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 16-017	**Contact**	Chris Lee, clee@duluthmn.gov		
Application Type	Vacation of Utility Easement	**Planning Commission Date**	April 12, 2016		
Deadline for Action	**Application Date**	March 1, 2016	**60 Days**	April 29, 2016	
	Date Extension Letter Mailed	March 23, 2016	**120 Days**	June 28, 2016	
Location of Subject	7700 Grand Aveune				
Applicant	Benedictine Care Center; Donna Loomis	**Contact**	donna.loomis@bhshealth.org (763) 552-3766		
Agent	Melissa Maloney	**Contact**	mmaloney@fryberger.com (218) 725-6813		
Legal Description	See Attached				
Site Visit Date	March 31, 2016	**Sign Notice Date**	March 29, 2016		
Neighbor Letter Date	March 21, 16	**Number of Letters Sent**	46		

Proposal

The applicant is proposing a vacation of an utility right of way. This is to cure a slight encroachment of the building into the existing utility easement. The vacation is for one foot of a sixteen foot wide utility easement. The city will still have 15 feet of the utility easement available for future utility usage.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N	Mixed Use Neighborhood	Auto Oriented Commerical
North	MU-N	Mixed Use Neighborhood	Traditional Neighborhood
South	I-G	Industrial General	Preservation
East	MU-N	Mixed Use Neighborhood	Preservation
West	MU-N	Mixed Use Neighborhood	Auto Oriented Commercial

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

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.

Code requirements are found in UDC Section 50-37.6. The Planning Commision 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.

II. B-1

Comprehensive Plan Findings (Governing Principle and/or Policies) **and Current History** (if applicable):

Governing Principle #2: Reuse previously develop lands.
Governing Principle #7: Create and maintain connectivity.

Future Land Use - Auto-Oriented Commercial: Commercial and office development focused primarily on needs and convince of the motorist, without losing pedestrian access and connection. No Residential uses. Situated along arterial roads. Can include a mix of auto- and neighborhood-oriented commercials uses or transition into neighborhood commercial.

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

Staff finds that:

1.) The easement is 16' wide and runs from 78th Avenue West to 75th Avenue West. Currently the right of way is undeveloped.

2.) The City does not anticipate the need for a road in this location under current land use plans. No development is proposed in this location. There are no current utilities located in the proposed right of way vacation

3.) This right of way 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.

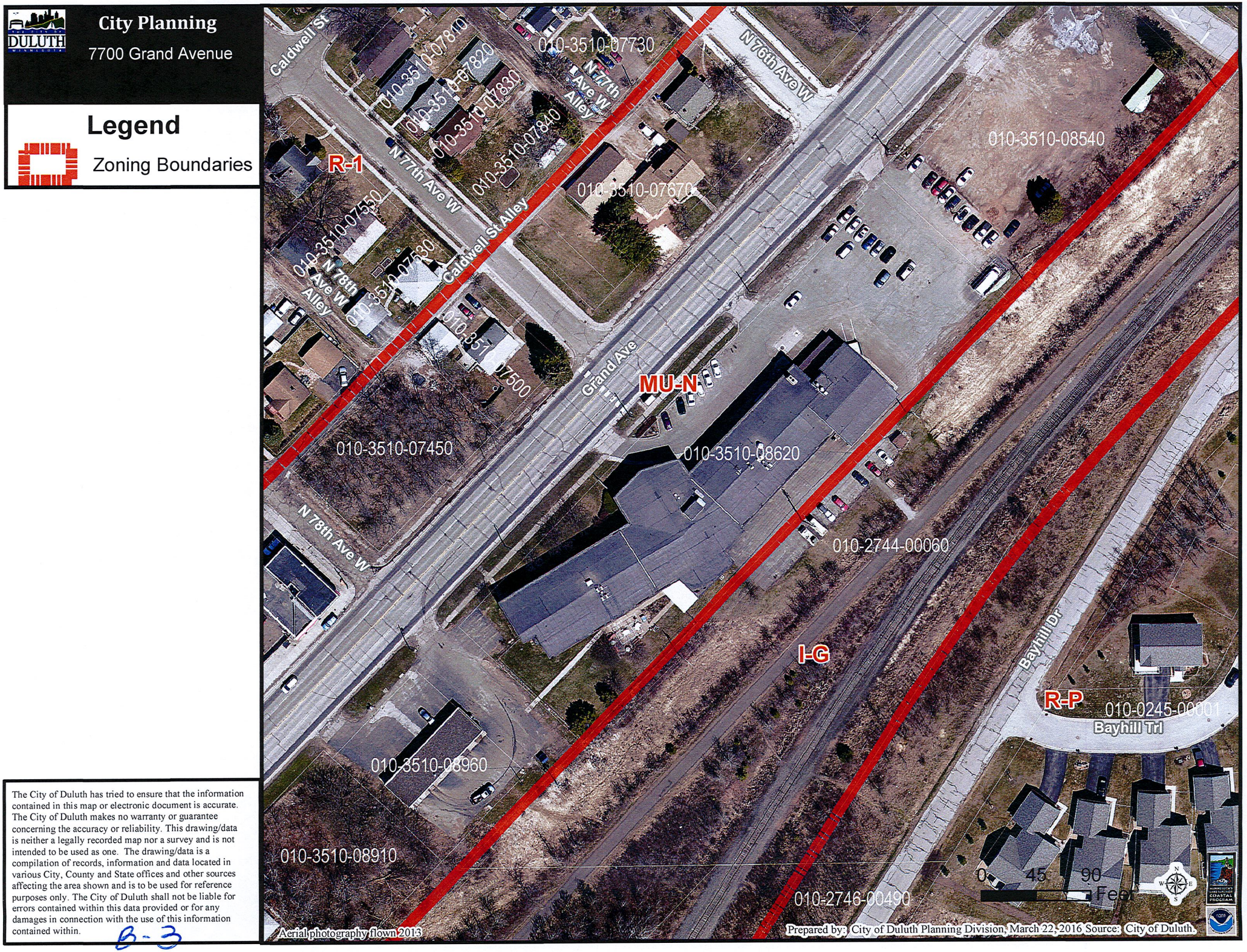
4.) City Engineering has stated the vacation is acceptable. Parks and Recreation has stated that this vacation will not affect the Cross City Trail and is acceptable.

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

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

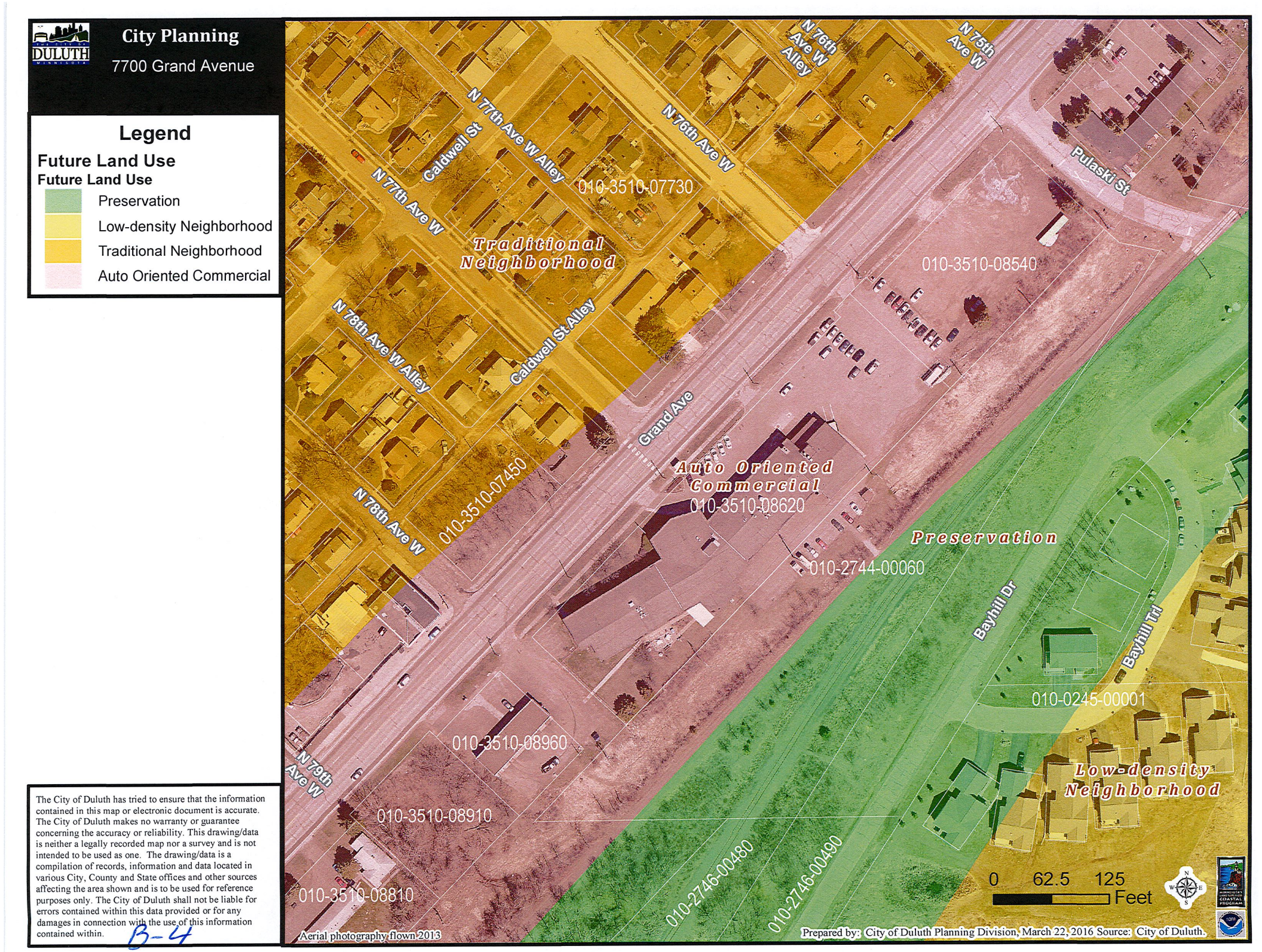
Based on the above findings, Staff recommends that Planning Commission recommend approval of the vacation of the utility easement, without any conditions

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



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.

B-3



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.

B-4

City Planning

PL 16-017

7700 Grand Avenue

Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- Hydrant
- Water Main

Network Structure

Subtype

- Storage Basin
- Pump Station

Sanitary Gravity Mains

Owner

- CITY OF DULUTH
- WLSSD; PRIVATE; RICE LAKE TWP
- Sanitary Sewer Forced Main
- Storm Sewer Catch Basin

Subtype

- Storm Sewer Pipe

Gas Distribution Main

Material

- Coated Steel
- Plastic

Right-of-Way Type

- Road or Alley ROW
- Vacated ROW

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.

B-5

Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, March 22, 2016; Source: City of Duluth

Utility Easement Vacation Exhibit

in the Southwest Quarter of Section 13, T49N, R15W, St. Louis County, Minnesota

Legal Description:

All that part of the vacated alley located adjacent to and southeasterly of Block 36 and Block 37, Norton's Fairmount Park Division of Duluth and vacated 76th Avenue West lying between said Blocks 36 and 37, St. Louis County, MN, bounded as follows:

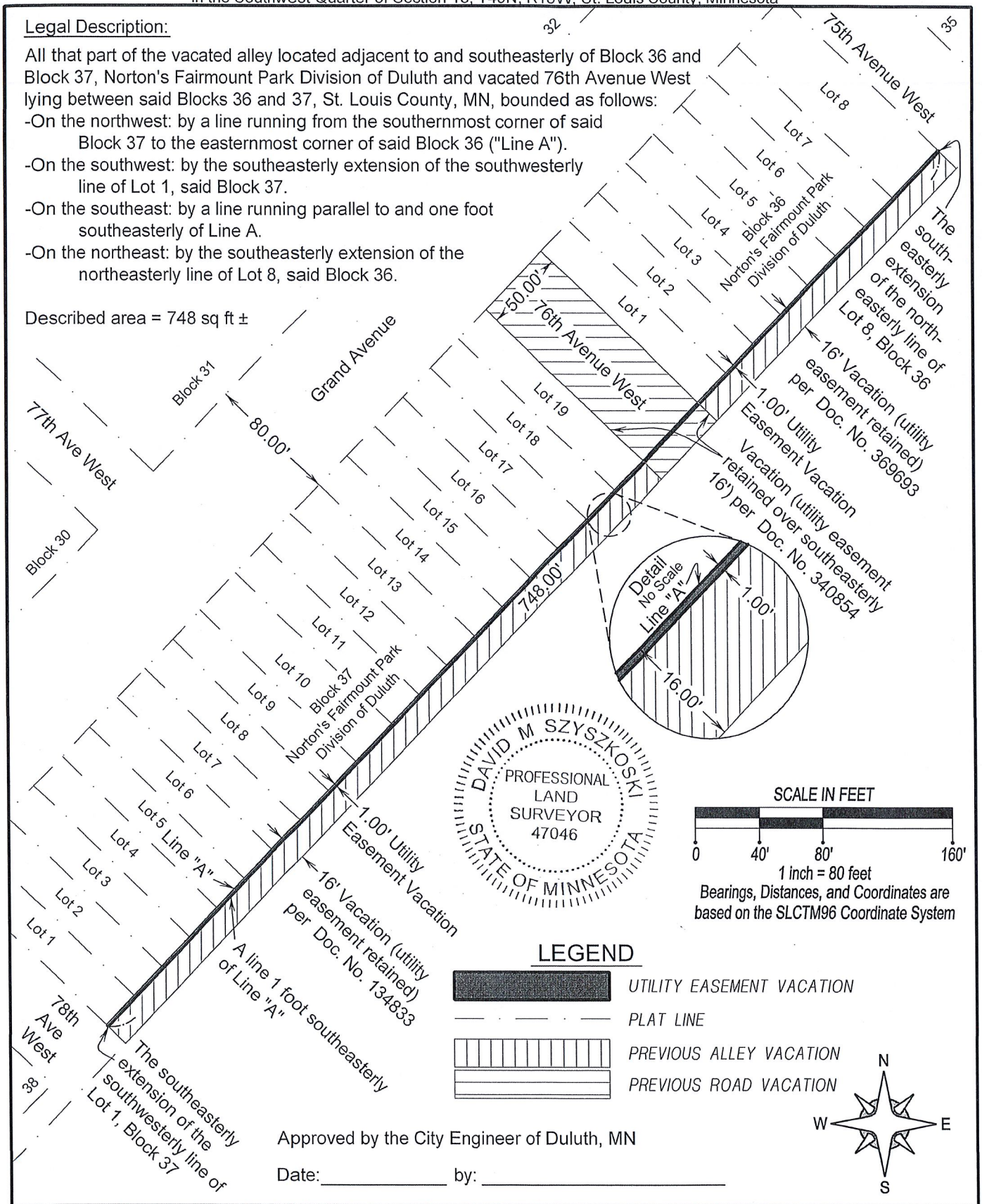
-On the northwest: by a line running from the southernmost corner of said Block 37 to the easternmost corner of said Block 36 ("Line A").

-On the southwest: by the southeasterly extension of the southwesterly line of Lot 1, said Block 37.

-On the southeast: by a line running parallel to and one foot southeasterly of Line A.

-On the northeast: by the southeasterly extension of the northeasterly line of Lot 8, said Block 36.

Described area = 748 sq ft ±



LEGEND

- UTILITY EASEMENT VACATION
- PLAT LINE
- PREVIOUS ALLEY VACATION
- PREVIOUS ROAD VACATION

N
W
E
S

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 : 3/30/2016

DAVID SZYSZKOSKI
MINNESOTA LICENSE NO. 47046

TKDA
4560 Norway Pines Place
Duluth, MN 55811
218-727-8796
tkda.com

Job Number: 15513.215 / L3360D

Utility Easement Vacation Exhibit
For : Fryberger, Buchanan, Smith & Frederick, P.A.

B-6

Legal Description:

All that part of the vacated alley located adjacent to and southeasterly of Block 36 and Block 37, Norton's Fairmount Park Division of Duluth and vacated 76th Avenue West lying between said Blocks 36 and 37, St. Louis County, MN, bounded as follows:

-On the northwest: by a line running from the southernmost corner of said Block 37 to the easternmost corner of said Block 36 ("Line A").

-On the southwest: by the southeasterly extension of the southwesterly line of Lot 1, said Block 37.

-On the southeast: by a line running parallel to and one foot southeasterly of Line A.

-On the northeast: by the southeasterly extension of the northeasterly line of Lot 8, said Block 36.

Described area = 748 sq ft ±

B-7

View of the utility easement from Pulaski Street. Benedictine Care Center is located in the background of the image.

B-8