



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-2410-0007		
Type	Vacation of Utility Easement	Planning Commission Date	November 6, 2024
Deadline for Action	Application Date	October 8, 2024	60 Days December 7, 2024
	Date Extension Letter Mailed	October 18, 2024	120 Days February 5, 2025
Location of Subject	2102 N 49 th Ave W		
Applicant	Fred Paine	Contact	
Agent	Dave Evanson	Contact	
Legal Description	PIN: 010-0840-03630, 010-0840-03240, 010-0840-02980		
Site Visit Date	October 22, 2024	Sign Notice Date	October 22, 2024
Neighbor Letter Date	October 18, 2024	Number of Letters Sent	48

Proposal: The applicant is requesting to vacate platted right of way between North Agate Street and 53rd Avenue West. The proposed streets are 53rd Avenue West, 43rd Avenue West, 42nd Avenue West, Gilbert Avenue, and a portion of North Agate Street, and the associated alleys in the Dickerman's Division of Duluth. This vacation is 3.18 acres of land.

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	Undeveloped	Open Space
North	RR-1	Undeveloped	Open Space
South	R-1	Railroad	Traditional Neighborhood
East	RR-1	Undeveloped	Open Space
West	RR-1	Undeveloped	Open Space

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):

Future Land Use – Open Space: High natural resource or scenic value, with substantial restrictions and development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls

Review and Discussion Items:

Staff finds that:

1. The applicant is requesting to vacate platted right of way between North Agate Street and 53rd Avenue West. The proposed streets are 53rd Avenue West, 43rd Avenue West, 42nd Avenue West, Gilbert Avenue, and a portion of North Agate Street, and the associated alleys in Blocks 9, 10, and 11 of the Dickerman's Division of Duluth.
2. The proposed vacation will allow the adjacent property owner to compile the property for future residential development.
3. The streets and alleys were platted but never utilized for the intended purposes.
4. The streets and alleys will not be needed by the City for the promotion of public health, safety, or welfare of the citizens of Duluth since the streets and alleys are currently unimproved.
5. The City has determined that these streets and alleys are not needed for utility or pedestrian use. Vacating the easement will not impact or deny access to other property owners.
6. The City Engineering office has reviewed the proposed vacation and has indicated it does not expect to need the easements for future utilities or streets.
7. St Louis County Public Works provided the following comment: This vacation of the alleys is part of a longer-term vision to develop residential units adjacent to CSAH 91 (Haines Rd). The developer will need to work early with St. Louis County to determine the appropriate access for these residential units. Access on CSAH 91 (Haines Rd) will be limited because it is functionally classified as a minor arterial.
8. No other public or City comments have been received at the time of drafting this report.
9. 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:

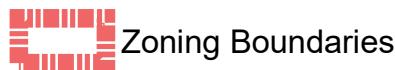
Based on the above findings, Staff recommends that Planning Commission recommend approval of the vacation with the following conditions:

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-2410-0007
Vacate Streets
2102 N 40th Ave W

Legend

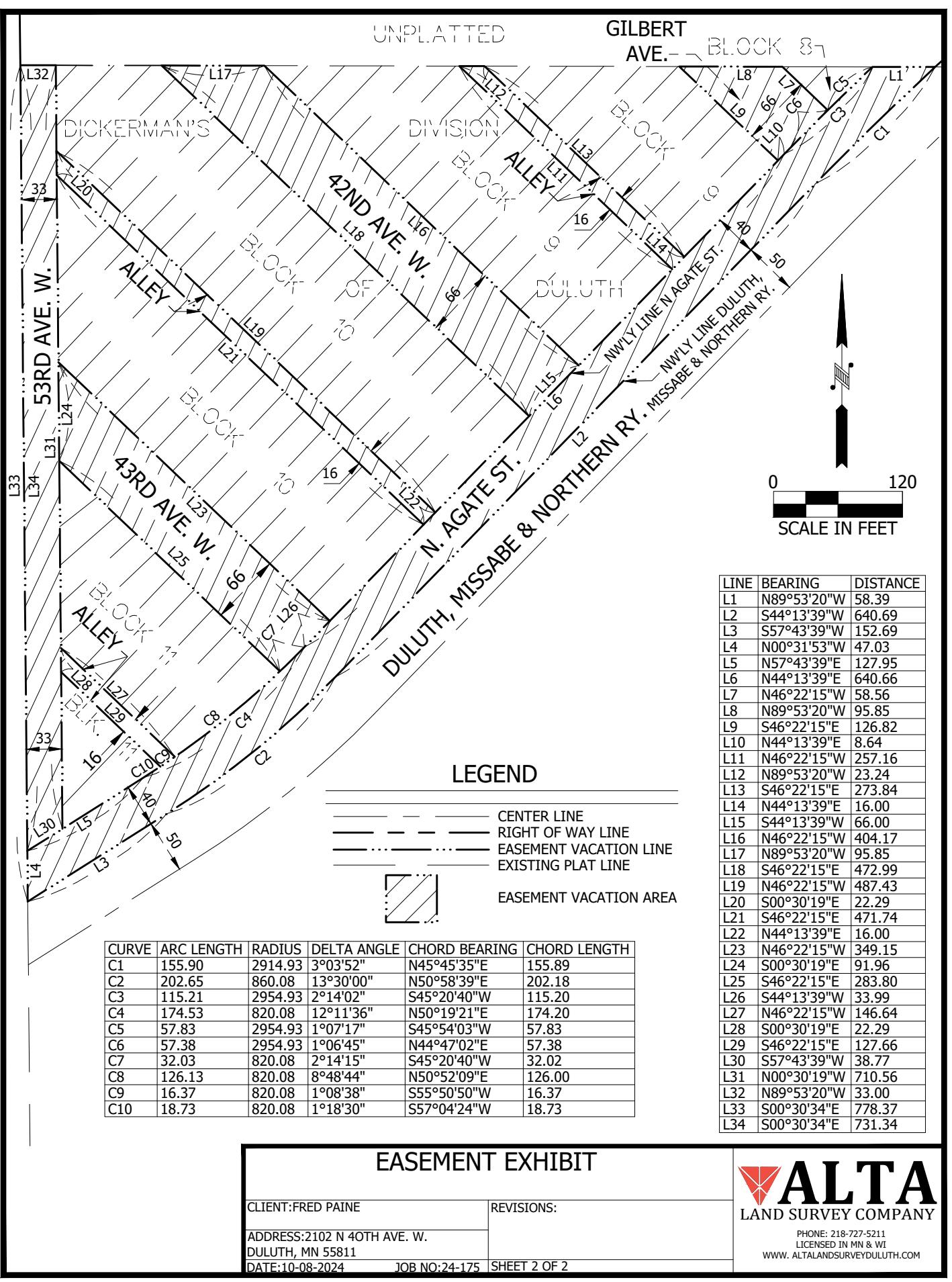


Zoning Boundaries

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.

Aerial photography flown 2019





LEGAL DESCRIPTION OF RIGHT OF WAY VACATION

All that part of Gilbert Avenue lying Northwesterly of the Northwesterly line of North Agate Street and lying adjacent to and abutting Blocks 8 and 9, DICKERMAN'S DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

AND

All that part of Alley lying Northwesterly of the Northwesterly line of North Agate Street and lying within Block 9, DICKERMAN'S DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

AND

All that part of 42ND Avenue West lying Northwesterly of the Northwesterly line of North Agate Street and lying adjacent to and abutting Blocks 9 and 10, DICKERMAN'S DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

AND

All that part of Alley lying Northwesterly of the Northwesterly line of North Agate Street and lying within Block 10, DICKERMAN'S DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

AND

All that part of 43RD Avenue West lying Northwesterly of the Northwesterly line of North Agate Street and lying adjacent to and abutting Blocks 10 and 11, DICKERMAN'S DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

AND

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AND

All that part of 53RD Avenue West lying Northerly and Northwesterly of the Northwesterly line of North Agate Street and lying adjacent to and abutting Blocks 10 and 11, DICKERMAN'S DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

AND

All that part of North Agate Street lying Northwesterly of the Northwesterly line of the Duluth, Missabe & Northern Ry. and lying adjacent to and abutting Blocks 8, 9, 10, 11 and 53RD Avenue West, DICKERMAN'S DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

Said right of way vacation contains 138,442 square feet or 3.18 acres.

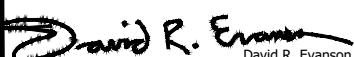
Approved by the City Engineer of the City of Duluth, MN this _____ day of _____ 20____

By _____

SURVEYOR'S NOTES

1. THIS IS NOT A BOUNDARY SURVEY.

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
DATE: 10-08-2024
MN License #49505

EASEMENT EXHIBIT

CLIENT: FRED PAIN

REVISIONS:

ADDRESS: 2102 N 40TH AVE. W.
DULUTH, MN 55811

DATE: 10-08-2024 JOB NO: 24-175 SHEET 1 OF 2


ALTA
LAND SURVEY COMPANY
PHONE: 218-727-5211
LICENSED IN MN & WI
WWW.ALTA LAND SURVEY DULUTH.COM

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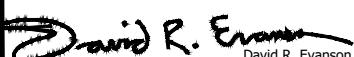
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