

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

11-0040R

RESOLUTION VACATING THE PORTION OF ALLEY LOCATED BETWEEN  
BLOCKS 36 AND 40, PORTLAND DIVISION OF DULUTH  
(ST. LUKE'S HOSPITAL).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city clerk requesting the vacation of the 20 foot wide alley located between blocks 36 and 40 of the Portland Division of Duluth; and

(b) Pursuant to Section 100 of the City Charter and Article IV of Chapter 45 of the Duluth City Code, 1959, as amended, such petition was duly referred to the city planning commission (FN 10111) and such commission gave due notice of public hearing and did consider same in public hearing and, the city planning commission found that the petitioned alley will be useless for vehicular, utility and pedestrian purposes when replacement alley easement and utility easement are dedicated as noted in (c) below; and

(c) The city engineer has requested that the alley vacation be conditioned upon the relocation of utilities, including, but not limited to, sanitary sewer, water, storm sewer, electric power and telephone communication lines, impacted by the proposed vacation, the location of which to be approved by the city engineer and in a manner approved by the city engineer; and

(d) The city engineer has requested the alley vacation be conditioned upon dedication of an alley easement connecting the remaining portion of the alley to East Second Street near 11th Avenue East to provide for vehicular and pedestrian circulation, the final location and width to be approved by the city engineer; and

(e) The vacation will not be official until the relocation of utilities is complete and the applicant has dedicated the alley easement and the utility easement to the public; and

(f) The city planning commission, at its January 11, 2011, regular meeting, recommended approval of the vacation petition, condition upon the dedication

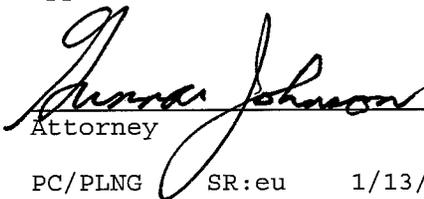
of replacement alley easement and utility easement; and

(g) The city council of the city of Duluth approves the vacation of the following-described alley described below and as described and depicted on Public Document No. \_\_\_\_\_:

That part of the 20 foot alley located between Blocks 36 and 40 as platted in the Portland Division of Duluth that lies between the easterly line of Tenth Avenue East and the centerline of the former right-of-way of 11th Avenue East; and

(h) That the city clerk is, pursuant to Section 100 (b) (7) of the Home Rule Charter of the city of Duluth, 1912, as amended authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this resolution and Public Document No. \_\_\_\_\_ showing the alley to be vacated and utility easements retained.

Approved as to form:

  
\_\_\_\_\_  
Attorney

PC/PLNG SR:eu 1/13/2011

STATEMENT OF PURPOSE: This resolution vacates the alley between Blocks of 36 and 40 of the Portland Division of Duluth.

A portion of the original 30 foot alley was previously vacated by city council action on October 1, 1888. The remaining 20 feet of the alley is to be vacated by this action.

The vacation is to be contingent upon the relocation of utilities and the dedication of an alley easement to preserve vehicular and pedestrian circulation and a utility easement to locate utilities, including but not limited to sanitary sewer, water, storm sewer, electrical power and telephone communication lines.

The motion to approve the vacation by the city council must prevail with at least six affirmative votes according to Section 45-44.

On January 11, 2011, the Duluth city planning commission held a public hearing on the proposal and voted 8-0 to recommend that the city council approve the vacation and easement retention.

Petition received: November 2, 2010

Action deadline: There is no action deadline for this resolution.

Applicant:

Ken Butler, representing St. Luke's Hospital  
11 East Superior Street, Suite 555  
Duluth, Minnesota 55802  
[kbutler@kenbutlerlaw.com](mailto:kbutler@kenbutlerlaw.com)



**CITY OF DULUTH**

Community Resources Department  
 Planning Division  
 411 W 1<sup>st</sup> St, Rm 402 \* Duluth, Minnesota 55802-1197  
 Phone: 218/730.5580 Fax: 218/730.5904

**STAFF REPORT**

<b>File Number</b>	10-111	<b>Contact</b>	Steven Robertson	
<b>Application Type</b>	Alley Vacation	<b>Planning Commission Date</b>	12-14-10	
<b>Deadline for Action</b>	<b>Application Date</b>	Oct. 18, 2010	<b>60 Days</b>	N/A
	<b>Date Extension Letter Mailed</b>	N/A	<b>120 Days</b>	N/A
<b>Location of Subject</b>	Between East 1st St and East 2nd St, and North 10th Ave East and North 11th Ave East			
<b>Applicant</b>	St. Luke's Hospital	<b>Contact</b>	Ron Franzen, 218-249-5612	
<b>Agent</b>	Kenneth Butler	<b>Contact</b>	218-625-2277	
<b>Legal Description</b>	The alley between blocks 36 and 40 of Portland Division of Duluth			
<b>Neighbor Letter Date</b>	November 19, 2010	<b>Number of Neighbor Letters Sent</b>	26	

**Proposal**

Vacate alley between East 1st Street and East 2nd Street, and North 10th Ave East and North 11th Ave East. The purpose of the vacation is to facilitate construction of a future five story mixed use parking facility and medical clinic. The applicant is proposing to relocate existing buried infrastructure currently located in the proposed vacation area to replace existing utility easements.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-I	N/A	Medical District
<b>North</b>	MU-I	St. Luke's Hospital	Medical District
<b>South</b>	MU-I	St. Luke's Hospital /Parking Lot	Medical District
<b>East</b>	R-2/MU-I	Residential	Medical District
<b>West</b>	MU-I	St. Luke's Hospital	Medical District

**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 Legislative Code, Article IV, Sections 45-37 to 45-48 and in City Charter, Chapter XIII, Section 100.

The standard for evaluating vacations is "uselessness," that the proposed right of way is not needed for the purposes for which it was dedicated.

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

Governing Principles:

Principle #7 - Create and maintain connectivity.

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

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

There are a few concerns that City staff have that have not been resolved at the time that this staff report was written. According to the Engineering Department, there is an existing 12" Clay sanitary sewer that runs down the alley to the west, starting at approximately 13th Avenue East (Chester Creek), serving numerous homes on the upper side of the alley to the east. This line will need to be re-located and reconnected to the sewer running down 1st Street and the main line going down 10th Avenue. The applicant's engineer is currently submitting a plan for the re-alignment of the sanitary sewer for City review and approval. However, until that plan has been approved and work begun, it would be premature to consider vacating the alley. City staff recommends that the Planning Commission either deny the vacation request, or more preferably, table the item until the next available Planning Commission meeting.

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

Recommend to table discussion on this issue until the January 11, 2011, Planning Commission meeting.

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

**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
- 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

**Right-of-Way Type**

- Discharge, Points
- Road or Alley ROW
- Vacated ROW

**Easement Type**

- Utility Easement
- Other Easement

**Public Owned Land**

- Tax Forfeited
- City
- School
- County
- State
- Federal

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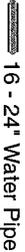
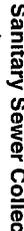
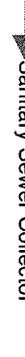
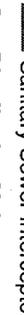
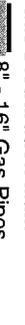
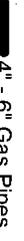
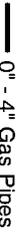
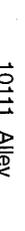
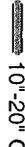
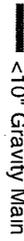
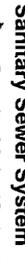
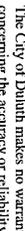


Aerial Photography from 2007

Prepared by: City of Duluth Planning Division, January 5, 2011. Source: City of Duluth

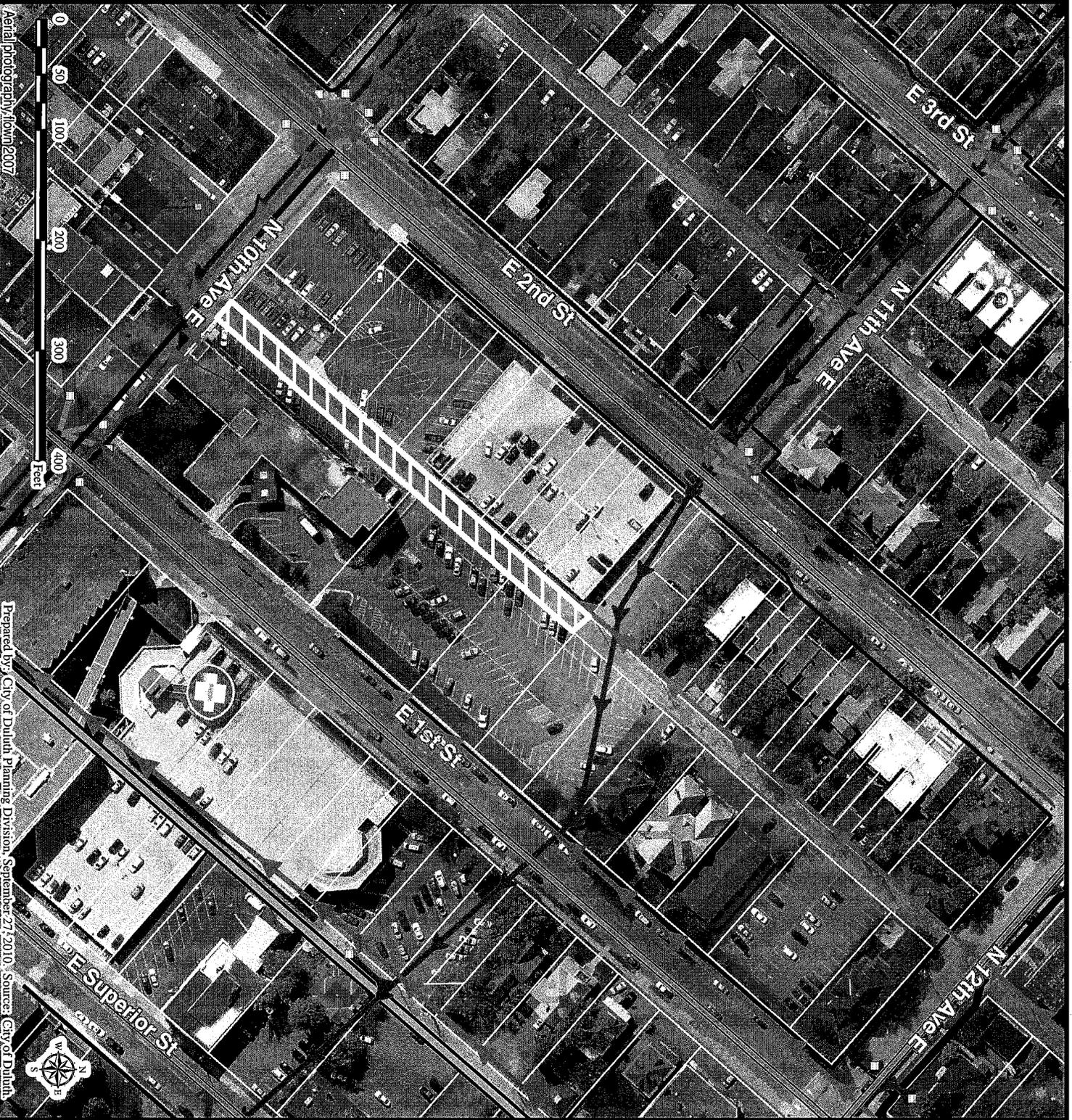
**FN 10111**  
**St. Luke's Hospital**  
**Alley Easement**  
**Vacation Request**

**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
-  Gas Distribution Main
-  8" - 16" Gas Pipes
-  4" - 6" Gas Pipes
-  0" - 4" Gas Pipes
-  10111 Alley
-  Storm Sewer Pipe
-  Storm Sewer Pipes
-  Water System
-  >20" Gravity Main
-  10"-20" Gravity Main
-  <10" Gravity Main
-  Sanitary Sewer System
-  Gravity Main (Collector)
-  Gravity Main (Interceptor)
-  Pressurized Main



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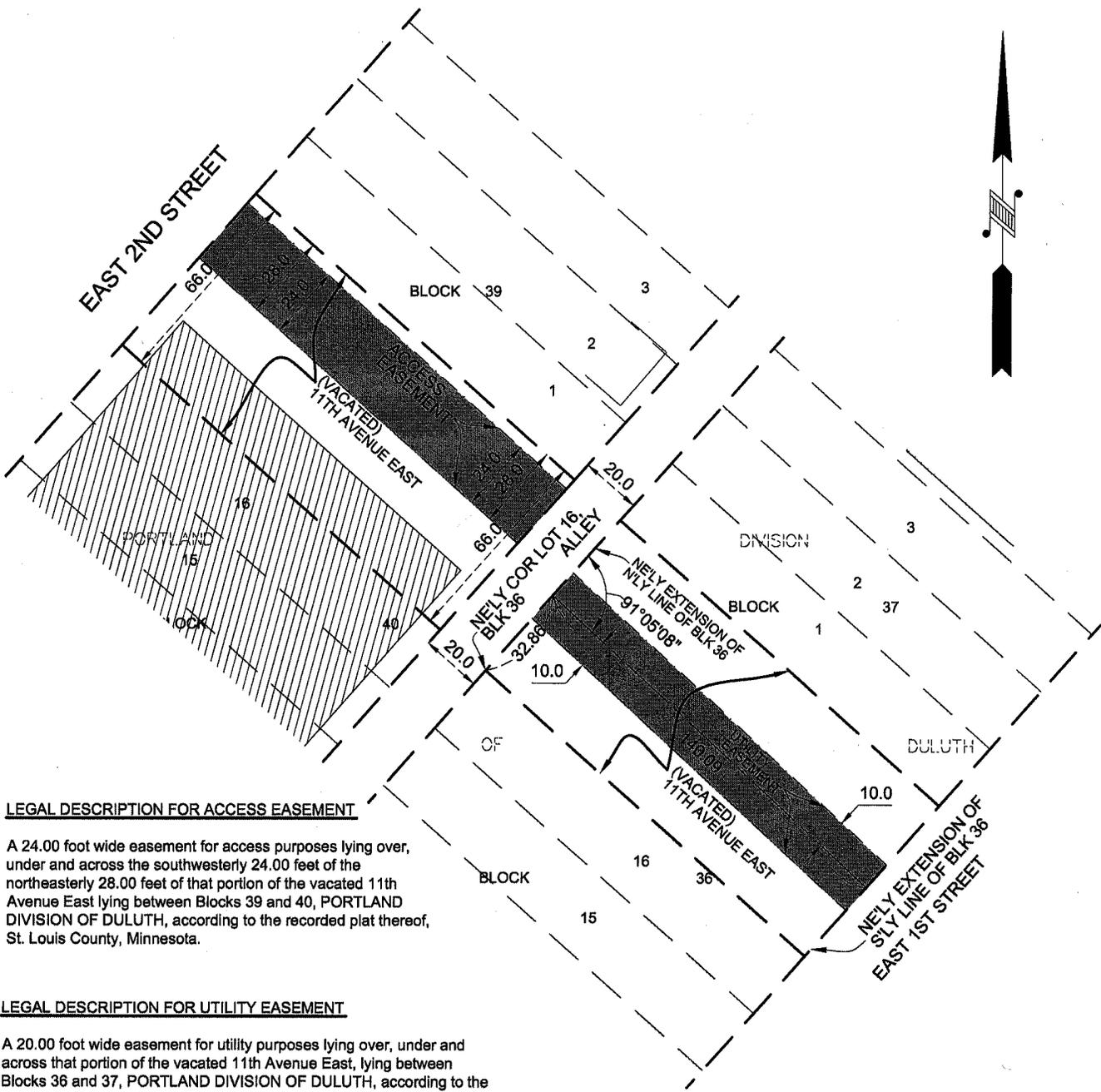


Aerial photography from 2007

Prepared by: City of Duluth Planning Division, September 27, 2010. Source: City of Duluth

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# EASEMENT SKETCH



**LEGAL DESCRIPTION FOR ACCESS EASEMENT**

A 24.00 foot wide easement for access purposes lying over, under and across the southwesterly 24.00 feet of the northeasterly 28.00 feet of that portion of the vacated 11th Avenue East lying between Blocks 39 and 40, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

**LEGAL DESCRIPTION FOR UTILITY EASEMENT**

A 20.00 foot wide easement for utility purposes lying over, under and across that portion of the vacated 11th Avenue East, lying between Blocks 36 and 37, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, the centerline of said easement is described as follows:

Commencing at northeasterly corner of Lot 16, Block 36, said PORTLAND DIVISION OF DULUTH; thence northeasterly along the northeasterly extension of the northerly line of said Block 36, a distance of 32.86 to the point of beginning of the centerline to be described; thence deflecting to the left at an angle of 91 degrees 05 minutes 08 seconds, a distance of 140.09 feet to the northeasterly extension of the southerly line of said Block 36 and there terminating.

**NOTES**

DATE: 12-23-10  
 SCALE: 1 IN = 50 FEET  
 CLIENT: ST. LUKES HOSPITAL  
 PROJECT NO: 10-123

THIS IS NOT A BOUNDARY SURVEY.  
 BEARINGS ARE BASED ON AN ASSUMED DATUM.  
 THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA SURVEY COMPANY, INC.

**ALTA**  
**SURVEY COMPANY, INC.**  
 Residential/Commercial Land Surveying-Land  
 Development-Legal Descriptions  
 P.O. BOX 161138 Duluth, MN 55806  
 Phone: 218-727-5211 Fax: 218-727-3798

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