

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

11-0259R

RESOLUTION VACATING A PORTION OF THE ALLEY ON NORTON'S DULUTH OUTLOTS LOT 14, THAT IS THE EASTERLY EXTENSION OF THE ALLEY IN BLOCK 1, JOHNSON'S ADDITION (FN11-027, SEMPER DEVELOPMENT)

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation of a portion of the alley on Norton's Duluth Outlots Lot 14, that is easterly extension of the alley in Block 1 of Johnson's Addition; 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 11-027) 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 the proposed replacement alley 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 the alley, with an alley easement granted to the city and the proposed alley constructed to city standards and in a manner approved by the city engineer, unless and until the time such as the city engineer determines there is no longer a public purpose for the replacement alley; and

(d) The city planning commission, at its May 10, 2011, regular meeting, recommended approval of the alley vacation and proposed replacement alley and easement dedication, with conditions; and

(e) The city council of the city of Duluth approves the vacation of the following-described alley and as described and depicted on Public Document No. _____:

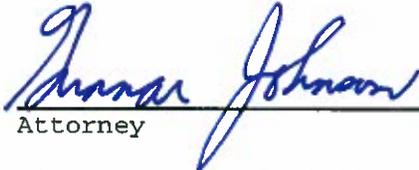
Generally described in Misc Book 60, Page 300, filed Aug 29, 1934, as being 16.00 feet in width lying northerly of the easterly extension of the north line of Lot 8, Block 1, Johnson's Addition and which lies southerly of the easterly extension of the south line of Lot 1, Block 1, Johnson's Addition.

(f) The city council of the city of Duluth approves the dedication of the following-described alley easement and as described and depicted on Public Document No. _____:

An easement for Public Alley purposes over, under and across the west 24.00 feet of Lot 14, Norton's Duluth Outlots, St. Louis County, Minnesota, which lies northerly of the easterly extension of the north line Lot 8, Block 1, Johnson's Addition and which lies southerly of the easterly extension of the north line of Block 1, Johnson's Addition.

(g) 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 the alley easement to be dedicated.

Approved as to form:



Attorney

PC SR:eu 5/11/2011

STATEMENT OF PURPOSE: This resolution vacates a portion of the alley easement north of the Spur gas station at 1601 Kenwood Avenue.

The alley provides access to one adjacent property owner. The applicant has agreed to provide the city a 24 foot easement on the western edge of their property and construct a new alley to City standards. The new alley would allow the adjacent property owner continued access to their property.

On May 10, 2011, the Duluth city planning commission held a public hearing on the proposal and voted to recommend that the city council approve the alley vacation and alley easement dedication.

The 9-0 motion to approve the vacation by the city council must prevail with at least six affirmative votes.

Petition Received: March 1, 2011

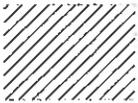
Action Deadline: There is no action deadline for this resolution.

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EXHIBIT A (VACATED ALLEY)

The following proposed legal description is for the Vacation of the existing Alley, 16.00 feet in width.

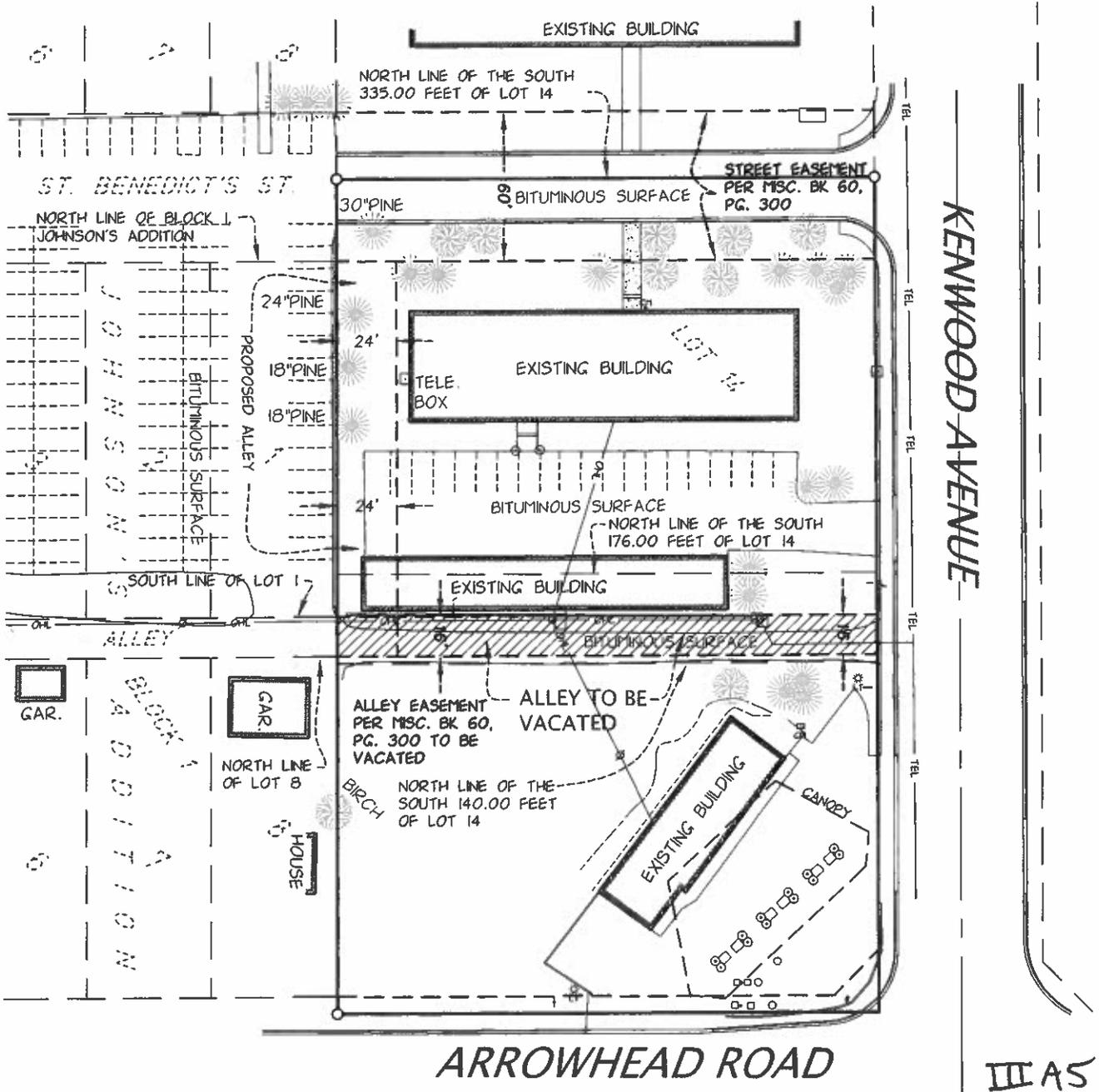
The Vacation of the alley generally described in Misc Book 60, Page 300, filed Aug 29, 1934 as being 16.00 feet in width lying northerly of the easterly extension of the north line of Lot 8, Block 1, JOHNSON'S ADDITION and which lies southerly of the easterly extension of the south line of Lot 1, Block 1, JOHNSON'S ADDITION.



ALLEY TO BE VACATED



NORTH
1"=60'



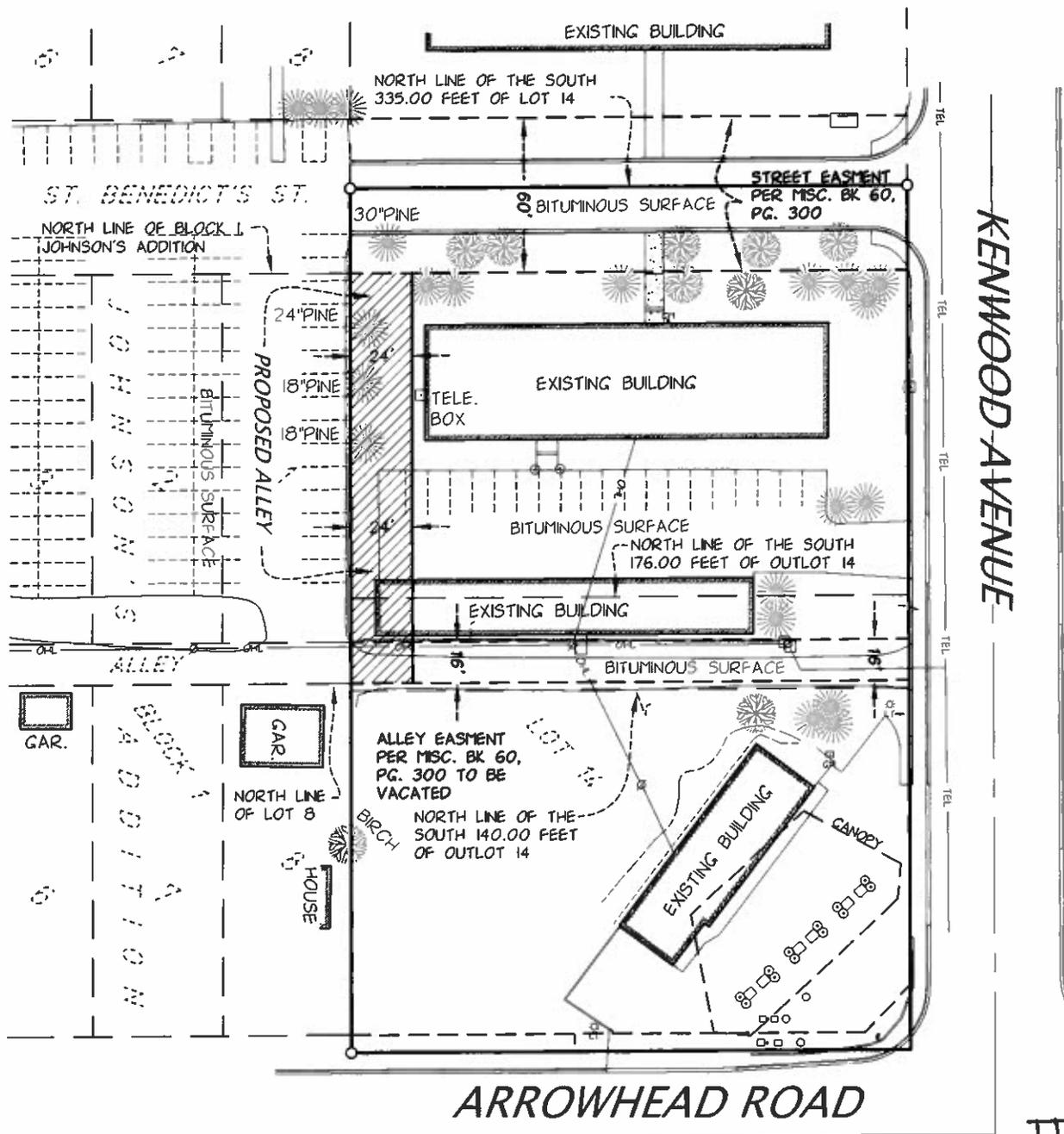
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EXHIBIT B (NEW ALLEY)

The following legal description is for the proposed Alley, 24.00 feet in width, that is to replace the proposed Vacated Alley.

An easement for Public Alley purposes over, under and across the west 24.00 feet of Lot 14, NORTON'S DULUTH OULOTS, St. Louis County, Minnesota, which lies northerly of the easterly extension of the north line of Lot 8, Block 1, JOHNSON'S ADDITON and which lies southerly of the easterly extension of the north line of Block 1, JOHNSON'S ADDITON.



III AG



CITY OF DULUTH
Planning Division

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Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	FN 11-027	Contact	Steven Robertson	
Application Type	Alley Vacation and Easement Dedication	Planning Commission Date	May 10, 2011	
Deadline for Action	Application Date	March 1, 2011	60 Days	N/A
	Date Extension Letter Mailed	March 10, 2011	120 Days	N/A
Location of Subject	The alley between 1601 and 1621 Kenwood Avenue			
Applicant	Semper Development	Contact		
Agent	John Kohler	Contact	jkohler@semperdev.com	
Legal Description	The alley located on Lots 1 and 8 of Johnson's Addition			
Site Visit Date	April 27, 2011	Sign Notice Date	April 22, 2011	
Neighbor Letter Date	April 25, 2011	Number of Letters Sent	50	

Proposal

Vacate approximately 190 feet of the alley between 1601 and 1621 Kenwood Avenue, then dedicate to the City an easement for the construction (at the applicant's expense) a roadway surface meeting City standards. According to the applicant, "we are requesting the vacation and relocation of the existing alley to allow for the combination of the properties on each side of the existing alley. The alley will not be eliminated, but rather relocated."

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N/R-1	Commercial/Residential	Neighborhood Mixed Use
North	MU-N	Residential	Urban Residential
South	MU-N	Commercial	Traditional Neighborhood
East	MU-N	Commercial	Neighborhood Mixed Use
West	R-1	Single Family Residential	Neighborhood Mixed Use

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.

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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):

1. The applicant is interested in vacating the alley in order to better connect three parcels into a larger developable area. The applicant is proposing a future small retail store (Walgreens) on the site of the existing gas station and multi-family housing structure. However, it should be noted that the alley vacation proposal should be reviewed based on the merits of the project, not what type/name/brand of future development is proposed.
2. The applicant is proposing to "relocate the alley", as shown in the attachment labeled "Exhibit B". This would consist of them granting the City an "alley easement" or "street easement" to the City, as well as building an alley to City Engineer standard. This new alley would continue to allow the adjacent property owner (Wymans) to access their garage at the rear of their property. The Wymans, while fronting Arrowhead, do not have a "curb cut" on Arrowhead, and normally access their property through the alley.
3. During the rezoning process (explained further under staff report FN 11-042), a joint effort was discussed between the applicant Semper Development, St. Benedict Church, and the Wymans. The goal was to reach an agreement that would provide the Wymans access to their property through St. Benedict's Street (public) and St. Benedict Church's parking lot (private), thereby negating the need to replace the alley. In addition, the Wymans would "join" the proposed alley vacation submitted by St. Benedict Church (FN 11-048), which if approved by the City, would eliminate the entire length of the alley. Unfortunately a private agreement was not able to be reached between the three parties.
4. The alley has an above ground power line running the entire length of the proposed vacation. Minnesota Power has discussed with the applicant the proposal and how best to service the proposed development. Minnesota Power is not requesting a utility easement be retained.
5. Several comments and questions were received from citizens concerning the alley vacation during the rezoning public meetings. Some of the questions concerned:
 - the size of the proposed development (approx 11,000 square feet, but to date no building permit has been submitted),
 - sidewalks (City may put in sidewalks on the north side of Arrowhead in the future, dependent on funding levels....applicant is proposing to put sidewalks on all areas adjacent to public right of way, but again no building permit has been submitted),
 - access management (with the removal of the alley, the two access points for the gas station, and one of the accesses for the multi-family housing, Kenwood will have three fewer access points. Arrowhead will remain unchanged since applicant is proposing a "right in" off of Arrowhead), and
 - rezoning (the proposed Walgreen's does not need a zoning change to move forward with a building permit, however, the applicant has discussed granting the County a 10 foot easement for a future turn lane on Kenwood)

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

Staff recommends that the Planning Commission recommend approval to the City Council, based on the findings above, that the petitioned alley be vacated and an alley/street easement be granted to the City with the following condition:

- 1) The new alley shall be constructed to city standards prior to occupancy permit being issued.
- 2) The existing alley shall be accessible by the public until the new alley is accepted by the City.

III A2

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



City Planning

FN 11-027

Kenwood & Arrowhead
Alley Vacation/Dedication

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

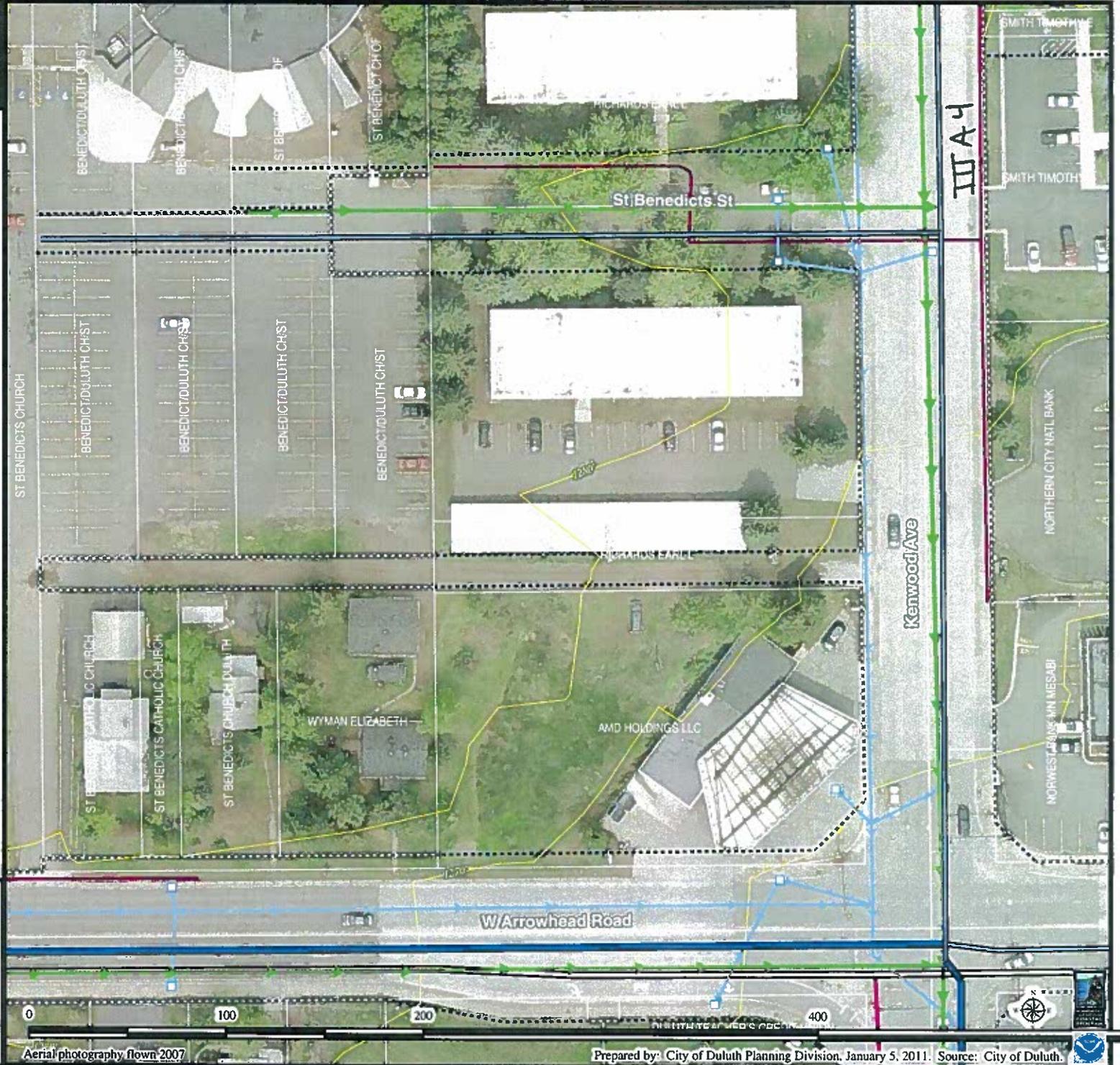
Storm Sewer Collection System

- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Discharge Points

10' Contour (elev. change)

Right-of-Way Type

- Road or Alley ROW



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 2007

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

