

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

14-0221R

RESOLUTION VACATING PORTIONS OF PLATTED WEST SECOND STREET BETWEEN NORTH 38TH AND 39TH AVENUE WEST AND RETAINING A 20 FOOT UTILITY EASEMENT (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:

A 20 feet strip of Second Street (Platted as Fifth Street) lying adjacent to and northwesterly 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.

Said vacated strip is to be retained for utility easement purposes.

Said parcel contains 6,463 square feet or 0.15 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 320 foot by 20 foot street easement for West Second Street. The platted right of way is 80 feet wide; by vacating 20 feet, the remaining platted right of way is 60 feet which is sufficient for city engineering standards. This 20 foot portion of the 80 foot street easement has never been used for a public purpose and is not needed for the purpose that it was initially dedicated.

On April 30, 2014 the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays, and 0 abstentions to recommend the city council approve the vacation with the condition that the vacated portion be maintained for a utility easement.

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

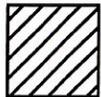
Petition Received: March 4, 2014

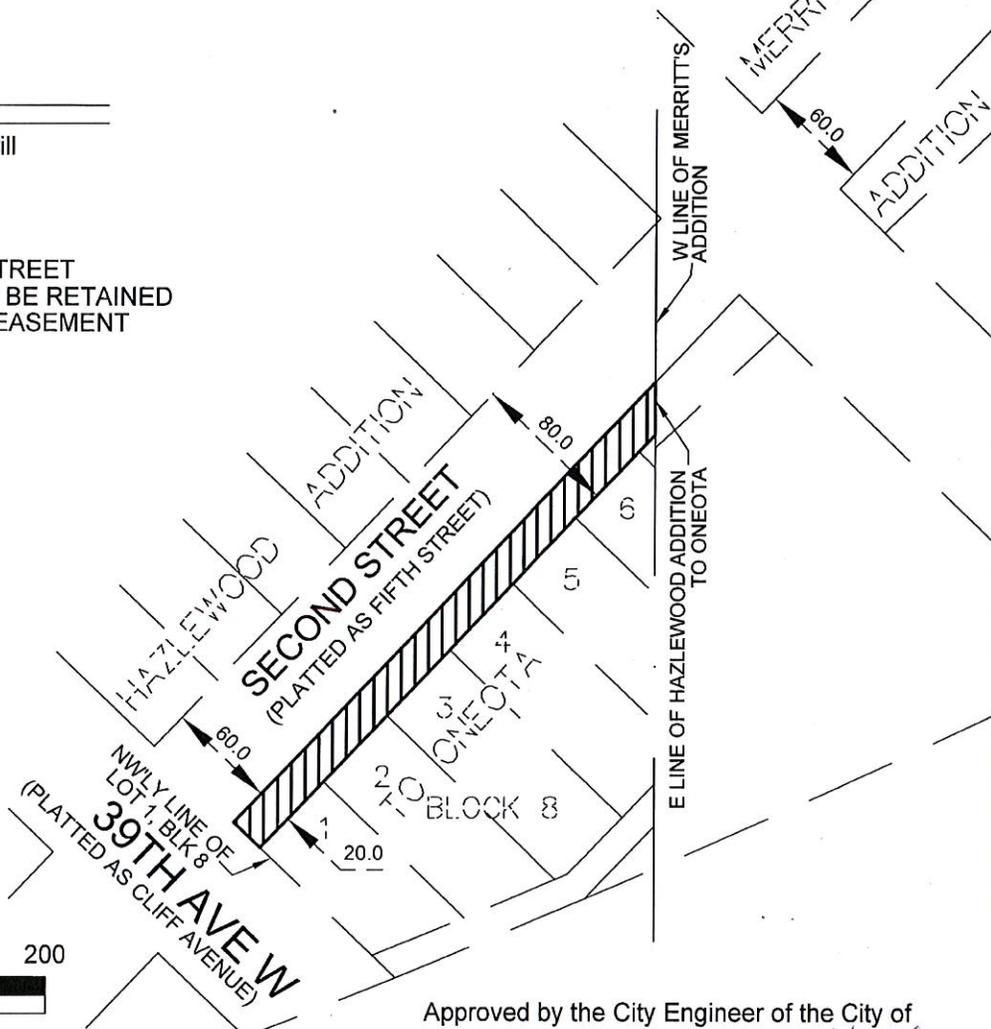
Action Deadline: There is no action deadline for this resolution.

# VACATION SKETCH FOR: MINERS, INC.

## LEGEND

These standard symbols will be found in the drawing.

 PROPOSED STREET VACATION-TO BE RETAINED AS A UTILITY EASEMENT



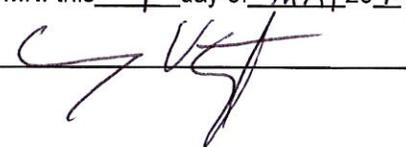
### Legal Description of Vacation of a Portion of Second Street

A 20 foot strip of Second Street (Platted as Fifth Street) lying adjacent to and northwesterly 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.

Said vacated strip is to be retained for utility easement purposes.

Said parcel contains 6,463 square feet or 0.15 acres, more or less.

Approved by the City Engineer of the City of Duluth, MN. this 1 day of MAY 20 14

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

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

SHEET 2 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



**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 14-018	<b>Contact</b>	Steven Robertson
<b>Application Type</b>	Vacation of Street Easement (W 2nd St)	<b>Planning Commission Date</b>	April 8, 2014
<b>Deadline for Action</b>	<b>Application Date</b>	March 4, 2014	<b>60 Days</b> N/A
	<b>Date Extension Letter Mailed</b>	March 19, 2014	<b>120 Days</b> N/A
<b>Location of Subject</b>	3800 West 2nd Street		
<b>Applicant</b>	Arrowhead Land and Leasing, LLC	<b>Contact</b>	Miner's Inc
<b>Agent</b>	John Geissler, DSGW	<b>Contact</b>	jgeissler@dsgw.com
<b>Legal Description</b>	See attached		
<b>Site Visit Date</b>	March 29, 2014	<b>Sign Notice Date</b>	March 25, 2014
<b>Neighbor Letter Date</b>	March 26, 2014	<b>Number of Letters Sent</b>	50

**Proposal**

Applicant is proposing a partial vacation of a street easement for an improved street. The portion of the improved street to be vacated is approximately 20 feet wide and 320 feet long. This section of right of way for West 2nd Avenue is 80 feet; the partial vacation will reduce it to 60 feet.

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

K-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 partial vacation of a street easement for an improved street. The portion of the improved street to be vacated is approximately 20 feet wide and 320 feet long. This section of right of way for West 2nd Avenue is 80 feet; the partial vacation will reduce it to 60 feet.

2) The portion of the right of way requesting to be vacated is currently improved, but not to city standards or by the city. It was paved by the applicant to act as part of their parking lot and traffic circulation for trucks.

3) 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 small landscape island over the former right of way to act as a partial screen between the warehouse and nearby residential properties.

4) To the best of City staff's knowledge, there are no current private utilities in the public right of way. There are city utilities that may be affected; the applicant will leave an utility easement.

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 (as long as an easement is maintained); 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 asked that the easement may be maintained.

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, with the condition that a 20 foot utility easement be maintained.

K-2

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



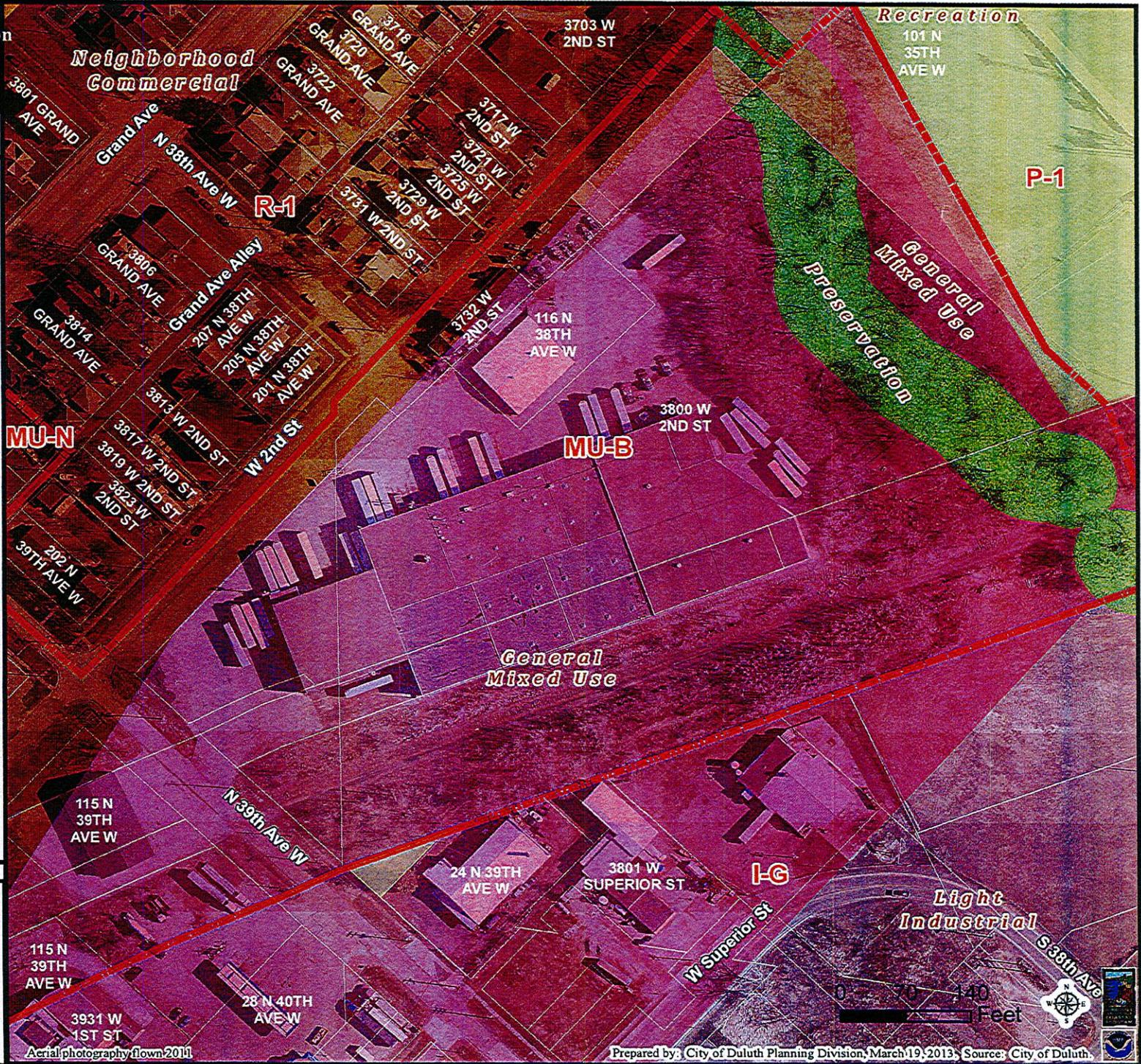
### Legend

#### 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.

K-3

Aerial photography flown 2011

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



### 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**

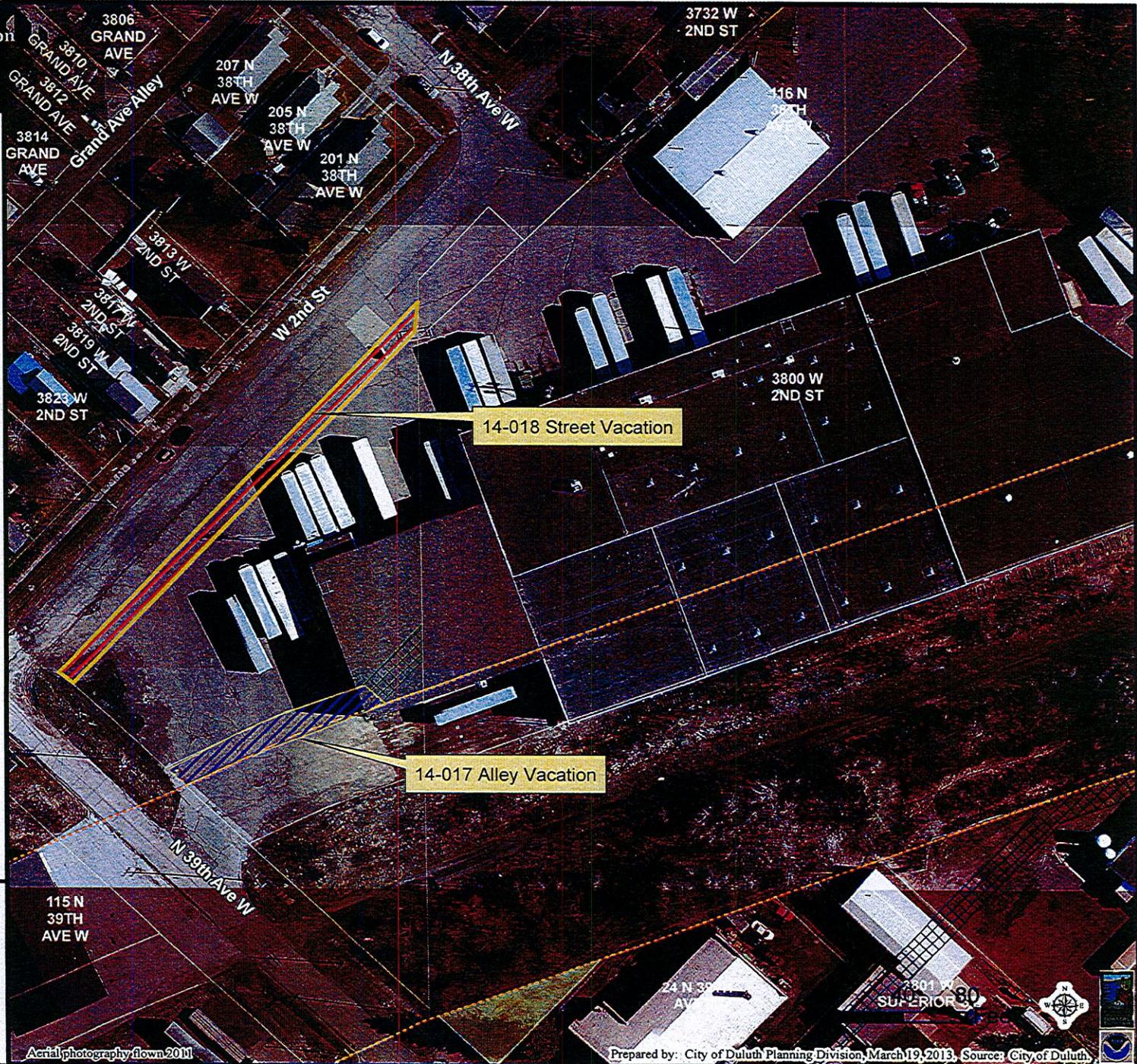
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Discharge\_Points



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.

*K-4*

Aerial photography flown 2011



**Legend**

 Vacated ROW

**Easement Type**

 Utility Easement

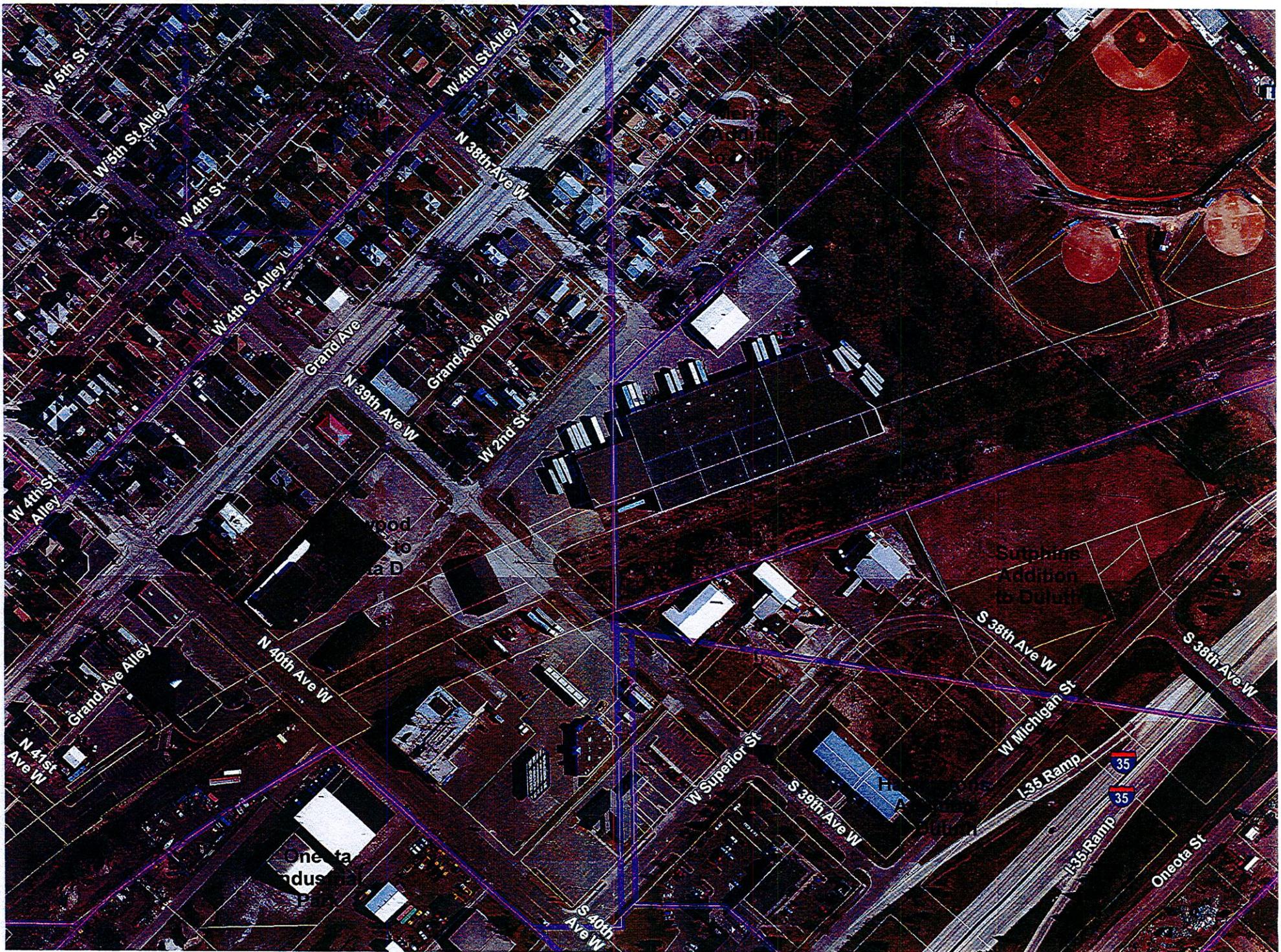
 Other Easement

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 errors contained within this data provided or for any damages in connection with the use of this information contained within.

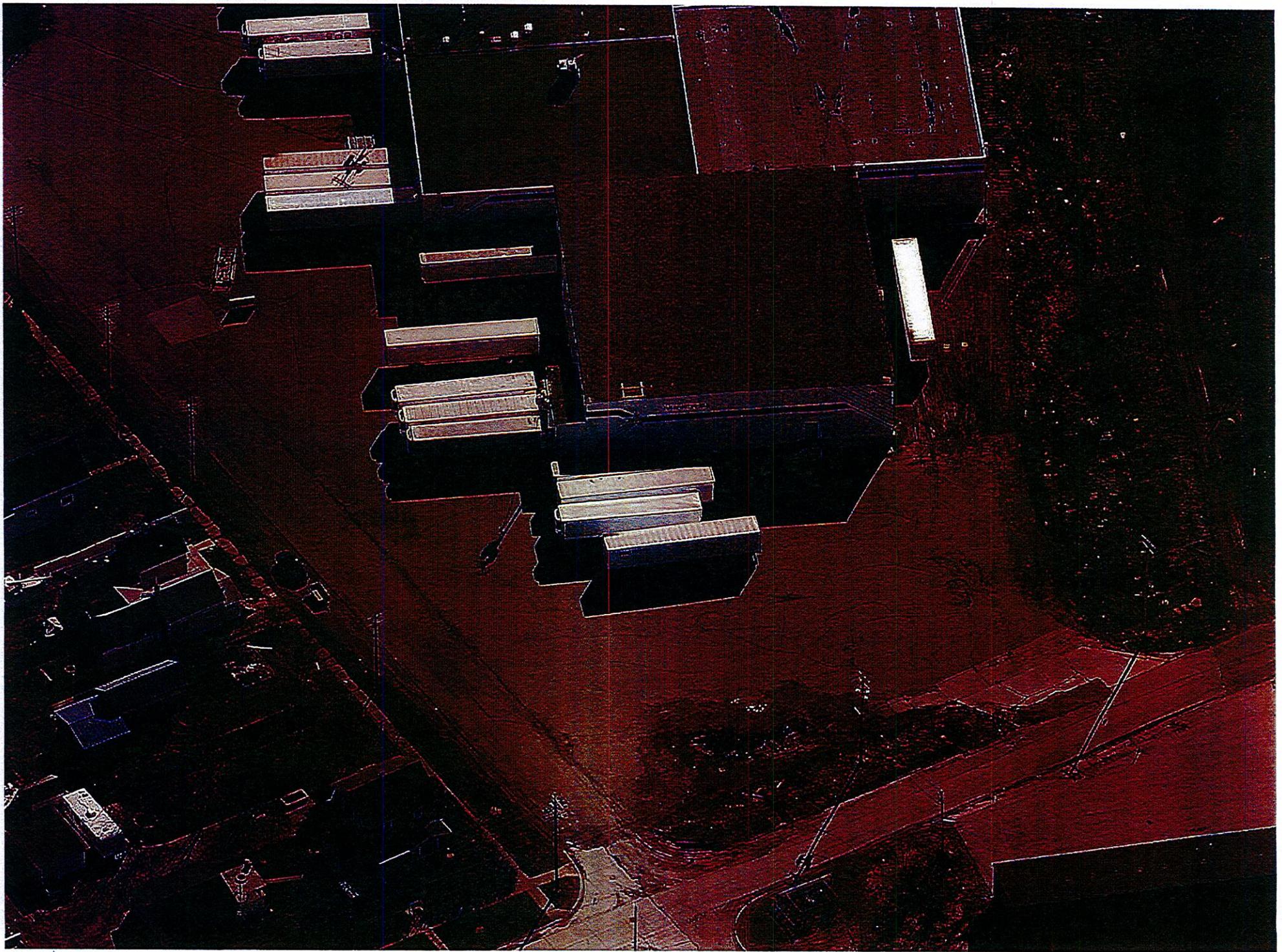
*K-5*

Aerial photography flown 2011

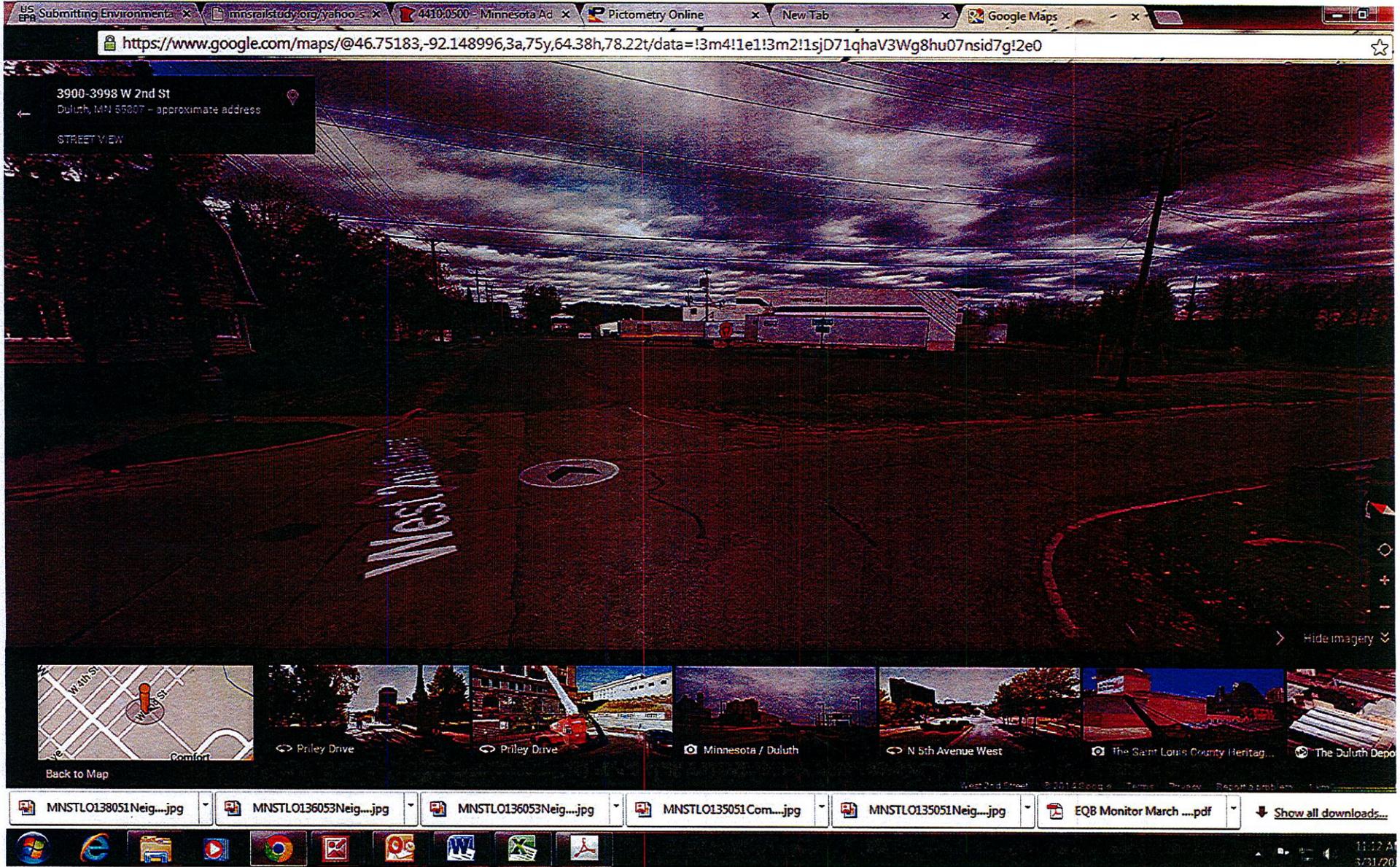
Prepared by: City of Duluth Planning Division, March 19, 2013. Source: City of Duluth.



K-6



K-7



K-8



# Petition to Vacate Street, Alley, or Utility Easement

Land Owner: Arrowhead Land & Leasing, LLC  
Name: Tenant: Miner's, Inc. Contact: Matt Miner

Description of street, alley, or easement to vacate: 20' southern strip of West Second Street at Lots 1 - 6, Block 8 of Hazelwood Addition. See supporting documentation.

My request for this vacation is to (indicate purpose of vacation):  
Change the right-of-way to 60' to be consistent with the balance of the street.

The City of Duluth will not need this street, alley, or easement in the future because:  
This 20' is not needed for the balance of the street, therefore not needed at the requested area.

**PLEASE TAKE NOTICE:** Pursuant to Section 50-37.6 of the Duluth City Code, the above-identified applicant(s) petition the Duluth City Council to vacate the street, alley, or easement described in the attached legal description.

This petition is made upon the following facts and reasons (Identify the factual basis and reasons supporting the petition) <sup>1</sup>:

Miner's, Inc. is proposing an addition to their existing warehouse. The 20' of requested right-of-way vacation will be better utilized as a landscape buffer between the property and the street.

This petition is supported by a majority of the person(s) who own a majority of the lineal frontage of the land abutting upon the portion of the public easement proposed to be vacated. A copy of the signatures of these persons is attached hereto and made a part hereof. <sup>2</sup>

The petitioner(s) agree to provide the city with a plat of the easement(s) as required by Section 50-37.6B(3) of the Duluth City Code upon approval of the vacation. We understand that the vacation cannot occur without the submission of the required plat. We understand that the cost of producing the plat is the responsibility of the petitioner(s). We also understand that the approval will lapse and be of no effect if the plat and clerk certification is not recorded with the county recorder within 90 days after final approval.

Signature(s): Matt Miner

Date: 3/4/14

**Notice: This is public data.**

<sup>1</sup> In order to vacate a public easement it must be demonstrated that the easement is useless for the purpose for which it was dedicated.

<sup>2</sup> If a property is owned in joint tenancy or by tenants in common, each individual with an ownership interest will be counted to determine if a majority of owners have signed the petition. An owner cannot sign for another owner unless legally authorized to do so, i.e. power of attorney, trustee, or court approved guardianship or conservatorship.

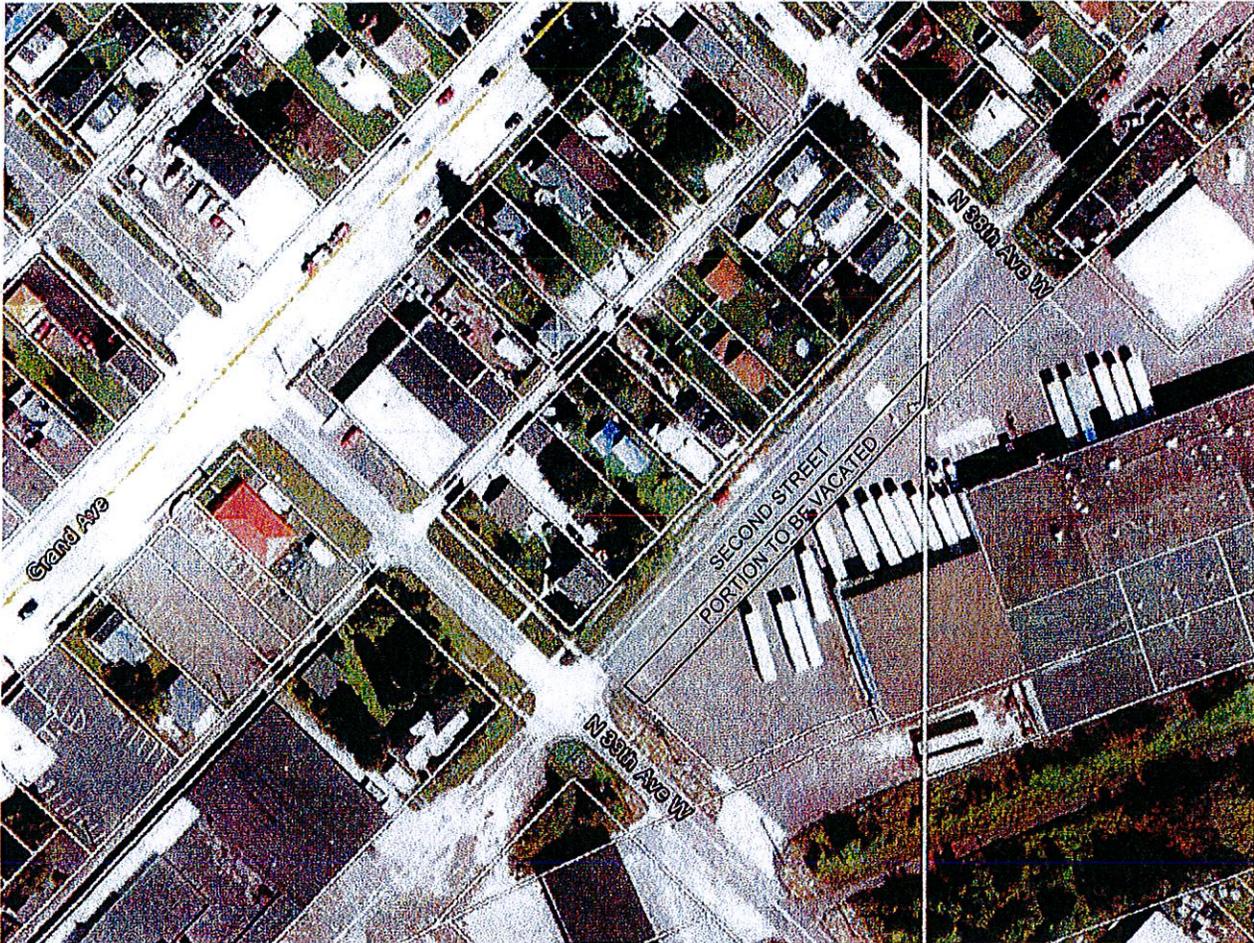
RECEIVED MAR 04 2014

K-10

# 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

K-11

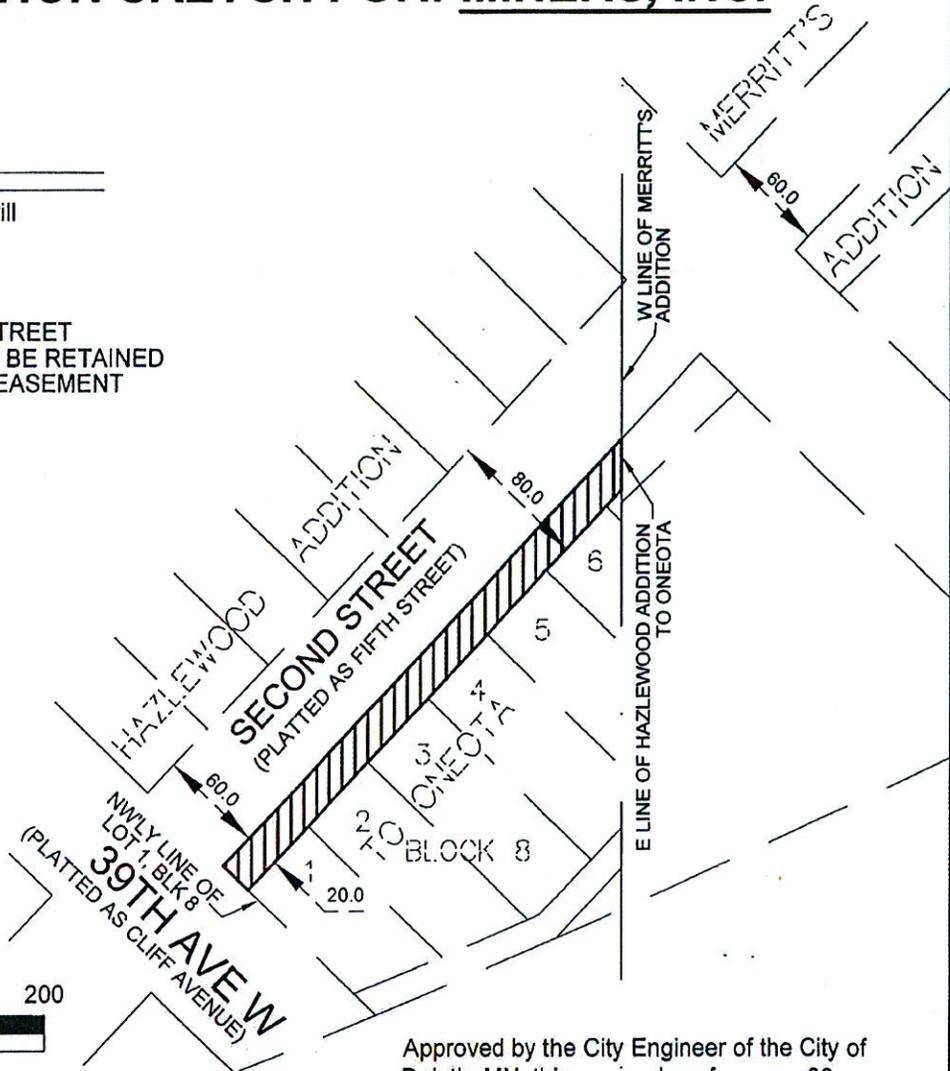
# VACATION SKETCH FOR: MINERS, INC.

## LEGEND

These standard symbols will be found in the drawing.



PROPOSED STREET VACATION-TO BE RETAINED AS A UTILITY EASEMENT



Approved by the City Engineer of the City of Duluth, MN. this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

By \_\_\_\_\_

### Legal Description of Vacation of a Portion of Second Street

A 20 foot strip of Second Street (Platted as Fifth Street) lying adjacent to and northwesterly 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.

Said vacated strip is to be retained for utility easement purposes.

Said parcel contains 6,463 square feet or 0.15 acres, more or less.

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

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

SHEET 2 OF 2 SHEETS

**ALTA**  
SURVEY COMPANY, INC.  
Residential/Commercial Land Surveying-Land  
Development-Legal Descriptions  
P.O. BOX 161138 Duluth, MN 55808  
Phone: 218-727-5211 Fax: 218-727-3798

K-12