

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

14-0220R

RESOLUTION VACATING PORTIONS OF A PLATTED UNIMPROVED ALLEY LOCATED BETWEEN FIRST AND SECOND STREETS, AND NORTH 38TH AND 39TH AVENUE WEST (ARROWHEAD LAND AND LEASING LLC AND MINER'S INC.).

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 unimproved right of way is useless for all purposes; and

(c) The city planning commission, at its Wednesday, April 30, 2014, special 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. _____:

VACATION LEGAL DESCRIPTION:

All that part of the platted 16 foot alley lying southerly and southeasterly of Block 8 of HAZLEWOOD ADDITION TO ONEOTA, according to the recorded plat thereof filed in the St. Louis County Recorder's Office in Duluth, Minnesota, bounded as follows:

On the Southwest: By the southeasterly extension of the southwesterly line of Lot 1 of said Block 8.

On the Southeast: By the northwesterly right of way line of the L.S and M. Railroad of said HAZLEWOOD ADDITION TO ONEOTA AND the southeasterly right of way line of the platted 16 foot alley of said HAZLEWOOD ADDITION TO ONEOTA.

On the Northeast: By a line drawn parallel with and distant 32.73 feet

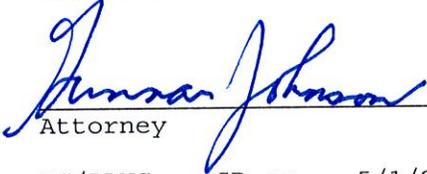
southwesterly of the southeasterly extension of the northeasterly line of Lot 3, said Block 8.

On the Northwest: By the southeasterly line of said Block 8

Said parcel contains 2,032 square feet or .047 acres, more or less.

(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 5/1/2014

STATEMENT OF PURPOSE: This resolution vacates a 130 foot by 16 foot street easement for an unimproved alley. This street easement has never been used for a public purpose and is not needed for the purpose that it was initially dedicated. A portion of this unimproved alley was vacated by city council action in 1981 by council resolution 81-0391.

On April 30, 2014 the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nay, and 0 abstentions to recommend the city council approve the vacation without condition.

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

Petition Received: March 4, 2014

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

VACATION SKETCH FOR: MINERS, INC.

LEGEND

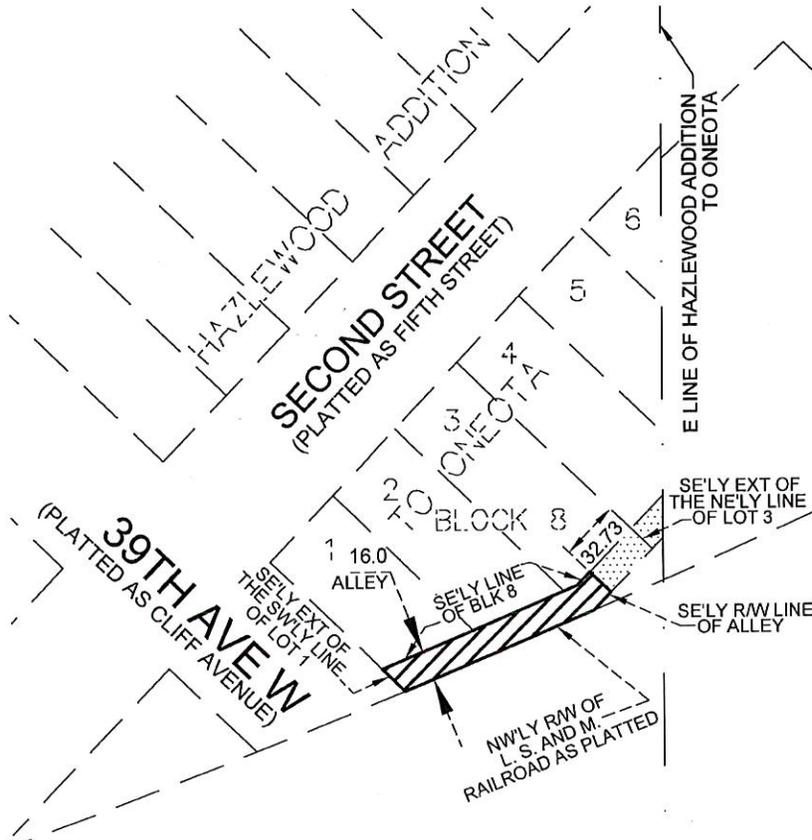
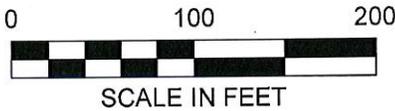
These standard symbols will be found in the drawing.



VACATED ALLEY PER DOC. NO. 331873



PROPOSED ALLEY VACATION



Legal Description of Alley to be Vacated

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- On the Southwest: By the southeasterly extension of the southwesterly line of Lot 1 of said Block 8.
- On the Southeast: By the northwesterly right of way line of the L.S and M. Railroad of said HAZLEWOOD ADDITION TO ONEOTA

AND

the southeasterly right of way line of the platted 16 foot alley of said HAZLEWOOD ADDITION TO ONEOTA.

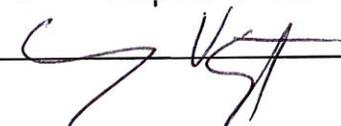
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On the Northwest: By the southeasterly line of said Block 8

Said parcel contains 2,032 square feet or .047 acres, more or less.

DATE: 3-3-14
SCALE: 1 IN = 100 FEET
PROJECT NO: 14-023

Approved by the City Engineer of the City of Duluth, MN. this 1 day of MAY 2014

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.

Date: 3-3-14



David R. Evanson MN License No. 49505

ALTA
SURVEY COMPANY, INC.
Residential/Commercial Land Surveying-Land
Development-Legal Descriptions
P.O. BOX 161138 Duluth, MN 55806
Phone: 218-727-5211 Fax: 218-727-3798



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 14-017	Contact	Steven Robertson	
Application Type	Vacation of Street Easement (Alley)	Planning Commission Date	April 8, 2014	
Deadline for Action	Application Date	March 4, 2014	60 Days	N/A
	Date Extension Letter Mailed	March 19, 2014	120 Days	N/A
Location of Subject	3800 West 2nd Street			
Applicant	Arrowhead Land and Leasing, LLC	Contact	Miner's Inc	
Agent	John Geissler, DSGW	Contact	jgeissler@dsgw.com	
Legal Description	See attached			
Site Visit Date	March 29, 2014	Sign Notice Date	March 25, 2014	
Neighbor Letter Date	March 26, 2014	Number of Letters Sent	50	

Proposal

Applicant is proposing a vacation of a street easement for an unimproved alley. The unimproved alley to be vacated is approximately 16 feet wide and 130 feet long.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-B	Industrial	General Mixed Use
North	R-1	Residential	Neighborhood Commercial
South	I-G	Industrial	General Mixed Use, Light Industrial
East	P-1	Open Space	Preservation, General Mixed use
West	MU-N	Residential, Industrial	Neighborhood Mixed Use

Summary of Code Requirements (reference section with a brief description):

Vacation of public rights of way and/or easements require 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 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.

J-1

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

Governing Principle #1: Reuse previously developed lands.
Governing Principle #7: Create and maintain connectivity.

General Mixed Use: The broadest mix of uses, including light industrial, office, commercial, and residential use, with performance standards to ensure compatibility. Includes areas that are in transition from industrial uses and large redevelopments that require master plans and phased development. General or heavy industrial can be included when a large site is master planned to allow appropriate separation of uses.

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

- 1) Applicant is proposing a vacation of a street easement for an unimproved alley. The unimproved alley to be vacated is approximately 16 feet wide and 130 feet long.
- 2) The applicant owns the land surrounding the proposed vacation area. If the vacation request is granted by the City, the applicant intends to construct a warehouse expansion over the former right of way.
- 3) The alley was partially vacated by the city in 1981 by City Council resolution 81-0391.
- 4) To the best of City staff's knowledge, there are no current public or private utilities in the public right of way.
- 5) This vacation, if approved, will not deprive any currently platted lots of access to a public right of way.
- 6) Staff believe this right of way 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.
- 7) No comments from the public. City engineering and Minnesota Power did not have a concern with this vacation.
- 8) 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 above findings, Staff recommends that Planning Commission recommend approval of the vacation, without conditions.

J-2

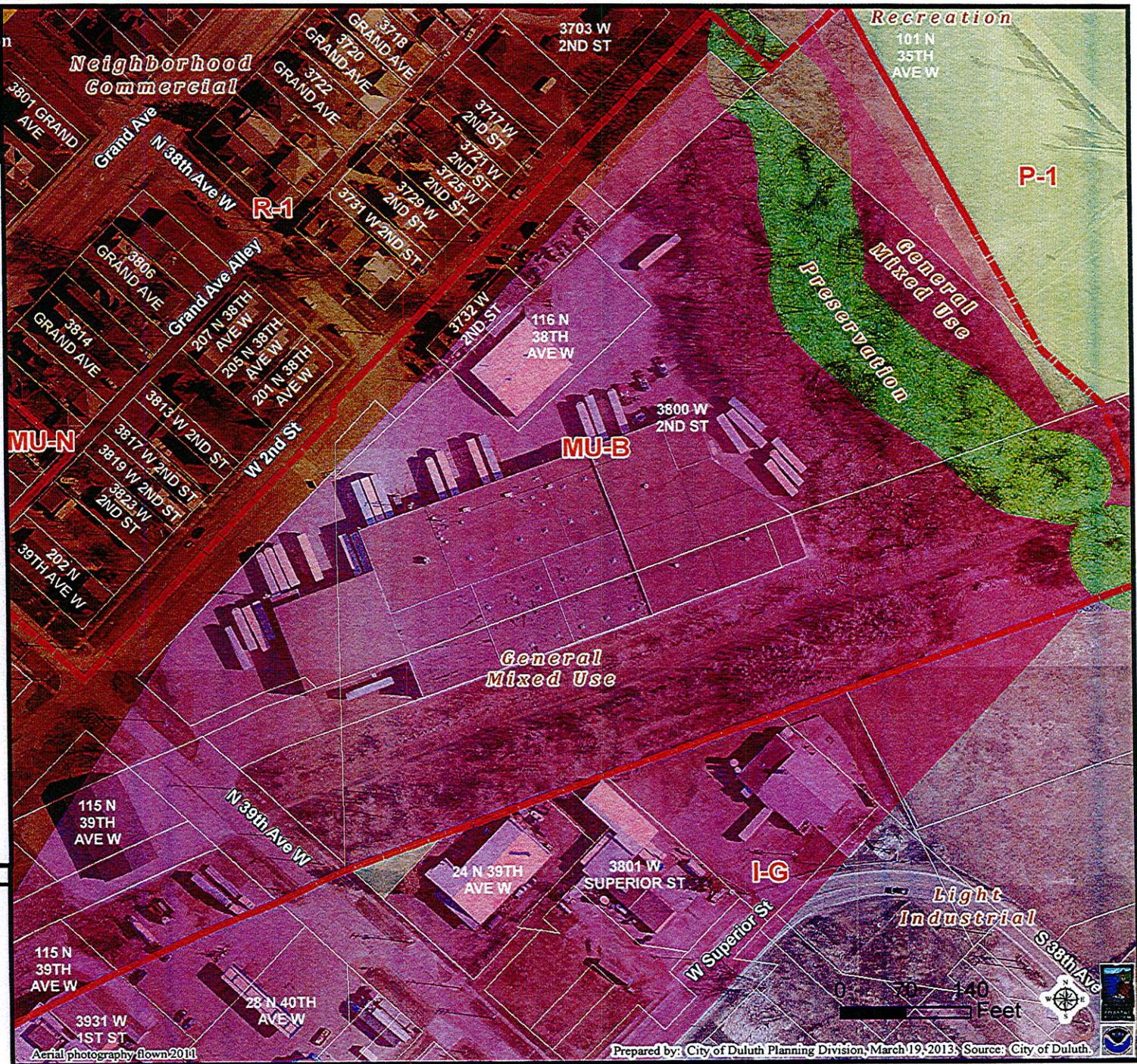
Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

Legend

Zoning Boundaries
 Zoning Boundaries

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



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.

J-3



City Planning
 PL 14-017 and 18, Vacation
 3800 West 2nd Street

Legend

Zoning Boundaries

- Zoning Boundaries

Water Distribution System

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

Sanitary Sewer Collection System

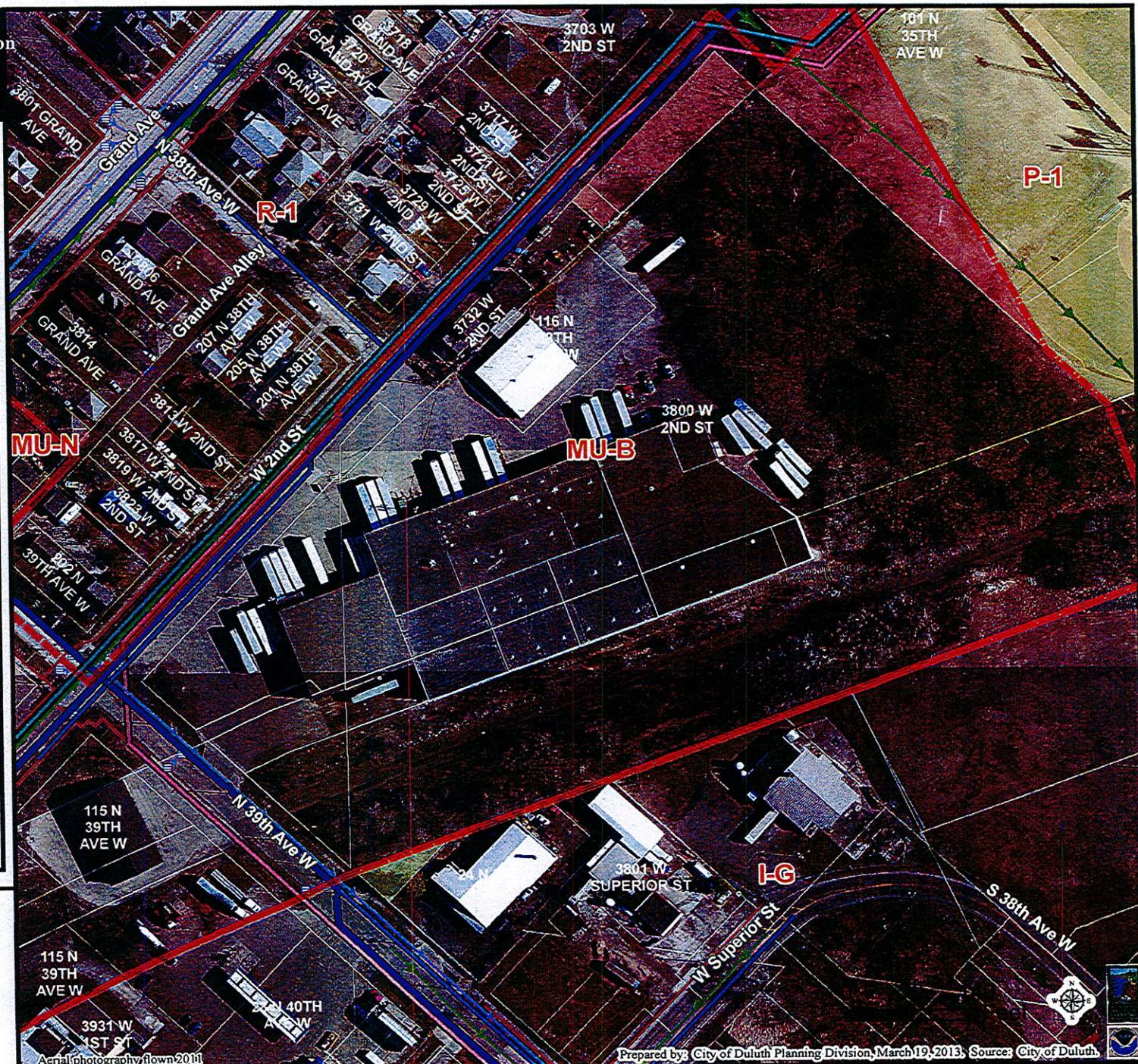
- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

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



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J-4

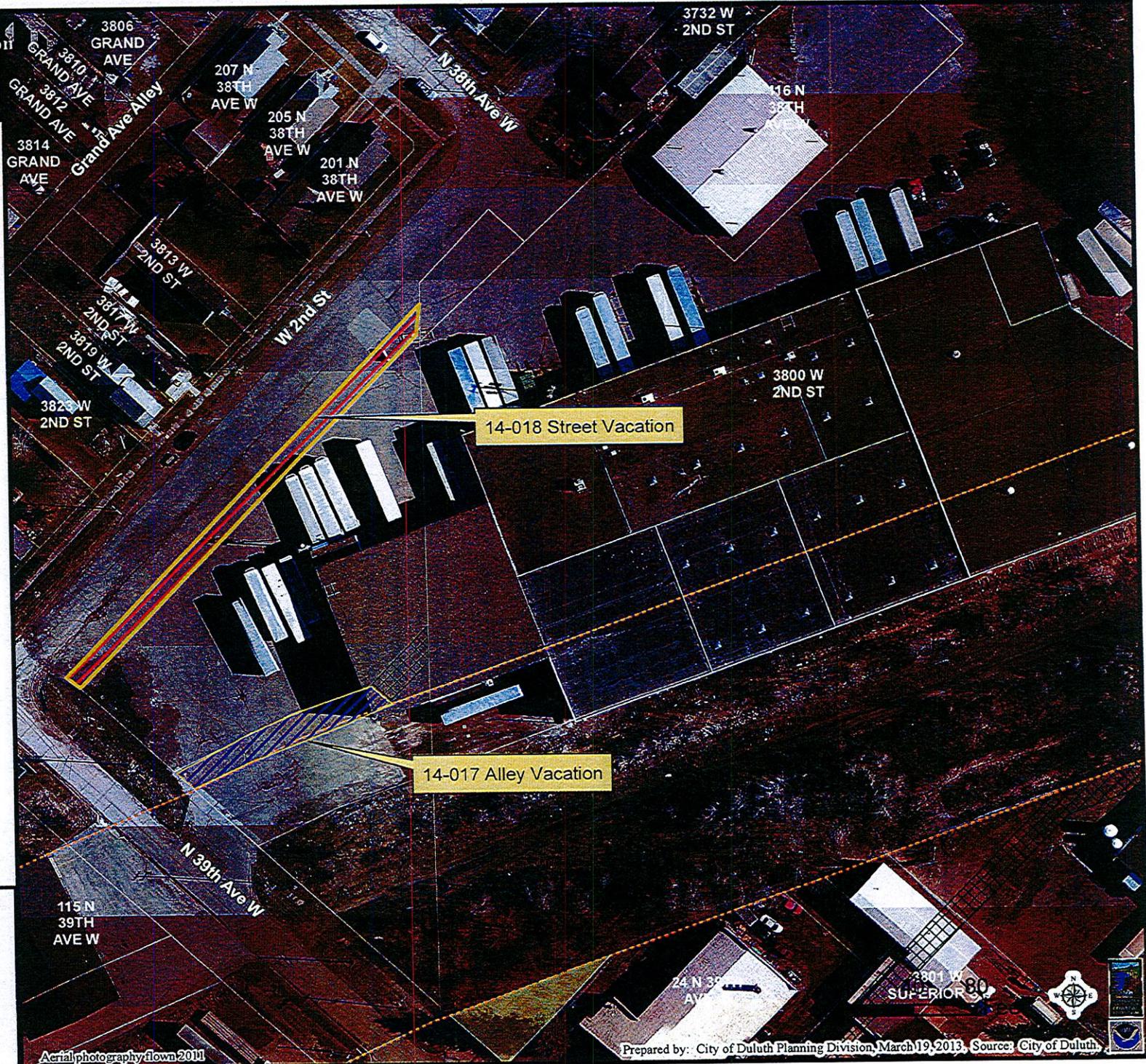
Aerial photography flown 2011

Prepared by: City of Duluth Planning Division, March 19, 2013. Source: City of Duluth.





City Planning
PL 14-017 and 18, Vacation
3800 West 2nd Street



Legend

Vacated ROW

Easement Type

Utility Easement

Other Easement

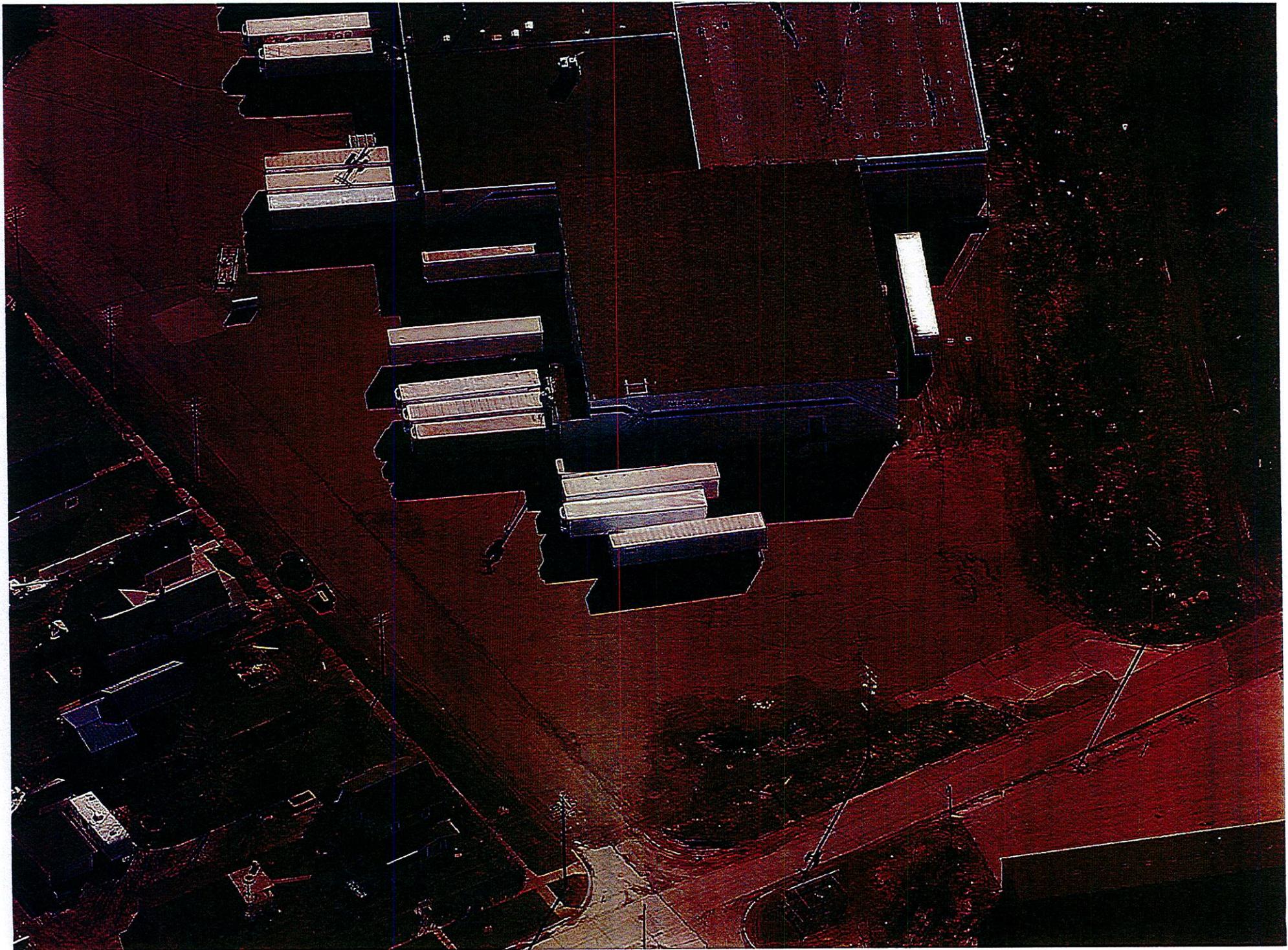
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J-5

Aerial photography flown 2011

Prepared by: City of Duluth Planning Division, March 19, 2013, Source: City of Duluth





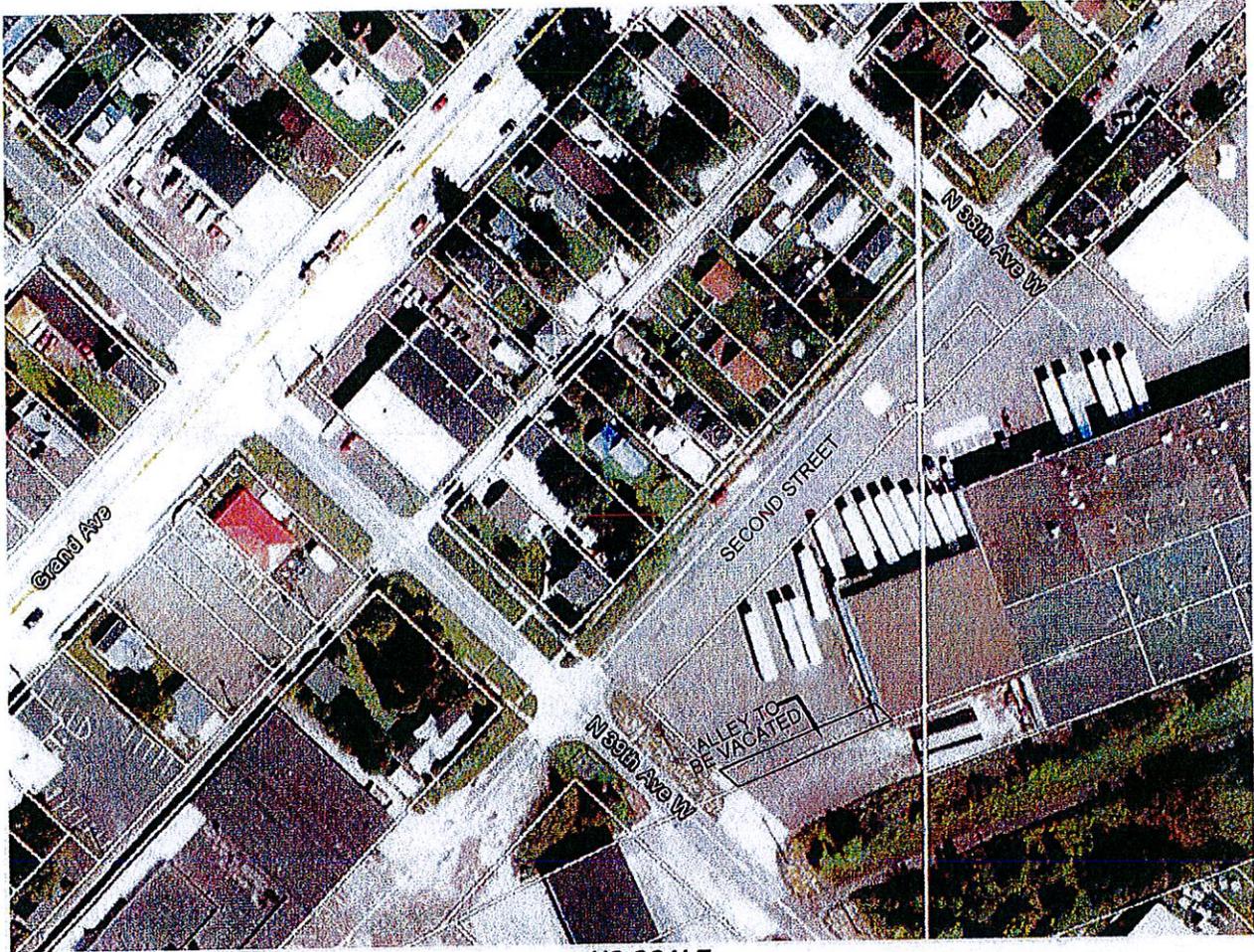


J-7

VACATION SKETCH FOR: MINERS, INC.



VICINITY MAP



NO SCALE

NOTES

THIS IS NOT A BOUNDARY SURVEY.

BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE
MERCATOR COORDINATE SYSTEM OF 1996.

THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE
COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR
UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS
PROPERTY HAS NOT BEEN COMPLETED BY ALTA SURVEY COMPANY, INC.

DATE: 3-3-14
SCALE: 1 IN = 100 FEET
PROJECT NO: 14-023

SHEET 1 OF 2 SHEETS

ALTA
SURVEY COMPANY, INC.
Residential/Commercial Land Surveying-Land
Development-Legal Descriptions
P.O. BOX 161138 Duluth, MN 55806
Phone: 218-727-5211 Fax: 218-727-3798

J-8

VACATION SKETCH FOR: MINERS, INC.

LEGEND

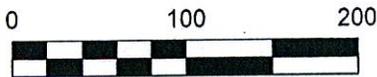
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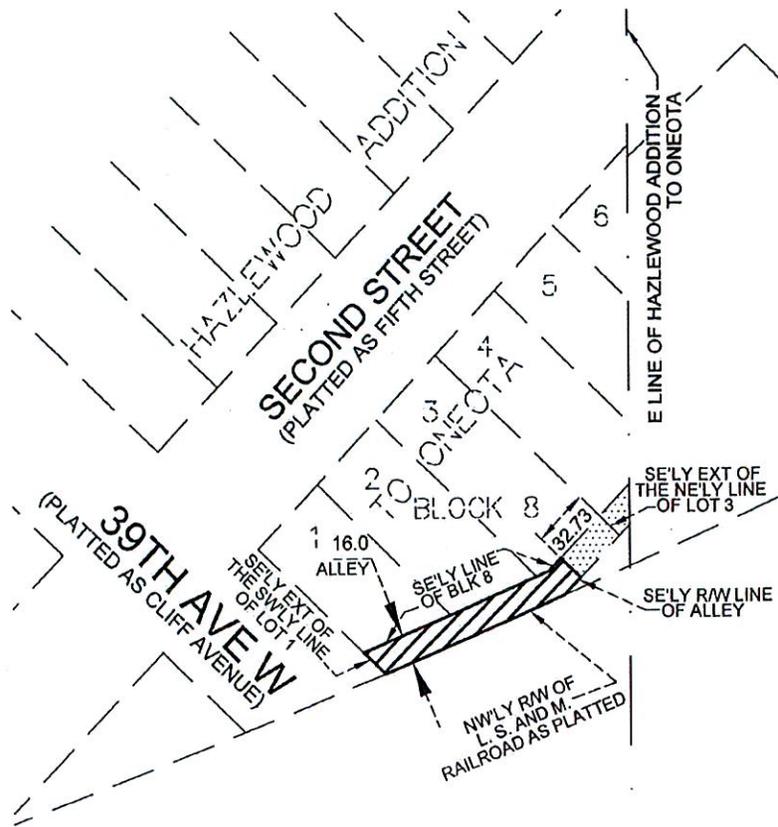
VACATED ALLEY PER DOC. NO. 331873



PROPOSED ALLEY VACATION



SCALE IN FEET



Legal Description of Alley to be Vacated

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AND

the southeasterly right of way line of the platted 16 foot alley of said HAZLEWOOD ADDITION TO ONEOTA.

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On the Northwest: By the southeasterly line of said Block 8

Said parcel contains 2,032 square feet or .047 acres, more or less.

DATE: 3-3-14
SCALE: 1 IN = 100 FEET
PROJECT NO: 14-023

SHEET 2 OF 2 SHEETS

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

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.

Date: 3-3-14

David R. Evanson

David R. Evanson MN License No. 49505

ALTA
SURVEY COMPANY, INC.
Residential/Commercial Land Surveying-Land
Development-Legal Descriptions
P.O. BOX 161138 Duluth, MN 55806
Phone: 218-727-5211 Fax: 218-727-3798

J-9

COUNCIL COPY

81-0397R

RESOLUTION VACATING: A PORTION OF THE ALLEY LOCATED
BETWEEN FIRST AND SECOND STREETS, AND 38TH AND 39TH AVENUES
WEST.

BY COUNCILOR JONES:

WHEREAS, a sufficient petition was filed with the City Clerk requesting the following vacation described as:

The alley located between 1st and 2nd (traverse) Streets and 38th and 39th Avenues West described as: abutting lots 3 and 4, Block 8, Hazelwood Addition ^{to Oneota} lying easterly of an extended line drawn 32.73 feet west from the southeast corner of Lot 3, Block 8, Hazelwood Addition to Oneota.

WHEREAS, pursuant to Section 100 of the City Charter, Article 4 of Chapter 45 of the Duluth City Code, 1959, such petition was duly referred to the City Planning Commission, and such Commission gave due notice of the Public Hearing and did consider same in Public Hearing; and

WHEREAS, the City Planning Commission approved the recommendation to vacate that portion of the alley located between 1st and 2nd Streets, and 38th and 39th Avenues West as described above;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Duluth approve the vacation of the alley located between 1st and 2nd (traverse) Streets and 38th and 39th Avenues West described as: abutting lots 3 and 4, Block 8, Hazelwood Addition ^{to Oneota} lying easterly of an extended line drawn 32.73 ^{feet} west from the southeast corner of Lot 3, Block 8, Hazelwood Addition to Oneota.

J-10

BE IT FURTHER RESOLVED, that the City Clerk is hereby directed to record with the Register of Deeds and/or Registrar of Titles of St. Louis County, Minnesota, a certified copy of this resolution together with plats showing the alley to be vacated.

RESOLUTION 81-597 UNANIMOUSLY
ADOPTED
APPROVED MAY 18 1981
[Signature]

Approved:

[Signature]
Department Director

Approved for presentation to Council:

[Signature]
Administrative Assistant

Approved as to form:

[Signature]
Assistant City Attorney

Approved:

[Signature]
Chairman, Committee (2) Planning

Approved:

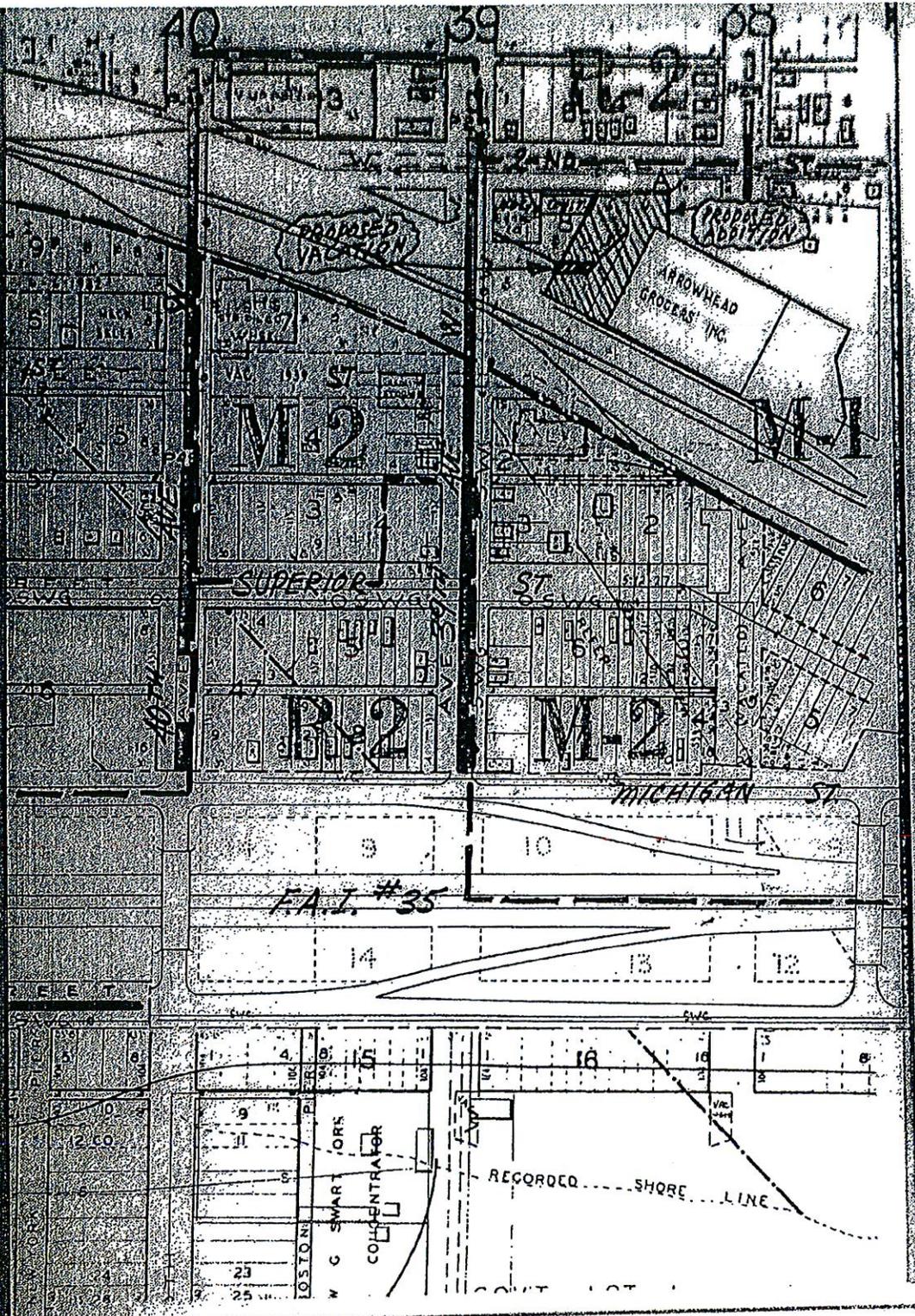
City Auditor

PLNG. GMK:jak:c 05/18/81

STATEMENT OF PURPOSE:

This resolution vacates a portion of the alley between 1st and 2nd Streets and 38th and 39th Avenues West in order to allow for the expansion of Gateway Foods, Inc., at that site.

11-11



APPLICANT: GATEWAY DEVELOPMENT CO.
 PURPOSE: Alley Vacation
 FILE NO: 1-81042
 SCALE: 1" = 100' DATE: April 10, 1981

Property under Consideration 



J-12

DEPARTMENT OF DEVELOPMENT & PLANNING

209

CITY PLANNING COMMISSION

DULUTH

GERALD M. KIMBALL • SECRETARY

May 18, 1981

Re: Vacation of a portion of the alley located between 1st and 2nd Streets, and 38th and 39th Avenues West. File No. 1-81042.

Honorable Mayor and
Members of the City Council

Dear Mayor and Councilors:

On May 12, 1981, the City Planning Commission considered the petition of Gateway Development Company to vacate the above-mentioned platted alley (please see the attached map). The alley in question is further described as follows:

The alley located between 1st and 2nd (traverse) Streets and 38th and 39th Avenues West described as: abutting lots 3 and 4, Block 8, Hazelwood Addition lying easterly of an extended line drawn 32.73 feet west from the southeast corner of Lot 3, Block 8, Hazelwood Addition.

The petition was found to be sufficient with the owners of 87.66 percent of the abutting property signing.

The Commission noted that the various utility companies had no objections to the proposed alley vacation. There were no reasons to retain easements in the alley as there are none presently. The Commission also noted that the proposed vacation will allow for a substantial warehouse addition to Gateway Development Company. The food warehousing network is located adjacent to a railroad right-of-way plus in close proximity to the freeway thus providing for a good transportation network which saves energy.

The Planning Commission approved the vacation of the alley as described above unanimously.

Therefore, the City Planning Commission recommends the above alley be vacated as proposed.

Very truly yours,



GERALD M. KIMBALL
Secretary, Planning Commission

GMK:jak:c

File No. 1-81042.

J-13