

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	PL17-126	Contact	Kate Van Daele, kvandaele@duluthmn.gov	
Type	Vacation of a Utility Easement	Planning Commission Date		September 12, 2017
Deadline for Action	Application Date	August 29, 2017	60 Days	October 28, 2017
	Date Extension Letter Mailed	August 18, 2017	120 Days	December 27, 2017
Location of Subject		618 Hovland Lane		
Applicant	Peder & Siiri Morse	Contact		
Agent		Contact		
Legal Description		Tract I		
Site Visit Date		August 29, 2017	Sign Notice Date	August 29, 2017
Neighbor Letter Date		August 30, 2017	Number of Letters Sent	12

Proposal

Applicant proposes to vacate a utility easement that was dedicated in 1975. Utility easement is a part of the Lakeview Division First Addition.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Undeveloped	Residential Traditional
North	P-1	Park	Park
South	R-1	Street, Open Space	Residential Traditional
East	R-1	Undeveloped	Residential Traditional
West	R-1	Street, Open Space	Residential Traditional

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.

1-1-17

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 – Residential Traditional: Characterized by a 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 though or adjacent to the neighborhood. Includes many of Duluth's older neighborhood extensions, and new traditional neighborhood areas.

Review and Discussion Items

Staff finds that:

- 1) Applicant is proposing to vacate a utility easement that is part of the Lakeview Division First Addition Tracts of Duluth, platted in 1975.
- 2) Staff has discussed the utility easement with the Engineering Department only to find that no utilities exist within this easement. A utility was originally planned but was not followed through on due to a development that was planned but never built.
- 3) This easement is not and will not be needed for the efficient supply of utilities or public services in the city, and as a dedicated utility easement, could not be used for other purposes.
- 4) This easement is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.
- 5) No public, agency, comments have been received. A comment from the Attorney's office requested a change in language to the legal description that the applicant submitted describing the centerline of the easement and that there is five feet on either side of that line. The exhibit in question is under review by staff.
- 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 the utility easement as shown in the attached vacation exhibit, without conditions.

2-7

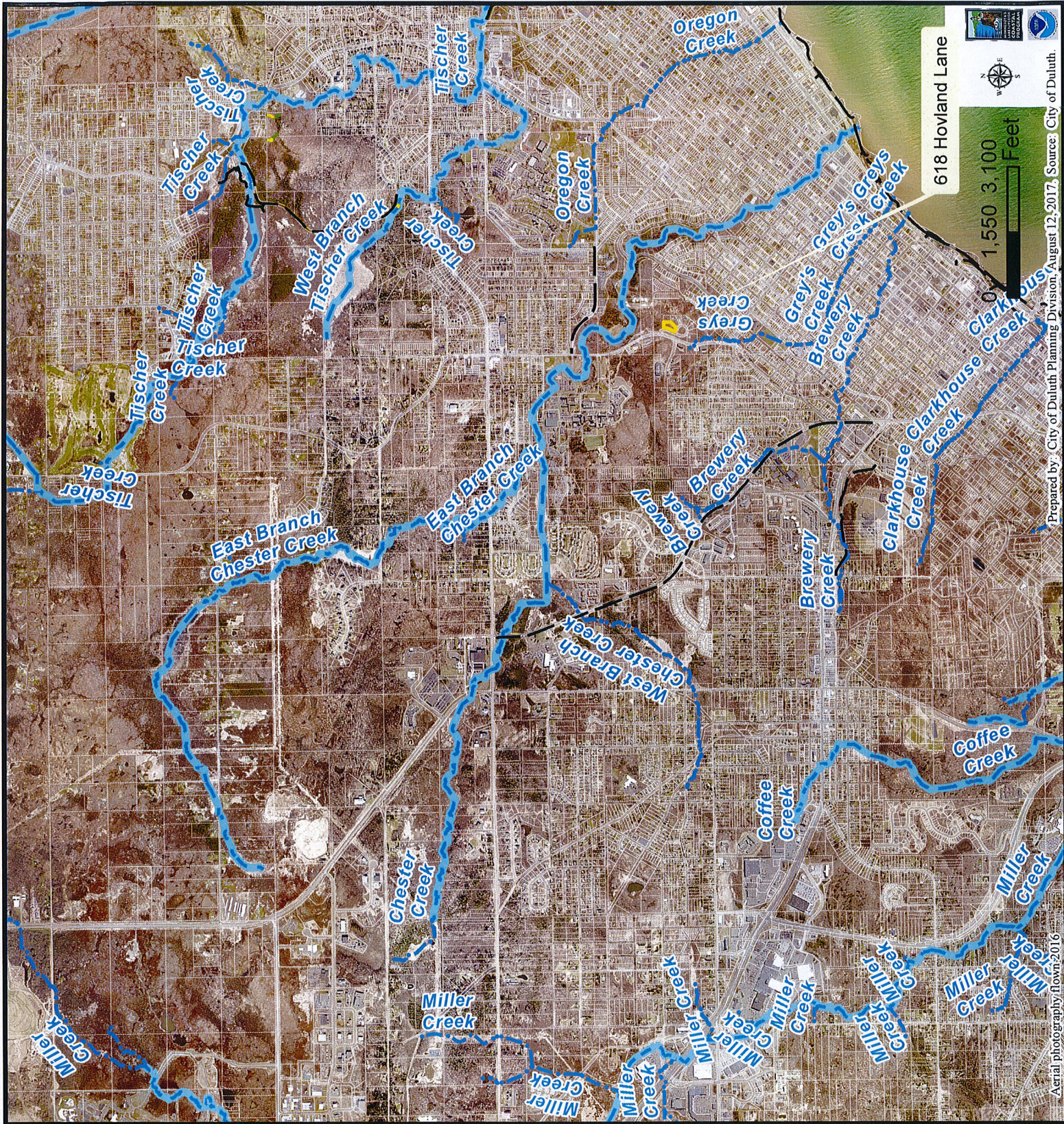


City Planning

618 Hovland Lane- Neighborhood

Legend

- Bike
- Multi-Use - Paved
- Mountain Biking and X-Country Skiing
- Climbing
- Trout Stream (GPS)
- Other Stream (GPS)



618 Hovland Lane

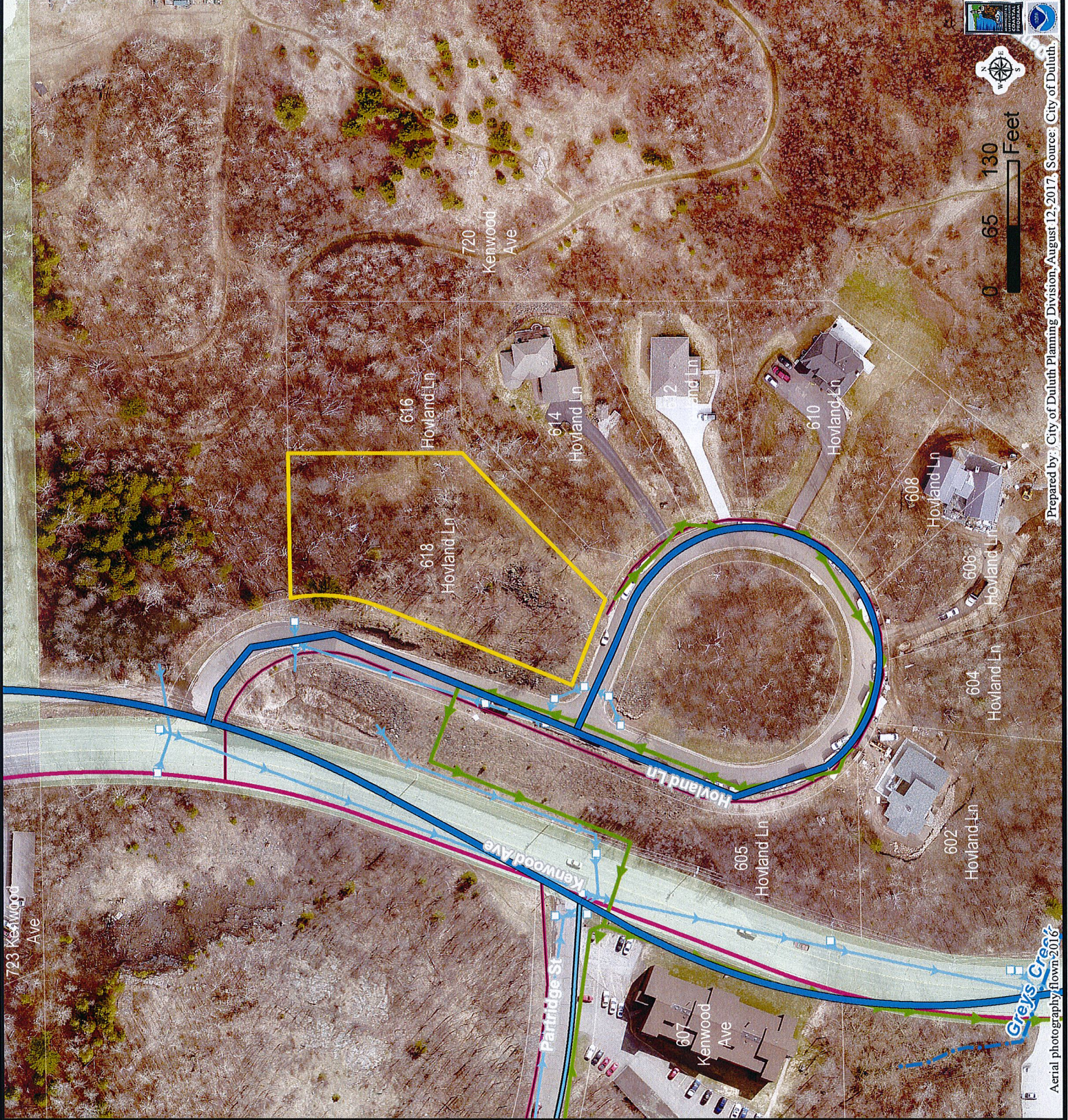


1,550 3,100 Feet

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Aerial photography flown 2016

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City Planning

618 Hovland Lane

Legend

- Bike
- Multi-Use - Paved
- Mountain Biking and X-Country Skiing
- Climbing
- Trout Stream (GPS)
- Other Stream (GPS)

Water Distribution System

- 30 - 60" Water Pipe
- 16 - 24" Water Pipe
- 4 - 6" Water Pipe

Sanitary Sewer Collection System

- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main

Gas Distribution Main

- 8" - 16" Gas Pipes
- 4" - 6" Gas Pipes
- 0" - 4" Gas Pipes

Storm Sewer Collection System

- Storm Sewer Pipe
- Storm Sewer Catch Basin

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I-4

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Aerial photography flown 2016



City Planning

618 Hovland Lane- Future

Legend

- Bike
- Multi-Use - Paved
- Mountain Biking and X-Country Skiing
- Climbing
- 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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Recreation

Preservation

Urban Residential

Traditional Neighborhood

Preservation

723 Kenwood Ave

720 Kenwood Ave

Partridge St

Kenwood Ave

Kenwood Ave

616 Hovland Ln

614 Hovland Ln

612 Hovland Ln

610 Hovland Ln

608 Hovland Ln

606 Hovland Ln

604 Hovland Ln

602 Hovland Ln

605 Hovland Ln

Petition to Vacate Street, Alley, or Utility Easement

Name: Peder B and Siri C Morse

Description of street, alley, or easement to vacate: 10' Utility Easement through Tract I, Deer Run Development

My request for this vacation is to (indicate purpose of vacation):
Maximize building potential on this residential lot.

The City of Duluth will not need this street, alley, or easement in the future because:
Utility easement exists at curb around development. Easement Dead ends on north side of property.



PLEASE TAKE NOTICE: Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Council to vacate the street, alley, or easement described in the attached legal description.

This petition is made upon the following facts and reasons (Identify the factual basis and reasons supporting the petition)¹:

Tract I Utility Easement dead ends on north side of property adjacent to Duluth City Park Land. Utilities have already been brought to existing tracts of Deer Run Development via Kenwood Ave and Haviland Lane. Eliminating easement does not affect adjacent landowners within Deer Run Development.

This petition is supported by a majority of the person(s) who own a majority of the lineal frontage of the land abutting upon the portion of the public easement proposed to be vacated. A copy of the signatures of these persons is attached hereto and made a part hereof.²

The petitioner(s) agree to provide the city with a plat of the easement(s) as required by Section 50-37.6B(3) of the Duluth City Code upon approval of the vacation. We understand that the vacation cannot occur without the submission of the required plat. We understand that the cost of producing the plat is the responsibility of the petitioner(s). We also understand that the approval will lapse and be of no effect if the plat and clerk certification is not recorded with the county recorder within 90 days after final approval.

Signature(s):  

Date: 8-1-17

Notice: This is public data.

¹ In order to vacate a public easement it must be demonstrated that the easement is useless for the purpose for which it was dedicated.

² If a property is owned in joint tenancy or by tenants in common, each individual with an ownership interest will be counted to determine if a majority of owners have signed the petition. An owner cannot sign for another owner unless legally authorized to do so, i.e. power of attorney, trustee, or court approved guardianship or conservatorship.

7-6

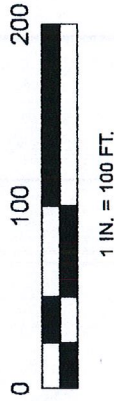
PROPOSED UTILITY EASEMENT VACATION EXHIBIT

TRACT I, IN PART OF REGISTERED LAND SURVEY NO. 59
IN THE SE QUARTER, SECTION 15, T.50N, R.14W
CITY OF DULUTH, ST. LOUIS COUNTY, MINNESOTA

Utility Vacation Description:

A 10 foot wide utility easement vacation across Tract I of Registered Land Survey No. 59, being 5 feet left and 5 feet right of the following legally described centerline:
Commencing at the Southwest corner of said Tract I; Thence S 67 deg. 50 min. 00 sec. E., 55.00 feet, along the South line of Tract I to the centerline of utility easement described and the Point of Beginning of utility easement vacation description; Thence N 22 deg. 10 min. 00 sec. E., 205.97 feet; Thence N 00 deg. 14 min. 40 sec. E., 113.05 feet to the North line of Tract I and there terminating.

The sidelines of said easement shall be prolonged or shortened to the South and North line of said Tract I.



I hereby certify that this utility vacation exhibit has been checked and approved this _____ day of _____, 2017.

Signature: _____ City Engineer

Printed Name: _____ Date: _____

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.

James T. Nelson Date: August 30th, 2017
James T. Nelson License Number: 49578

SurveyScience Land Surveying, LLC
Duluth, Minnesota
(218) 428-4327

Property address: 618 Hovland Lane

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