



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

File Number	PL 22-079	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Vacation of Platted Right of Way	Planning Commission Date		June 14, 2022
Deadline for Action	Application Date	May 9, 2022	60 Days	July 8, 2022
	Date Extension Letter Mailed	May 13, 2022	120 Days	September 6, 2022
Location of Subject		A 66 foot wide portion of Ebony Street south of Myrtle Street in the recorded plat of Duluth Heights 6 <sup>th</sup> Division, adjacent to [address]		
Applicant	List applicant name	Contact		
Agent		Contact		
Legal Description		See Attached		
Site Visit Date		May 27, 2022	Sign Notice Date	May 31, 2022
Neighbor Letter Date		May 19, 2022	Number of Letters Sent	36

**Proposal**

The applicant is requesting to vacate a 66-foot wide portion of the Ebony Avenue right of way between West Myrtle Street and East Central Entrance in the recorded plat of Duluth Heights 6th Division, located in the Duluth Heights neighborhood.

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>	MU-N	School	Neighborhood Mixed Use
<b>North</b>	R-1	Single Family	Traditional Neighborhood
<b>South</b>	MU-N	Street	Neighborhood Mixed Use
<b>East</b>	MU-N	Single Family	Neighborhood Mixed Use
<b>West</b>	MU-N	Parking lot	Neighborhood 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. 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 #5** - Promote reinvestment in neighborhoods.

The vacation will allow Lake View Christian Academy to utilize this space for a safer and larger playground and a green space area for the school.

**Governing Principle #11** - Consider education systems in land use actions.

**Future Land Use** – Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets.

**Review and Discussion Items:**

Staff finds that:

1. The applicant is requesting to vacate an improved portion of platted alley right of way of Ebony Avenue between West Myrtle Street and West Central Entrance in the recorded plat of Duluth Heights 6<sup>th</sup> Division, as shown on the attached exhibit. This portion of Ebony Street dead ends at East Central Entrance.
2. The proposed vacation will allow Lake View Christian Academy to utilize this space for a safer and larger playground and a green space area for the school.
3. This portion of Ebony Avenue was improved with pavement but does not connect to West Central Entrance. There is an existing gas line located on the east side of the right of way.
4. The right of way will not be needed by the City for the promotion of public health, safety, or welfare of the citizens of Duluth since it dead ends and does not connect to East Central Entrance, and City Engineering does not expect to need it in the future.
5. The City has determined that this portion of the Ebony Avenue right of way is not needed for street or pedestrian use. Vacating the right of way will not impact or deny access to other property owners. A utility easement will need to be retained over the vacated portion of the right of way.
6. Other than City Engineering, 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 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 22-079  
Vacation of ROW

R-1 (Residential  
Traditional)

W Myrtle St

Ebony Ave

155  
W CENTRAL  
ENT

MU-N (Mixed Use  
Neighborhood)

Vacted right of way

#### Legend

- 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.

Aerial photography flown 2016

0 15 30 60 90  
Feet



Prepared by: City of Duluth Community Planning Division, May 3, 2019. Source: City of Duluth





# EXHIBIT A

## VACATION EXHIBIT

### VACATION DESCRIPTION:

That part of Ebony Street DULUTH HEIGHTS 6TH DIVISION, City of Duluth, St. Louis County, Minnesota between the south line of Myrtle Street and the north line of Palmetto Street (a.k.a. Central Entrance) with retained utility easement over, under and across said vacation area.

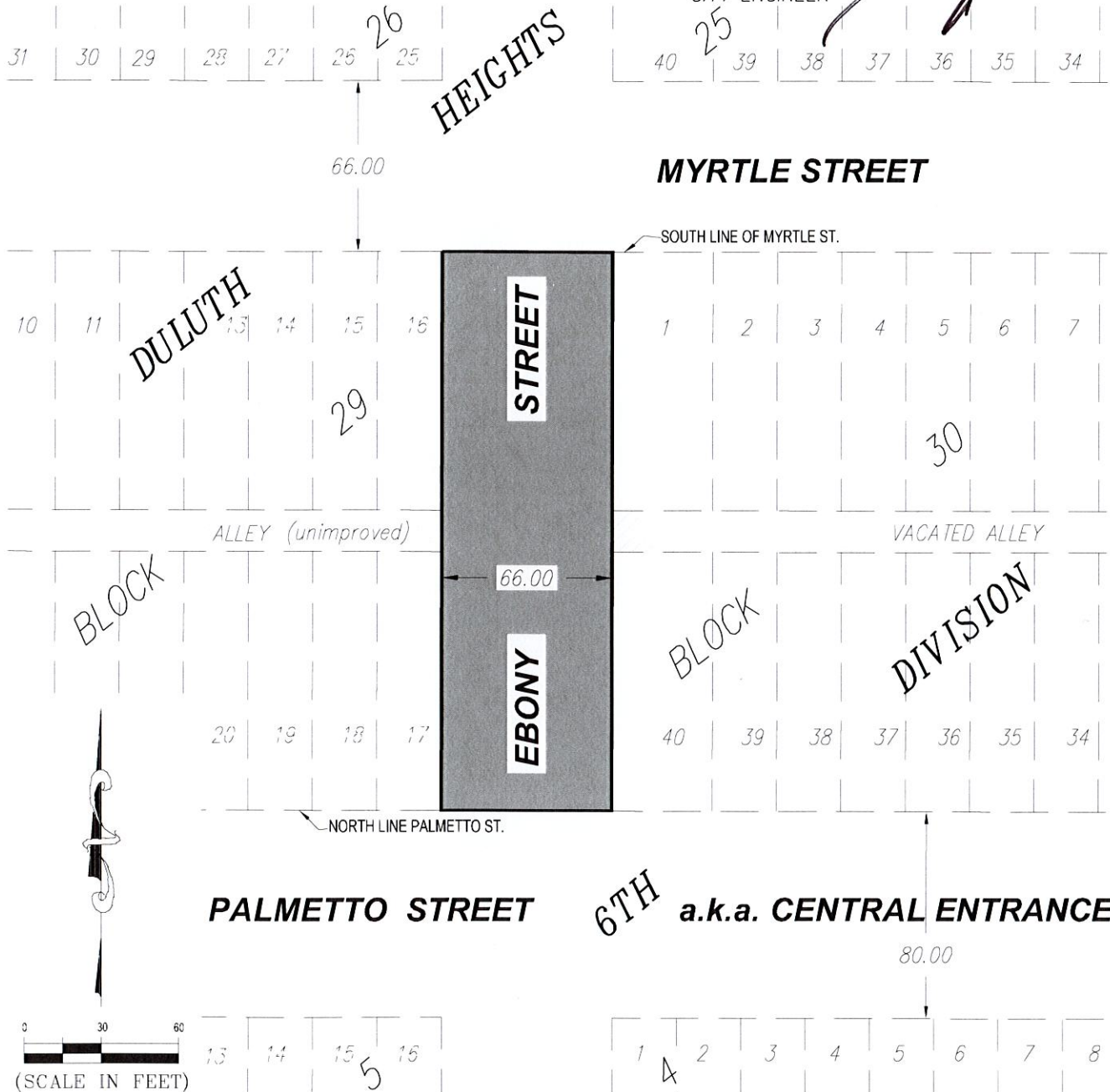


AREA TO BE VACATED WITH  
RETAINED UTILITY EASEMENT

APPROVED BY:

CITY ENGINEER

*[Signature]* 6-7-22



I hereby certify that this plan, specification, 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.

Print Name: Paul A. Vogel

License # 44075

Signature:

*[Signature]*

Date: 06/01/2022

DATE PREPARED: 06/01/22

PROJ NO: 220679

FILE: 220679vSURV.

SHEET 1 of 1 SHEETS



PERFORMANCE  
DRIVEN DESIGN.  
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