

Department of Community Planning and Economic Development - Planning Division
Alley Vacation
Vac-1572

Date: September 7, 2010

Applicant: Jeff and Peggy Watson

Address of Property: Not applicable, see attached map

Contact Person and Phone: Jeff and Peggy Watson 612-305-1542

Planning Staff and Phone: Janelle Widmeier 612-673-3156

60-Day Review Decision Date: Not Applicable

Ward: 11 **Neighborhood Organization:** Hale

Existing Zoning: R1A Single-family Residence District and SH Shoreland Overlay District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 38

Legal Description: That triangular part of the alley as dedicated in Block 2 of the plat of Chicago Avenue Highlands, Hennepin County, Minnesota, described as lying west of the northerly extension of the east lot line of Lot 22 of said Block 2, and southeasterly of the northeasterly extension of the northwesterly lot line of Lots 25 and 26 of said Block 2.

Existing Use: Alley

Concurrent Review: Alley vacation. No other applications are necessary at this point.

Background: The applicant submitted a request to vacate a triangular piece of the public right-of-way to the west of the alley on the block bound by 50th Street East, 11th Avenue South and 51st Street East for the purpose of establishing a driveway with access to 50th Street leading to a new garage located at the property of 1008 51st Street East. This portion of the alley is currently used by the properties of 1008 51st Street East and 5016-5028 11th Avenue South to gain access to their garages. The owner of 1004 51st Street East parks a travel trailer in the area adjacent to their property. A curb cut on 50th Street East is used by all of these properties. Gardens, tended to by some residents on the block, also occupy portions of the alley. There is currently no paving in the proposed area to be vacated.

As an alternative to vacating part of the alley, the applicant has the option of applying for an encroachment permit to construct a driveway out to 50th Street East. An encroachment permit would not prevent other people from driving over the driveway.

The garden is an encroachment in the right-of-way. According to Public Works, there are no ordinances that authorize encroachment permits for gardens located in an alley right-of-way as there are for streets. A lease may be needed to allow it to stay if the area is not vacated.

As of the writing of this staff report, no comments have been received from the Hale neighborhood group. Staff will forward comments, if any, to the Planning Commission.

Development Plan: The applicant intends to install a driveway connecting the newly constructed garage on their property to 50th Street. The development plan is attached.

Responses from Utilities and Affected Property Owners: Xcel has facilities in the area and requests an easement in the area to be vacated. Correspondence from adjacent property owners has been received and is attached to this report.

Findings: The Public Works Department found that the alley proposed for vacation was not needed for public purpose and that it could be vacated. However, the Community Planning and Economic Development Department – Planning Division finds that the alley proposed for vacation is needed for public purpose and that it should not be vacated. As previously mentioned, the properties of 5016-5028 11th Avenue South use this area to access their garages. The paved portion of the north/south alley is 12 feet wide. (South of the area proposed to be vacated, the total alley width is 14 feet.) Of the properties on the east side of the alley that use the unpaved area, three of the four garages are located five feet or less from the alley pavement. If the alley is vacated, the Hennepin County Taxpayer Services Department would determine disposition of the vacated area. According to the attached email from the County Property ID Supervisor, the vacated area would be adjoined to the properties west of the paved part of the alley. The zoning code minimum drive aisle width requirement of 20 feet for one-way circulation gives an idea of what is needed to provide adequate room for maneuvering. Leaving 18 feet or less for maneuvering into the garages at 5016, 5024, and 5028 11th Avenue South would likely result in vehicles driving over portions of the vacated area, which would become part of the 1012 51st Street East property. There are existing conditions that further complicate access to the property of 5028 11th Avenue South. A utility pole is located between the northwest corner of this property's garage and the paved alley. Also, a five foot high retaining wall located on the west side of the alley abuts the paved alley, extends approximately one foot into the alley right-of-way, and is located more or less parallel to the south side of this property's garage door.

Aside from the access concerns, there would also be zoning implications if the alley were vacated. With the vacation, the properties of 1008 and 1012 51st Street East would become through lots. A through lot is a lot that fronts upon two generally parallel streets or that fronts upon two streets that do not intersect at the boundaries of the lot. Through lots have two minimum front yard requirements, one adjacent to each street. In the R1A district, the minimum front yard requirement is 20 feet unless the established front yards of the adjacent residences are greater. If the established setback is greater, the required front yard cannot be less than that established by a line joining the nearest front corners of both buildings. In other words, the alley vacation would result in most of the area between the north side of the residential structures at

the properties of 1004, 1008, and 1012 51st Street East not being buildable without a variance of the front yard requirement. Under the existing conditions, most of the area north of these structures is buildable without a variance.

Recommendation of the Community Planning and Economic Development Department - Planning Division:

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission and the City Council adopt the above findings and **deny** the alley vacation of that triangular part of the alley as dedicated in Block 2 of the plat of Chicago Avenue Highlands, Hennepin County, Minnesota, described as lying west of the northerly extension of the east lot line of Lot 22 of said Block 2, and southeasterly of the northeasterly extension of the northwesterly lot line of Lots 25 and 26 of said Block 2.

Attachments:

1. Applicants statement
2. Applicants development plan
3. Maps
4. Public Works letter
5. Email from Hennepin County
6. Correspondence received from adjacent property owners
7. Photos

(Resolution to be used only if alley is vacated)

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Vacating part of the alley on the block bounded by 50th Street East, 11th Avenue South and 51st Street East. (Vacation File No. 1572).

Resolved by The City Council of The City of Minneapolis:

That all that triangular part of the alley as dedicated in Block 2 of the plat of Chicago Avenue Highlands, Hennepin County, Minnesota, described as lying west of the northerly extension of the east lot line of Lot 22 of said Block 2, and southeasterly of the northeasterly extension of the northwesterly lot line of Lots 25 and 26 of said Block 2 is hereby vacated except that such vacation shall not affect the existing easement rights and authority of Xcel Energy, their successors and assigns, to enter upon that portion of the aforescribed alley which is described in regard to each of said corporation(s) as follows, to wit:

As to Xcel Energy, an easement over, under and across a 10 foot east-west width as it abuts lots 22, 23 and 24 within the easement area to be vacated in said Chicago Avenue Highlands, all within Hennepin County to operate, maintain, repair, alter, inspect or remove its above-described utility facilities and said easement right and authority is hereby expressly reserved to each of the above-named corporations, and no other person or corporation shall have the right to fill, excavate, erect buildings or other structures, plant trees or perform any act which would interfere with or obstruct access to said street upon or within the above-described areas without first obtaining the written approval of the corporation(s) having utility facilities located within the area involved authorizing them to do so.