

STREET VACATION 12-12-60

PORTION OF WEST 49-1/2 STREET

AFFIDAVIT OF PUBLICATION

Edina-Morningside Courier

Edina, Minnesota

Note: Street (Portion of) Vacated 12/18/60. ①

State of Minnesota }
County of Hennepin } SS.

JOHN E. TILTON, being duly sworn, on oath says: that he now is and during all the time herein-stated has been JOHN E. TILTON, the publisher and printer of the newspaper known as The Edina-Morningside Courier, and has full knowledge of the facts herein stated.

That for more than one year immediately prior to the publication therein of the printed

Notice of Public Hearing Re Petition to Vacate Portion of
W. 49 1/2 Street....

hereto attached, said newspaper was printed and published in the English language from its known office of publication within the County of Hennepin, State of Minnesota, on Thursday of each week in column and sheet form equivalent in space to 450 running inches of single column two inches wide; has been issued from a known office established in said place of publication equipped with skilled workmen and the necessary material for preparing and printing the same; THE EDINA-MORNINGSIDE COURIER has had in its makeup not less than twenty-five percent of its news columns devoted to local news of interest to said community it purports to serve, the press work of which has been done in its said known place of publication; has contained general news, comments and miscellany; has not duplicated any other publication; has not been entirely made up of patents, plate matter and advertisements; has been circulated at and near its said place of publication to the extent of 240 copies regularly delivered to paying subscribers; has been entered as second class mail matter in local post office of its said place of publication; that there has been on file in the office of the County Auditor of said county the affidavit of a person having first hand knowledge of the facts constituting its qualification as a newspaper for publication of legal notices; and that its publishers have complied with all demands of said County Auditor for proofs of its said qualification. A copy of each issue has been filed with the State Historical Society, St. Paul.

(Official Publication)
VILLAGE OF EDINA
HENNEPIN COUNTY, MINNESOTA
NOTICE OF PUBLIC HEARING ON
PETITION TO VACATE PORTION
OF W. 49 1/2 STREET
THE EDINA VILLAGE COUNCIL
will meet at the Village Hall on Monday, December 12, 1960, at 7:00 o'clock p.m. and will at said time and place consider the petition of Mr. Mark Z. Jones for the Vacation of that portion of W. 49 1/2 Street described as follows:
"The North One and Twenty-Five One-Hundredths Feet (1.25 Ft.) of the East Sixty-Eight and Seventy-Six One-Hundredths Feet (68.76 Ft.) of that part of W. 49 1/2 Street abutting the South boundary of the tract of land described as "Lot 1, Replat of Lot 6, Block 1, Lund-Kruse Addition, and the West 35 Feet of the East 172 Feet of the South 125 Feet of the North 272 5 Feet of Lot 36, Auditor's Subdivision No. 172".
This is the North 125 Feet of W. 49 1/2 Street abutting the East 68.76 Feet of the Post Office Tract
ALL recommendations and objections will be heard at said meeting
BY ORDER OF THE EDINA VILLAGE COUNCIL.
GRETCHEN S. ALDEN
Village Clerk
(Nov. 24, Dec. 1, 1960)-EC-2A-100

That the printed Notice of Public Hearing Re Petition to Vacate
Portion W. 49 1/2 Street....

hereto attached as a part hereof was cut from the columns of said newspaper; was published therein in the English language once a week for two successive weeks; that it was first so published on the 24th day of November, 1960 and thereafter on Thursday of each week to and including the 1st day of December, 1960; and that the following is a copy of the lower case

alphabet which is acknowledged to have been the size and kind of type used in the publication of said Notice of Public Hearing Re Petition to Vacate Portion

abcdefghijklmnopqrstuvwxyz of W. 49 1/2 Street....
John E. Tilton
Publisher

Subscribed and sworn to before me this 1st day of December, 1960

Thomas D. Williams
Notary Public, Hennepin County, Minn.
Thomas D. Williams,
My Commission Expires June 16, 1962

VILLAGE OF EDINA
4801 W. 50th St.
Edina 24, Minn.

November 21, 1960

NOTICE OF PUBLIC HEARING ON PETITION
TO VACATE PORTION OF W. 49½ STREET

THE EDINA VILLAGE COUNCIL will meet at the Village Hall on Monday, December 12, 1960, at 7:00 o'clock p.m., and will at said time and place consider the petition of Mr. Mark Z. Jones, for the Vacation of that portion of W. 49½ Street described as follows:

"The North One and Twenty-Five One-Hundredths Feet (1.25 Ft.) of the East Sixty-Eight and Seventy-Six One-Hundredths Feet (68.76 Ft.) of that part of W. 49½ Street abutting the South boundary of the tract of land described as "Lot 1, Replat of Lot 6, Block 1, Lund-Kruse Addition, and the West 35 Feet of the East 172 Feet of the South 125 Feet of the North 272.5 Feet of Lot 36, Auditor's Subdivision No. 172".

This is the North 1.25 Feet of W. 49½ Street abutting the East 68.76 Feet of the Post Office Tract.

ALL recommendations and objections will be heard at said meeting.

BY ORDER OF THE EDINA VILLAGE COUNCIL.

GRETCHEN S. ALDEN
Village Clerk

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

I, the undersigned, duly appointed and acting Police Patrolman for the Village of Edina, Hennepin County, Minnesota, do hereby certify that I have, this date, posted copies of the foregoing "NOTICE OF PUBLIC HEARING ON PETITION TO VACATE PORTION OF W. 49½ STREET" on Official Bulletin Boards at - 1. Village Hall. 2. W. 50th St. and Indianola Ave. 3. Bob's Brookside Service, Brookside & Interlachen.

Dated 11/21/60

Signed Thomas H. Brownell

Signed and sworn to before me, a Notary Public in and for Hennepin County, Minn. this _____ day of _____, 1960.

My Commission Expires 1/12/67.

VILLAGE OF EDINA
4801 W. 50th St.
Edina 24, Minn.

November 21, 1960

**NOTICE OF PUBLIC HEARING ON PETITION
TO VACATE PORTION OF W. 49 $\frac{1}{2}$ STREET**

THE EDINA VILLAGE COUNCIL will meet at the Village Hall on Monday, December 12, 1960, at 7:00 o'clock p.m., and will at said time and place consider the petition of Mr. Mark Z. Jones, for the Vacation of that portion of W. 49 $\frac{1}{2}$ Street described as follows:

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GRETCHEN S. ALDEN
Village Clerk

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November 21, 1960

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GRETCHEN S. ALDEN
Village Clerk

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Edina 24, Minn.

November 21, 1960

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November 21, 1960

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BY ORDER OF THE EDINA VILLAGE COUNCIL.

GRETCHEN S. ALDEN
Village Clerk

VILLAGE OF EDINA
4801 W. 50th St.
Edina 24, Minn.

November 21, 1960

**NOTICE OF PUBLIC HEARINGS ON PETITION
TO VACATE PORTION OF W. 49½ STREET**

THE EDINA VILLAGE COUNCIL will meet at the Village Hall on Monday, December 12, 1960, at 7:00 o'clock p.m., and will at said time and place consider the petition of Mr. Mark Z. Jones, for the vacation of that portion of W. 49½ Street described as follows:

"The North One and Twenty-Five One-Hundredths Feet (1.25 Ft.) of the East Sixty-Eight and Seventy-Six One-Hundredths Feet (68.76 Ft.) of that part of W. 49½ Street abutting the South boundary of the tract of land described as "Lot 1, Replat of Lot 6, Block 1, Lund-Kruse Addition, and the West 35 Feet of the East 172 Feet of the South 125 Feet of the North 272.5 Feet of Lot 36, Auditor's Subdivision No. 172".

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ALL recommendations and objections will be heard at said meeting.

BY ORDER OF THE EDINA VILLAGE COUNCIL.

GRETCHEN S. ALDEN
Village Clerk

VILLAGE OF EDINA
4801 N. 50th St.
Edina 24, Minn.

November 21, 1960

NOTICE OF PUBLIC HEARINGS ON PETITION
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November 21, 1960

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GRETCHEN S. ALDEN
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BY ORDER OF THE EDINA VILLAGE COUNCIL.

GRETCHEN S. ALDEN
Village Clerk

(Official Publication)
VILLAGE OF EDINA
HENNEPIN COUNTY, MINNESOTA

NOTICE OF PUBLIC HEARING ON PETITION
TO VACATE PORTION OF N. 49¹/₂ STREET

THE EDINA VILLAGE COUNCIL will meet at the Village Hall on Monday, December 12, 1960, at 7:00 o'clock p.m., and will at said time and place consider the petition of Mr. Mark Z. Jones, for the vacation of that portion of N. 49¹/₂ Street described as follows:

"The North One and Twenty-Five One-Hundredths Feet (1.25 Ft.) of the East Sixty-Eight and Seventy-Six One-Hundredths Feet (68.76 Ft.) of that part of N. 49¹/₂ Street abutting the South boundary of the tract of land described as "Lot 1, Replat of Lot 6, Block 1, Lund-Kruse Addition, and the West 35 Feet of the East 172 Feet of the South 125 Feet of the North 272.5 Feet of Lot 36, Auditor's Subdivision No. 173".

This is the North 1.25 Feet of N. 49¹/₂ Street abutting the East 68.76 Feet of the Post Office Tract.

All recommendations and objections will be heard at said meeting.

BY ORDER OF THE EDINA VILLAGE COUNCIL.

GREENE S. ALDEN
Village Clerk

Please publish in Edina-Morningside Courier November 24 and December 1, 1960.
Please send us 2 Affidavits of Publication.
Please send us 10 Clippings.

11/21/60

Mr. Hyde - Vacation Hearing
Notice Published and Posted.)
(See Memo - We cannot
sell!)

ASA

5-C

HOSMER A. BROWN
Attorney-at-Law
3801 WEST 50TH STREET
MINNEAPOLIS 10, MINNESOTA
WALNUT 6-6737

November 10, 1960

Mr. Warren Hyde
Village Manager
Village of Edina
4801 W. 50th Street
Minneapolis 24, Minnesota



Dear Mr. Hyde:

Pursuant to my conversation with you in the Village Hall the other day, this is to confirm my offer to purchase from the Village of Edina that portion of West 49 $\frac{1}{2}$ Street which I requested on October 8 be vacated. This strip is 1.25 feet in width and extends 68.01 feet in length, and thus contains 85.01 sq. ft.

I had suggested to you that I thought it would be fair if we paid for this strip of land at the same rate on a square footage basis as Mr. Jones originally paid for the over all parcel. On this basis then, we will be willing to pay to the Village of Edina \$125.00, subject of course to the approval of your Village Attorney and the furnishing of such deeds and certified copies of Minutes as may be necessary to perfect title.

Very truly yours,

HAB g

HOSMER A. BROWN
Attorney-at-Law
3801 WEST 50TH STREET
MINNEAPOLIS 10, MINNESOTA
WALNUT 6-6737

October 8, 1960

Edina Village Council
4801 W. 50th Street
Minneapolis 24, Minnesota

Gentlemen:

In behalf of Mark Z. Jones, 5506 Lakeview Drive, I am petitioning for the vacation of a portion of the 49½ Street right of way in front of the new Post Office Building that is being constructed at the intersection of Halifax and 49½ Street.

Through a series of errors and miscalculations, the Post Office Building that is being constructed in the above location has been so situated that the front or south end of it extends 1.25 feet into the 49½ Street right of way at the southwest corner of the building. This encroachment disappears to zero feet at the southeast corner of the building. For your information, there is at the southeast corner a distance of approximately 7 ft. 5 in. from the front of the building to the inside of the concrete curb. Allowing for the 1.25 ft. encroachment at the southwest corner, it would mean there is room for a 6 ft. 2 in. sidewalk between the front of the buildings and the inside of the curb as extended. I am attaching a survey showing the encroachment in more detail.

As you know, 49½ Street dead-ends into the parking lot at this location and thus the sidewalk foot traffic at this point will be nominal and the 6 ft. 2 in. sidewalk would be adequate. We are genuinely sorry that this encroachment occurred; it was not known to Mr. Jones until about the 23rd day of September, at which point the only feasible course of action was to order a detailed survey and submit it, with a petition for partial vacation of the street. Fortunately, the encroachment only slightly reduces the sidewalk width. Of course, the actual width of the street thoroughfare is not affected.

Therefore, the undersigned, in behalf of the owner of Lot 1 Replat of Lot 6, Block 1, Lund-Kruse Addition, and the West 35 feet of the East 172 feet of the South 125 feet of the North 272.5 feet of Lot 36, Auditors' Subdivision No. 172, respectfully petitions the Council of the Village of Edina to vacate the north 1.25 feet of the East 68.76 feet of that part of West 49½ Street abutting the North boundary line of the property above described.

Very truly yours,

H. A. Brown

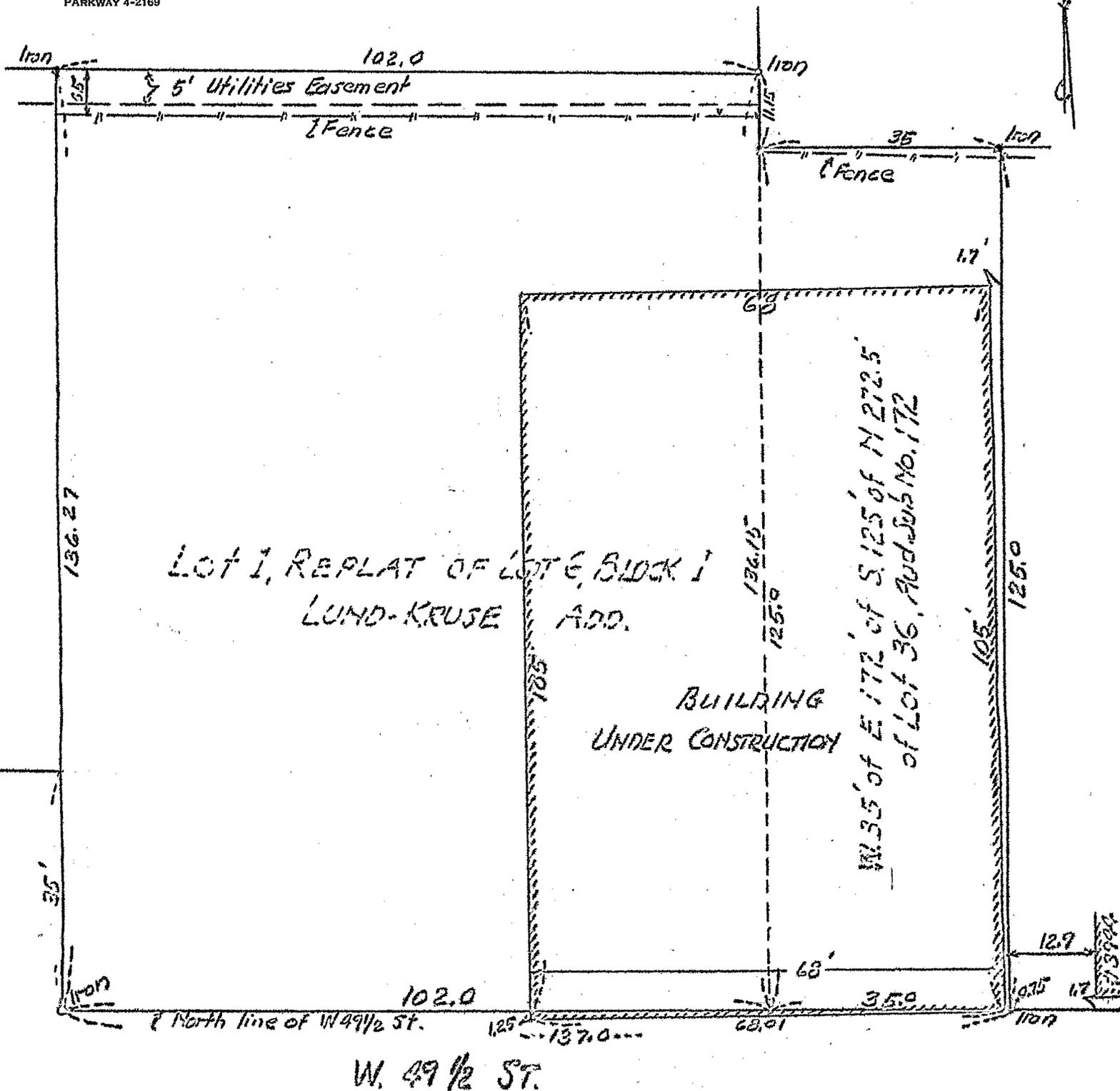
*Note: dedicated
49 1/2 St. to
State.*

B. H. BRADLEY
 CIVIL ENGINEER AND SURVEYOR
 3829 - 24TH AVENUE SOUTH
 MINNEAPOLIS 6, MINN.

Survey for Mark Z. Jones
 5506 Lakeview Drive

PARKWAY 4-2169

Scale = 1" = 20'



I hereby certify that this is a true and correct plat of a survey of Lot 1, Block 1, Replat of Lot 6, Block 1, Lund-Kruse Addition and the West 35 feet of the East 172 feet of the South 125 feet of the North 272.5 feet of Lot 36, Auditor's Subdivision No. 172, Hennepin County, Minnesota, as surveyed by me the 29th day of Sept. 1960.

B. H. Bradley
 Surveyor.

MEMORANDUM

TO: M. B. Hasselquist
FROM: T. S. Erickson
RE: Encroachment by Post Office onto 49-1/2 Street

A post office building is now being erected upon Lot 1, Block 1, Replat of Lot 6, Block 1, Lund-Kruse Addition and the West 35 feet of the East 172 feet of the South 125 feet of the North 72.5 feet of Lot 36, Auditor's Subdivision No. 172, Hennepin County, Minnesota. This property is situated on West 49-1/2 Street at the intersection of said street and Halifax. The post office building has been constructed so as to encroach upon West 49-1/2 Street approximately 1.25 feet on its Westerly side and 0.00 feet on its Easterly side. The owners of the property have applied to the Village of Edina for a vacation of that portion of West 49-1/2 Street which is encroached upon. The Village Council has asked if the Village can properly sell the area encroached upon to the adjoining property owners.

The Village of Edina has only an easement for public street over the property being encroached upon. The Village of Edina has no interest in the property other than for using the same for a public street. The Village, therefore, cannot with legal justification sell the area encroached upon because they have no title to sell. The only action which the Village can take is to vacate that portion of West 49-1/2 Street encroached upon.

There have been some instances where the City of Minneapolis has rented alleys dedicated for public easements to private persons for private uses. There is, however, as stated, no legal justification for this type of action, and I would think it unadvisable for the Village to become involved in this practice.

There is no problem here like there is in connection with the sale of park property. However, because the only interest the Village has in the

street is for an easement for public travel, they have no legal interest which they can sell to an adjoining property owner. The adjoining property owner, in most cases, owns under the street to the centerline, subject only to the public easement. Therefore, as stated above, the action which the Village can take in this instance is to vacate the street to the extent of the encroachment. This action will have the effect of placing the fee ownership of the vacated portion of West 49-1/2 Street in the adjoining property owner free and clear of the public easement, assuming the adjoining property owner owns the fee under that portion of the present street to be vacated.

T. S. E.

TSE:dc

November 14, 1960