



**Planning & Development Division**  
**Planning & Economic Development Department**  
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<b>File Number</b>	PL 22-118	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Type</b>	Vacation of Platted Right of Way	<b>Planning Commission Date</b>		August 9, 2022
<b>Deadline for Action</b>	<b>Application Date</b>	N/A	<b>60 Days</b>	N/A
	<b>Date Extension Letter Mailed</b>	N/A	<b>120 Days</b>	N/A
<b>Location of Subject</b>	Platted right of way, including street and alley, west of Grand Avenue in the recorded plat of Centredale Addition to Duluth, adjacent to the Wheeler Athletic Complex in the Denfeld neighborhood.			
<b>Applicant</b>	Brent Dahlstrom	<b>Contact</b>		
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	See Attached			
<b>Site Visit Date</b>	July 29, 2022	<b>Sign Notice Date</b>	July 26, 2022	
<b>Neighbor Letter Date</b>	July 28, 2022	<b>Number of Letters Sent</b>	27	

**Proposal**

The applicant is requesting to vacate an unimproved 40-foot wide portion of the platted right of way for Cherry Street west of Grand Avenue, a 33 foot wide unimproved platted right of way north of Cherry Street with 16.5 feet retained for a utility easement, and a portion of a 16 foot unimproved wide alley, all in the recorded plat of Centredale Addition to Duluth, located in the Denfeld neighborhood.

Staff is recommending approval with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-N	Vacant land	Open Space/General Mixed Use
<b>North</b>	R-1	Vacant land	Open Space
<b>South</b>	MU-N	Vacant land	Neighborhood Commercial
<b>East</b>	MU-B	Street	General Mixed Use
<b>West</b>	P-1	Park land	Open Space

**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. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. 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 #5** - Promote reinvestment in neighborhoods. The vacation will allow for existing vacant parcels to be reconfigured for the development of a multifamily apartment building.

**Future Land Use – Open Space:** High natural resource or scenic value, with substantial restrictions and development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: city parks and recreation areas, primary viewsheds, shorelands of the lake and streams, wetlands and floodplains, and high-value habitat.

**History** - The site is the location of a former Holiday Gas Station. After the gas station closed, the site has remained vacant. DEDA has currently acquired the site from the Holiday Company, along with some surrounding parcels from St. Louis County and the City of Duluth, to create an approximate 2-acre site for the development of an affordable multi-family housing complex. The site has recently been transferred to the developer via a Land Sale Agreement in order to facilitate an affordable housing development. DEDA, with assistance from the EPA, has completed a Phase I environmental assessment prior to conveyance to confirm that there are no environmental concerns on the site that need to be addressed.

#### **Review and Discussion Items:**

Staff finds that:

1. The applicant is requesting to vacate an unimproved portion of a platted street (Cherry Street) and two alley rights of way west and north Grand Avenue in the Centredale Addition to Duluth plat, adjacent to the Wheeler Athletic Complex in the Denfeld neighborhood, as shown on the attached exhibit.
2. The proposed vacation will help create an approximate 2-acre site for the development of an affordable multi-family housing complex.
3. There is an existing water line located on the western portion of the right of way to be vacated. A utility easement will need to be retained over that vacated portion of the right of way.
4. The street and alley right of ways will not be needed by the City for the promotion of public health, safety, or welfare of the citizens of Duluth since City Engineering does not expect to need it in the future.
5. The City has determined that the rights of way are not needed for street or pedestrian use. Vacating the right of ways will not impact or deny access to other property owners. Applicant has proposed a 16.5-foot wide utility easement; City Engineering instead requests that a 20-foot wide utility easement be retained along the west side of the platted right of way to be vacated. A 20-foot utility easement will be granted to the City for the watermain relocation on DEDA parcel 010-2700-0010 along the entire southwest side.
6. Applicant will be required to amend the exhibit to incorporate the above requests from Engineering; once Engineering signs the approved exhibit the application will be considered complete and will be forwarded to council for approval.
7. Other than City Engineering, no other public or City comments have been received at the time of drafting this report.
8. 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 approval of the vacation with the following conditions:

- 1.) The vacation must be recorded within 90 days of final approval by City Council or such approval will lapse.
- 2.) Applicant to submit a revised exhibit showing retained utility easements for review and approval prior to recording.
- 3.) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.





PL 22-118  
Vacation of Right of Way

Legend	
■■■	Road or Alley ROW
■■	Vacated ROW
■■■■■	Easement Type
■■■■■■	Utility Easement
■■■■■■■	Other Easement
■■■■■■■■	Zoning Boundaries
■■■■■■■■■	Trout Stream (GPS)
■■■■■■■■■■	Other Stream (GPS)





