

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

11-0635R

RESOLUTION VACATING TWO SEGMENTS OF 129TH AVENUE WEST NEAR FIRST STREET IN FOND DU LAC (CHRISTY AND ROGER VINE, JR, AND CHERYL AND ROGER VINE, SR)

CITY PROPOSAL:

RESOLVED, that:

(a) The City Council finds a sufficient petition was filed with the City Planning Division requesting the vacation of two segments of 129th Avenue West located near First Street in Fond du Lac; and

(b) Pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission (PL11-121) and such commission gave due notice of public hearing and did consider same in public hearing and, the city planning commission found that the petitioned streets are useless for vehicular, utility, and pedestrian purposes; and

(c) The city planning commission, at its November 8, 2011, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following-described streets and depicted on Public Documents No. _____ and No. _____:

That part of 129th Avenue West in the recorded plat of Fond du Lac, Saint Louis County, Minnesota, lying southerly of the southerly of Second Street (f/k/a Cherokee) and northerly of the northerly line of First Street (f/ka/ Miles); and

That part of 129th Avenue West in the recorded plat of Fond du Lac, Saint Louis County, Minnesota, lying southerly of the southerly line of First Street (f/k/a/ Miles) and northerly of the northerly line of Itasca Street; and

Resolved Further:

That the city clerk is, pursuant to Section 100 (b) (7) of the Home Rule Charter of the city of Duluth, 1912, as amended, is authorized to record with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document Nos. _____ and No. _____ showing the rights of way to be vacated.

Approved as to form:



Attorney

PC/PLNG SR:eu 11/18/2011

STATEMENT OF PURPOSE: This resolution vacates two segments of 129th Avenue near 1st Street in Fon du Lac. The streets are unimproved, and are useless for vehicular, utility, and pedestrian purposes.

On November 8, 2011, the planning commission held a public hearing on the proposal, and voted 9 yeas, 0 nays, and 0 abstentions to recommend that the city council approve the vacation of streets petition with no conditions.

Petition Received: September 23, 2011.

Action Deadline: There is no action deadline for this resolution.

Applicant:
Christy Vine
12901 West 1st Street
Duluth, MN 55808

LIVGARD SURVEYING, INC.
Registered Land Surveyors
1507 Tower Avenue, Suite 303
Superior, WI 54880
715-395-6787

September 21, 2011

DESCRIPTION FOR: Christy and Roger, Jr. Vine

DESCRIPTION OF: Portion of 129th Ave. West in Fond Du Lac to be vacated

DESCRIPTION:

That part of 129th Avenue West in the recorded plat of Fond Du Lac, Saint Louis County, Minnesota, lying southerly of the southerly line of Second Street (f/k/a Cherokee) and northerly of the northerly line of First Street (f/k/a Miles).

III .8

RECEIVED SEP 23 2011

LIVGARD SURVEYING, INC.
Registered Land Surveyors
1507 Tower Avenue, Suite 303
Superior, WI 54880
715-395-6787

September 23, 2011

DESCRIPTION FOR: Roger Vine

DESCRIPTION OF: Portion of 129th Ave. West in Fond Du Lac to be vacated

DESCRIPTION:

That part of 129th Avenue West in the recorded plat of Fond Du Lac, Saint Louis County, Minnesota, lying southerly of the southerly line of First Street (f/k/a Miles) and northerly of the northerly line of Itasca Street.

III B.7

RECEIVED SEP 23 2011



CITY OF DULUTH

Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	FN 11-121	Contact	Steven Robertson	
Application Type	Vacation of public right of way	Planning Commission Date	November 8, 2011	
Deadline for Action	Application Date	September 23, 2011	60 Days	N/A
	Date Extension Letter Mailed	October 5, 2011	120 Days	N/A
Location of Subject	Intersection of West 1st St and 129th St in Fond Du Lac			
Applicant	Roger and Cheryl Vine, Sr.	Contact	Christy Vine	
Agent	Roger and Christy Vine, Jr.	Contact	christyvine@rocketmail.com	
Legal Description	See attached			
Site Visit Date	Monday, October 31, 2011	Sign Notice Date	October 20, 2011	
Neighbor Letter Date	October 11, 2011	Number of Letters Sent	16	

Proposal

Request to vacate 129th Street one block above and one block below its intersection with West 1st Street. The applicant states on their petition that "we believe that the easement is useless because it is surrounded by water and would lead to nothing (trail/road)."

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood
West	R-1	Residential	Traditional Neighborhood

Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements requires 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.

Code Requirements are found in the UDC Section 50-37.6. 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.

III B.1

Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Principle #5 -Strengthen Neighborhoods - support strongly defined neighborhoods. This area is to remain traditional neighborhood which includes single family detached residences on moderately sized lot.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

Staff finds that:

- 1) The proposed vacated portion is "uselessness," and that the proposed right of way is not needed for the purposes for which it was dedicated;
- 2) The City's policy is to not "dead end" public rights of way; the proposed vacation will not result in a dead end street.
- 3) The proposed right of way to be vacated does not have any utilities; the City is keeping the segment on West 1st Street as right of way, where the utilities are located. No other comments were received from other public agencies
- 4) No citizen comments were received.
- 5) Staff finds that this public right of way 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; the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the following findings Staff recommends that the Planning Commission recommend approval to the City Council for the petition to vacate the public right-of-way without any conditions.

III B.2

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



City Planning
 12901 W. 1st St.
 Vacate ROW
 FN 11-121
 Site Map



Legend

10' Contour (elev. change)

Vacated ROW

Floodplain Type

General Flood Plain

Flood Way

Flood Fringe



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IB.4



Legend

- Vacated ROW
- Zoning (Final)
- Future Land Use**
- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

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Aerial photography flown 2007

III B.3

City Planning
 12901 W. 1st St.
 Vacate ROW
 FN 11-121
 Site Map



Legend

- Water Distribution System**
 - 30 - 60" Water Pipe
 - 16 - 24" Water Pipe
 - 4 - 6" Water Pipe
- Sanitary Sewer Collection System**
 - Sanitary Sewer Collector
 - Sanitary Sewer Interceptor
 - Sanitary Sewer Forced Main
 - Storage Basin
 - Pump Station
- Storm Sewer Collection System**
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
 - Discharge_Points
 - Vacated ROW

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ST. OF MN
 Aerial photography from 2007

Prepared by: City of Duluth Planning Division, January, 2011. Source: City of Duluth.

III B.5