



Planning & Development Division
Planning & Economic Development Department

Room 160
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 Duluth, Minnesota 55802

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planning@duluthmn.gov

File Number	PL 23-029	Contact	Kyle Deming	
Type	Vacation of Alleys	Planning Commission Date	March 14, 2023	
Deadline for Action	Application Date	February 7, 2023	60 Days	April 8, 2023
	Date Extension Letter Mailed	March 2, 2023	120 Days	June 7, 2023
Location of Subject	Between 52 nd and 53 rd Ave. W north of Wadena St. (Spirit Valley)			
Applicant	Center City Housing Corp.	Contact	Nancy Cashman	
Agent	Bill Burns/Terri Crossmon	Contact	Hanft Fride	
Legal Description	That part of the 16-foot-wide north/south alley abutting Lots 1-18, Block 168 and Lots 6-23, Block 169, West Duluth 7 th Division; and that part of the 10-foot-wide east/west alley abutting Lots 23-28, Block 169, West Duluth 7 th Division. (see attached Exhibit A)			
Site Visit Date	March 2, 2023	Sign Notice Date	February 28, 2023	
Neighbor Letter Date	February 24, 2023	Number of Letters Sent	48	

Proposal: Vacation of parts of two alleys to form a unified parcel in preparation for site development.

Staff Recommendation

Approval of the vacation contingent upon retaining a utility easement over part of the north/south alley.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-P	Residential	Urban Residential
North	R-P	Vacant	Urban Residential
South	R-P	Residential	Urban Residential
East	R-P	Vacant	Urban Residential
West	R-P	Vacant	Urban Residential

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 Principles and Policies:

The following Imagine Duluth 2035 Governing Principles should be considered when reviewing the request:

- Governing Principle #7 – Create and maintain connectivity. The proposed vacation will reduce connectivity overall, but will result in a unified parcel to support a larger format development.
- Governing Principle #9 – Support private actions that contribute to the public realm. Vacation will allow for the development of the block to support community housing needs.
- Governing Principle #12- Create efficiencies in delivery of public services. Vacation will reduce the need for future alleyway construction.
- Housing Policy #1 – Increase density in and around the designated Core Investment Areas. Vacation is in the Spirit Valley Core Investment Area and will allow for a modest increase in housing density over the previous dwellings.
- Housing Policy #2 - Provide affordable, attainable housing opportunities. The vacation will support a development of a larger format affordable housing project.

Future Land Use

- Urban Residential: Greatest variety of residential building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers. Connected or adjacent to parks and open space. Overall residential density of 8 units/acre and up. Design standards ensure pedestrian orientation and mix of housing.

Zoning

- Residential-Planned (R-P): Established to provide a flexible development option for residential projects that integrate creative site design, provide a variety of housing types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district.

Related File: PL23-028 UDC Map Amendment

History:

- Ramsey Village Neighborhood Plan and associated Regulating Plan was approved by City Council in 2003.
- Dwellings adjacent to the proposed alley vacations were torn down in 1994 and 2013.
- The sanitary sewer in the alley is from 1928.

Review and Discussion Items

1. The proposal is to vacate existing alleys in preparation for development of a larger format building and parking in keeping with the zoning of the area. With the larger format development, access through the middle of the block for vehicles and pedestrians is not needed.
2. The proposal would not vacate all of the alleys in the block, thereby retaining the potential for vehicle and pedestrian connectivity for the portion of the block containing existing dwellings, one of which is using a portion of the alley for access to 53rd Ave. W.
3. The proposal would retain a utility easement over that portion of the alley containing a municipal sanitary sewer pipe.
4. MN Power has noted the presence of power line facilities in both the east-west alley and the entire length of the north-south alley and has requested retaining a utility easement over both alleys unless the power lines are relocated. Discussions between the applicant and MN Power for the relocation of those power lines is underway and, therefore, staff recommendation is to retain utility easements over the entire length and width of both alleys unless the power line facilities are relocated and any replacement easements granted by the applicant.
5. Currently, there remains a gravel alley that served the three dwellings removed from the northerly part of the block. This alley is useless at this point and will be removed if the petitioned vacation is approved.
6. MN Power commented that there are power lines in both alleys proposed for vacation and City Engineering provided technical comments on the vacation exhibit. No other comments have been received on the proposed vacations.
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 and retention of a utility easement, as petitioned, with the following condition:

1. The full width and length of the alleys proposed for vacation be retained as utility easements unless the applicant provides a written agreement for the relocation of power lines and any replacement easements are dedicated.
2. The Council approve the vacation with at least a 6/9's vote.
3. Applicant must present a vacation plat meeting the City Engineer's requirements within 90 days of Planning Commission's recommendation or the application will be denied.
4. The vacation must be recorded within 90 days of final approval by City Council, or such approval will lapse.



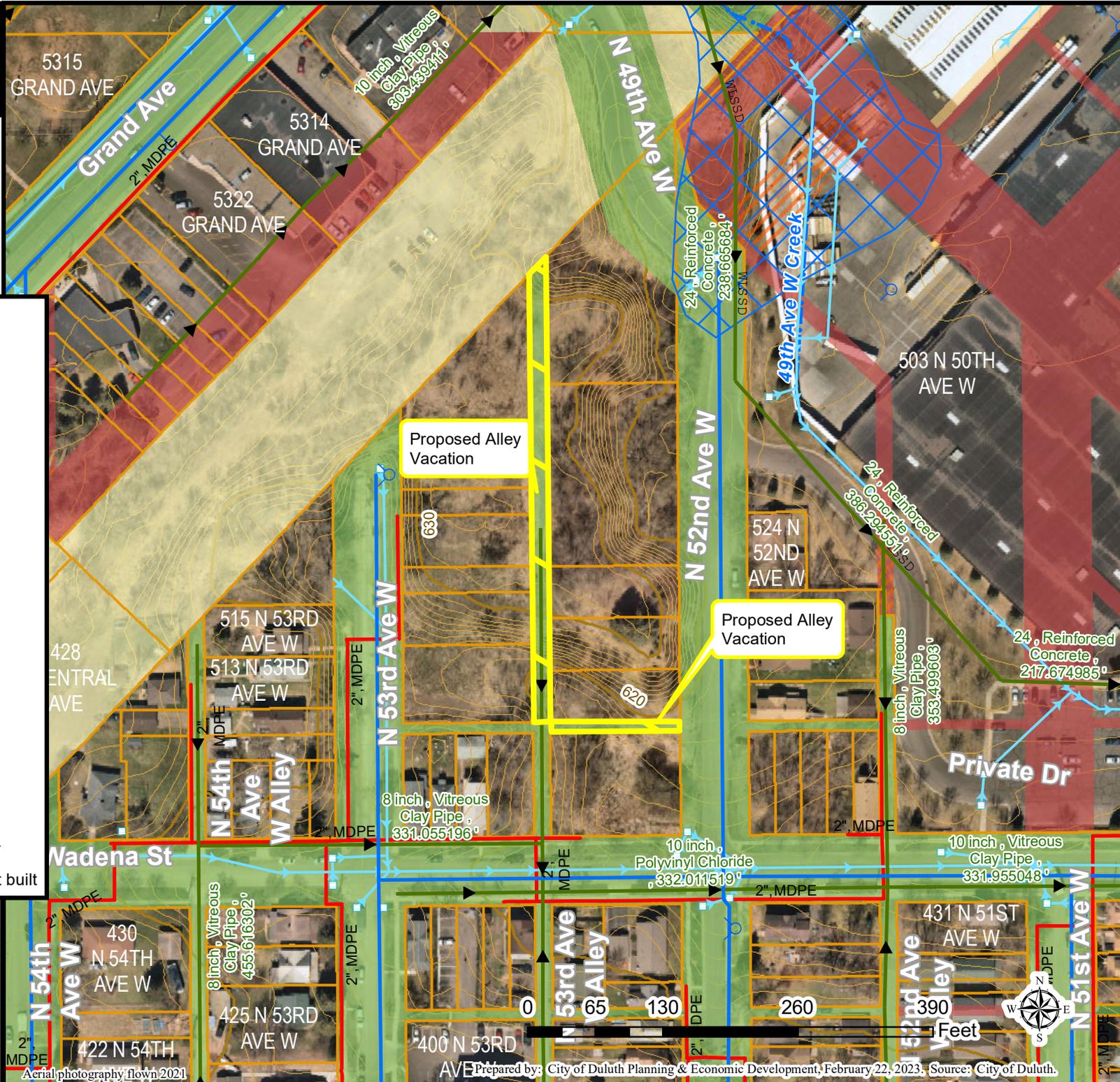
PL 23-029
Alley Vacation
Center City Housing Corp.

Site Map

Legend

- Streams**
- Other Stream (GPS)
- Floodplain (UDC)**
- Flood Way
- Parcels**
- Parcels
- Distribution Main**
- Water Main
- Hydrant
- Gas Main
- Sanitary Sewer Mains**
- City of Duluth
- WLSSD; Private
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Elevation**
- 1 Ft contour
- 10 Ft contour
- Undefined ROW Status
- ROW Status**
- Utility, Active
- Railroad, Active
- Access, Active - currently in use
- Road, Active - currently in use
- Utility, Vacated - via recorded doc.
- Road, Vacated - vacated
- Railroad, Inactive - Dedicated, not built

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.



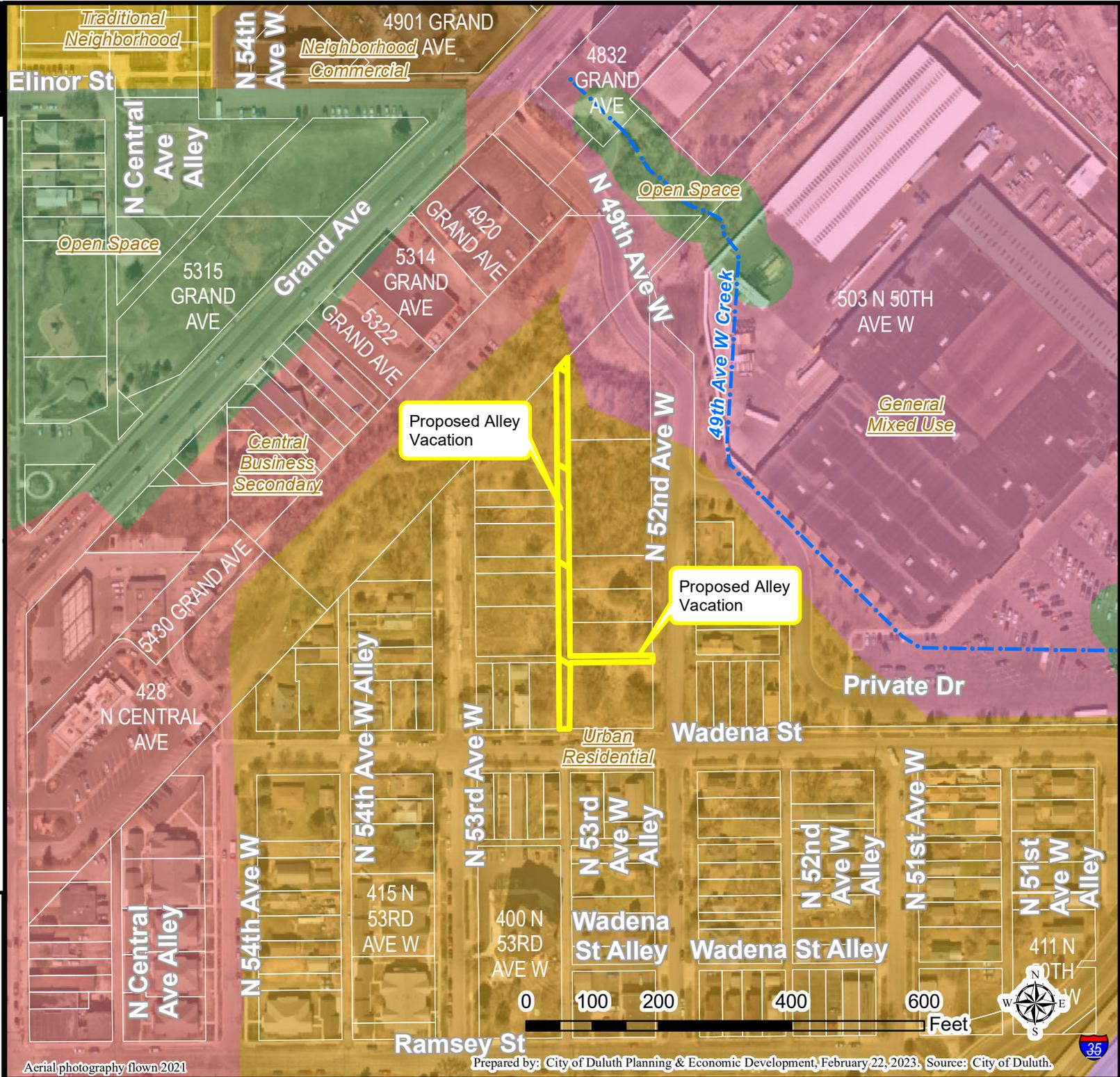
Aerial photography flown 2021

Prepared by: City of Duluth Planning & Economic Development, February 22, 2023. Source: City of Duluth.



PL 23-029
Alley Vacation
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Future Land Use Map



Legend

Streams

- Other Stream (GPS)

Future Land Use

- Open Space
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Central Business Secondary
- General Mixed Use
- General Industrial

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Aerial photography flown 2021

Prepared by: City of Duluth Planning & Economic Development, February 22, 2023. Source: City of Duluth.



PETITION TO VACATE STREET ALLEY OR UTILITY EASEMENT

Name: Center City Housing Corp., (Holder of Option from the Duluth Economic Development Authority)

Description of street, alley, or easement to vacate:

1. A Sixteen (16) Foot Public Alley between Blocks 168 and 169, WEST DULUTH SEVENTH DIVISION, adjacent to Lots 1 thru 18, inclusive, Block 168 and Lots 6 thru 13, inclusive, Block 169, WEST DULUTH SEVENTH DIVISION, dedicated in the recorded Plat of WEST DULUTH SEVENTH DIVISION, SPECIFICALLY retaining the easement for sanitary sewer purposes located therein.

AND

2. A Ten (10) Foot Public Alley between Lot 23, Block 169, WEST DULUTH SEVENTH DIVISION, and Lots 24 thru 28, Block 169, WEST DULUTH SEVENTH DIVISION, dedicated in the recorded Plat of WEST DULUTH SEVENTH DIVISION.

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/Owner requests the vacations to accrue to the adjacent property for which it has an interest or owns at least 51%. The vacations will allow for proposed future development by Petitioner/Owner.

The City of Duluth will not need this street, alley, or easement in the future because: Neither of these two public alleys have been built, the property is currently vacant, the Petitioner/Owner either have an interest in or own the property on either side and have determined they are no longer necessary. Additionally, Petitioner is working directly with Minnesota Power on the removal/relocation of its current overhead power lines at its expense.

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/Owner comprises at least 51% ownership of the real property abutting the property for which the vacations are sought, as depicted on the attached Exhibit A.
2. The subject alleys are 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 (other than sanitary sewer) in the city.
3. The subject alleys are not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

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.

4. The vacations requested will allow for the continued, uninterrupted use of the adjacent properties.

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

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: February 6, 2023.

Notice: This is public data.

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

Petition Signature Form

We, the undersigned, do hereby request that the City of Duluth consider vacation:

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY

By Christopher E. Fleeger
Its DIRECTOR PLANNING & ECONOMIC DEVELOPMENT

EXHIBIT A

VACATION EXHIBIT

VACATION DESCRIPTION:

That part of the 16 foot wide north/south Alley abutting and adjacent to Lots 1 - 18, Block 168 and Lots 6 - 23 Block 169, WEST DULUTH 7th DIVISION, City of Duluth St. Louis County, Minnesota. The south sideline terminating at the north line of the 10 foot wide east/west alley in Blocks 168 and 169. Retaining public utility easement for sanitary sewer purposes over, under and across those parts of said north/south alley abutting and adjacent to Lots 10 - 18, said Block 168 and Lots 15 - 23, said Block 169.

AND

That part of the 10 foot wide east/west Alley abutting and adjacent to Lots 23-28, Block 169, WEST DULUTH 7th DIVISION, City of Duluth St. Louis County, Minnesota. The west sideline terminating at the east line of the 16 foot wide north/south alley abutting and adjacent to said Block 169.

APPROVED BY:

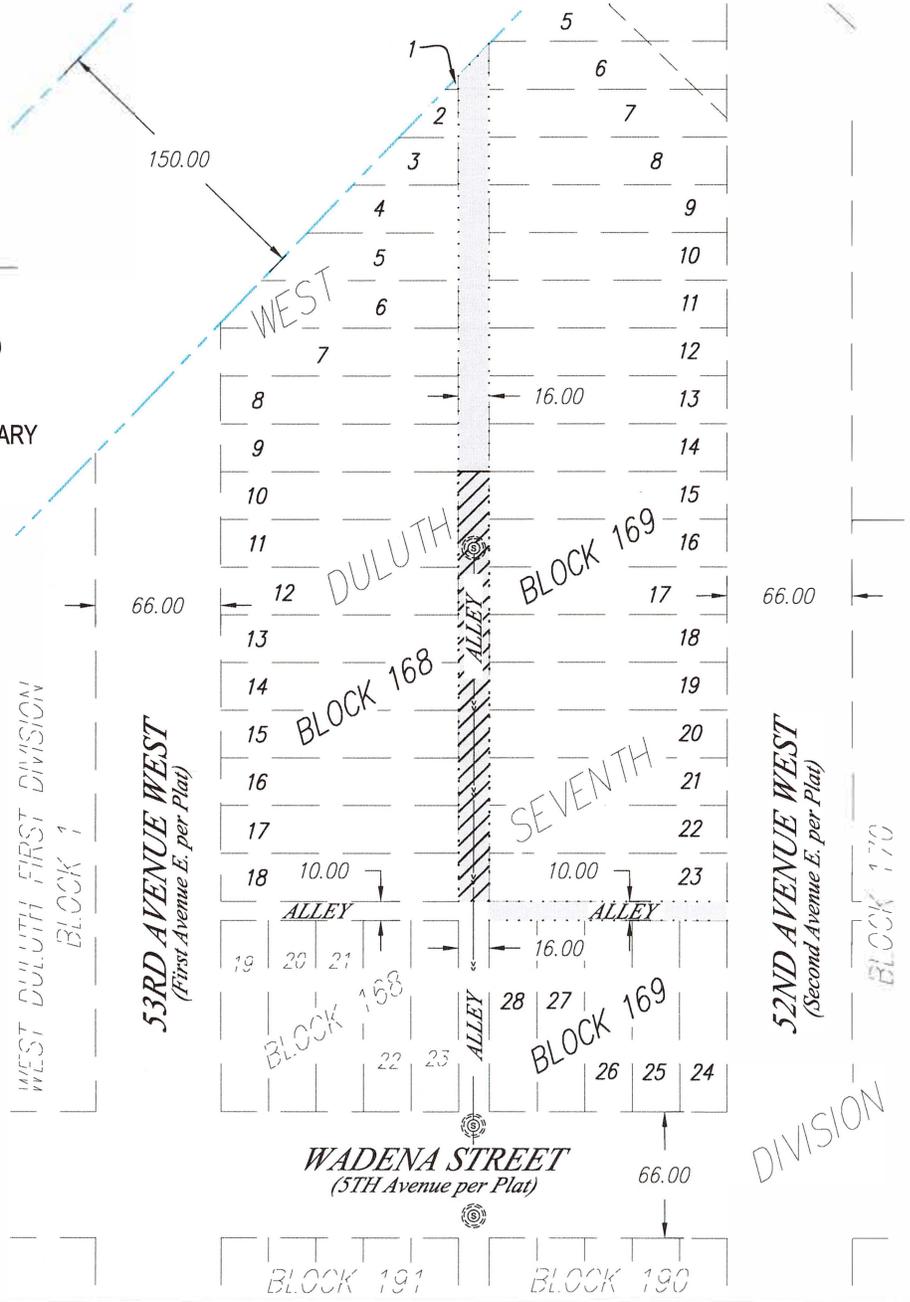
CITY ENGINEER

-  = AREA TO BE VACATED
-  = AREA TO BE VACATED WITH RETAINED SANITARY SEWER EASEMENT
-  = EXISTING SANITARY SEWER MANHOLE



(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: 2/06/2023

DATE PREPARED: 02/06/23

PROJ NO: xxxxx

FILE: 230100vExhib

SHEET 1 of 1 SHEETS



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