PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-0097R

RESOLUTION VACATING PORTIONS OF PLATTED UNIMPROVED ROAD EASEMENT BETWEEN 214 AND 226 HOWARD GNESEN ROAD (RAYMOND AND LEONA ROYSETH).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described below in (d) below; and

(b) Pursuant to Section 100 of the City Charter and Section 50-37.6 of Chapter 50 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission 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 easement is useless for all purposes; and

(c) The city planning commission, at its Tuesday, February 12, 2013, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the following described platted road easement described below and as described and depicted on Public Document No. _____:

The "road" in the recorded subdivision of Heritage's Rearrangement of Outlots 41 and 42 of Norton's Acre Outlots, Saint Louis County, Minnesota, more particularly described as follows:

Beginning at the southeast corner of Lot 1 of said Heritage's Rearrangement of Outlots 41 and 42 of Norton's Acre Outlots; thence North 89 degrees 46 minutes 53 seconds West, along the south line of said Lot 1 a distance of 207.44 feet to the east line of the platted Street Easement along the east side of the Howard Gnesen Road; thence South 13 degrees 54 minutes 07 seconds West, along said east line a distance of 30.88 feet to the south line of said Heritage's Rearrangement; thence South 89 degrees 46 minutes 53 seconds East, along said south line a distance of 214.81 feet to the southeast corner of said Heritage's Rearrangement; thence North 00 degrees 06 minutes 30 Seconds East, along the east line of said Heritage's Rearrangement a distance of 30.00 feet to

the point of beginning.

(e) 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 platted easement to be vacated.

Approved:

_____
Attorney

PC/PLNG SR:cs 02/13/2013

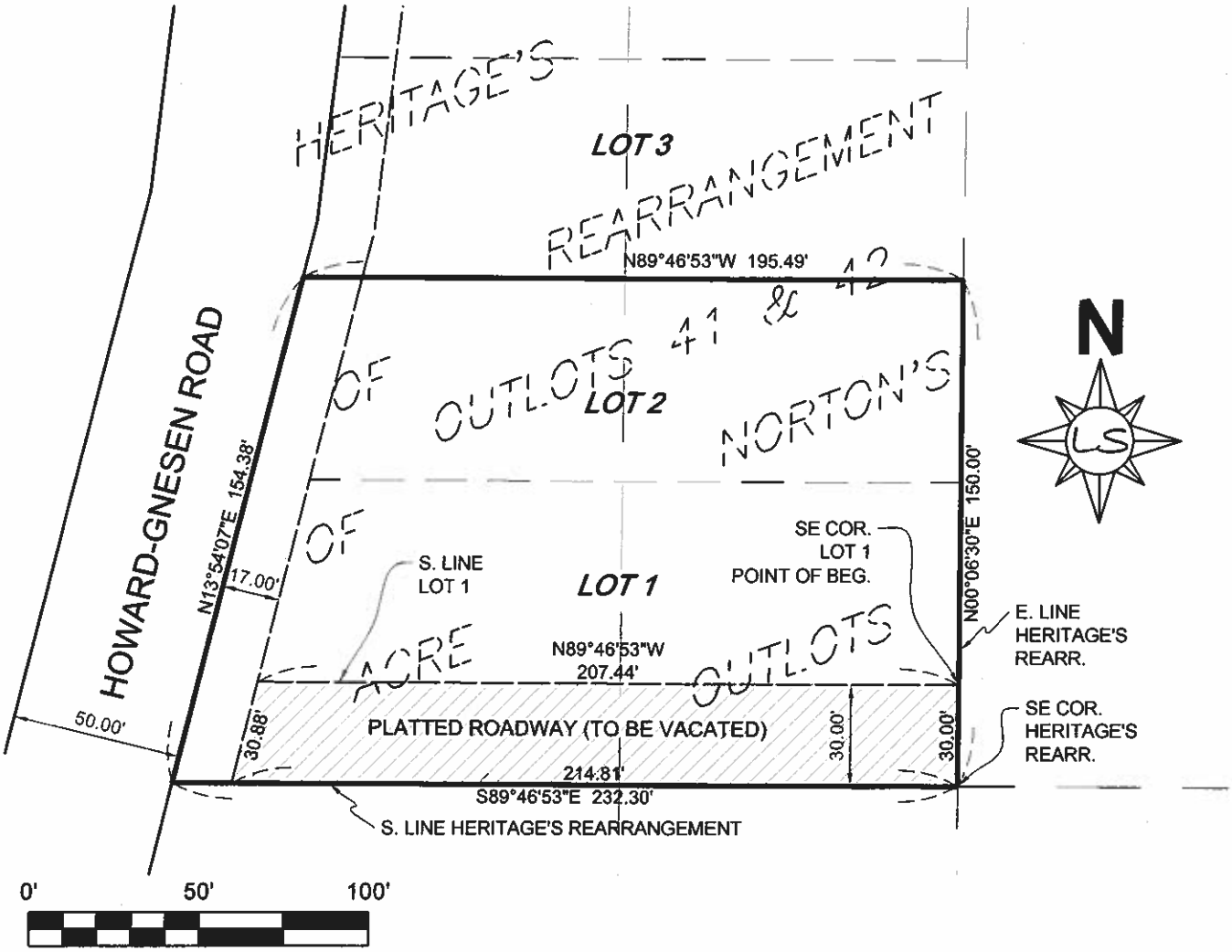
STATEMENT OF PURPOSE: This resolution vacates a 33 foot road easement at 214 and 226 Howard Gnesen Road. This road easement has never been used for a public purpose and is not needed for the purpose that it was initially dedicated. The petition for the vacation was signed by a majority of the affected property owners.

On February 12, 2013, the Duluth city planning commission held a public hearing on the proposal and voted 9 yeas, 0 nay, and 0 abstentions to recommend that the city council approve the vacation.

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

Petition received: December 31, 2012
Action deadline: There is no action deadline for this resolution.

EXHIBIT A



LEGAL DESCRIPTION:
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Approved by the City Engineer of the City of Duluth, MN
this 13 day of FEBRUARY, 2013.

ANDRESEN & BUTTERWORTH **303 W. SUPERIOR ST.** **DULUTH, MN 55802** **PT OF HERITAGE'S REARR. OL 41 & 42** **NORTON'S AC. OL, ST. LOUIS CO., MN**	Norman B. Livgard Registered Land Surveyor 6115 Wilderness Ridge Saginaw, MN 55779 Tele: 218-729-6785 Cell: 218-390-6787	I hereby certify that this survey, plan, 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. Norman B. Livgard, MN License Number 10725 Date: 12-21-12

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 12-184		**Contact**	Steven Robertson, 218 730-5295	
Application Type	Vacation of Unimproved Street Easement		**Planning Commission Date**	February 12, 2013	
Deadline for Action	**Application Date**	December 31, 2012	**60 Days**	N/A	
	Date Extension Letter Mailed	January 10, 2013	**120 Days**	N/A	
Location of Subject	East Side of Howard Gnesen Road, Halfway Between Middle and North Road				
Applicant	Raymond and Leona Royseth		**Contact**	N/A	
Agent	Kimberly Brzezinksi, Andresen & Butterworth		**Contact**	218 720-6817	
Legal Description	See attached				
Site Visit Date	February 1, 2013		**Sign Notice Date**	January 15, 2013	
Neighbor Letter Date	January 17, 2013		**Number of Letters Sent**	19	

Proposal

Property owner is requesting a vacation of an unimproved street easement, adding that "there will not be any need for development for access or utility purposes in the future."

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Vacant	Rural Residential
North	R-1	Residential	Rural Residential
South	R-1	Residential	Preservation
East	R-1	Vacant/Residential	Rural Residential
West	R-1	Residential	Low-Density 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:
Principle #1 - Reuse previously developed lands

Current History: the street easement/right of way in question was dedicated to the City in 1940 through "Heritage's Rearrangement of Lots 41 and 42 of Norton's Acre Outlots."

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

Staff finds that:

1) The applicant owns the land adjacent and north of the proposed vacation area. The property owners submitted a petition that contained a majority of the affected property owners' signatures.

2) The easement 30 feet wide and is dedicated for "road" purposes. No utilities are located in the easement requested to be vacated. This vacation, if approved, will not create a dead end nor will it deprive any currently platted lots of access to a public right of way.

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) Typically when the City vacates an easement or right of way, half of land goes to each adjacent property owner, but that is based on the assumption that the right of way and adjacent lots are all within the same subdivision. In this instance one of the lots and the right of way are in Heritage's Rearrangement, while the other lots are in a different subdivision. If the right of way is vacated, all the land will be attached to Lot 1 of Heritage's Rearrangement.

5) No comments were received from the public or city or government agencies on this proposal.

6) 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 street 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.

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

City Planning

PL 12-184

Raymond and Leona Royseth

Vacaton of Heritage's Rearrangement

Legend

ROW_STATUS

- Vacated ROW
- Zoning (Final)

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.

City Planning

PL 12-184

Raymond and Leona Royseth

Vacation of Heritage's Rearrangement

Legend

Water Distribution System

NominalDiameter

- 30 - 60" Water Pipe
- 16 - 24" Water Pipe
- 4 - 6" Water Pipe

Sanitary Sewer Collection System

Subtypes

- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main
- Storm Sewer Catch Basin

Subtype

- Storm Sewer Pipe

Gas Distribution Main

Nominal Diameter

- 8" - 16" Gas Pipes
- 4" - 6" Gas Pipes
- 0" - 4" Gas Pipes

Easement Type

Easement Type

- Utility Easement
- Other Easement

ROW_STATUS

- Vacated ROW

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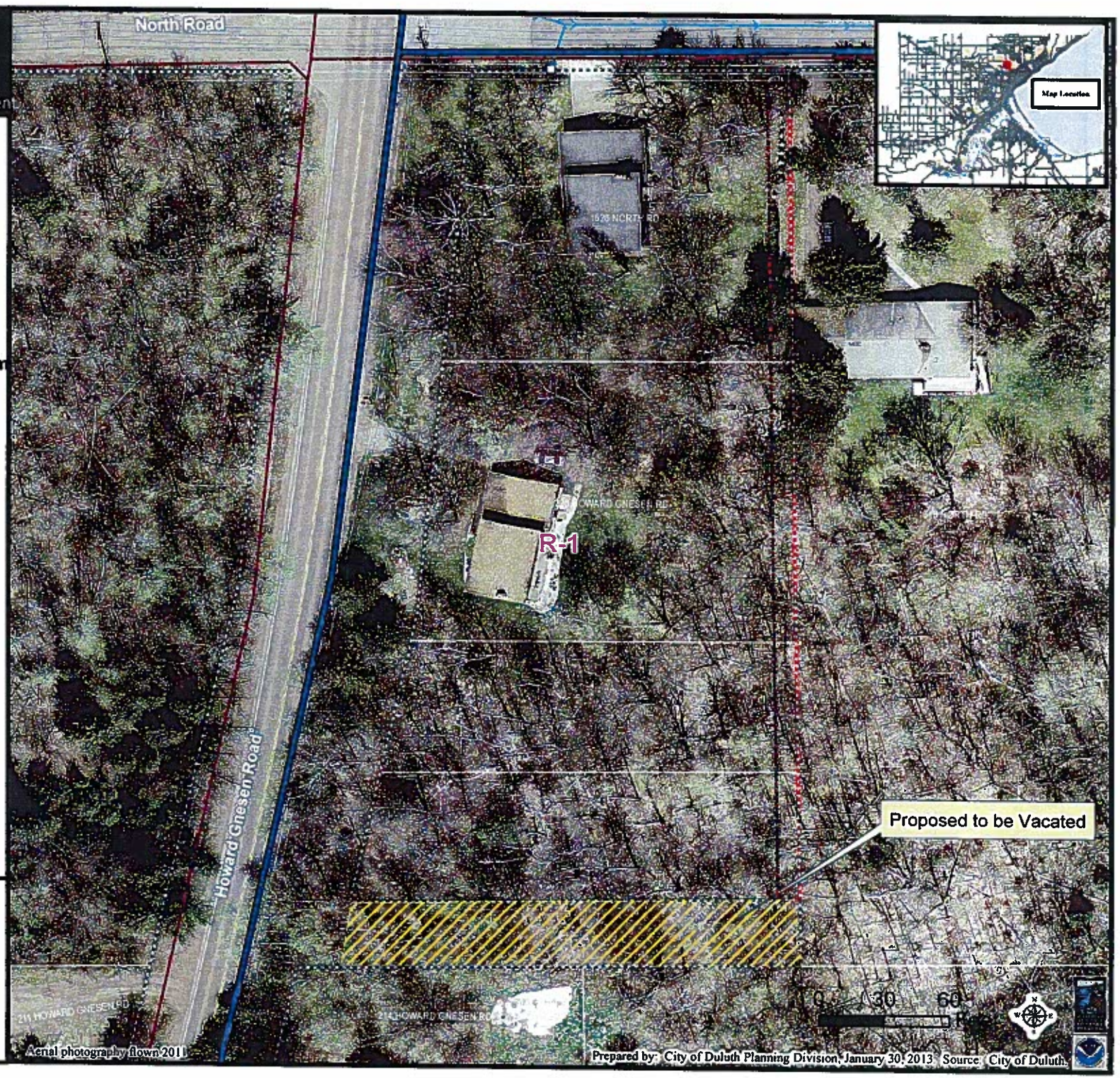

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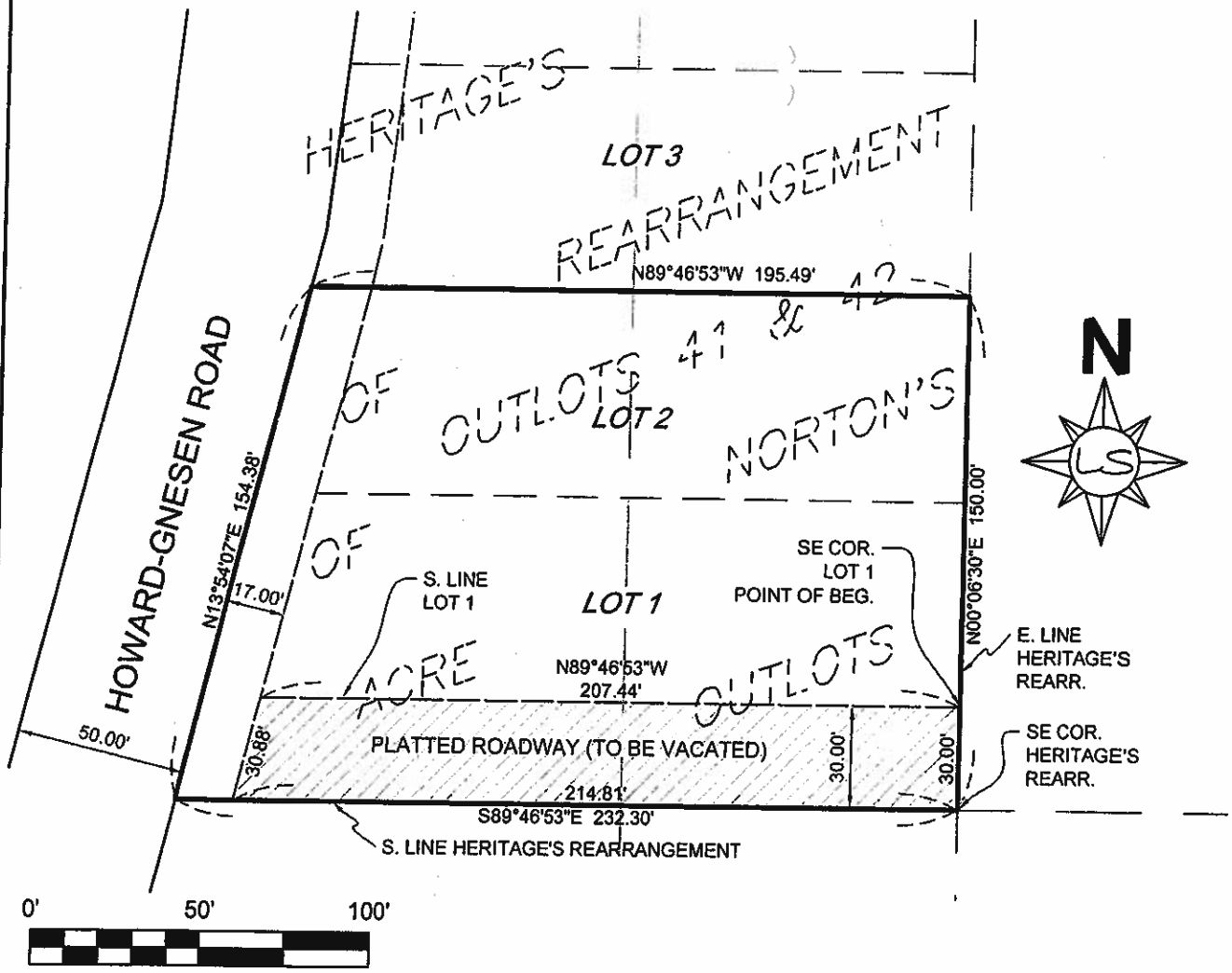

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Approved by the City Engineer of the City of Duluth, MN
this ___ day of _____, 20___.

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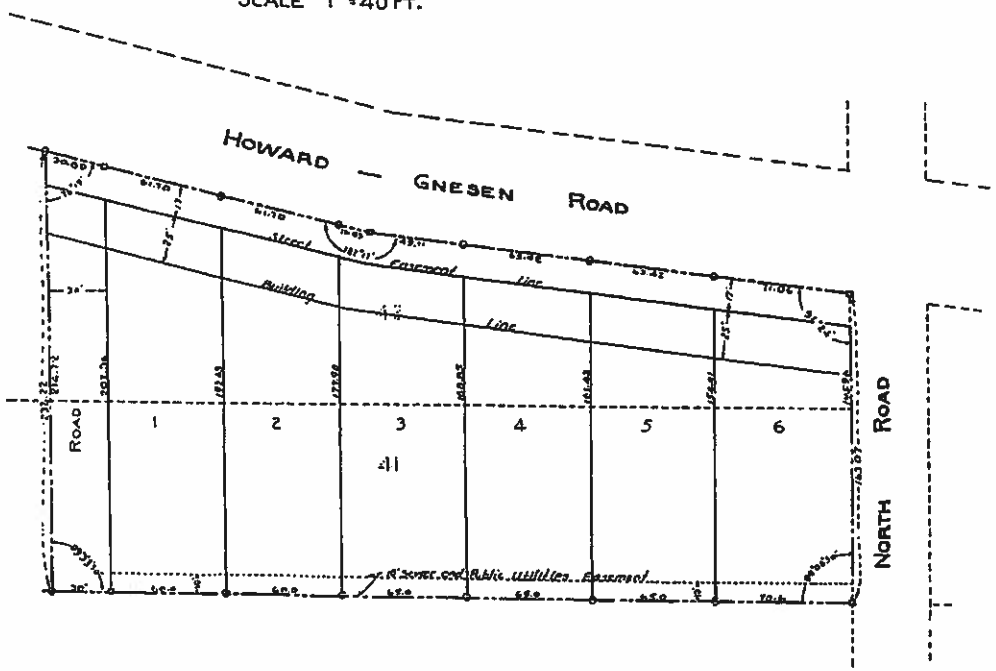
RECEIVED DEC 31 2012

HERITAGE'S

REARRANGEMENT
OF
LOTS 41 & 42 of NORTON'S ACRE OUTLOTS
N.W.¼ SECTION 10, T.50N., R.14W.

CONCRETE MONUMENT = ■
IRON PIPE = ○
SCALE 1" = 40 FT.



602410

OFFICE OF REGISTER OF DEEDS
STATE OF MINNESOTA
County of St. Louis } ss
I hereby certify that the within instrument was filed in this office for record on the 6th day of July A.D. 1940 at 12:20 P.M. and was duly recorded in Book ___ W ___ of ___ on page ___ 15 ___
WM. D. DONOVAN, County Auditor
By R. Kemp

Know All Men By These Presents: That Florence M. Heritage and William Heritage (her husband) being the owners of the following described property lying and being in the City of Duluth, County of St. Louis, State of Minnesota and more fully described as follows, to wit: Lots 41 and 42 of Norton's Acre Outlots as recorded in the Office of the Register of Deeds in and for said St. Louis County and being desirous of rearranging the same have caused a survey to be made, and the annexed plat thereof to be made, in accordance with the statutes in such cases made and provided.

Now therefore, do we hereby ratify and confirm in all respects, said survey and the plat thereof, as "Heritage's Rearrangement" of Outlots 41 and 42 of Norton's Acre Outlots and dedicate for public use the street easements, the building line easement, and the public utility easement delineated thereon.

In Witness Whereof, I have hereunto set my hand and seal on this 26th day of June A.D. 1940

Florence M. Heritage
William Heritage

In the presence of
[illegible]
[illegible]

State of Minnesota
County of Lake } S.S.

On this 26th day of June A.D. 1940, before me appeared Florence M. Heritage and William Heritage (her husband) to me well known to be the persons described in and who executed the foregoing certificate and acknowledged that they executed the same as their free act and deed.

[illegible]
Notary Public [illegible] County Minnesota
My commission expires [illegible]

I Jack D. Salo do hereby certify that I am a Registered Land Surveyor and that I have, at the request of the proprietors thereof, made a careful survey of the property described in the foregoing certificate of the proprietors and have rearranged the same into Lots as more fully appears on the annexed plat entitled "Heritage's Rearrangement," which plat is a correct representation of the survey. The sizes of all lots are correctly given and monuments have been correctly placed as shown on the plat. The outside boundary lines of the platted portion are shown with a dash, and two dots alternating

Jack D. Salo
Registered Land Surveyor
No. 1420

Subscribed and sworn to before me this 28th day of June A.D. 1940
[illegible]
Notary Public St. Louis County, Minnesota
My commission expires [illegible]

We hereby certify that the annexed plat, entitled "Heritage's Rearrangement" was approved by the Duluth City Planning Commission on the 13th day of June A.D. 1940

[illegible]
Acting President
[illegible]
Secretary

Taxes paid through the 6th day of July 1940
W. D. DONOVAN, County Auditor
By R. Kemp

Taxes for the year 1939 on lands described within PAID
W. F. SARGENT, County Treasurer
[illegible]

02/01/2013