CITY OF DULUTH
Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 13-013		**Contact**	Steven Robertson, 218 730-5295	
Application Type	Vacation of Utility Easement		**Planning Commission Date**	March 12, 2013	
Deadline for Action	**Application Date**		January 18, 2013	**60 Days**	N/A
	Date Extension Letter Mailed		February 19, 2013	**120 Days**	N/A
Location of Subject	4500 Block of Minnesota Avenue				
Applicant	Daniel and Amanda Thralow		**Contact**		
Agent	Chris Strom		**Contact**	strom@tea2architects.com	
Legal Description	010-2750-00030				
Site Visit Date	February 24, 2013		**Sign Notice Date**	February 24, 2013	
Neighbor Letter Date	February 19, 2013		**Number of Letters Sent**	4	

Proposal

Property owner is requesting a vacation of an utility easement, adding that "there are currently no working underground utilities in this area; they have been relocated."

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Vacant/Lake	Traditional Neighborhood
North	R-1	Lake	Recreation
South	R-1	Road/Lake	Recreation
East	R-1	Park	Recreation
West	R-1	Residential	Traditional Neighborhood

Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements requires 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.

Code Requirements are found in the UDC Section 50-37.6. 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 Findings (Governing Principle and/or Policies) and Current History (if applicable):

Comprehensive Plan, Governing Principles:
Principle #5 - Strengthen neighborhoods. The present city is an historical amalgam of villages and other independent units of government, contributing to the present condition of Duluth being strongly defined by its neighborhoods. This condition should be reinforced through land use, transportation and public service delivery patterns which strengthen neighborhood identity. New institutional expansions, major public infrastructure or large commercial or industrial uses should not divide historic neighborhood patterns.

History: the parcel was sold by the City (approx 2008). The new owner paid to re-routed the utilities to the perimeter of the lot to create more buildable area. The intent was that once the utilities were re-routed, the owner would give the city a new utility easement and then seek to have the existing useless easements vacated. As of the date of this memo, the easement agreement has not been recorded, but the intent is that it will happen shortly. In the past it was unfortunatly not uncommon to have either vacation exhibits or easement agreements not recorded properly by the property owner.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

Staff finds that:

1) The applicant owns the land that the utility easements are located. The current utility easements are not being used as the utilities were re-routed by the property owner.

2) While not part of this planning commission action to vacate the utility easements, the property owner will dedicate a 15 foot easement along the western, southern, and eastern lot line for the new utilities.

3) This easement 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; the right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

4) No comments were received from the public or city or government agencies on this proposal. The City Engineering Department (Utilities) does not have an issue with this vacation going forward while they resolve the dedication of the new easement.

5) Vacations of streets lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. The Duluth City Clerk facilitates the recording process.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the findings, Staff recommends that the Planning Commission recommend approval to the City Council for the petition to vacate the utility easement with the following condition:

1) Vacation goes into effect after being recorded at the County Recorder's office. Applicant will work with Duluth City Clerk's office if needed to assist in the recording process.

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Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

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City Planning

Proposed Vacation
13-013 Thralow

Legend

Vacated ROW

Easement Type

- Utility Easement
- Other Easement
- Zoning (Final)

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

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.

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City Planning

Proposed Vacation
13-013 Thralow

Legend

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
- Storage Basin
- PS Pump Station

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
- D Discharge_Points
- Vacated ROW

Easement Type
- Utility Easement
- Other Easement

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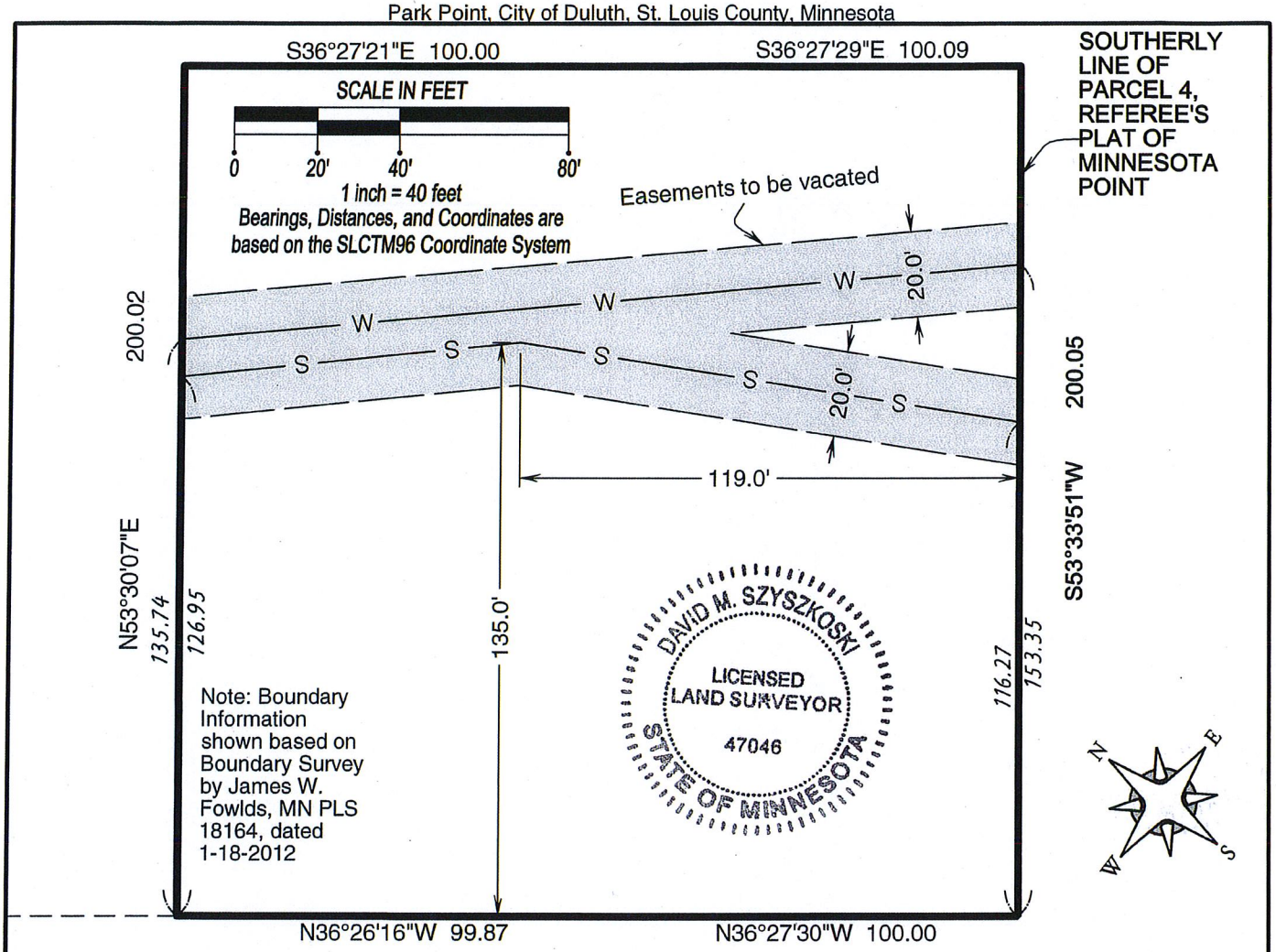
Vacation Exhibit

Park Point, City of Duluth, St. Louis County, Minnesota



Legal Descriptions (by others):

"Property": All that part of Parcel Four (4), REFEREE'S PLAT OF MINNESOTA POINT, according to the recorded plat thereof, situate in St. Louis County, Minnesota, and lying between the East line of Minnesota Avenue projected South and Easterly in a straight line continued as the same is laid out and established in the recorded plat of OATKA BEACH ADDITION East and Southerly of 43rd Street and lying South and Westerly of the East line of Block Four (4) OATKA BEACH ADDITION projected South and Easterly in a straight line; and also further described as that part of Parcel Four (4), REFEREE'S PLAT OF MINNESOTA POINT which lies Southerly of a line drawn through said parcel parallel with the Southerly line of said Parcel Four (4) and distant two hundred (200) feet Northerly therefrom.

EASEMENT DESCRIPTIONS TO BE VACATED:

Water: Beginning at a point on the Southerly line of said Parcel 4, said point located 153.35 feet Easterly of the East line of Minnesota Ave; thence northwesterly in a straight line to a point on the Northerly line of said parcel, said Northerly line being parallel with and distant two hundred (200) feet North of the Southerly line of said Parcel 4; said point located 135.74 feet Easterly of the East line of Minnesota Ave and there terminating.

Sanitary sewer: Beginning at a point on the Southerly line of said Parcel 4, said point located 116.27 feet Easterly of the East line of Minnesota Ave; thence northerly in a straight line to a point; said point being a manhole and located 119 feet Northerly of the Southerly line of said Parcel 4 and 135 feet easterly of the east line of Minnesota Ave; thence turning and continuing Northwesterly in a straight line to a point on the Northerly line of said parcel, said Northerly line being parallel with and distant two hundred (200) feet North of the Southerly line ofsaid Parcel 4; said point located 126.95 feet Easterly of the East line of Minnesota Ave and there terminating.

Approved by the City Engineer of Duluth, MN

Date:_____ by: _____

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, 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. Date : 2/15/2013 DAVID SZYSZKOSKI MINNESOTA LICENSE NO. 47046	ENGINEERS ▫ SURVEYORS ▫ PLANNERS SALO ENGINEERING, INC. 4560 Norway Pines Place ▫ Duluth, MN 55802 SALO JOB NUMBER: L4630 ph 218/727-8796	Vacation Exhibit in Park Point St. Louis County, MN For : Daniel Thralow

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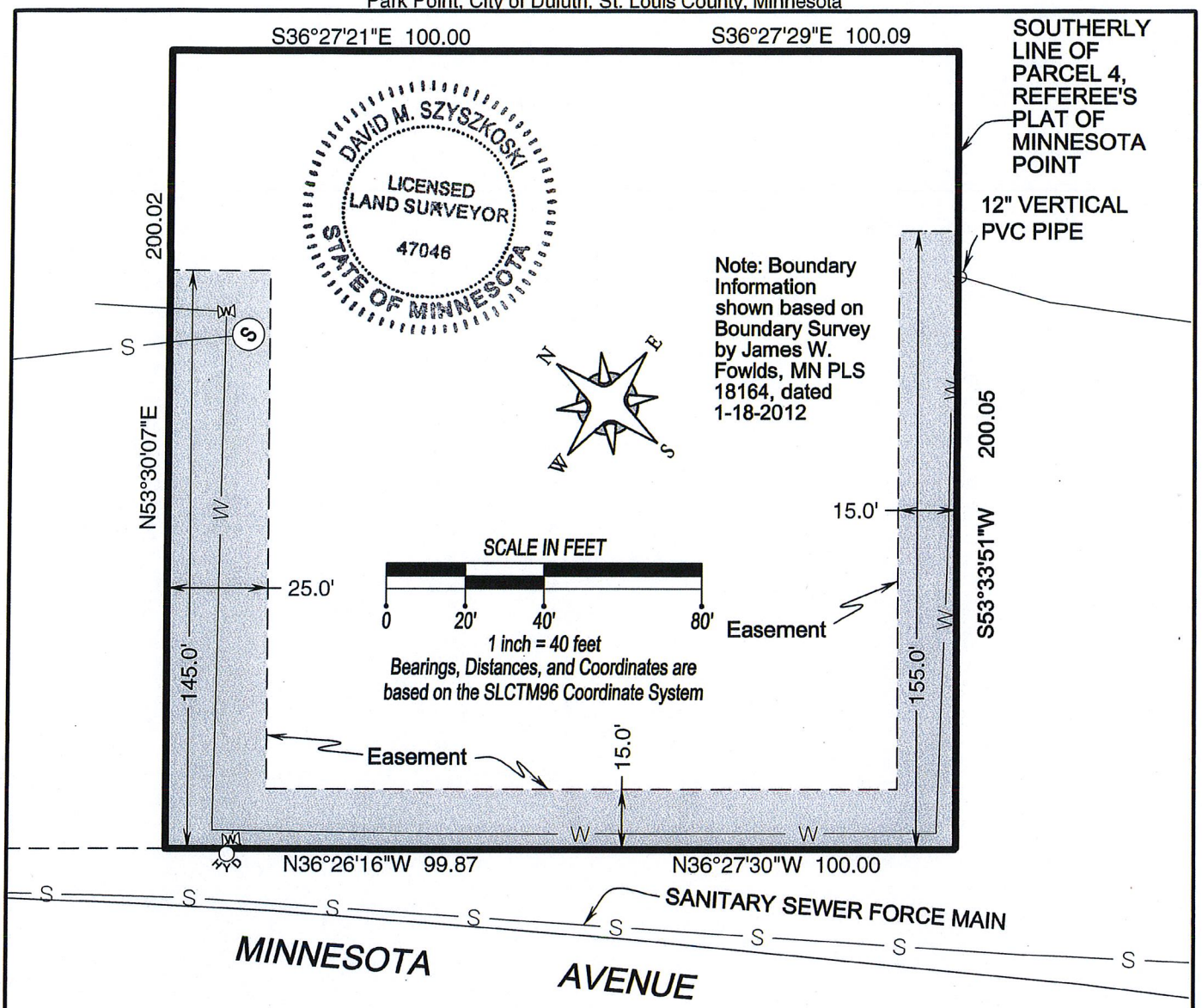
Example; For Reference
Future New Dedication

Easement Exhibit

Park Point, City of Duluth, St. Louis County, Minnesota



EASEMENT DESCRIPTION:
An easement for sanitary sewer and water main purposes over, under, and across the following land (described by others):

That certain tract of land situated in Lot 1, Section 13, Township 49, Range 14 West of the 4th P.M. described as follows:
All that part of Parcel 4, REFEREE'S PLAT OF MINNESOTA POINT, as the same is recorded in Book "G" of Plats at page 38 in the office of the Register of Deeds, which lies southerly of a line drawn through said parcel parallel with the southerly line of said parcel 4 and distant 200 feet northerly there from, lying easterly of the east line of Minnesota Avenue projected southerly in a straight line continued as the same is laid out and established southerly of Pellenger Street in the recorded plat of OATKA BEACH ADDITION and lying westerly of the east line of Block 4, OATKA BEACH ADDITION projected southerly in a straight line.

Said easement being described as follows:
The Westerly 145 feet of the Northerly 25 feet of previously described parcel of land.
AND the Westerly 15 feet of the previously described parcel of land.
AND the Westerly 155 feet of the Southerly 15 feet of the previously described parcel of land.

Approved by the City Engineer of Duluth, MN

Date:_____ by: _____

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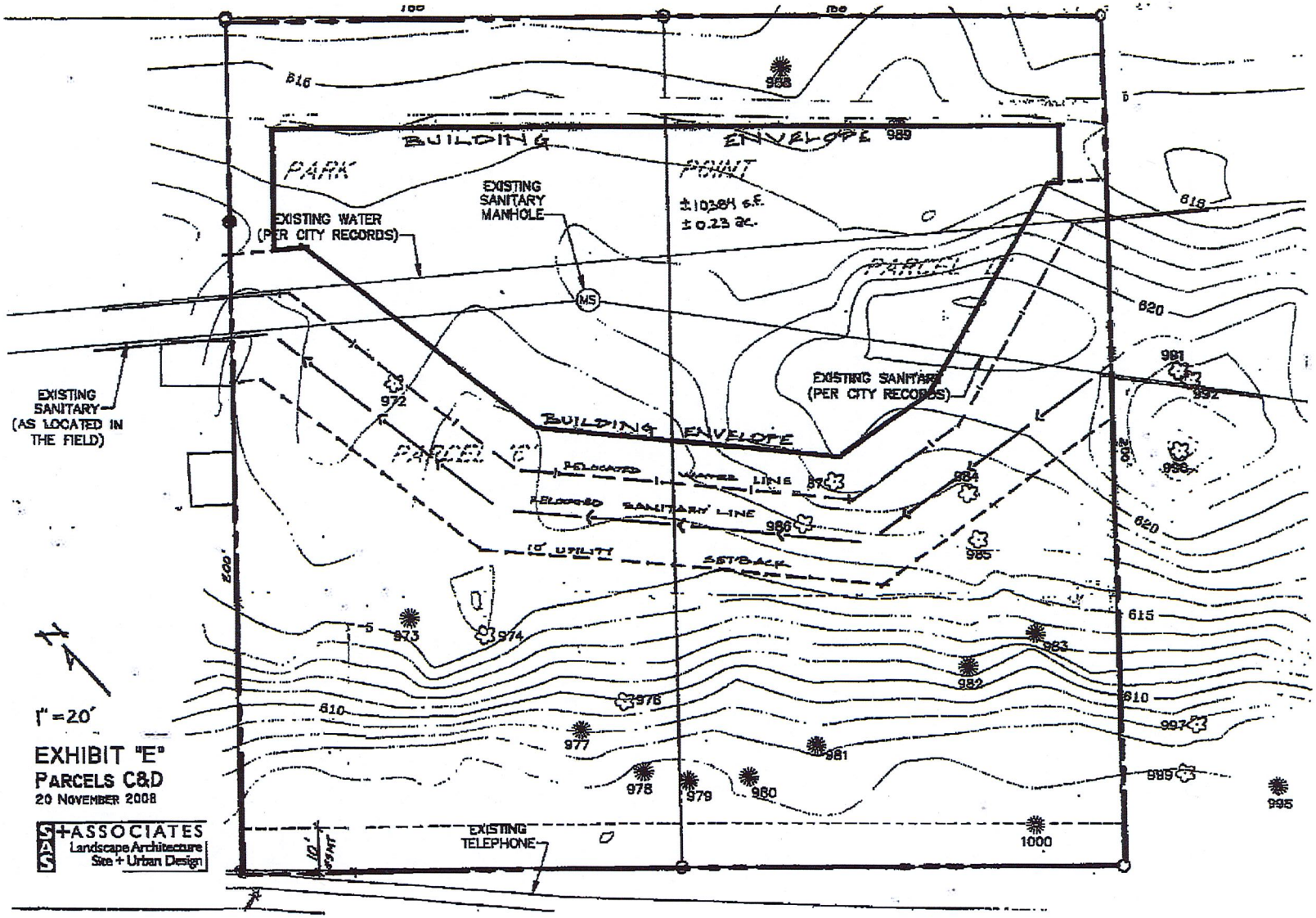

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