

**CITY OF DULUTH**

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-025	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Vacation of Utility Easement	Planning Commission Date		April 10, 2018
Deadline for Action	Application Date	March 2, 2018	60 Days	May 1, 2018
	Date Extension Letter Mailed	March 20, 2018	120 Days	June 30, 2018
Location of Subject				
Applicant	Don Olson	Contact		
Agent	Don Olson	Contact		
Legal Description		PID 010-4280-01080, 010-4280-01090		
Site Visit Date		March 30, 2018	Sign Notice Date	March 28, 2018
Neighbor Letter Date		March 26, 2018	Number of Letters Sent	19

Proposal

Applicant proposes to vacate the entire 10' wide utility easement running west of Missouri Avenue and south of Chester Way. The applicant is requesting the vacation to increase buildable area for a house.

	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	Chester Way	Traditional Neighborhood
West	R-1	Residential	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.

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 – 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. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

Review and Discussion Items

Staff finds that:

- 1) Applicant is proposing to vacate a 10' foot wide existing utility easement along the southerly lot line of Lot 18 of the Superior View Addition to Duluth Platt.
- 2) Applicant has coordinated with City Engineering for the vacation of the 10' foot wide utility easement. This 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 utility easement to be vacated is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.
- 4) No public, agency, or City comments have been received.
- 5) 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 the 10 foot wide utility easement, as shown in the exhibit from ALTA.

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Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-026	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Vacation of Alley	Planning Commission Date		April 10, 2018
Deadline for Action	Application Date	March 2, 2018	60 Days	May 1, 2018
	Date Extension Letter Mailed	March 20, 2018	120 Days	June 30, 2018
Location of Subject				
Applicant	Don Olson	Contact		
Agent	Don Olson	Contact		
Legal Description		PID 010-4280-01110, 010-4280-01090		
Site Visit Date		March 30, 2018	Sign Notice Date	March 28, 2018
Neighbor Letter Date		March 26, 2018	Number of Letters Sent	19

Proposal

Applicant proposes to vacate the entire 15' wide platted alley running west of Missouri Avenue and between Chester Way and West College Street. The applicant is requesting the vacation to increase buildable width of their adjacent property to build a garage and/or build a house on the adjacent parcels to the north.

	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	Vacant land	Traditional Neighborhood
West	R-1	Residential	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.

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.

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. Limited commercial, schools, churches, and home-businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

Review and Discussion Items

Staff finds that:

- 1) Applicant is proposing to vacate the entire width and length of an existing unimproved platted alley located west of Missouri Avenue and between Chester Way and West College Street.
- 2) The alley is platted but has never been developed or needed for a public purpose.
- 3) All properties abutting the alley have access via an existing public streets.
- 4) This right of way is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.
- 5) No agency, public or City comments have been received.
- 6) Vacations of streets 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.

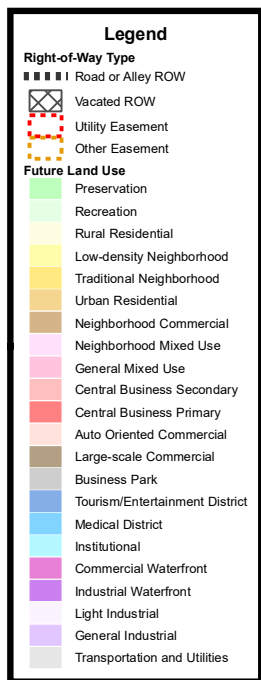
Staff Recommendation

Based on the above findings, Staff recommends that the Planning Commission recommend approval of the vacation of the 15-foot-wide alley easement, as shown in the exhibit from ALTA.

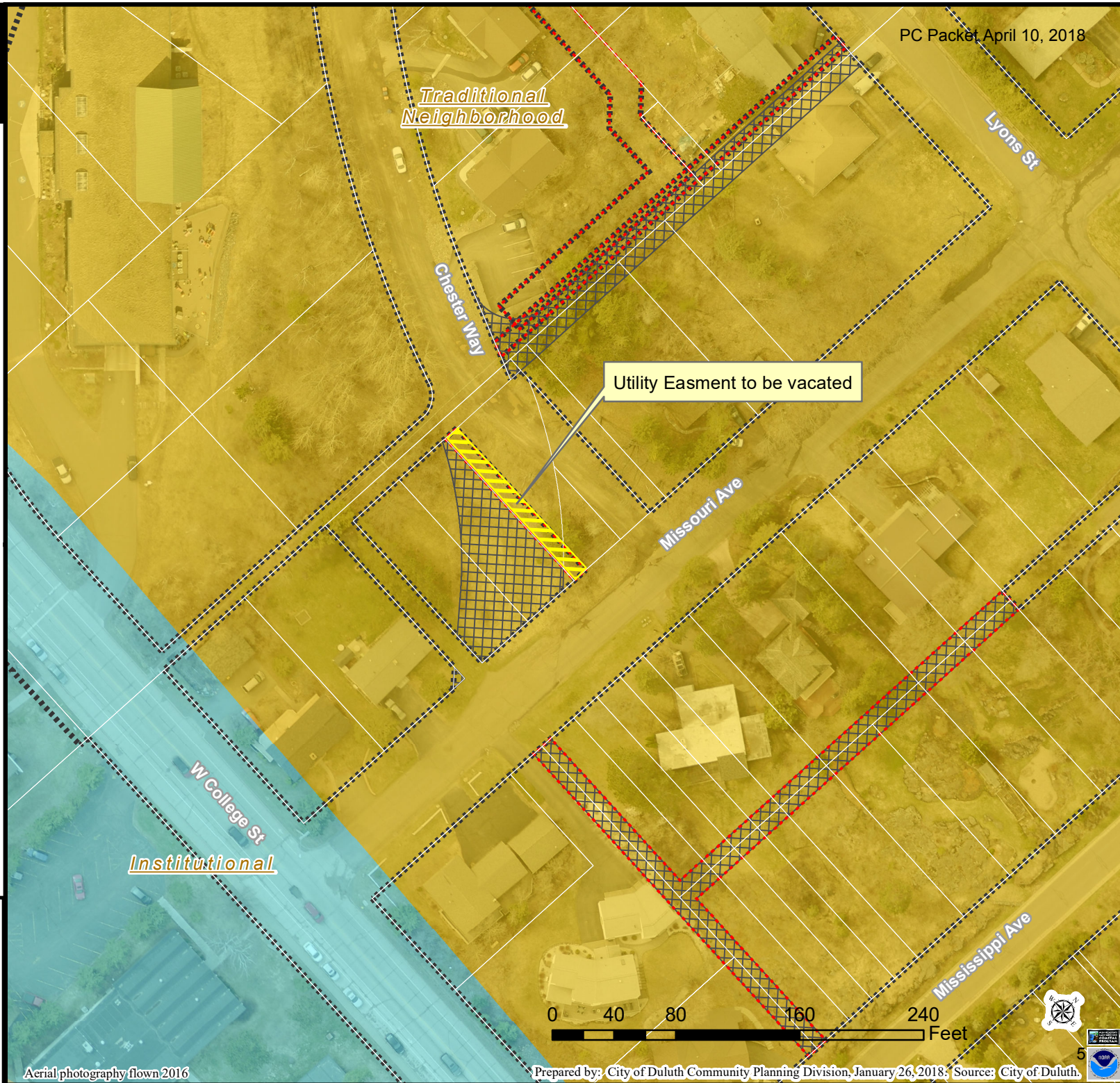


PL 18-025
Vacation of Utility Esmt.
FLU Map

PC Packet April 10, 2018



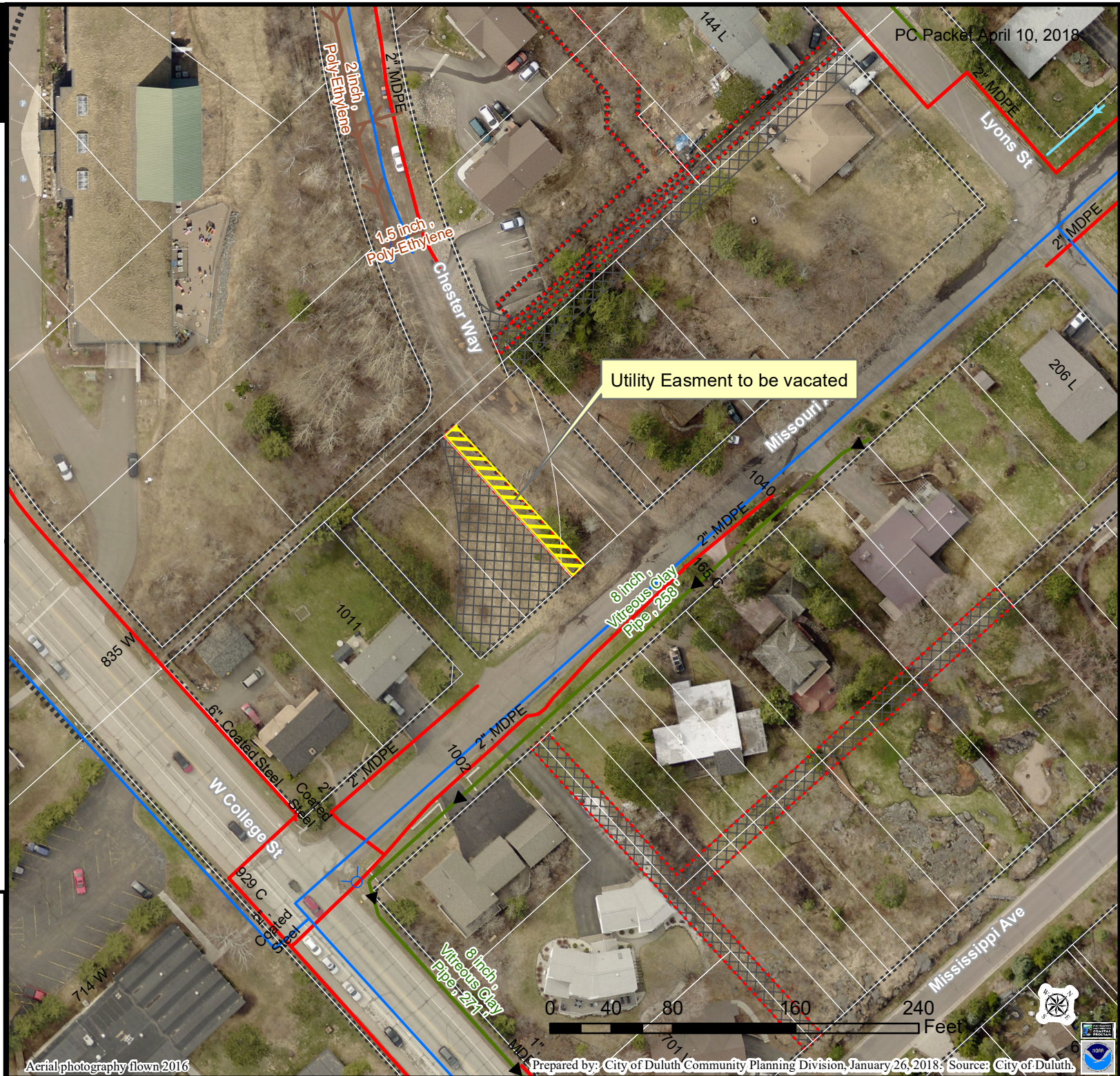
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used 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.





PL 18-025
Vacation of Utility Esmt.
Utility Map

PC Packet April 10, 2018



Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main

- Storage Basin
- PS Pump Station

Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin

Right-of-Way Type

- Road or Alley ROW
- Vacated ROW
- Utility Easement
- Other Easement

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Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, January 26, 2018; Source: City of Duluth.



PL 18-026
Vacation of Alley
Zoning Map

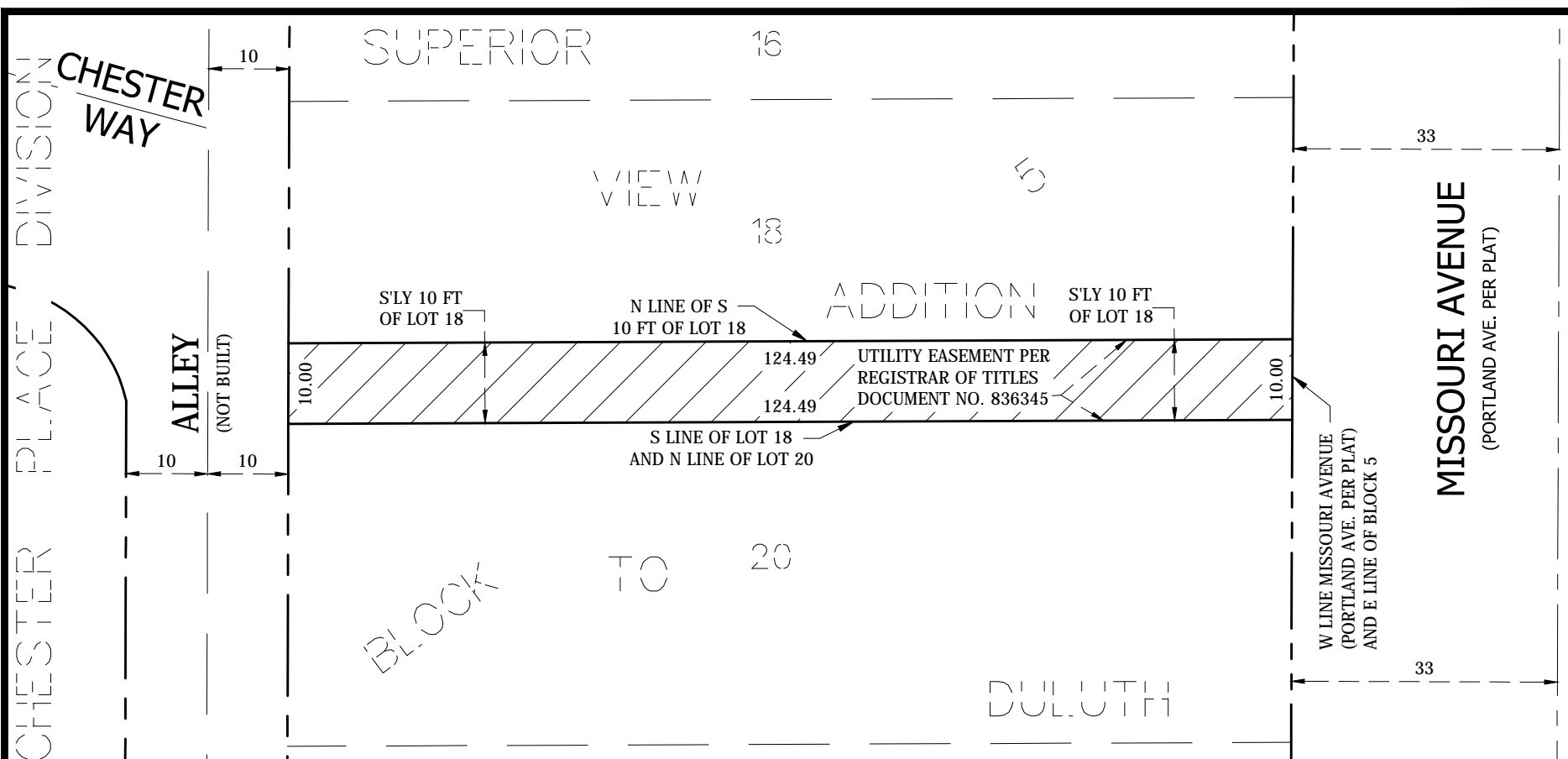
Legend

Right-of-Way Type

- Road or Alley ROW
- - - - - Utility Easement
- - - - - Other Easement
- Zoning Boundaries

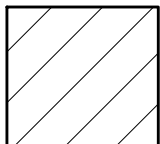
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LEGEND

— — — — — CENTER LINE
 - - - - - RIGHT OF WAY LINE



PROPOSED UTILITY
EASEMENT VACATION

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.

LEGAL DESCRIPTION OF VACATION OF UTILITY EASEMENT

The Southerly 10.00 feet of Lot 18, Block 5, SUPERIOR VIEW ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota. Said utility easement contains 1,246 square feet or 0.03 acres.



Approved by the City Engineer of the City of
Duluth, MN this _____ day of _____ 20__

By _____

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

Date: FEBRUARY 28, 2018

MN Lic. No. 49505

UTILITY EASEMENT VACATION EXHIBIT

CLIENT: DONN OLSON

REVISIONS: XXX

DATE: FEBRUARY 28, 2018

ADDRESS: 1101 MISSOURI AVE
DULUTH, MN 55811

JOB NUMBER: 18-038



LAND SURVEY COMPANY

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

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

LEGAL DESCRIPTION OF VACATION OF RIGHT OF WAY

All that part of the platted alley right of way lying within Block 5, SUPERIOR VIEW ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota described as follows:


Beginning at the Northeast corner of Lot 28, said Block 5; thence West, along the South line of said alley, said line also being the North line of Lots 26, 27, and 28, said Block 5 for a distance of 134.53 feet to the Northwest corner of said Lot 2; thence North, along the West line of said SUPERIOR VIEW ADDITION TO DULUTH 15.00 feet to the intersection with the Westerly extension of the North line of said alley, said line also being the South line of Lot 22, said Block 5; thence East, along said Westerly extension and along said North line of the alley, said line also being the South line of Lot 22 for a distance of 134.49 feet to the Southeast corner of said Lot 22; thence South, along the West line of Missouri Avenue (Portland Ave. per plat), said line also being the East line of said Block 5 for a distance of 15.00 feet to the point of beginning.

Said right of way contains 2,018 square feet or 0.05 acres.

SURVEYORS NOTES

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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

Date: FEBRUARY 28, 2018

MN Lic. No. 49505

RIGHT OF WAY VACATION EXHIBIT

CLIENT: DONN OLSON

REVISIONS: XXX

DATE: FEBRUARY 28, 2018

SHEET 1 OF 2

ADDRESS: 1101 MISSOURI AVE
DULUTH, MN 55811

JOB NUMBER: 18-038



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LEGAL DESCRIPTION OF VACATION OF RIGHT OF WAY

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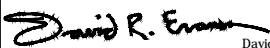
Beginning at the Northeast corner of Lot 28, said Block 5; thence West, along the South line of said alley, said line also being the North line of Lots 26, 27, and 28, said Block 5 for a distance of 134.53 feet to the Northwest corner of said Lot 2; thence North, along the West line of said SUPERIOR VIEW ADDITION TO DULUTH 15.00 feet to the intersection with the Westerly extension of the North line of said alley, said line also being the South line of Lot 22, said Block 5; thence East, along said Westerly extension and along said North line of the alley, said line also being the South line of Lot 22 for a distance of 134.49 feet to the Southeast corner of said Lot 22; thence South, along the West line of Missouri Avenue (Portland Ave. per plat), said line also being the East line of said Block 5 for a distance of 15.00 feet to the point of beginning.

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 David R. Evanson

Date: FEBRUARY 28, 2018

MN Lic. No. 49505

RIGHT OF WAY VACATION EXHIBIT

CLIENT: DONN OLSON

REVISIONS: XXX

DATE: FEBRUARY 28, 2018

SHEET 1 OF 2

ADDRESS: 1101 MISSOURI AVE
DULUTH, MN 55811

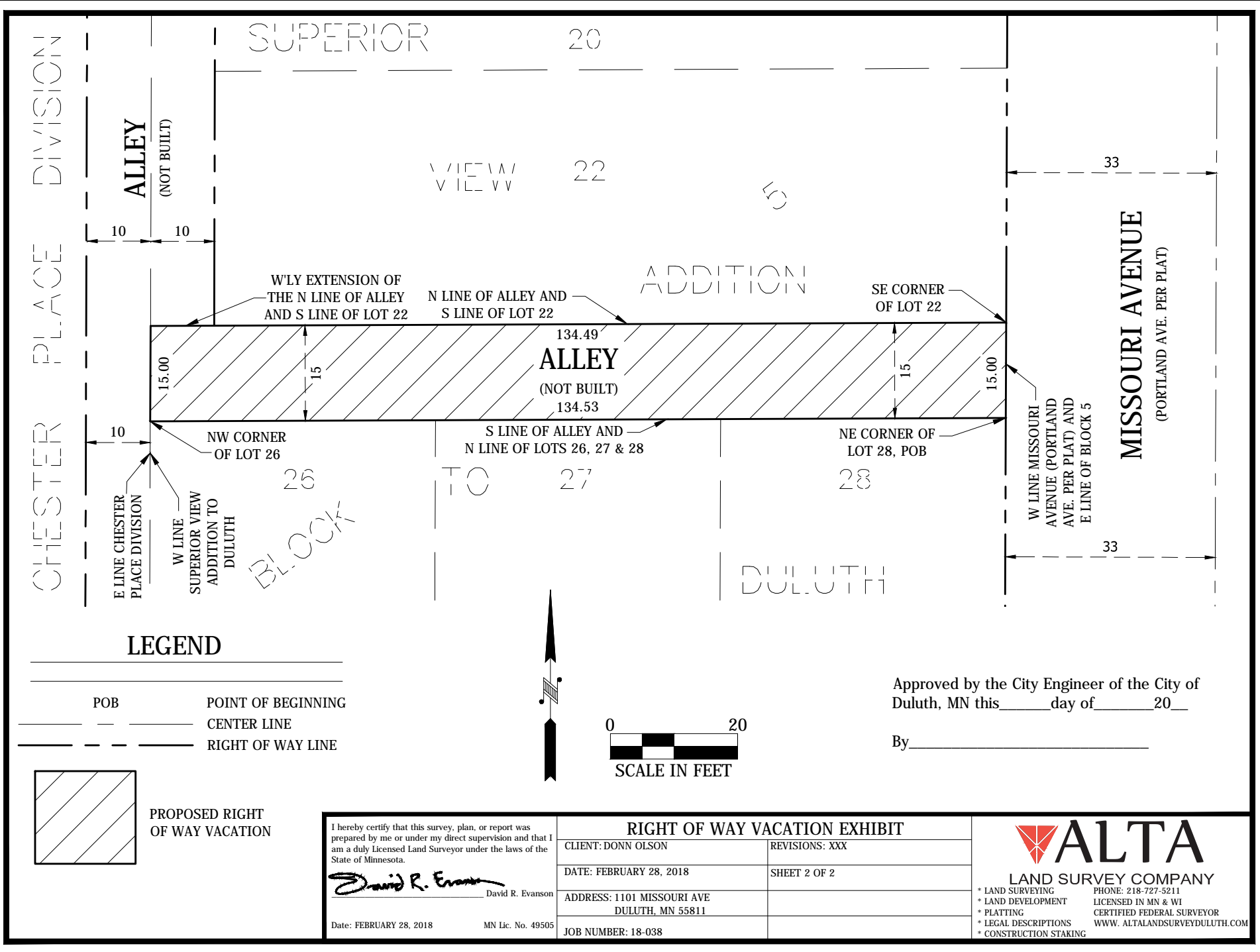
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CERTIFIED FEDERAL SURVEYOR
WWW. ALTALANDSURVEYDULUTH.COM



I, Tracy R Fairchild surveyor, do hereby certify that I have made a survey of the Property represented on this Plat of Superior View Addition to Duluth for the Proprietors thereof. That I have compared the Plat of said Addition with the data of the survey so made by me and that the same is in all things a true and correct plat of said survey. That stone monuments to guide in future surveys have been placed at the southerly corners of said Addition.

Tracy R Fairchild Surveyor
State of Minnesota } ss. Be it Remembered that on this 1st day of
St. Louis County } December A.D. 1887 before me personally
appearing came Tracy R Fairchild to me well known to be
the identical person who executed the foregoing certificate
and he acknowledged that he executed the same as his free
act and deed

Thos J Hudson Notary Public

(Seal) Saint Louis County Minn

Know all men by these Presents that B.T. Randall and Eva L Randall his wife, A. R. Walker and Hattie Walker his wife, D. A. McLarty and Leonora H. McLarty his wife John T. Wilson owners of the following described land in Saint Louis County Minn to wit: The Southeast quarter of the Northeast One quarter of Section Fifteen in Township 50 North of Range 14 West of the Fourth Principal Meridian have caused the same to be surveyed and a plat thereof to be made to be known and called Superior View Addition to Duluth in accordance with the provisions of Chapter 29 of the General Statutes of 1878 of the State of Minnesota. Now therefore the above named persons do hereby ratify and confirm said plat hereto annexed as the Superior View Addition to Duluth and sign seal and Execute the same and dedicate to Public use the Streets avenues and alleys thereon indicated

Executed in Presence of

Frank A. Ross Just to the Signatures of

N. W. Lewis, B.T. Randall + Eva L. Randall

M. O. Hall } Witnesses as to Walker

R. S. Kimball } and Hattie Walker

D. A. McLarty

Leonora H. McLarty + John T. Wilson Signed in Presence of

A. J. Valsted + E. L. Rice

B.T. Randall

Eva L. Randall

A. R. Walker

Hattie Walker

D. A. McLarty

Leonora H. McLarty

John T. Wilson

(seal)

(seal)

(seal)

(seal)

(seal)

(seal)

(seal)

State of Wisconsin } ss On this 30th day of March 1888 before me
Douglas County } personally came B.T. Randall and Eva L.
Randall his wife to me well known to be the identical persons
who executed the foregoing certificate and they acknowledged
that they executed the same as their free act and deed

(Seal)

Frank A Ross Notary Public
Douglass County Wis

State of Minnesota } ss
Saint Louis County } On this 31st day of March 1888 before me
personally came A.R. Walker and Hattie Walker his wife to me
well known to be the identical persons who executed the
foregoing certificate and they acknowledged that they executed
the same as their free act and deed

(Seal)

M A Hall Notary Public
Saint Louis County Minn.

State of Minnesota } ss
Yellow Medicine County } On this 26th day of December 1887 before
me personally came D A McBarly and Leonora K McBarly his
wife and John T. Wilson unmarried to me well known to be
the identical persons who executed the foregoing certificate
and they acknowledged that they executed the same as their free
act and deed

(Seal)

A. J. Valstrand Notary Public
Yellow Medicine County Minn.

This is to Certify that the taxes are fully paid to date on the
SE 1/4 of NE 1/4 of Sec 15 Twp 36 N of Range 14 W of 4 P. M
Auluth Minn April 2 1888

(Seal)

James A Smith
County Auditor

office of Register of Deeds

State of Minnesota }
County of St Louis }

I hereby certify that the within Plat
was filed in this office on the 2nd day of April A.D. 1888.
at 11 A. M and was duly recorded in Book B of Plats
page 413

Frank Buske Jr

Register of Deeds

By H. A. Garhart Deputy.

vacation # 241545
vacation # 367852

SUPERIOR VIEW.

ADDITION TO DULUTH

SAINT LOUIS CO. MINN.

