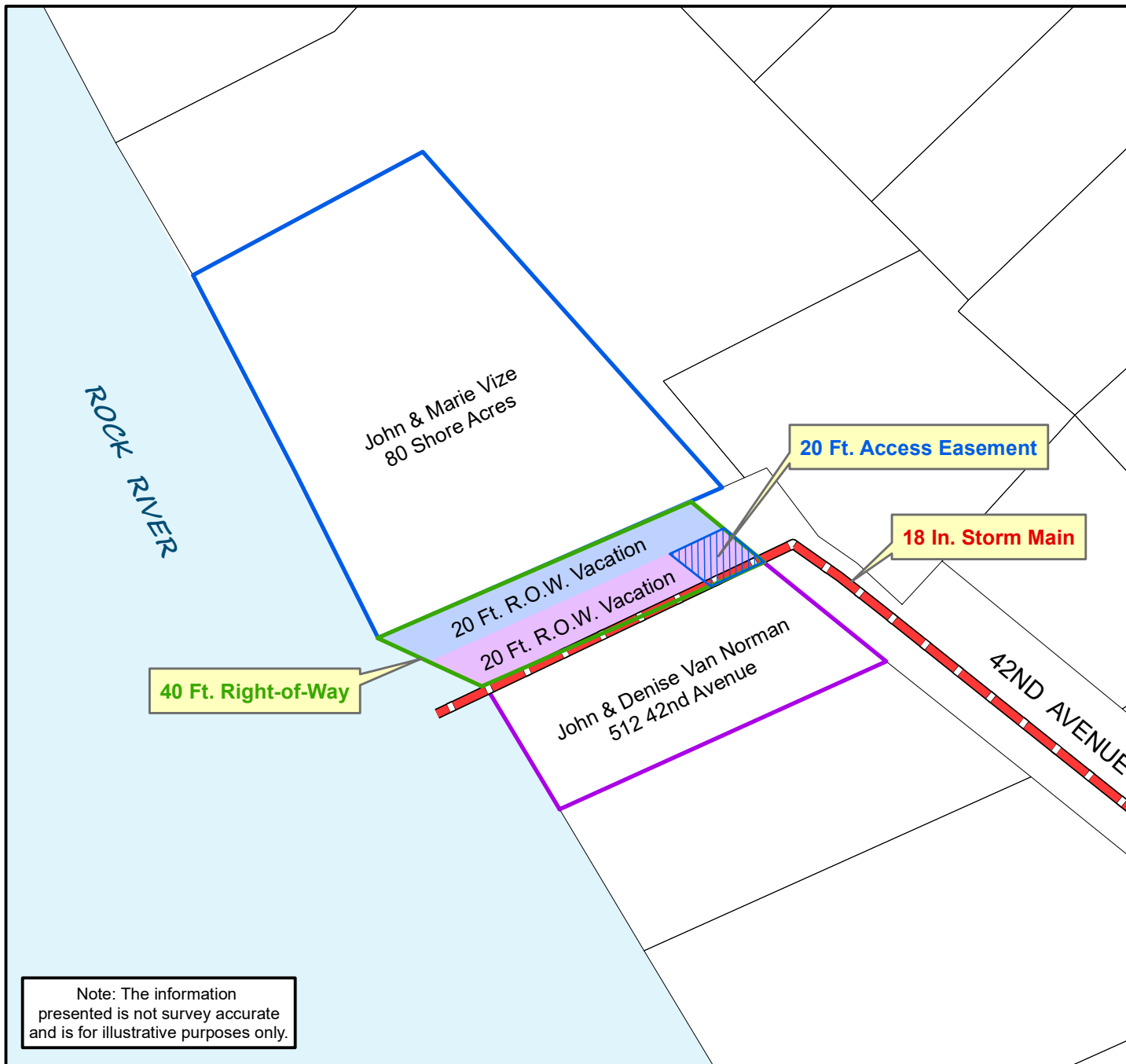
Recommendation:

The Public Works and Community and Economic Development Departments recommend that vacation of the above described section of 42nd Avenue and its conveyance in equal 20 foot wide halves to the adjacent property owners be approved; that a utilities easement be put in place for the same; that a twenty-foot access easement for the owners of 80 Shore Acres be put in place for the same; and consider the ordinance.

Submitted by: Mike Bartels, Public Works Director
Miles Brainard, Planning & Redevelopment Administrator

Approved by: Randall Tweet, City Manager






VACATION LOCATION MAP



Note: The information presented is not survey accurate and is for illustrative purposes only.

VACATION LOCATION MAP R.O.W. Shores Acres Add.

Legend

-  Original 40 Ft. Right-of-way (R.O.W.)
-  20 Ft. R.O.W. Vacation to John & Marie Vize
-  20 Ft. R.O.W. Vacation to John & Denise Van Norman
-  20 Ft. Access Easement
-  18 In. Storm Main



0 10 20 40 60 80 Feet

City of Rock Island

COMMUNITY AND ECONOMIC
DEVELOPMENT DEPARTMENT
Planning and Redevelopment



A SPECIAL ORDINANCE VACATING A SECTION OF A STREET
IN THE CITY OF ROCK ISLAND, ILLINOIS

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ROCK ISLAND, ILLINOIS:

Section One: That a section of a street in the City of Rock Island, Illinois be and is hereby vacated, reserving, however, unto the City of Rock Island or unto any public utility, all right, title, and interest said City or utility may now have in any public service facility or property now located in said right-of-way herein described, and a right-of-way and easement for such public utility and property, and also reserving unto said City or public utility the right to maintain, renew, enlarge, extend, or reconstruct any and all such public service facilities or property. That said section of a street in the City of Rock Island is described as follows:

The entire remaining dead end westerly segment of 42nd Avenue beginning at the northeasterly corner of 512 42nd Avenue (Parcel 101274, PIN 1615203001), then heading west 122.85 feet along the northern property line of 512 42nd Avenue to the northwesterly corner of 512 42nd Avenue, then heading northwesterly along a diagonal line being approximately coterminous with the Rock River shoreline and municipal boundary 39.19 feet to a point on the southern property line of 80 Shore Acres (Parcel 101275-75, PIN 1615201009), then heading east along the southern property line of 80 Shore Acres 128.53 feet to a point on the southern property line of 80 Shore Acres, then to the place of beginning along a diagonal line 44.89 feet to the northeasterly corner of 512 42nd Avenue, the entire section of right-of-way being a trapezoid with parallel northern and southern edges and a consistent width of 40 feet.

Section Two: That the southern one-half of the above described vacated street section be and is hereby conveyed to the owners of 512 42nd Avenue (Parcel 101274, PIN 1615203001).

Section Three: That the northern one-half of the above described vacated street section be and is hereby conveyed to the owners of 80 Shore Acres (Parcel 101275-75, PIN 1615201009).

Section Four: That an access easement for the owners of 80 Shore Acres (Parcel 101275-75, PIN 1615201009) measuring 20 feet from the eastern edge of the vacated street section is hereby established as described in Attachment A, a 2009 document titled "Memorandum of Agreement," to this ordinance.

Section Five: That the City Clerk of the City of Rock Island, Illinois shall file a certified copy of this ordinance for record in the Office of the Recorder of Deeds in and for Rock Island County, Illinois. All costs for recording shall be paid by the beneficiary landowners to the transition.

Section Six: All ordinances and parts of ordinances in conflict herewith are hereby repealed insofar as they do so conflict.

Section Seven: This ordinance shall be in full force and effect from and after its passage and approval, as required by law.

MAYOR OF THE CITY OF ROCK ISLAND

PASSED: _____

APPROVED: _____

ATTEST: _____

CITY CLERK

MEMORANDUM OF AGREEMENT

WHEREAS, The City of Rock Island, Illinois, A Municipal Corporation (hereinafter The City) and John W. and Marie T. Vize as owners of the real estate known as Lot 80a/k/a, 80 Shore Acres located in the City of Rock Island, Illinois wish to enter into an agreement to extend a lease agreement the parties entered into on April 13, 2004 granting the City a lease to operate and maintain a storm sewer line on said leased premises,

WHEREAS, John W. Vize and Marie T. Vize wish to construct and maintain a private driveway across City right-of-way,

THEREFORE the parties for the mutual considerations referenced below agree as follows:

1. The lease of April 13, 2004 granting the City right to operate and maintain a storm sewer on the Vize's property will be extended until July 31, 2009 upon payment to the Vizes of the sum of ONE THOUSAND and NO/100'S (\$1,000.00) on or before April 1, 2009, for this extension. The City shall present payment to John and Marie Vize as soon as is reasonably possible from said due date, but no later than twenty-eight (28) days following said due date.
2. During the period of this lease extension, the City will use reasonable effort to relocate said storm sewer line off of the property known as Lot 80 a/k/a 80 Shore Acres owned by John W. and Marie T. Vize. Relocation work to be performed as expeditiously as possible, river and weather conditions permitting. Relocation work will include repair and restoration to the property for damage incurred as a result of said relocation.
3. If said relocation work is completed on or before July 31, 2009 there will be no proration or refund of any rent paid by the City for said lease extension.
4. If said relocation work cannot be completed by July 31, 2009, said lease will be extended on a month to month basis at a lease rate of ONE THOUSAND and NO/100's (\$1,000.00) DOLLARS per month payable on the first day of each month. The City shall present payment to the Vizes as soon as is reasonably possible from said due date, but no later than twenty-eight (28) days following said due date. Each additional month's rent charged beginning with the rent paid on the first day of August, 2009 shall be prorated with John W. Vize and or Marie T. Vize to refund to the City any part of the additional holdover rent prepaid by the City should the relocation work be completed during the holdover month. Said proration shall be calculated based upon the date of completion of the work.
5. The Vizes' lease of City right-of way from the lease agreement dated April 13, 2004 is terminated as of April 1, 2009. The city will maintain said property.
6. John W. and Marie T. Vize may construct a driveway on 42nd Avenue where it abuts the property known as Lot 80, a/k/a 80 Shore Acres, provided that said driveway does not encroach that portion of 42nd Avenue currently being leased by the City to the neighbor.
7. The driveway will conform to all City permit requirements including any size parameters contained therein and may only be used for purposes of ingress and egress onto the property.
8. John W. and Marie T. Vize shall be responsible for moving all utility poles/guy wires which are required to be moved by obtaining permission from Mid American Energy Company for doing

Attachment A

the same. The City will agree to any relocation of said utility poles/guy wires onto that portion of 42nd Avenue abutting the Vize property as reasonably requested by MidAmerican Energy Company and the Vizes.

9. The City will not unreasonably withhold the issuance of a building permit for a driveway not to exceed twenty (20) feet in width to be located in the approximate location shown on the site plan attached hereto as Exhibit A as long as the plan for said driveway submitted to the City conforms to all City driveway permit requirements.
10. John and Marie Vize, and their heirs, successors, and assigns, shall have the right to use the aforesaid portion of 42nd Avenue for driveway purposes until such time as the City constructs 42nd Avenue, at which time the Vizes, or their heirs, successors, and assigns, shall have the right to a curb cut onto 42nd Avenue, or access to 42nd Avenue for vehicular traffic. The driveway may be used for all purposes which are allowed by any law, statute or ordinance of the City of Rock Island, Illinois, the State of Illinois or the United States Government and which do not interfere with City's ability to exercise whatever rights reserved to it by law, statute or ordinance for use of its right-of way including the City's right to construct the platted 42nd Avenue or its right to vacate any or all of said 42nd Avenue, provided that any vacation of 42nd Avenue shall recognize and preserve the right of the Vizes, or current owners of Lot 80, to have vehicular access (access at least 20 feet in width) to 42nd Avenue.

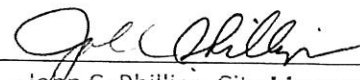
John W. and Marie T. Vize covenant that they will do nothing to cause or create any dangerous condition on or upon the City's right-of way, that they will remedy any dangerous condition should one arise and they will hold the City harmless from any and all claims should they arise from the construction, maintenance or use of said driveway on the right of way.

Dated this 24 day of April, 2009

City of Rock Island, Illinois



John W. Vize

By: 

John C. Phillips, City Manager

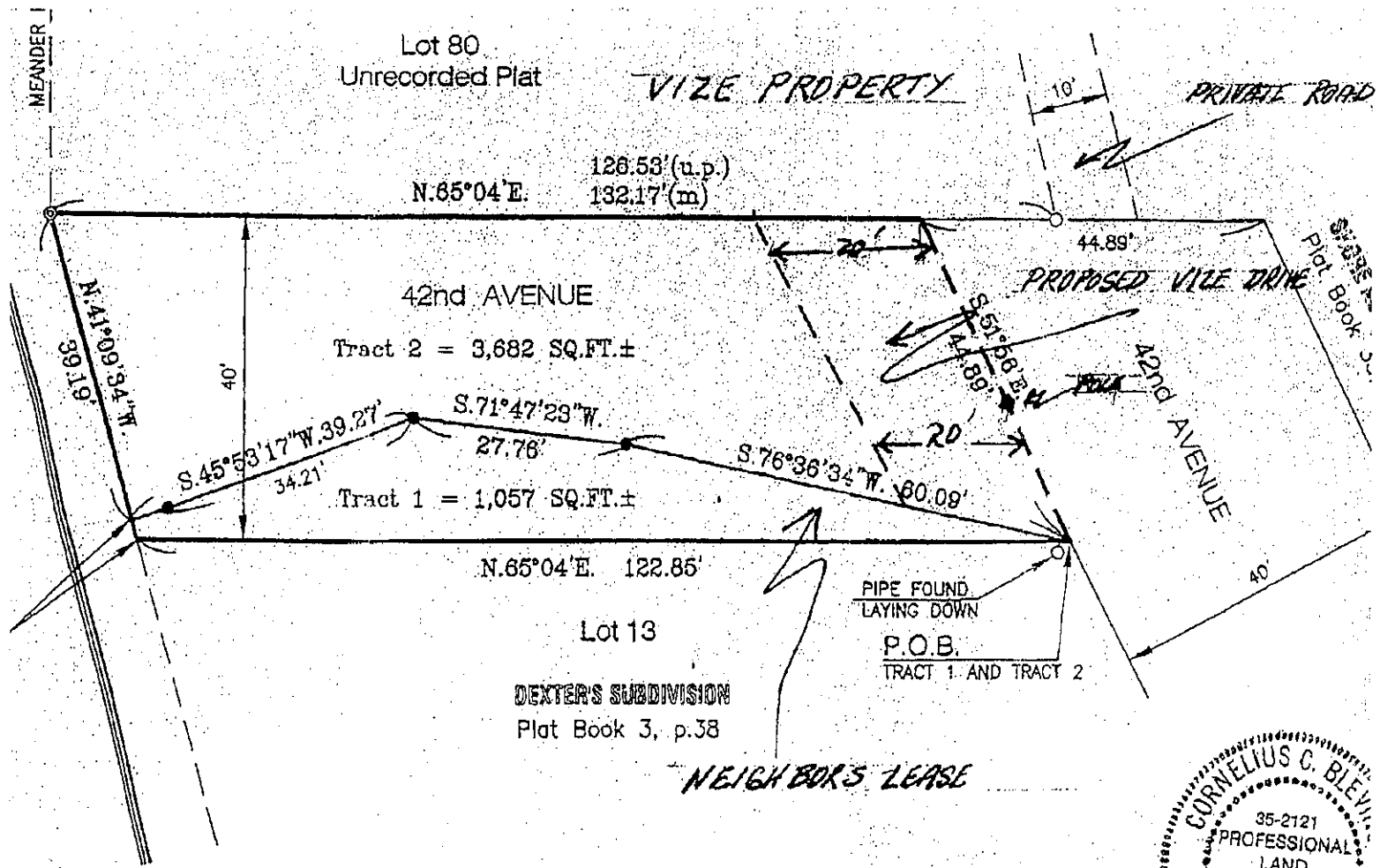


Marie T. Vize

By: 

Aleisha L. Patchin, City Clerk

Attachment A



SURVEYOR'S STATEMENT

I, Cornelius C. Blevins, Illinois Professional Land Surveyor No. 35-2121 do hereby state that this Lease Plat was prepared under my direction for the City of Rock Island, Illinois.



8/13/99 *Cornelius C. Blevins*
DATE I.P.L.S. NO. 35-2121

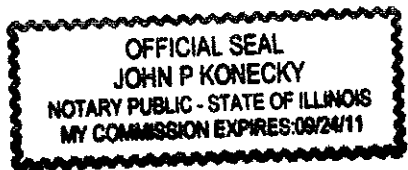
ENSION
PLAT DIMENSION
OUND
WITH CAP NO. 35-1663 FOUND
WITH CAP 35-2121 SET

Attachment A

STATE OF ILLINOIS)
) ss:
COUNTY OF ROCK ISLAND)

I, the undersigned, a Notary Public, in and for said County and State, aforesaid, DO HEREBY CERTIFY, that JOHN C. PHILLIPS, City Manager, and ALEISHA L. PATCHIN, City Clerk, of the City of Rock Island, Illinois, a municipal corporation, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal, this 24 day of April, 2009.



[Handwritten Signature]

NOTARY PUBLIC

STATE OF ILLINOIS)
) ss:
COUNTY OF ROCK ISLAND)

I, the undersigned, a Notary Public, in and for said County and State, aforesaid, DO HEREBY CERTIFY, that JOHN W. VIZE and MARIE T. VIZE, personally known to me to be the same persons whose names are subscribed to the foregoing instrument, appeared before me this day in person and acknowledged that they signed, sealed and delivered said instrument as their free and voluntary act, for the uses and purposes therein set forth, including the release and waiver of the right of homestead.

Given under my hand and notarial seal, this 20th day of April, 2009.

[Handwritten Signature]

NOTARY PUBLIC

