

VILLAGE OF DOWNERS GROVE
REPORT FOR THE VILLAGE COUNCIL MEETING
FEBRUARY 8, 2011 AGENDA

SUBJECT:	TYPE:	SUBMITTED BY:
ROW Vacation 812 – 820 Randall Street	Resolution ✓ Ordinance Motion Discussion Only	Tom Dabareiner, AICP Community Development Director

SYNOPSIS

An ordinance has been prepared vacating a 16-foot wide by 155-foot deep unimproved alley adjacent to the properties at 812 and 820 Randall Street.

STRATEGIC PLAN ALIGNMENT

The Strategic Goals for 2011-2018 include *Top Quality Infrastructure*.

FISCAL IMPACT

Per the Village Council policy, the petitioners should compensate the Village for the vacated property. The fair market value is based on the latest assessment of land adjacent to the right-of-way. The fair market value of the alley to be vacated will be discounted for the entire 2,480 square feet of land encumbered by easements. The table below summarizes the estimated value:

Property Address	Assessed Land Value	Lot Size (Square Feet)	Square Foot Land Value	SF of Alley to be vacated	Estimated Value	Encumbered Value
812 Randall Street	\$ 55,220	8,793	\$ 6.28	1,848	\$ 11,605.43	\$ 3,829.79
820 Randall Street	\$ 59,950	9,342	\$ 6.28	632	\$ 3,968.96	\$ 1,309.76

Staff is recommending payment for the vacation of the right-of-way. Staff estimates the fair market value of the property to be \$5,139.55 for the entire alley to be vacated.

UPDATE & RECOMMENDATION

This petition was discussed at the January 18, 2011 Village Council meeting. In response to a Village Council question, staff has provided the attached aerial photograph from 1975 which indicates that the alley was improved with a gravel driveway serving the property at 812 Randall. It appears that the gravel driveway did not extend to the property at 5241 Lyman Avenue. Staff recommends approval of the vacation.

BACKGROUND

The property owners of 812 and 820 Randall Street are requesting the 16-foot wide by 155-foot wide alley that runs north and south between their properties be vacated. The alley is also adjacent to 5241 Lyman Avenue. The alley is currently unimproved and maintained by the petitioners.

In the spring of 2010, the two current petitioners and the property owner of 5241 Lyman Avenue, which also abuts the alley, filed a petition to vacate the same alley. The original petition was recommended for approval by the Plan Commission on June 7, 2010. However, at the June 2010 Plan Commission meeting, the property owner of 5241 Lyman Avenue expressed his concerns over vacating the alley because he believed the vacation would eliminate public access from his property to Randall Street. The original petition was withdrawn in November 2010 prior to Village Council consideration. A new vacation request was subsequently submitted by the owners of 812 and 820 Randall Street and did not include the owner of 5241 Lyman Avenue. As proposed, the petitioner at 820 Randall Street would receive half the alley that is adjacent to their property while the 812 Randall Street petitioner would receive the remaining portion of the alley. No portion of the vacated alley would be conveyed to the owner of 5241 Lyman.

At the public hearing, the following concerns were raised and addressed:

1. *Park Connectivity* – The Downers Grove Park District requested to maintain pedestrian access within the alley to connect Randall Park with the Historical Museum citing the connectivity objectives within the Village’s Draft Comprehensive Plan. However, the goal does not exist in any of the Village’s adopted planning documents. The Plan Commission believes the neighborhood’s sidewalk system provides the necessary connectivity and a mid-block connection would only provide a redundant public service. The applicant indicated they are not interested in the vacation with a mid-block connection and path.
2. *5241 Lyman Avenue Objections* – The owner of 5241 Lyman Avenue objected to the proposed vacation stating that the unimproved alley was used a few times in the past to access his property and the vacation would eliminate this access. He indicated the alley was once improved with gravel and a driveway and these improvements constituted a public improvement.

Staff believes the alley was not publicly improved and that the driveway was a private improvement in a public right of way. Further, the vacation will not affect existing access to 5241 Lyman Avenue. As such, no public interest will be harmed if the alley is vacated. More information can be found in the draft minutes attached to this report.

Per the Village’s Right-of-Way Vacation Policy (Resolution #2003-58), staff contacted the utility companies and outside public agencies (including the Police, Fire and Public Works Departments, School Districts, Sanitary District and Downers Grove Park District) to determine if any rights to the public right-of-way should be retained. ComEd utility poles are located in the alley while AT&T and Comcast utilities have been buried. There are no other known utilities in the right-of-way. No other objections or concerns were received.

Staff is recommending retaining a public drainage, utility and utility access easement over the entire vacated alley. The easement provisions will provide adequate space for any future utility maintenance and needs. Except for a driveway or fence, future construction within the vacated alley will be prohibited. The petitioners have been informed of this requirement and do not object to it.

The Village’s Right-of-Way Vacation Policy permits the Village to vacate a right-of-way if two property owners provide written consent and if it is determined that public interests would not be harmed if the right-of-way is vacated. In this case, there are two consenting property owners and public utility interests will be addressed through the dedication of a public drainage, utility and utility access easement over the entire vacated alley. The Plan Commission found that these requirements were met by this petition.

The Plan Commission considered the petition at their January 3, 2011 meeting. As mentioned above, the owner of 5241 Lyman Avenue spoke at the meeting and expressed his concerns. As noted above, the Plan Commission found that there were no public interests harmed by the vacation of the alley and recommended approval of the vacation by a vote of 8:0. Staff concurs with the Plan Commission's recommendation.

ATTACHMENTS

Ordinance

Current Aerial Map

Aerial Map from 1975

Staff Report with attachments dated January 3, 2011

Minutes of the Plan Commission Hearing dated January 3, 2011

Plat of Vacation

Photographs provided by Mr. Olp from the January 3, 2011 Plan Commission meeting

VILLAGE OF DOWNERS GROVE
COUNCIL ACTION SUMMARY

INITIATED: Applicant **DATE:** February 8, 2011
(Name)

RECOMMENDATION FROM: Plan Commission **FILE REF:** PC-03-11
(Board or Department)

NATURE OF ACTION:

- ☒ Ordinance
☐ Resolution
☐ Motion
☐ Other

STEPS NEEDED TO IMPLEMENT ACTION:

Motion to Adopt "AN ORDINANCE VACATING A CERTAIN PORTION OF A RIGHT-OF-WAY LOCATED ADJACENT TO 812 AND 820 RANDALL STREET IN THE VILLAGE OF DOWNERS GROVE", as presented.

SUMMARY OF ITEM:

Adoption of the attached ordinance will vacate a 155-foot deep by 16-foot wide unimproved alley right-of-way adjacent to the properties located at 812 and 820 Randall Street.

RECORD OF ACTION TAKEN:

ORDINANCE NO. _____

**AN ORDINANCE VACATING A CERTAIN PORTION OF A
RIGHT-OF-WAY LOCATED ADJACENT TO 812 AND 820 RANDALL STREET
IN THE VILLAGE OF DOWNERS GROVE**

WHEREAS, it has been determined by the Council of the Village of Downers Grove in DuPage County, Illinois, that it is in the public interest to vacate a certain portion of a 155-foot deep by 16-foot wide alley right-of-way running north and south adjacent to the properties located at 812 Randall Street, 820 Randall Street, Downers Grove, Illinois, in said Village hereinafter more particularly described; and

WHEREAS, there are certain public service facilities situated in said portion of said right-of-way, and the Village Council has determined that it is necessary and in the public interest to reserve such rights-of-way and easements as are in the judgment of the Council necessary or desirable for continuing public service by means of those facilities and for the maintenance, renewal and reconstruction thereof; and

WHEREAS, the required public notice has been given and a public hearing respecting said vacation has been conducted in accordance with applicable law; and

WHEREAS, the Village Council, after due investigation and consideration, has determined that the nature and extent of the public use and the public interest to be served is such as to warrant the vacation of said portion of said right-of-way.

NOW, THEREFORE, BE IT ORDAINED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows:

SECTION 1. That the following described property, to wit:

The unimproved 155-foot long by 16-foot wide alleyway right-of-way that runs north and south adjacent to the properties located at 812 Randall Street and 820 Randall Street (PINs 09-08-316-009; 09-08-316-008, respectively)

Described as:

Lot 7 in C.B. Blodgett Homestead Subdivision, being a subdivision of part of Lot 4 of the assessor's subdivision of Section 8, Township 38 North, Range 11 east of the third principal meridian, according to the plat of said C.B. Blodgett Homestead Subdivision recorded October 16, 1923 as document 170563, in DuPage County, Illinois, commonly known as 812 Randall Street, Downers Grove, IL 60515 (PIN 09-08-316-009), and Lot 10 and the south half of Lot 9 in Block 1 in Lyman's Addition to Downers Grove, a subdivision in the southeast quarter and the southwest quarter of Section 8, Township 38 North, Range 11, east of the third principal meridian, in DuPage County, Illinois, commonly known as 820 Randall Street, Downers Grove, IL 60515 (PIN 09-08-316-008).

(hereinafter referred to as the "Vacated Right-of-Way"), is hereby vacated, and that it is hereby declared that the same is no longer required for public use and that the public interest will be served by such vacation.

SECTION 2. Easements are hereby reserved for and granted to the Village of Downers Grove, County of DuPage, and to utility companies operating under franchise from the said Village including, but not limited to, AT&T, Commonwealth Edison Company, Comcast, the Downers Grove Sanitary District and their respective successors and assigns jointly and severally, over all of the areas marked "Public Drainage Utility and/or Access Easement" on the plat of vacation of the Vacated Right-of-Way as described herein for the

perpetual right, privilege and authority to construct, reconstruct, repair, inspect, maintain and operate various utility transmission and distribution systems and community antenna televisions systems and all necessary connections, appliances and other structures and appurtenances as may be deemed necessary by said Village and for any and all municipal purposes, over, upon, along, under and through said indicated easements, together with right of access across the property to do any of the above work. The right is also granted to cut down, trim or remove any trees, shrubs or other plants that interfere with the operation of the utilities. No permanent buildings or structures shall be placed on said easements, but same may be used for gardens, shrubs, landscaping, driveways, fences and other purposes that do not then or later interfere with the aforesaid uses and rights. All installations shall be subject to the ordinances of the Village of Downers Grove. Easements are hereby reserved for and granted to the Village of Downers Grove and other governmental authorities having jurisdiction of the land over the entire easement area for ingress, egress and the performance of any and all municipal and other governmental services.

SECTION 3. This vacation shall be subject to the following conditions:

1. The vacation shall substantially conform to the staff report dated January 3, 2011.
2. Prior to final Village Council consideration, a Mylar copy of the Final Plat of Vacation indicating a sixteen-foot public drainage, utility and utility access easement along the entire length and width of the alley to be vacated.
3. Prior to execution of the plat, the petitioner at 812 Randall Street shall pay the Village a total of \$3,829.79 and the petitioner at 820 Randall Street shall pay the Village a total of \$1,309.76.
4. The building permit for the proposed new house at 812 Randall Street may not be issued until the Plat of Vacation has been recorded and three copies of the recorded plat have been submitted to the Village.

SECTION 4. That the Mayor and Clerk of the Village of Downers Grove are hereby authorized to sign the plat of vacation of the Vacated Right-of-Way described herein.

SECTION 5. That a certified copy of this ordinance and an accurate Plat of the Vacated Right-of-Way, which specifically includes the easement language contained in Section 2 of this ordinance, shall be filed for record by the Clerk of the Village of Downers Grove in the Office of the Recorder of Deeds, DuPage County, Illinois, at the Petitioner's expense.

SECTION 6. That all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 7. That this ordinance shall be in full force and effect from and after its passage and publication in pamphlet form as provided by law.

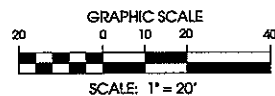
Mayor

Passed:

Published:

Attest: _____

Village Clerk



Plat of Roadway Vacation

OVER A PORTION OF PUBLIC ALLEY OF LYMAN'S ADDITION TO THE VILLAGE OF DOWNERS GROVE, BEING A SUBDIVISION OF PART OF THE SOUTHEAST QUARTER AND PART OF THE SOUTHWEST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, DUPAGE COUNTY, ILLINOIS.

TAX PARCEL NUMBER (PIN)
09-08-316-007 (LOT 8-9)
09-08-316-008 (LOT 9-10)
09-08-316-009 (LOT 7)

AREA SUMMARY:

PUBLIC ALLEY TO BE VACATED
2,488 SQ. FT.
(0.057 AC)

LEGEND:

 DENOTES ALLEY
"HEREBY VACATED"

 ROAD CENTERLINE

 PROPERTY LINE

BASIS OF BEARINGS:

THE BEARINGS SHOWN HEREON ARE BASED
ON THE NORTH LINE OF LOT 1 OF C.B.
BLODGETT HOMESTEAD SUBDIVISION,
HAVING A RECORD BEARING OF NORTH 60
DEGREES 23 MINUTES 00 SECONDS EAST.

ABBREVIATIONS:

(R) = RECORD VALUE
(M) = MEASURED VALUE
(C) = CALCULATED VALUE
(D) = DEED VALUE
DOC. = DOCUMENT

NOTE:

1. ALL MEASUREMENTS AND
DISTANCES ARE SHOWN IN
FEET AND DECIMAL PARTS
THEREOF.

VILLAGE COUNCIL CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF DU PAGE)
APPROVED THIS _____ DAY OF _____, A.D. 20____
BY THE COUNCIL OF THE VILLAGE OF DOWNERS GROVE

MAYOR

VILLAGE CLERK

DUPAGE COUNTY RECORDER'S CERTIFICATE

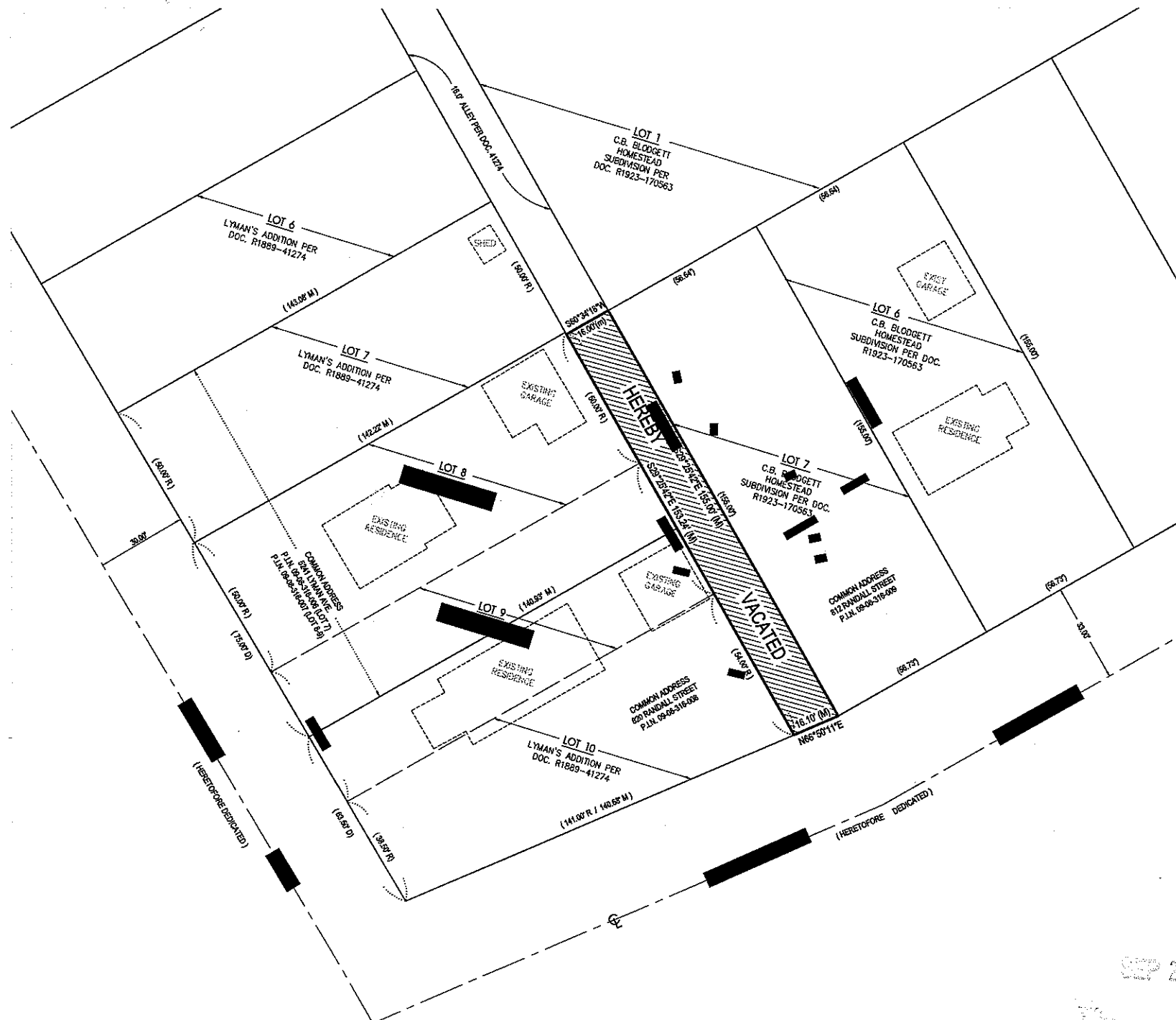
STATE OF ILLINOIS)
COUNTY OF DUPAGE)
THIS PLAT WAS FILED FOR RECORD
IN THE RECORDER'S OFFICE OF DUPAGE COUNTY, ILLINOIS,
ON THE _____ DAY OF _____, A.D. 20____
AT _____ O'CLOCK _____ M. AS DOCUMENT NUMBER _____

RECORDER OF DEEDS

SURVEYOR'S CERTIFICATE

THIS IS TO CERTIFY THAT THIS DOCUMENT WAS PREPARED UNDER MY DIRECT
SUPERVISION FROM EXISTING MAPS, PLATS, AND RECORDS FOR THE PURPOSE
OF ROADWAY VACATION.

GEORGE H. SKULAVIK, P.L.S.
DATE: _____
PROFESSIONAL LAND SURVEYOR NO. _____
MY LICENSE EXPIRES NOVEMBER 30, 2010.



REVISION	DATE	DESCRIPTION
1	9/27/2010	REVISED VACATION QUANTITY PER VALUE REVIEW

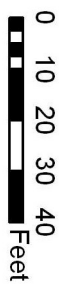
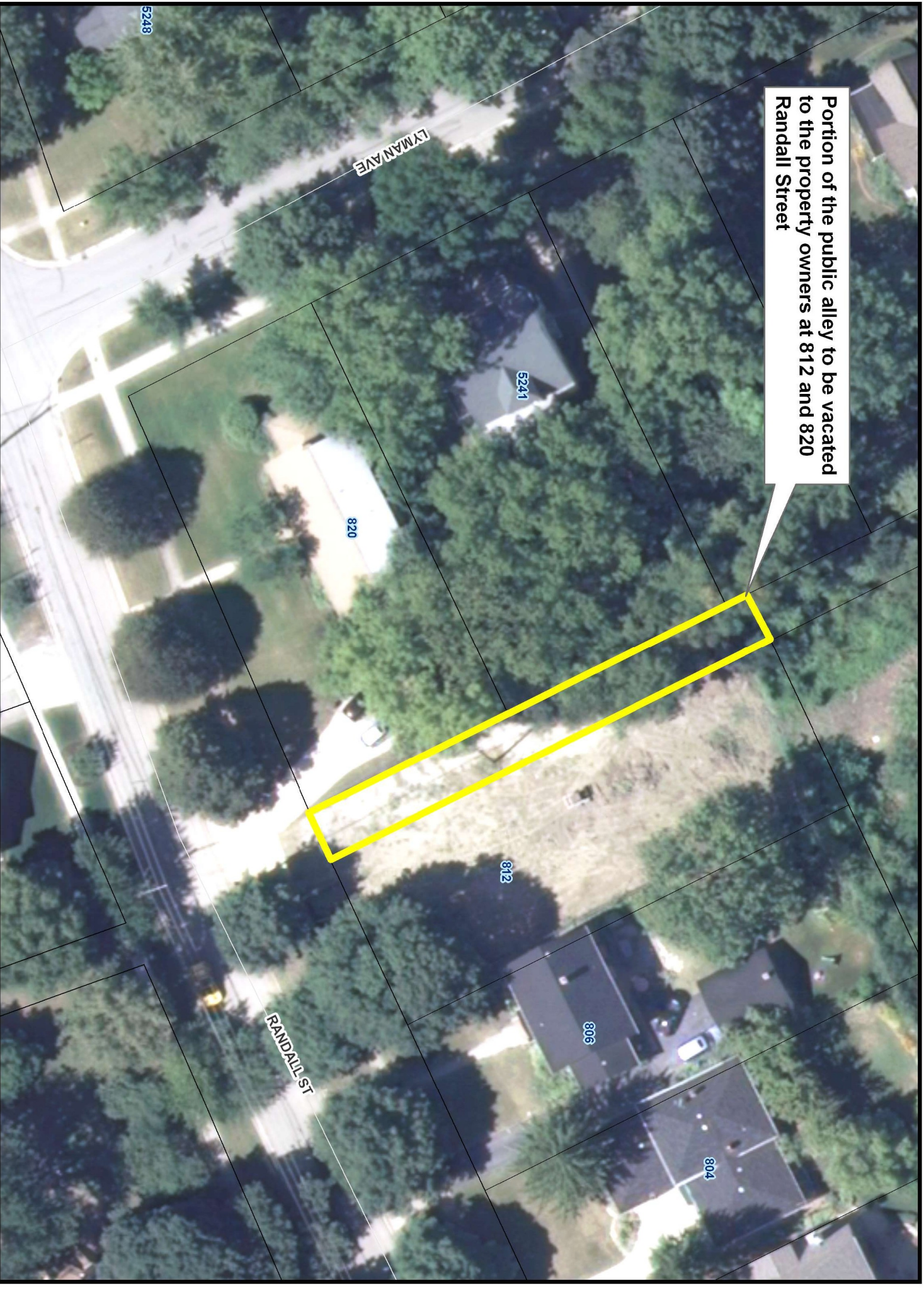
DATE	9/27/2010
BY	ED STUKAS
CHECKED BY	ED STUKAS
PROJECT NO.	7122a

Ridgeline Consultants LLC
1811 Arden Road, Montgomery, AL 36106
PH: 205.861.1227 FAX: 205.861.1228
George H. Skulavik, P.L.S., 2500 Englewood Drive, 11020010
Shirley L. Bennett, L.L., 2415 Englewood Drive, 11020010



Ed Stukas and Zivile Chitban
812 Randall Street, Downers Grove, IL

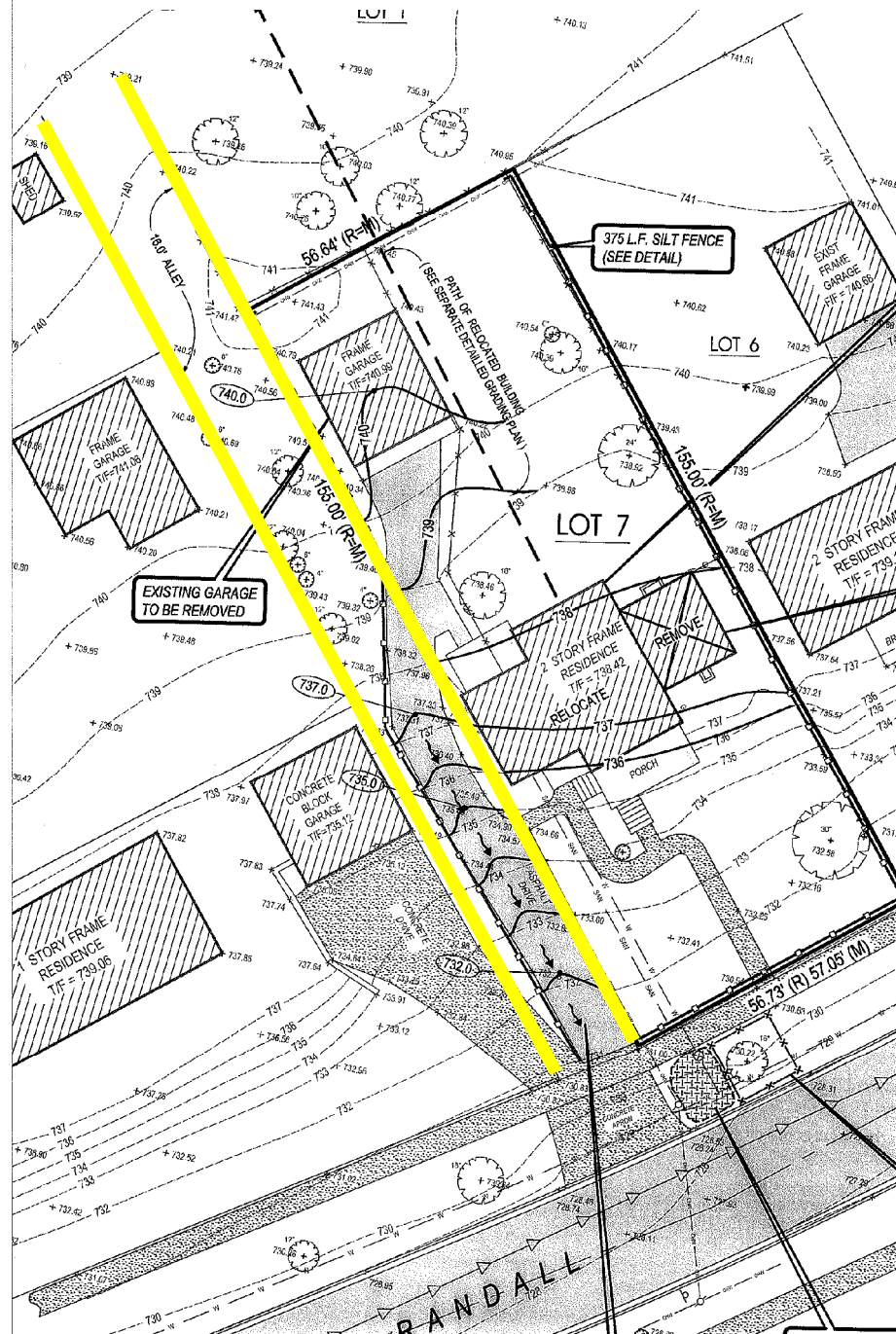
Portion of the public alley to be vacated
to the property owners at 812 and 820
Randall Street



812 & 820 Randall Street Location Map



2008 Topographic Survey



1975 Aerial Photograph



Portion of the public alley to be vacated
to the property owners at 812 and 820
Randall Street

LYMAN AVE

5241

820

812

806

804

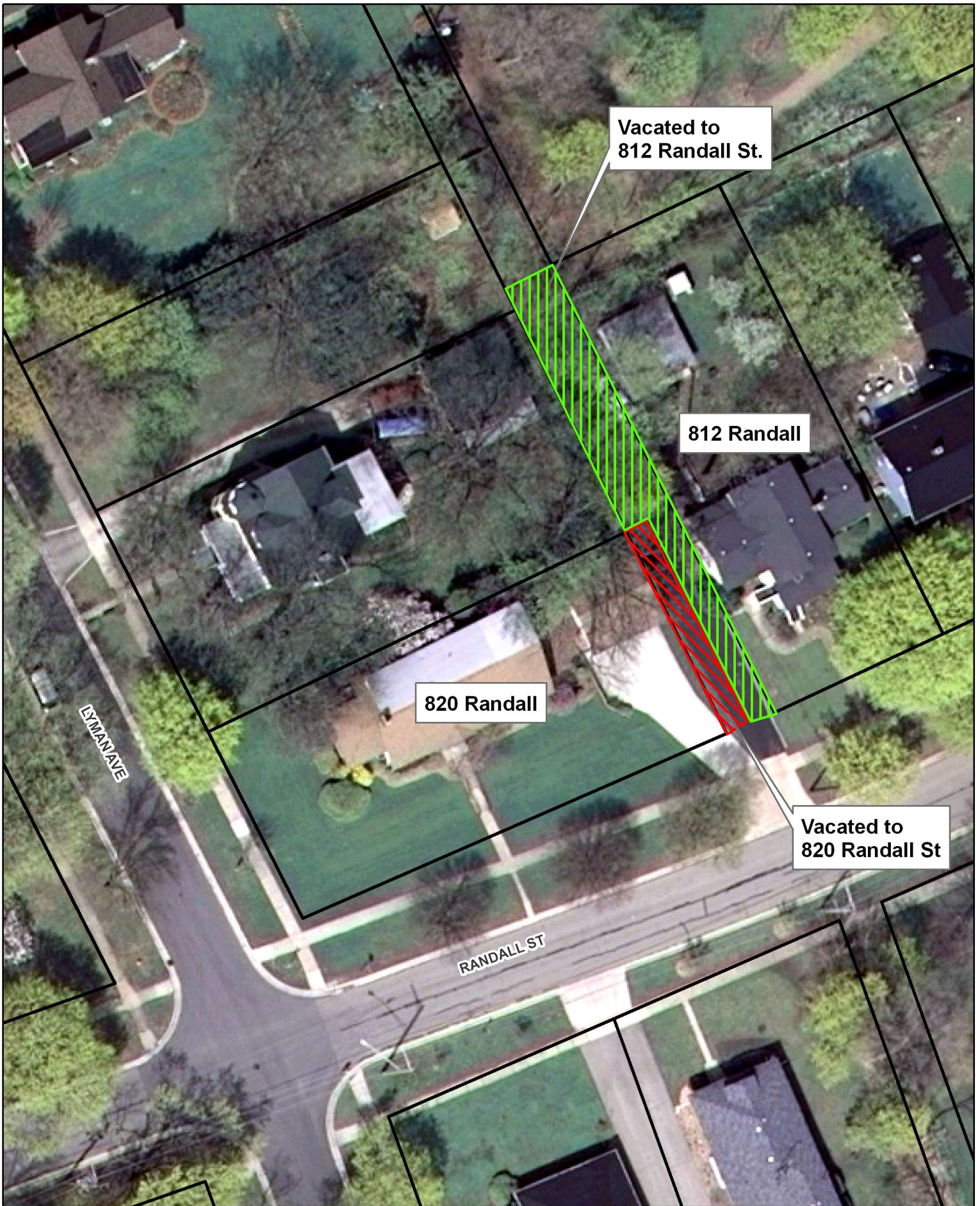
RANDALL ST

5248

0 10 20 30 40
Feet

812 & 820 Randall Street Location Map





0

10

20

40

Feet

N

Alley Right of Way Vacation

812 & 820 Randall Street

PROJECT SUMMARY / NARRATIVE LETTER

The petitioners are requesting the Village to vacate the 16-foot wide by 155-foot long alley that runs north and south located between their properties at 812 and 820 Randall Street and 5241 Lyman Avenue. The alley is currently unimproved. The requested vacation is summarized in the table as follows:

<u>Property Address</u>	<u>Requested Width</u>	<u>Requested Length</u>	<u>Approx. Increase in Area</u>
812 Randall Street	8 ft.	155 ft.	1,240 square feet 09-08-316-009
812 Randall Street	8 ft.	76 ft.	608 square feet
820 Randall Street	8 ft.	79 ft.	632 square feet 09-08-316-008

These strips of land are indicated in the attached Plat of Survey for the Alley Vacation (Attachment 1).

An earlier vacation proposal had requested that the 8 ft. x 76 ft. strip (608 square feet) be allocated to the owners of 5241 Lyman Avenue. The owners of 5241 Lyman do not want to participate in this alley vacation unless it includes a contract that is included in the deed that would allow unconditional vehicular access to the aforementioned strip of land from Randall Street. The owner of 5241 Lyman wishes to park his vehicle on this strip of land behind his residence, by driving over the property being vacated by either the owner of 812 Randall Street or 820 Randall Street. The owner also wishes that the contract be in perpetuity for future owners of 5241 Lyman. At the time of the original Plan Commission Meeting on June 7, 2010, the Commission requested that the three owners reach a personal agreement regarding vehicular access to the subject land, however this agreement was never reached.

The owner of 812 Randall has spent countless hours over more than three months discussing this situation with the owner of 5241 Lyman, presenting several versions of agreements that had been signed by the Randall Street parties, while trying to negotiate a reasonable agreement. During this time, we believe that the owner of 5241 Lyman has not been negotiating in good faith with regards to the agreements that had been submitted. The owner of 5241 Lyman has not been motivated to maintain the negotiating process, unless it includes the aforementioned negotiating points. (Letter to Mr. Jeff O'Brien dated September 15, 2010 from Zivile Chirban and Ed Stukas includes a synopsis of the activities during the last three months from June 7 through September 15, 2010).

September 15, 2010

Mr. Jeff O'Brien

Downers Grove Village Planning Manager

Subject: Alley Vacation at 812 Randall Street.

Dear Mr. O'Brien,

During the Village Plan Commission meeting on June 7, 2010, it was recommended that the subject alley be vacated in accordance with PC-03-10. During this meeting, Mr. Olp had raised a concern that he would no longer be able to retain access to and have the ability to park his vehicle behind his garage at 5241 Lyman "as he had over the past 40 years". He explained the reason for needing to park his vehicle in this location is that the approach to his driveway from Lyman Street is too steep for him to enter during a snow or ice event. He had also previously stated that the last time he had parked his vehicle in this location was in 1985, and the other two times were during snow storms in 1978 and 1979. At the conclusion of the meeting, it was determined that the three neighboring parties should reach a personal agreement regarding this matter and only then could we proceed with the alley vacation process.

Since this meeting on June 7, 2010, Emily Farley, Jim Farley, Zivile Chirban and Ed Stukas have tried diligently, but are unsuccessful in negotiating an agreement with Mr. Bob Olp regarding his rights to the vacated alleyway that is located between the properties at 812 Randall, 820 Randall, and 5241 Lyman.

During the past three months, the Farley's and we had drafted three different personal agreements that would allow Mr. Olp limited access to his 8 foot strip of land by driving over the Farley's newly purchased land (after alley vacation) , however Mr. Olp would not agree with any of them. Instead Mr. Olp had his attorney draft a contract that would provide unlimited access for him and for whoever lives at 5241 Lyman in the future in perpetuity. In addition, Mr. Olp wanted this contract to be included as a covenant and added to the deeds of the land during the vacation process. The Farley's and we did not believe that such an agreement was reasonable or acceptable.

In parallel, Mr. Olp had requested all of the relevant Village documents that were filed during the time when the 812 Randall "Blodgett House" was being moved to the Downers Grove Historical Museum. Mr. Olp is currently in the process of reviewing these documents with his attorney, and claims to want the Village to reopen the alleyway for his personal use. While he is in the process of pursuing this approach, he will not share our latest 3rd attempt of a signed agreement with his attorney in order to come to a negotiated agreement.

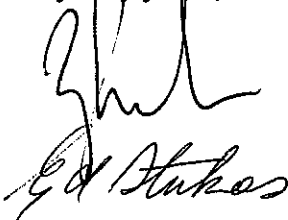
As you recall, I had asked for your help to meet with the three parties to try to facilitate some reason behind an acceptable agreement. You had agreed to meet with all of us on August 6, 2010, however Mr. Olp refused to participate at the last minute.

In the meantime, after our purchase of the 812 Randall Street lot, we have gone ahead with our house plans with McCloud and Associates and are ready for permit submittal. We had assumed that we would be successful in negotiating an agreement with Mr. Olp and would have been able to purchase the 8 feet of additional land from the Village by this time and would be ready for construction this fall. Instead the process has been stalled by Mr. Olp who continues to claim he needs more time to discuss the matter with his attorney, or to certain people within the Village.

We believe that Mr. Olp has been stalling the process and has not been negotiating in good faith regarding the agreements that we have submitted. We are therefore not able to submit our plans and apply for a building permit until this is resolved. Our builder currently believes that we have lost the fall building window it is unlikely that we will be able to start our project before spring of 2011. We have been running out of time and patience, and we do not see any positive signs for an agreement with Mr. Olp.

As you know, I have tried to stay in contact with you, almost on a weekly basis to keep you informed about our process regarding an agreement with Mr. Olp. We believe that he is not very motivated to keep the process moving along, unless it has the aforementioned negotiating points. At this time, we are not clear about what direction we should be taking. Any thoughts on this matter would be appreciated.

Very truly yours,

A handwritten signature in black ink, appearing to read "Ed Stukas". The signature is written in a cursive, flowing style.

Zivile Chirban

Ed Stukas

September 20, 2010

Mr. Jeff O'Brien

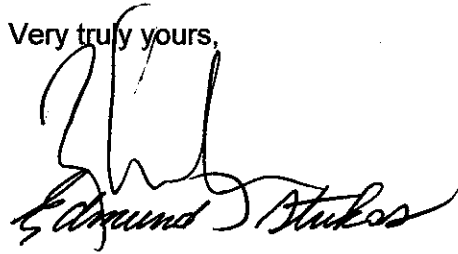
Downers Grove Village Planning Manager

Subject: Alley Vacation at 812 Randall Street.

Dear Mr. O'Brien,

This letter is to communicate our intent to purchase 50% of the alley located adjacent to the West end of our lot at 812 Randall that is East of 820 Randall Street. We also intend to purchase 100% of the alley located adjacent to the West end of our lot at 812 Randall that is East of 5241 Lyman Street.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Edmund Stukas". The signature is written in dark ink and is positioned below the "Very truly yours," text.

Zivile Chirban

Ed Stukas

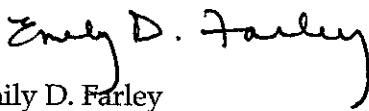
Emily D. Farley • 820 Randall Street • Downers Grove, IL 60515 • (630) 960-0487

Date: 12/17/10

Attention: Mr. Jeff O'Brien

This letter is to confirm my intent to purchase and acquire 50% of the alley located adjacent to the east end of my lot located at 820 Randall Street, Downers Grove, IL 60515. This request is in response to the Plan Commission Application Packet, which is being submitted on January 3 by Ed Stukas, the petitioner.

Thank you.


Emily D. Farley

745 E. Algonquin Road
Arlington Heights, IL 60005
Phone: 708-228-0668
Fax: 708-228-0358

3800 S. Roberts Road
Palos Hills, IL 60465
Phone: 708-430-4077
Fax: 708-598-6580



PLAT OF SURVEY

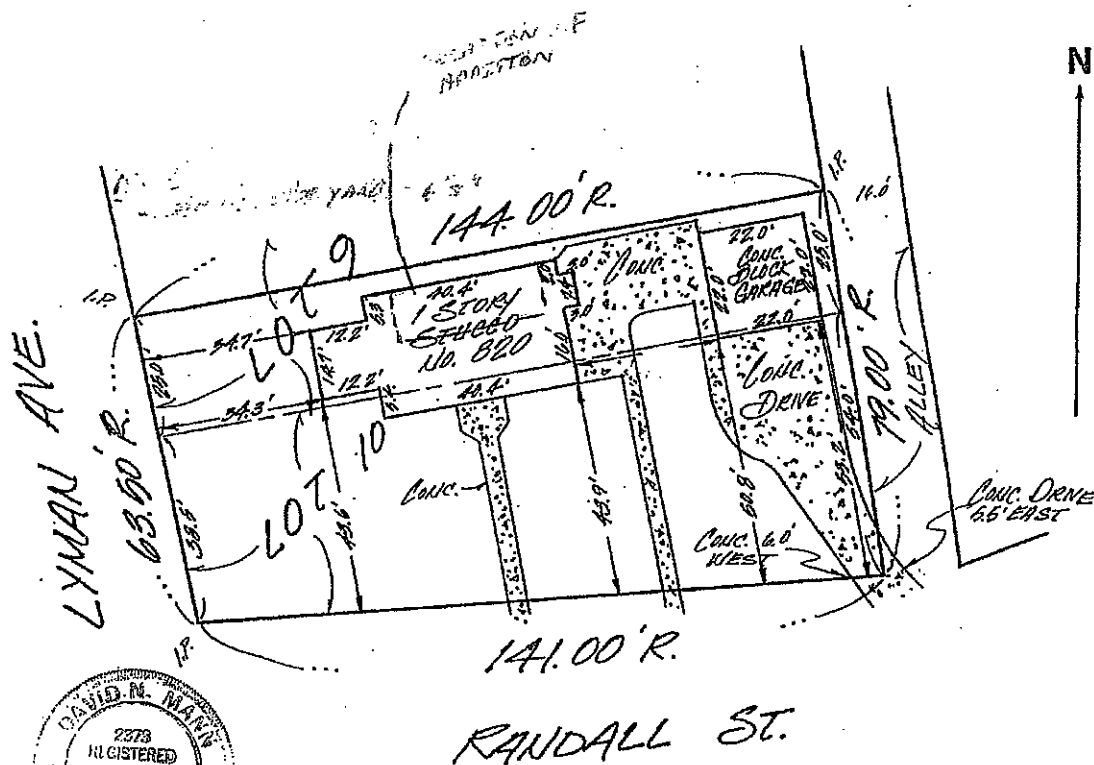
218 N. County Street
Waukegan, IL 60085
Phone: 708-336-2473
Fax: 708-336-2113

373 S. County Farm Road
Wheaton, IL 60187
Phone: 708-690-3733
Fax: 708-690-6985

LOT 10 AND THE SOUTH HALF OF LOT 9 IN BLOCK 1 IN LYMAN'S ADDITION TO DOWNERS GROVE, A SUBDIVISION IN THE SOUTH EAST QUARTER AND THE SOUTH WEST QUARTER OF SECTION 8, TOWNSHIP 38 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN DUPAGE COUNTY, ILLINOIS.

JAMES FARLEY/
800 RANDALL ST

630-960-0487



BLOCK 1

STATE OF ILLINOIS
COUNTY OF LAKE

On behalf of MID AMERICA SURVEY COMPANY, I hereby certify that the building(s) on property shown are within the property lines as monumented and that the adjoining improvements do not encroach unless shown. Dated: 10/18/91

By: *D. Mann*
Registered Illinois Land Surveyor

Distances shown are in feet & decimal parts
only.

Scale: 1" = 30'

No. 208276

Prepared By: WILLIAM A. BEAN & ASSO.

NOTE: Only those Building Lines or Easements shown on a Recorded Subdivision Plat are shown hereon unless the description ordered contains a proper description of the required Building Lines or Easements. No angles or distances are to be determined by scaling.

Compare your description and site markings with this plat and at once report any discrepancies which you may find.



Village of Downers Grove

Official Village Policy Approved by Village Council

Description:	Procedure to be Followed in the Vacation of Streets, Alleys, and Public Rights-of-Way	
Res. or Ord. #:	Res. 2003-58	Effective Date: 7/1/03
Category:	Planning and Community Development	
	☐ New Council Policy	
	☒ Amends Previous Policy Dated:	6/24/74, 8/11/80, 10/21/91, 7/6/93, and 4/5/99
	Description of Previous Policy (if different from above):	
	<u>Vacation of Streets or Alleys or Portions Thereof</u>	

RESOLUTION 2003-58

RESOLUTION ESTABLISHING A PROCEDURE TO BE FOLLOWED IN THE VACATION OF STREETS, ALLEYS AND PUBLIC RIGHTS-OF-WAY IN THE VILLAGE OF DOWNERS GROVE, ILLINOIS

WHEREAS, pursuant to applicable law, the Village Council of the Village of Downers Grove has the power and authority to vacate streets, alleys and public rights-of-way within the jurisdiction of the Village; and

WHEREAS, the Council of the Village of Downers Grove has determined that it is in the best interests of the Village to establish a procedure to be followed in determining whether a particular street, alley or right-of-way should be vacated, the method by which such vacation should be accomplished, and the compensation, if any, to be paid with respect thereto,

NOW, THEREFORE, BE IT RESOLVED by the Council of the Village of Downers Grove, in DuPage County, Illinois, as follows:

1. That the following procedure shall, in all events, be followed in processing, considering and acting upon requests for the vacation of streets, alleys and public rights-of-way located within the corporate limits of the Village of Downers Grove:
 - a. The person or persons desiring the vacation of a particular street, alley or public right-of-way (the "Petitioner"), shall file with the Village a written petition on a prescribed form requesting such vacation, which petition shall contain the following information:
 - (i) name and address of the Petitioner;

- (ii) the location, and if possible, the legal description of the street, alley or public right-of-way to be vacated (the "Parcel");
 - (iii) names and addresses of all owners of record of property abutting upon the Parcel, and a statement as to the frontage in terms of lineal feet of each parcel of property so abutting the Parcel;
 - (iv) a statement as to the type of any known public service facilities over, under or upon the Parcel, and the name of the public utility owning the same.
 - (v) the written consent of at least two property owners who abut the proposed parcel to be vacated.
 - (vi) a fee of three hundred dollars (\$300.00) shall be paid to the Village, provided that no such fee shall be required if the Petitioner is a public body. This fee shall be used to pay for Staff processing of the petition, hearing notice publication and plat recordation costs. This fee does not include the cost of the plat preparation or the appraisal(s) of the fair market value of the Parcel (as outlined in section 1(g)).
- b. Staff shall cause written notice of the proposed vacation of the Parcel to be mailed to all public utilities with a request that such utilities inform the Village of any easements over, under, or upon the Parcel which must be retained at the time of vacation, and to units of local government having an interest in the Parcel. Failure of any such owner of record or public utility to receive such notice shall not invalidate, impair or otherwise affect the validity of any vacation that may thereafter occur.
- c. Staff shall evaluate the request and prepare a staff report, taking into consideration the nature of the request, including known public interests, if any, served by the Parcel. In doing so, Staff shall verify the information contained in the petition in order to assure that all required owners of property abutting the Parcel are named and that all existing public service facilities have been disclosed, if any, to the Village to affect such vacation. The following informational items shall be included in the staff report:
- (i) A map showing the location of the proposed street, alley or public right-of-way to be vacated.
 - (ii) Information as to current and future use of the street, alley or public right-of-way including:
 - (a) watermains
 - (b) storm sewers or storm drainage conveyance or storage facilities
 - (c) sanitary sewers
 - (d) electric utilities
 - (e) natural gas utilities
 - (f) telephone utilities
 - (g) vehicular access, public or private
 - (h) pedestrian access, public or private
 - (i) public open space
 - (iii) A recommendation with regard to retention of easements, if any, within the Parcel for the benefit of public utilities, potential use of the parcel for public walkways or bike trails and access of adjacent property owners.

- (iv) A recommendation regarding the vesting of title to the property upon vacation of the street, alley or public right-of-way. The instrument dedicating the street, alley or public right-of-way must be examined to determine if the specific devolution of the title upon vacation thereof is provided for in the document. If no specific devolution of title is provided for, then a recommendation regarding the vesting rights of the abutting property owners must be made. The Village, in its discretion, may grant title to the entire vacated street, alley or public right-of-way to only one abutting property owner.
- d. Staff shall forward the petition to the Village Traffic Engineer who shall be responsible for reviewing the request to determine the potential future need for the Parcel, the potential for increased traffic associated with the vacation of the Parcel, and an estimate of future costs to the Village associated with the vacation. This information shall be incorporated into the staff report.
- e. Upon completion of the staff report, the staff report and the petition shall be referred to the Plan Commission for public hearing. Notice of the time and place of such hearing shall be given not more than thirty (30) nor less than fifteen (15) days before the date thereof, by publishing such notice at least once in one or more newspapers of general circulation within the Village. In addition, copies of such notice shall be sent by the Village to the owners of record of property abutting the Parcel.
- f. The Plan Commission shall forward its recommendation regarding vacation of the Parcel to the Village Council for its consideration.
- g. Prior to the petition being considered by the Village Council, the Petitioner must submit an appraisal conducted by a certified appraiser. The Village, in its sole discretion, may consider an alternate assessment of the current market value of the Parcel in lieu of an appraisal.
 - i) If the appraisal submitted by the Petitioner is disputed by the Village, the Village in its sole discretion may obtain a second independent appraisal, at Village expense.
 - ii) If the Petitioner disputes the second appraisal, the Village will contact a third independent appraiser to perform a review appraisal, the cost of which shall be paid by the Petitioner. The Village Council shall then make a final determination of market value which shall be binding on all parties.
- h. The Village Council shall determine:
 - (i) Whether the Parcel or portion thereof, is no longer necessary for public use and whether the public interest will be served by such vacation request.
 - (ii) Whether the Parcel or portion thereof, should be vacated and whether public utility easements and any ingress-egress easements are to be maintained.
 - (iii) The amount and type of compensation, if any, to be required as a condition to the effectiveness of the vacation of the parcel.
- i. The Petitioner shall be notified of the decision of the Village Council, and of any conditions placed on the vacation. If the Petitioner desires to proceed with such vacation, the Petitioner shall provide a plat of vacation with reservation of required easements, if any, in a form as prescribed by the Village.

- j. After a statement by the Village Manager that the plat has been prepared and submitted, the Village Council shall consider the ordinance. If the Village Council determines to adopt such ordinance, it shall do so by a 3/4 vote of its members.
 - k. Upon passage of the ordinance, the Village Clerk shall record the ordinance and the plat in the Office of the Recorder of Deeds of DuPage County and file such documents with the DuPage County Clerk. Copies of the recorded documents shall be sent by the Village Clerk to the office of the assessor for the township in which the Parcel is located and notice of the effectiveness of the vacation shall be sent to the owners of record of the property abutting the Parcel.
2. The validity of any vacation otherwise carried out in accordance with applicable law shall not be invalidated, impaired or otherwise affected by noncompliance with any part of the procedure set forth herein.
3. That Resolutions 74-34, 80-45, 91-43, 99-22 and all other resolutions or parts of resolutions in conflict with the provisions of this resolution are hereby repealed.
4. That this resolution shall be in full force and effect from and after its passage and approval as provided by law.

Brian J. Krajewski, Mayor

Passed: July 1, 2003

Attest: April Holden, Village Clerk

1\mw\res.03\vacation-policy

