



**Planning & Development Division**  
Planning & Economic Development Department  
Room 160  
411 West First Street  
Duluth, Minnesota 55802

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planning@duluthmn.gov

<b>File Number</b>	PLVAC-2512-0012	<b>Contact</b>	Christian Huelsman, chuelsman@duluthmn.gov	
<b>Type</b>	Vacation of Slopes and Fills Easement	<b>Planning Commission Date</b>		January 13, 2025
<b>Deadline for Action</b>	<b>Application Date</b>	December 9, 2025	<b>60 Days</b>	February 7, 2025
	<b>Date Extension Letter Mailed</b>	December 11, 2025	<b>120 Days</b>	April 8, 2026
<b>Location of Subject</b>		404 E 5 <sup>th</sup> St		
<b>Applicant</b>	St. Mary's Medical Center	<b>Contact</b>		
<b>Agent</b>	Hanft Fride PA	<b>Contact</b>	Terri Crossmon	
<b>Legal Description</b>		PIN: 010-1010-01710 and 010-1010-01760		
<b>Site Visit Date</b>		<b>Sign Notice Date</b>	December 29, 2025	
<b>Neighbor Letter Date</b>		<b>Number of Letters Sent</b>	48	

**Proposal:**

The applicant has requested to vacate a slopes and fill easement along the south side of E 5<sup>th</sup> St, between N 4<sup>th</sup> Ave E and N 5<sup>th</sup> Ave E in the East Hillside neighborhood.

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

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-2	Parking Lot	Traditional Neighborhood
<b>North</b>	R-2	Residential	Traditional Neighborhood
<b>South</b>	F-6	Office (vacant)	Institutional
<b>East</b>	R-2	Parking Lot	Traditional Neighborhood
<b>West</b>	R-2	Minor Utility	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;
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. Parks and open space areas are scattered through or adjacent to the neighborhood.

**History:** The slopes and fill easement was platted as a part of Duluth Proper First Division West Third Street. Slopes and fill easements were common when properties were first being developed, especially in the Hillside neighborhoods. The land was previously a residential use. The properties had been used as accessory parking lots for St. Mary's Medical Center until 2023.

### **Review and Discussion Items:**

Staff finds that:

1. The applicant is requesting to vacate an entire platted slopes and fill easement along the platted and developed E 5<sup>th</sup> St, as described in the attached exhibit. All the vacated area is within the plat of Duluth Proper 1<sup>st</sup> Division.
2. A slopes and fill easement allows for activities like excavation and grading to accommodate public infrastructure. Such easements were common in early plats of Duluth to allow for infrastructure in places of steep slopes.
3. The City Engineering office has reviewed the proposed vacation and has indicated it does not expect to need the area for future utilities or drainage.
4. The proposed vacation will allow the owner to make property improvements – specifically exterior landscaping area for the proposed Brae View affordable senior housing development by One Roof Community Housing.
5. The easement is no longer needed for the E 5<sup>th</sup> St, and the City has determined it will not be needed by the City for the promotion of public health, safety, or welfare of the citizens of Duluth.
6. A Petition to Vacate Street, Alley, or Easement was requested by the applicant, the sole adjacent owner.
7. Vacating the easement will not impact or deny access to other property owners.
8. No city, public or agency comments were received.
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 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-2512-0012

Vacation of Slopes & Fills Easement  
404 E 5th St

## Legend

- Lots
- County Parcel Data
- Zoning Boundaries
- Road or Alley ROW

## Vacation

- Proposed Vacation Area

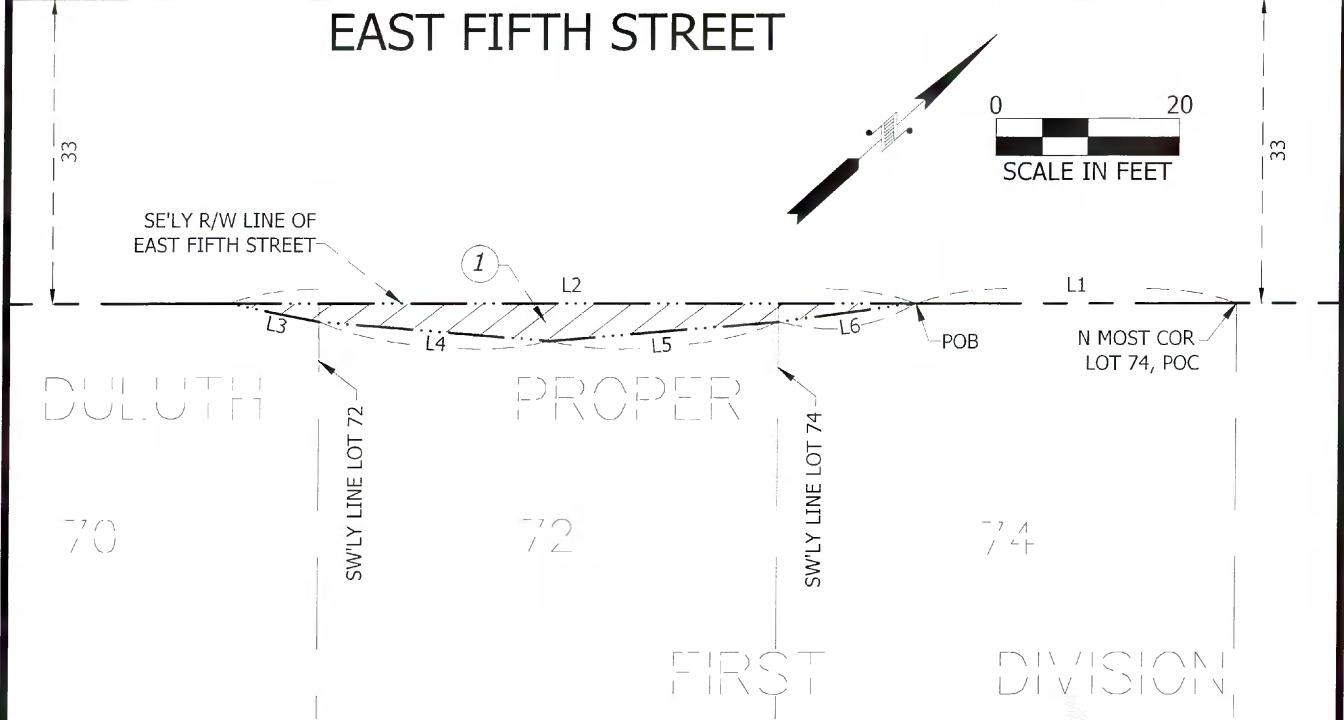
## ROW

- Road, Active - currently in use
- Slopes and Fills Easement

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.



# EAST FIFTH STREET



LINE	BEARING	DISTANCE
L1	S41°37'52"W	35.11
L2	S41°37'52"W	75.11
L3	N52°56'25"E	10.20
L4	N46°25'19"E	25.14
L5	N36°50'23"E	25.14
L6	N34°02'10"E	15.13

## LEGEND

-  EASEMENT VACATION AREA
-  R/W-RIGHT OF WAY
-  POC-POINT OF COMMENCEMENT
-  POB-POINT OF BEGINNING
-  CENTER LINE
-  RIGHT OF WAY LINE
-  EASEMENT VACATION LINE
-  EXISTING PLAT LINE

Approved by the City Engineer of the City of Duluth, MN this 10th day of Dec 2025

By David R. Evanson

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:11-11-2025

## LEGAL DESCRIPTION OF SLOPE EASEMENT VACATION

All that part of Lots 70, 72 and 74, DULUTH PROPER FIRST DIVISION, EAST FIFTH STREET, according to the recorded plat thereof, St. Louis County, Minnesota described as follows:

Commencing at the North most corner of said Lot 74; thence on an assumed bearing of South 41 degrees 37 minutes 52 seconds West, along the Southeasterly right of way line of said East Fifth Street 35.11 feet to the point of beginning; thence continue South 41 degrees 37 minutes 52 seconds West, along said Southeasterly right of way line 75.11 feet; thence North 52 degrees 56 minutes 25 seconds East 10.20 feet to the Southwesterly line of said Lot 72; thence North 46 degrees 25 minutes 19 seconds East 25.14 feet; thence North 36 degrees 50 minutes 23 seconds East 25.14 feet to the Southwesterly line of said Lot 74; thence North 34 degrees 02 minute 10 seconds East 15.13 feet to the point of beginning. Said parcel contains 178 square feet.

## SURVEYOR'S NOTES

1. PORTION OF LOTS 70, 72 AND 74, DULUTH PROPER FIRST DIVISION, EAST FIFTH STREET CONDEMNED BY THE CITY OF DULUTH FOR SLOPE EASEMENT PER INSTRUMENT RECORDED IN THE OFFICE OF THE ST. LOUIS COUNTY RECORDER ON MAY 10, 1890 IN BOOK C OF CONDEMNATION PLATS, PAGE 211.
2. THIS IS NOT A BOUNDARY SURVEY.

## VACATION EXHIBIT

CLIENT:ONE ROOF COMMUNITY HOUSING	REVISIONS:
ADDRESS:EAST 5TH STREET	
DULUTH, MN 55805	
DATE:11-11-2025	JOB NO:24-048 SHEET 1 OF 1

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

# **PETITION TO VACATE STREET ALLEY OR UTILITY EASEMENT**

**Name:** St. Mary's Medical Center

## **Description of street, alley, or easement to vacate:**

Easement of slopes as evidenced by Condemnation Plat filed May 10, 1890, in the office of the County Recorder in Book C of Plats, page 211 located in parts of Lots 70, 72 and 74, DULUTH PROPER FIRST DIVISION, EAST FIFTH STREET, St. Louis County, Minnesota.

A copy of said Condemnation Plat is attached hereto. The easement to be vacated is shown on and described in the Certificate of Survey prepared by ALTA Land Survey Company attached hereto.

**My request for this vacation is to (indicate purpose of vacation):** Petitioner requests this vacation for redevelopment purposes, including a mixed-use condominium consisting of affordable housing and daycare. The easement interferes with the proposed site plan and vacation of the easement is a requirement to insure the MHFA loan closing. In this regard, attached is a copy of the site plan showing that use of this easement to manage stormwater runoff or drainage would compromise the integrity of the proposed structure (and landscaping). Also attached is a copy of the relevant pages of the title commitment evidencing the requirement to vacate this easement. No public infrastructure is located within the easement area. Petitioner owns 100% of the land burdened by the easement and 100% of the land abutting the easement area.

**The City of Duluth will not need this street, alley, or easement in the future because:** Neither the City nor any private utility company will require use of the slopes easement because no public infrastructure is located in the easement area and Petitioner owns 100% interest of the land burdened by this easement.

**PLEASE TAKE NOTICE: Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Counsel 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 actual basis and reasons supporting the petition)<sup>1</sup>:**

1. Petitioner owns 100% of the land burdened by the easement and 100% of the land abutting the easement area.
2. The subject slopes easement 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.
3. The slopes easement is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
4. The vacation requested will allow for the redevelopment of the property, including affordable housing and daycare.

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<sup>1</sup> In order to vacate a public easement it must be demonstrated that the easement is useless for the purpose for which it was dedicated.

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 signature of these persons is attached hereto and made a part hereof.<sup>2</sup>

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):  \_\_\_\_\_, as Vice President, Finance  
of St. Mary's Medical Center

Date: December 2, 2025.

Notice: This is public data.

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<sup>2</sup> 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.

## Petition Signature Form

We, the undersigned, do hereby request that the City of Duluth consider vacating: Slopes easement

#6194

Filed, May 10<sup>th</sup> 1890 @ 4 P.M.

Condemnation Plat for Easement of Slopes  
Ave  
on 5th St. from Lake to 12th Ave. E.

Duluth Minn.