PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-0403R

RESOLUTION VACATING PORTIONS OF PLATTED UTILITY EASEMENT AT 323 PLUM STREET(GEORGE MENEELY)

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described below in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider same in public hearing and the city planning commission found that the petitioned easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, July 10, 2012, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the utility easement described below and as described and depicted on Public Document No. _____:

That part of the East 10.00 feet of Lot 28, Block 1, Lepak's Second Addition, Saint Louis County, Minnesota, lying southerly of the North 10.00 feet.

(e) That the city clerk is, pursuant to Section 100 (b)(7) of the Home Rule Charter of the city of Duluth, 1912, as amended, authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County,

Minnesota, a certified copy of this resolution and Public Document No. _____ showing the utility easement to be vacated.

Approved as to form:

Attorney

PC:PLNG JRM:eu

STATEMENT OF PURPOSE: This resolution vacates a utility easement located at 323 Plum Street. This easement has never been used for public purposes.

On July 10, 2012, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, and 0 abstentions to recommend that the city council approve the vacation.

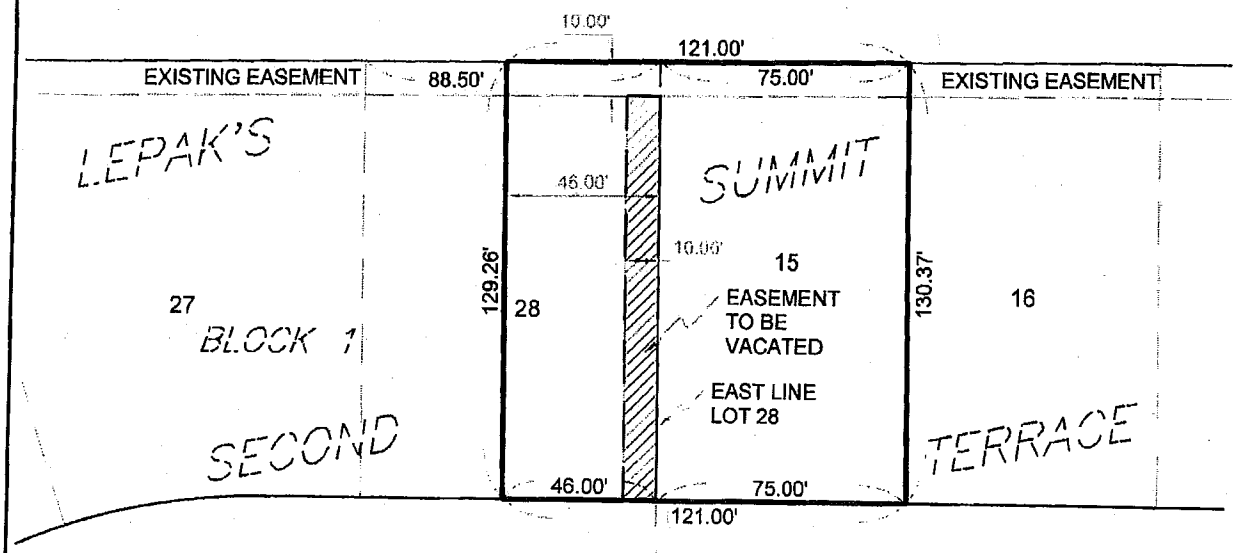
The motion to approve the vacation by the city council must prevail with at least six affirmative votes.

Petition Received: June 6, 2012
Action Deadline: There is no action deadline for this resolution.

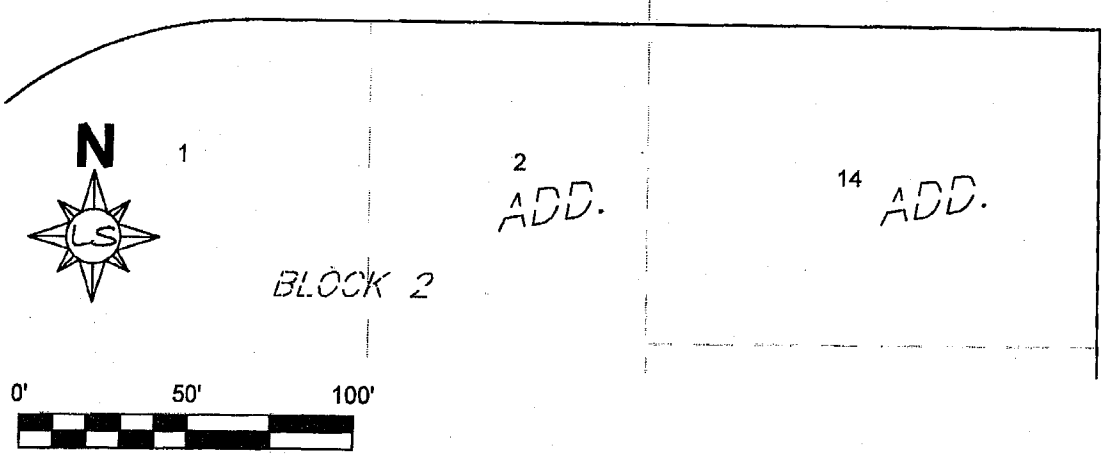
Petitioner:
George Meneely
323 Plum Street
Duluth, MN 55811

PL 12-099

EXHIBIT A



PLUM STREET



LEGAL DESCRIPTION:

That part of the East 10.00 feet of Lot 28, Block 1, Lepak's Second Addition, Saint Louis County, Minnesota, lying southerly of the North 10.00 feet.

GEORGE MENEELY **323 PLUM STREET** **DULUTH, MN 55811-2731** **E. 46' L. 28, B. 1, LEPAK'S SEC. ADD. & LOT 15, SUMMIT TERRACE ADD., CITY OF DULUTH, ST. LOUIS CO., MN**	Norman B. Livgard Registered Land Surveyor 6115 Wilderness Ridge Saginaw, MN 55779 Tele: 218-729-6785 Cell: 218-390-6787	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. Norman B. Livgard , MN License Number 40725 Date: 6-19-12

III.C.4

CITY OF DULUTH
Planning Division

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

STAFF REPORT

File Number	PL 12-099		**Contact**	Jenn Reed Moses, jmoses@duluthmn.gov	
Application Type	Vacation of Utility Easement		**Planning Commission Date**	July 10, 2012	
Deadline for Action	**Application Date**	June 6, 2012	**60 Days**	August 5, 2012	
	Date Extension Letter Mailed	June 21, 2012	**120 Days**	October 4, 2012	
Location of Subject	323 Plum Street				
Applicant	George Meneely		**Contact**	gmeneely@charter.com	
Agent			**Contact**		
Legal Description	See attached				
Site Visit Date	June 25, 2012		**Sign Notice Date**	June 26, 2012	
Neighbor Letter Date	June 19, 2012		**Number of Letters Sent**	44	

Proposal

Application to vacate utility easement that runs north-south through applicant's property.

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

Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements requires 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.

Code Requirements are found in the UDC Section 50-37.6. The planning commission shall review the proposed vacation, and 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.

Essentially, the standard for evaluating vacations is "uselessness," that the proposed easement is not needed for the purposes for which it was dedicated.

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

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.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

Staff finds that:

1) Property contains existing house and garage. Garage crosses utility easement.

2) No utilities are located in the easement requested to be vacated.

3) Another easement across the north property line contains Minnesota Power lines; this easement is not proposed for vacation.

4) This unimproved alley 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; the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

5) Comments received: Several neighbors called with questions about the vacation process and whether vacating a utility easement would affect their property. Minnesota Power confirmed that there are no utilities in this easement, but that utilities are located in a separate easement on the rear of the property.

6) Vacations of streets lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. The Duluth City Clerk facilitates the recording process.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, Staff recommends that Planning Commission recommend approval to City Council of the petition to vacate the utility easement with the following condition:

1) Vacation goes into effect after being recorded at the County Recorder's office. Applicant will work with Duluth City Clerk's office if needed to assist in the recording process.

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

City Planning

George Meneely
323 Plum Street
Vacaton

Legend

- Trout Stream (GPS)
- Other Stream (GPS)

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
- 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
- Discharge_Points

Right-of-Way Type

- Road or Alley ROW

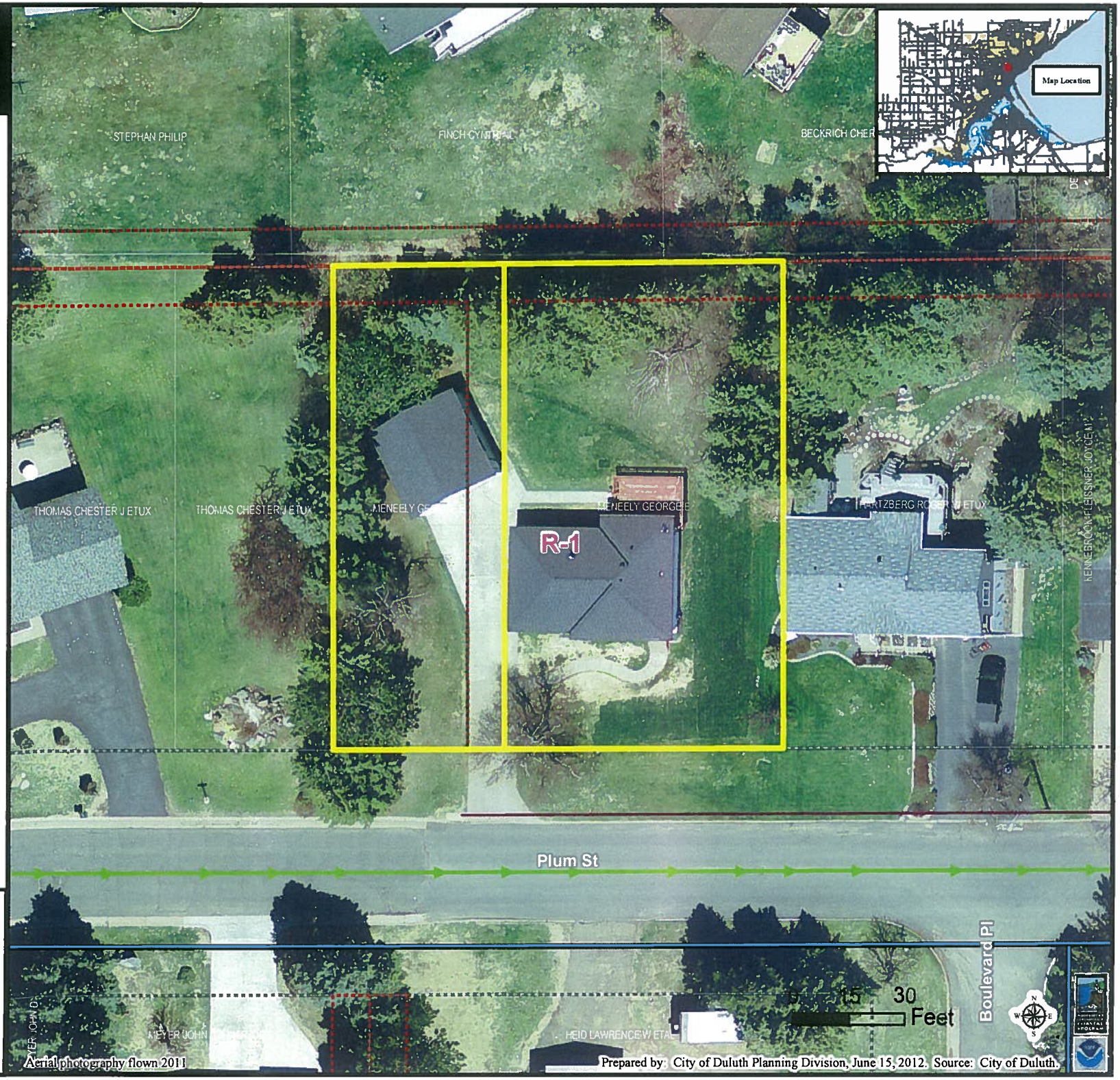
Easement Type

- Utility Easement
- Other Easement
- Zoning (Final)

Shoreland Overlay Zone

- Cold Water
- Natural Environment
- General Development

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.



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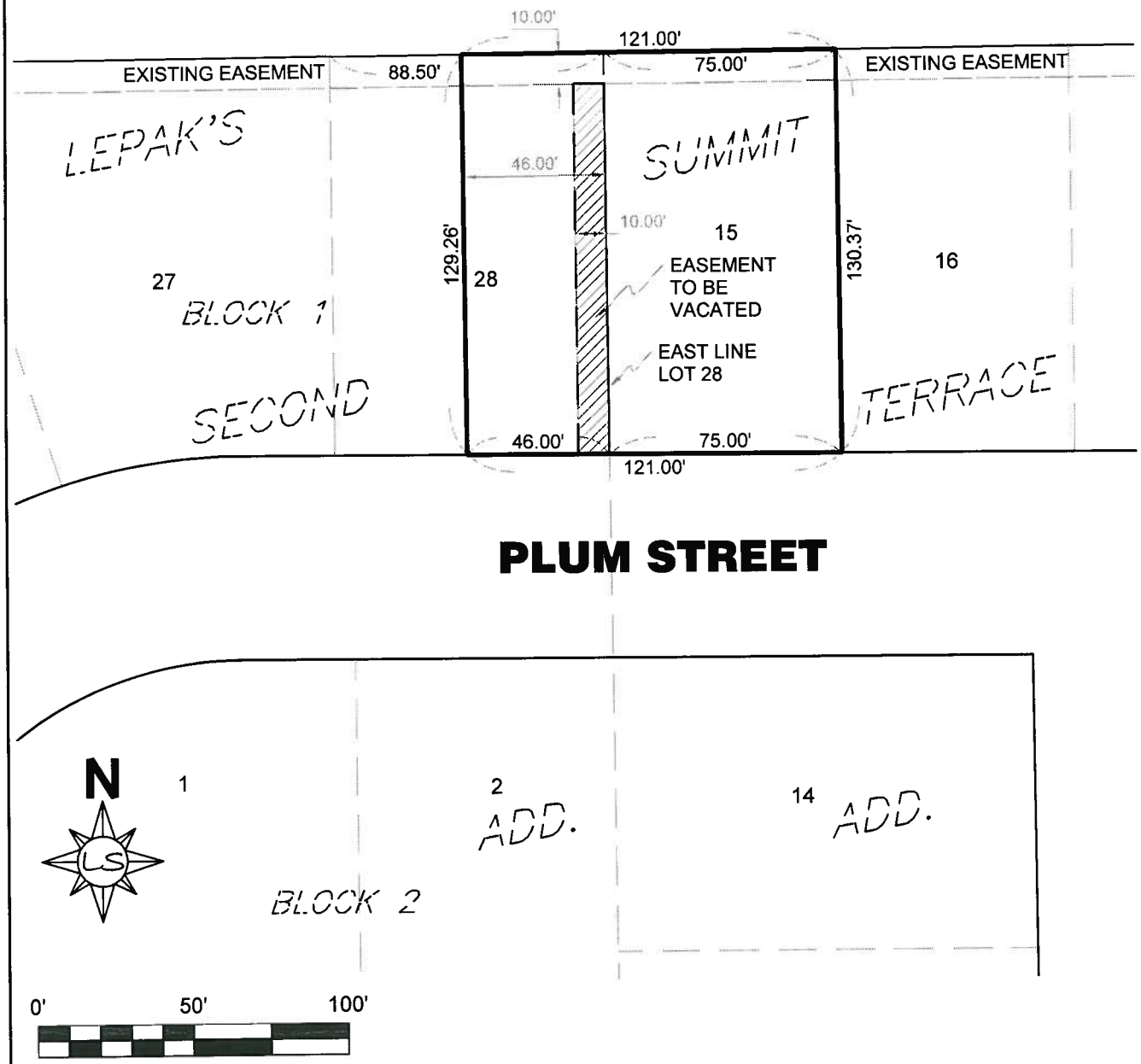

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III.C.4

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