



118 Central Avenue North, New Prague, MN 56071
phone: 952-758-4401 fax: 952-758-1149

MEMORANDUM

TO: HONORABLE MAYOR AND CITY COUNCIL
CC: JOSHUA M. TETZLAFF, CITY ADMINISTRATOR
FROM: KEN ONDICH, PLANNING / COMMUNITY DEVELOPMENT DIRECTOR
SUBJECT: PUBLIC HEARING AND ADOPTION OF ORDINANCE #345 FOR VACATION OF CERTAIN EASEMENTS IN THE PLAT OF WHISPERING PINES, AS PROPOSED BY PETER SIMON KALLAL
DATE: NOVEMBER 29, 2023

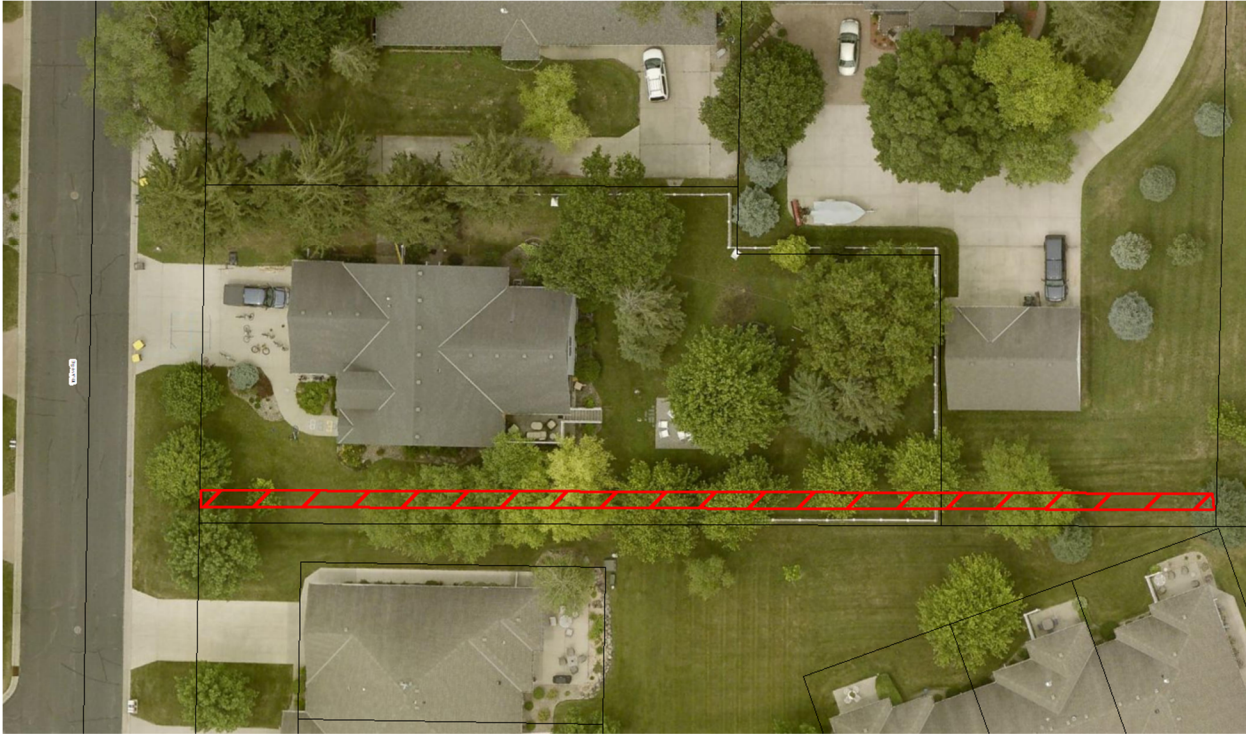
The applicant, Peter Simon Kallal, recently applied for a building permit for an accessory structure on his property located at 207 7th Ave. SE. Upon application the City informed him that his building must be located at least 10' from their south property line due to an existing 10' drainage and utility easement located there from when the property was platted as Whispering Pines in 2004. The applicant asked if there was a need for the easement to be so large on an interior lot line and staff determined that from a City utility standpoint there were not any concerns with reducing the easement from 10' down to 5' which is the current standard for an easement adjacent to an interior lot line. The review process would, however, gather input from all private utilities to determine if they are acceptable to the easement being reduced in size. The vacation would allow the construction of the proposed accessory building to be up to 6' from the south property line.

Staff does not believe there to be any utility lines (public or private) located in the portion of the easement being vacated at this time. At the time of writing this memo, staff had not received any comments regarding the vacation of the easement (either from property owners or other private utility companies).

At the November 6th City Council meeting, a public hearing was scheduled for tonight's meeting and the ordinance which would vacate the described drainage and utility easement was introduced. Since that time a notice was published twice in the New Prague Times and notices were mailed directly to utility companies so they could provide comment, if any, on the easement vacation request.

Staff Recommendation

Staff recommends holding the required public hearing and subject to comments received at the public hearing should adopt the ordinance titled "An Ordinance Vacating Certain Easements in the Plat of Whispering Pines."



Aerial view of vacation of the north 5' of the existing 10' drainage and utility easement.

ORDINANCE #345

AN ORDINANCE VACATING CERTAIN EASEMENTS IN THE PLAT OF WHISPERING PINES

WHEREAS, the New Prague City Council previously passed Resolution #23-11-06-01 noting the City of New Prague's interest in vacating all of the drainage and utility easements as identified in the resolution and the exhibit to the resolution, pursuant to Section 12.06 of the New Prague City Charter, legally described as follows:

The north 5' of the 10' drainage and utility easement adjacent to the south line of Lot 3, Block 1, Whispering Pines, Le Sueur County, Minnesota.

And as depicted on the attached Exhibit A.

(with such easements hereinafter referred to as the "Property"); and

WHEREAS, a public hearing to consider the vacation of the Property was held on the 4th day of December, 2023, before the City Council in the City Hall located at 118 Central Avenue North, New Prague, Minnesota, after due published and posted notice had been given, as well as personal mailed notice to all affected property owners by the City Clerk on the 7th day of November, 2023 and all interested and affected persons were given an opportunity to voice their concerns and be heard; and

WHEREAS, any person, corporation or public body owning or controlling easements contained upon the Property proposed to be vacated, reserves the right to continue the same or to enter upon such Property, way or portion thereof vacated to maintain, repair, replace or otherwise attend thereto; and

WHEREAS, the Council in its discretion has determined that the vacation of the Property will benefit the public interest because the Property will no longer be used for easement purposes as and a portion of the property will instead be used for the placement of an accessory structure.

WHEREAS, a majority of all members of the City Council concur in this ordinance;

NOW, THEREFORE, THE CITY OF NEW PRAGUE, SCOTT AND LESUEUR COUNTIES, MINNESOTA, ORDAINS:

SECTION 1. An uncodified City ordinance is adopted pursuant to Chapter 12.06 of the New Prague City Charter to provide as follows:

Subdivision 1. The recitals set forth in this Ordinance are incorporated into and made a part of this Ordinance.

Subdivision 2. The City controls the dedicated Property located in Le Sueur County, Minnesota, with the legal description of the Property being as follows:

The north 5' of the 10' drainage and utility easement adjacent to the south line of Lot 3, Block 1, Whispering Pines, Le Sueur County, Minnesota.

And as depicted on the attached Exhibit A.

Subdivision 3. The City Council has determined that vacation of the Property will further the public interest and welfare.

Subdivision 4. As provided by Section 12.06 of the New Prague City Charter, the City Council authorizes and grants the vacation of the Property such that the Property described as follows is hereby vacated:

The north 5' of the 10' drainage and utility easement adjacent to the south line of Lot 3, Block 1, Whispering Pines, Le Sueur County, Minnesota.

And as depicted on the attached Exhibit A.

Subdivision 5. The Mayor and City Administrator, staff and consultants are hereby authorized and directed to sign all documents or take any and all additional steps and actions necessary or convenient in order to accomplish the intent of this Ordinance.

SECTION 2. This ordinance shall take effect and be in force upon its publication, in accordance with Section 3.13 of the City Charter.

Introduced to the City Council of the City of New Prague, Minnesota, the 6th day of November, 2023.

The required 10 days posted notice was completed on the City Website and City Hall Bulletin Board on or before November 7th, 2023.

Passed by the City Council of the City of New Prague, Minnesota, this 4th day of December, 2023 and to be published on the 14th day of December, 2023.

Duane J. Jirik, Mayor

State of Minnesota)
)ss. (CORPORATE ACKNOWLEDGMENT)
County of Scott & Le Sueur)

Subscribed and sworn before me, a Notary Public this _____ day of _____, 2023.

Notary Public

ATTEST: _____
 Joshua M. Tetzlaff, City Administrator

State of Minnesota)
)ss. (CORPORATE ACKNOWLEDGMENT)
County of Scott & Le Sueur)

Subscribed and sworn before me, a Notary Public this _____ day of _____, 2023.

Notary Public

THIS INSTRUMENT DRAFTED BY:

Kenneth D. Ondich
City of New Prague
118 Central Ave. N.
New Prague, MN 56071
(952) 758-4401

Exhibit A

Exhibit A - Easement Vacation

