



Planning & Development Division
Planning & Economic Development Department

Room 160
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 Duluth, Minnesota 55802

218-730-5580

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File Number	PL 23-147	Contact	Jason Mozol, jmozol@duluthmn.gov	
Type	Vacation of Alley Right of Way	Planning Commission Date	September 12, 2023	
Deadline for Action	Application Date	August 25, 2023	60 Days	October 24, 2023
	Date Extension Letter Mailed	August 23, 2023	120 Days	December 23, 2023
Location of Subject	All that part of the 16-foot-wide platted Alley lying adjacent to and abutting Lots 17 through 19, Block 5 & Lots 17 through 19, Block 6, RIVER SIDE PARK SECOND ADDITION			
Applicant	Larry Varhalla	Contact	218-626-1441	
Agent	Beth Davies, AEOA	Contact	218-735-6819	
Legal Description	All that part of the 16-foot-wide platted Alley lying adjacent to and abutting Lots 17 through 19, Block 5 & Lots 17 through 19, Block 6, RIVER SIDE PARK SECOND ADDITION, according to the recorded plat thereof, St. Louis County, Minnesota.			
Site Visit Date	9/6/23	Sign Notice Date	8/29/23	
Neighbor Letter Date	August 23, 2023	Number of Letters Sent	5	

Proposal

The applicant is requesting to vacate a portion of a 16-foot platted alley lying adjacent to and abutting Lots 17 through 19, Block 5 & Lots 17 through 19, Block 6, RIVER SIDE PARK SECOND ADDITION.

Staff is recommending approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1	Vacant/Undeveloped	Rural Residential
North	RR-1	Residential	Rural Residential
South	P-1	Vacant/Undeveloped	Open Space
East	RR-1	Vacant/Undeveloped	Rural Residential
West	RR-1	Residential	Rural 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. 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 #10 – Take action that enhance the environment, economic and social well-being of the community. The vacation will allow for the adjacent property owner to build a septic system that will protect surrounding water and soil quality.

Future Land Use – Rural Residential - Areas of single-family lots of at least five acres. Limits the extension of municipal utilities for new development. Includes existing rural density areas with lots as small as an acre now served by municipal utilities but not planned for further subdivision.

Review and Discussion Items:

Staff finds that:

1. The applicant is requesting to vacate a portion of a 16-foot-wide platted alley lying adjacent to and abutting Lots 17 through 19, Block 5 & Lots 17 through 19, Block 6 in the RIVER SIDE PARK SECOND ADDITION as shown on the attached exhibit.
2. The proposed vacation will allow the adjacent, existing single-family dwelling to build a septic system.
3. The alley was platted in the River Side Park Second Addition Plat but never utilized for its intended purpose.
4. The alley will not be needed by the City 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. The City has determined that this portion of the alley is not needed for street or pedestrian use. Vacating the right of way will not impact or deny access to other property owners.
6. The City Engineering office has reviewed the proposed vacation and has indicated that no utility easement shall be retained.
7. Other than City Engineering, no other public or City comments have been received at the time of drafting this report.
8. 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.



PL 23-147
 Alley Vacation
 4102 99th Avenue W



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 2019

Prepared by: City of Duluth Planning & Economic Development, August 15, 2023 Source: City of Duluth



Petition to Vacate Street, Alley, or Utility Easement

Name: Larry Varhalla

Description of street, alley, or easement to vacate: Alley parallel to 99th Ave W and adjacent to 4102 99th Ave W and 4110 99th Ave W

My request for this vacation is to (indicate purpose of vacation):

Replace septic system serving 4102 99th Ave W

The City of Duluth will not need this street, alley, or easement in the future because:

Rural area, two private owners along alley with ingress at 99th Ave W

PLEASE TAKE NOTICE: Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Council 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 factual basis and reasons supporting the petition) ¹:

The septic system serving 4102 99th Ave W (010-3980-00940) is failing and requires replacement. There is not space on the parcel for a new system. The proposed design places the septic system across the alley on parcels 010-3980-01130 and 010-3980-01150. All aforementioned parcels are owned by Larry Varhalla. Connecting to existing municipal sewer is cost prohibitive.

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 signatures 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) 

Date: 7-21-23

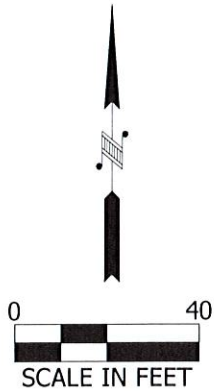
Notice: This is public data.

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.

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.

LEGAL DESCRIPTION OF ALLEY VACATION

All that part of the 16-foot-wide platted Alley lying adjacent to and abutting Lots 17 through 19, Block 5 & Lots 17 through 19, Block 6, RIVER SIDE PARK SECOND ADDITION, according to the recorded plat thereof, St. Louis County, Minnesota.







**LEGAL DESCRIPTION OF ALLEY
VACATION**

All that part of the 16-foot-wide platted Alley lying adjacent to and abutting Lots 17 through 19, Block 5 & Lots 17 through 19, Block 6, RIVER SIDE PARK SECOND ADDITION, according to the recorded plat thereof, St. Louis County, Minnesota.

Said Alley vacation contains 1,667 square feet or 0.04 acres.


LEGEND

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

Approved by the City Engineer of the City of Duluth, MN this 25 day of AUG 2023

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:07-27-2023

CLIENT: AEOA C/O BETH DAVIES

REVISIONS:

ADDRESS: 4102 99TH AVENUE WEST
DULUTH, MN 55810

DATE:07-27-2023

VACATION EXHIBIT

JOB NO: 22-311 SHEET 1 OF 1

SURVEYOR'S NOTES

1. THIS IS NOT A BOUNDARY SURVEY.


ALTA
LAND SURVEY COMPANY

PHONE: 218-727-5211
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WWW.ALTALANDSURVEYDULUTH.COM

