

**Excerpt from the
CITY PLANNING COMMISSION MINUTES
Minneapolis Community Planning & Economic Development (CPED)**

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MEMORANDUM

DATE: July 30, 2015

TO: Zoning and Planning Committee

FROM: Jason Wittenberg, Manager, Community Planning & Economic Development – Land Use, Design and Preservation

SUBJECT: Planning Commission decisions of July 6, 2015

The following actions were taken by the Planning Commission on July 6, 2015. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued.

Committee Clerk

Lisa Kusz - 612.673.3710

Commissioners present

Matthew Brown, President | John Slack, Vice President | Alissa Luepke Pier, Secretary
Lisa Bender | Rebecca Gagnon | Ben Gisselman

Not present

Meg Forney | Ryan Kronzer | Theodore Tucker

3. Partial alley vacation, Ward 13

Staff report by [Becca Farrar](#), Vac-1647

The City Planning Commission adopted staff findings for the application by Joseph Smith.

A. Alley vacation.

Action: The City Planning Commission recommended that the City Council **deny** the vacation of part of the alley located in Block 5, South Gate Terrace 2nd Division, bounded by Robbins St, W 54th St, Cumberland Rd and Upton Ave S.

Aye: Bender, Gagnon, Gisselman, Luepke-Pier and Slack

Absent: Forney, Kronzer and Tucker

Staff Farrar presented the staff report.

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Joseph Smith (applicant): The location here is the area I'm looking to have vacated. It's directly behind the home. This is a stark contrast with the area to left which has already been vacated. This area is known for nicely kept homes. This is an area that has gotten pretty trashed lately. What it does is allow for people with trucks to back the truck up and dump stuff off at that location. Here's a picture of some of the items in this area today. The first is a picture of yard waste that was dumped on to the land. The second is a close-up picture of a rusty laundry pole that has been covered by foliage. It's very dangerous. Here are a few other picture. There is overgrown foliage into the alley, making it increasingly difficult to get to garbage cans. The one in the middle, the garbage cans are actually misplaced. Right now there are six garbage cans behind that home. The third picture is abandoned river rocks on a plastic tarp. This is hidden by the foliage as well. This is potentially unsafe. This is the front of the home, it's nicely maintained. You can also see the public alleyway that I maintain. The reason I can do this, even though it's a public space, is because there are no forces working against me. In the back, it's difficult to maintain, there's a lot going on. As I see it, here are the pros and cons for the City: the pros being clearing this unsafe condition, added tax revenue, collection of fees on yard waste, beautification of the city, and easy access for Xcel and Comcast. I'm asking for a vacation of the land for a grass and play area for my kids.

President Brown closed the public hearing.

Commissioner Gisselman: It sounds to me like there is probably a situation that needs to be remedied just in the way of people dumping things and the area needs to be cleaned up. To me, it doesn't seem like filing this petition is remedy for that problem. It sounds like from what we heard from Ms. Farrar that the two of you had a conversation about a different remedy or the city coming out and dealing with some of these issues that were mentioned. Do you agree with that?

Joseph Smith: No, I don't. I believe that'd be a temporary fix. I don't believe there is an incentive to take care of this on an ongoing basis. These things happen overnight.

Commissioner Luepke-Pier: I have a question for staff. What's the difference between this and just having it become private property with a public utility easement?

Staff Farrar: Oftentimes when we see vacation applications, the Public Works Division will support them if they don't have infrastructure that they need to maintain and access. In this specific circumstance, if you vacated this area you'd be land locking it, they wouldn't have the ability to access it. Their protocol when it comes to this is that if they have infrastructure in these areas they do not vacate it. They have easements in place and there's no need to try to extract an easement from a property owner for access at a later date.

Commissioner Bender: I understand the serious of this. The need to access the sewer line is not an insignificant need so how did it get to this state? Why is Public Works not maintaining it? Are there other options for Public Works to consider like paving it or maintaining it better if we're not able to vacate the alley here?

Staff Farrar: My assumption would be that Public Works hasn't had to do maintenance on the line and they probably haven't had other neighbors that have complained about the circumstance. With these alleys, what they do is they become overgrown or become extensions of people's back yards and basically what people do is take ownership of these areas as extensions of their yard. It's uncommon for us to receive complaints about it. Even though this petition was filed in May of this year, there was nothing in this packet that suggested it was a maintenance related issue. It was an issue for him to be able to have additional yard area for a children's play area and a garage. The recommendation in the staff report was mailed out and then it came in this week and now it's a maintenance issue so what I've done is I've made sure I've contacted the correct issue in Public Works to clean up that area and that's the ability I have at this point is to get it

Not Approved by the Commission

cleaned up and if it continues to be an issue the applicant has recourse through 311. I can give the contact of the individual in Public Works that I'm working with to ensure the area remains clear of debris and if there is this illegal dumping of yard waste, that's something that Public Works can continue to handle.

Commissioner Bender: If we did grant the vacation, there would still need to be an easement anyway so that Public Works could go through there so no one would ever be able to build a structure.

Staff Farrar: Correct. Also, we don't land lock utilities so the idea is that you have continuous access along the entire length of whatever the utility is. In this circumstance, if we were to vacate per the applicant's request, we've essentially given ourselves a segment in which we can't access the rest of it in which we would have an easement retained because we would have a break in the easement.

Commissioner Luepke-Pier: Is there a way to contact Public Waste and Recycling and have them remind people where to put their cans and maybe have the numbers on the cans and maybe some signage back there just to help so he's not having to argue with his neighbors over garbage can placement?

Staff Farrar: Sure, I can do that.

Commissioner Gisselman: I will move staff recommendation to deny the vacation (Slack seconded).

Aye: Bender, Gagnon, Gisselman, Luepke-Pier and Slack

Absent: Forney, Kronzer and Tucker