



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

Room 160  
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 Duluth, Minnesota 55802

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<b>File Number</b>	PL 20-027	<b>Contact</b>	Kyle Deming, <a href="mailto:kdeming@duluthmn.gov">kdeming@duluthmn.gov</a>	
<b>Type</b>	Vacation of utility easement	<b>Planning Commission Date</b>	April 14, 2020	
<b>Deadline for Action</b>	<b>Application Date</b>	March 10, 2020	<b>60 Days</b>	May 9, 2020
	<b>Date Extension Letter Mailed</b>	March 30, 2020	<b>120 Days</b>	July 8, 2020
<b>Location of Subject</b>	Upper side of 3700-3800 Blocks of London Road (Condon Park)			
<b>Applicant</b>	TJS Construction, LLC	<b>Contact</b>	Ted Stocke	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	See Attached			
<b>Site Visit Date</b>	April 1, 2020	<b>Sign Notice Date</b>	March 31, 2020	
<b>Neighbor Letter Date</b>	April 1, 2020	<b>Number of Letters Sent</b>	26	

**Proposal**

Vacate the utility easement in former 38<sup>th</sup> Avenue East in preparation of re-platting 18 lots into the London East plat.

Staff recommends approval with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Vacant/Undeveloped	Traditional Neighborhood
<b>North</b>	R-1	Railroad, Lakewalk	Traditional Neighborhood
<b>South</b>	R-1 and MU-N	Apartments, One-unit dwelling	Urban Residential
<b>East</b>	R-1	Vacant/Undeveloped	Traditional Neighborhood
<b>West</b>	R-1	One-unit dwelling	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. 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.

Governing Principle #8 – Encourage a mix of activities, uses, and densities.

Governing Principle #12- Create efficiencies in delivery of public services.

Zoning – Residential-Traditional (R-1): traditional neighborhoods of single-family, duplexes and townhouses on moderately sized lots. Intended to be used primarily in established neighborhoods. Dimensional standards require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas.

Future Land Use – Traditional Neighborhood - Characterized by grid/connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Includes many of Duluth’s older neighborhoods, infill projects, neighborhood extensions. 4-8 units/acre, mix of housing types (i.e. town homes and 4-plexes).

History: 38<sup>th</sup> Avenue East, as well as 30<sup>th</sup>, 33<sup>rd</sup>, and 35<sup>th</sup> Avenues East, from Jefferson Street to London Road were vacated on December 2, 1925, and a utility easement was retained for the full length and width of each street.

Related files: PL 20-016 Variance to rear yard setback; PL 20-017 Wetland Replacement Plan; PL 20-035 Preliminary Plat review for London East re-plat

**Review and Discussion Items:**

Staff finds that:

1. The applicant is requesting to vacate a portion of the utility easement in former 38<sup>th</sup> Avenue East that was retained when the section from Jefferson Street to London Road was vacated in 1925.
2. The purpose is to remove the easement in preparation for re-platting of the surrounding 18 lots into the London East plat (see PL 20-035) and a residential development.
3. There are no utilities installed in the easement and no utilities are expected to be needed in this corridor according to the City Engineering office.
4. The proposed London East plat is proposing a 30-foot wide utility easement in the area adjacent to the existing utility easement proposed for vacation. To retain continuity of the utility easement a connection to the remaining utility easement in 38<sup>th</sup> Avenue East is recommended in the London East plat in case it is needed in the future.
5. No other public or City comments have been received at the time of drafting this report.
6. 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;
2. The vacation shall not be final until the plat of London East is recorded in the office of the St. Louis County Recorder, such recording to be done concurrently.



London East  
3700-3800 Block of  
Upper Side of London Rd.  
TJS Construction, LLC

Site Map



Subject Property

Legend

Easement Type

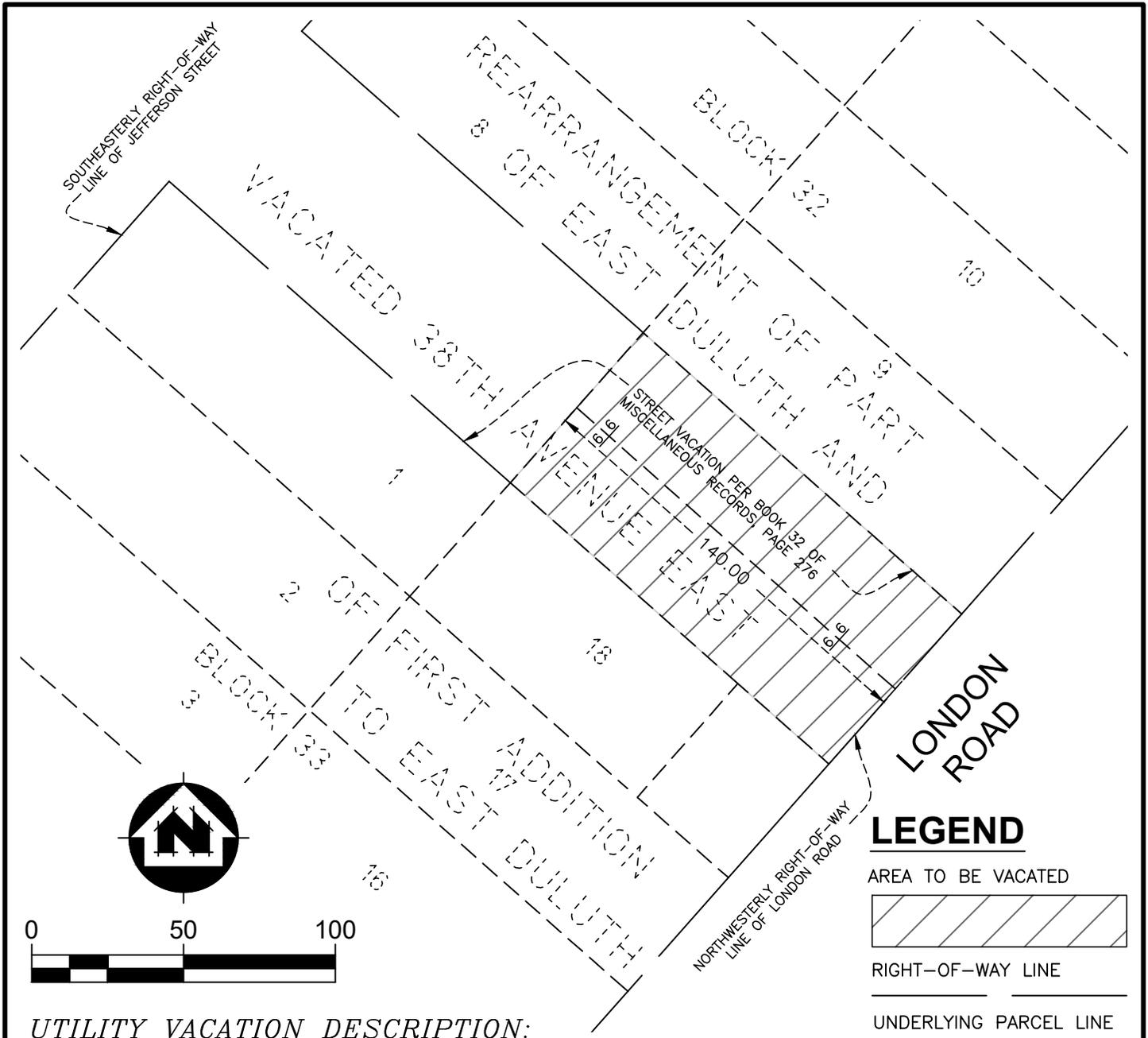
-  Utility Easement
-  Other Easement

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 2019



Prepared by: City of Duluth Planning & Development Division, March 30, 2020. Source: City of Duluth.



**UTILITY VACATION DESCRIPTION:**

ALL THAT PART OF THE SOUTHEASTERLY 140.00 FEET OF VACATED 38TH AVENUE EAST LYING NORTHWESTERLY OF LONDON ROAD AND SOUTHEASTERLY OF JEFFERSON STREET AS DEDICATED PER THE PLAT OF REARRANGEMENT OF PART OF EAST DULUTH AND OF FIRST ADDITION TO EAST DULUTH, ST. LOUIS COUNTY, MINNESOTA.

I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

\_\_\_\_\_ 4/3/2020 49907  
 CURTIS E. SCHLEY DATE REGISTRATION NO.  
*(Signature)*

**CITY ENGINEER:**  
 APPROVED BY THE CITY ENGINEER OF THE CITY OF DULUTH, MINNESOTA THIS \_\_\_\_\_ DAY  
 OF \_\_\_\_\_ 20\_\_\_\_.

BY \_\_\_\_\_

PROJECT NAME: LONDON RD PHASE 2 PROJECT NO: 5331006 SHEET NO: 1 OF 1 DATE: 4/3/2020



**LONDON RD-PHASE 2**  
 TJS DEVELOPMENT  
 ST. LOUIS COUNTY, MN

**UTILITY VACATION**

PROJECT NO.  
 5331006  
 SHEET  
 1 OF 1

By Mayor Snively:

Resolved, That all that part of Thirtieth, Thirty-third, Thirty-fifth and Thirty-eighth avenues east, which lie between the north line of London road and the south line of Jefferson street, be and the same are hereby vacated.

Resolved further, That the city of Duluth does hereby reserve right of way through said property for easements for sewer, water and gas and

other public utilities.

Mayor Snively moved the adoption of the resolution and it was declared adopted upon the following vote:

Yeas—Commissioners McCormick, Phillips, Tischer, Wheeler, Mayor Snively—5.

Nays—None.

Adopted Dec. 2, 1925.

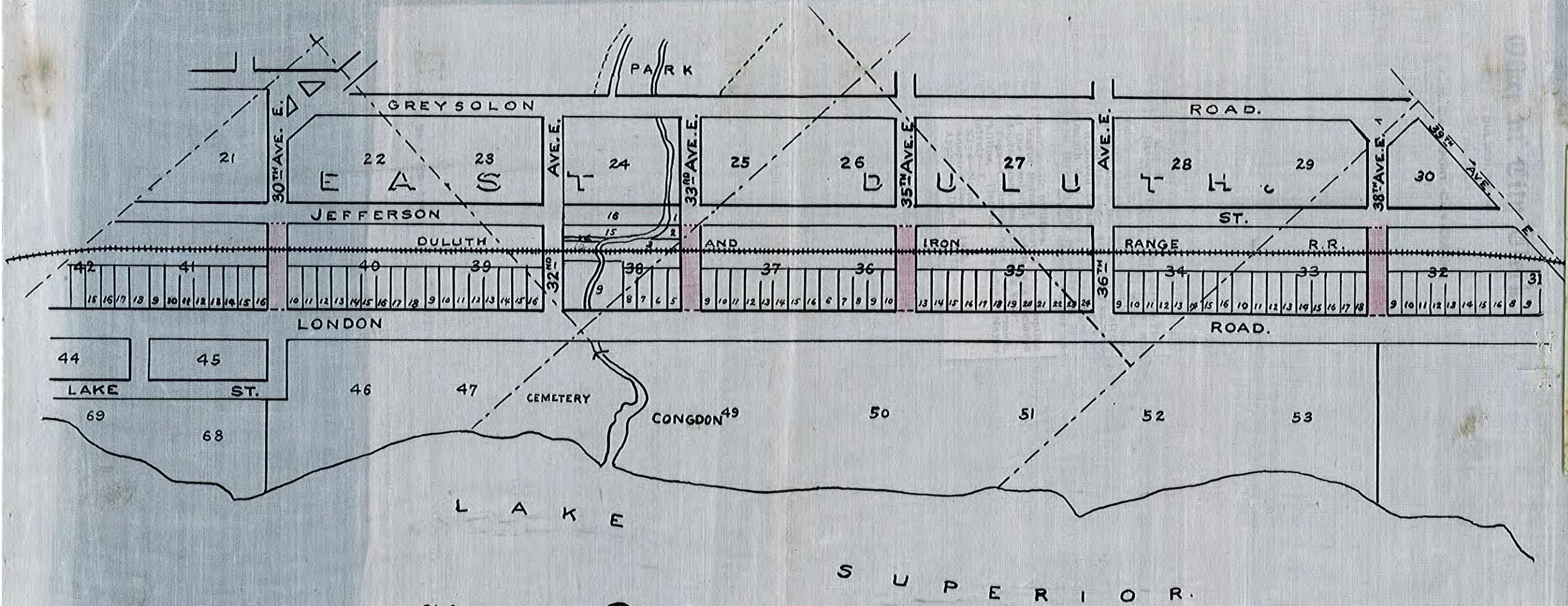
Approved Dec. 2, 1925.

I, A. H. Davenport, City Clerk of the City of Duluth, in the State of Minnesota, do hereby certify that I have compared the annexed copy of Resolution passed by the City Council of the City of Duluth, on the 2<sup>nd</sup> day of Dec 19 25, with the original document and record thereof on file and of record in my office, and in my custody as City Clerk of said city, and that the same is a true and correct copy thereof, and the whole thereof, and a true and correct transcript therefrom.

In Witness Whereof, I have hereunto set my hand and affixed the corporate seal of said City of Duluth, this 11<sup>th</sup> day of Dec 19 25.

*A. H. Davenport*

City Clerk, City of Duluth, Minn.



## Vacation Plat

*I hereby certify this to be a correct plat of the Vacation of 30<sup>th</sup> - 33<sup>rd</sup> 35<sup>th</sup> and 38<sup>th</sup> Avenues East which lie between the north line of London Road and the south line of Jefferson Street.*

*Vacated by the City Council of the City of Duluth on the 2<sup>nd</sup> day of December A.D. 1925.*

\_\_\_\_\_  
City Clerk.