

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

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MEMORANDUM

DATE: October 16, 2007

TO: Steve Poor, Planning Supervisor – Zoning Administrator, Community Planning & Economic Development - Planning Division

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of October 15, 2007

The following actions were taken by the Planning Commission on October 15, 2007. 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:

Commissioners Present: President Motzenbecker, El-Hindi, Huynh, LaShomb, Mains, Nordyke, Norkus-Crampton, Tucker and Williams – 9

Not present: Schiff

Committee Clerk: Lisa Baldwin (612) 673-3710

1. Greater Metropolitan Housing Corporation (Vac-1515, Ward: 5) ([Janelle Widmeier](#)).

A. Vacation: Application by Greater Metropolitan Housing Corporation to vacate all of the east-west alley on the block bound by 5th Ave N, Logan Ave N, 6th Ave N, and Morgan Ave N in order to construct a single-family home on the property of 508 Morgan Ave N and a single-family home on the property of 509 Logan Ave N. This alley is adjacent to the properties of 1810 5th Ave N and 501 Logan Ave N.

Action: The City Planning Commission recommended that the City Council accept the findings and **approve** the vacation.

President Motzenbecker opened the public hearing.

No one was present to speak to the item.

President Motzenbecker closed the public hearing.

Commissioner Mains moved approval of the staff recommendation (Huynh seconded).

The motion carried 8-0.

2. Michael Rohde (Vac-1527, Ward: 7) ([Michael Wee](#)).

A. Vacation: Application by Michael Rohde, on behalf of Ames & Fisher Co. II, LLP, to vacate all part (66' x 100') of 8th Ave N located north of Washington Ave N and the adjacent 30' x 100' easement to the east of this right-of-way. A parking lot is proposed for tenants of an existing mixed-use building located at 800 Washington Ave N.

Action: The City Planning Commission recommended that the City Council adopt the findings and **deny** the petition to vacate a 66' x 100' dead-end stub of 8th Ave N located north of Washington Ave N and the 30' x 100' easement located immediately to the east of the ROW.

Staff Wee presented the staff report.

President Motzenbecker opened the public hearing.

Michael Viola (100 Washington Ave): I'm here on behalf of the applicant, Ames & Fisher. I'm an attorney at Siegel Brill Greupner Duffy & Foster. I would like to take a step back, with all due respect to the staff report, and take a look at a little bit of a broader picture here. I would argue that there is public benefit to the vacation of this 66' x 100' square box. I realize there is an additional easement parcel here. The entire length of 8th Ave running to the north and east of this property has been previously vacated in two separate proceedings; I think one in 1899 and the other in 1935. The property currently has a building; if you look at the vacation sketch there's a one story annex building that's over and across the rear 65 feet. That area has already been vacated.

President Motzenbecker: We're familiar with the space.

Michael Viola: The roadway to 8th Ave N to the north and east is vacated all the way down to 1st St. I would make the argument that there is very little likelihood, I would think, that this would produce a viable connection piece given that there's the StarTribune building there and then the StarTribune parking lot. In addition, there's a rather significant elevation change from the ground level of the parking up to the beginning of the parking lot to the north and east as well so there's some physical constraints too, I believe, with using that as a connection point. The main goal, I

think, of the applicant is simply to provide safe parking options for North Loop Fitness, the gym that's currently located in that annex building. The tenant currently has a condition use permit for extended hours, I think 24 hours on Friday and Saturday. The ramp isn't a viable option given its location. The access point for the ramp is further down the street as well as the fact that I think the ramp closes at 10 p.m. Those things add up to the fact that we're trying to provide some adequate and safe parking for the patrons that would use that in off hours. There's nothing to prevent, I suspect, the city in the future from perfecting a taking. Whether or not they would vacate the property or deny the vacation now or not... in order to just codify what's in existence now and what has currently used and maintained for quite some time by this current owner and previous owners, I would argue that there is very little potential public benefit to this area.

Robert Andrews (3104 Pacific St): I'm president of the company that owns the building on the other side of 8th Ave. This is the first time I've actually seen the application for this vacation and I own the building that actually adjoins 8th Ave as well. We've had no communication with Ames & Fisher at all as to how they intend to use vacated 8th Ave and how that would affect us. I think that's highly unusual. You also have a letter from the Precision Associates attorney regarding the use of this building. Access to the street is absolutely necessary for them. This is probably one of the remaining manufacturers on Washington Ave. One reason they've never moved out and this building hasn't been gendrifed as the others have is because they have equipment in there that actually can't be duplicated or the cost of it is so prohibitive that if they were to move they would go out of business. They employ 150 people; a lot of these people live in Minneapolis and I have a list of them. A lot of them live in targeted areas. You already have these jobs right there. They're today's jobs; they've been offered and that employment base will remain as long as Precision can remain. As the attorney says, I don't see any reason to do this. There is plenty of parking across the street next to Archie's Bunker. All they have to do is contract with the owner of that lot and the people would simply have to walk across Washington Ave and be directly there at the health club. I don't see any overriding purpose in doing this. Since there is objection to it by staff and others I hope that you would deny the application. Thank you.

Mike Rohde [not on sign-in sheet]: One of the reasons that we did this; Ames & Fisher had a 12' or 14' loading dock on this property which we removed in 2005 with the intent to provide some parking. We didn't expect to lease space in this area. There was also a deli at that time that had an issue of parking. When we leased to the deli, we proceeded to make arrangements to park and whatnot. The Traffic Department came to us and said we don't own the property and can't control parking. We had signs up that said that parking can be only at specific times. They gave us three options. I don't remember the other two, but one of them was to vacate the property. They were not interested in the property so that's why we took the opportunity to file for a vacation application. I think as Michael Viola said, we wanted to supply safe access to the gym in that space. Additionally, Ames & Fisher has maintained that particular piece of property for what I gather to be at least 17 years, perhaps more. It is currently a poorly maintained piece of property. I know the city doesn't want to maintain it. It has many potholes. Our intent was to improve that property for parking and maintenance. Our intent is not to do anything as far as Precision is concerned, as far as making an issue for their trucking and that sort of thing. It would be my feeling that the pedestrian walkway would be more detrimental to their trucking and loading dock than our vacation would be.

President Motzenbecker closed the public hearing.

Commissioner LaShomb: Michael, is there a possibility that this alley would be use to provide access to the river or are they right that there are other buildings that create a barrier to doing that? Where's the access point beyond this alley to get to the river?

Staff Wee: At this time a study hasn't been performed yet, but it's one of the remaining spaces possible to connect from Washington to the river.

Commissioner LaShomb: Where's the connection? What's the possible route that would get people over to West River Road?

Staff Wittenberg: Additional properties would have to be obtained by the city to connect through to N 2nd St.

Commissioner LaShomb: Are there buildings on those properties right now?

Staff Wittenberg: There is one building immediately adjacent to the existing right-of-way.

Commissioner LaShomb: I'm not very good at pictures, but on A-02 where it shows this stub, if you will, and there's kind of a striped building behind it, is that an actual building right now or what is that? That's the fitness center?

President Motzenbecker: The one with the stripes through it is the fitness center and there's a parking lot beyond that.

Commissioner LaShomb: The fitness center was approved so that building basically goes over this present...goes basically north of the stub all the way across, is that the way I'm looking at this?

President Motzenbecker: It is in a vacated alley, the previously vacated 8th.

Commissioner LaShomb: Just as on observation then, if you were going to extend this alley and make it a pedestrian right-of-way to the West River Road, you'd have to tear down the fitness center, wouldn't you?

President Motzenbecker: I think part of the reasoning was the Washington Blvd study that was done, that was one of the main points is that it would be easiest to connect in the future should they want to reconnect both a road and a pedestrian pathway through there.

Commissioner LaShomb: My last question is, Michael, is it correct that the parking ramp closes at 10 o'clock at night?

Staff Wee: I have no idea if they close at 10, but as stated by Mike Rohde just a few minutes ago, it closes at 10. Again, if parking is an issue for the gym, there are several parking spaces across the street and on-street parking is also permitted along Washington Ave if I'm not mistaken.

Commissioner Nordyke: I have a question for staff. What we've got here basically is that this road, if you will, is being used by both of the businesses on either side of it. Wouldn't it be a little unusual for us to vacate that road entirely in favor of one of those businesses? Wouldn't it

be normal instead to split that property up or come to some kind of arrangement where the existing users of that continue to have use of it?

Staff Wee: Vacating the right-of-way because it's currently being used as parking might make sense in the future, but right now, because the city has thought of potential access from Washington to the river, at this time vacating this right-of-way might not be a good idea.

Commissioner Nordyke: I'm guess I'm thinking that even in the absence of the city's desire to have this as access to the river, which I actually support a lot and I think that's probably reason enough not to grant it, but it seems perfectly reasonable for me that the owner of 730 that uses 8th Ave N as a loading dock doesn't want that to be taken away. Isn't that a very reasonable thing for them to be asking us?

Staff Wee: The eastern 34' wide easement was granted to the city and once it's vacated it would revert back to the property owner which is the building to the east. At that time, if it's vacated, the applicant has to work with the property owner...

Commissioner Nordyke: Which will become the owner at 800. Ok.

President Motzenbecker: I think that one of our main criteria for vacation is that the street no longer has any use so I think that answers the question.

Commissioner Tucker: I will move the staff findings and recommendations to deny the application for vacation (Huynh seconded). We've talked a lot about access to the river being very important and not just along the river, but getting in to the neighborhood. Unfortunately, these blocks between Plymouth and 4th Ave were cut off from the river by previous development. We have very few possibilities to get through, this is one, and I don't think we should do anything that makes that even harder. I refer to the Public Works letter when they say that it should be denied based on the future access to the river.

Commissioner Huynh: I concur with Commissioner Tucker. Speaking on behalf of just being on that committee for the Mayor's great city design team, working on the Washington Blvd design studies, looking at how restricted the neighborhood currently is in terms of having access to the West River Pkwy and also just knowing that the Mississippi River is there. During our study that we had conducted in the last year, we have heard a lot of feedback in terms of the private business developers but also the current business owners, current residents and potential residents just looking at the influence of Twinsville, but also listening to a lot more information from the activities that occurred in the last year and how people were able to adapt to living in that area. A lot of the concerns that the residents and owners had was just the lack of connection, especially for the developments on the river parkway to get to Washington, being able to catch mass transit to get to a bus line. Although there is a one-story building on the north side or east side depending on the diagonal access that you're looking at. This would do a public service in terms of being able to maintain the access to the riverfront. Although there's not a lot of actions in terms of what the city can do currently. Private developers such as the ones at 700 N Washington, what they are able to do is be able to accommodate and retrofit the building to accommodate a tunnel that would connect the parkway to Washington. I think that's a direction that could be encouraged for a lot of developers that are looking at buying businesses or buildings downtown to be able to be encouraged to provide access to the river. Although, currently, the

layout does not accommodate that, I think that this is not a reasonable use to vacate for parking and to leave it as a potential connection to the street.

Commissioner LaShomb: If this is not vacated, are these parking spaces going to be removed? Maybe you can't speak for Public Works, but could these spaces be open to the general public and not just health club users and remain?

Staff Wee: If the vacation is denied, the existing parking would need an encroachment permit from Public Works. Basically that's the additional requirements at this time.

Commissioner LaShomb: So what you're telling me is that if it became a general parking lot there is a possibility that the land could still be used for parking. It seems kind of a shame to just have a stub sitting there that has no use at all to anybody in the fond hope that at some point we're going to have access to the river. I'm all for access to the river. I live on the river in south Minneapolis and I think access is a great thing. I'm kind of about 50/50 on this one. If you didn't have a parking ramp up the street and if there wasn't some reasonably good parking on Washington Ave I'd say that this was a no-brainer. The parking spaces are a nice convenience for people but anyone who has been a member of a health club in downtown Minneapolis can tell you that if you can walk out the front door to your car that would be a rarity. I was a member of the Target Center health club and I had to walk about four blocks to get to the car. It makes people feel kind of insecure. The other side of the coin, however, is that the probably of making this an access to the river, in my mind, is kind of a question mark and maybe it won't be in my lifetime because you have to knock down buildings to do it. I don't think Minneapolis can afford to knock down a lot of buildings to get river access. I guess I'm going to support the motion not to vacate this on the assumption that the applicant still has a couple of avenues and one of those avenues is to work with the city and just make this a generic parking lot that everyone can use. Generally speaking, in the late hours, I don't think it's very likely that you're going to have a lot of competition for those spaces.

President Motzenbecker: The motion before us is to deny the vacation. All those in favor? Opposed?

The motion carried 8-0.

3. William McCrum (Vac-1533, Ward: 4) 4654 Russell Ave N ([Michael Wee](#)).

A. Vacation: Application by William McCrum, on behalf of Luxor Properties, LLC, to vacate a 14'x 60.75' alley located at 4654 Russell Ave N to allow access to the proposed detached garage on the newly created north lot. Planning Commission has approved its rezoning and minor subdivision applications in March 26, 2007 (BZZ-3439).

Action: The City Planning Commission recommended that the City Council adopt the findings and **approve** the alley vacation at 4654 Russell Ave N subject to the following conditions:

1. An access easement shall be provided that will ensure access to the property located at 4655 Queen Ave N.

2. A corrected legal description as described below shall be reflected:

“All that part of the alley platted in Block 10, Sidle Park Addition to Minneapolis, to wit; beginning at the northeast corner of Lot 30, said Addition, thence east 14 feet to the northwest corner of Lot 1, said Addition, thence south 60.72 feet to a point on the west line of Lot 2, said Addition, thence west 14 feet to the east line of Lot 29, said Addition, thence north 60.73 feet, to the point of beginning. All according to the plat of record on file at the Hennepin County Recorders office, Minneapolis, Minnesota.”

3. Easement right in favor of Northern States Power Company (dba Xcel Energy) shall be reserved “over, under and across the south 5.00 feet all that portion of the platted alley subject to this action.”

Staff Wee presented the staff report.

Commissioner Mains: Has the owner at 4655 Queen agreed to this?

Staff Wee: They haven't come forward, but notices were sent around this property and they should be aware that there is a vacation request.

Commissioner Mains: I'm concerned that with a vacation that specifically affects another property that we don't have an affirmative statement on that. They may be here tonight and we'll find out. My second question is this second full paragraph on page two, generally an alley that is vacated is split equally between the properties. Do we have the authority to not split it equally? I thought that was the law that it had to be split equally, that it was an easement granted on the two properties. How can you all of the sudden take that easement and give it all to one property? I don't understand how we can legally do that.

Staff Wee: Generally, the vacation would be split between the property owners adjoining that subject vacated portion. The applicant can also request from Hennepin County go gain ownership of the entire vacated alley.

Commissioner Mains: But doesn't he have to reach agreement with the other property owner since... on my house, my property line goes to the middle of the alley. I don't quite understand how this can actually go forward the way it is.

Staff Wee: I think you are correct. That's one of the reasons why we have a condition that the applicant work with the property owner on Queen St to provide easement for its access.

Commissioner Mains: I guess I'm concerned it's coming before the Planning Commission without that agreement. I'm very uncomfortable with granting this without the agreement already in place.

President Motzenbecker opened the public hearing.

Mike Connery (4610 Russell Ave N) [not on sign-in sheet]: A brief history is that the houses were moved in in the still of darkness back in April of this year. None of us were notified of the

homes that were moved in there. Initially there were three homes brought in and a garage. One of the homes was vacated from there and moved into Brooklyn Center. Nobody had contacted us as far as within the 300' of the proposed site for these properties. On Block 28, that means the owner there owns to the midpoint of that alley as well. All of us on this block, including those on Queen, have had an easement of this alley since we purchased our homes. I have been using it for over seven years. I have several neighbors here that have been using it for over 25 years. We have a legal easement to this property. The owner of the property now is saying that he's giving us the right to use the property. That's a bunch of hogwash; we had that right to begin with. The other thing that I'd like to point out is the legal description is not concurrent with what the proposals are on page two, section two. It states here "all that part of the alley platted in Block 10" and that would be this entire area, which is Block 10. It states here that "beginning at the northeast corner of the lot 30". They're stating that the 14' to the northwest corner of Lot 1 was going to be part of this vacated area, including 60.72 feet back down. The problem here is that when we have snow in the winter the plows have to come through. They can't be stopping to back up or try to pull all that snow from this entire area back, which they are proposing to have the city and of course we the taxpayers have to pick up the cost. I don't agree with it. I don't agree with how this whole situation has been shoved into our laps and the city has been coming through and writing citations for all the neighbors in the area over petty little things but has been ignoring these homes that have been pulled in there and have not been developed. There has been no discussion of basements going in and taking a look at these houses themselves. The size of the houses are larger than the lots that are sitting there.

President Motzenbecker: Sir, these two houses and this application came through this body earlier this year. There was a public notice for those houses moving in there. It was very widely noticed and there was a hearing in these chambers.

Mike Connery: I never received notice.

President Motzenbecker: I'm sorry about that but the notices did go out and there was a hearing. It was public knowledge. Whether you were aware or not, I apologize about that.

Mike Connery: This affects the values of our properties.

President Motzenbecker: I understand that, but I am trying to explain to you that it wasn't done covertly pulling the pull over your eyes. The alley that you're speaking of with the snow removal, the vacation of that alley would stop the snowplows from doing exactly what you say. You wouldn't have to worry about that anymore because they wouldn't go straight to the dead-end alley and pull the snow back; they would just go around the corner. I need a little more clarification on what is particularly vexing you. If you could kind of conclude your arguments and give me something. It's not clear to me quite yet what you're getting at.

Mike Connery: The trouble here is that has there been any kind of an EPA study done on the houses that have been moved in there?

President Motzenbecker: That's not anything related to the alley vacation, sir. This has to be specifically to the action before us today which is the vacation of the alley which has no EPA regulations or restrictions on it at all. The pieces that we use to determine it are in the white report that you could pick up outside.

Mike Connery: I would have to argue that the owner of Block 28 and the owner of Block 1 and 2 have not put their approval forward on this.

President Motzenbecker: Well we'll have to wait and hear from them.

Stacy Thompson (4619 Queen Ave N) [not on sign-in sheet]: I have a petition here that reads "I am strongly opposed to the request made by William McCrum which would vacate the alley located at 4654 Russell Ave N to allow a detached garage to be placed there." This is signed by 21 of the neighbors who live just on the alley part either on Queen or on Russell, including Mary who lives at 4650, which is the house that had been discussed earlier which would need to be in agreement. I don't think Mary is here today but I can give this to you as a record of the neighbors being opposed. I can also say that I was out of town when you had your hearing which allowed for these houses or for the rezoning of this land. Myself and my husband did not see the notice. I know at least four or five other neighbors who are here who did not see the notice. I don't think we were properly informed about this rezoning. Or least I know that at least as many of us that are here today would have been here at that time. Mr. McCrum has told us that he would have the basements...and I know this isn't an issue today, but he would have foundations laid in June and he told me that directly at our May neighborhood meeting and this hasn't happened. One of the houses was removed, but as another neighbor said, these houses aren't adding anything to our neighborhood. I seriously doubt that he will get people to live in them. We have a number of empty houses already and this is just depreciating the value of our neighborhood. I don't know if any of you have read the tipping point, but I am very strongly opposed to having two junk heaps at the end of my alley and I don't want to do anything that really helps just prolong this endeavor of his. I don't think it will be successful and neither do any of the neighbors who live on this block and we're very opposed to it.

Commissioner Norkus-Crampton: Was the petition signed by the residents at 4655 or 4651?

Staff Baldwin: 4651 is on it but not 4655.

Staff Wittenberg: Commissioners, just one point that I'm not sure Mr. Wee covered in his report. As you see in the Planning Commission's actions from March 26, the applicant as a condition of approval of their minor subdivision was required to fulfill the recommendation of the Capital Projects Task Force, which is a city taskforce dealing with capital issues such as alley extensions and vacations. The city's Capital Improvements Task Force required that as a condition the applicant was to vacate this segment of alley, primarily because they don't want to maintain that little dead-end alley stub. It was a condition of approval that the applicant actually complete that and record the vacation prior to obtaining building permits. If the applicant even wanted to get those buildings in the ground, he hasn't been able to primarily because of this application.

Dee Bergstrom (4606 Russell Ave N): My neighbor, Mike, is correct in the fact that none of us were advised by mail, except if we lived 365' from the end of our lot. I heard about it through neighbors. I wanted to thank Mr. Mains for speaking up for us. My family has lived there for 43 years. I met Mr. McCrum. I don't like him, but I talked to him on the phone. I talked to him at the basement of the church. I'll be very specific about that because some of the words I used to him I should not have said if I was in the church proper. I told him about the houses in our area that have been on the market for years and he told me that his wife told him that he was stupid. I said "I'm no architect but you are stupid." I have called people. I called housing because trees were cut down before the derelict homes were brought in. They were from Lowry and Oliver and

they sat on Penn. I found this from a man that I met at my chiropractor who was the assistant basketball coach at Patrick Henry. I said “sometimes you have to go out of your neighborhood to find out stuff.” He said they sat there and should have been destroyed and I agree with him. They were built in the 1920s. Mr. McCrum says he wants to sell those for \$225,000. It’s not going to make it in our neighborhood. We are concerned that they’re going to end up being Section 8. I called Mr. Al Olson who is the manager of construction for the city of Minneapolis. I called Housing, who we got a citation from for a little brown spot on the front of our bank.

President Motzenbecker: Ok, we need to focus on this.

Dee Bergstrom: I haven’t seen one citation on these homes. I wouldn’t even call them homes; I would like to push them over the railroad tracks. He talked at the church and told us about the marvelous woodwork inside these buildings. Well, I’d like to bust every window...

President Motzenbecker: No more violence, Mrs. Bergstrom. If you could give us a conclusion.

Dee Bergstrom: That’s it. I object very strongly.

Michael Ansel (3900 Russell Ave N): Unfortunately, none of these people came to the neighborhood association to voice their concerns. When we looked at this, we didn’t see any problems. We saw that it had already been rezoned and there were going to be two structures placed there and we were concerned that if this stub section wasn’t vacated that it would be impossible to site the homes on the lots properly. Hearing opposition now, I think it would be difficult for the neighborhood association to approve it. It sounds like the rezoning is dependent on the vacation.

President Motzenbecker: It’s the zoning, the building permits.

Michael Ansel: Sorry. The building permits are dependent on the vacation but the land has already been rezoned and divided into two plots so it would be developed one way or the other. If that’s the case then I guess I say it makes sense to vacate the space if you’re going to have a house go up there. The condition of the houses is a separate issue.

President Motzenbecker: Correct.

Eric Grimes (4623 Queen Ave N) [not on sign-in sheet]: My main concern with the alley being moved around is the first item that we looked at before we bought the house...I have a 16’ enclosed trailer that I pull behind a long-box pick-up. The first thing I look at is whether or not I can get in and out of my driveway. I’m concerned that putting more houses and more garages on the alley, if people are not parking in the alley or if they’re parking along side of the garages or the house there that I’m not going to be able to make that corner. If I can’t make that corner then I can’t work. That’s my main concern.

Dan Coder (4621 Queen Ave N) [not on sign-in sheet]: I just want to reiterate what Eric had said. That’s part of the selling point for a house there is being able to have access to the back. We’ve already had access to our front limited where they just closed off the road between Osseo Rd and Queen Ave was just recently closed and now if they’re closing off more of our alley...

President Motzenbecker: The alley still remains. They don't take it away; it's just that the city does not maintain it any longer. It's still there; you can still drive on it.

Dan Coder: If it's not being maintained...

President Motzenbecker: It is up to the property owners to maintain.

Dan Coder: You can't really use it in the winter.

President Motzenbecker: It would revert to the property owner to maintain the property.

Dan Coder: The owner as in the Luxor properties?

President Motzenbecker: Whoever is on the deed.

Commissioner Mains: I think you're in error. The part we're vacating is no longer an alley but it still is an alley to the south of it and the east-west portion so it is still a through alley.

President Motzenbecker: Correct.

Commissioner Mains: The alley that goes north of that east-west portion disappears but that does not connect to anything. That dead-ends into a rail yard is my understanding. So that part of the alley does disappear.

President Motzenbecker: Sorry, my error. Private driveway.

Bill McCrum (1133 Palace Ave, St. Paul): I got together with the neighbor across the alley and we visited. We went outside and I walked him through the boundaries. I talked to him about what we proposed to do. We reached an agreement. He'd probably be here but he works nights. The site plan reflects that. It's shown on the certified site plan as a proposed vacation because we don't know for sure until you vote. He agreed to how we would create the easement and after it's approved I'll legally talk to my title company and get the agreement and submit it to you. It's true, I appreciate your speaking up, I've been eager to dig foundations and get the houses on the foundations since it moved in April. The houses are in great shape. Before we moved them we were required by the city to pass inspections and they passed. We also completed inspections to remove any hazardous materials from the houses before they were moved. They're in good shape. I am complying with the requirement from this board to put garages on so we moved one of the garages on and I'm eager to pour the slabs and get those going.

Commissioner LaShomb: I want to be absolutely clear about this. The zoning was approved by the City Council. The subdivision was approved by the Planning Commission and was it appealed to Zoning and Planning?

Bill McCrum: No.

Commissioner LaShomb: So it was not appealed so effectively it has the force of law. What I'm trying to get at is that with the rezoning and with the subdivision, the City of Minneapolis has said that two homes are going to be put on this site. That's the point I want to make, you may not like the fact that the city did all of that in March, but the fact of the matter is that it is a done deal.

The houses are going to be built there. The issue today is whether the Planning Commission is going to complete the loop. To complete the loop is to meet one of the conditions and that is to vacate the alley so that these garages can be accessed as was part of the agreement on March 26th and approved by the City Council.

President Motzenbecker: Correct. Thank you.

President Motzenbecker closed the public hearing.

Staff Wittenberg: Just one point of clarification is that vacations automatically move forward to the City Council so they're not appealable because you would appeal it to the City Council. Vacations automatically go there. The minor subdivision that you previously acted upon was appealable.

Commissioner Mains: I have a few questions that are mainly for staff. I just want to verify that that east-west alley is existing and does have a city easement. Is that correct?

Staff Wee: That's correct. The east-west alley is actually owned by the applicant but it's been granted easement to the city.

Commissioner Mains: So how long has that alley been there?

Staff Wee: For a long time.

Commissioner Mains: And the easement was granted previously or has it been an alley that has been there with no legal authority? I'm confused.

President Motzenbecker: It's a public alley.

Commissioner Mains: Ok, so it is a public alley that has had a public easement. It's not an easement that the current owner is now granting; it's already there. Thank you. Just to answer the question about snowplowing; I live on a "T" alley and that is no problem for snowplowing. An "L" alley is easier. I'm going to move approval, but with the condition that the vacated alley be split equally or split as is traditional in alley vacations.

Staff Wittenberg: We really aren't able to determine the divvying up of the vacated alley. That's really done at the county. Based on the principles that you noted before, it simply reverts to the alley owners who the city had the easement over their property. It's up to the applicant to work with the county and the adjacent property owners if anything other than that would happen.

Commissioner Mains: So this paragraph I referred to probably should be struck from the report. The second full paragraph on page two. Ok, I take that back. I guess I move approval of the staff recommendation (El-Hindi seconded).

Commissioner Nordyke: The public easement that we do have in that alley, that's perpetual, right? There's no date on that right? That will not go away unless the city votes to make it go away, correct?

President Motzenbecker: Correct.

Commissioner Nordyke: I think there's a little bit of confusion on some of the conversations. The people here that have come up to speak that are backed on that alley; we're not vacating the entire alley. We're vacating a little bitty stub at the end of the alley that services only two properties. There was some confusion earlier about the city not maintaining it; the city is going to continue to maintain the alley. It's going to be the end of the alley that the city will not maintain. Is that correct?

Staff Wee: Yes, that is correct. The vacation is only for the top portion of the existing north-south alley and the remainder of that will still be public alley together with the...

Commissioner Nordyke: The public alley as it is will continue to be maintained by the city. Also, I'm assuming that this public alley, there will be standards as to how that is maintained. This gentleman with the truck, it's not going to be rearranged so that you can't drive your truck around it. This is going to be a public right-of-way maintained in the same way it's been maintained for years. The issue of someone parking their car in a public right-of-way is something that you deal with by calling the police and having it towed. I understand there are issues with the housing piece and, unfortunately, some people felt they didn't get notified. I remember this discussion and there were a lot of people here for this discussion so people were notified about the houses and this discussion tonight isn't about them, it's just about the little stub on the alley.

Commissioner Tucker: I will just second Commissioner LaShomb's remarks that this is a completion of a previous action from March 26th. We asked that the garages be built. Public Works recommended that the alley be closed so I think we need to proceed with the actions that we intended back then.

President Motzenbecker: Any further comments? The motion is staff recommendation to approve the vacation. All those in favor? Opposed?

The motion carried 8-0.