

# CITY OF DULUTH

Community Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 17-059	Contact	John Kelley, 730-5326		
Type	Vacation of Street	Planning Commission Date		May 11, 2017	
Deadline for Action	Application Date	April 3, 2017	60 Days	June 2, 2017	
	Date Extension Letter Mailed	April 18, 2017	120 Days	August 1, 2017	
Location of Subject	3117 Wellington Street				
Applicant	John A. Caruth Sr.	Contact	218-391-7858		
Agent	N/A	Contact	N/A		
Legal Description	SEE ATTACHED				
Site Visit Date	May 2, 2017	Sign Notice Date		April 25, 2017	
Neighbor Letter Date	April 27, 2017	Number of Letters Sent		27	

## Proposal

Applicant is requesting the City vacate an unimproved portion of Atlantic Avenue in the Lincoln Park neighborhood and maintain a pedestrian and utility easement over the entire length of the portion to be vacated.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Traditional Neighborhood
<b>North</b>	R-1	Residential	Traditional Neighborhood
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	R-1	Residential	Traditional Neighborhood
<b>West</b>	R-1	Residential	Traditional Neighborhood

## 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.

470-1

### **Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable):**

Governing Principle #7 – Create and maintain connectivity. Connectivity is established through our streets and highways, transit system, sidewalks, bikeways and trails, (local and regional). The non-vehicular modes should be considered other than recreation. They are important component of an overall transportation system. Winter maintenance of sidewalks and other public ways is critical to creation of usable pedestrian systems.

Future Land Use - Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home businesses. Parks and open space areas are scattered through or adjacent to the neighborhood.

### **Review and Discussion Items**

- 1.) The applicant is requesting the City vacate a platted street adjacent to the applicant's property. Street has never been developed to City street standards; it contains a driveway shared by the adjacent property owner to the west. The adjacent property owner has signed the petition in support of this vacation.
- 2.) A gas and water line runs through the portion of the street to be vacated. City Engineering plans to relocate this gas line in summer 2017, and the City Utilities Engineer has indicated support for this proposal.
- 3.) The City would maintain a pedestrian and utility easement over the entire length of the vacated portion of Atlantic Avenue.
- 4.) With retention of an easement, this right of way is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.
- 5.) Staff received two emails regarding the vacation proposal (see attached). No other public, agency, or City comments were received.
- 6.) Vacations of rights of way and easements 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 and retention of a utility and pedestrian 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

C-2





**City Planning**  
PL 17-059  
3117 Wellington Street  
Vacation of ROW  
Zoning Map

### Legend

- Zoning Boundaries**
- Zoning Boundaries**
- Right-of-Way Type**
- ..... Road or Alley ROW
- Vacated ROW



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 the information contained within.

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**City Planning**  
PL 17-059  
3117 Wellington Street  
Vacation of ROW  
FLU Map

## Legend

### Right-of-Way Type

- ..... Road or Alley ROW
- XXXX Vacated ROW

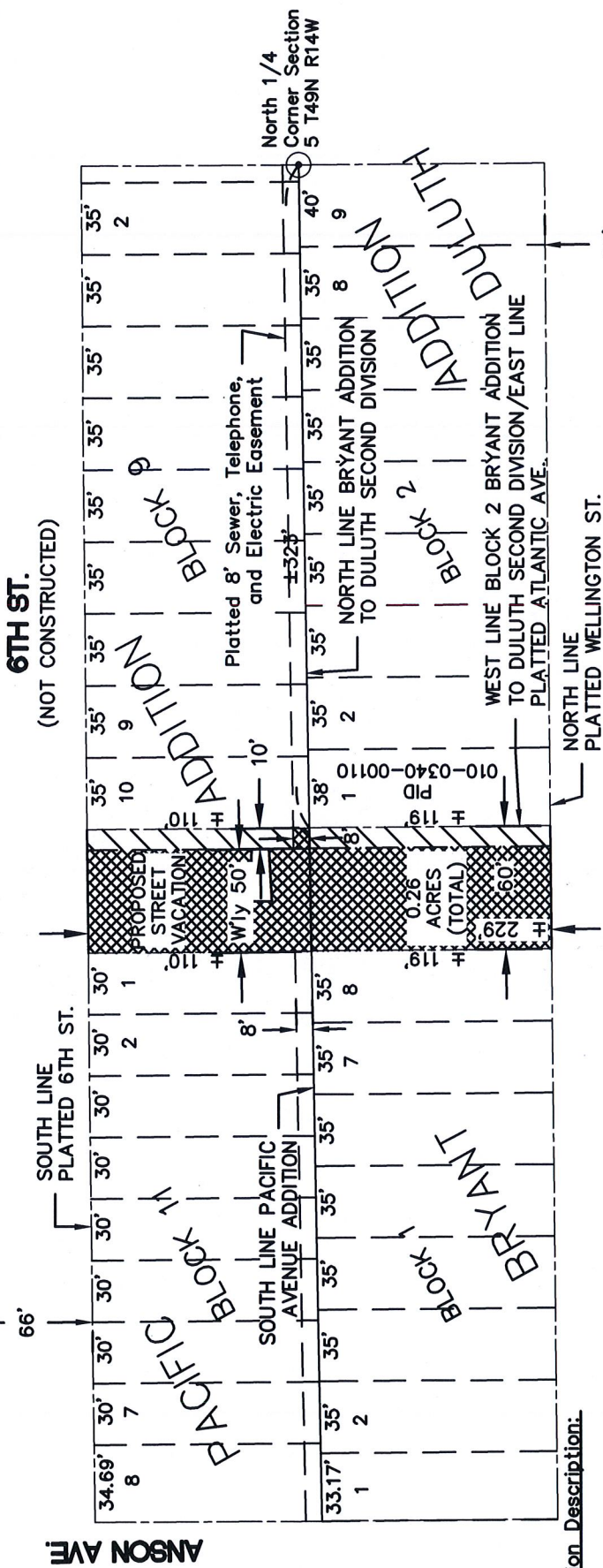
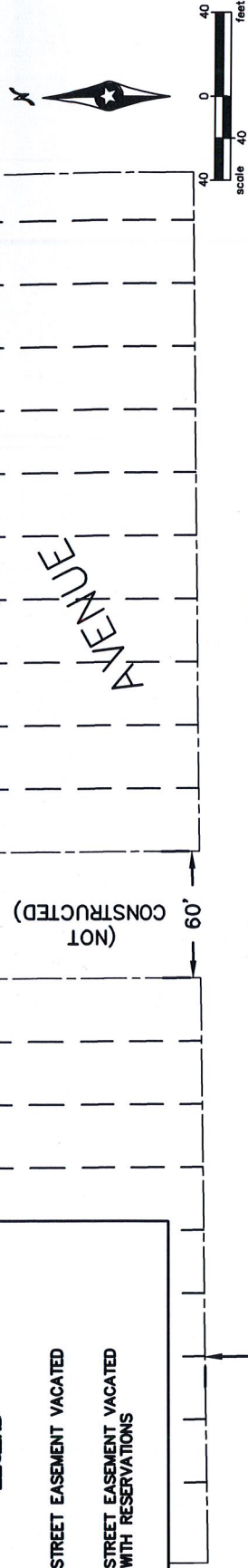
### Future Land Use

- 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





LEGEND



Vacation Description:

All that part of the platted Right Of Way of Atlantic Avenue lying Southerly of the South line of platted 6th Street according to the recorded Plat of PACIFIC AVE. ADDITION, and northerly of the North line of platted Wellington Street according to the recorded plat of BRYANT ADDITION TO DULUTH SECOND DIVISION, St. Louis County, Minnesota; RESERVING, however, an easement for pedestrian and public utility purposes over, under, and across the westerly 50 feet thereof; and further RESERVING an easement for public utility purposes over, under, and across that part of said Atlantic Avenue lying within the S'ly 8 feet of PACIFIC ADDITION except the W'ly 50 feet thereof.

DRAWN BY: ACO  
CHECKED BY: CAL  
SURVEYED BY: N/A

Signature: \_\_\_\_\_  
Printed Name: Chris A. Larsen, L.S. Date: 03/15/17

PHONE: 218.279.3000  
418 W SUPERIOR ST  
SIE 200  
DULUTH, MN  
55802-1512  
www.sehinc.com

NO.	BY	DATE	REVISIONS
1	CAL	4/24/17	Easement reservation expanded.

I hereby certify that this street vacation exhibit has been checked and approved this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signature: \_\_\_\_\_ City Engineer  
Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

ATLANTIC AVENUE  
STREET VACATION  
DULUTH, MN

FILE NO.  
DUCON 141129  
DATE  
03/15/2017  
SHEET  
1 OF 1

## John Kelley

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**From:** Tim Larson <tslduluth9@gmail.com>  
**Sent:** Saturday, April 29, 2017 7:14 PM  
**To:** John Kelley  
**Subject:** spoke with John Caruth at 3117 Wellington

Dear Mr. Kelley,

Just now I was able to talk with John Caruth, who reassured me about the easement he plans. He tells me I will still be able to park my car behind my home.

If that is the case, I have no problem with the proposed changes to Atlantic Avenue above Wellington Street.

Sincerely,  
Tim Larson  
3113 Wellington Street  
(218) 724-6963



## John Kelley

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**From:** Tim Larson <tslduluth9@gmail.com>  
**Sent:** Friday, April 28, 2017 2:37 PM  
**To:** John Kelley  
**Subject:** proposed vacation of street at 3117 Wellington Street

Dear Mr. Kelley,

Thank you for the advance notice of the public hearing on May 9 regarding vacation of a right-of-way.

I wonder if you could clarify what is at stake. Is my neighbor, John Caruth, Sr., proposing to vacate the driveway/alley that runs behind the homes at 3117, 3115, and 3113 Wellington? Or is he requesting to have the dead-end portion of Atlantic Avenue that runs beside his home vacated?

I am naturally concerned, as I purchased my home at 3113 Wellington Street six-and-one-half years ago with the understanding that my home has alley access from Atlantic Avenue and that I would have off-street parking. Not having off-street parking would be a hardship for me.

I also have looked into purchasing 3115 Wellington Street after the currently renting tenants conclude their lease later this summer. While I have not decided about that purchase for sure, the fact that this home next door to mine comes with a recently rebuilt garage is an attractive feature for me.

The proposed closing of an easement does not come entirely as a surprise to me now. I know that Mr. Caruth acquired land behind my home a few years ago; and I was recently advised by the planning department that I would need to negotiate a permanent easement with Mr. Caruth if I hoped to build a garage on my own property.

I would really prefer to find some way where I could continue to have off-street parking. The hill on Wellington Street in front of my home is steep, and cars parked on the street are vulnerable to vandalism. While I, personally, have only experienced one incident with the kids from the middle school up the street (kids throwing rocks at my house), we have seen a number of crimes lately in the neighborhood associated with students at the middle school. I would prefer not to have to park my car on the street in front of my home.

I wonder if some sort of arrangement or settlement might be possible with Mr. Caruth. I may try talking with him before the hearing.

If you have answers to my question about the location of the proposed easement vacation, as well as any other advice or suggestions, I would appreciate your reply.

Respectfully,  
Tim Larson  
3113 Wellington Street  
Duluth, Minnesota 55806

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