



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

File Number	PL 23-095	Contact	Kyle Deming	
Type	Vacation of Building Line Easement	Planning Commission Date		June 13, 2023
Deadline for Action	Application Date	May 11, 2023	60 Days	N/A
	Date Extension Letter Mailed	N/A	120 Days	N/A
Location of Subject		24xx E. Superior St. (Congdon)		
Applicant	Don and Laura Ness	Contact		
Agent		Contact		
Legal Description		All that part of the 30-foot-wide building line easement was created in that document recorded in Condemnation Plat No. 1, Page 195, filed with the St. Louis County Register of Deeds on July 20, 1904 lying across the Northerly 30 feet of the Easterly 49 feet of Lot 4, Block 19, HARRISON'S DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.		
Site Visit Date	May 25, 2023	Sign Notice Date		May 27, 2023
Neighbor Letter Date	May 25, 2023	Number of Letters Sent		32

Proposal: Vacate a 30-foot-wide building line easement along the front property line that requires all structures to be located outside of the easement.

Staff Recommendation

Approval with conditions.

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

Summary of Code Requirements

Vacation of public rights of way and/or easements require a Planning Commission public hearing and 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):

Governing Principles and Policies:

The following Imagine Duluth 2035 Governing Principles should be considered when reviewing the request:

- Governing Principle #9 – Support private actions that contribute to the public realm. Vacation will allow for a reasonable use of the lot to support community housing needs.
- Housing Policy #2 - Provide affordable, attainable housing opportunities. The vacation will support development of a dwelling to provide needed housing for the community.

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.

History:

- September 9, 1887 – Harrison's Division plat was filed at the Courthouse.
- July 20, 1904 – Condemnation plat was filed establishing the 30-foot-wide building line easement.
- July 13, 2021 – Planning Commission approval of Minor Subdivision of land proposed by Duluth Women's Club that created the subject parcel (PL 21-082).

Review and Discussion Items

1. The proposal is to vacate a "Building Line Easement" along the front of the lot as a result of a condemnation action in 1904.
2. A building line easement requires that no buildings are allowed to be constructed within the easement area. As traditional land use zoning did not exist at the time, this was a method to regulate building placement.
3. This building line easement is no longer needed as the public health, safety, or welfare of the citizens of Duluth are protected by the Unified Development Chapter that regulates building placement.
4. Vacations lapse unless they are 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 petitioned building line easement vacation 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 23-092

Variance to Front Yard Setback

PL 23-095

Vacation of Building Line Easement

Applicant: Don and Laura Ness

Area Map

Legend

Parcels



Lots



Blocks

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Aerial photography from 2020

Prepared by: City of Duluth Planning & Economic Development, May 24, 2023. Source: City of Duluth.



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Variance to Front Yard Setback

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Vacation of Building Line Easement

Applicant: Don and Laura Ness

Future Land Use Map

Legend

Future Land Use

 Traditional Neighborhood

Parcels

 Lots

 Blocks

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PL 23-092

Variance to Front Yard Setback


PL 23-095

Vacation of Building Line Easement

Applicant: Don and Laura Ness


Site Map

Legend


 Zoning Boundaries

Parcels

 Lots

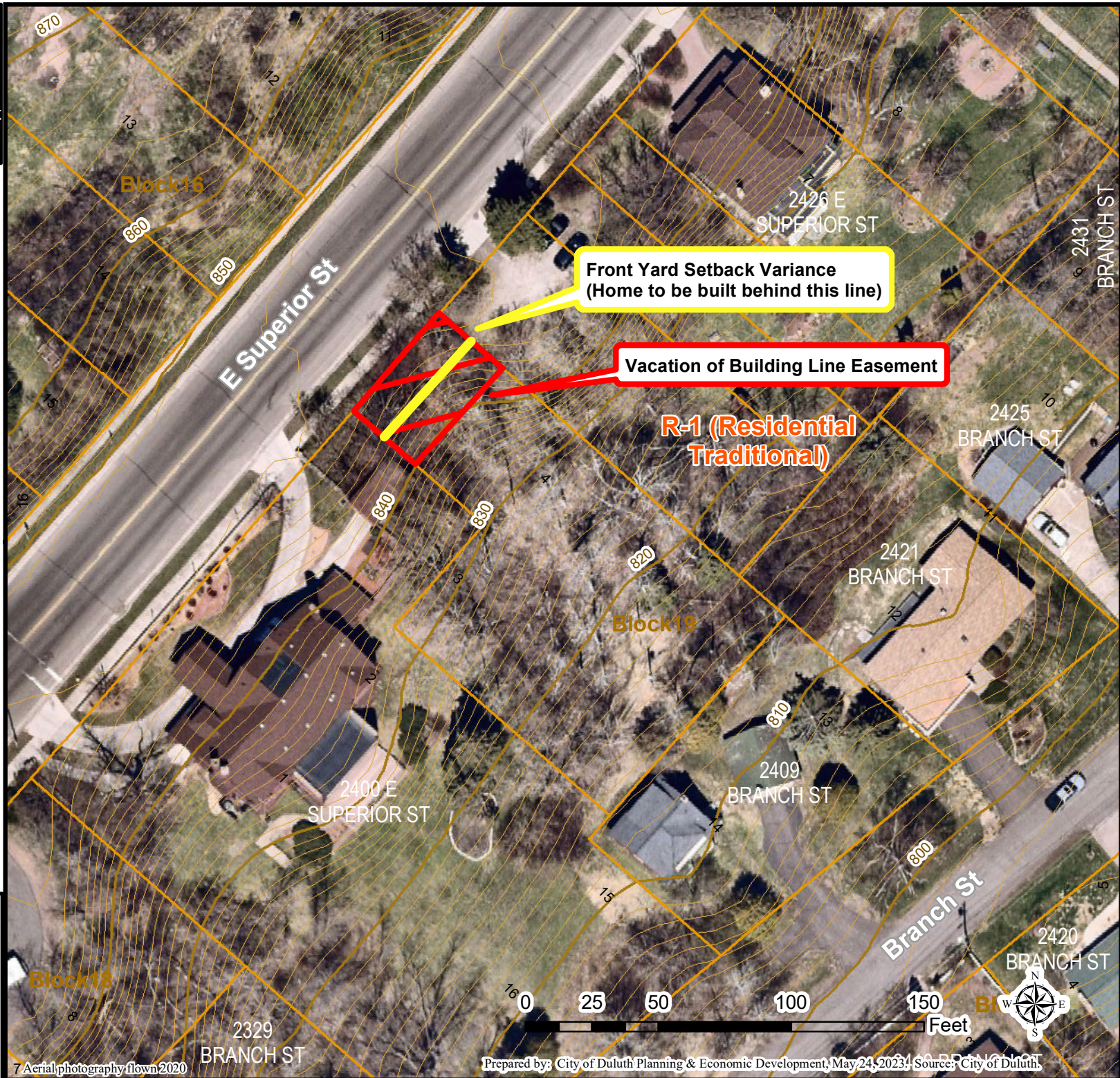
 Blocks

Elevation

 1 Ft contour

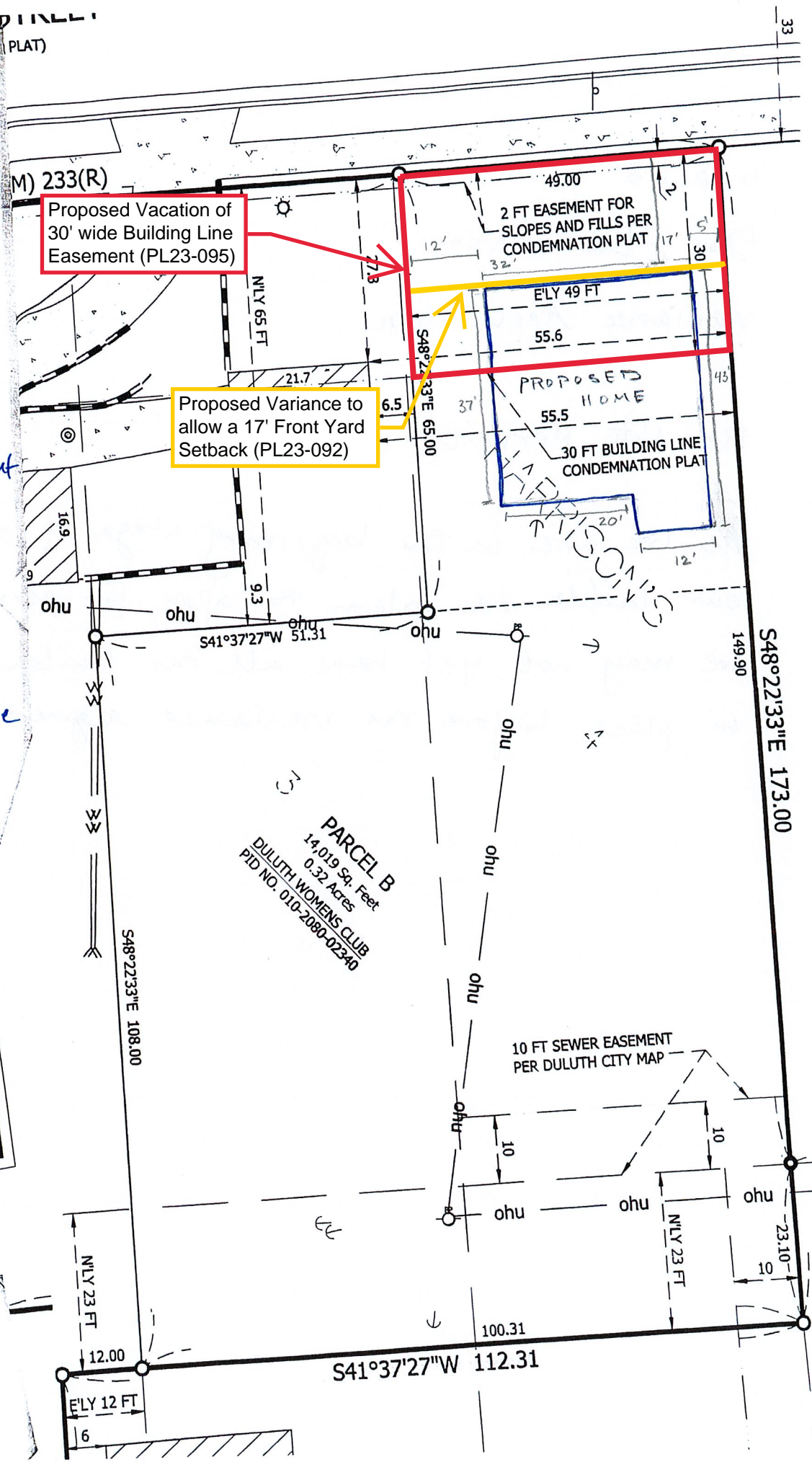
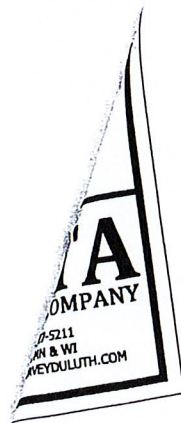
 10 Ft contour

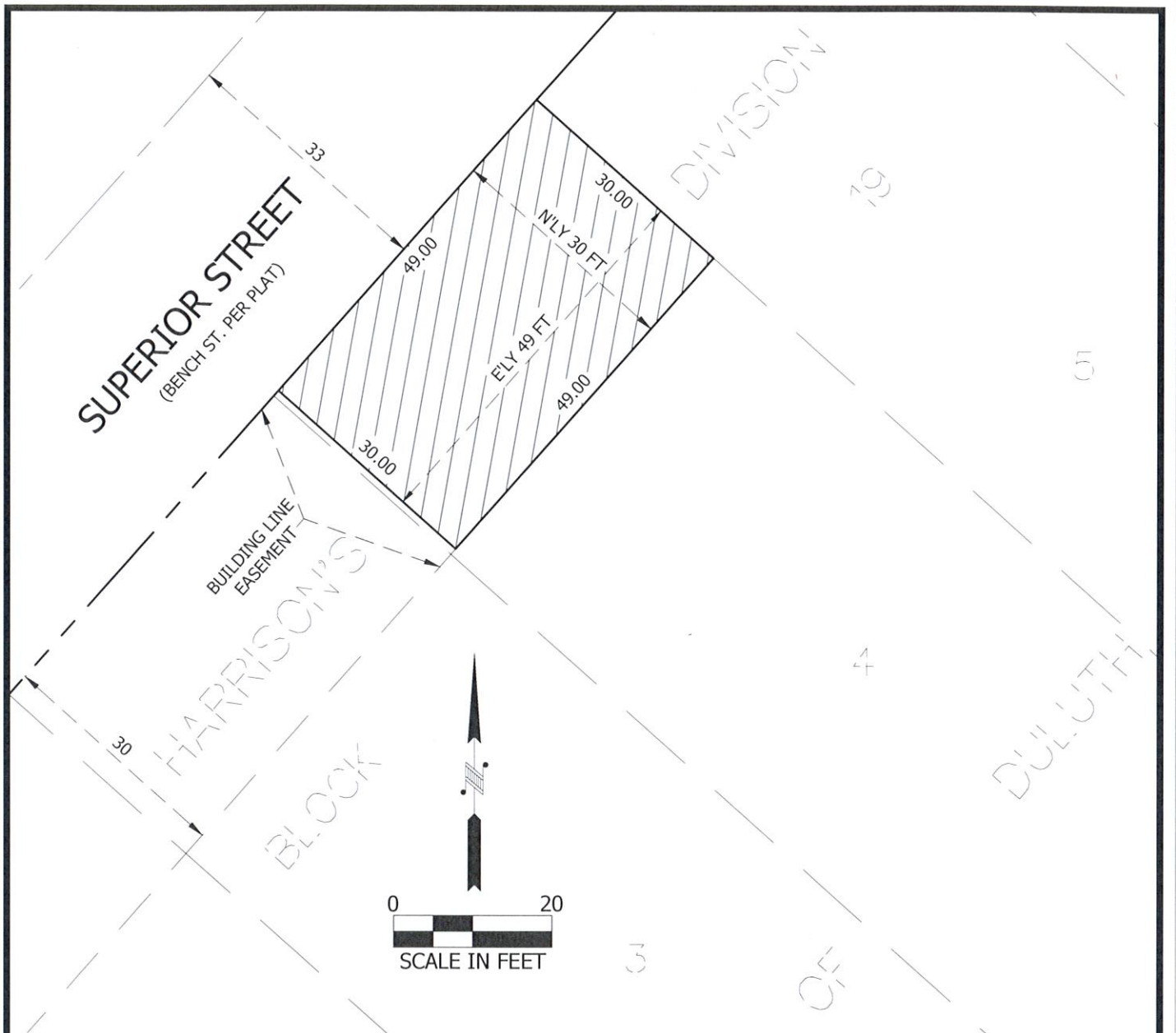
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010-2080-02360

With the top floor built into the roof with dormers to minimize the height of the home










LEGAL DESCRIPTION FOR VACATION OF BUILDING LINE EASEMENT

All that part of the 30 foot wide building line easement was created in that document recorded in Condemnation Plat No. 1, Page 195, filed with the St. Louis County Register of Deeds on July 20, 1904 lying across the Northerly 30 feet of the Easterly 49 feet of Lot 4, Block 19, HARRISON'S DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota. Said easement vacation contains 1,470 square feet.

SURVEYOR'S NOTES

- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.

LEGEND

-  BUILDING EASEMENT VACATION AREA
-  CENTER LINE
-  RIGHT OF WAY LINE
-  EXISTING PLAT LINE
-  EXISTING EASEMENT LINE

Approved by the City Engineer of the City of Duluth, MN this 4th day of June 2023

By [Signature]

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.

David R. Evanson
David R. Evanson
MN License #49505
DATE: 05-12-2023

VACATION EXHIBIT

CLIENT: DON AND LAURA NESS

REVISIONS:

ADDRESS: XXXX SUPERIOR STREET
DULUTH, MN 55812

DATE: 05-12-2023

JOB NO: 23-131

SHEET 1 OF 1

ALTA
LAND SURVEY COMPANY

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