

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-0618R

RESOLUTION VACATING PORTIONS OF PLATTED PEDESTRIAN AND UTILITY EASEMENT AT 330 AND 340 HASTINGS DRIVE (LAURIE ANDERSON).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described below in (d) below; 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 easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, November 13, 2012, regular meeting, recommended approval of the vacation petition; and

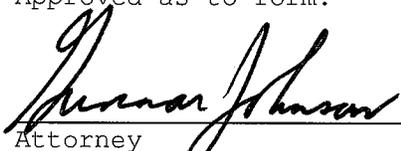
(d) The city council of the city of Duluth approves the vacation of the platted easement described below and as described and depicted on Public Document No. _____:

An easement for utility and pedestrian purposes which lies over the easterly 10.0 feet of Lot 3 Block 5, and the westerly 10.0 feet of Lot 4 Block 5, Hartley Estates First Addition, according to the plat recorded January 28, 1992, as Document No. 543859, St. Louis County, Minnesota; and

(e) 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 easement to be vacated.

Approved as to form:



Attorney

PC/PLNG SR:cs 12/5/2012

STATEMENT OF PURPOSE: This resolution vacates a 20 foot pedestrian and utility easement at 330 and 340 Hastings Drive. This easement has never been used for public purposes and is not needed for the purpose that it was initially dedicated. The petition for the vacation was signed by the owner of 330 Hastings Drive, Laurie Anderson, and 340 Hastings Drive, Patrick and Susan Flattery.

On November 13, 2012, the Duluth city planning commission held a public hearing on the proposal and voted 6 yeas, 1 nay and 0 abstentions to recommend that the city council approve the vacation.

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

Petition received: October 8, 2012

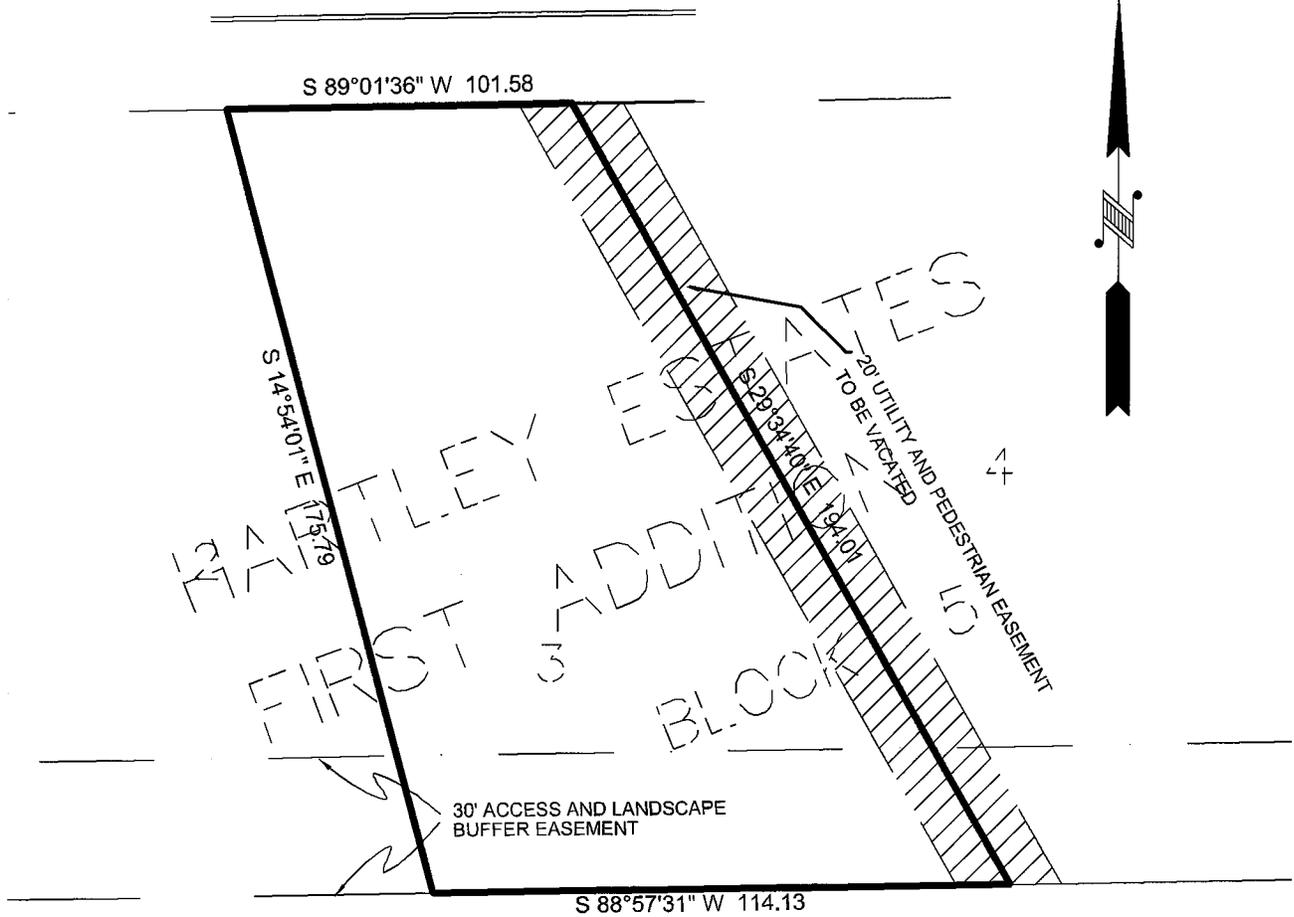
Action deadline: There is no action deadline for this resolution.

Petitioner: Laurie Anderson

PL 12-157

**EASEMENT VACATION EXHIBIT FOR LOT 3 AND LOT 4, BLOCK 5,
HARTLEY ESTATES FIRST ADDITION**

HASTINGS DRIVE



**RICHFIELD PARKWAY
(VACATED)**

UTILITY AND PEDESTRIAN EASEMENT TO BE VACATED

An easement for utility and pedestrian purposes which lies over the Easterly 10.0 feet of Lot 3 Block 5, and the Westerly 10.0 feet of Lot 4 Block 5, Hartley Estates First Addition according to the plat recorded January 28, 1992 as Document No. 543859 St. Louis County, Minnesota

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.

Date: 12-7-12

Ronald L. Krueger MN License No. 14374

ALTA

SURVEY COMPANY, INC.

Residential/Commercial Land Surveying-Land

Development-Legal Descriptions

P.O. BOX 161138 Duluth, MN 55806

Phone: 218-727-5211 Fax: 218-727-3798

DATE: 12/7/12
SCALE: 1 IN = 40 FEET
PROJECT NO: 11-XXX



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	PL 12-157		Contact	Steven Robertson, 218 730-5295	
Application Type	Vacation of Pedestrian/Utility Easement		Planning Commission Date	November 13, 2012	
Deadline for Action	Application Date	October 8, 2012	60 Days	N/A	
	Date Extension Letter Mailed	October 24, 2012	120 Days	N/A	
Location of Subject	330 Hastings Drive				
Applicant	Laurie Anderson		Contact	dennoch@aol.com	
Agent	N/A		Contact	N/A	
Legal Description	See attached				
Site Visit Date	N/A		Sign Notice Date	N/A	
Neighbor Letter Date	October 18, 2012		Number of Letters Sent	14	

Proposal

Property owner is requesting a vacation of the pedestrian and utility easement to "allow for the addition of a front porch extending into the easement and the flexibility to build a shed or plant a garden on the easement".

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Low Density Neighborhood
North	R-1	Residential	Low Density Neighborhood
South	RR-1	Hartley Park	Preservation
East	R-1	Residential	Low Density Neighborhood
West	R-1/RR-1	Residential/Hartley Park	Low Density Neighborhood/Preservation

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 .

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

Comprehensive Plan:

Principle #1 - Reuse previously developed lands

Current History: Right of way south of the area in question (Richfield Parkway) bordering 324 and 330 Hastings Drive was previously vacated in 1998. See attached staff report from February 1998 for more information.

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

Staff finds that:

- 1) The applicant owns half of the land adjacent to the proposed vacation area. The property owners at 324 Hastings Drive that own the other half of the land adjacent to the vacation area (Peter and Susan Flattery) also signed the vacation petition.
- 2) The easement is dedicated for pedestrian and utility use. No utilities are located in the easement requested to be vacated. The easement ends at the land that was formerly dedicated as Richfield Parkway. When that right of way was vacated in 1998, the City did not maintain an easment for pedestrian or utility use. In effect, this particular easement dead-ends approximately 80 feet from Hartley Nature Center.
- 3) There is an existing trail stub (as indicated on the Hartley Trail System map) at the end of Hastings Drive. While it is not clearly marked to the casual pedestrian or motorist, it should provide functional access to the Hartley Trail System that could have also been provided by a connecting trail on this pedestrian easement.
- 4) This 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; 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.
- 5) No comments were received from the public or city or government agencies on this proposal.
- 6) Vacations of streets lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. The Duluth City Clerk facilitates the recording process.

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 pedestrian and utility easement with the following conditions:

- 1) Vacation goes into effect after being recorded at the County Recorder's office. Applicant will work with Duluth City Clerk's office if needed to assist in the recording process.

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