



**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

<b>File Number</b>	PL 23-109	<b>Contact</b>	Kyle Deming	
<b>Type</b>	Vacation of part of a Utility Easement	<b>Planning Commission Date</b>	July 11, 2023	
<b>Deadline for Action</b>	Application Date	June 7, 2023	<b>60 Days</b>	N/A
	Date Extension Letter Mailed	N/A	<b>120 Days</b>	N/A
<b>Location of Subject</b>	3705-3829 London Rd. (Congdon)			
<b>Applicant</b>	London East, LLC	<b>Contact</b>	Ted Stocke	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	All that part of the NWly 3 feet of Lots 3-26, Block 1, London East (see attached Exhibit)			
<b>Site Visit Date</b>	June 5, 2023	<b>Sign Notice Date</b>	June 26, 2023	
<b>Neighbor Letter Date</b>	June 29, 2023	<b>Number of Letters Sent</b>	31	

**Proposal:** Vacation of part of a utility easement for construction of a retaining wall.

**Staff Recommendation**

Approval of the vacation, with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Undeveloped/dwellings	Traditional Neighborhood
<b>North</b>	R-1	Railroad	Traditional Neighborhood
<b>South</b>	MU-N	Apartment buildings	Urban Residential
<b>East</b>	R-1	Undeveloped	Traditional Neighborhood
<b>West</b>	R-1	Undeveloped	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.

UCD Sec. 50-37.6.C – 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. 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):**

Housing Strategy 5 - Foster opportunities for creative housing types and concepts, including tiny houses, townhomes, housing for individuals in Duluth on a temporary basis, and passive energy homes. This project fosters opportunities for creative housing type and concepts because it includes single-family detached and twin homes with unique amenities such as roof terraces.

Zoning – Residential-Traditional (R-1) - Established to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots. This district is intended to be used primarily in established neighborhoods. Many of the dimensional standards in this district require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas. The overall project includes both single-family detached residences and twin homes (a form of duplex).

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. .... Includes many of Duluth 's older neighborhoods, infill projects, neighborhood extensions, and new traditional neighborhood areas. Residential unit density of 4 -8 units/acre with a mix of housing types (i.e. town homes and 4-plexes) at corners. This project includes dwellings with shorter dimension to the street and includes a mix of single-family detached and twin homes.

**History:**

1. April 14, 2020 – Variance to reduce rear yard setback by 5 feet (PL 20-016) approved by Planning Commission;
2. April 14, 2020 – Vacate utility easement in former 38<sup>th</sup> Ave. E. (PL 20-027, Resolution 20-0470R);
3. April 14, 2020 – Preliminary Plat of London East (PL 20-035) approved by Planning Commission.
4. April 29, 2020 – Approval of Wetland Replacement Plan (PL 20-017) by City Land Use Supervisor;
5. June 9, 2020 – Final Plat approval (PL20-058) approved by Planning Commission;
6. June 14, 2022 – Variance to allow four 40-foot-tall one-family dwellings on certain lots in London East plat;
7. May 9, 2023 – Variance to building height at 3801-3803, 3805-3807, 3809-3811 London Rd. approved by Planning Commission.

**Review and Discussion Items**

Staff finds:

1. The proposal is to vacate a 3-foot-wide by 895-foot-long section of a utility easement to enable construction of a retaining wall. The location is along the northeast property boundary (rear lot line) behind existing or to be constructed dwellings in the London East housing development.
2. The 20-foot-wide utility easement was dedicated in 2022 to provide a location for the City to install a natural gas main to provide gas to each dwelling.
3. The portion of the utility easement proposed for vacation is not needed for utility purpose according to the Chief Engineer for Utilities. They have indicated the vacation will not compromise the function of the gas main located in the remaining easement.
4. No other comments have been received on the proposed vacation.
5. 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 Planning Commission recommend to City Council approval of the easement vacation, as petitioned, with the following conditions:

1. The Council approve the vacation with at least a 6/9's vote.
2. The vacation must be recorded within 90 days of final approval by City Council, or such approval will lapse.



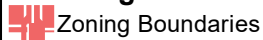
PL 23-109

Vacate 3 foot wide section of Utility Easement  
Applicant: London East LLC

Area Map



Legend



Zoning Boundaries

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 2022

Prepared by: City of Duluth Planning & Economic Development, June 27, 2023. Source: City of Duluth.



PL 23-109

Vacate 3 foot wide section of Utility Easement  
Applicant: London East LLC

### Area Map



**Legend**

**Future Land Use**

- Open Space
- Traditional Neighborhood
- Urban Residential
- Institutional

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PL 23-109

Vacate 3 foot wide section of Utility Easement  
Applicant: London East LLC

### Site Map

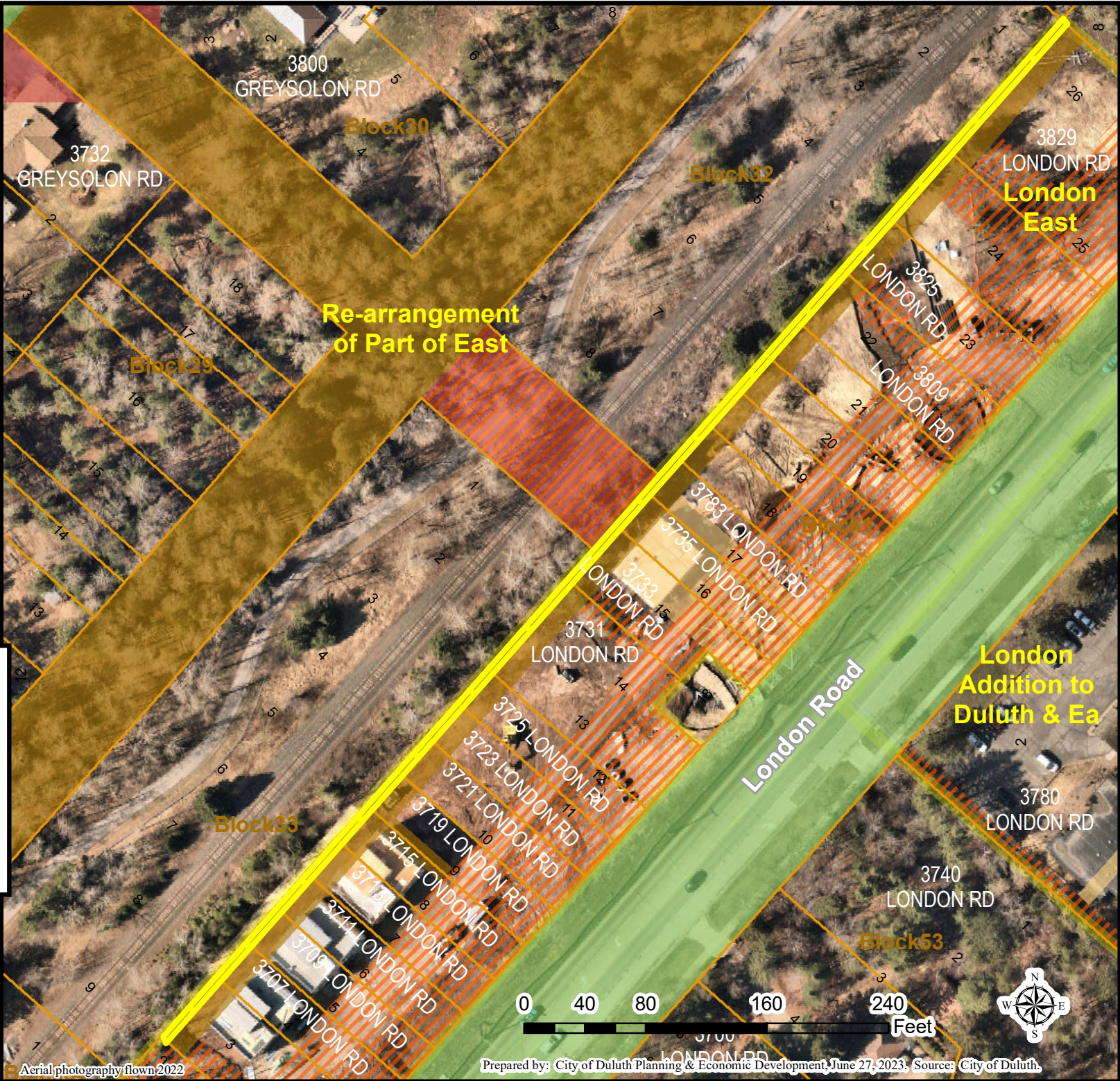
#### Parcels

- Lots
- Blocks
- Undefined ROW Status

#### ROW Status

- ▨ Utility, Active
- ▨ Road, Active - currently in use
- ▨ Utility, Vacated - via recorded doc.
- ▨ Road, Vacated - vacated
- ▨ Subdivision Boundaries

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**UTILITY VACATION DESCRIPTION:**

ALL THAT PART OF THE NORTHWESTERLY 3 FEET OF LOTS 3 THROUGH 26, BLOCK 1, LONDON EAST, ACCORDING TO THE PLAT ON FILE AND OF RECORD IN THE OFFICE OF THE COUNTY RECORDER, ST. LOUIS COUNTY, MINNESOTA, BEING A PART OF THE UTILITY EASEMENT RECORDED IN THE OFFICE OF THE COUNTY RECORDER, ST. LOUIS COUNTY, MINNESOTA, ON APRIL 25TH, 2023 AS DOCUMENT NUMBER 01465495.

I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

[Signature] 6/28/2023 49907  
CURTIS E. SCHLEY DATE REGISTRATION NO.

**CITY ENGINEER:**

APPROVED BY THE CITY ENGINEER OF THE CITY OF DULUTH, MINNESOTA THIS 28th DAY OF JUNE 2023

BY [Signature]

THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH AND DOES NOT PURPORT TO SHOW ALL EASEMENTS OR ENCUMBRANCES OF RECORD.

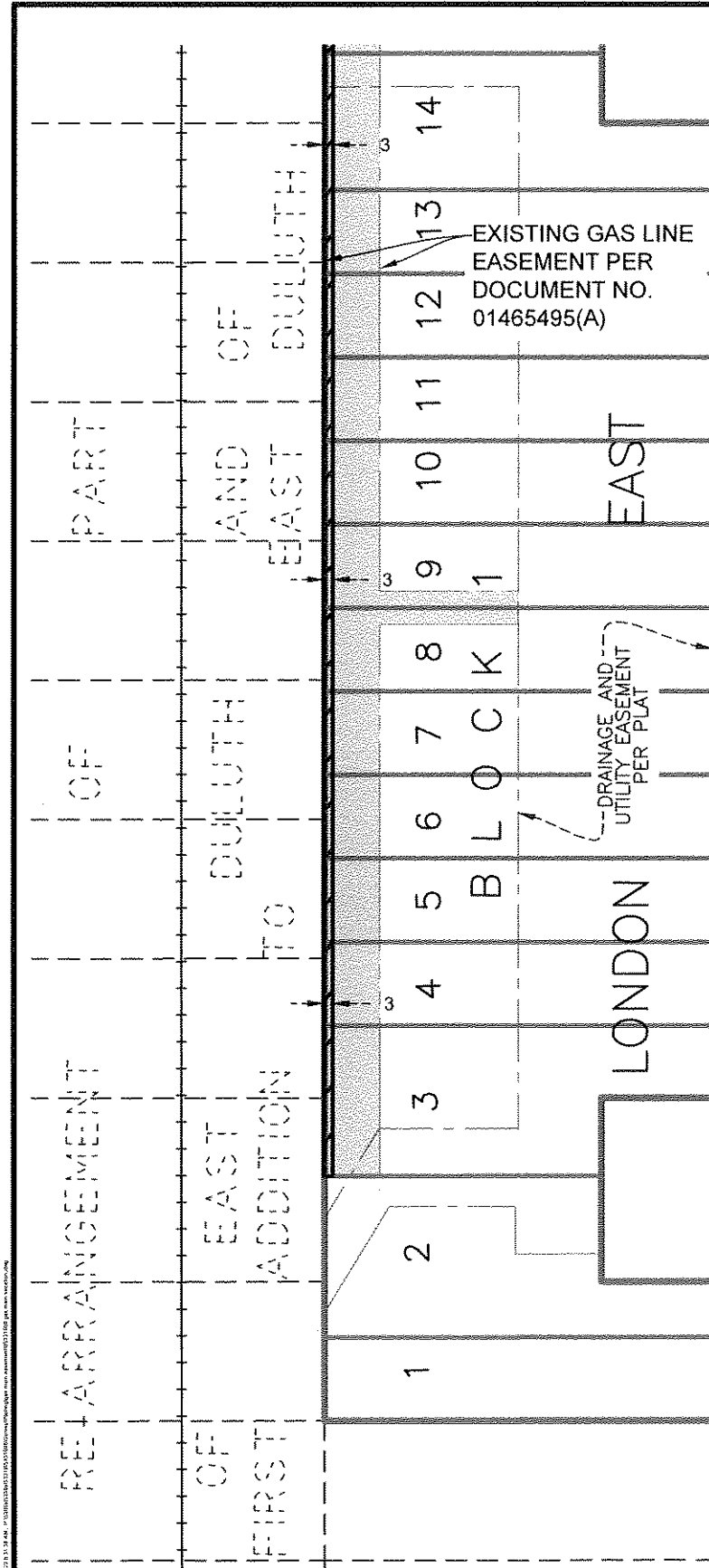


LONDON EAST  
TED STOCKE  
ST. LOUIS COUNTY, MINNESOTA

UTILITY  
VACATION

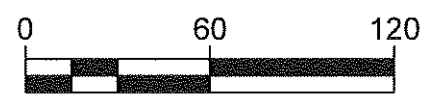
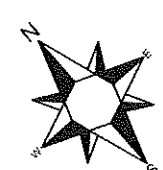
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1 OF 3

PL 10 STATE ENGINEER REG. DIV. ST. LOUIS COUNTY, MINNESOTA



LONDON ROAD

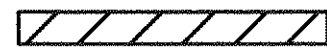
CURB AND GUTTER



1 INCH = 60 FEET

**LEGEND**

UTILITY EASEMENT  
AREA TO BE VACATED



EXISTING GAS LINE EASEMENT



RIGHT-OF-WAY LINE



UNDERLYING PARCEL LINE



CURRENT LOT LINE

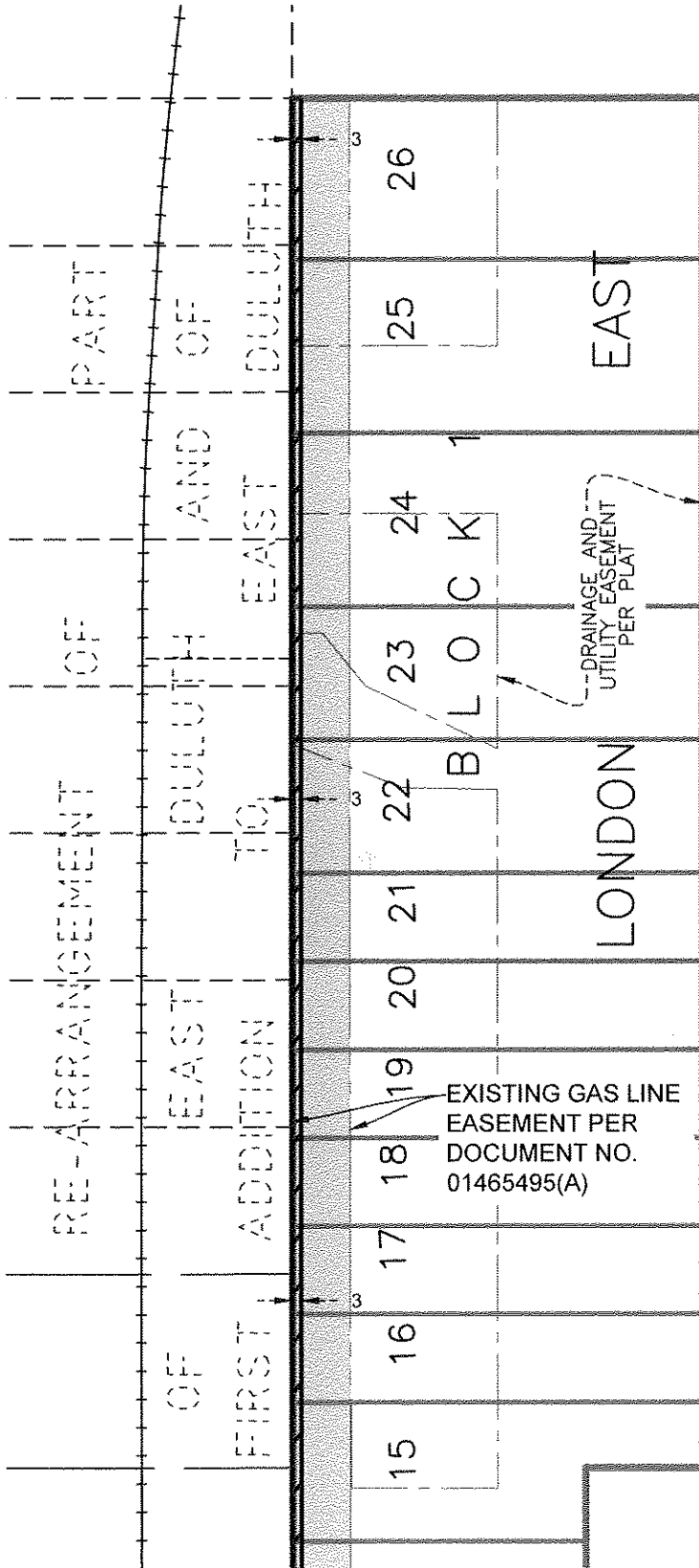


LONDON EAST  
TED STOCKE  
ST. LOUIS COUNTY, MINNESOTA

UTILITY  
VACATION

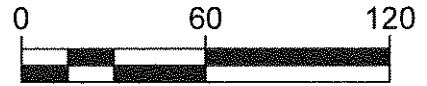
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LONDON ROAD

CURB AND GUTTER



1 INCH = 60 FEET

### LEGEND

UTILITY EASEMENT  
AREA TO BE VACATED



EXISTING GAS LINE EASEMENT



RIGHT-OF-WAY LINE

UNDERLYING PARCEL LINE

CURRENT LOT LINE



LONDON EAST  
TED STOCKE  
ST. LOUIS COUNTY, MINNESOTA

UTILITY  
VACATION

REVISION  
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3 OF 3