



## CITY OF DULUTH

Planning and Development Division

411 W 1<sup>st</sup> St, Rm 110 \* Duluth, Minnesota 55802-1197

Phone: 218/730.5580

<b>File Number</b>	PL 19-031	<b>Contact</b>	Kyle Deming	
<b>Type</b>	Vacation of street with retention of utility easement over part of vacation area	<b>Planning Commission Date</b>		May 14, 2019
<b>Deadline for Action</b>	<b>Application Date</b>	April 2, 2019	<b>60 Days</b>	June 1, 2019
	<b>Date Extension Letter Mailed</b>	May 2, 2019	<b>120 Days</b>	July 31, 2019
<b>Location of Subject</b>	Oakland Avenue between Gold Street and Maryland Street			
<b>Applicant</b>	City of Duluth, Parks Department	<b>Contact</b>	Jim Shoberg	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	May 2, 2019	<b>Sign Notice Date</b>	May 2, 2019	
<b>Neighbor Letter Date</b>	May 2, 2019	<b>Number of Letters Sent</b>	10	

### Proposal

The applicant is requesting the vacation of Oakland Avenue between Gold Street and Maryland Street while retaining a utility easement over a portion of the vacation area. The purpose is to provide contiguous ownership by the University of Minnesota Duluth.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-I/R-2/R-1/R-C	Nature Area and UMD parking	Institutional/Traditional Nbhd./Open Space
<b>North</b>	R-1	Nature Area and Residential	Open Space
<b>South</b>	MU-I/R-2	UMD parking	Institutional/Urban Residential
<b>East</b>	R-2/R-1/R-C	Nature Area	Traditional Nbhd./Open Space
<b>West</b>	MU-I/R-C	UMD housing and Nature Area	Institutional/Open Space

### 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. 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 #5 – Promote reinvestment in neighborhoods.

Governing Principle #8 – Encourage mix of activities, uses, and densities.

Governing Principle #10 – Take actions that enhance the environment, economic, and social well-being of the community.

**History:**

PL 14-168 Proposed vacation of Oakland Avenue from Maryland Street to half a block south of Worth Street denied by City Council on February 23, 2014 (Res. 15-0110) because the Council wanted to retain the right of way for possible pedestrian or bicycle purposes related to the construction of the Duluth Traverse and to prevent the creation of a dead end street.

PL 14-166 Vacation of ½ block long section of Worth Street near Bayview Avenue approved by City Council

PL 14-167 Vacation of Bayview Avenue between Worth Street and 1 block north approved by City Council

**Review and Discussion Items**

Staff finds that:

- 1) The applicant is requesting vacation of a three block long section of Oakland Avenue north of Gold Street and south of Maryland Street. They are also requesting retention of a utility easement over the west 20 feet of the section from Gold Street to Halsey Street alley to cover an existing natural gas distribution line.
- 2) UMD is the owner of land on both sides of the proposed vacation area and has located trails associated with Bagley Nature Area on the north half of the vacation area. On the south half UMD has constructed parking and a driveway into the Oakland Apartments on-campus housing.
- 3) The same section of Oakland Avenue was proposed for vacation in 2014 (PL 14-168) and the City Council denied the vacation to reserve the right of way for the potential construction of the Duluth Traverse mountain bike trail. Additional trail planning has been completed and it has been determined that this right of way is not needed for the Duluth Traverse.
- 4) Aside from the natural gas pipe, there are no public improvements in the proposed vacation area and there are no plans to extend road, trail, or utility improvements in the proposed vacation area. The vacation area is not needed for the efficient supply of utilities or public services in the city, nor for the promotion of public health, safety, or welfare of the citizens of Duluth.
- 5) No additional private development is planned in the area as UMD is the owner of the property on both sides of the vacation area. Additionally, street extensions are not planned as the portion of Oakland Avenue north of Maryland Avenue has previously been vacated and extending a roadway in this area would require dedication of a replacement roadway easement and a bridge over West Branch of Tischer Creek, a trout stream. There is an existing north-south collector street three blocks east (Carver Avenue) that conveys traffic between Saint Marie Street and Arrowhead Road.
- 6) No public or agency comments have been received to date.
- 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.

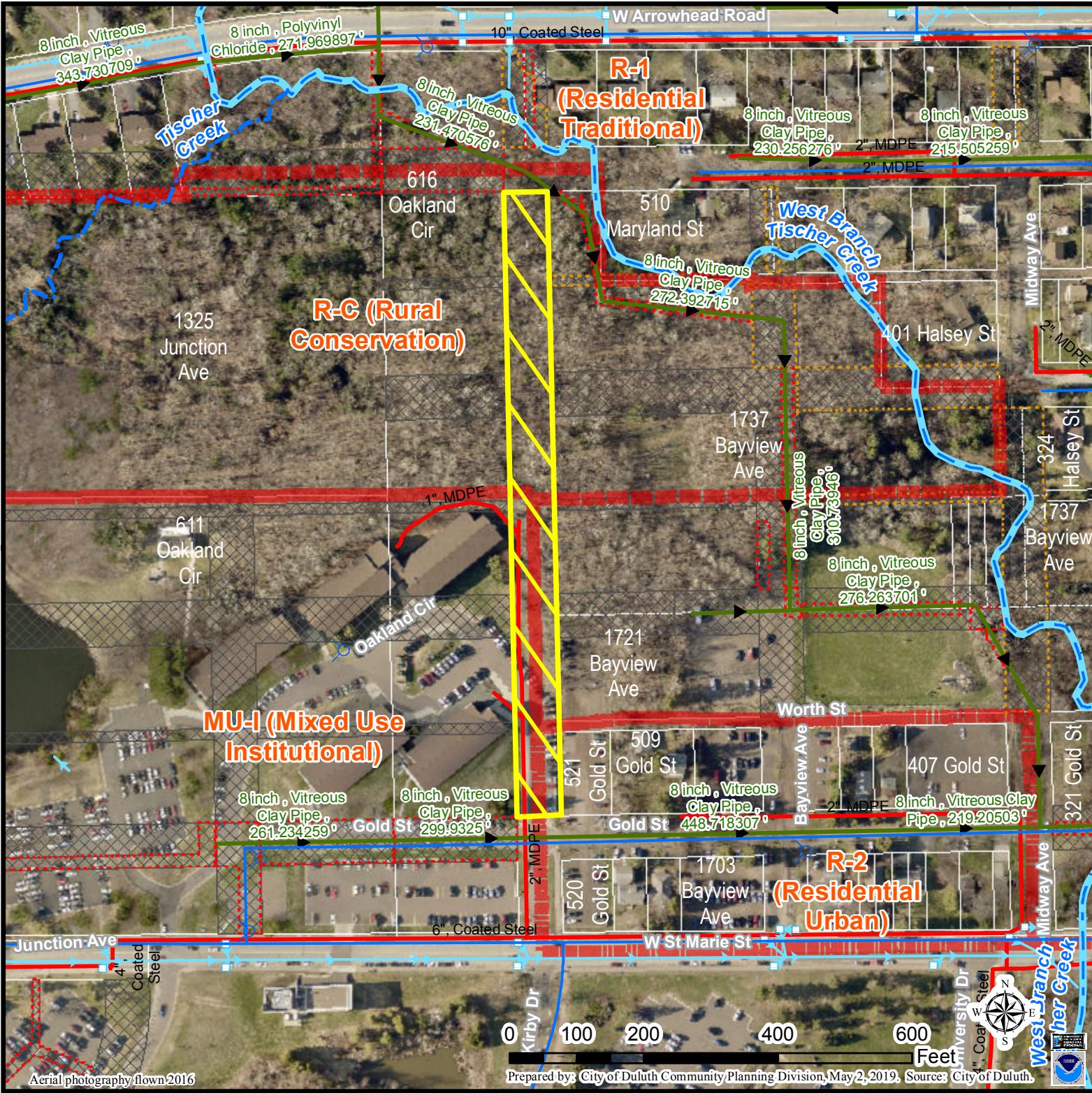
**Staff Recommendation**

Based on the above findings, staff recommends that Planning Commission recommend approval of the vacation of the street and retention of a utility easement as shown in the attached vacation exhibit, subject to the following condition:

- 1) The vacation and utility easement retention will lapse if the vacation is not recorded in the office of the Saint Louis County Recorder within 90 days of City Council approval of the vacation.



PL 19-031: Vacation of  
Oakland Ave.  
between Gold St.  
and Maryland St.

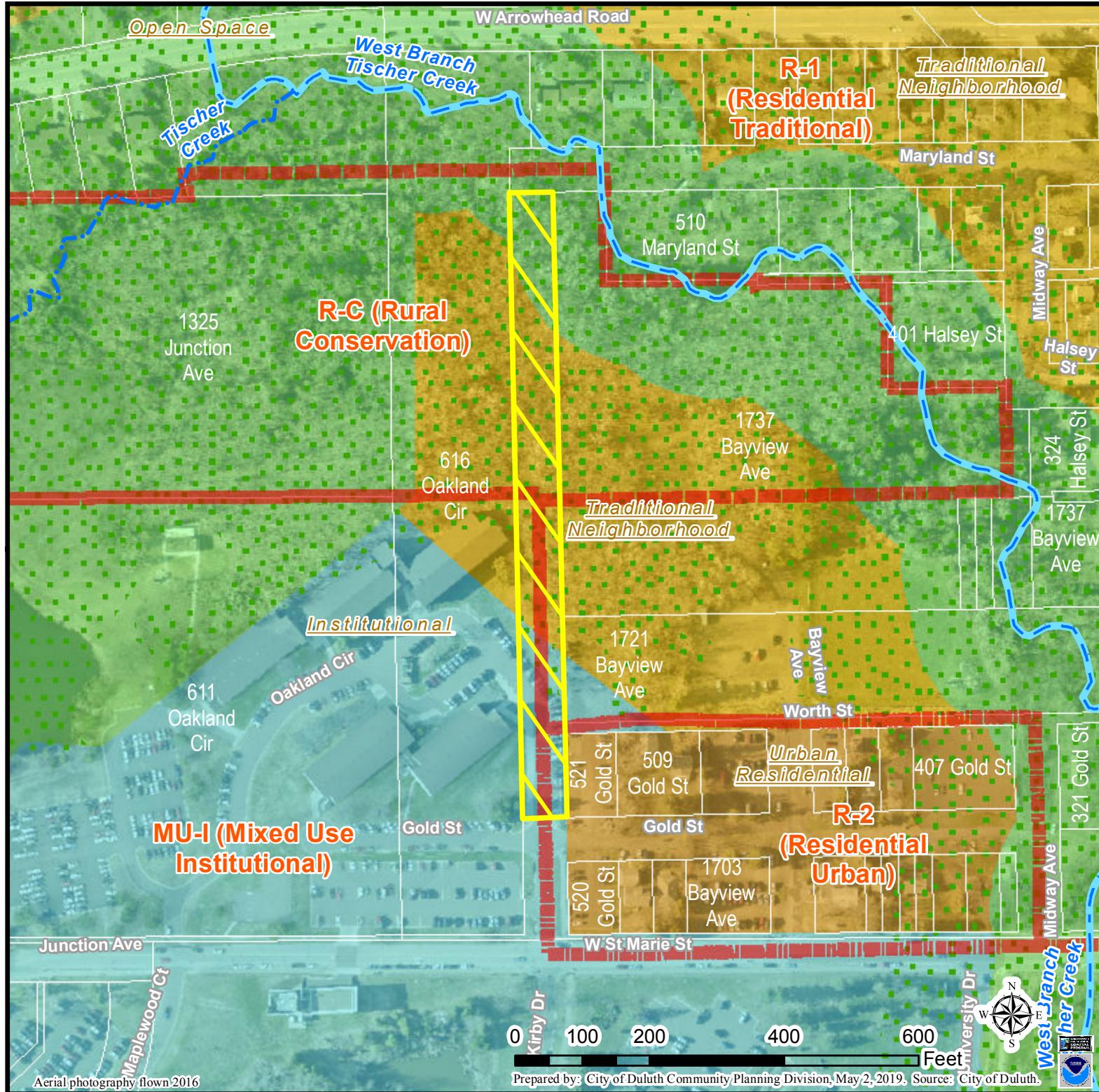


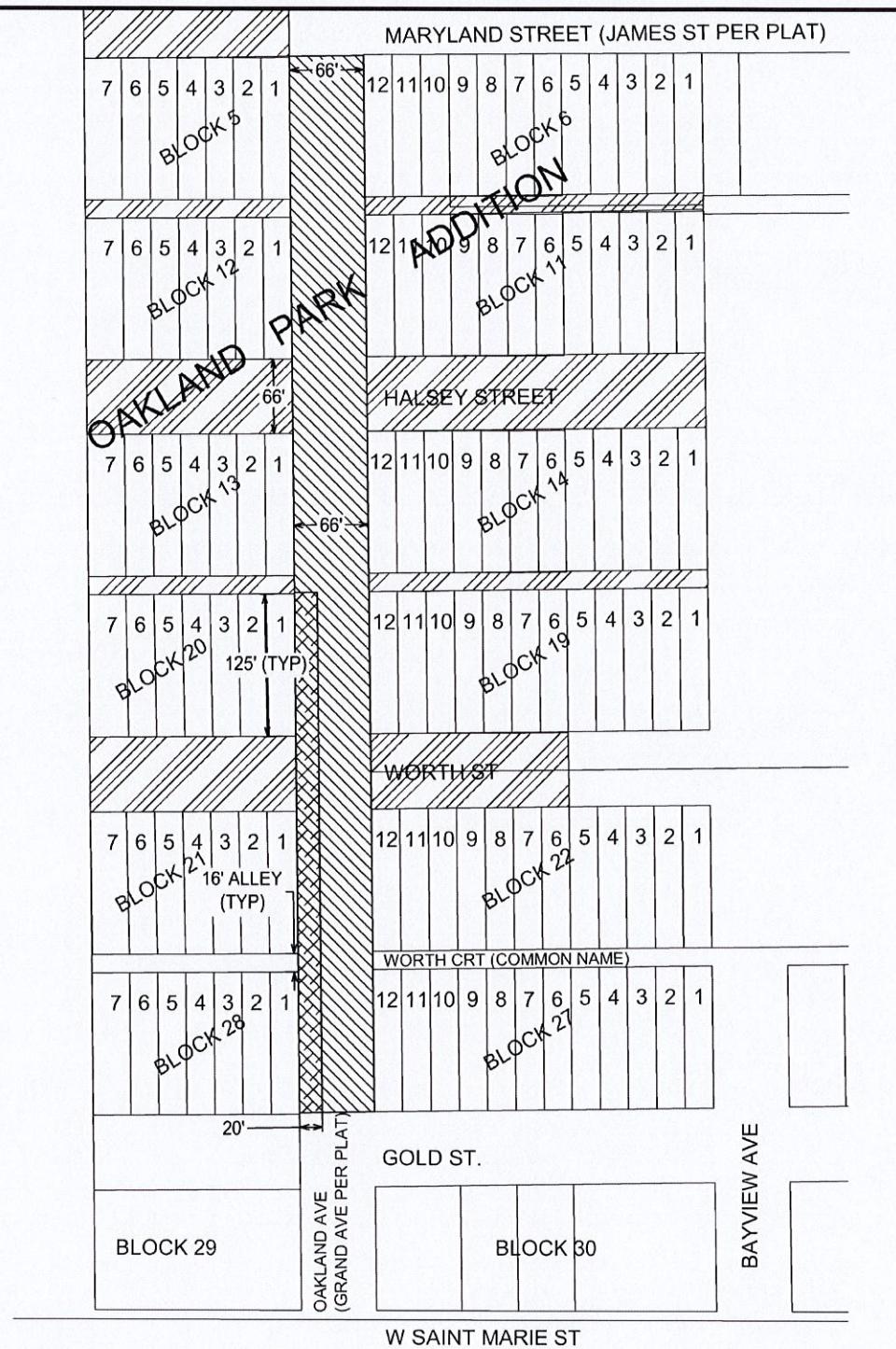


PL 19-031: Vacation of  
Oakland Ave.  
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PORTION TO BE VACATED IS SHOWN AS:

PORTION TO BE VACATED WITH UTILITY EASEMENT RETAINED IS SHOWN AS:

**PREVIOUSLY VACATED RIGHT OF WAY**

APPROVED BY THE CITY ENGINEER OF DULUTH, MN

DATE: 4-11-19

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TKDA

11 E. Superior Street, Suite 420  
Duluth, MN 55802

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REPORT WAS PREPARED BY ME OR UNDER MY DIRECT  
SUPERVISION AND THAT I AM A DULY LICENSED SURVEYOR  
UNDER THE LAWS OF THE STATE OF MINNESOTA.

UNDER THE LAWS OF THE STATE  
Greg Stoewer  
GREGORY STOEWER

DATE 04/08/2010

**OAKLAND PARK ADDITION: OAKLAND AVENUE VACATION  
MARYLAND STREET TO GOLD STREET**

15512 240

QUIET 4 OF 9

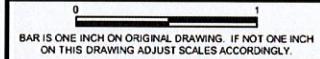
Legal Description of Vacation:

That portion of Oakland Avenue (Grand Avenue per plat) of Oakland Park Addition according to the recorded plat thereof, St. Louis County, Minnesota, which lies between the south line of Maryland Street (James Street per plat) and the extension of the southern line of Block 27 Oakland Park Addition.

AND

Legal Description of Utility Easement to be Retained:

The western most 20 foot strip of said vacated Oakland Avenue (Grand Avenue per plat) which lies between the extension of the northern line of Block 20 and the extension of the southern line of Block 28 Oakland Park Addition is to be retained for utility easement purposes.



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UNDER THE LAWS OF THE STATE OF MINNESOTA.

*Gregory Stoever*  
GREGORY STOEWER

DATE 04/08/2019

OAKLAND PARK ADDITION: OAKLAND AVENUE VACATION  
MARYLAND STREET TO GOLD STREET

15513.349

CITY OF DULUTH

SHEET 2 OF 2