

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-0146R

RESOLUTION VACATING ONE FOOT OF LONDON ROAD RIGHT-OF-WAY  
AT 1732 LONDON ROAD (GREGORY KAMP/COLDWELL BANKER).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described 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 one foot petitioned right of way is useless for all purposes; and

(c) The city planning commission, at its Tuesday, March 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. \_\_\_\_\_:

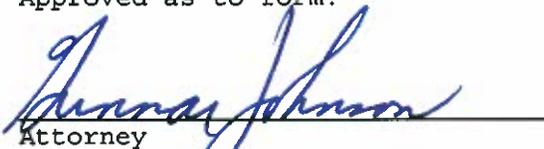
Proposed vacation legal description:

Commencing at the most easterly corner of Block 21, Endion Division of Duluth; thence North 37°42'25" West on the northeasterly line of Block 21 for a distance of 290.00 feet to a point at the intersection of the northeasterly line of Block 21 and the Right-of-Way of London Road, said point being the point of beginning; thence continuing North 37°42'25" West for a distance of 1.00 foot; thence South 52°17'35" West on a line parallel with the northwesterly line of Block 21 for a distance of 51.15 feet; thence South 37°42'25" East for a distance of 1.00 foot to the Right-of-Way of London Road; thence North 52°17'35" East on a line parallel with the northwesterly line of Block 21 for a distance of 51.15 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 as to form:

  
Attorney

PC/PLNG SR:cs 3/14/2013

STATEMENT OF PURPOSE: This resolution vacates a one foot section of improved road right of way for London Road. It was determined that the building was constructed approximately four inches over the lot line. Instead of removing or altering the structure, the applicant is asking for a one foot vacation of the right of way to allow the structure to remain. Note that there is a companion request for a 2-1/2 foot concurrent use permit to allow the construction of a new canopy being submitted by the applicant along with this request.

On March 12, 2013, the Duluth city planning commission held a public hearing on the proposal and voted 9 yeas, 0 nays, and 0 abstentions to recommend 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: February 11, 2013

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



**CITY OF DULUTH**

Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197

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

**STAFF REPORT**

<b>File Number</b>	PL 13-033		<b>Contact</b>	Steven Robertson, 218 730-5295	
<b>Application Type</b>	Vacation of Unimproved Street Easement		<b>Planning Commission Date</b>	February 12, 2013	
<b>Deadline for Action</b>	<b>Application Date</b>	February 11, 2013	<b>60 Days</b>	N/A	
	<b>Date Extension Letter Mailed</b>	February 19, 2013	<b>120 Days</b>	N/A	
<b>Location of Subject</b>	1732 London Road				
<b>Applicant</b>	Coldwell Banker/Greg Kamp		<b>Contact</b>		
<b>Agent</b>	Greg Strom		<b>Contact</b>	gps-foundations@gmail.com	
<b>Legal Description</b>	See attached				
<b>Site Visit Date</b>	February 23, 2013		<b>Sign Notice Date</b>	February 25, 2013	
<b>Neighbor Letter Date</b>	February 19, 2013		<b>Number of Letters Sent</b>	38	

**Proposal**

Property owner is requesting a one foot vacation of an unimproved street easement, adding that "the building already encroaches slightly on to the property line."

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-2	Commercial	Neighborhood Mixed Use
<b>North</b>	F-2	Commercial	Neighborhood Mixed Use
<b>South</b>	F-2	Residential	Neighborhood Mixed Use
<b>East</b>	F-2	Commercial	Neighborhood Mixed Use
<b>West</b>	F-2	Commercial/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 .

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

**Future Land Use, Neighborhood Mixed Use:**

A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets.

**Principle #3 - Support traditional economic base**

Supporting Duluth's traditional economic foundation maintains jobs, tax base, and opportunity. Economic activity with specific location requirements may be subject to displacement or site competition with changes in real estate values. This traditional economic activity faces change as result of global economic patterns, changing markets, new regulation and aging of extensive infrastructure. Nevertheless, fundamentals remain and the economic contribution, sometimes taken for granted, is significant.

Note, this item is related to PL 12-032, request for a concurrent use permit.

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

Staff finds that:

- 1) The applicant owns the land adjacent of the proposed vacation area. Due to the very limited scope of the vacation (one foot), only the property owner is affected by the vacation. The structure was found to have been constructed a few inches over the property line. The applicant is seeking a one foot vacation to allow the structure to remain.
- 2) The right of way is 99 feet wide. While there are utilities in the London Road right of way, there are 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 1 foot partial vacation of the street 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) Only one comment was received from the public or city or government agencies on this proposal. There was some confusion between MnDOT and the City of who had jurisdiction of this section of the London Road. It was resolved that this section was formally turned back to the City in 1995.
- 5) 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:

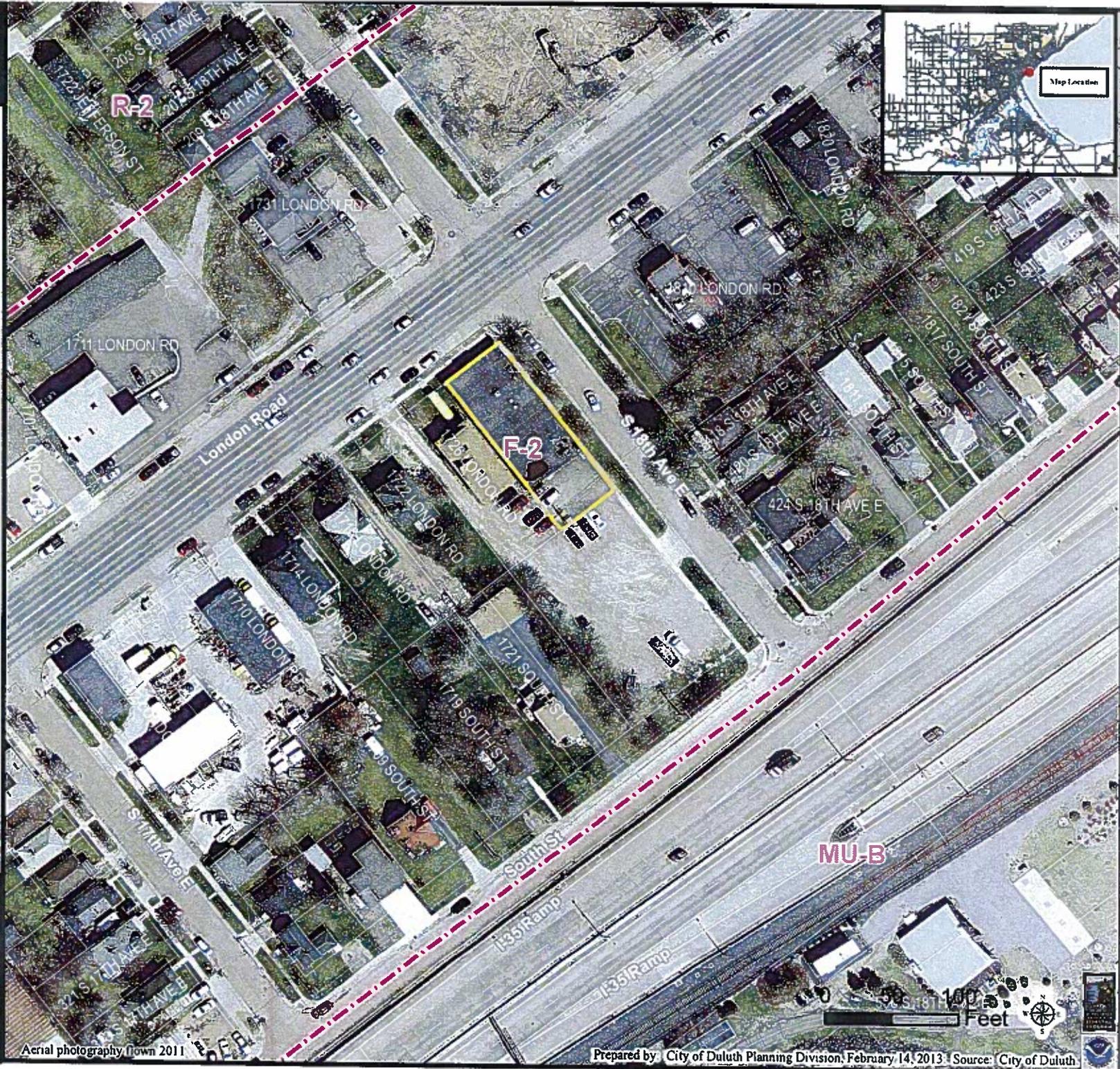
- 1) Vacation goes into effect after being recorded at the County Recorder's office. Applicant will work with Duluth City Clerk's office if needed to assist in the recording process.

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



# City Planning

13-032 and 33  
Vacation and Concurrent Use  
Coldwell Banker



**Legend**

 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

13-032 and 33  
Vacation and Concurrent Use  
Coldwell Banker

### 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

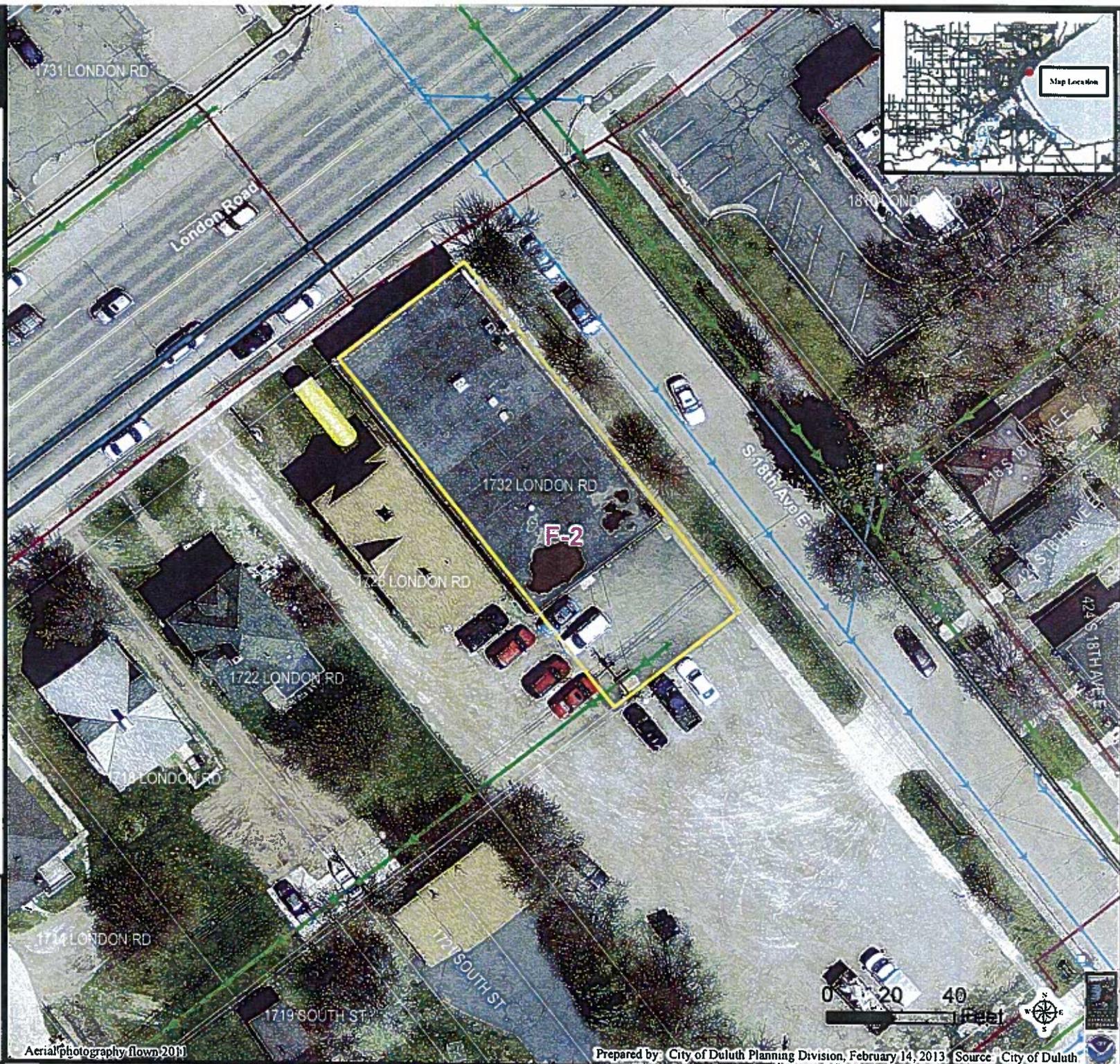
**Gas Distribution Main**

- 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
- Zoning (Final)

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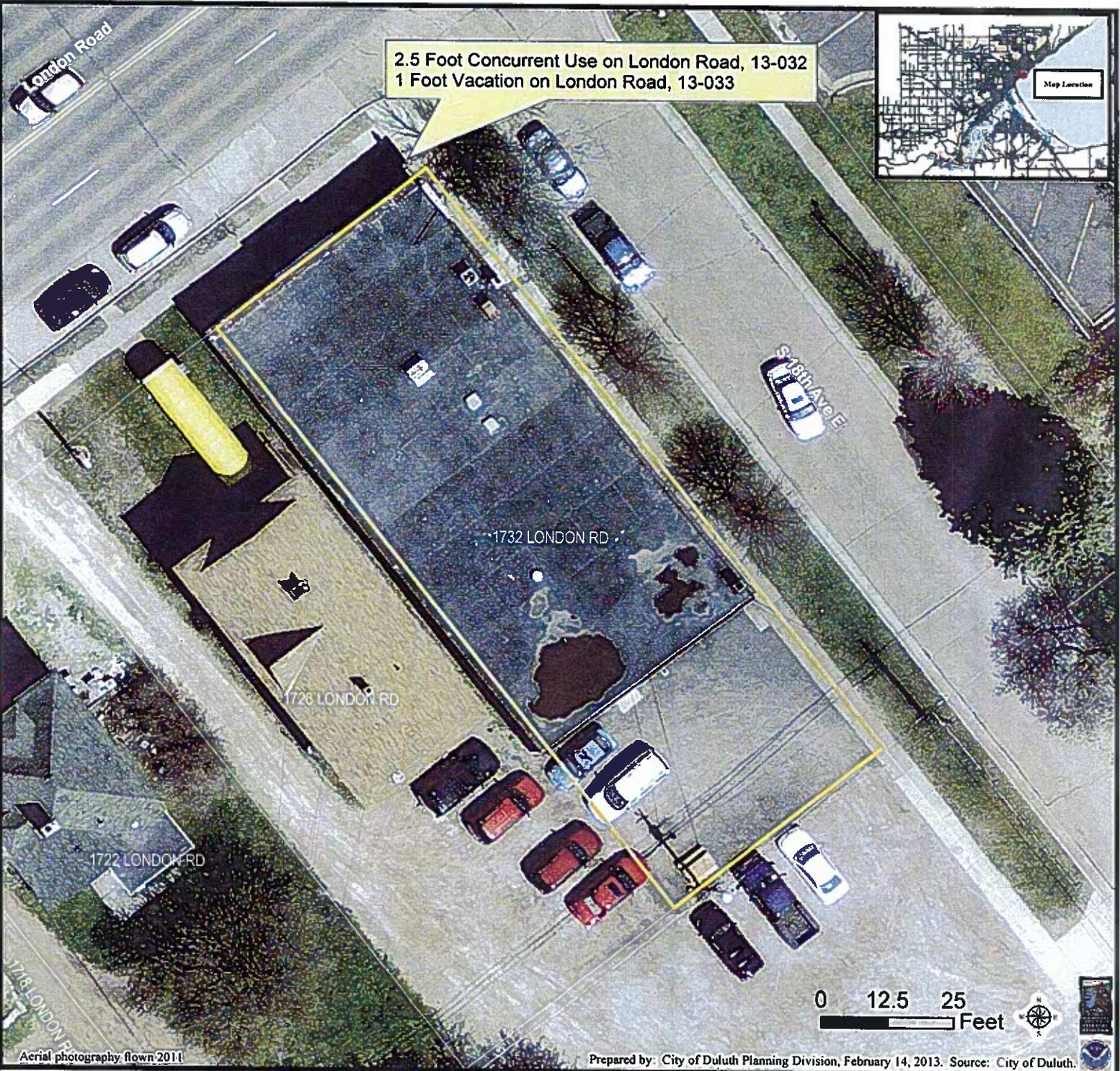


Aerial photography flown 2011



# City Planning

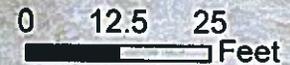
13-032 and 33  
Vacation and Concurrent Use  
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## Legend

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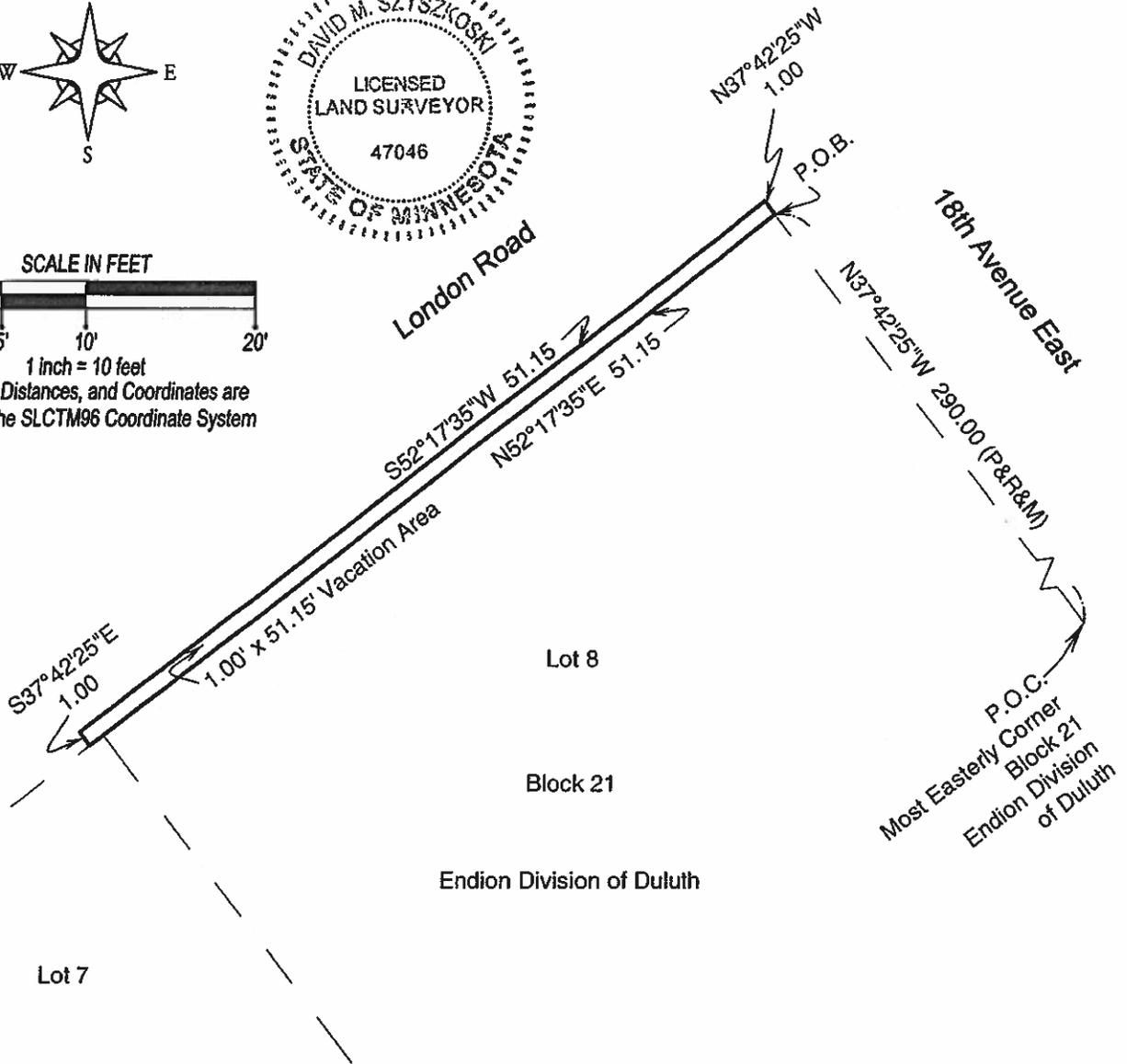
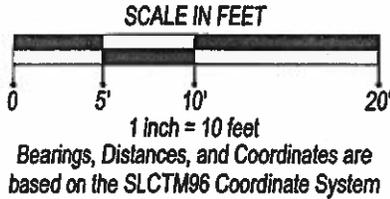
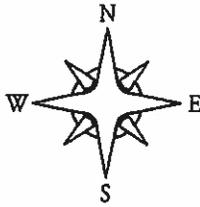
Aerial photography flown 2011



Prepared by: City of Duluth Planning Division, February 14, 2013. Source: City of Duluth.

# Vacation Exhibit

in Section 23, Township 50 North, Range 14 West, St. Louis County, Minnesota



**Proposed Vacation Legal Description:**

Commencing at the most easterly corner of Block 21, Endion Division of Duluth; thence North 37°42'25" West on the northeasterly line of Block 21 for a distance of 290.00 feet to a point at the intersection of the northeasterly line of Block 21 and the Right-of-Way of London Road, said point being the point of beginning; thence continuing North 37°42'25" West for a distance of 1.00 foot; thence South 52°17'35" West on a line parallel with the northwesterly line of Block 21 for a distance of 51.15 feet; thence South 37°42'25" East for a distance of 1.00 foot to the Right-of-Way of London Road; thence North 52°17'35" East on a line parallel with the northwesterly line of Block 21 for a distance of 51.15 feet to the point of beginning.

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.

2/15/2013  
 DAVID SZYSZKOSKI  
 MINNESOTA LICENSE NO. 47046



ENGINEERS • SURVEYORS • PLANNERS  
**SALO ENGINEERING, INC.**  
 4560 Norway Pines Place - Duluth, MN 55802  
 SALO JOB NUMBER: L4676 ph 218/727-8796

Vacation Exhibit of part of London Road adjacent to Block 21, Endion Division For : Gregory Kamp

**Coldwell Banker – East West Realty**  
**1732 London Road**  
**Property and proposed vacation descriptions:**

**Existing Property:**

Lots 7-10, Block 21, Endion Division of Duluth. Section 23, T50N, R14W, St. Louis County, MN.

**Proposed Vacation Legal Description:**

Commencing at the most easterly corner of Block 21, Endion Division of Duluth; thence North 37°42'25" West on the northeasterly line of Block 21 for a distance of 290.00 feet to a point at the intersection of the northeasterly line of Block 21 and the Right-of-Way of London Road, said point being the point of beginning; thence continuing North 37°42'25" West for a distance of 1.00 foot; thence South 52°17'35" West on a line parallel with the northwesterly line of Block 21 for a distance of 51.15 feet; thence South 37°42'25" East for a distance of 1.00 foot to the Right-of-Way of London Road; thence North 52°17'35" East on a line parallel with the northwesterly line of Block 21 for a distance of 51.15 feet to the point of beginning.



Minnesota Department of Transportation

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Transportation Building  
395 John Ireland Boulevard  
Saint Paul, Minnesota 55155-1899

December 12, 1995

296-6967

Mr. Jeffrey Cox  
City Clerk of Duluth  
C. Hall: 411 West 1st Street  
Duluth, MN 55802-1101

In reply refer to: 7300  
State Project No. 6925  
County of St. Louis  
Notice of Release of a portion  
of Trunk Highway No. 61  
Release No. 1086

Dear Mr. Cox:

Attached is a Notice of Release of a portion of Trunk Highway No. 61. This will be effective December 15, 1995, and the description reads as follows:

Beginning in the City of Duluth at the junction of Old Trunk Highway No. 23 (2nd Street) and Old Trunk Highway No. 61 (12th Avenue East); thence easterly and northeasterly along the centerline of said Old Trunk Highway No. 61 (12th Avenue East and London Road) to its intersection with 26th Avenue East and there terminating. Also including all that portion of Old Trunk Highway No. 61 (14th Avenue East) between 3rd Street and London Road.

The subject portion of road reverts to the jurisdiction of the City of Duluth in accordance with Minnesota Statutes, Section 161.16 and 161.24 (and Acts amendatory thereto).

If you require additional information, call Mr. Neal Bartelt, Office of Right of Way and Surveys, at the above number, or write this office.

Sincerely,

A handwritten signature in black ink that reads 'Karl F. Rasmussen'.

K. F. Rasmussen, Director  
Office of Right of Way and Surveys

Enclosure:  
Release No. 1086  
R29977G.RIW