

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-0268R

RESOLUTION VACATING PORTIONS OF PLATTED ALLEY AND ALLEY  
EASEMENT OF BLOCK 121 OF DULUTH PROPER SECOND DIVISION,  
ADDRESSED AS 2427 WEST 4<sup>TH</sup> STREET (PL 12-070 DULUTH  
PUBLIC SCHOOLS ISD 709)

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation of the platted alley described below in (d) and alley easement described in (e); and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission 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 portions of platted alleys and alley easement are useless for all purposes; and

(c) The city planning commission, at its Tuesday, May 8, 2012, 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 portions of platted alley described below and as described and depicted on Public Document No. \_\_\_\_\_:

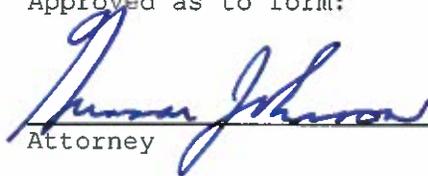
That portion of the alley within Block 121, Duluth Proper Second Division extending from the extended common Easterly line of Lots 391 and 392 of Block 121, Duluth Proper Second Division to 24th Avenue West.

(e) The city council of the city of Duluth approves the vacation of the following described alley easement and as described and depicted on Public Document No. \_\_\_\_\_:

The alley lying within the easterly 20 feet of Lot 389, Block 121, Duluth Proper Second Division, as the same is evidenced by Resolution of the Common Council of the City of Duluth recorded at Book C of Miscellaneous, Page 598.

(f) That the city clerk is, pursuant to Section 100 (b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, 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 No. \_\_\_\_\_ showing the platted alley and alley easement to be vacated.

Approved as to form:

  
\_\_\_\_\_  
Attorney

PC:plng SR:eu 5/17/2012

STATEMENT OF PURPOSE: This resolution vacates an existing platted alley and alley easement on Block 121 of Duluth Proper Second Division. The site is addressed as 2427 West 4<sup>th</sup> Street, and is currently occupied by the Lincoln Park Elementary School. The platted alley and alley easement have never been used for a public purpose.

On May 8th, 2012, the Duluth city 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 alley vacation and rededication.

The motion to approve the vacation by the city council must prevail with at least six affirmative votes.

Petition Received: April 9, 2012

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

Applicant:

Kerry Leider

Duluth Public Schools ISD 709

215 North First Avenue East

Duluth, Minnesota 55802

kerry.leider@duluth.k12.mn.us

# EXHIBIT

ISD 709

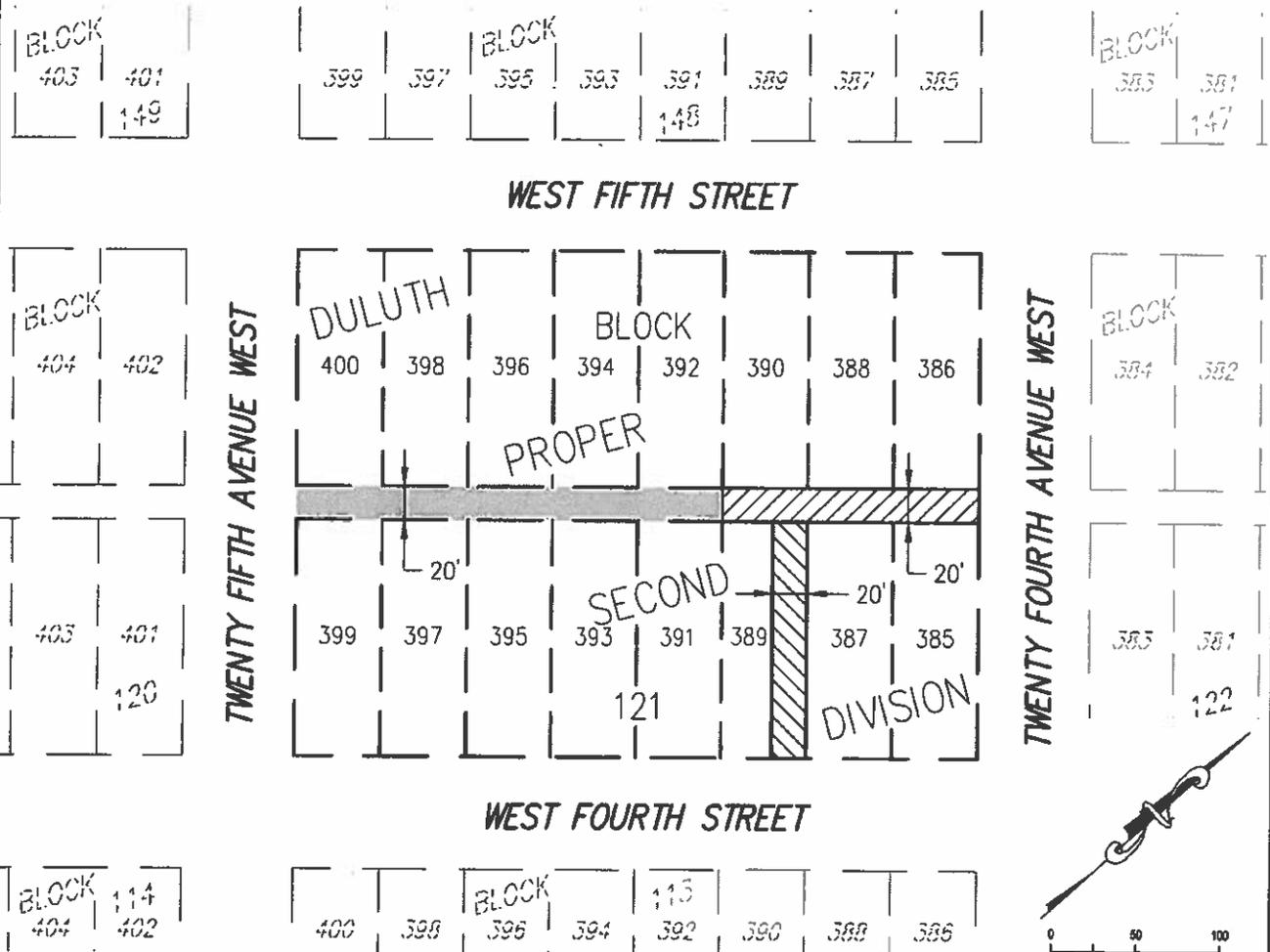
## Alley/ Easement Vacation Block 121, Duluth Proper Second Division

**LEGAL DESCRIPTION:**

That portion of the alley within Block 121, Duluth Proper Second Division extending from the extended common Easterly line of Lots 391 and 392 of Block 121, Duluth Proper Second Division to 24th Avenue West.

AND

The alley lying within the easterly 20 feet of Lot 389, Block 121, Duluth Proper Second Division, as the same is evidenced by Resolution of the Common Council of the City of Duluth recorded at Book C of Miscellaneous, Page 598.



**LEGEND**

-  = ALLEY VACATION BY CITY RESOLUTION IN 1888.
-  = PLATTED ALLEY VACATION, THIS EXHIBIT.
-  = 20' ALLEY EASEMENT, CREATED BY RESOLUTION IN 1888, TO BE VACATED THIS EXHIBIT.

	<b>DULUTH</b>	<b>MINNEAPOLIS</b>	
DATE PREPARED: 5/4/12	21 W. Superior Street Suite 500 Duluth, MN 55802	250 Third Avenue North Suite 450 Minneapolis, MN 55401	
PROJ NO: 080330	TEL 218/727-8448 FAX 218/727-8458	TEL 612/338-2029 FAX 612/338-2088	
FILE: Lincoln Scho	http://www.LHBcorp.com		
SHEET 1 of 1 SHEETS			



**CITY OF DULUTH**  
Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197  
Phone: 218/730.5580 Fax: 218/723-3559

**STAFF REPORT**

<b>File Number</b>	PL 12-070	<b>Contact</b>	Steven Robertson	
<b>Application Type</b>	Vacation	<b>Planning Commission Date</b>	March 13, 2012	
<b>Deadline for Action</b>	<b>Application Date</b>	April 9, 2012	<b>60 Days</b>	N/A
	<b>Date Extension Letter Mailed</b>	N/A	<b>120 Days</b>	N/A
<b>Location of Subject</b>	Lincoln Park School			
<b>Applicant</b>	ISD #709	<b>Contact</b>	Kerry.Leider@duluth.k12.mn.us	
<b>Agent</b>	Kerry Leider	<b>Contact</b>		
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>		<b>Sign Notice Date</b>	April 23, 2012	
<b>Neighbor Letter Date</b>	April 24, 2012	<b>Number of Letters Sent</b>	84	

**Proposal**

Request to vacate easements at the site of Lincoln Park Elementary School. Applicant is requesting the vacation because "historically several alley ways were not properly vacated prior to construction of building improvements over the top of platted alleys. This fact is prohibiting the transfer of property".

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-2	Institutional (School)	Neighborhood Mixed Use
<b>North</b>	R-2	Residential	Traditional Neighborhood
<b>South</b>	R-2	Residential	Preservation
<b>East</b>	MU-N	Residential	Neighborhood Mixed Use
<b>West</b>	R-1	Recreation	Recreation

**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.

Essentially, the standard for evaluating vacations is "uselessness," that the proposed easement is not needed for the purposes for which it was dedicated.

IV f.1

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

**Governing Principles:**

- Principle #7 - Create and maintain connectivity.
- Principle #12 - Create efficiencies in delivery of public services.

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

Staff finds that:

- 1) The proposed alley to be vacated is "uselessness," and that it is not needed for the purposes for which it was dedicated.
- 2) The proposed vacation will not result in a new dead end alley or street. A portion of this alley was vacated in October of 1888 (with a utility easement dedicated in its place).
- 3) The proposed alley and utility easement to be vacated do not have any utilities.
- 4) No comments were received from citizens or other public agencies on the specific vacation. However, several citizen contacts were received concerning/questioning the future use of the school site.
- 5) Staff finds that this unimproved alley 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 findings, Staff recommends that the Planning Commission recommend approval to the City Council for the petition to vacate the public right-of-way with the following condition:

The applicant shall prepare a vacation plat that is approved by the City Engineer and that is in a form that is recordable by the County Recorder's Office prior to the proposed vacation application going before the City Council. Failure to present a vacation plat meeting the City Engineer's requirements to the Land Use Supervisor within 90 days of the Planning Commission's recommendation shall result in the application being denied.

IV F.2

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



Legend

Future Land Use - Plus

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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C



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.



DULUTH City Planning

### Water Distribution System

#### Nominal Diameter

30 - 60" Water Pipe

16 - 24" Water Pipe

4 - 6" Water Pipe

Sanitary Sewer Forced Main

#### Subtype

Storm Sewer Pipe

### Gas Distribution Main

#### Nominal Diameter

8" - 16" Gas Pipes

4" - 6" Gas Pipes

0" - 4" Gas Pipes

### Easement Type

#### Easement Type

Utility Easement

Other Easement

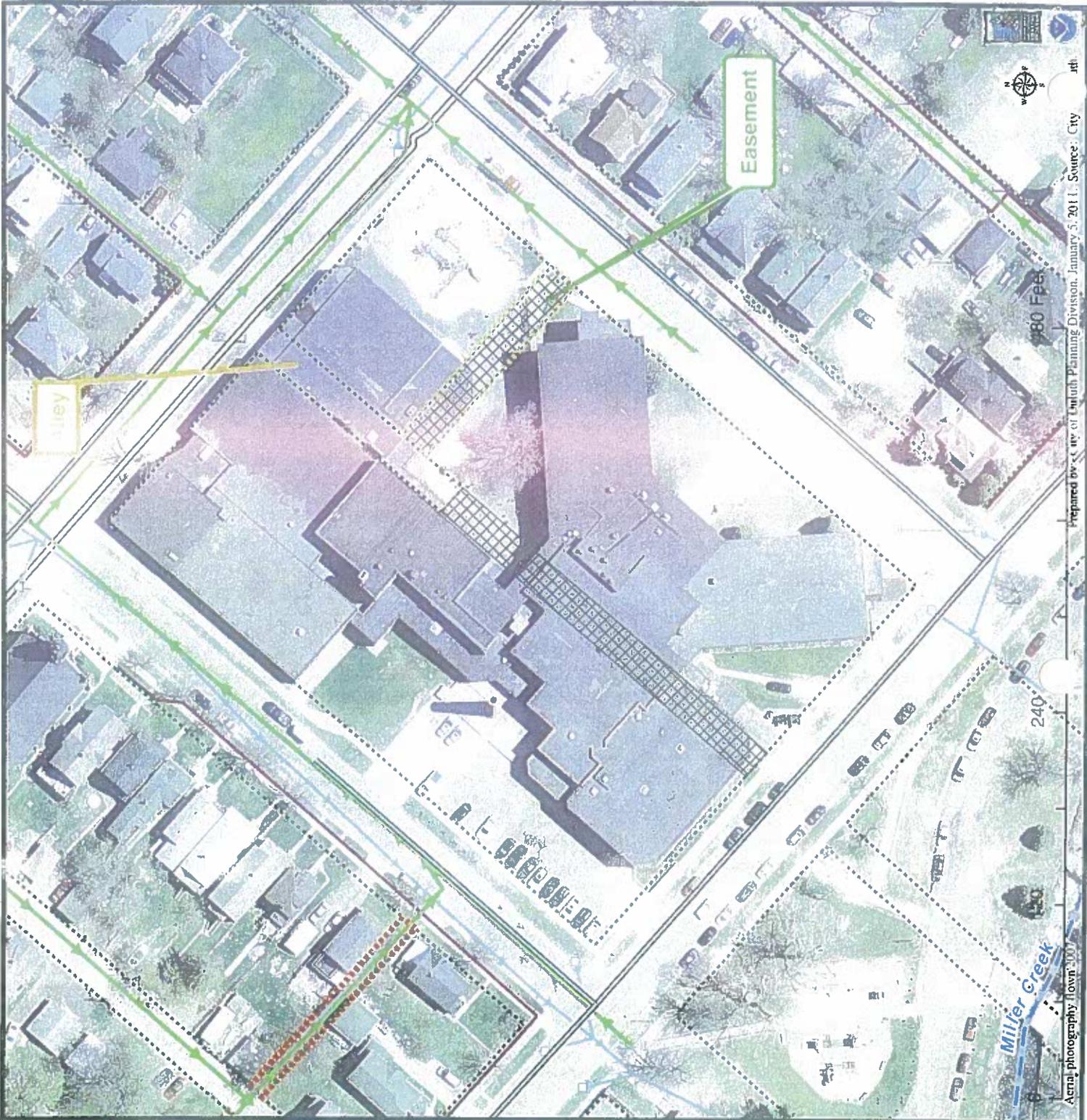
### ROW STATUS

Vacated ROW

### Right-of-Way Type

Road or Alley ROW

EA + I



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24th Avenue West

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5th Street

1180-03510

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Lincoln Park School

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4th Street

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25th Avenue West

IV F.5

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## **12-070 Public Right of Way Vacation.**

### **Applicant's Legal Description**

#### The description of the alley

That portion of the alley within Block 121, Duluth Proper Second Division extending from the extended common Easterly line of Lots 391 and 392 of Block 121, Duluth Proper Second Division to 24<sup>th</sup> Avenue West.

#### The description of the easement through Lot 389 "created" in the original vacation resolution passed by the City in 1888 to be vacated is

The alley lying within the easterly 20 feet of Lot 389, Block 121, Duluth Proper Second Division, as the same is evidenced by Resolution of the Common Council of the City of Duluth recorded at Book C of Miscellaneous, Page 598.