



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

| | | | | |
|-----------------------------|-------------------------------------|---------------------------------|-------------------------------------------------|----------------|
| File Number | PLVAC-2504-0003 | Contact | Natalie Lavenstein, nlavenstein@duluthmn.gov | |
| Type | Vacation of Easement | Planning Commission Date | | May 13, 2025 |
| Deadline for Action | Application Date | April 7, 2025 | 60 Days | June 6, 2025 |
| | Date Extension Letter Mailed | April 21, 2025 | 120 Days | August 5, 2025 |
| Location of Subject | | 230 W 3 rd St | | |
| Applicant | CC San Marco LLC | Contact | Nancy Cashman | |
| Agent | Hanft Fride Law Firm | Contact | Bill Burns & Terri Crossman | |
| Legal Description | | 010-0980-00800 & 010-0980-00740 | | |
| Site Visit Date | | April 29, 2025 | Sign Notice Date | |
| | | | April 28, 2025 | |
| Neighbor Letter Date | | April 21, 2025 | Number of Letters Sent | |
| | | | 34 | |

Proposal

The applicant has requested to vacate a slopes and fill easement.

Recommended Action: Staff recommends that Planning Commission approve the vacation.

| | Current Zoning | Existing Land Use | Future Land Use Map Designation |
|----------------|-----------------------|--------------------------|----------------------------------------|
| Subject | MU-N | Residential | Central Business Secondary |
| North | MU-N | Residential | Urban Residential |
| South | F-5 | Mixed-Use | Central Business Secondary |
| East | MU-N | Mixed-Use | Urban Residential |
| West | F-5 | Parking | Central Business Secondary |

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):

Future Land Use – Central Business Secondary: An area adjacent to and supporting the central business primary area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

History: The slopes and fill easement was platted as a part of Duluth Proper First Division West Third Street. Slopes and fill easements were common when properties were first being developed, especially in the Hillside neighborhood.

Review and Discussion Items:

Staff finds that:

- 1) The applicant is requesting to vacate an entire platted slopes and fill easement along the platted and developed W. 3rd St Alley as described in the attached exhibit.
- 2) A slopes and fill easement allows for activities like excavation and grading to accommodate public infrastructure. Such easements were common in early plats of Duluth to allow for infrastructure in places of steep slopes.
- 3) The City Engineering office has reviewed the proposed vacation and has indicated it does not expect to need the area for future utilities or drainage.
- 4) The easement is no longer needed for the W 3rd St Alley, and the City has determined it will not be needed by the City for the promotion of public health, safety, or welfare of the citizens of Duluth.
- 5) Vacating the easement will not impact or deny access to other property owners.
- 6) No city, public or agency comments were received.
- 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:

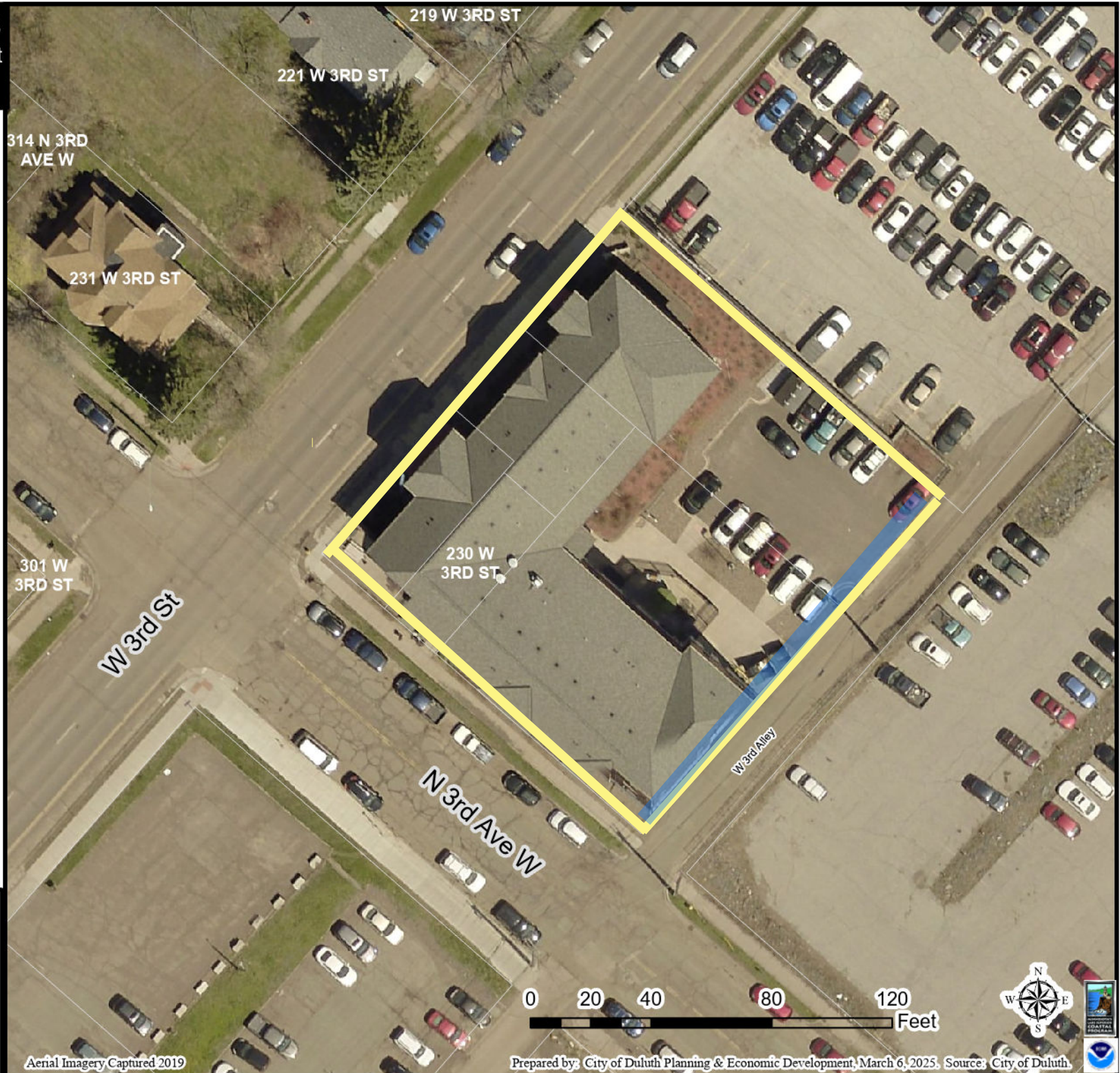
- 1) City Council must approve the vacation with at least 6/9 vote.
- 2) The vacation and easements must be recorded within 90 days of final approval by City Council, or such approval will lapse.



PLVAC-2504-0003

Vacation of Easement
230 W 3rd St

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.

EXHIBIT A

VACATION EXHIBIT

VACATION DESCRIPTION:

Those parts of easement of slopes on West Third Street Alley affecting Lots Forty-four (44), Forty-six (46) and Forty-eight (48), DULUTH PROPER FIRST DIVISION WEST THIRD STREET, City of Duluth, St. Louis County, Minnesota as depicted on Condemnation Plat for Easement of Slopes on West Third Alley from Lake Avenue to Piedmont Avenue East as recorded in Condemnation Plats Book 1, Page 134, Registers File No. 5970, filed in the Office of the Register of Deeds on December 4, 1896, St. Louis County, Minnesota.

 = AREA TO BE VACATED

APPROVED BY:

 4-15-25
CITY ENGINEER

THIRD AVENUE WEST

WEST THIRD STREET

LOT 48

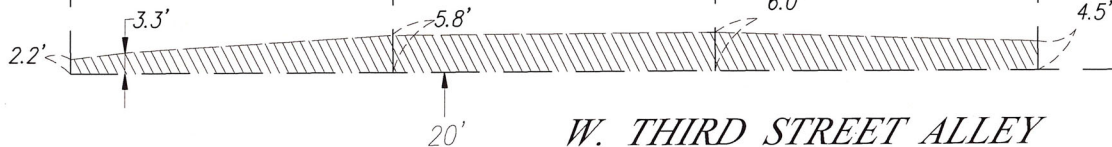
DULUTH PROPER

LOT 46

LOT 44

FIRST DIVISION

LOT 42



LOT 47

LOT 45

LOT 43

LOT 41

WEST SECOND STREET

DULUTH PROPER

FIRST DIVISION



(SCALE IN FEET)

Basis of Bearing is Grid North,
St. Louis County Transverse
Mercator 96 Coordinate System.

I hereby certify that this plan, specification, 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.

Print Name: Paul A. Vogel

License # 44075

Signature: 

Date: 3/28/2025

REVISED: 3/28/25

DATE PREPARED: 3/25/25

PROJ NO: 240702

FILE: 240702vEXHIB

SHEET 1 of 1 SHEETS



21 W. Superior St., Ste. 500 | Duluth, MN 55802 |
218.727.8446

Those parts of easement of slopes on West Third Street Alley affecting Lots Forty-four (44), Forty-six (46) and Forty-eight (48), DULUTH PROPER FIRST DIVISION WEST THIRD STREET, City of Duluth, St. Louis County, Minnesota as depicted on Condemnation Plat for Easements of Slopes on West Third Alley from Lake Avenue to Piedmont Avenue East as recorded in Condemnation Plats Books 1, page 134, Registers File No. 5970, filed in the Office of the Register of Deeds on December 4, 1896, St. Louis Company, Minnesota.



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Check One Box

- ☐ Accessory Home Share-**\$291.91**
☐ Accessory Vacation Dwelling Unit, Limited - **\$291.91**
☐ Appeal to Planning Com.-**\$479**
☐ Concurrent Use of Streets-**\$931**
☐ District Plan - **\$1,337**
☐ EAW or EIS - **\$3,337**, plus any Applicable professional fees
☐ Historic
☐ Construction/Demolition - **\$69**
☐ Resource Designation - **\$121**
☐ Interim Use Permit - **\$1,870**
☐ Planning Review - **\$1,248**
☐ Sidewalk Use Permit
☐ New Permit - **\$136**
☐ Renewal Permit - **\$82**
☐ Special Use Permit,
General - **\$1,876**
☐ Special Use Permit, Wireless Telecommunications*
☐ Modifying or Co-locating – **\$3,337**
☐ New Facility or Tower – **\$6,680**
☐ Escrow Deposit - **\$11,356**
☐ Subdivision Plat Approval or Amendment
☐ Concept Plan - **\$218**
☐ Preliminary Plat - **\$1,330**
☐ Final Plat - **\$1,002**
☐ Minor Subdivision - **\$499**
☐ Plat Amendment or Boundary Line Adjustment - **\$334**
☐ Registered Land Survey- **\$1,002**
☐ Temporary Use Permit - **\$341**
☐ UDC Zoning Map Amendment/Rezoning
☐ General - **\$1,066**
☐ MU-P or R-P - **\$3,012**
☒ Vacation of Street or Utility Easement - **\$1,057**
☐ Variance - **\$999**
☐ Wetland,
☐ De Minimis, Delineation, or No Loss - **\$265**
☐ Exemption - **\$309**
☐ Replacement Plan - **\$995**
☐ Zoning Verification Letter - **\$112**

2025 APPLICATION COVER SHEET

CONTACT INFORMATION:

Center City Housing Corp., on behalf of
Applicant/Owner CC San Marco, LLC
Phone c/o Agent Email c/o Agent
Address 105 1/2 W. 1st Street
City Duluth State MN Zip 55802
Owner's Agent (if applicable) William M. Burns/Terri E. Crossmon
Phone (218) 722-4766 Email wmb@hanftlaw.com & tec@hanftlaw.com
Address 1000 U.S. Bank Place, 130 W. Superior Street
City Duluth State MN Zip 55802

APPLICATION INFORMATION:

Street Address and Zoning of Property 230 W. 3rd St./MU-N (Mixed Use Nghbrhd.)
Parcel ID Number 010-0980-00740, 010-0980-00770, 010-0980-00750, 010-0980-00780 and 010-0980-00800.
Reason for this Request (Attach Additional Pages or Cover Letter if Necessary)
Applicant is seeking Vacation of a previously retained Slopes and Fills Easement
Under 50-37.06. Petition to Vacate accompanies this Application.

The undersigned hereby represents upon all of the penalties of law for the purpose of inducing the City of Duluth to take actions herein requested, that all statements herein and attached are true and that all work herein mentioned will be done in accordance with the Ordinances of the City of Duluth and the laws of the State of Minnesota. Undersigned also understands that all documents provided to the City may be considered public data, per Minnesota Government Data Practices Act.

April 7, 2025

Signature of Applicant William M. Burns (Agent For)

Date

Reminder: include application checklist and all supporting information, including pre-application verification (if applicable). Submit completed information to Room 100, Construction Services and Inspections.

*Special Use Permit Checklist required to be submitted with the application coversheet

Updated January, 2025

PETITION TO VACATE STREET ALLEY OR UTILITY EASEMENT

Name: Center City Housing Corp., on behalf of CC San Marco, LLC

Description of street, alley, or easement to vacate:

Those parts of easement of slopes on West Third Street Alley affecting Lots Forty-four (44), Forty-six (46) and Forty-eight (48), DULUTH PROPER FIRST DIVISION WEST THIRD STREET, City of Duluth, County of St. Louis, Minnesota as depicted on Condemnation Plat for Easements of Slopes on West Third Alley from Lake Avenue to Piedmont Avenue East as recorded in Condemnation Plats Book 1, Page 134, Registers File No. 5970, filed in the Register of Deeds on December 4, 1896, St. Louis County, Minnesota.

A map disclosing those specific portions described is attached hereto as Exhibit A.

My request for this vacation is to (indicate purpose of vacation): Petitioner requests the vacation as all previously used public utilities have been relocated and it's building was permitted to be placed over this easement area in 2006. Petitioner has an interest in 100% of the Easement area sought to be vacated. The vacation will allow for continued use of development by Petitioner.

The City of Duluth will not need this street, alley, or easement in the future because: Neither the City nor any private utility company will require use of the public easement and Petitioner has full ownership interest in the easement area.

PLEASE TAKE NOTICE: Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Counsel to vacate the street, alley, or easement described in the attached legal description.

This petition is made upon the following facts and reasons (identify the actual basis and reasons supporting the petition)¹:

1. Petitioner's interest comprises 100% ownership of the real property upon which the easement vacation is sought, as depicted on the attached Exhibit A.
2. The subject slopes easement 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.
3. The slopes easement is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
4. The vacation requested will allow for the continued, uninterrupted use of the property.

This petition is supported by a majority of the person(s) who own a majority of the lineal frontage of the land abutting upon the portion of the public easement proposed to be vacated. A copy of the signature of these persons is attached hereto and made a part hereof.²

¹ In order to vacate a public easement it must be demonstrated that the easement is useless for the purpose for which it was dedicated.

² If a property is owned in joint tenancy or by tenants in common, each individual with an ownership interest will be counted to determine if a majority of owners have signed the petition. An owner cannot sign for

The petitioner(s) agree to provide the city with a plat of the easement(s) as required by Section 50-37.6B(3) of the Duluth City Code upon approval of the vacation. We understand that the vacation cannot occur without the submission of the required plat. We understand that the cost of producing the plat is the responsibility of the petitioner(s). We also understand that the approval will lapse and be of no effect if the plat and clerk certification is not recorded with the county recorder within 90 days after final approval.



Signature(s): _____
Nancy Cashman, Executive Director of Center City Housing Corp.

Date: April 7, 2025.

Notice: This is public data.

another owner unless legally authorized to do so, i.e. power of attorney, trustee, or court approved guardianship or conservatorship.