

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-055-0

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE SALE OF 2,379.7 SQUARE FEET
OF PARKLAND IN CONGDON PARK TO JAMES AND MARY ANN MONGE
FOR \$11,898.50

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That the Duluth city planning commission recommended at its August 14, 2012, regular meeting, the sale of the park described in Section 3 below by an affirmative vote by the 7 commissioners present out of 9 commissioners seated on the commission, meeting the 3/4 vote required by the state statute.

Section 2. That the city hereby designates the property described in Section 3 below as being surplus to the city's future needs, and hereby declares its intention to alienate its interest in same.

Section 3. That the proper city officials are hereby authorized to sell and convey the following described property in St. Louis County, Minnesota and as described and depicted on Public Document No. _____, by quit claim deed to James and Mary Ann Monge for \$11,898.50, the proceeds to be deposited in General Fund, and to execute all documents necessary with regard to said conveyance:

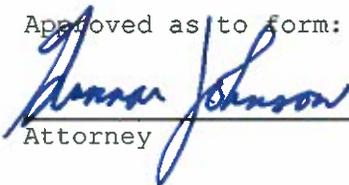
That part of Congdon Park which lies adjacent to Lot 32A, Block 8,
FIRST RE-ARRANGEMENT IN CONGDON PARK DIVISION OF DULUTH, according to
the recorded plat thereof, St. Louis County, Minnesota, described as
follows:

Beginning at the most Northerly corner of said Lot 32A; thence on an
assumed bearing of South 65 degrees 39 minutes 18 seconds East along
the Northeasterly line of said Lot 32A a distance of 63.93 feet to the
point of beginning of the property to be described; thence North 50
degrees 42 minutes 17 seconds East a distance of 36.77 feet; thence

South 87 degrees 58 minutes 30 seconds East a distance of 21.47 feet;
thence South 57 degrees 08 minutes 17 seconds East a distance of 24.69
feet; thence South 32 degrees 24 minutes 49 seconds East a distance of
22.71 feet; thence South 53 degrees 52 minutes 22 seconds West a
distance of 28.73 feet to the Northeasterly line of said Lot 32A;
thence North 65 degrees 39 minutes 18 seconds West along the
Northeasterly line of said Lot 32A a distance of 65.44 feet to the
point of beginning.

Section 4. That this ordinance shall take effect 30 days from and after its
passage and publication.

Approved as to form:



Attorney

pc;PLG SR:eu 08/15/2012

STATEMENT OF PURPOSE:

This resolution authorizes the sale of park land as allowed by a 1955 state
law. The land in question is 2,379.7 square foot of park land, and the value
is \$11,898.50.

The City of Duluth has been approached by James and Mary Ann Monge, owners of
3131 East First Street. In 1961, the previous owner of this property
submitted a building permit for a new garage. The site plan that was
submitted at that time was flawed, and as a result the garage constructed just
outside the owner's parcel, and was instead built on Congdon Park. The Monges

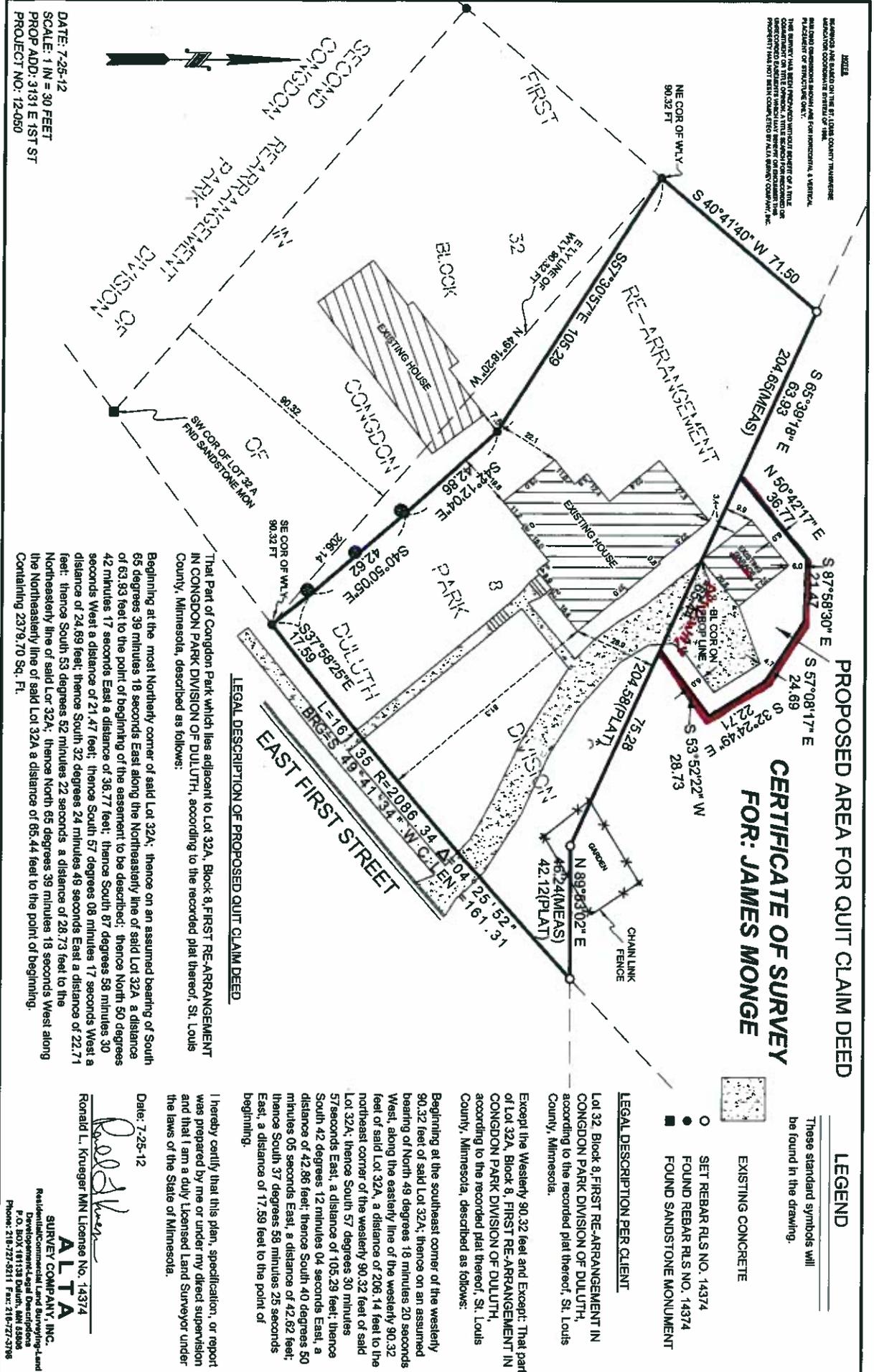
would like to obtain the land, approximately 2,400 square feet, so that they may sell the property with a clear title.

According to the Laws of Minnesota 1955, Chapter 82, Sections 1 and 2, before the sale of park land is approved, that the City Planning Commission recommend the sale by a 3/4 vote, which was accomplished at their August 14, 2012 regular meeting. The vote was 7 yeas, 0 nays, and 0 abstentions to recommend that the city council approve the land sale, with 2 commissioners being absent. Additionally, the City Parks and Recreation Commission recommended the sale with a unanimous vote at their August 8, 2012 regular meeting, with the stipulation that the proceeds of the sale be directed to Parks and Recreation.

The City Council must approve the sale of parkland by a 4/5 vote.

Tax base impact statement: The property to be sold will be placed permanently on tax rolls and will be assessed as residential property.

EXHIBIT B



MINNESOTA LAND SURVEYORS ASSOCIATION
 REGISTERED PROFESSIONAL LAND SURVEYORS
 THE SURVEYOR HAS REVIEWED THIS PLAN FOR TECHNICAL AND LEGAL COMPLIANCE WITH THE MINNESOTA SURVEYING ACT AND THE MINNESOTA PROFESSIONAL LAND SURVEYORS BOARD. THE SURVEYOR'S REVIEW IS LIMITED TO TECHNICAL AND LEGAL COMPLIANCE AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED HEREON. THE SURVEYOR'S REVIEW IS LIMITED TO THE INFORMATION PROVIDED AND DOES NOT CONSTITUTE A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED.

DATE: 7-25-12
 SCALE: 1 IN = 30 FEET
 PROP ADD: 3131 E 1ST ST
 PROJECT NO: 12-050

PROPOSED AREA FOR QUIT CLAIM DEED

CERTIFICATE OF SURVEY FOR: JAMES MONGE

LEGEND

- These standard symbols will be found in the drawing.
- SET REBAR RLS NO. 14374
 - FOUND REBAR RLS NO. 14374
 - FOUND SANDSTONE MONUMENT
- EXISTING CONCRETE

LEGAL DESCRIPTION PER CLIENT

Lot 32, Block 8, FIRST RE-ARRANGEMENT IN CONGDON PARK DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

Except the Westerly 90.32 feet and Except: That part of Lot 32A, Block 8, FIRST RE-ARRANGEMENT IN CONGDON PARK DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Beginning at the southeast corner of the westerly 90.32 feet of said Lot 32A; thence on an assumed bearing of North 49 degrees 18 minutes 20 seconds West, along the easterly line of the westerly 90.32 feet of said Lot 32A, a distance of 206.14 feet to the northeast corner of the westerly 90.32 feet of said Lot 32A; thence South 57 degrees 30 minutes 57 seconds East, a distance of 105.29 feet; thence South 42 degrees 12 minutes 04 seconds East, a distance of 42.86 feet; thence South 40 degrees 50 minutes 05 seconds East, a distance of 42.62 feet; thence South 37 degrees 58 minutes 25 seconds East, a distance of 17.59 feet to the point of beginning.

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: 7-25-12

Ronald L. Krueger MN License No. 14374

ALTA
 SURVEY COMPANY, INC.
 Residential/Commercial Land Surveying/Leasehold Development/Legal Description
 P.O. BOX 181133 DULUTH, MN 55808
 Phone: 218-727-5211 Fax: 218-727-5798

LEGAL DESCRIPTION OF PROPOSED QUIT CLAIM DEED

That Part of Congdon Park which lies adjacent to Lot 32A, Block 8, FIRST RE-ARRANGEMENT IN CONGDON PARK DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Beginning at the most Northerly corner of said Lot 32A; thence on an assumed bearing of South 65 degrees 39 minutes 18 seconds East along the Northeasterly line of said Lot 32A a distance of 63.93 feet to the point of beginning of the easement to be described; thence North 50 degrees 42 minutes 17 seconds East a distance of 36.77 feet; thence South 87 degrees 58 minutes 30 seconds West a distance of 21.47 feet; thence South 57 degrees 08 minutes 17 seconds West a distance of 24.69 feet; thence South 32 degrees 24 minutes 49 seconds East a distance of 22.71 feet; thence South 53 degrees 52 minutes 22 seconds, a distance of 28.73 feet to the Northeasterly line of said Lot 32A; thence North 65 degrees 39 minutes 18 seconds West along the Northeasterly line of said Lot 32A a distance of 65.44 feet to the point of beginning. Containing 2379.70 Sq. Ft.



City of Duluth
Planning Division

411 West First Street • Room 208 • Duluth, Minnesota 55802-1197
218-730-5580 • Fax: 218-730-5904 • www.duluthmn.gov

An Equal Opportunity Employer

MEMORANDUM

DATE: August 2, 2012
TO: Planning Commissioners
FROM: Steven Robertson, Senior Planner
SUBJECT: PL 12-123, Sale of Park Land to James and Mary Ann Monge

The City of Duluth has been approached by James and Mary Ann Monge, owners of 3131 East First Street. In 1961, the previous owner of their property submitted a building permit for a new garage. The hand drawn site plan the applicant submitted was flawed; the applicant intended to build on their property, but instead placed the garage just inside the neighbor's property (in this case, the neighbor being City of Duluth parkland). The Monges would like to obtain the land, approximately 2,400 square feet, that their garage and driveway is on so that they may sell the property with a clear title.

This request will be heard by the Parks and Recreation Commission at their August 8th, 2012, meeting. Their recommendation will be shared with the Planning Commission the night of the August 12, 2012, meeting.

KENNETH D. BUTLER, LTD.
11 EAST SUPERIOR STREET, SUITE 555
DULUTH, MINNESOTA 55802
TELEPHONE: (218) 625-2264
FACSIMILE: (218) 625-2201
E-MAIL: kbutler@kenbutlerlaw.com

KENNETH D. BUTLER
ATTORNEY AT LAW

PAMELA K. FIFIELD
Paralegal

July 17, 2012

Kathleen Bergen, Division Manager
City of Duluth
Parks and Recreation Division
411 West First Street
Duluth, Minnesota 55802

VIA FACSIMILE TRANSMISSION
AND UNITED STATES MAIL

RE: Dr. James and Mary Ann Monge

Dear Ms. Bergen:

I represent Dr. Jim and Mary Ann Monge who have resided at 3131 East First Street in Duluth since 1977. They recently discovered that their garage that was built in 1961 and part of their driveway encroaches into Congdon Park. Enclosed as Exhibit A is a survey depicting the encroachment.

It is my understanding that the City is amenable to granting my client a quit claim deed to some of the Park land that would eliminate this encroachment subject, however, to approval by the Parks and Recreation Commission, the City of Duluth Planning Commission and the Duluth City Council. Enclosed as Exhibit B is a survey reflecting the Park land that would be included in the quit claim deed.

Tim Herman is very familiar with this matter and told me to advise you to contact him about it if you wish. We are requesting that this request by Dr. James and Mary Ann Monge for a conveyance of a small portion of Congdon Park land to eliminate an encroachment not created by them and now causing a cloud on their land title be put on the agenda and be considered by the Commission at its meeting on August 8, 2012.

If there is anything else you need from me to facilitate this request, please let me know.

Thank you.

Yours truly,



Kenneth D. Butler

KDB/pkf
Enclosures

cc: Dr. James and Mary Ann Monge (w/encs.)
Robert Asleson (w/encs.)
Tim Howard (w/encs.)
Keith Hamre (w/encs.)

VIII. A. 2



Congdon Park Dr

E 1st St

R-1

KLEFSCHMIDT, JIM

CARRANZA, TORRES

R-1

MASON, DAVID

MRS. MARY E. REYNOLDS

VIII. A. 3

EXHIBIT #

**CERTIFICATE OF SURVEY
FOR: JAMES MONGE**

LEGEND

These standard symbols will be found in the drawing.



EXISTING CONCRETE



SET REBAR RLS NO. 14374



FOUND REBAR RLS NO. 14374



FOUND SANDSTONE MONUMENT

LEGAL DESCRIPTION PER CLIENT

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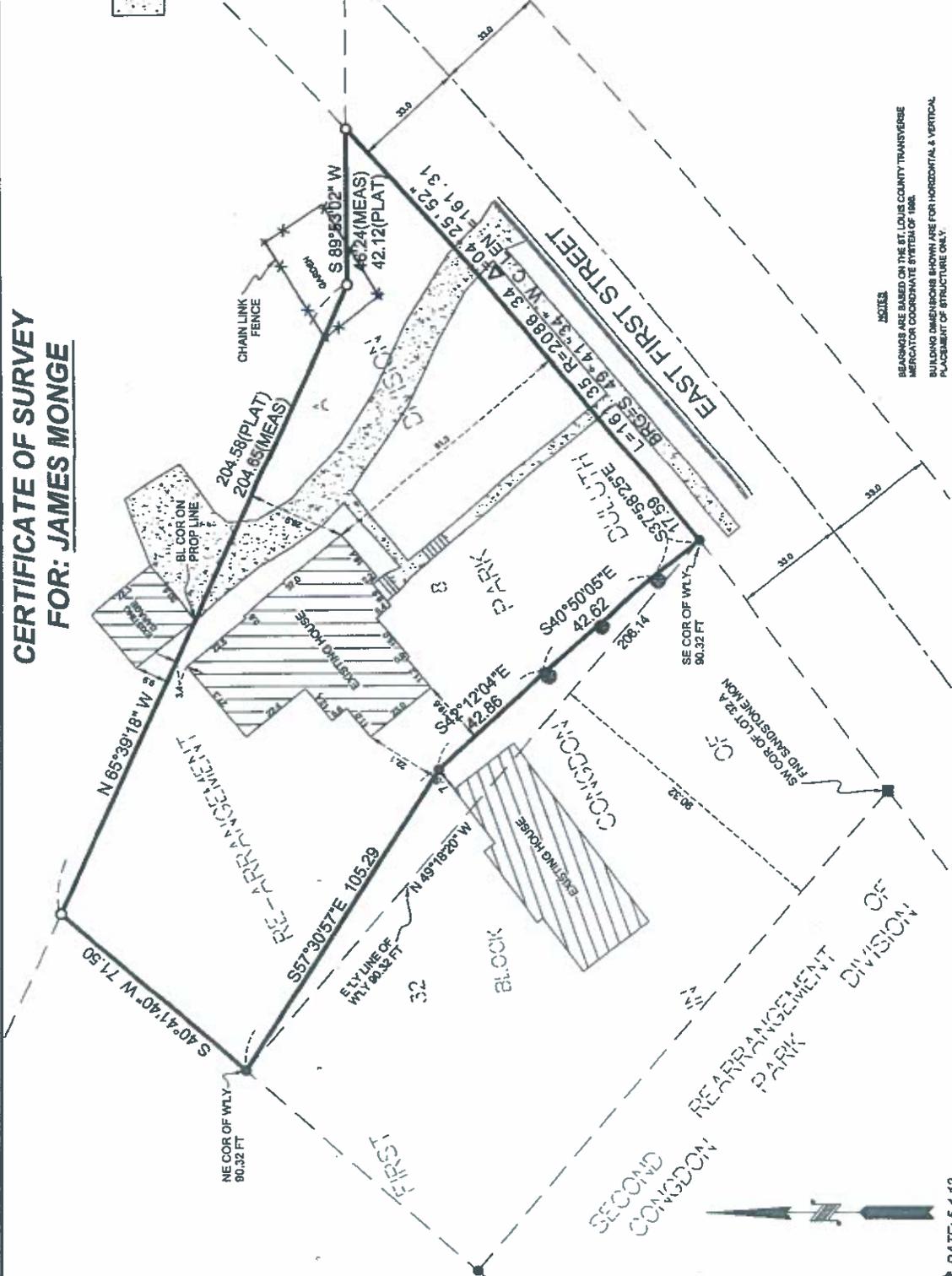
Beginning at the southeast corner of the westerly 90.32 feet of said Lot 32A; thence on an assumed bearing of North 48 degrees 18 minutes 20 seconds West, along the easterly line of the westerly 90.32 feet of said Lot 32A, a distance of 208.14 feet to the northeast corner of the westerly 90.32 feet of said Lot 32A; thence South 57 degrees 30 minutes 57 seconds East, a distance of 105.28 feet; thence South 42 degrees 12 minutes 04 seconds East, a distance of 42.86 feet; thence South 40 degrees 50 minutes 05 seconds East, a distance of 42.62 feet; thence South 37 degrees 56 minutes 25 seconds East, a distance of 17.59 feet to the point of beginning.

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: 5-4-12

Ronald L. Krueger
Ronald L. Krueger MN License No. 14374

ALTA
SURVEY COMPANY, INC.
Registered/Commercial Land Surveying-Land Development-Legal Descriptions
P.O. BOX 16133 Duluth, MN 55806
Phone: 218-727-0211 Fax: 218-727-5786



NOTES
BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1983.
BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY.
THIS SURVEY HAS BEEN PREPARED WITHOUT RECEIPT OF A TITLE COMMITMENT OR TITLE CURATIVE REPORT. THE SURVEYOR HAS NO KNOWLEDGE OF ANY INTERESTS OR ENCUMBRANCES AFFECTING THE PROPERTY HAS NOT BEEN COMPLETED BY ALTA SURVEY COMPANY, INC.

DATE: 5-4-12
SCALE: 1 IN = 30 FEET
PROP. ADD: 3731 E 1ST ST
PROJECT NO: 12-050

VIII.A.4

LEGEND

These standard symbols will be found in the drawing.

EXISTING CONCRETE

- SET REBAR RLS NO. 14374
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- FOUND SANDSTONE MONUMENT

LEGAL DESCRIPTION PER CLIENT

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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: 7-25-12

Ronald L. Knueger

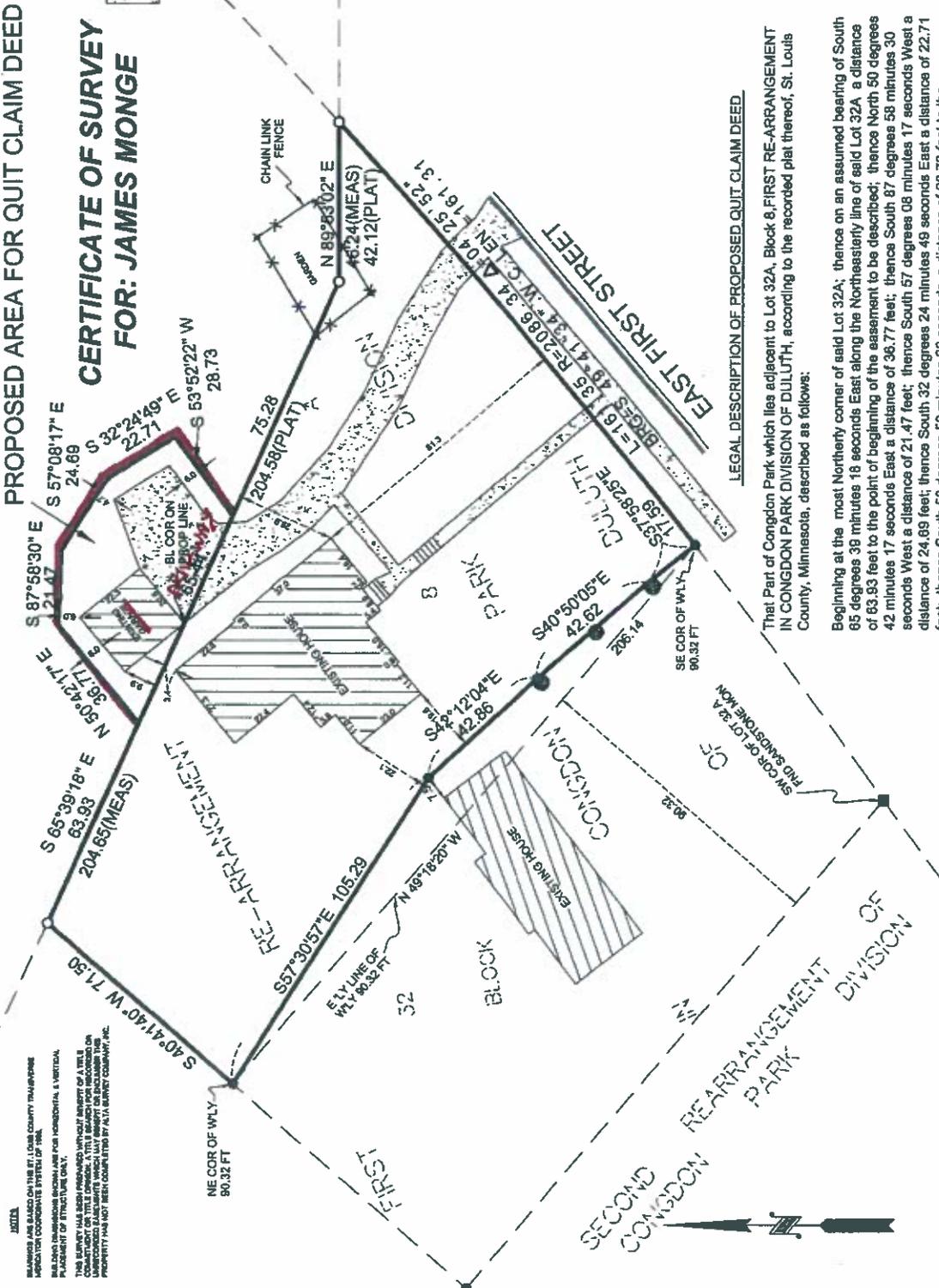
Ronald L. Knueger MN License No. 14374

ALTA

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 Residential/Commercial Land Surveying-Land Development-Legal Descriptions
 P.O. BOX 18134 Duluth, MN 55806
 Phone: 218-727-5211 Fax: 218-727-5796

PROPOSED AREA FOR QUIT CLAIM DEED

CERTIFICATE OF SURVEY FOR: JAMES MONGE



LEGAL DESCRIPTION OF PROPOSED QUIT CLAIM DEED

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Beginning at the most Northerly corner of said Lot 32A; thence on an assumed bearing of South 85 degrees 38 minutes 18 seconds East along the Northeastly line of said Lot 32A a distance of 63.93 feet to the point of beginning of the easement to be described; thence North 50 degrees 42 minutes 17 seconds East a distance of 36.77 feet; thence South 87 degrees 58 minutes 50 seconds West a distance of 21.47 feet; thence South 57 degrees 08 minutes 17 seconds West a distance of 24.69 feet; thence South 32 degrees 24 minutes 49 seconds East a distance of 22.71 feet; thence South 53 degrees 52 minutes 22 seconds a distance of 28.73 feet to the Northeastly line of said Lot 32A; thence North 65 degrees 39 minutes 18 seconds West along the Northeastly line of said Lot 32A a distance of 65.44 feet to the point of beginning. Containing 2378.70 Sq. Ft.

NOTES
 MONUMENTS AND BOUNDS OF THIS PLAT, LAMB COUNTY TRAILWAYS AND THE BOUNDARIES OF THE STATE OF MINNESOTA, ARE SHOWN FOR INFORMATION ONLY. THIS SURVEY HAS BEEN PREPARED WITHOUT ANY INTENT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDS ON PROPERTY THAT MAY BEHOLD CLAIMS BY ALTA SURVEY COMPANY, INC.

DATE: 7-25-12
 SCALE: 1 IN = 30 FEET
 PROP ADD: 3137 E 1ST ST
 PROJECT NO: 12-050

EXHIBIT B

S.A. III

78139

Form B. Bldg. Insp.

DETAILED STATEMENT

- OF -

APPLICATION FOR CONSTRUCTION OF Gauge BUILDINGS.

Duluth, Minn. Sept 5 1961

In consideration of the issue and delivery to me by the Building Inspector of the City of Duluth of a permit to do the work indicated below, I agree to do said proposed work in strict accordance with all City Ordinances and Department rules, relating to such work.

X Owner E. J. Swartz Builder A. C. Jones
Address 3131 East 1st St Address 4111 East Lake St
Duluth Minn

House No. and Street 3131 E. 1st St.

Lot, Block, Division 1st St Frontage 160' East Side 204' Back end 170' Depth 187'
Lot 32A etc W by 90, 32" Blk 8 Congdon Park 1st Beam

Size of Building: No. of feet front 20 No. of feet rear 20 No. of feet deep 22

No. of stories in height 1

What will be the depth of foundation walls below surface of adjoining ground? Reinforced concrete

What will foundation be laid on—earth, rock, timber or piles? Earth

What will be the thickness of basement or foundation walls? —

Of what material constructed? —

Of what materials will exterior walls be constructed? Travo - 2x4 - 16" c.

Thickness of exterior walls Siding

Will roof be flat or peaked? Peaked Material of roof covering? Asphalt Shingles

Give definite information of floor construction Reinforced concrete

Of what materials are interior walls and partitions constructed? —

No. of chimneys None Of what material constructed? Wood

How many fireplaces will be built? None How will building be heated? None

For what purpose is building constructed? Garage

Estimated value of completed building? \$ 800.00

VIII. A. 6

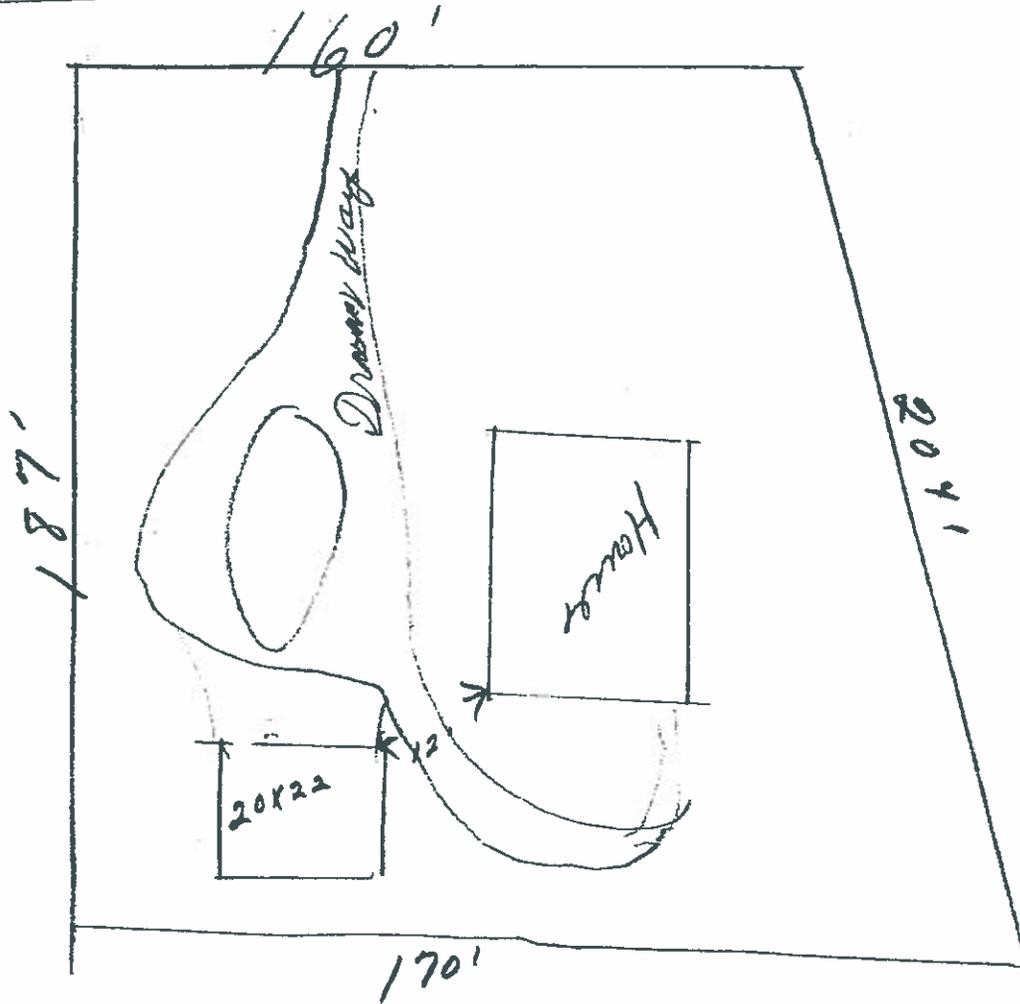
FROM

78139

E. J. Surratt

3131 East 1st St.

1st Street



VIII.A.7