



CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL17-147	Contact	Kate Van Daele, kvandaele@duluthmn.gov	
Type	Utility Vacation	Planning Commission Date	October 10, 2017	
Deadline for Action	Application Date	September 5, 2017	60 Days	November 4, 2017
	Date Extension Letter Mailed	Sept 14, 2017	120 Days	January 2, 2018
Location of Subject	109 Minneapolis Avenue			
Applicant	Louise Pell	Contact		
Agent		Contact		
Legal Description	SLY 30 FT OF LOT 5 AND ALL OF LOT 6			
Site Visit Date	September 30, 2017	Sign Notice Date	September 26, 2017	
Neighbor Letter Date	September 25, 2017	Number of Letters Sent	43	

Proposal

Applicant proposes to vacate 10 feet of the Mendenhall Division street easement in order to rebuild a pre-existing garage.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Single Family Residential	Traditional Neighborhood
North	R-1	Single Family Residential	Traditional Neighborhood
South	R-1	Single Family Residential	Traditional Neighborhood
East	R-1	Single Family Residential	Traditional Neighborhood
West	R-1	Single Family Residential	Traditional Neighborhood

Summary of Code Requirements

Vacation of public right of way and/or easements require a Planning Commission public hearing with a recommendation to City Council. City Council action is to approve or deny the resolution. Resolution approving either a full or partial vacation requires a 6/9 vote by the Council.

UDC Section 50-37.6C. The Planning Commission shall review the proposed vacation, and the 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 Governing Principle and/or Policies and Current History (if applicable):

Governing Principle #5- Strengthen Neighborhoods

Future Land Use: Traditional Neighborhoods: Characterized by grid or street pattern. Houses orientated with shorter dimension to the street and attached garages, some with alleys. Limited commercial, schools, churches, and home businesses, parks and open space areas are scattered through or adjacent through the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions and new traditional neighborhood areas.

History: Thirty years ago a previous owner of 109 Minneapolis built a garage without a permit, and built it over the property line into the Mendenhall Division Easement. A tree fell on the garage earlier in the year, and the homeowner would like to rebuild it on the original footprint. by extending it into the easement.

Review and Discussion Items









Staff finds that:

- 1) Applicant is proposing to vacate the undeveloped Mendenhall Division utility easement in order to rebuild her garage. The original garage was built over the property line into the easement, and if rebuilt would need to be built no closer than five feet from the rear lot line per UDC 50-21.3. The garage to date was built 4.8 feet over the rear lot line.
Exhibit A shows where the garage will be located if the easement is vacated (Location A). The exhibit also shows a secondary location where the garage could be built that would allow the turnaround space that the applicant is seeking (Location B).
- 2) The Mendenhall Division was created in 1948. The Mendenhall Division is made up of eleven parcels; the Allendale street easement was built to the South of and in-between the Woodland Park Sixth Division. The street was never developed, and therefore this right of way is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles, or the efficient supply of utilities or public services in the city. However, the city engineer has requested that the utility easement along the Mendenhall Division remain accessible for pedestrians.
- 3) This right of way is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.
- 4) No public or agency comments have been received. The city engineer has requested that the easement be retained for pedestrian use, and not have a structure be built in the easement.
- 5) Vacations of streets lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

Staff Recommendation

Based on the above findings, staff recommends that the Planning Commission recommend approval of the vacation of the street easement with the following conditions:

- 1) The proposed garage shall maintain a five-foot rear-yard setback, and not be built in the easement.
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance a variance from the provisions of Chapter 50.

- Legend**
-  Bike
 -  Multi-Use - Paved
 -  Mountain Biking and X-Country Skiing
 -  Climbing
 -  Trout Stream (GPS)
 -  Other Stream (GPS)
 -  Utility Easement
 -  Other Easement



The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.



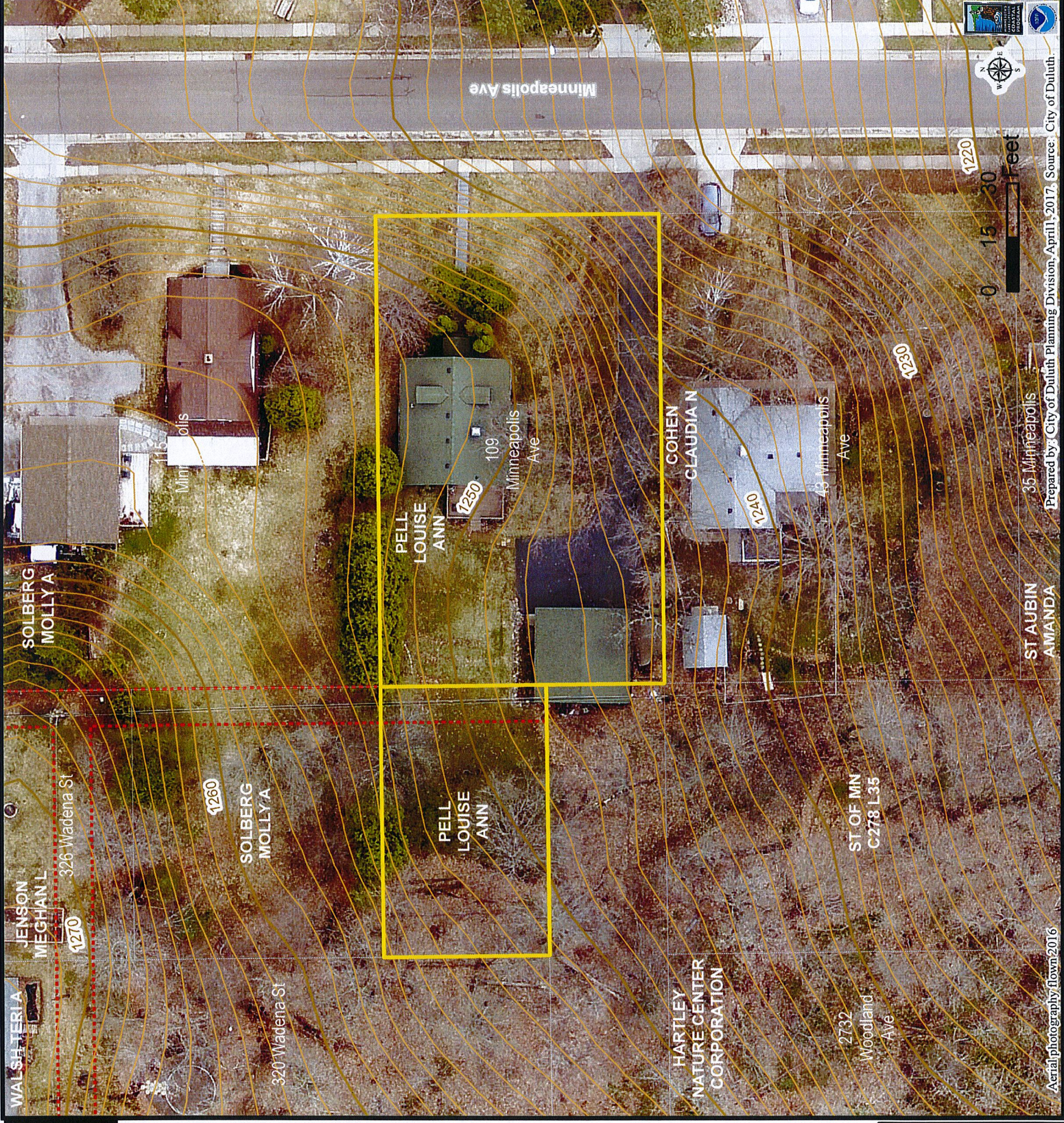
City Planning

109 Minneapolis Ave

Legend

- Bike
- Multi-Use - Paved
- Mountain Biking and X-Country Skiing
- Climbing
- Contours 1 Ft**
- Index**
- Intermediate
- Index
- Trout Stream (GPS)
- Other Stream (GPS)
- Easement Type**
- Utility Easement
- Other Easement

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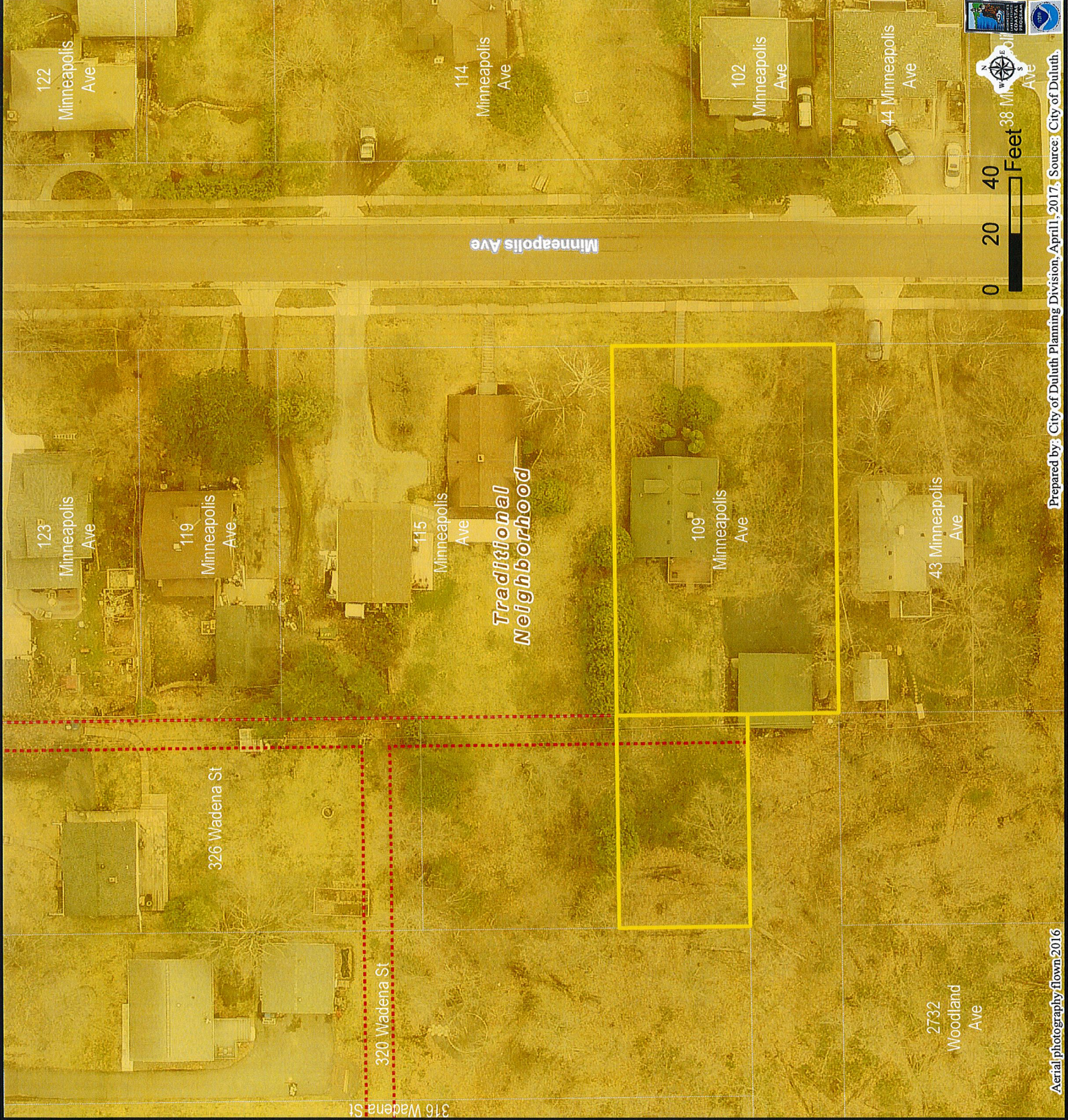
City Planning

109 Minneapolis Ave Future Map

Legend

- Bike
- Multi-Use - Paved
- Mountain Biking and X-Country Skiing
- Climbing
- Trout Stream (GPS)
- Other Stream (GPS)
- Easement Type**
- Utility Easement
- Other Easement
- Future Land Use**
- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

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City Planning

109 Minneapolis Ave
Garage Exhibit

Legend

- Bike
 - Multi-Use - Paved
 - Mountain Biking and X-Country Skiing
 - Climbing
 - Trout Stream (GPS)
 - Other Stream (GPS)
- Easement Type**
- Utility Easement
 - Other Easement

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Aerial photography flown 2016

Prepared by: City of Duluth Planning Division, April, 2017. Source: City of Duluth.



Petition to Vacate Street, Alley, or Utility Easement

Name: Louise Pell

Description of street, alley, or easement to vacate: Easterly 10' only from the end of street easement running E/W along south edge of Mendon hall

My request for this vacation is to (indicate purpose of vacation): To provide required setback for replacement garage construction and existing driveway. Division.

The City of Duluth will not need this street, alley, or easement in the future because: The east end of easement is functionally useless as it passes thru undeveloped woods and terminates in a dead-end into the corner of my back yard.

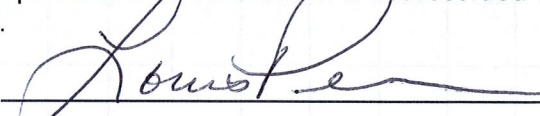
PLEASE TAKE NOTICE: Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Council to vacate the street, alley, or easement described in the attached legal description.

This petition is made upon the following facts and reasons (Identify the factual basis and reasons supporting the petition)¹:

Requesting only vacation of eastern 10' of the dead end of easement allowing replacement construction of damaged garage in close-to existing footprint. This placement coordinates same set-back as required for power line, and allows turn-around space at top of driveway.

This petition is supported by a majority of the person(s) who own a majority of the lineal frontage of the land abutting upon the portion of the public easement proposed to be vacated. A copy of the signatures of these persons is attached hereto and made a part hereof.²

The petitioner(s) agree to provide the city with a plat of the easement(s) as required by Section 50-37.6B(3) of the Duluth City Code upon approval of the vacation. We understand that the vacation cannot occur without the submission of the required plat. We understand that the cost of producing the plat is the responsibility of the petitioner(s). We also understand that the approval will lapse and be of no effect if the plat and clerk certification is not recorded with the county recorder within 90 days after final approval.

Signature(s): 

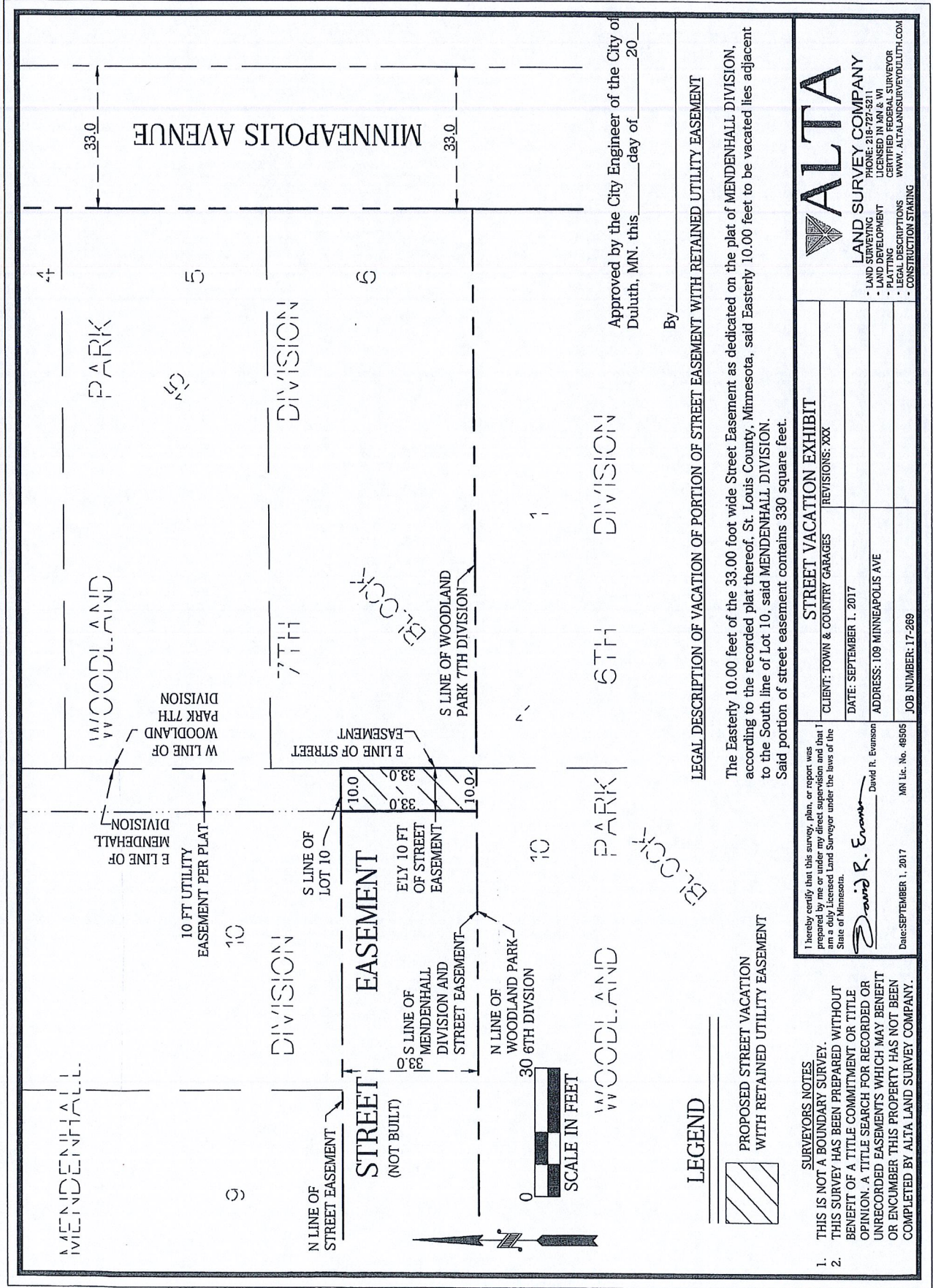
Date: 9-5-17

Notice: This is public data.

¹ In order to vacate a public easement it must be demonstrated that the easement is useless for the purpose for which it was dedicated.

² If a property is owned in joint tenancy or by tenants in common, each individual with an ownership interest will be counted to determine if a majority of owners have signed the petition. An owner cannot sign for another owner unless legally authorized to do so, i.e power of attorney, trustee, or court approved guardianship or conservatorship.

NOT FINAL!



Approved by the City Engineer of the City of Duluth, MN. this ___ day of ___ 20__

By _____

LEGAL DESCRIPTION OF VACATION OF PORTION OF STREET EASEMENT WITH RETAINED UTILITY EASEMENT

The Easterly 10.00 feet of the 33.00 foot wide Street Easement as dedicated on the plat of MENDENHALL DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, said Easterly 10.00 feet to be vacated lies adjacent to the South line of Lot 10, said MENDENHALL DIVISION. Said portion of street easement contains 330 square feet.

PROPOSED STREET VACATION WITH RETAINED UTILITY EASEMENT



SURVEYORS NOTES

1. THIS IS NOT A BOUNDARY SURVEY.
2. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY.

STREET VACATION EXHIBIT

CLIENT: TOWN & COUNTRY GARAGES REVISIONS: XXX
 DATE: SEPTEMBER 1, 2017
 ADDRESS: 109 MINNEAPOLIS AVE
 JOB NUMBER: 17-269

I hereby certify that this survey, plan, 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.
 David R. Evanson David R. Evanson
 MN Lic. No. 46505
 Date: SEPTEMBER 1, 2017



ALTA
 LAND SURVEY COMPANY
 LAND SURVEYING PHONE: 218/727-4311
 LAND DEVELOPMENT LICENSED IN MN & WI
 PLATTING CERTIFIED FEDERAL SURVEYOR
 LEGAL DESCRIPTIONS WWW.ALTAANDSURVEYDULUTH.COM
 CONSTRUCTION STAKING