

**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	PL 16-122		Contact	Jenn Reed Moses, jmoses@duluthmn.gov	
Type	Vacation of Utility Easement		Planning Commission Date		November 15, 2016
Deadline for Action	Application Date		October 12, 2016	60 Days	December 11, 2016
	Date Extension Letter Mailed		October 25, 2016	120 Days	February 9, 2017
Location of Subject		1000 Minnesota Avenue			
Applicant	Lakehead Hotel Partners		Contact		
Agent	N/A		Contact		
Legal Description		See attached			
Site Visit Date		November 7, 2016	Sign Notice Date		October 20, 2016
Neighbor Letter Date		November 3, 2016	Number of Letters Sent		17

Proposal

Application for City to vacate an unused utility easement, as well as a 15' stretch of right of way originally dedicated in 1948 that is undeveloped. The request is in association with a proposed 84 room hotel to be located at this address.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-W	Marina	Commercial Waterfront
North	MU-W	Marina	Institutional
South	MU-W	Hotel	Commercial Waterfront
East	R-1	Marina associated uses	Traditional Neighborhood
West	N/A	Water	N/A

Summary of Code Requirements

Vacation of public rights 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 by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of 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 #7 – Create and maintain connectivity.

Future Land Use – Commercial Waterfront: Waterfront-dependent commercial uses, sometimes mixed with residential or adjacent to higher density residential. Includes tourist- or recreation-oriented uses. Commercial areas can be adjacent to industrial waterfront. Abuts other commercial uses and recreation areas, preservation areas. Access to regional arterial traffic and water access.

History: 10th Street S and St. Louis Avenue were vacated in 1947. At that time, a utility easement was maintained over St. Louis Avenue, and a 30-foot right of way was dedicated (15 feet over property at 1000 Minnesota Avenue and 15 feet over property at 1003 Minnesota Avenue).

Related applications: In 2015, property received an approved Planning Review and Variance to build a hotel. Applicant has received a building permit for the foundation and site work, and has begun construction related to that permit. Applicant expects a full building permit in November 2016.

Review and Discussion Items

Staff finds that:

- 1.) No utilities are located in the utility easement or street proposed for vacation. Most of the utility easement is over the water portion of the marina. City Engineering states that there are no future plans for utilities in this area.
- 2.) The 15' strip dedicated as a street in 1947 was never developed and is too narrow for a public street. The adjacent 15' segment was previously vacated by the neighboring landowner in 2009. Vehicles, pedestrians, and bicyclists will access this property off the proposed driveway on Minnesota Avenue.
- 3.) Based on Findings #1 and #2 above, this area 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.
- 4.) The City has a policy of maintaining pedestrian access to the water; however, this right of way does not connect to the water. It is not and will not be needed to provide pedestrian or recreational access to the water.
- 5.) The right of way is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.
- 6.) One phone call was received from adjacent property owner asking questions about utilities. No other public, agency, or City comments have been received.
- 7.) 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 and retention of a utility easement, with the following conditions:

1. 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 from the provisions of Chapter 50.



City Planning

PL 16-122

1000 Minnesota Avenue

Legend

Water Distribution System

- 30 - 60" Water Pipe
- 16 - 24" Water Pipe
- 4 - 6" Water Pipe

Sanitary Sewer Collection System

- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main
- Storage Basin
- PS Pump Station

Gas Distribution Main

- 8" - 16" Gas Pipes
- 4" - 6" Gas Pipes
- 0" - 4" Gas Pipes

Storm Sewer Collection System

- Storm Sewer Pipe
- Storm Sewer Catch Basin

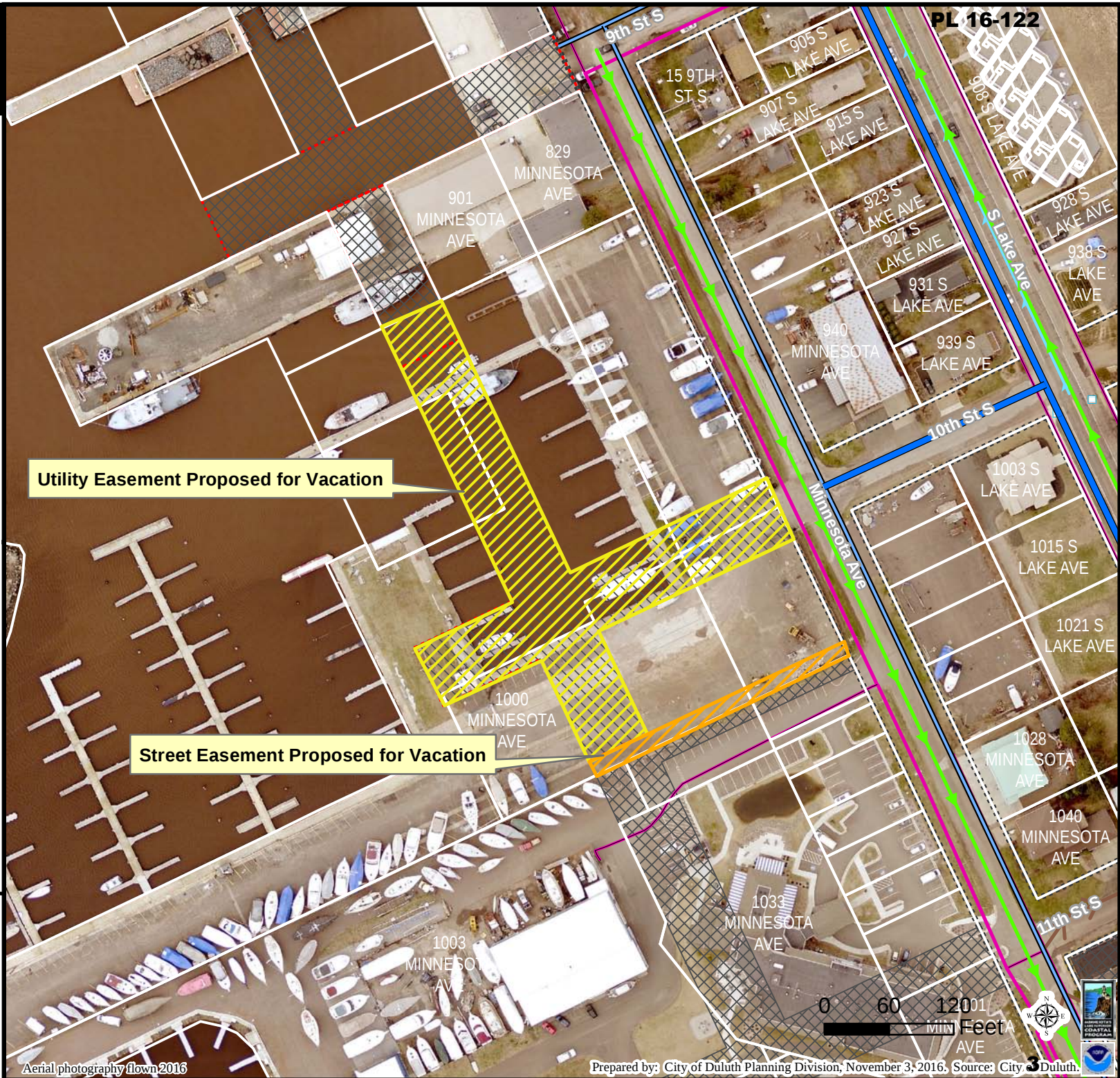
Right-of-Way Type

- Road or Alley ROW
- Vacated ROW

Easement Type

- 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.



Aerial photography flown 2016

Prepared by: City of Duluth Planning Division, November 3, 2016; Source: City of Duluth.

EXHIBIT

VACATION

Description of Utility Easement to be Vacated

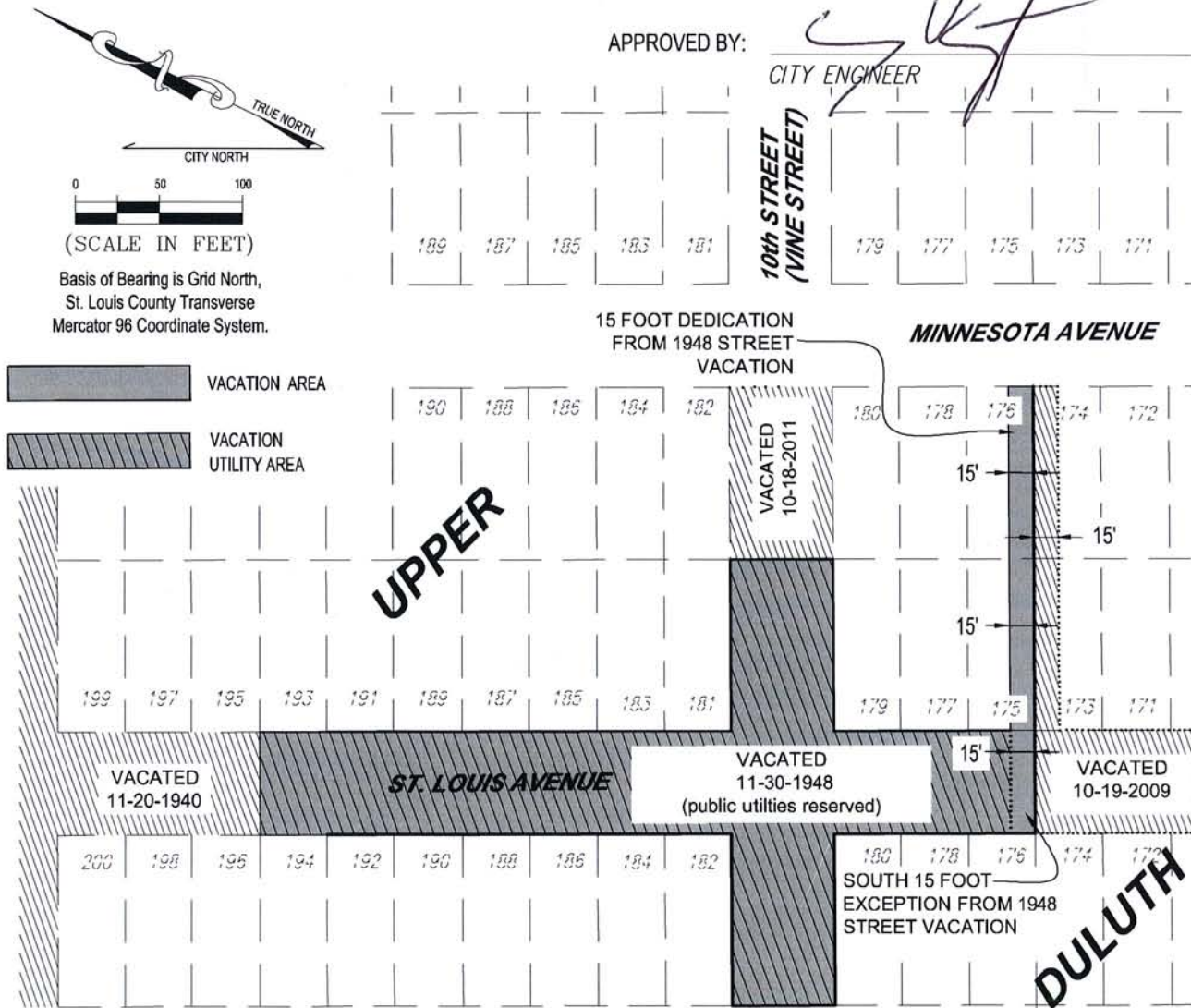
That portion of the platted, vacated easement for St. Louis Avenue lying between a line 15 feet northwesterly of and parallel to the southeasterly line of Lots 175 and 176 and the northwesterly line of Lots 193 and 194, extended, all in St. Louis Avenue, UPPER DULUTH; and

That portion of the platted, vacated easement for 10th Street, a/k/a Vine Street, lying between the northeasterly line of Lots 179 and 181, extended and the southwesterly line of Lots 180 and 182, extended, all in St. Louis Avenue, UPPER DULUTH.

Vacation Description :

The southeasterly 15 feet of Lot 176, Minnesota Avenue, the southeasterly 15 feet of Lot 175, St. Louis Avenue and that portion of platted St. Louis Avenue lying between the southeasterly line of Lots 175 and 176, St. Louis Avenue, extended, and a line 15 feet to the northwest of and parallel to said line, all in UPPER DULUTH.

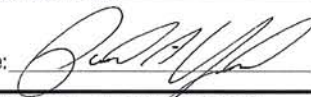
(descriptions as provided by the City of Duluth)



I hereby certify that this plan, specification, 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.

Print Name: Paul A. Vogel

License # 44075

Signature: 

Date: 10/12/2016

REVISED: 10/12/16

DATE PREPARED: 9/29/16

PROJ NO: 160711

FILE: 100335vVACA.

SHEET 1 of 1 SHEETS



PERFORMANCE
DRIVEN DESIGN.
LHBcorp.com

21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.8446