



**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 20-119                    | Contact                                   | Theresa Bajda, tbajda@duluthmn.gov    |                  |
| Type                 | Vacation of Easement         | Planning Commission Date                  |                                       | August 11, 2020  |
| Deadline for Action  | Application Date             | August 3, 2020                            | 60 Days                               | October 2, 2020  |
|                      | Date Extension Letter Mailed | July 24, 2020                             | 120 Days                              | December 1, 2020 |
| Location of Subject  |                              | 2102, 2104, and 2112 West Superior Street |                                       |                  |
| Applicant            | Jon Aamodt                   | Contact                                   | Northland Consulting Engineers-Duluth |                  |
| Agent                |                              | Contact                                   |                                       |                  |
| Legal Description    |                              | See Attached                              |                                       |                  |
| Site Visit Date      | July 23, 2020                | Sign Notice Date                          |                                       | July 28, 2020    |
| Neighbor Letter Date | July 28, 2020                | Number of Letters Sent                    |                                       | 26               |

**Proposal:** The applicant is requesting vacation of the slopes and fills easement on south side of West Superior Street in front of the former Roberts Home Furnishings building (see vacation exhibit) to allow construction of an apartment building.

**Staff Recommendation:** Staff is recommending that the Planning Commission approve the easement vacation with conditions.

|                | <b>Current Zoning</b> | <b>Existing Land Use</b>                 | <b>Future Land Use Map Designation</b> |
|----------------|-----------------------|--|--|
| <b>Subject</b> | F-5                   | Michigan Street                          | Central Business Secondary             |
| <b>North</b>   | F-5                   | Former Roberts Home Furnishings Building | Central Business Secondary             |
| <b>South</b>   | MU-C                  | Parking Lot/Lower Michigan Street        | Central Business Secondary             |
| <b>East</b>    | F-5                   | S 21 <sup>st</sup> Ave West              | Central Business Secondary             |
| <b>West</b>    | F-5                   | Michigan Street                          | Central Business Secondary             |

**Summary of Code Requirements:**

Vacation of public streets, highways, 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; DOES NOT APPLY
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 #1 – Reuse of previously developed lands. The proposed street vacation allows for future investment to a site that has potential to perform at a higher level than its current state. The vacation will allow construction of a 75-unit market rate apartment building.

Governing Principle #5 – Promote reinvestment in neighborhoods. The proposed street vacation will allow the applicant to construct a 75-unit market rate apartment building and result in an increased tax base for the City of Duluth and St. Louis County.

Housing Policy #4 – Improve the quality of the city's overall housing stock and neighborhoods. The street vacation would allow construction of a 75-unit apartment building in a desirable area in the Lincoln Park neighborhood.

Future Land Use – Central Business Secondary: An area adjacent to and supporting the central business primary area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary central business area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

Recent History – Roberts Home Furnishings operated a home furniture and goods store from 1987 to October 2018. On August 13, 2019, the Planning Commission approved a variance from occupied space setback for a multi-family apartment building to allow for construction of at-ground level parking as part of the apartment building design. The Land Use Supervisor approved this variance for a one-year extension on April 9, 2020.

**Review and Discussion Items:**

Staff finds that:


1. The applicant is requesting to vacate the slopes and fills easement on West Superior Street. City records do not indicate when the easement was dedicated nor what it was needed for. The applicant indicated that these types of easements were often created to raise the grade of the roadway and allow the grade to be raised beyond the right of way line versus using a retaining wall system along the road right of way. The grade on the south side of Superior Street was likely lower than the roadway at one time. Currently the grade along Superior Street is at or above the street level, which negates the need for the slopes and fills easement.
2. The proposed easement vacation will allow the applicant to purchase the property without a title exception and construct an apartment building in accordance with local zoning regulations at the former Roberts Home Furnishings site.
3. The City Transportation Engineer has indicated support for this proposal and stated that the slope may have existed back when there was a shoreline. City Engineering has indicated this easement is not needed for public transportation purposes.
4. The existing building is currently located on the easement. Removal of the building and subsequent construction of a building ensures no issues to the property owner.
5. There are no utilities installed in the easement.
6. Vacating the easement will not affect or deny access to other property owners.
7. No other public or City comments have been received at the time of drafting this report.
8. Vacations of streets 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:**

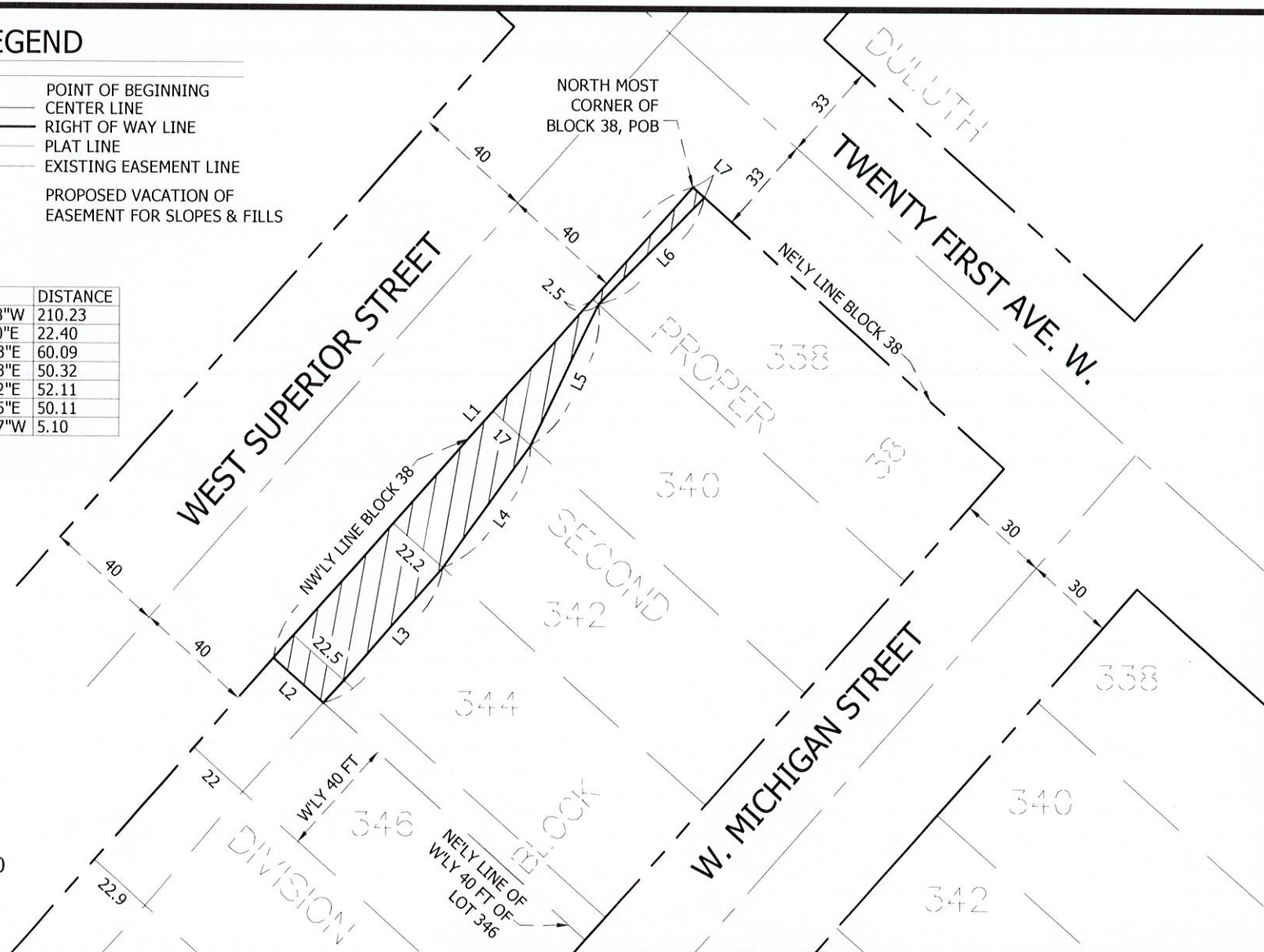
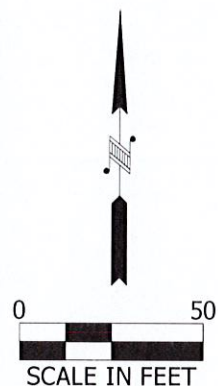
Based on the above findings, Staff recommends that Planning Commission recommend approval of the vacation with the following conditions:

- 1.) The vacation must be recorded within 90 days of final approval by City Council or such approval will lapse. The vacation shall not be final until the plat is recorded in the office of the St. Louis County Recorder.
- 2.) The vacation shall not be final until the plat is recorded in the office of the St. Louis County Recorder, such recording to be done concurrently.
- 3.) 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

# LEGEND

|   |     |  |
|---|-----|--|
| —   | POB | POINT OF BEGINNING                               |
| —   | —   | CENTER LINE                                      |
| ---   | --- | RIGHT OF WAY LINE                                |
| ---   | --- | PLAT LINE  |
| ---   | --- | EXISTING EASEMENT LINE                           |
|  | --- | PROPOSED VACATION OF EASEMENT FOR SLOPES & FILLS |

| LINE | BEARING     | DISTANCE |
|------|-------------|----------|
| L1   | S41°39'38"W | 210.23   |
| L2   | S48°20'20"E | 22.40    |
| L3   | N41°28'13"E | 60.09    |
| L4   | N35°43'43"E | 50.32    |
| L5   | N25°30'12"E | 52.11    |
| L6   | N44°38'05"E | 50.11    |
| L7   | N48°19'27"W | 5.10     |



## SURVEYOR'S NOTES

1. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
2. THIS IS NOT A BOUNDARY SURVEY.

## VACATION EXHIBIT

CLIENT: EDWARD AAMODT

REVISIONS:

ADDRESS: 2102, 2104 & 2112 W SUPERIOR STREET, DULUTH, MN 55806

DATE: 07-02-2020

JOB NO: 20-032

SHEET 2 OF 2

**ALTA**  
LAND SURVEY COMPANY

PHONE: 218-727-5211  
LICENSED IN MN & WI  
WWW.ALTLANDSURVEYDULUTH.COM



LEGAL DESCRIPTION OF VACATION OF EASEMENT FOR SLOPES AND FILLS

All that part of Lots 338, 340, 342, 344 and 346, Block 38, DULUTH PROPER SECOND DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota described as follows:

Beginning at the North most corner of said Block 38; thence on an assumed bearing of South 41 degrees 39 minutes 38 seconds West, along the Northwestern line of said Block 38 for a distance of 210.23 feet to the Northeasterly line of the Westerly 40.00 feet of Lot 346, said Block 38; thence South 48 degrees 20 minutes 20 seconds East, along said Northeasterly line 22.40 feet; thence North 41 degrees 28 minutes 13 seconds East 60.09 feet; thence North 35 degrees 43 minutes 43 seconds East 50.32 feet; thence North 25 degrees 30 minutes 12 seconds East 52.11 feet; thence North 44 degrees 38 minutes 05 seconds East 50.11 feet to the Northeasterly line of said Block 38; thence North 48 degrees 19 minutes 27 seconds West, along said Northeasterly line 5.10 feet to the point of beginning.

Said parcel contains 3,003 square feet or 0.07 acres.

Approved by the City Engineer of the  
City of Duluth, MN this 31<sup>st</sup> day  
of August 2020

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  
DATE: 07-02-2020 MN Lic. No. 49505

**VACATION EXHIBIT**

CLIENT: EDWARD AAMODT

REVISIONS:

ADDRESS: 2102, 2104 & 2112 W SUPERIOR  
STREET, DULUTH, MN 55806

DATE: 07-02-2020

JOB NO: 20-032

SHEET 1 OF 2

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PL20-119  
Vacation of Slopes & Fills Easement

**Legend**

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
  - CITY OF DULUTH
  - WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
- Vacated ROW
- Easement Type**
  - Utility Easement
  - Other Easement
  - Zoning Boundaries

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.







**PL20-119**

**Site Visit: July 23, 2020**