



## 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

<b>File Number</b>	PL 16-151	<b>Contact</b>	Jenn Reed Moses, 730-5328
<b>Type</b>	Vacation of Street	<b>Planning Commission Date</b>	February 14, 2017
<b>Deadline for Action</b>	<b>Application Date</b>	January 30, 2018	<b>60 Days</b> March 31, 2017
	<b>Date Extension Letter Mailed</b>	February 1, 2017	<b>120 Days</b> May 30, 2017
<b>Location of Subject</b>	4801 Peabody Street		
<b>Applicant</b>	James Benning	<b>Contact</b>	218-343-8147
<b>Agent</b>	N/A	<b>Contact</b>	N/A
<b>Legal Description</b>	SEE ATTACHED		
<b>Site Visit Date</b>	February 2, 2017	<b>Sign Notice Date</b>	January 31, 2017
<b>Neighbor Letter Date</b>	February 1, 2017	<b>Number of Letters Sent</b>	57

### Proposal

Applicant is requesting the City vacate the entire width of 48<sup>th</sup> Avenue E in Lakeside, maintaining a pedestrian and utility easement over the western 56'. No portion of the alley behind the property will 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.

**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 two adjacent property owners, both of which have signed the petition in support of this vacation.
- 2.) 48<sup>th</sup> Avenue E has already been vacated on the adjacent half block to the north. The alley has not been vacated, so this application does not propose to vacate any part of the alley.
- 3.) A gas 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.
- 4.) The City would maintain a pedestrian and utility easement over the western 56', which will meet needs for the relocated gas line and line up with the pedestrian easement to the north of the right of way.
- 5.) 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.
- 6.) No other public, agency, or City comments were received.
- 7.) 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 of the utility easement, with the following condition:

- 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.





# City Planning

PL 16-151: Vacation  
4801 Peabody Street

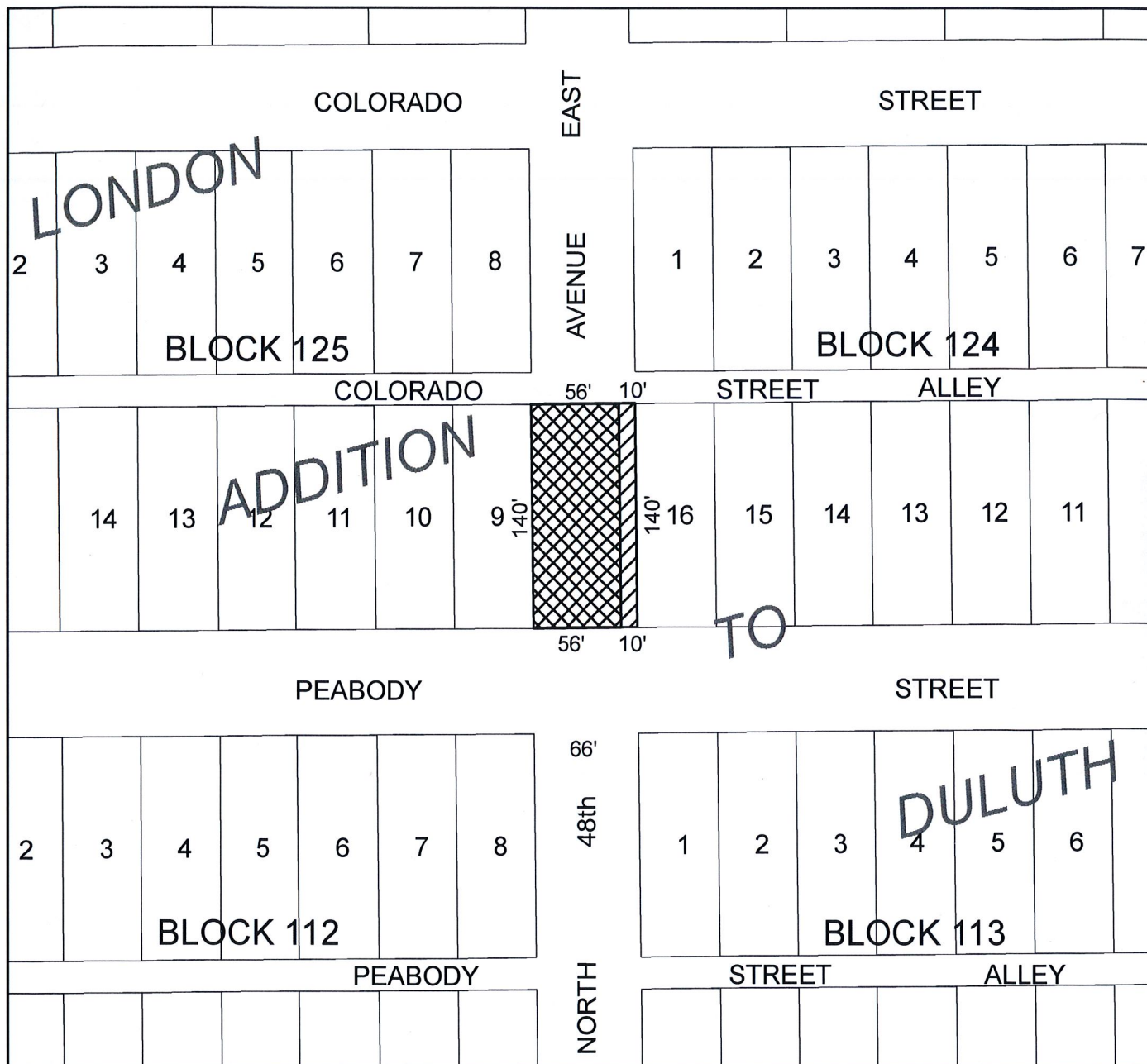
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used 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



# Exhibit A



Vacation of Right of Way with  
Pedestrian and Utility Easement retained



Vacation of Right of Way

0 100  
Feet



Legal Description: A vacation of all of that part of platted Vail Avenue, also known as North 48th Avenue East, from the north line of Peabody Street to the south line of Colorado Street Alley, located in LONDON ADDITION TO DULUTH, retaining the westerly 56' as a pedestrian and utility easement.

*[Signature]*

APPROVED BY CITY ENGINEER

1-30-17

DATE