



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

<b>File Number</b>	PL 20-012	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Type</b>	Vacation of alley	<b>Planning Commission Date</b>	March 10, 2020	
<b>Deadline for Action</b>	<b>Application Date</b>	February 4, 2020	<b>60 Days</b>	April 5, 2020
	<b>Date Extension Letter Mailed</b>	February 27, 2020	<b>120 Days</b>	June 4, 2020
<b>Location of Subject</b>	N. 58 <sup>th</sup> Avenue alley between Kinnear Place and Elinor Street			
<b>Applicant</b>	Richard Kunst	<b>Contact</b>		
<b>Agent</b>	David Bolf	<b>Contact</b>		
<b>Legal Description</b>	See Attached			
<b>Site Visit Date</b>	March 6, 2020	<b>Sign Notice Date</b>	February 25, 2020	
<b>Neighbor Letter Date</b>	February 25, 2020	<b>Number of Letters Sent</b>	118	

**Proposal**

The applicant is requesting the vacation of a portion of the North 58<sup>th</sup> Avenue alley between Kinnear Place and Elinor Street alley in order to unify property they own on both sides to allow for the expansion of the parking area on the west side of the St. James church and school buildings. As a part of the vacation process, the applicant is also submitting an application for a special use permit for improvements to the existing parking lot (PL 20-013).

Staff is recommending approval with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Church/school and parking area	Traditional Neighborhood
<b>North</b>	R-1	Single Family	Traditional Neighborhood
<b>South</b>	R-1	Single Family	Traditional Neighborhood
<b>East</b>	R-1	Single Family	Traditional Neighborhood
<b>West</b>	R-1	Single Family	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; DOES NOT APPLY
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** - 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 North 58<sup>th</sup> Avenue alley between Kinneer Place and Elinor Street and retain a utility easement over the entire vacated area as shown on the attached exhibit. The alley is between the St. James Church and school building, and the existing parking area to the west.
2. The proposed vacation will allow the St. James Church to expand the existing parking area on the west side of the alley. The purpose of the expansion is to create a safer pedestrian connection to the church and allow for additional off street parking.
3. The City Utilities Engineer has indicated support for this proposal. There is an existing gas and sewer line within the alley. The City Engineering office has reviewed the proposed vacation and has indicated that a utility easement shall be retained over the entire portion of the alley to be vacated.
4. Vacating the alley will not impact or deny access to other property owners. Because St. James owns property on both sides of the alley, the alley is not needed for circulation of automobiles, trucks, bicycles, or pedestrians.
5. No other public or City comments have been received at the time of drafting this report.
6. 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:

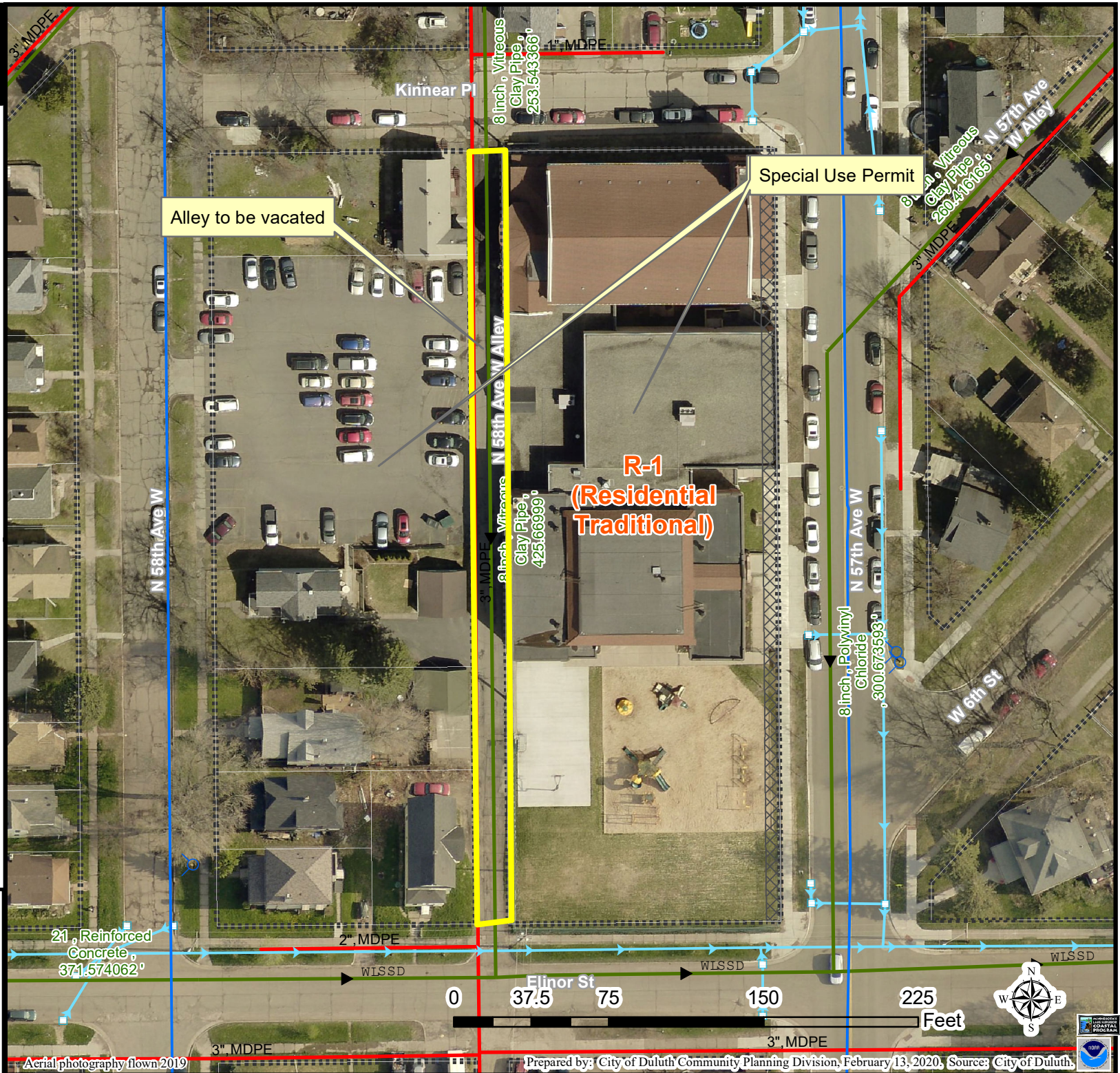
- 1.) Approval of the vacation of the alley as shown on the attached exhibit.
- 2.) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



PL 20-012 & PL 20-013  
Area Map

**Legend**

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
  - CITY OF DULUTH
  - WLSSD; PRIVATE
  - Sanitary Sewer Forced Main
- Storage Basin
- PS Pump Station
- Storm Sewer Mains**
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
- 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 ALLEY VACATION WITH RETAINED UTILITY EASEMENT

All that part of the 16 foot wide platted Alley lying between Block 77 and Block 80, WEST DULUTH SIXTH DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

Said Alley vacation contains 6,000 square feet or 0.14 acres.

SURVEYOR'S NOTES

1. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
2. THIS IS NOT A BOUNDARY SURVEY.

Approved by the City Engineer of the City of Duluth, MN this 25 day of Feb 2020

By [Signature]

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  
David R. Evanson  
DATE: 01-31-2020 MN Lic. No. 49505

**ALLEY VACATION EXHIBIT**

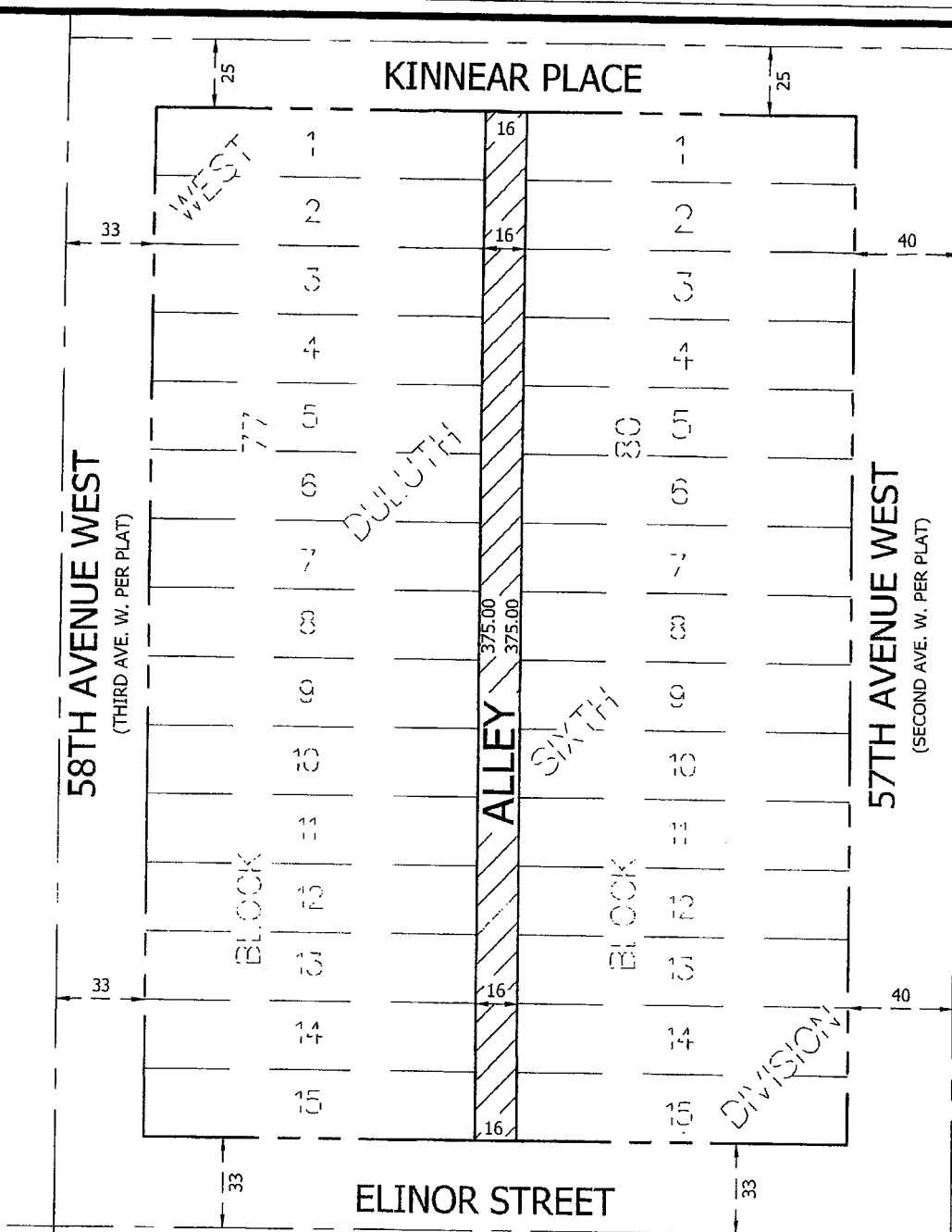
CLIENT: NORTHLAND CONSULTING  
ENGINEERS  
ADDRESS: N 57TH AVENUE WEST  
DULUTH, MN  
DATE: 01-31-2020

REVISIONS:





JOB NO: 19-349 SHEET 1 OF 2

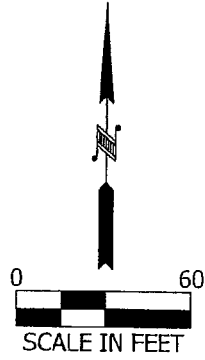
**ALTA**  
LAND SURVEY COMPANY

PHONE: 218-727-5211  
LICENSED IN MN & WI  
WWW.ALTALANDSURVEYDULUTH.COM



**LEGEND**

-  CENTER LINE
-  RIGHT OF WAY LINE
-  PLAT LINE
-  ALLEY VACATION WITH RETAINED UTILITY EASEMENT



ALLEY VACATION EXHIBIT	
CLIENT: NORTHLAND CONSULTING ENGINEERS ADDRESS: N 57TH AND N 58TH AVENUE WEST, DULUTH, MN 55807 DATE: 01-31-2020	REVISIONS:  JOB NO: 19-349
SHEET 2 OF 2	

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