

**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

File Number	PL 17-182	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Vacation of Utility Easement	Planning Commission Date		December 12, 2017
Deadline for Action	Application Date	November 7, 2017	60 Days	January 6, 2018
	Date Extension Letter Mailed	November 22, 2017	120 Days	March 7, 2018
Location of Subject	2130 Water Street			
Applicant	Mike Edmunds	Contact		
Agent	Doug Zaun	Contact		
Legal Description	PID 010-1420-00210			
Site Visit Date	December 4, 2017	Sign Notice Date		November 28, 2017
Neighbor Letter Date	November 29, 2017	Number of Letters Sent		27

**Proposal**

Applicant proposes to vacate the westerly 5 feet of an existing utility easement retained by the City of Duluth. Utility easement currently contains City sanitary and storm sewer. The City will retain the remaining utility easement, which contains sewer lines. The applicant is requesting the vacation to increase buildable width of the property to remove an existing home and construct a new single family residence.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-2	Residential	Urban Residential
<b>North</b>	MU-B	Street/Roadway	Transportation and utilities
<b>South</b>	R-2	Lake Superior	N/A
<b>East</b>	R-2	Office	Urban Residential
<b>West</b>	MU-N	Residential	Urban Residential

**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: Utility easements are used to connect the utility infrastructure and provide services to nearby sites.

**Future Land Use** – Urban Residential: Greatest variety of building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers, and waterfront residential areas. May include student housing areas, live/work units, and limited neighborhood retail. Connected or adjacent to parks and open space.

**Review and Discussion Items**

Staff finds that:

- 1) Applicant is proposing to vacate a 5-foot-wide portion of an existing utility easement that lies within the vacated portion of South 22<sup>nd</sup> Avenue East.
- 2) Applicant has coordinated with City Engineering for the vacation of the 5-foot strip of utility easement. This portion of the easement is not and will not be needed for the supply of utilities or public services in the city, and as a dedicated utility easement, could not be used for other purposes.
- 3) The remaining portion of the utility easement will remain for the existing water and sewer lines.
- 4) The proposed portion of the utility easement to be vacated is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.
- 5) No public, agency, or City comments have been received.
- 6) Vacations of streets and easement 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**

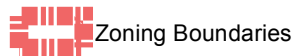
Based on the above findings, Staff recommends that the Planning Commission recommend approval of the vacation of a utility easement, with the following conditions:

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; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.





## Legend



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

Prepared by: City of Duluth Community Planning Division, August 30, 2017. Source: City of Duluth.





## Legend

### Future Land Use - Plus Future Land Use

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

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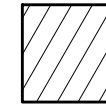


### LEGAL DESCRIPTION OF UTILITY EASEMENT VACATION

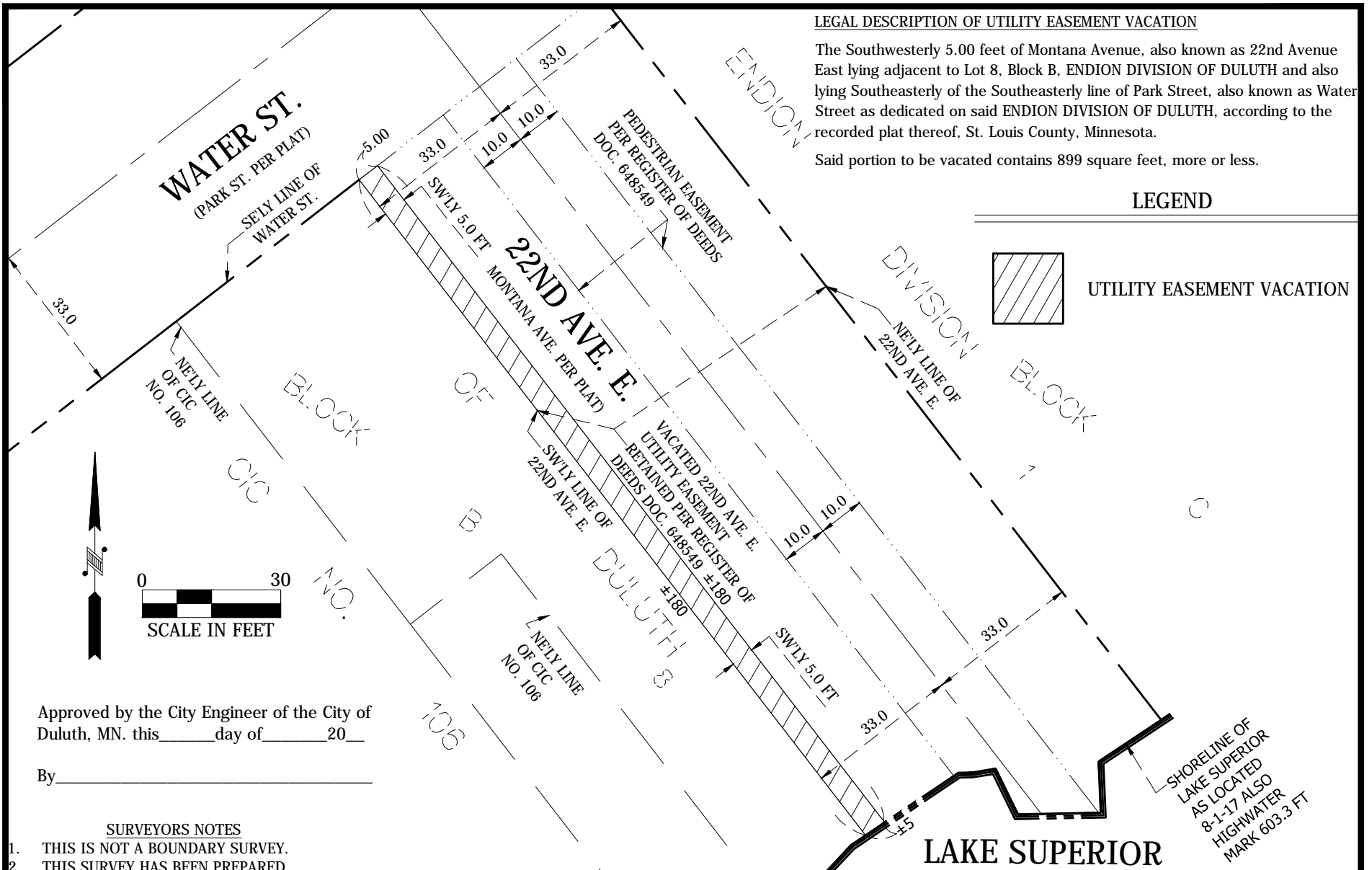
The Southwesterly 5.00 feet of Montana Avenue, also known as 22nd Avenue East lying adjacent to Lot 8, Block B, ENDION DIVISION OF DULUTH and also lying Southeasterly of the Southeasterly line of Park Street, also known as Water Street as dedicated on said ENDION DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

Said portion to be vacated contains 899 square feet, more or less.

## LEGEND



## UTILITY EASEMENT VACATION



Approved by the City Engineer of the City of  
Duluth, MN. this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

By \_\_\_\_\_

## SURVEYORS NOTES

1. THIS IS NOT A BOUNDARY SURVEY.
2. 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.

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. Evans David R. Evanson

Date: NOVEMBER 13, 2017

MN Lic. No. 49505

## UTILITY EASEMENT VACATION EXHIBIT

CLIENT: WAGNER ZAUN ARCHITECTURE  
C/O DOUG ZAUN

DATE: NOVEMBER 13, 2017

ADDRESS: 2130 WATER STREET  
DULUTH, MN

JOB NUMBER: 17-243

REVISIONS: XXX



LAND SURVEY COMPANY

- \* LAND SURVEYING
- \* LAND DEVELOPMENT
- \* PLATTING
- \* LEGAL DESCRIPTIONS
- \* CONSTRUCTION STAKING

PHONE: 218-727-5211  
LICENSED IN MN & WI  
CERTIFIED FEDERAL SURVEYOR  
WWW.ALTALANDSURVEYDULUTH.COM