



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 13-015	Contact	Steven Robertson, 218 730-5295	
Application Type	Vacation of Unimproved Street Easement	Planning Commission Date	February 12, 2013	
Deadline for Action	Application Date	January 23, 2013	60 Days	N/A
	Date Extension Letter Mailed	February 19, 2013	120 Days	N/A
Location of Subject	4900 Block of Woodlawn Street			
Applicant	Jim Mainella	Contact	sjmainella@aol.com	
Agent		Contact		
Legal Description	See attached			
Site Visit Date	February 24, 2013	Sign Notice Date	February 25, 2013	
Neighbor Letter Date	February 19, 2013	Number of Letters Sent	28	

Proposal

Property owner is requesting a vacation of an unimproved street easement, adding that "vacating 49th Ave East will assist the construction of my new home and the permanent placement of a driveway for the entrance."

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Vacant	Preservation/Traditional Neighborhood
North	R-1	Vacant	Preservation
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood
West	R-1/RR-1	Vacant/Road	Preservation

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, Governing Principles:

Principle #5 - Strengthen neighborhoods. The present city is an historical amalgam of villages and other independent units of government, contributing to the present condition of Duluth being strongly defined by its neighborhoods. This condition should be reinforced through land use, transportation and public service delivery patterns which strengthen neighborhood identity. New institutional expansions, major public infrastructure or large commercial or industrial uses should not divide historic neighborhood patterns.

Recent History. An alley one block north of this site was vacated by Council resolution 03-0201 (3/24/2003). Various section of this street and adjoining rights of way were vacated in 1997 (97-0795), 1991 (91-0503), 1972, and 1964.

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

Staff finds that:

- 1) The applicant owns the land to the west of the proposed vacation area. The property owners submitted a petition that contained a majority of the affected property owners' signatures.
- 2) The unimproved right of way easement is 66 feet wide. No utilities are located in the easement requested to be vacated, with the exception of power lines running through the alley. This vacation, if approved, will not deprive any currently platted lots of access to a public right of way. It will create a dead end, but it should be noted that 49th Ave ends 1 block north of this site (Skyline Parkway), and 4 blocks south of this site (near Rock Ridge School).
- 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) No comments were received from the public or city or government agencies on this proposal. Minnesota Power was asked to verify if they had concerns with the vacation of the alley since there are currently power lines running through the alley; they have since asked that the alley be maintained as a public right of way to ensure access for private services.
- 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) The alley be maintained as public right of way for utility needs (note: preservation of the alley already indicated in applicant's vacation certificate of survey).
- 2) 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)

L-2



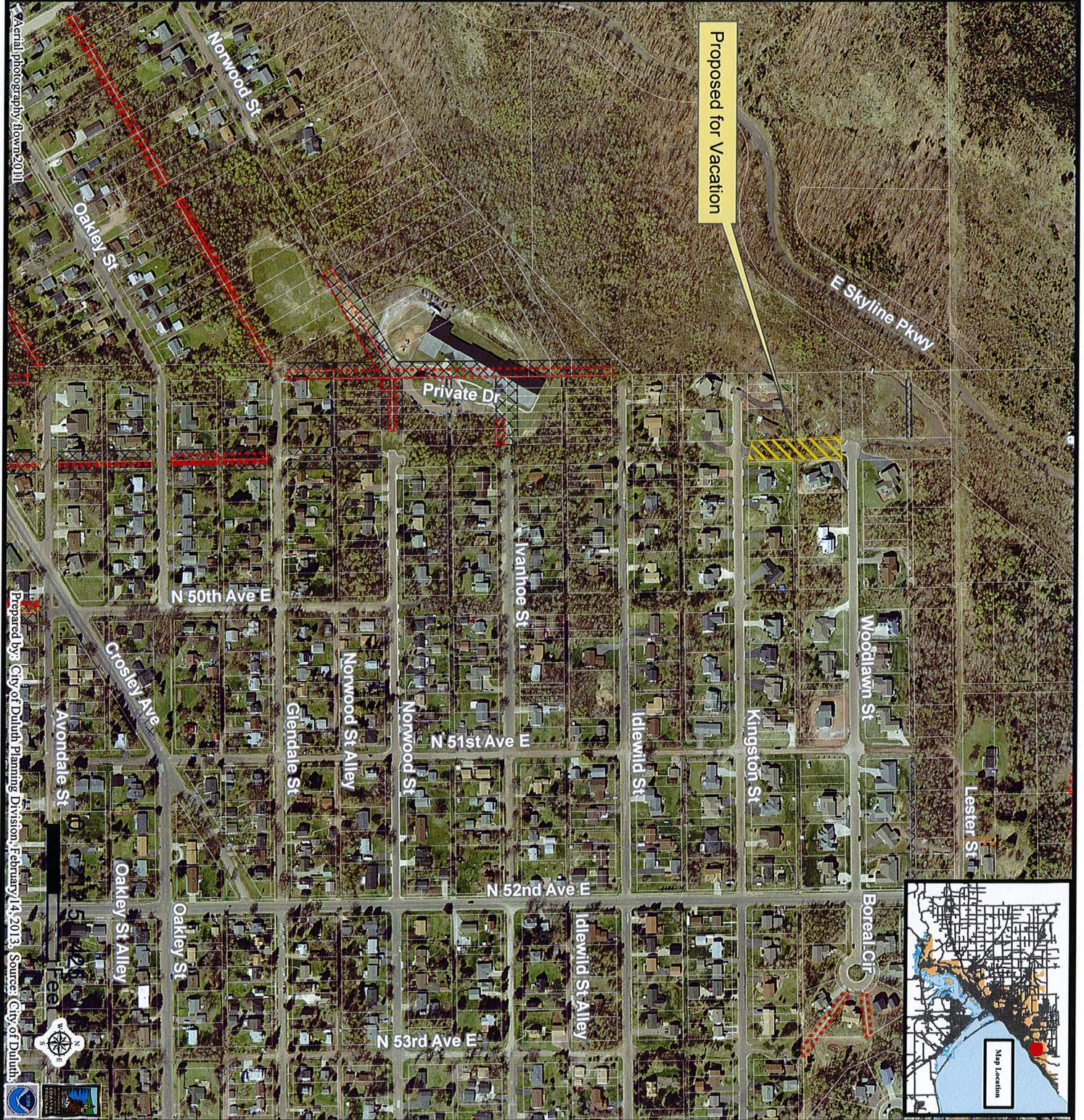
City Planning

Proposed Vacation 13-015 Mainella

Legend

-  Vacated ROW
-  Easement Type
-  Utility Easement
-  Other Easement

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 damages in connection with the use of this information contained within.



Aerial photography from 2011

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





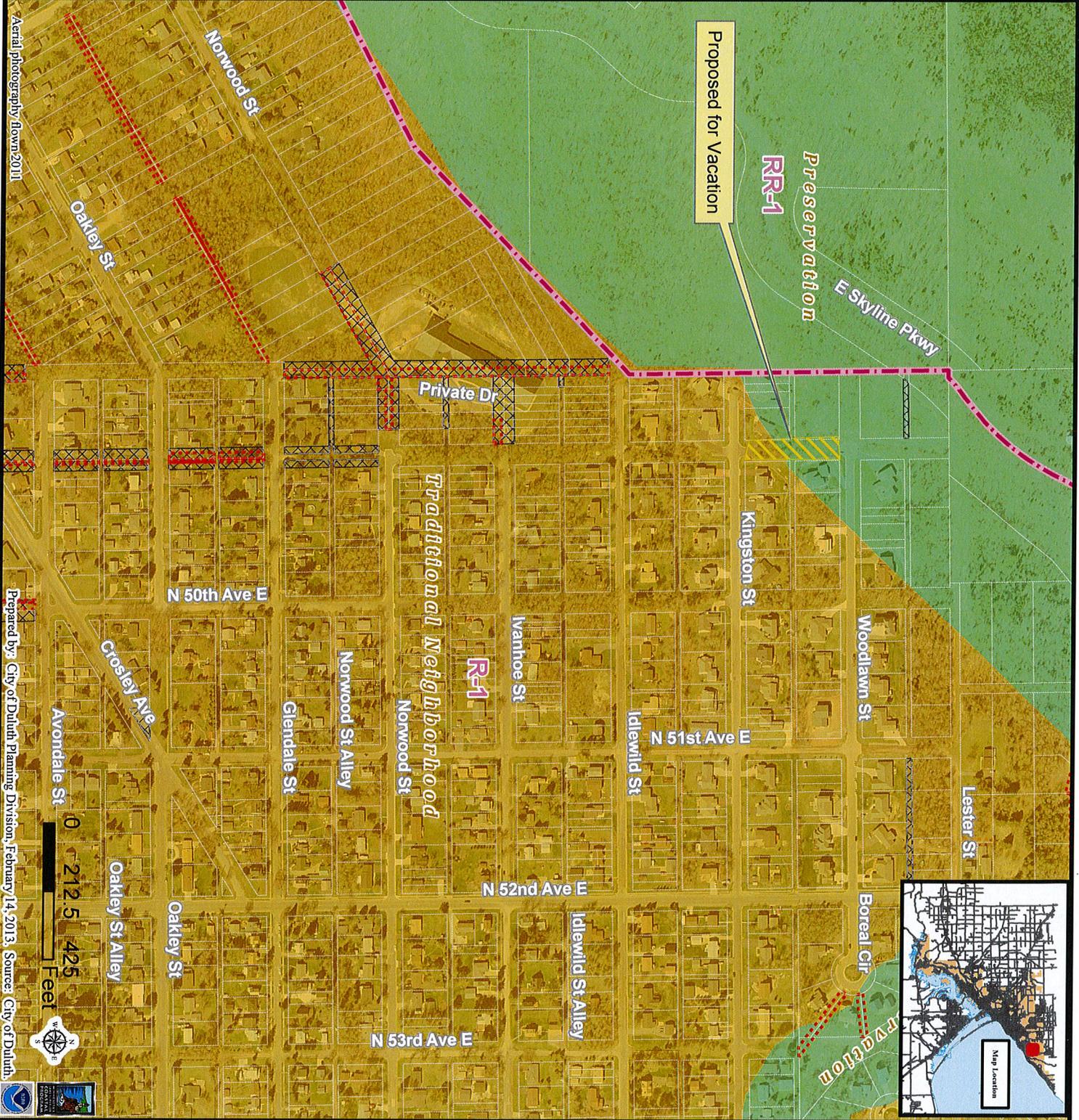
City Planning

Proposed Vacation
13-015 Mainella

Legend

	Vacated ROW
	Easement Type
	Utility Easement
	Other Easement
	Zoning (Final)
	Future Land Use
	Preservation
	Recreation
	Rural Residential
	Low-density Neighborhood
	Traditional Neighborhood
	Urban Residential
	Neighborhood Commercial
	Neighborhood Mixed Use
	General Mixed Use
	Central Business Secondary
	Central Business Primary
	Auto Oriented Commercial
	Large-scale Commercial
	Business Park
	Tourism/Entertainment District
	Medical District
	Institutional
	Commercial Waterfront
	Industrial Waterfront
	Light Industrial
	General Industrial
	Transportation and Utilities

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Aerial photography flown 2011

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

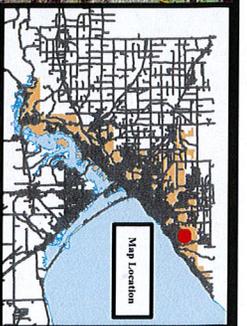
4-7



City Planning

Proposed Vacation
13-015 Mainella

Proposed for Vacation



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

Gas Distribution Main

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

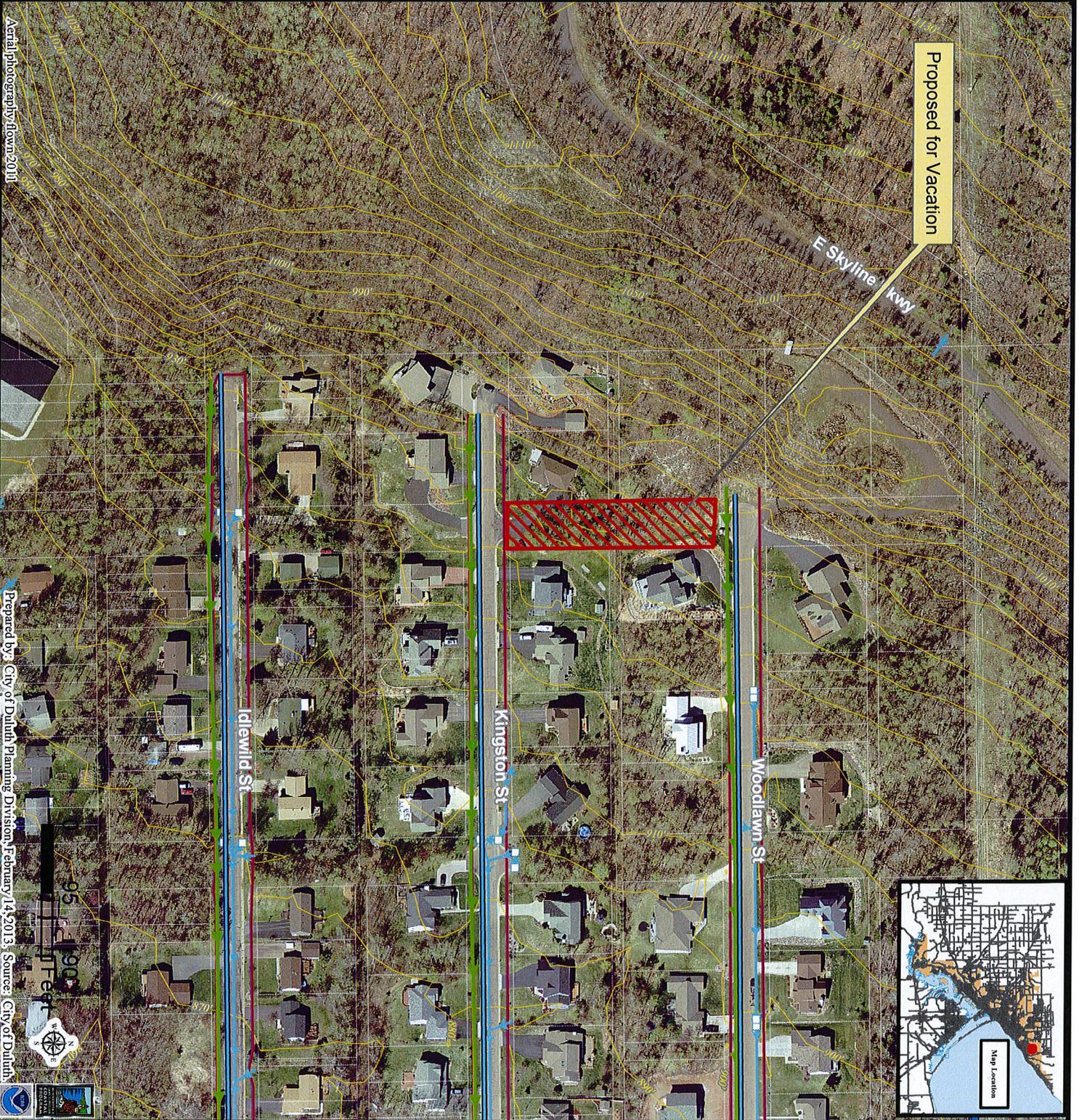
Storm Sewer Collection System

- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Discharge_Points
- 10' Contour (elev. change)

Other Symbols:

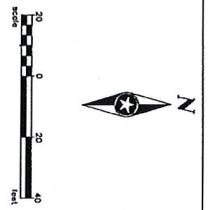
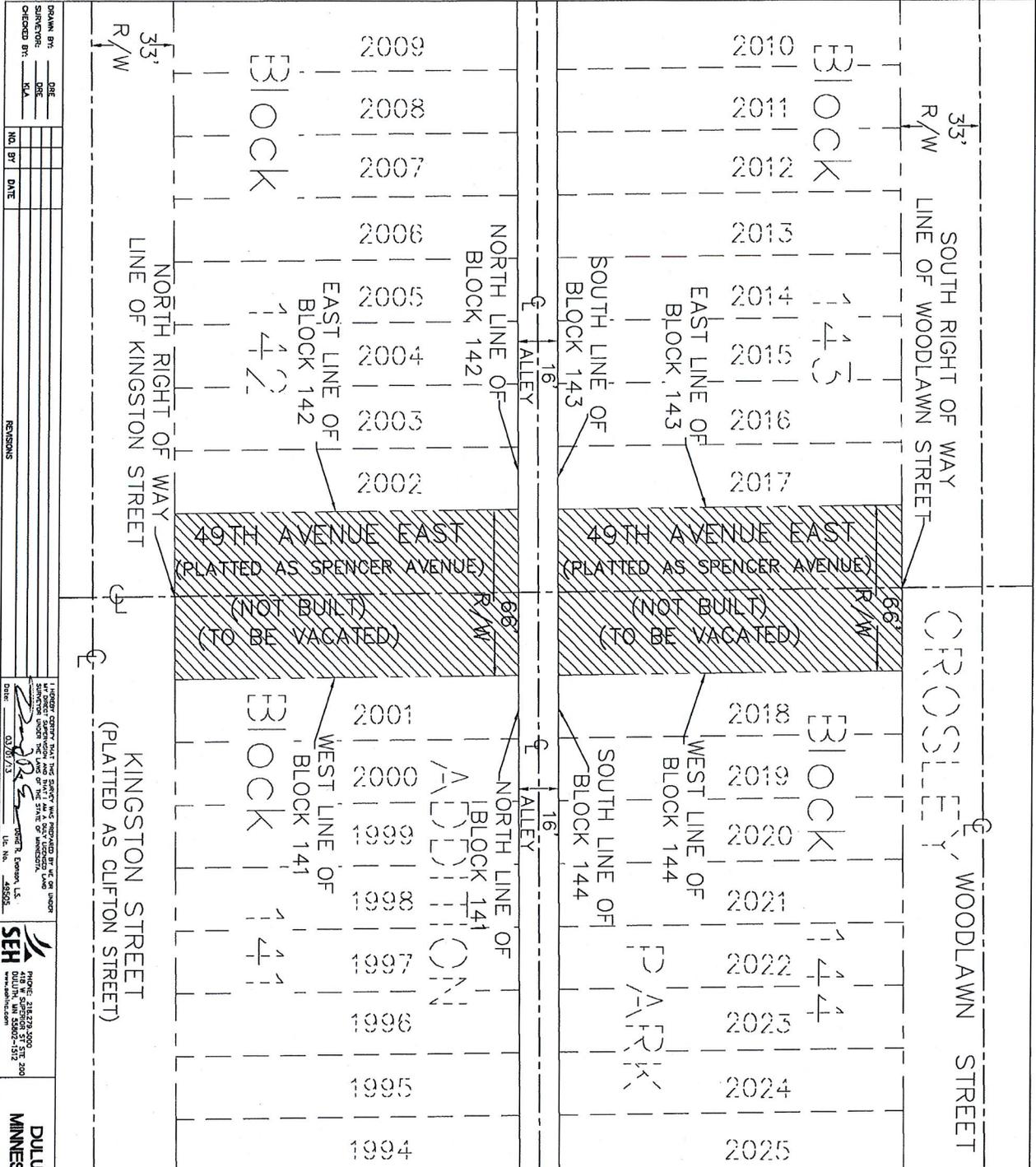
- Storage Basin
- Pump Station

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Aerial photography/flyover 2011

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



LEGAL DESCRIPTION:
That part of 49th Avenue East (the same being platted as "Spencer Avenue"), according to the plat, CROSLLEY PARK ADDITION TO DULUTH, on file of record in the office of the County Recorder, St. Louis County, Minnesota. The area to be vacated is bounded as follows:

- On the north: By the south right of way line of Woodlawn Street.
- On the west: By the east line of Block 143.
- On the east: By the west line of Block 144.
- On the south: By the south line of Block 143 and its easterly prolongation to the centerline of said 49th Avenue East AND By the south line of Block 144 and its westerly prolongation to the centerline of said 49th Avenue East.

AND

That part of 49th Avenue East (the same being platted as "Spencer Avenue"), according to the plat, CROSLLEY PARK ADDITION TO DULUTH, on file of record in the office of the County Recorder, St. Louis County, Minnesota. The area to be vacated is bounded as follows:

- On the north: By the north line of Block 142 and its easterly prolongation to the centerline of said 49th Avenue East AND By the north line of Block 141 and its westerly prolongation to the centerline of said 49th Avenue East.
- On the west: By the east line of Block 142.
- On the east: By the west line of Block 141.
- On the south: By the north right of way line of Kingston Street (the same being platted as "Clifton Street").

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

The area to be vacated is shown as

PLATTING BY: DBC CHECKED BY: MJA NO. BY: DATE:	REVISIONS:	I HEREBY CERTIFY THAT THE ENACTED MAP SUBMITTED BY ME TO THE BOARD OF SUPERVISORS AND THE CITY OF DULUTH, MINNESOTA, IS A TRUE AND CORRECT COPY OF THE ORIGINAL MAP AS FILED IN THE OFFICE OF THE COUNTY RECORDER, ST. LOUIS COUNTY, MINNESOTA. DATE: 03/20/13 LIC. NO.: 455205	PHONE: 218.279.3000 DULUTH, MN 55802-1512 www.sehinc.com	DULUTH, MINNESOTA	EXHIBIT A	FILE NO. MAN/12306	1
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L-6

LEGAL DESCRIPTION:

That part of 49th Avenue East (the same being platted as "Spencer Avenue"), according to the plat, CROSLEY PARK ADDITION TO DULUTH, on file or of record in the office of the County Recorder, St. Louis County, Minnesota. The area to be vacated is bounded as follows:

On the north: By the south right of way line of Woodlawn Street.

On the west: By the east line of Block 143.

On the east: By the west line of Block 144.

On the south: By the south line of Block 143 and its easterly prolongation to the centerline of said 49th Avenue East AND By the south line of Block 144 and its westerly prolongation to the centerline of said 49th Avenue East.

AND

That part of 49th Avenue East (the same being platted as "Spencer Avenue"), according to the plat, CROSLEY PARK ADDITION TO DULUTH, on file or of record in the office of the County Recorder, St. Louis County, Minnesota. The area to be vacated is bounded as follows

On the north: By the north line of Block 142 and its easterly prolongation to the centerline of said 49th Avenue East AND By the north line of Block 141 and its westerly prolongation to the centerline of said 49th Avenue East.

On the west: By the east line of Block 142.

On the east: By the west line of Block 141.

On the south: By the north right of way line of Kingston Street (the same being platted as "Clifton Street").

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

January 14, 2013

To whom it may concern,

The intent of this letter is to further describe the reason for my request to vacate undeveloped 49th Avenue East from Woodlawn Street to Kingston Street.

I purchased parcel 10 790 February 19, 1999 from the St. Louis County Land Department. On May 10, 1999, this lot was surveyed by SEH. I recently sold my home at 5003 Woodlawn Street in order to build a new home at 4828 Woodlawn Street. I have been current with the assessment payments and property taxes since my ownership and street construction. (Please review attached documents).

I was the catalyst that prompted the City of Duluth to construct Woodlawn Street. I attended many meetings and helped with the decisions to develop once barren and untaxed land to what it is today.

There has been other landowners who requested undeveloped parcels to be vacated, as seen in the supporting documents. Although Mr. Levine was granted the vacation, to this date there is not a residence on the property. That has been 10 years. On the other hand, I am looking to build as soon as possible.

Vacating 49th Avenue East will assist the construction of my new home and the permanent placement of a driveway for the entrance. I am aware of the criteria for using driveway permits within right-of-way, but I hope to seek a more permanent solution for the future of this residence.

Sincerely,



James Mainella

RECEIVED JAN 23 2013

L-8

CERTIFIED COPY OF RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DULUTH, MINNESOTA

RESOLUTION 03-0201R

ADOPTED: MARCH 24, 2003

BY PRESIDENT STENBERG:

WHEREAS, a sufficient petition was filed with the city clerk requesting the vacation of the alleyway between Woodlawn and Lester streets and between Skyline Parkway and 49th Avenue East, legally described as the alley adjoining Blocks 154 and 155, Crosley Park Addition, excepting that portion for Skyline Parkway; and

WHEREAS, 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, and such commission gave due notice of public hearing and did consider same in public hearing; and

WHEREAS, the city planning commission unanimously approved the street vacation petition at its March 11, 2003, meeting.

NOW, THEREFORE, BE IT RESOLVED, that the city council of the city of Duluth approves the vacation of the alleyway between Woodlawn and Lester streets and between Skyline Parkway and 49th Avenue East described above and as more particularly described on Public Document No. 03-0324-22.

RESOLVED FURTHER, that the city clerk is hereby directed to record, with the register of deeds and/or the registrar of titles of St. Louis County, Minnesota, a certified copy of this resolution together with a plat showing the portion of the portion of the alley easement to be vacated.

Resolution 03-0201 was unanimously adopted.

Approved March 24, 2003

GARY L. DOTY, Mayor

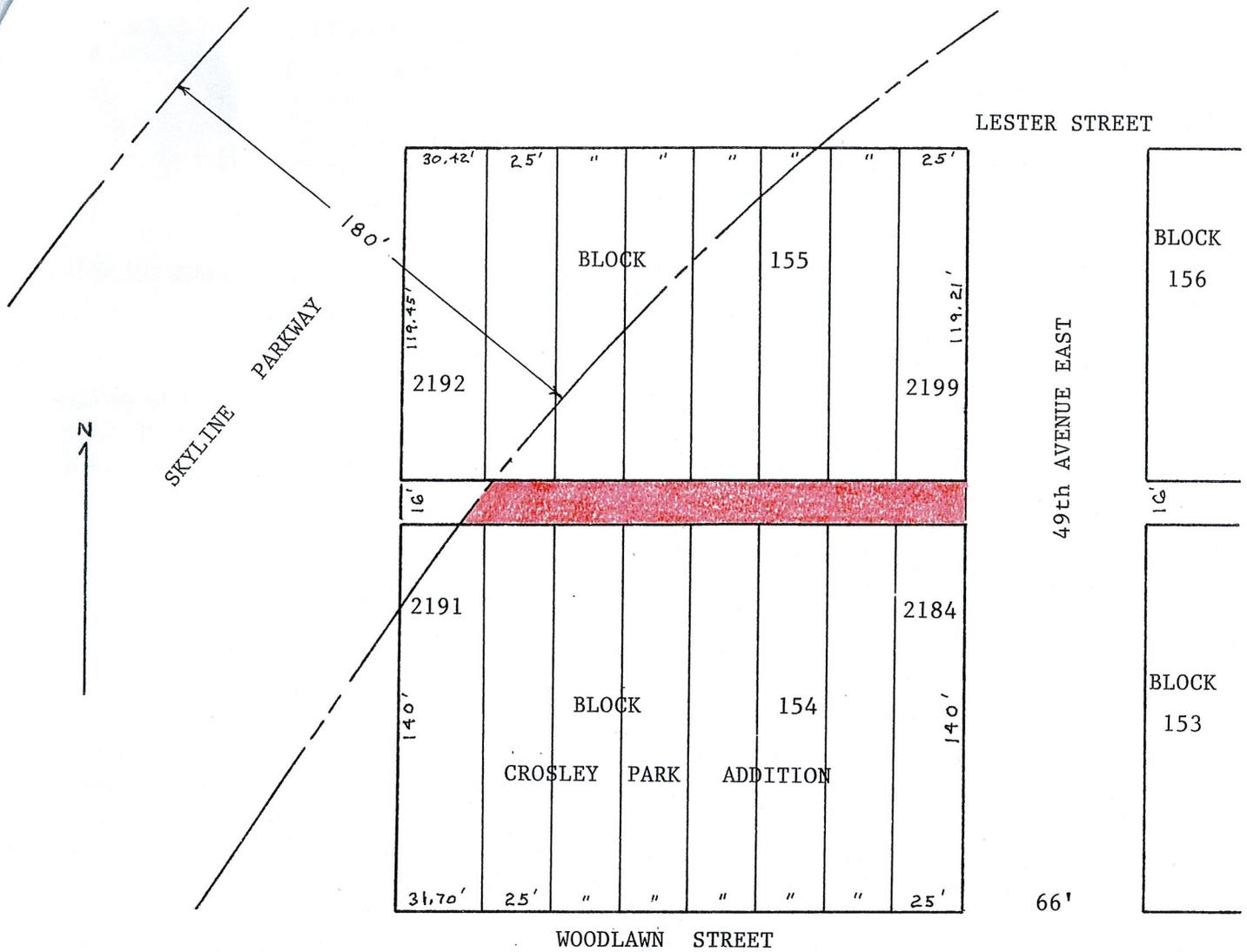
I, JEFFREY J. COX, city clerk of the city of Duluth, Minnesota, do hereby certify that I have compared the foregoing resolution passed by the city council on the 24th day of March, 2003, with the original in my custody as city clerk of said city, and that the same is a true and correct transcript therefrom.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said city of Duluth, this 16th day of April, 2004.

JEFFREY J. COX
City Clerk

by *Heather OSwald*
Assistant
CITY OF DULUTH, MINNESOTA

L-9



Plat showing the vacation of the alley adjoining Blocks 154 and 155, Crosley Park Addition, excepting that portion for Skyline Parkway.

The portion to be vacated is shown colored RED on the above plat.

Richard J. [Signature]
 CITY ENGINEER

1/26/04
 DATE



View looking north west from the corner of Woodlawn Street and 49th Avenue East.