



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

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<b>File Number</b>	PL 23-108	<b>Contact</b>	John Kelley, <a href="mailto:jkelly@duluthmn.gov">jkelly@duluthmn.gov</a>	
<b>Type</b>	Vacation of utility easement	<b>Planning Commission Date</b>	July 13, 2023	
<b>Deadline for Action</b>	<b>Application Date</b>	June 5, 2023	<b>60 Days</b>	August 4, 2023
	<b>Date Extension Letter Mailed</b>	June 21, 2023	<b>120 Days</b>	October 3, 2023
<b>Location of Subject</b>	3523 Chambersburg Avenue.			
<b>Applicant</b>	James Wallner	<b>Contact</b>		
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	See Attached			
<b>Site Visit Date</b>	June 30, 2023	<b>Sign Notice Date</b>	June 27, 2023	
<b>Neighbor Letter Date</b>	June 26, 2023	<b>Number of Letters Sent</b>	11	

**Proposal**

The applicant is requesting to vacate a portion of a 20-foot-wide platted utility easement traversing north and south across 3523 Chambersburg Avenue located in the Piedmont Heights neighborhood.

Staff is recommending approval with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Traditional Neighborhood
<b>North</b>	R-1	Residential	Traditional Neighborhood
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	R-1	Residential	Traditional Neighborhood
<b>West</b>	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.

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.

The vacation will allow for construction of a single-family dwelling.

**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.

**Review and Discussion Items:**

Staff finds that:

1. The applicant is requesting to vacate a portion of a 20-foot wide platted utility easement traversing north to south across their property located at 3523 Chambersburg Avenue, as shown on the attached exhibit.
2. The proposed vacation will allow the applicant to construct a proposed single-family dwelling.
3. The utility easement was platted in the Levi Acres plat but never utilized for its intended purpose.
4. The utility easement will not be needed by the City for the safe and efficient circulation of automobiles, trucks, bicycles, or pedestrians or the efficient supply of utilities or public services in the city and City Engineering does not expect to need it in the future.
5. Minnesota Power has also indicated this utility easement is not needed for future power lines.
6. No other public or City comments have been received at the time of drafting this report.
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 with the following conditions:

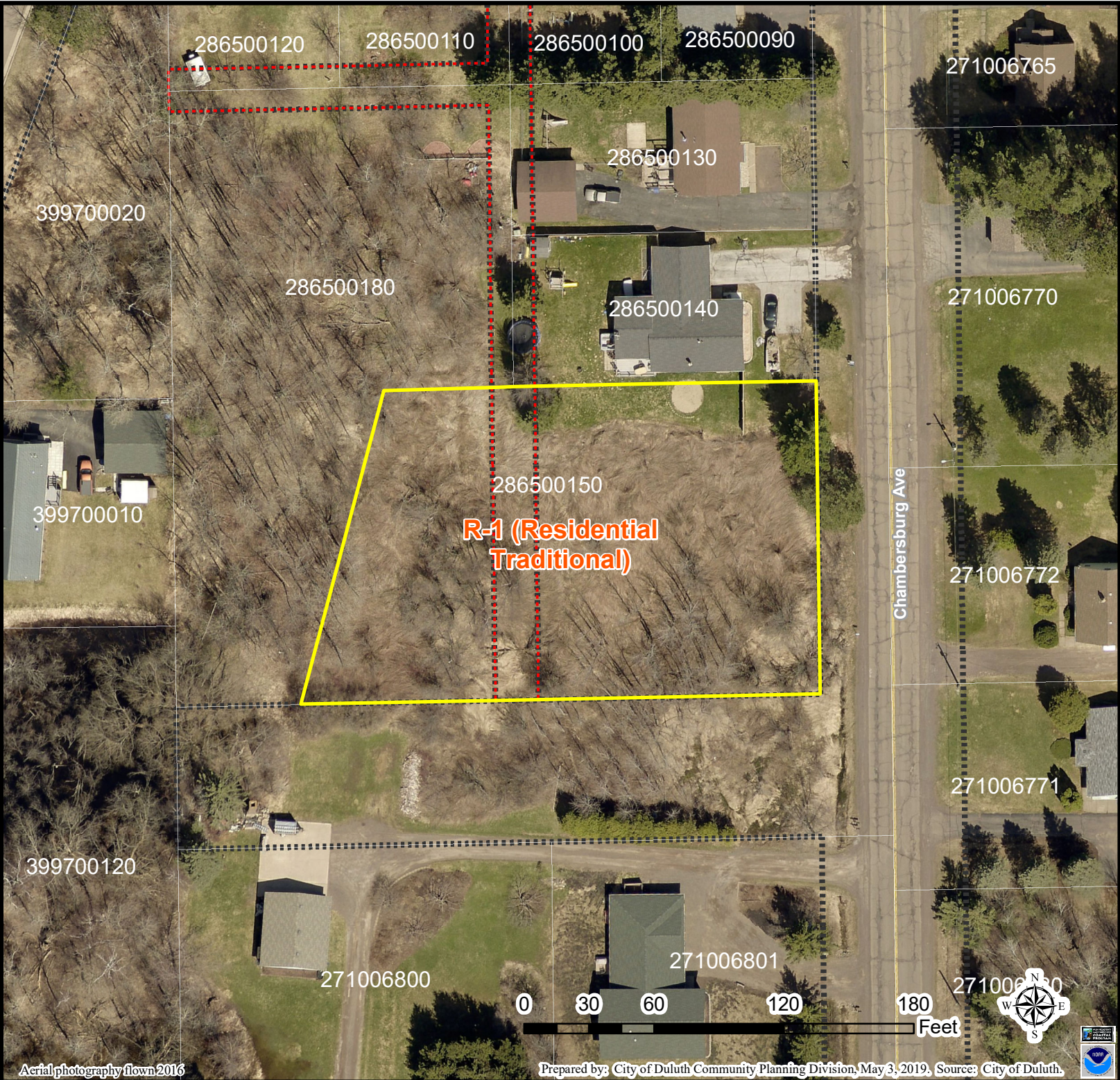
- 1.) The vacation must be recorded within 90 days of final approval by City Council or such approval will lapse.



PL 23-108  
Vacation of Easement

**Legend**

- ▬▬▬▬ Road or Alley ROW
- ☒ Vacated ROW
- Easement Type**
- ▬▬▬▬ Utility Easement
- ▬▬▬▬ Other Easement
- ▬▬▬▬ Zoning Boundaries

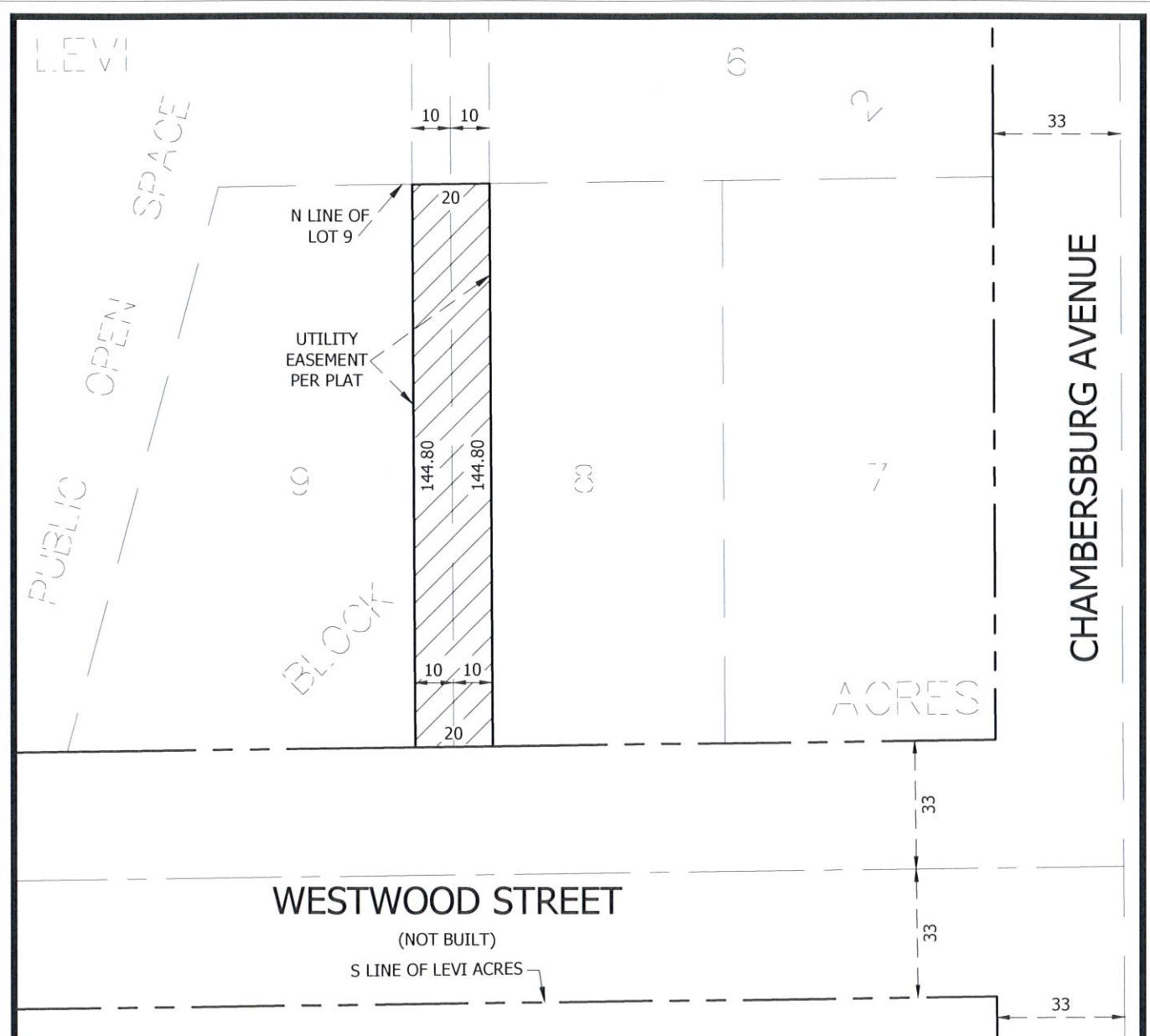


Aerial photography flown 2016






Prepared by: City of Duluth Community Planning Division, May 3, 2019, Source: City of Duluth.

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.





**LEGEND**

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


**LEGAL DESCRIPTION OF UTILITY EASEMENT VACATION**

All that part of the 20-foot-wide utility easement lying adjacent to and abutting Lot 8 and Lot 9, Block 2, LEVI ACRES, and South of the Easterly extension of the North line of said Lot 9, according to the recorded plat thereof, St. Louis County, Minnesota.

Said utility easement vacation contains 2,896 square feet or 0.06 acres.




Approved by the City Engineer of the City of Duluth, MN this 29 day of JUNE 2023

By 

- SURVEYOR'S NOTES**
- THIS IS NOT A BOUNDARY SURVEY.

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  
 MN License #49505

DATE: 06-06-2023

**VACATION EXHIBIT**

CLIENT: JIM WALLNER

ADDRESS: 3523 CHAMBERSBURG AVENUE  
 DULUTH, MN 55811

DATE: 06-06-2023

REVISIONS:

JOB NO: 21-291

SHEET 1 OF 1

**ALTA**  
 LAND SURVEY COMPANY

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