



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

File Number	PL 22-073	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Vacation of Right of Way	Planning Commission Date		June 14, 2022
Deadline for Action	Application Date	April 25, 2022	60 Days	June 24, 2022
	Date Extension Letter Mailed	May 13, 2022	120 Days	August 23, 2022
Location of Subject		A 20 foot wide right of way adjacent to 420 West 9 th Street between North 5 th Avenue West and North 4 th Avenue West		
Applicant	Ben Gasner		Contact	
Agent	Ben Grams		Contact	
Legal Description		See Attached		
Site Visit Date		May 27, 2022	Sign Notice Date	May 31, 2022
Neighbor Letter Date		May 19, 2022	Number of Letters Sent	9

Proposal

The applicant is requesting to vacate a 20-foot wide alley between Block 111 in (?) DULUTH PROPER THIRD DIVISION, between North 4th Avenue West and North 5th Avenue West, located in the Central Hillside neighborhood.

Staff is recommending approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Single Family	Traditional Neighborhood
North	RR-1	KBJR Television	Traditional Neighborhood
South	R-1	Single Family	Traditional Neighborhood
East	R-1	Vacant/Undeveloped	Traditional Neighborhood
West	R-1	Vacant/Undeveloped	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. 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 single family dwellings.

Future Land Use - Traditional Neighborhood - Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home businesses.

Review and Discussion Items:

Staff finds that:

1. The applicant is requesting to vacate an unimproved platted right of way between Block 111 of the recorded plat of Duluth Proper Third Division as shown on the attached exhibit.
2. The proposed vacation will allow existing vacant parcels adjacent to the right of way to be combined for a proposed single-family dwelling.
3. The right of way was platted in the Duluth Proper Third Division in 1896 but never utilized for its intended purpose for sewers, electric light, and telephone wires and poles.
4. The alley will not be needed by the City for the promotion of public health, safety, or welfare of the citizens of Duluth since the alley is currently unimproved and City Engineering does not expect to need it in the future.
5. The City has determined that this portion of the alley right of way is not needed for street or pedestrian use. Vacating the right of way will not impact or deny access to other property owners.
6. Other than City Engineering, 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 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.



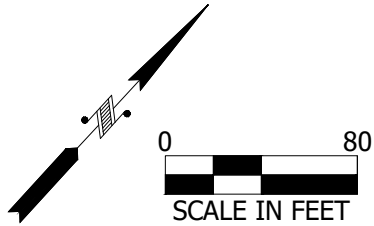
PL 22-073
Vacation of ROW

Legend

- Road or Alley ROW
- ▣ Vacated ROW
- Easement Type**
- ▤ Utility Easement
- ▥ Other Easement
- ▧ Zoning Boundaries



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.



LEGAL DESCRIPTION OF VACATION OF RIGHT OF WAY

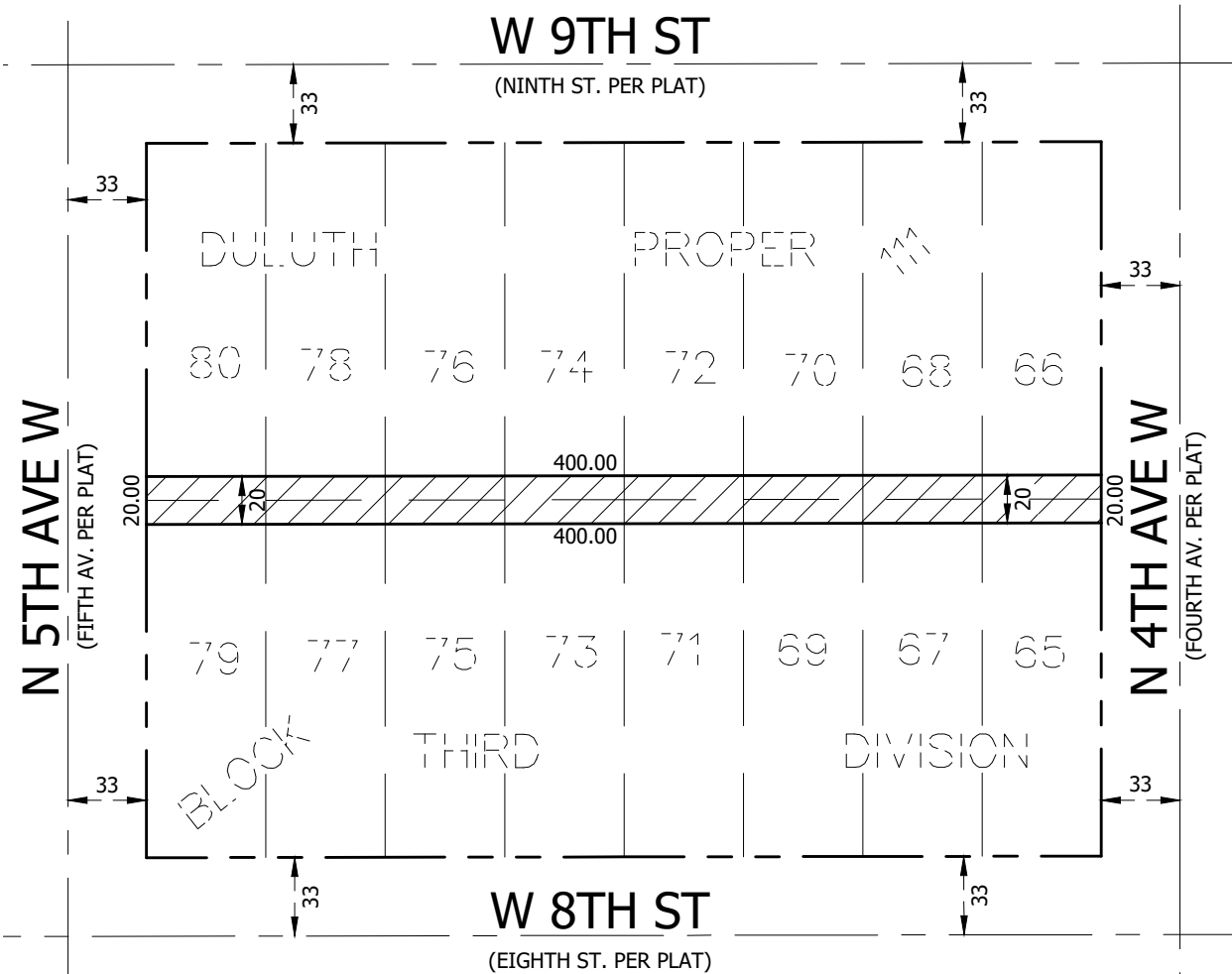
All that part of the 20 foot wide right of way for sewers, electric light, and telephone wires and poles lying within Block 111, DULUTH PROPER THIRD DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota. Said right of way being shown on the Condemnation Plat, recorded in Book 1 of Condemnation Plats, Pages 68 through 71, File No. 5722, filed on November 20, 1896 and located in the Office of the County Recorder, St. Louis County, Minnesota. Said right of way to be vacated contains 8,000 square feet or 0.18 acres.

LEGEND



RIGHT OF WAY
VACATION AREA

— — — — — CENTER LINE
- - - - - RIGHT OF WAY LINE
— — — — — EXISTING PLAT LINE



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. THIS IS NOT A BOUNDARY SURVEY.

Approved by the City Engineer of the
City of Duluth, MN this 16 day
of December 2022

Cindy Vaght

By 3CE89AC02DB8436...

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
DATE: 04-15-2022
MN License #49505

VACATION EXHIBIT

CLIENT: BEN GASNER

REVISIONS:

ADDRESS: 420 WEST 9TH STREET
DULUTH, MN 55806

DATE: 04-15-2022

JOB NO: 22-086

SHEET 1 OF 1

ALTA
LAND SURVEY COMPANY

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