

Exhibit B

..Title

RESOLUTION VACATING A PORTION OF RIGHT-OF-WAY ALONG HAZEL STREET BETWEEN 79TH AVENUE WEST AND 81ST AVENUE WEST, IN THE PLAT OF NORTON'S GARDEN TRACTS, LYING BETWEEN THE SOUTHERLY EXTENSION OF THE WEST LINE OF BLOCK 2 IN SAID NORTON'S GARDEN TRACTS AND THE SOUTHERLY EXTENSION OF THE EAST LINE OF SAID BLOCK 2.

..Body

CITY PROPOSAL:

RESOLVED, that:

- (a) The city council finds a sufficient petition was filed with the city requesting the vacation described in (e) below; and
- (b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in a public hearing and the city planning commission found that the petitioned rights-of-way are not needed for municipal uses; and
- (c) The city planning commission, at its Tuesday, September 9, 2025 regular meeting, recommended approval of the vacation petition (PLVAC-2507-0007); and
- (d) The city council finds that the petitioned rights-of-way proposed to be vacated:
 - 1. are not and will not be needed for municipal purposes; and
 - 2. are not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
- (e) The city council of the city of Duluth approves the vacation of the petitioned right-of-way legally described and depicted on the attached Exhibit A; and
- (f) That the city clerk is, pursuant to Section 100 (b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution showing the right-of-way to be vacated; and
- (g) That the vacation shall lapse if this resolution is not recorded within 90 days of city council approval.

..Statement of Purpose

STATEMENT OF PURPOSE: This resolution vacates 0.76 acres along the right-of-way of Hazel Street, between 79th Avenue West and 81st Avenue West. This vacation of right-of-way was requested by the adjacent property owner to prevent a street from being built in the future and to allow them to maintain the subject land area.

On September 9, 2025, the Duluth city planning commission held a public hearing on the proposal, as shown in the staff report in Exhibit B, and voted 9 yeas, 0 nays, and 0 abstention to recommend the city council approve the vacation petition.

The motion to approve the vacation by the city council must prevail with at least six affirmative votes.



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-2507-0007	Contact	Christian Huelsman, chuelsman@duluthmn.gov	
Type	Vacation of Street	Planning Commission Date		September 9, 2025
Deadline for Action	Application Date	July 31, 2025	60 Days	September 29, 2025
	Date Extension Letter Mailed	August 4, 2025	120 Days	November 28, 2025
Location of Subject		4041 N 79 th Ave W		
Applicant	Darren Leland	Contact		
Agent		Contact		
Legal Description		See attached PIN: 010-3520-00665		
Site Visit Date		August 25, 2025	Sign Notice Date	August 26, 2025
Neighbor Letter Date		August 18, 2025	Number of Letters Sent	8

Proposal:

The applicant seeks to vacate a portion of 40-foot wide, unimproved, platted right-of-way of Hazel Street, between 79th and 81st Avenues West in the Bayview Heights neighborhood.

Recommended Action: Staff recommends that Planning Commission recommend approval to City Council with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1	Residential/Undeveloped	Low-density Neighborhood
North	RR-1	Undeveloped	Low-density Neighborhood
South	RR-1	Residential/Undeveloped	Low-density Neighborhood
East	RR-1	Undeveloped	Low-density Neighborhood
West	RR-1	Residential	Low-density 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 #1 – Reuse previously developed lands**

Doing so strengthens neighborhoods and is preferred to a dispersed development pattern with associated alteration of natural landscapes and extensions of public services. Site preparation or building modification costs are offset by savings in existing public infrastructure such as streets and utilities, and transit, fire, and police services. The vacation will allow for the property owner to make improvements to their property.

Future Land Use – Low-density Neighborhood: An area characterized by single-family housing with urban services, typified by curvilinear streets, houses with longer side parallel to street, and attached garages. Includes a range of house sizes and lot sizes.

History: The Hazel Street right-of-way between 79th and 81st Avenues West has seen no physical development, apart from the property of the applicant in 1982.

Review and Discussion Items:

Staff finds that:

1. The applicant is requesting to vacate 40 ft x 415 ft of right-of-way running east along Hazel Street, from the intersection at N 79th Ave W and terminating at N 81st Ave W, as depicted in the attachments to this report. All the vacated area is within the plat of Norton's Garden Tracts.
2. The right-of-way is inactive and unimproved, and the applicant owns all the land along the south side of the proposed vacation.
3. The proposed vacation allows the adjacent property owner to make property improvements, if they would like to do so in the future. The applicant indicates their primary goal is to prevent a road from being built in this area.
4. The street proposed to be vacated was platted but never utilized for its intended purpose.
5. The 40 ft x 415 ft area of the proposed vacation is not served by utilities.
6. A Petition to Vacate Street, Alley, or Utility Easement was submitted by the applicant, exceeding 51% of titleholders as signatories, demonstrating no objection to the proposed vacation of right-of-way.
7. The proposed street to be vacated will not be needed by the City for the promotion of public health, safety, or welfare of the citizens of Duluth. Engineering anticipates no future improvement to the proposed vacation area.
8. The City has determined that this portion of the street is not needed for utility or pedestrian use. Vacating the easement will not impact or deny access to other property owners; all nearby properties have access via other rights of way.
9. Among City, public or agency comments received at the time of drafting this report, the City Attorney's Office expressed concerns about vacation of the platted street, interest from the applicant in the tax forfeit property to the north, and notification of the State of Minnesota via petition to vacate. The communication is attached.
10. 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 and easements must be recorded within 90 days of final approval by City Council or such approval will lapse.
- 2) The vacation must be approved with a 6/9 vote from City Council.



PLVAC-2507-0007

Vacation of Right-of-Way
Hazel St between 79th & 81st Aves W

Legend

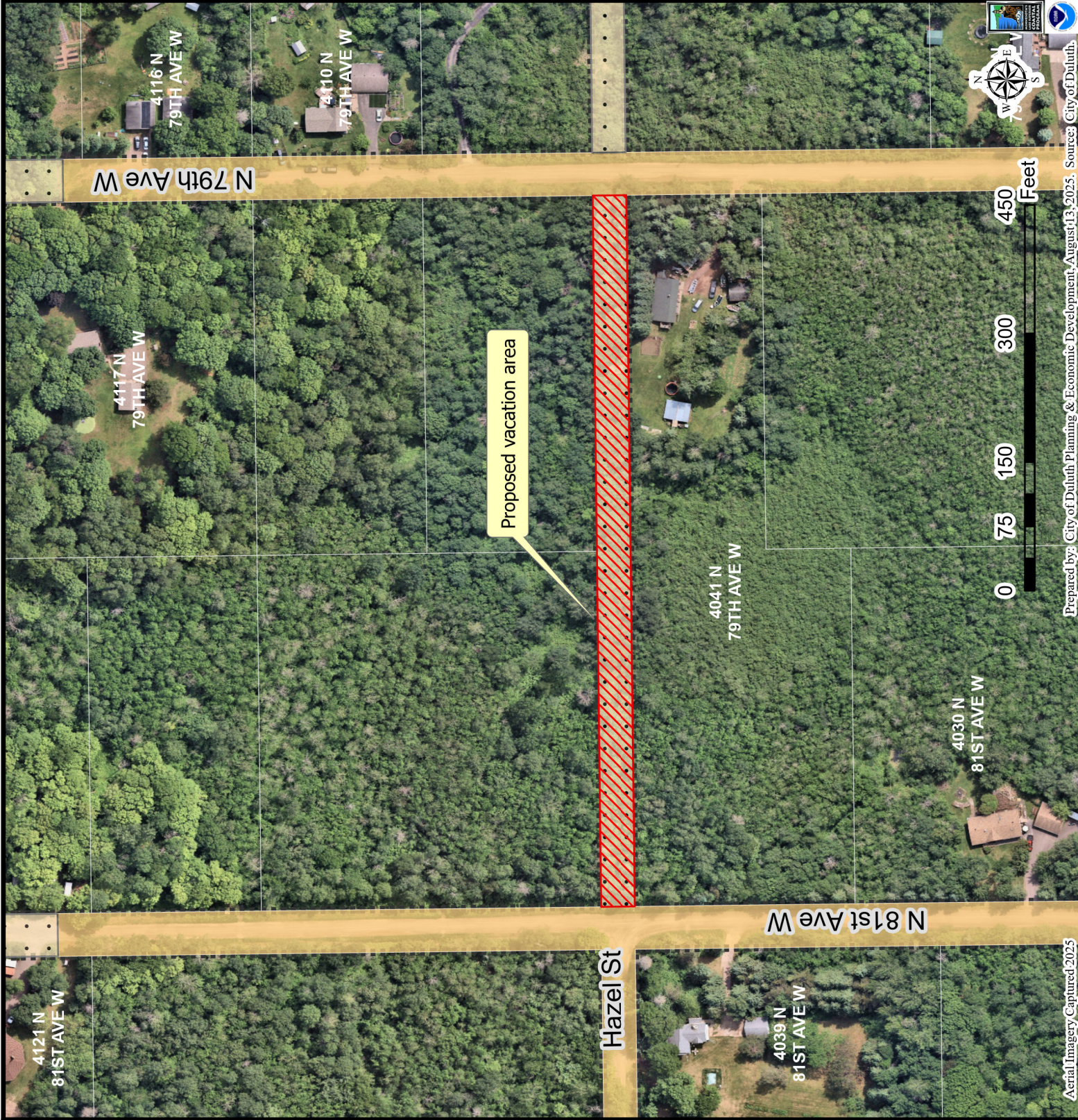
■■■■ Road or Alley ROW

□ County Parcel Data

ROW

■ Road, Active - currently in use

■ Road, Inactive - Dedicated, but not built



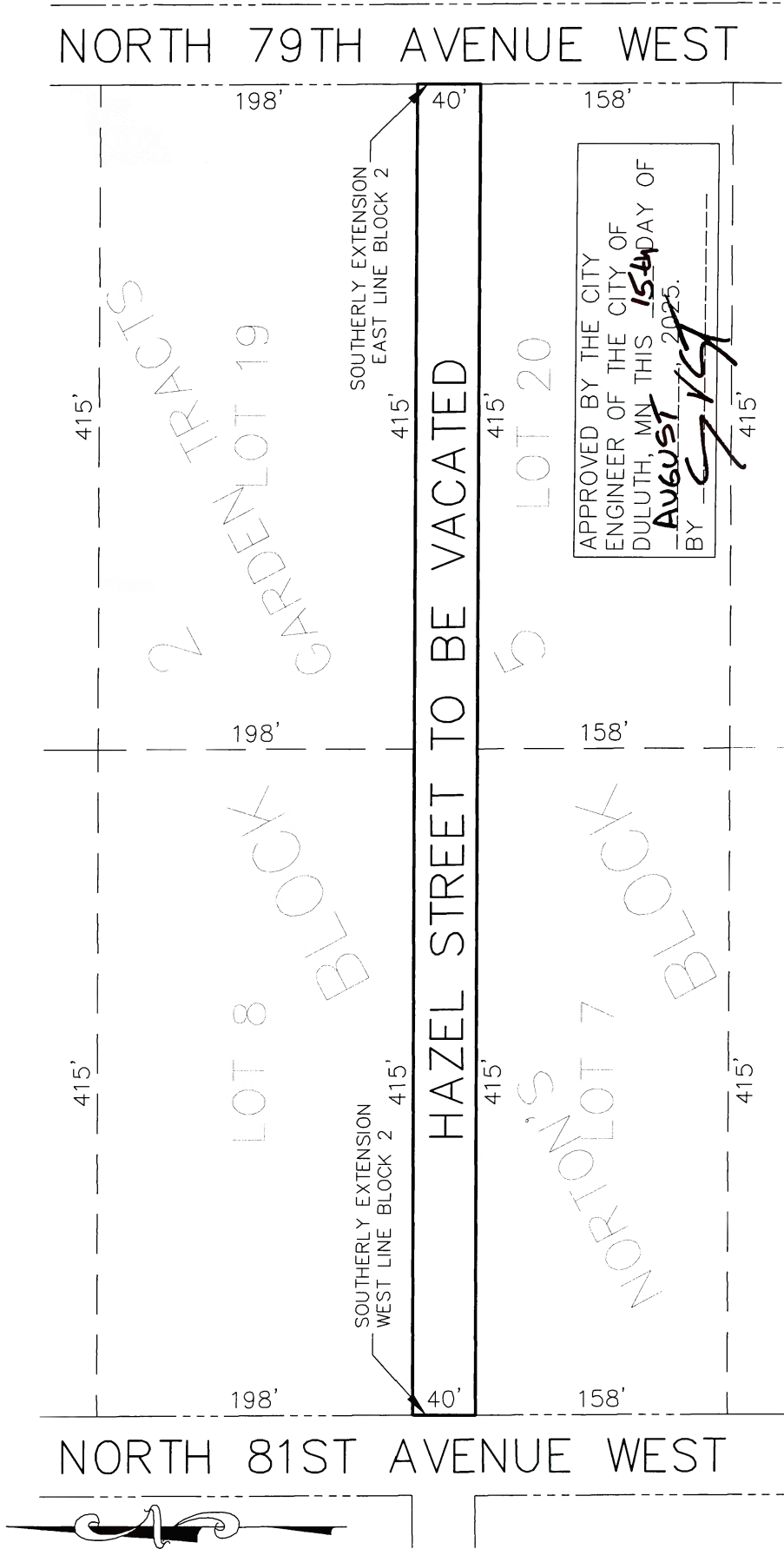
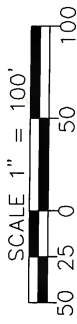
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used 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.

Legal Description of Street to be Vacated

That part of Hazel Street as shown on the recorded plat of "NORTON'S GARDEN TRACTS" on file and of record in the office of the St. Louis County Recorder, St. Louis County, Minnesota, lying between the southerly extension of the west line of Block 2 in said "NORTON'S GARDEN TRACTS" and the southerly extension of the east line of said Block 2.

STRAIGHTLINE SURVEYING, INC.

P.O. Box 510, 500 Folz Blvd
Moose Lake, MN 55767
Telephone: (218)-485-4811
Fax: (218)-485-4811
E-MAIL: banderson@straightlinesurveying.com



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.

Benjamin H. Anderson
Benjamin H. Anderson
45498 License No.
08-15-2025 Date
2025-176 Job No.
NONE Book No.

RE: for review: Hazel St vacation exhibit

From Danielle Erjavec <derjavec@DuluthMN.gov>

Date Tue 8/19/2025 10:04 AM

To Christian Huelsman <chuelsman@DuluthMN.gov>; Peggy Billings <pbillings@DuluthMN.gov>

Cc Cindy Voigt <cvoigt@DuluthMN.gov>

Good morning Christian:

I apologize for the delay in responding, but I have been waiting for Engineering to confirm that they are supportive of this section of Hazel St. to be vacated. It is my opinion that the form needs to be completed in its entirety—there are only 4 questions on the form. If the form is not completed, it has always been my understanding that it is deemed “incomplete.” If PED has changed its policy or form, then my opinion may be based on outdated information. Does a *potential* future acquisition of nearby property meet the standard of “useless for the purpose of which it was dedicated”? (This standard is taken from the form itself.) We have no idea if the property owner will purchase the TF property or if the TF property is even eligible for sale—even if so, it would most likely be sold to the highest bidder (and the adjacent owner would be the Carrolls, not the applicant). The property owner appears to not have its own plan to develop its half of the right-of-way should it be vacated. We should also be mindful that all owners within a plat rely on the plat dedications for use—not just the owners who abut the right-of-way. Given that there is an undeveloped state-owned property that could be sold to anyone—not just the applicant—it seems premature to vacate the platted street. But if Engineering is OK with it, then I won’t continue to advocate for what could happen 5, 10, 20+ years down the line.

Cindy, please let me know your thoughts! You were going to check your file/notes.

~Danielle

From: Christian Huelsman <chuelsman@DuluthMN.gov>

Sent: Thursday, August 14, 2025 12:04 PM

To: Peggy Billings <pbillings@DuluthMN.gov>; Danielle Erjavec <derjavec@DuluthMN.gov>

Subject: Re: for review: Hazel St vacation exhibit

Thanks, Peggy.

[@Danielle Erjavec](#), the property owner was advised by the planner leading the preapp that the interest in vacation was not a required field. However, from my pre-app notes, *the applicant looks to purchase the state-owned parcel in the future and homestead*. They do not want a future street to be created along the inactive right-of-way. They have tech limitations and the form was completed in person during pre-app. Do they need to submit a new form with this information?

I can have the applicant connect with the surveyor to add the following:

- Darker lot lines, due to being too light when scanned
- Engineer signature block (I previously informed the applicant this is necessary, but I have not received an update exhibit.)
- East and west boundaries of the street
 - Legal description resembling the following:
"That part of Hazel Street as shown on the recorded plat of NORTON'S GARDEN TRACTS on file and of record in the office of the St. Louis County Recorder, St. Louis County, Minnesota, lying between the southerly extension of the west line of Block 2 in said NORTON'S GARDEN TRACTS and the southerly extension of the east line of said Block 2."

- Lot lines and ROW lines should be shown with different line types.
- Add Subdivision as a label to exhibit
- Remove the text in the upper left corner (SURVEY FOR: -TEXT- and SURVEY OF: -TEXT-).

Thanks so much. Hopefully they will submit a revised survey in time to be heard at September Planning Commission meeting.

Christian Huelsman

Planner II | *Planning and Development Division*

City of Duluth – Planning and Economic Development

411 West First Street

Duluth, MN 55802

218-730-5011

chuelsman@duluthmn.gov



From: Peggy Billings <pbillings@DuluthMN.gov>

Sent: Thursday, August 14, 2025 11:05 AM

To: Danielle Erjavec <derjavec@DuluthMN.gov>; Christian Huelsman <chuelsman@DuluthMN.gov>

Subject: RE: for review: Hazel St vacation exhibit

Christian, please follow up with Danielle regarding her concerns involving the State of Minnesota's interest in this vacation. Also, Danielle's comments on the exhibit and my additional comments should be sent to the surveyor for revision before the exhibit can be approved.

Additional comments: Lot lines and ROW lines should be shown with different line types. Add Subdivision as a label to exhibit . Remove the text in the upper left corner (SURVEY FOR: -TEXT- and SURVEY OF: -TEXT-).

PEGGY BILLINGS | Senior Engineering Specialist | **City of Duluth** | 411 West 1st St, Room 240, Duluth, MN 55802 | 218-730-5200 | pbillings@duluthmn.gov

From: Danielle Erjavec <derjavec@DuluthMN.gov>

Sent: Thursday, August 14, 2025 10:20 AM

To: Peggy Billings <pbillings@DuluthMN.gov>; Kariann Payton <kpayton@DuluthMN.gov>; Greg Stoewer <gstoewer@DuluthMN.gov>; Greg Stoewer <stoewerg@gmail.com>; Tom Johnson <tajohnson@DuluthMN.gov>

Subject: RE: for review: Hazel St vacation exhibit

Hi Peggy:

Who is the planner on this? It looks like part of the form is blank/incomplete—they did not fill in why they would like to vacate this street.

The State of Minnesota owns Block 19 in Block 2 and will acquire half of the ROW if it is vacated. It seems like they should be given notice that the street is proposed to be vacated even though the applicant has the consent of another adjacent owner—it's an undeveloped lot and we could be cutting off access/preventing development by the vacation of this street.

The lot lines need to be darker—they barely show up when I printed this and will not show up if the drawing is re-scanned. There is also no city engineer signature block. I would like to see east and west boundaries of the street, so the legal description should read something like this:

That part of Hazel Street as shown on the recorded plat of NORTON'S GARDEN TRACTS on file and of record in the office of the St. Louis County Recorder, St. Louis County, Minnesota, lying between the southerly extension of the west line of Block 2 in said NORTON'S GARDEN TRACTS and the southerly extension of the east line of said Block 2.

~Danielle

From: Peggy Billings <pbillings@DuluthMN.gov>

Sent: Wednesday, August 13, 2025 2:53 PM

To: Danielle Erjavec <derjavec@DuluthMN.gov>; Kariann Payton <kpayton@DuluthMN.gov>; Greg Stoewer <gstoewer@DuluthMN.gov>; Greg Stoewer <stoewerg@gmail.com>; Tom Johnson <tajohnson@DuluthMN.gov>

Subject: for review: Hazel St vacation exhibit

All, please review the attached proposed vacation of Hazel St, for next Planning Commission meeting.

Thanks,

PEGGY BILLINGS | Senior Engineering Specialist | **City of Duluth** | 411 West 1st St, Room 240, Duluth, MN 55802 | 218-730-5200 | pbillings@duluthmn.gov