



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

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File Number	PL 23-130	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Vacation of right of way	Planning Commission Date	September 12, 2023	
Deadline for Action	Application Date	July 19, 2023	60 Days	September 17, 2023
	Date Extension Letter Mailed	August 18, 2023	120 Days	November 16, 2023
Location of Subject	1203 North Arlington Avenue, PID# 010-2180-00250			
Applicant	Steven J. Elberling	Contact		
Agent		Contact		
Legal Description	See Attached			
Site Visit Date	September 1, 2023	Sign Notice Date	August 29, 2023	
Neighbor Letter Date	August 18, 2023	Number of Letters Sent	13	

Proposal

The applicant is requesting to vacate a portion of a 66-foot-wide platted right of way of Highland Avenue traversing north and south along the west property line of 1203 North Arlington Avenue located in the Duluth Heights neighborhood.

Staff is recommending approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1	Vacant land	Open Space
East	R-1	Residential	Traditional Neighborhood
West	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. 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 additional land area for the applicant.

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 a portion of the unimproved platted Highland Avenue right of way traversing north to south along the east property line of the applicant's lot located at 1203 North Arlington Avenue, as shown on the attached exhibit.
2. The applicant owns existing accessory structures within the unimproved right of way, which were in place prior to the current owner purchasing the property. The applicant is proposing to remove the larger accessory structure. As the vacated street will be split evenly between the two adjacent property owners, applicant will need to move the smaller structure onto their property.
3. The proposed vacation will allow the applicant to have a larger lot.
4. The unimproved portion of Highland Avenue was platted in the Highland Gardens 1st Addition plat but never utilized for its intended purpose. No utilities exist within the right of way.
5. The right of way will not be needed by the City for the safe and efficient circulation of automobiles, trucks, bicycles, or pedestrians or the efficient supply of utilities or public services in the city and City Engineering does not expect to need it in the future.
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 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 shall move the small accessory structure onto their portion of the vacated right of way.



PL 23-130 Vacation of ROW

Legend

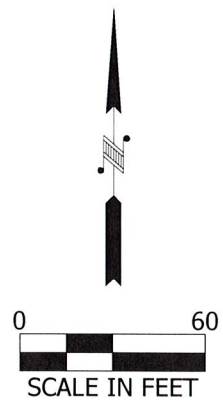
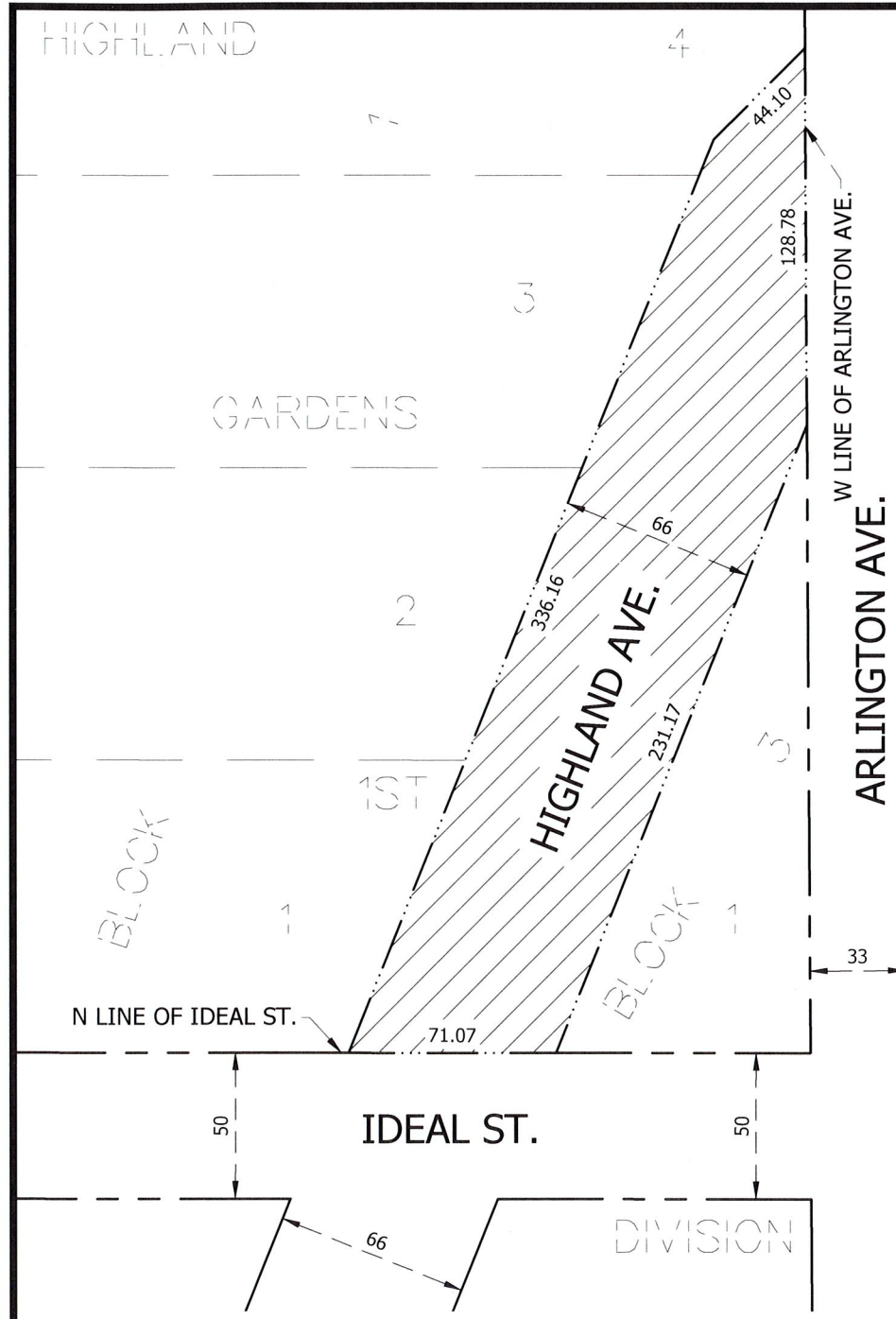
- ▬▬▬ Road or Alley ROW
- ⊠ Vacated ROW

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 RIGHT OF WAY VACATION


All that part of Highland Avenue lying adjacent to and abutting Lots 1, 2, 3 and 4, Block 1 and Lot 1, Block 3, HIGHLAND GARDENS 1ST DIVISION, lying West of the West line of Arlington Avenue and North of the North line of Ideal Street according to the recorded plat thereof, St. Louis County, Minnesota.


Said right of way vacation contains 20,756 square feet or 0.48 acres.

LEGEND

-  RIGHT OF WAY VACATION AREA
-  CENTER LINE
-  RIGHT OF WAY LINE
-  EXISTING PLAT LINE

SURVEYOR'S NOTES
1. THIS IS NOT A BOUNDARY SURVEY.

Approved by the City Engineer of the City of Duluth, MN this 23 day of AUGUST 23
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: 07-07-2023

VACATION EXHIBIT	
CLIENT: STEVE ELBERLING	REVISIONS:
ADDRESS: 1203 NORTH ARLINGTON AVENUE, DULUTH, MN 55811	
DATE: 07-07-2023	JOB NO: 23-207 SHEET 1 OF 1

ALTA
LAND SURVEY COMPANY

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