

## EXHIBIT 2



**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580

[planning@duluthmn.gov](mailto:planning@duluthmn.gov)

<b>File Number</b>	PL 21-143	<b>Contact</b>	Jenn Moses	
<b>Type</b>	Vacation of Public Right of Way	<b>Planning Commission Date</b>		September 14, 2021
<b>Deadline for Action</b>	<b>Application Date</b>	September 2, 2021	<b>60 Days</b>	November 1, 2021
	<b>Date Extension Letter Mailed</b>	September 10, 2021	<b>120 Days</b>	December 31, 2021
<b>Location of Subject</b>	E 7 <sup>th</sup> Street Between 20 <sup>th</sup> and 21 <sup>st</sup> Avenues E			
<b>Applicant</b>	Brittany Robb, Executive Director	<b>Contact</b>	2010 E. 7 <sup>th</sup> Street, Duluth, MN	
<b>Agent</b>	Hanft Fride, Attorney for applicant	<b>Contact</b>		
<b>Legal Description</b>	See Attached			
<b>Site Visit Date</b>	September 3, 2021	<b>Sign Notice Date</b>	August 31, 2021	
<b>Neighbor Letter Date</b>	August 24, 2021	<b>Number of Letters Sent</b>	80	

**Proposal**

Applicant proposes to vacate the existing right of way of E 7<sup>th</sup> Street, while preserving a utility easement.

Recommendation: Staff recommends approval of the vacation of right-of-way, subject to conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
<b>Subject</b>	R-1	Residential care	Traditional Neighborhood
<b>North</b>	R-1	Recreation	Traditional Neighborhood
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	R-1	Residential	Traditional Neighborhood
<b>West</b>	R-1	Residential	Traditional Neighborhood

**Summary of Code Requirements:**

Vacation of public rights of way and/or easements require a Planning Commission public hearing with a Recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the council.

UCD Sec. 50-37.6.C – The Planning Commission shall review the proposed vacation, and Council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway, or easement proposed for vacation:

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles, or pedestrians or the efficient supply of utilities or public services in the city;
2. Is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.

**Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):**

**Governing Principle #7 – Create and maintain connectivity:** Any need for connectivity is an important consideration in applications for street vacations.

**Zoning – Residential-Traditional (R-1):** Established to accommodate traditional neighborhoods of single-family residences, duplexes and townhouses on moderately sized lots. Intended to be used primarily in established neighborhoods.

**Future Land Use – Traditional Neighborhood:** Characterized by grid or connected street pattern. Limited commercial, schools, churches, and home businesses. Parks and open space areas are scattered through or adjacent to the neighborhood.

**History:** The facility received a Special Use Permit in 1996 and was built in 1999-2000. The existing building is 12,040 sq. ft. Earlier this year, the facility received another Special Use Permit (PL 21-046) for an expansion including 6 additional bedrooms, a total expansion of about 6,000 sq. ft.

**Review and Discussion Items:**

- 1) The right of way was originally dedicated in 1887 and 1980 as part of the Highland Park Addition to Duluth and East Lawn Division of Duluth. The adjacent lots were never developed for housing. The lots on the north side of the right of way became sports fields and are owned by ISD 709. The lots on the south side were developed into the existing residential care facility in 1996.
- 2) The right of is unimproved and is not needed for access to any abutting parcels.
- 3) The applicant is seeking vacation to ensure the existing nonconforming building meets setback requirements, and to continue to use the outdoor space as they have been.
- 4) The right of way does not contain any trails or sidewalks, is not part of any pedestrian or trail plan, and is not needed for pedestrian or bike connectivity.
- 5) Utilities exist within the western portion of the area, so City Engineering has requested that a utility easement be maintained over the entire width and length of the right of way.
- 6) No other public or City comments have been received at the time of drafting this report.
- 7) Vacations of rights of way and easements lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

**Staff Recommendation:**

Based on the above findings, staff recommends that Planning Commission recommend to City Council approval of the petitioned alley vacation with the following condition:

- 1) The vacation must be recorded within 90 days of final approval by City Council, or such approval will lapse.



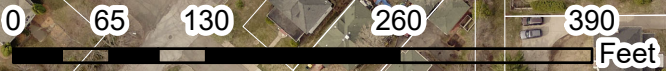
PL 21-143  
Site Map



Proposed Area to be Vacated

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

Aerial photography flown 2016



Prepared by: City of Duluth Community Planning Division, August 24, 2021. Source: City of Duluth.



LEGAL DESCRIPTION OF VACATION OF EAST SEVENTH STREET

All that part of East Seventh Street adjacent to and abutting Blocks 22 and 24, HIGHLAND PARK ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota and adjacent to and abutting Lots 3, 4, 5 and 6 of Block 26 and Block 35, EAST LAWN DIVISION OF DULUTH according to the recorded plat thereof, St. Louis County, Minnesota described as follows:

Beginning at the South most corner of Block 24, said HIGHLAND PARK ADDITION TO DULUTH; thence on an assumed bearing of North 41 degrees 39 minutes 55 seconds East, along the Southeasterly line of said Block 24 and along the Southeasterly line of Block 26, said EAST LAWN DIVISION OF DULUTH 400.00 feet to the East most corner of Lot 6, said Block 26; thence South 48 degrees 20 minutes 05 seconds East, along the Northwesterly extension of the Northeasterly line of Block 35, said EAST LAWN DIVISION OF DULUTH, across said East Seventh Street 71.00 feet; thence Northwesterly, Westerly and Southwesterly 7.85 feet, along the Northeasterly and Northwesterly lines of said Block 35, along a tangential curve, concave to the South, having a radius of 5.00 feet and a delta angle of 90 degrees 00 minutes 00 seconds; thence South 41 degrees 39 minutes 55 seconds West, along the Northwesterly line of said Block 35 and along the Northwesterly line of Block 22, said HIGHLAND PARK ADDITION TO DULUTH 395.00 feet to the West most corner of said Block 22; thence North 48 degrees 20 minutes 05 seconds West, along the Northwesterly extension of the Southwesterly line of said Block 22 across said East Seventh Street for a distance of 66.00 feet to the point of beginning.

Said parcel contains 26,448 square feet or 0.61 acres.


**SURVEYOR'S NOTES**

1. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
2. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
3. THIS IS NOT A BOUNDARY SURVEY.

Approved by the City Engineer of the  
City of Duluth, MN this \_\_\_\_\_ day  
of \_\_\_\_\_ 20\_\_

By \_\_\_\_\_

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

  
David R. Evanson  
MN License #49505  
DATE:08-23-2021

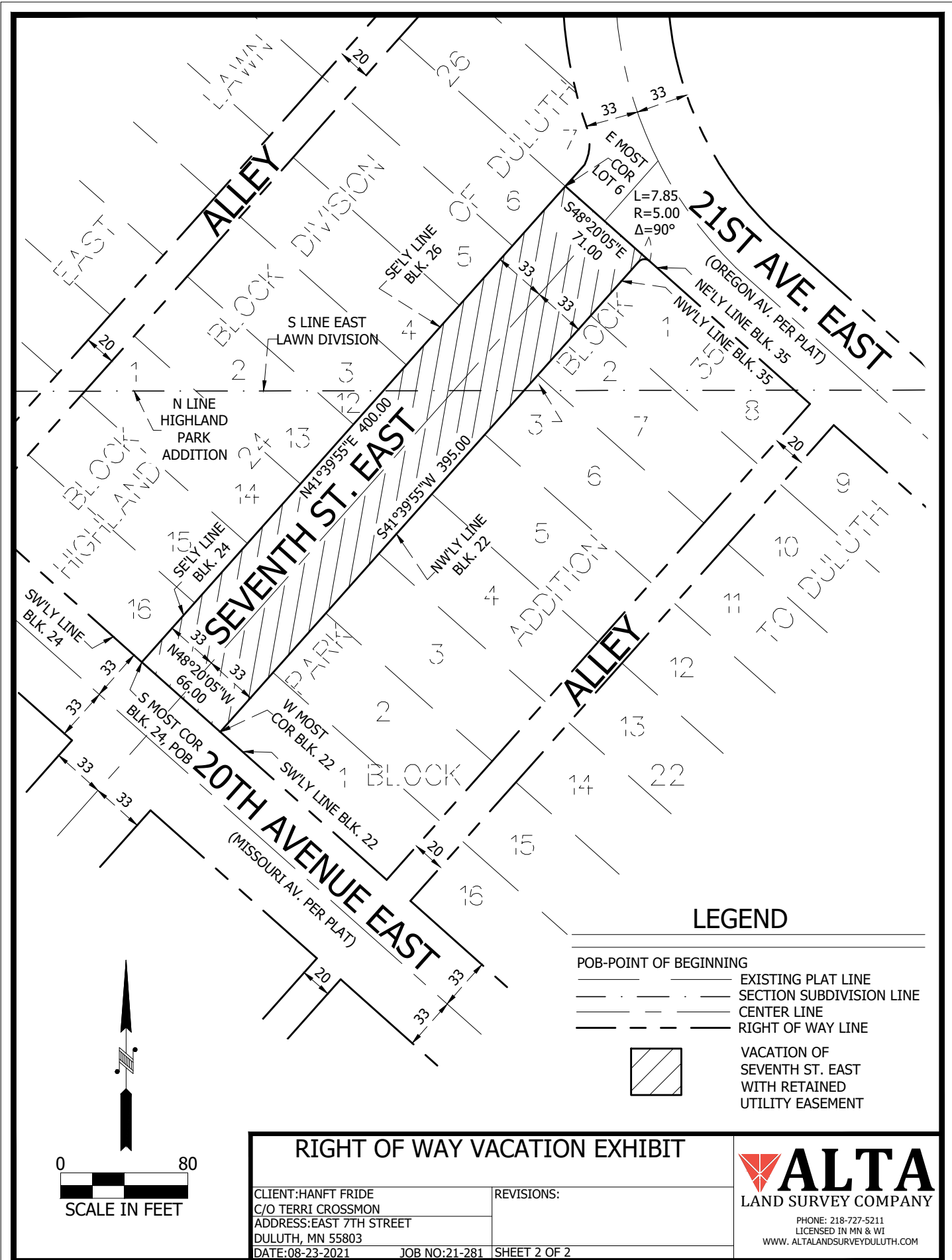
**RIGHT OF WAY VACATION EXHIBIT**

CLIENT:HANFT FRIDE  
C/O TERRI CROSSMON  
ADDRESS:EAST 7TH STREET  
DULUTH, MN 55803  
DATE:08-23-2021

REVISIONS:  
  
JOB NO:21-281 SHEET 1 OF 2

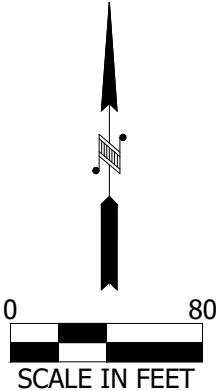


ALTA  
LAND SURVEY COMPANY  
PHONE: 218-727-5211  
LICENSED IN MN & WI  
WWW.ALTALANDSURVEYDULUTH.COM



**LEGEND**

- POB-POINT OF BEGINNING
- EXISTING PLAT LINE
- SECTION SUBDIVISION LINE
- CENTER LINE
- RIGHT OF WAY LINE
- VACATION OF SEVENTH ST. EAST WITH RETAINED UTILITY EASEMENT



**RIGHT OF WAY VACATION EXHIBIT**

CLIENT: HANFT FRIDE  
 C/O TERRI CROSSMON  
 ADDRESS: EAST 7TH STREET  
 DULUTH, MN 55803  
 DATE: 08-23-2021

REVISIONS:  
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JOB NO: 21-281 SHEET 2 OF 2

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