

# EXHIBIT 3



**Planning & Development Division**  
*Planning & Economic Development Department*

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<b>File Number</b>	PL 21-067	<b>Contact</b>	Kyle Deming
<b>Type</b>	Vacation of platted alley	<b>Planning Commission Date</b>	June 8, 2021
<b>Deadline for Action</b>	<b>Application Date</b>	May 4, 2021	<b>60 Days</b> July 3, 2021
	<b>Date Extension Letter Mailed</b>	May 21, 2021	<b>120 Days</b> September 1, 2021
<b>Location of Subject</b>	Alley north of Superior St. and east of 39 <sup>th</sup> Ave. W. (Oneota)		
<b>Applicant</b>	Minneapolis Oxygen Company	<b>Contact</b>	Jorey Olson
<b>Agent</b>		<b>Contact</b>	
<b>Legal Description</b>	Platted alley between Blocks 2 and 3, Harrington's Division – see attached		
<b>Site Visit Date</b>	May 26, 2021	<b>Sign Notice Date</b>	May 25, 2021
<b>Neighbor Letter Date</b>	March 25, 2021	<b>Number of Letters Sent</b>	12

**Proposal**

Applicant requests vacation of a platted unimproved alley in Harrington's Division located east of 39<sup>th</sup> Ave. W. and north of Superior St.

Staff recommends approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
<b>Subject</b>	MU-B	Vacant/Undeveloped	General Mixed Use
<b>North</b>	MU-B	Warehouse/business	General Mixed Use
<b>South</b>	MU-B	Vacant/Undeveloped	General Mixed Use
<b>East</b>	MU-B	Industrial/distribution	General Mixed Use
<b>West</b>	MU-B	Commercial	General Mixed Use

**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 Principle #3 – Support existing economic base. Vacating this alley will facilitate additional business development on the property.

Governing Principle #5 – Promote reinvestment in neighborhoods. Vacating this alley will allow previously unused property to be improved which increases the City’s tax base.

Governing Principle #7 – Create and maintain connectivity. Vacating this alley will not reduce connectivity since the rest of the alley was vacated previously.

Governing Principle #12 – Create efficiencies in delivery of public services. Vacating the alley will reduce future costs to the City because it won’t need to be maintained by the City.

Zoning – Mixed Use-Business Park (MU-B) - intended to accommodate modern light industrial and technology-based developments of attractive integrated design and function.

Future Land Use – General Mixed Use - The broadest mix of uses, including light industrial, office, commercial, and residential use, with performance standards to ensure compatibility. Includes areas that are in transition from industrial uses and large redevelopments that require master plans and phased development. General or heavy industrial can be included when a large site is master planned to allow appropriate separation of uses.

History: The alley was part of the original plat in the area. Portions of the alley to the east in Sutphin’s Addition were vacated 5/11/1927.

**Review and Discussion Items:**

Staff finds that:

1. The applicant is requesting to vacate the 16-foot-wide alley east of 39<sup>th</sup> Ave. W. The alley was platted in the Harrington’s Division but never utilized for its intended purpose as there are no pavement or utilities installed.
2. The part of the alley to the east of Harrington’s Division (in Sutphin’s Addition) was vacated in 1927, and so granting this vacation request will complete vacation of the alley all the way to 39<sup>th</sup> Ave. W.
3. The purpose of vacating the alley is in preparation for development on the site.
4. The alley will not be needed by the City for the efficient supply of utilities or public services in the City, nor 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. Adjacent to the applicant’s property is a 40-foot by 50-foot portion of the Superior St. easement that was vacated in 1889 for an unknown reason. It is currently developed with Superior St. and contains utilities as well. The applicant is willing to provide the City with an easement for this 40-foot by 50-foot area in order to rectify this situation. Staff recommends this be a condition of approval of the vacation resolution by City Council.
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 to City Council approval of the petitioned alley 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. Before the alley vacation is recorded, the applicant shall grant the City a street and utility easement, in a form acceptable to the City, for the previously-vacated portion of Superior St. that is currently being used and maintained as a street. The City can prepare the easement, but the applicant shall be responsible to provide the legal description and exhibit of the area to be included in the street and utility easement.
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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

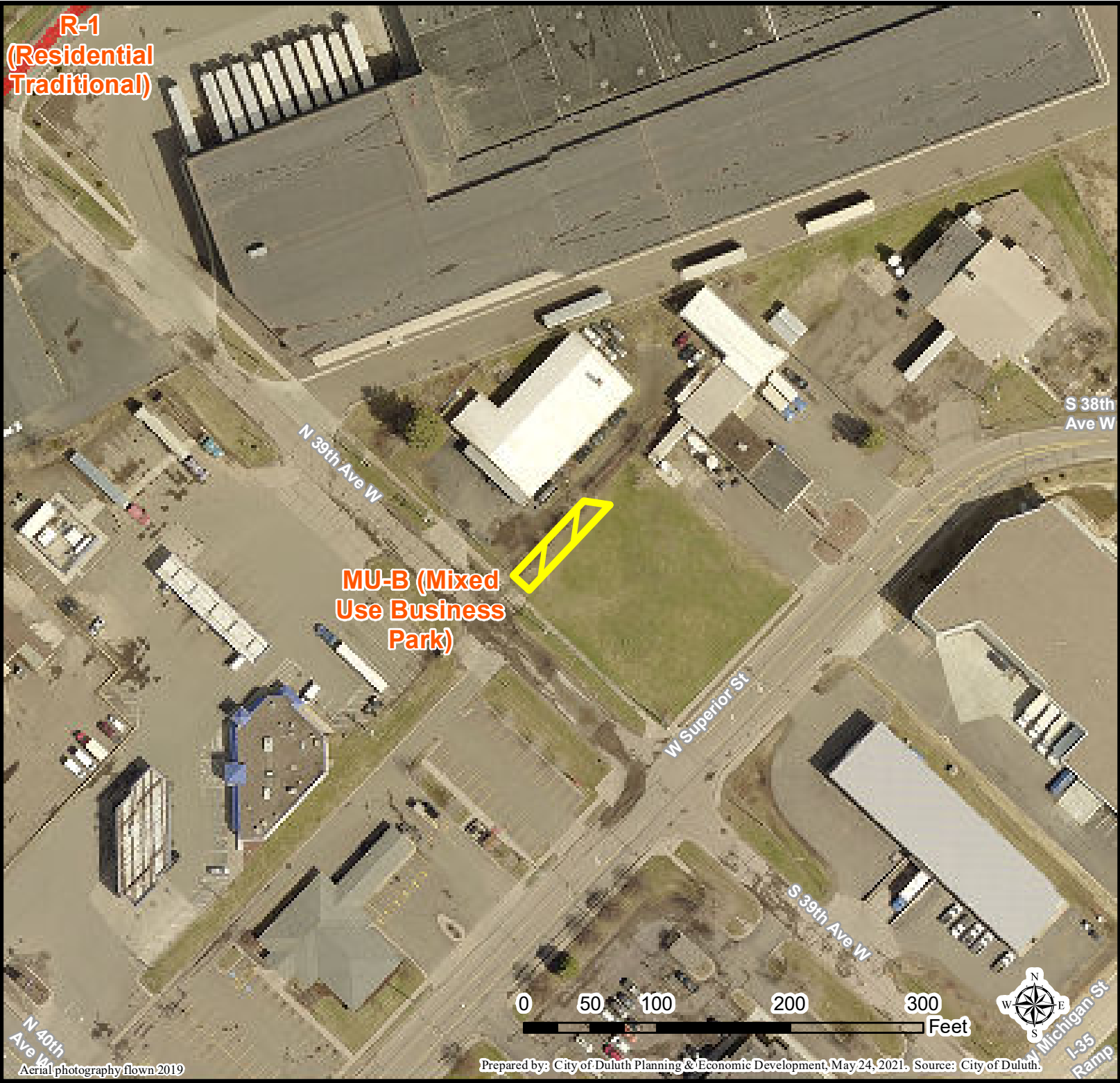


PL 21-067  
 Vacation of  
 Platted Alley  
 Minneapolis  
 Oxygen

**R-1  
 (Residential  
 Traditional)**

**Legend**  
 Zoning Boundaries

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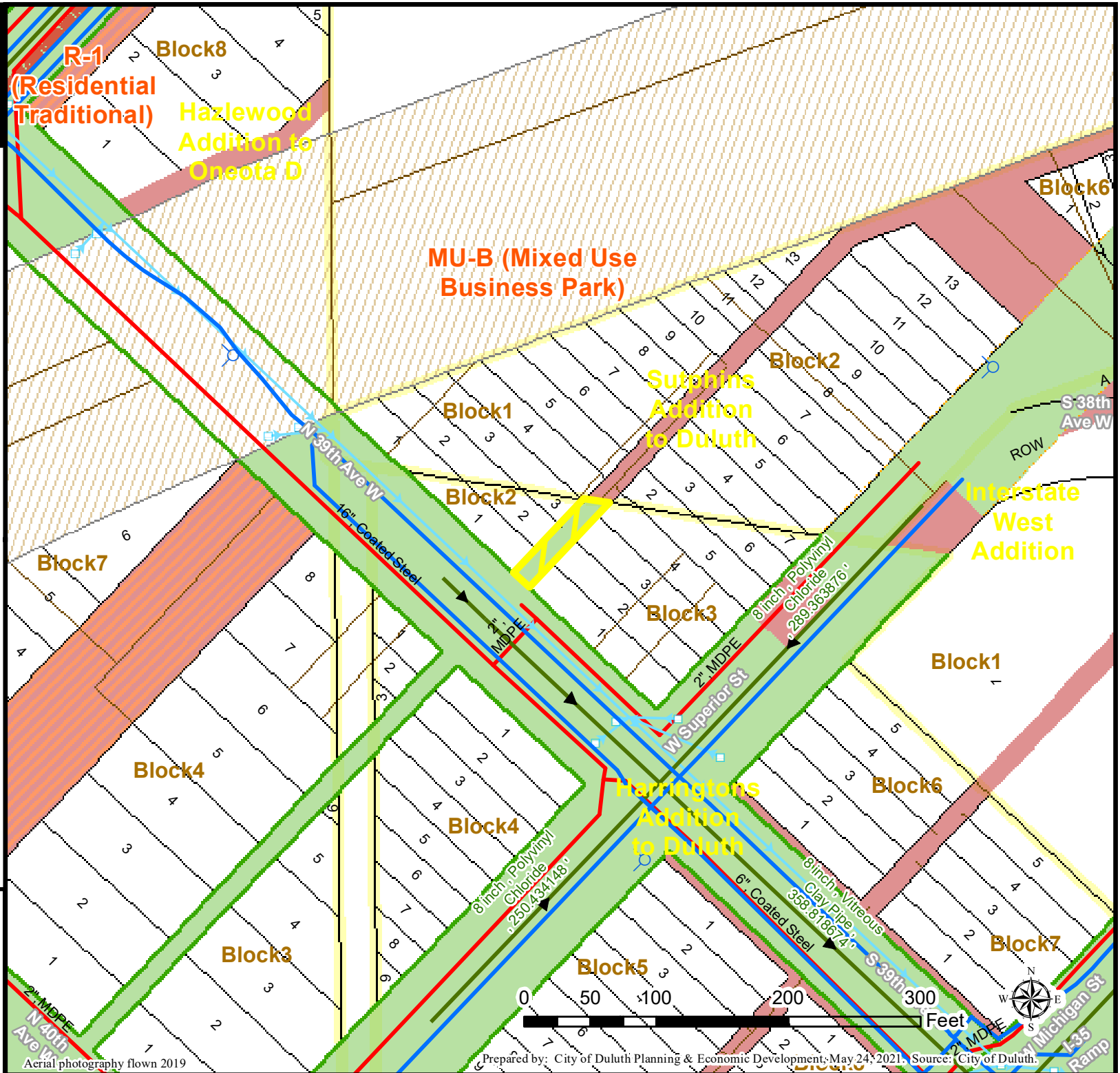
Aerial photography flown 2019



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**Legend**

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- Storm Sewer Mains
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Blocks
- Lots
- ROW
- SUBTYPE, ROW\_STATUS
- Utility, Active
- Railroad, Active
- Road, Active - currently in use
- Road, Vacated - vacated via recorded document
- Subdivision Boundaries
- Boundary Lines
- <all other values>
- Subtype, ROW\_TYPE
- Lot Line
- Parcel Line
- ROW (Road)
- ROW (Not Road)
- Zoning Boundaries



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Aerial photography flown 2019

Prepared by: City of Duluth Planning & Economic Development, May 24, 2021. Source: City of Duluth.

