



**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 15-068	<b>Contact</b>	Steven Robertson, 218 730 5295	
<b>Application Type</b>	Vacation of Street Right of Way	<b>Planning Commission Date</b>	May 12, 2015	
<b>Deadline for Action</b>	<b>Application Date</b>	April 19, 2015	<b>60 Days</b>	June 18, 2015
	<b>Date Extension Letter Mailed</b>	April 22, 2015	<b>120 Days</b>	August 17, 2015
<b>Location of Subject</b>	800 Block of Garfield Avenue			
<b>Applicant</b>	Duluth Seaway Port Authority	<b>Contact</b>		
<b>Agent</b>	Jeff Borling	<b>Contact</b>	jborling@duluthport.com	
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	April 18, 2015	<b>Sign Notice Date</b>	April 27, 2015	
<b>Neighbor Letter Date</b>	April 24, 2015	<b>Number of Letters Sent</b>	11	

**Proposal**

The applicant is proposing to vacate an unimproved street right of way. The unimproved right of way is approximately 16 feet wide and 620 feet long. According to the applicant, "we are requesting a vacation of the alley ROW that runs through the center of our property to make the site contiguous and to streamline the soil remediation project for our engineers and contractors who will be working on the site".

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	I-G	Undeveloped	Industrial Waterfront
<b>North</b>	I-W	Heavy Transportation/Port	Industrial Waterfront
<b>South</b>	I-G	Business/Highway	Transportation and Utilities
<b>East</b>	I-W	Heavy Transportation/Port	Industrial Waterfront
<b>West</b>	I-G	Highway/Business/Rail	Transportation and Utilities

**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.

IR. 7-1

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

Future Land Use - Industrial Waterfront: Waterfront-or port-dependent industrial uses. May co-exist in proximity to other waterfront-related uses. Should have access to regional roads or rail.

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

This is a companion application to vacation application PL 15-069.

Much of the platted public right of way in this general area has been vacated by previous City actions.

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

- 1) The applicant is proposing to vacate an unimproved street right of way. The unimproved right of way is approximately 16 feet wide and 620 feet long. The alley is unimproved.
- 2) Applicant owns a majority of the impacted property. Duluth Builders Exchange abuts a portion of the right of way to be vacated, but do not use the alley. The parking lot for that property owner is in the right of way of Elm Avenue, and has access directly from Garfield Avenue. The State of Minnesota has title to the remaining of the undeveloped lots abutting Garfield Avenue, and likewise will not be meaningfully impacted by the vacation of the unimproved alley.
- 3) This vacation, if approved, will not deprive any currently platted lots of access to a public right of way, and will not result in any dead-ends. Alley has previously been vacated east and west of the subject area.
- 4) 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.
- 5) No public, agency, or City comments were received.
- 6) Vacations are approved by the City Council via a resolution. Vacations 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 the Planning Commission recommend approval of the vacation of the street public right of way, without conditions.

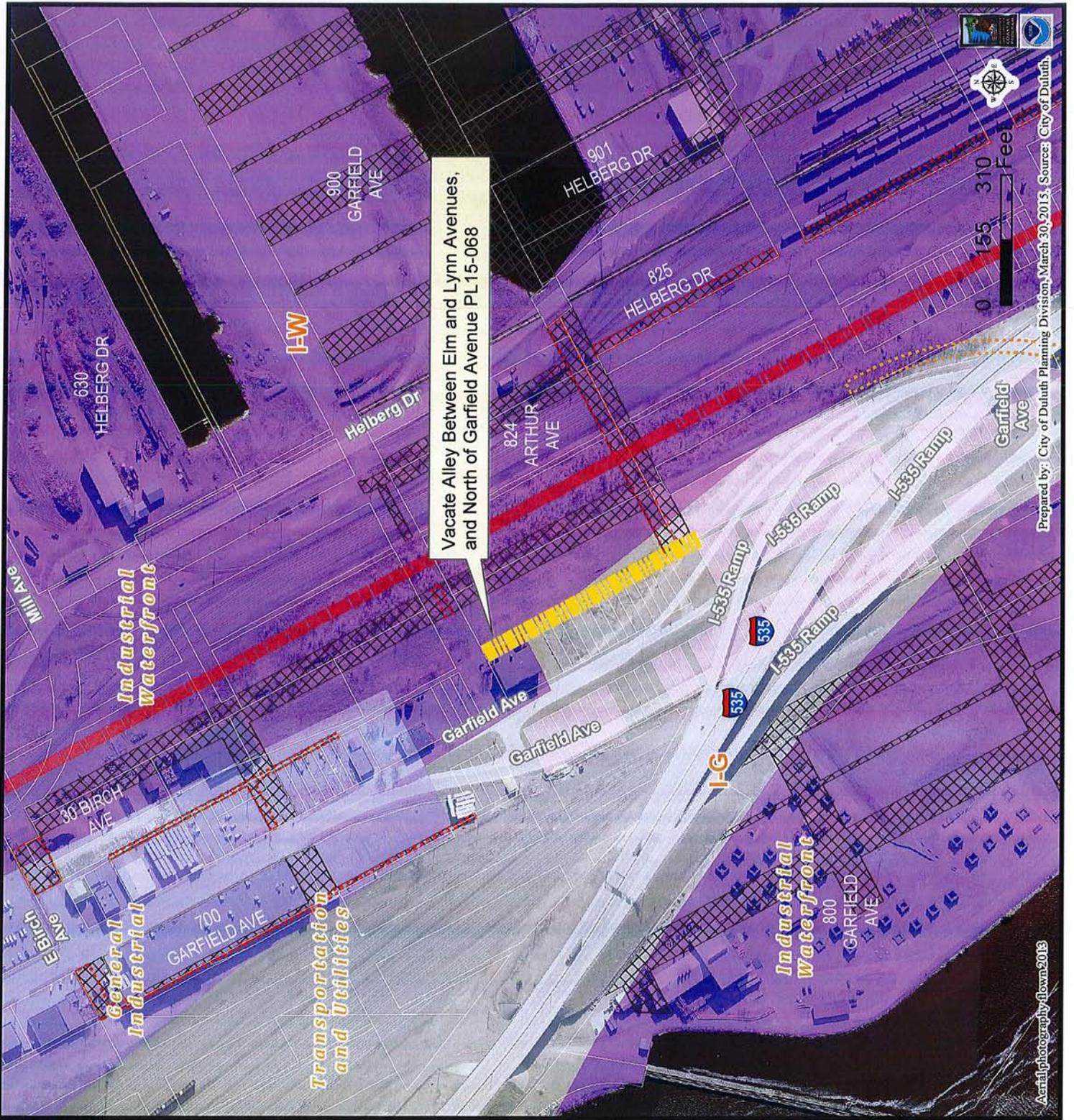
2-7

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

**Legend**

- Zoning Boundaries**
- Zoning Boundaries
- Blocks
- Vacated ROW
- Easement Type
- Utility Easement
- Other Easement
- 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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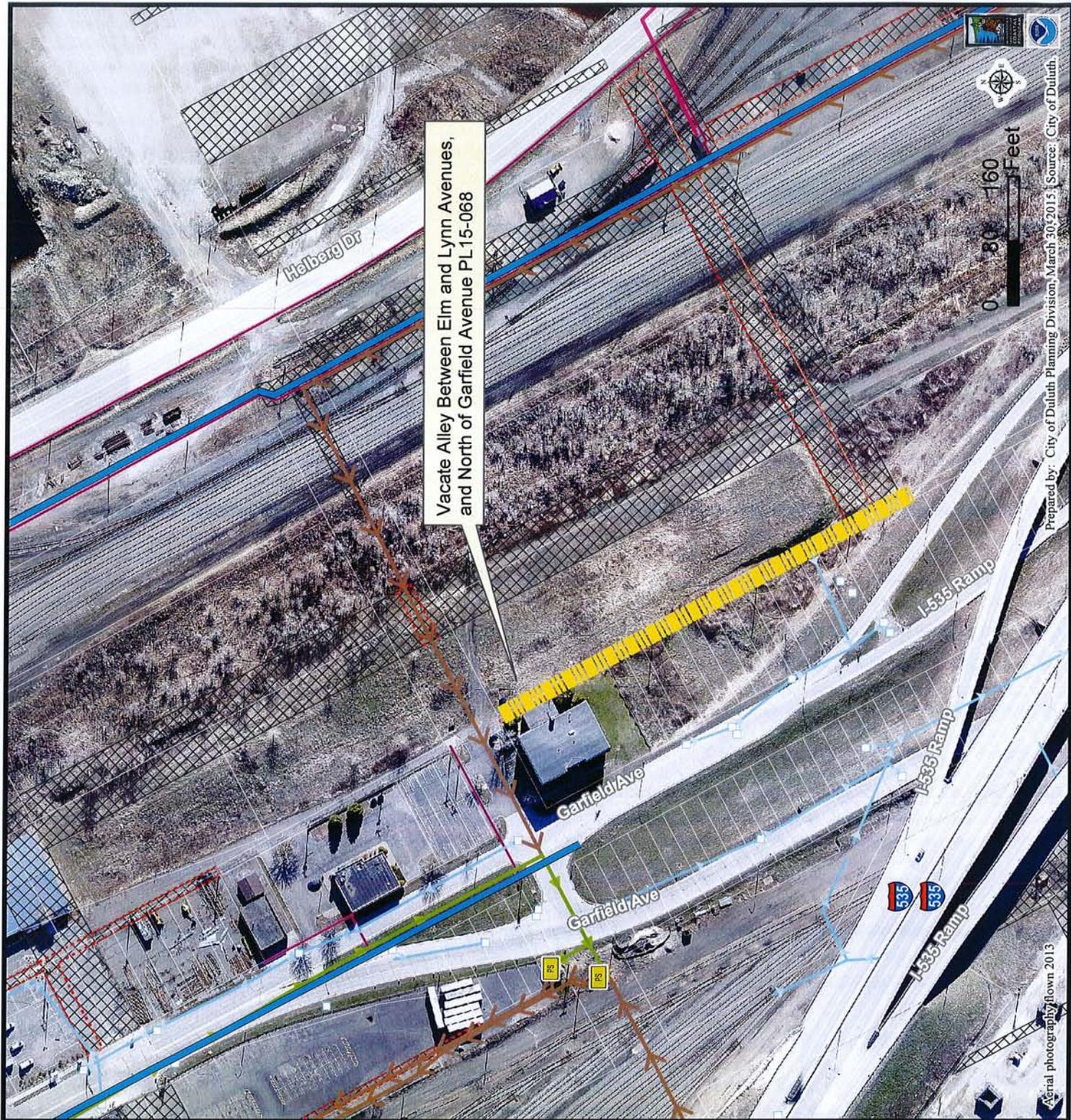


Vacate Alley Between Elm and Lynn Avenues, and North of Garfield Avenue PL 15-068

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

Vacate Alley Between Elm and Lynn Avenues,  
and North of Garfield Avenue PL 15-068

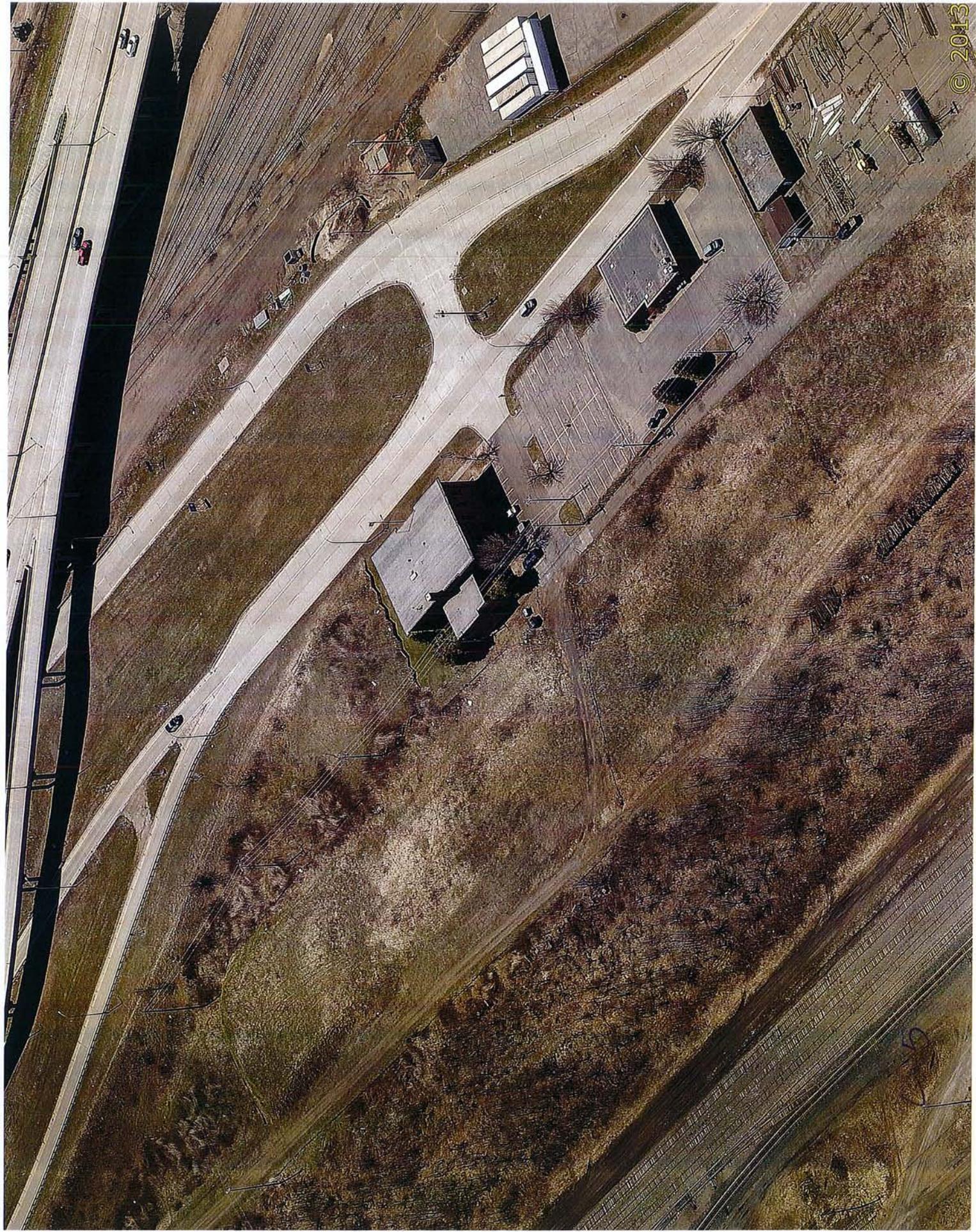


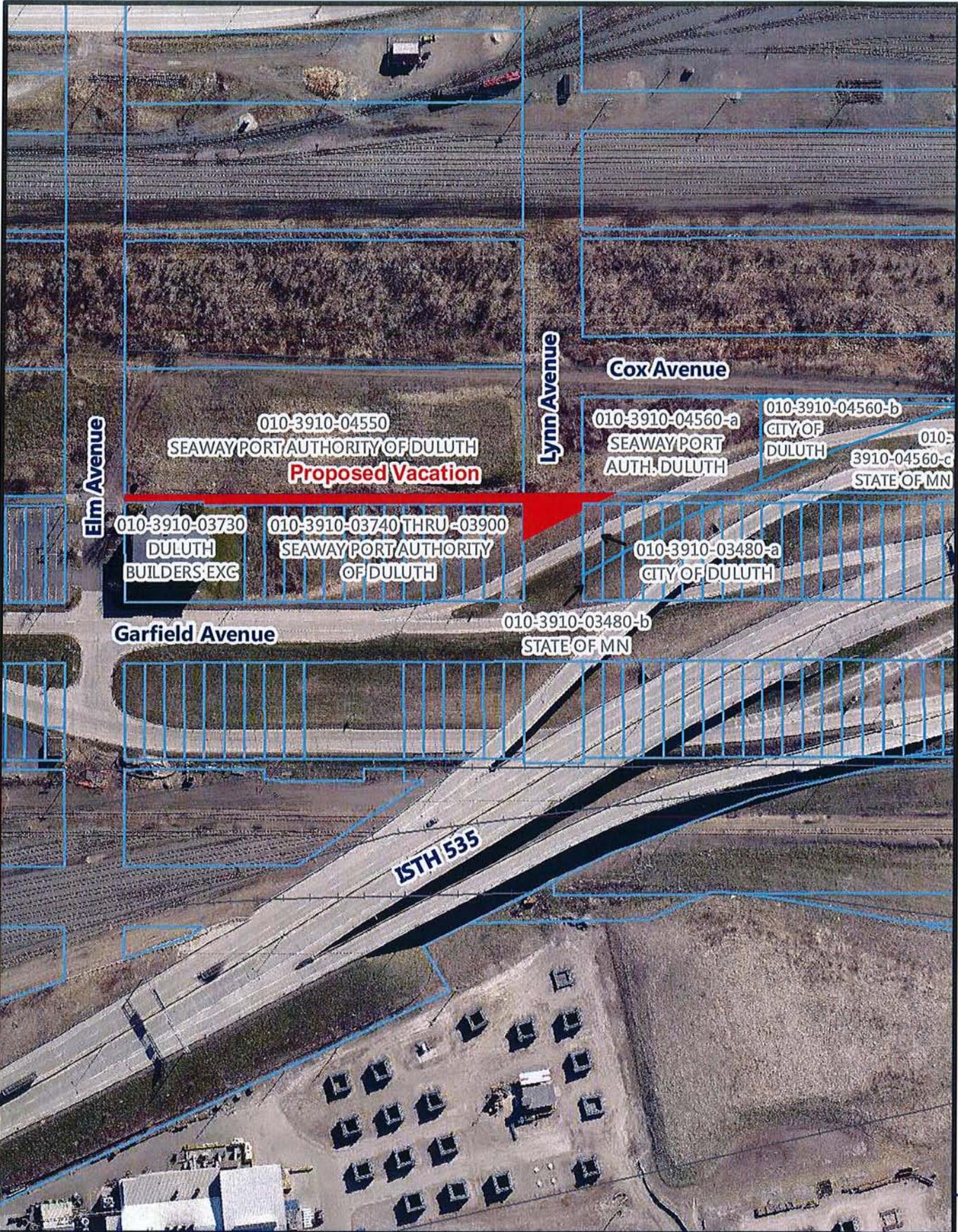
Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, March 30, 2015 | Source: City of Duluth.

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L-4





Elm Avenue

Lynn Avenue

Cox Avenue

Garfield Avenue

ISTH 535

010-3910-04550  
SEAWAY PORT AUTHORITY OF DULUTH  
**Proposed Vacation**

010-3910-04560-a  
SEAWAY PORT  
AUTH. DULUTH

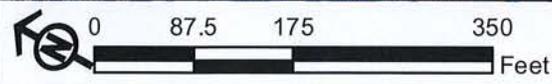
010-3910-04560-b  
CITY OF  
DULUTH  
010-3910-04560-c  
STATE OF MN

010-3910-03730  
DULUTH  
BUILDERS' EXG

010-3910-03740 THRU -03900  
SEAWAY PORT AUTHORITY  
OF DULUTH

010-3910-03480-a  
CITY OF DULUTH

010-3910-03480-b  
STATE OF MN



Vicinity Map

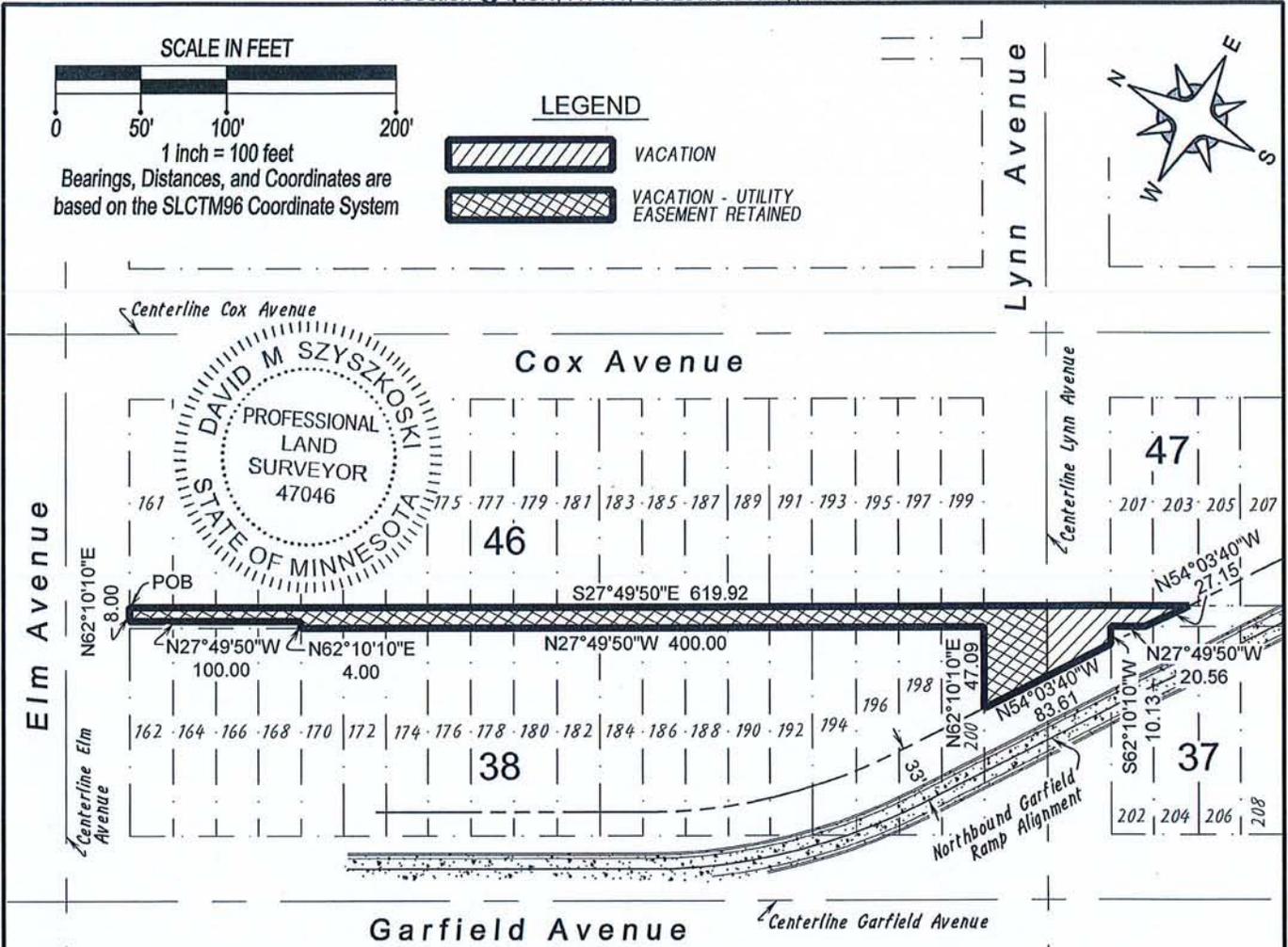


RECEIVED APR 15 2015

9-7

# Vacation Exhibit - Lynn Avenue & Adjacent Alleyway

in Section 3, T49N, R14W, St. Louis County, Minnesota



### Legal Description:

That part of Lynn Avenue, the alley between Blocks 38 and 46, and the alley between Block 37 and 47, all in Rice's Point, according to the recorded plat thereof, filed in the St. Louis County Recorder's Office in Duluth, Minnesota, described as follows:

Beginning at the most westerly corner of Block 46, Rice's Point; thence South 27°49'50" East along the southwest line of said Block 46, its southeasterly extension, and the southwest line of said Block 47 for a distance of 619.92 feet, more or less, to the right-of-way of the Northbound Garfield Ramp; thence North 54°03'40" West along the right-of-way of the Northbound Garfield Ramp for a distance of 27.15 feet, more or less, to the northeast line of said Block 37; thence North 27°49'50" West along the northeast line of said Block 37 for a distance of 20.56 feet, more or less, to the most northerly corner of Block 37; thence South 62°10'10" West along the northwest line of said Block 37 for a distance of 10.13 feet, more or less, to the right-of-way of the Northbound Garfield Ramp; thence North 54°03'40" West along the right-of-way of the Northbound Garfield Ramp for a distance of 83.61 feet, more or less, to the southeast line of said Block 38; thence North 62°10'10" East along the southeast line of said Block 38 for a distance of 47.09 feet, more or less, to the most easterly corner of said Block 38; thence North 27°49'50" West along the northeast line of said Block 38 for a distance of 400.00 feet to the most southerly corner of property previously vacated by City of Duluth Resolution 08-0525; thence North 62°10'10" East along the southeast line of said previously vacated property for a distance of 4.00 feet to the most easterly corner of said previously vacated property; thence North 27°49'50" West along the northeast line of said previously vacated property for a distance of 100.00 feet to the most northerly corner of said previously vacated property; thence North 62°10'10" East on a line connecting the most northerly corner of said Block 38 and the most westerly corner of said Block 46 for a distance of 8.00 feet to the point of beginning.

Retaining a utility easement over that portion of said described vacation which lies northwest of the centerline of Lynn Avenue.

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.

DAVID SZYSZKOSKI  
MINNESOTA LICENSE NO. 47046

Date: 4/15/2015



4580 Norway Pines Place  
Duluth, MN 55811  
218-727-8796  
tkda.com

Job Number: 15518.021 / L4286K

Lynn Avenue & adjacent alley  
Vacation in Rice's Point  
Duluth, Minnesota  
For : DSPA c/o J. Borling

RECEIVED APR 15 2015

L4286K-legal

That part of Lynn Avenue, the alley between Blocks 38 and 46, and the alley between Block 37 and 47, all in Rice's Point, according to the recorded plat thereof, filed in the St. Louis County Recorder's Office in Duluth, Minnesota, described as follows:

Beginning at the most westerly corner of Block 46, Rice's Point; thence South 27°49'50" East along the southwest line of said Block 46, it's southeasterly extension, and the southwest line of said Block 47 for a distance of 619.92 feet, more or less, to the right-of-way of the Northbound Garfield Ramp; thence North 54°03'40" West along the right-of-way of the Northbound Garfield Ramp for a distance of 27.15 feet, more or less, to the northeast line of said Block 37; thence North 27°49'50" West along the northeast line of said Block 37 for a distance of 20.56 feet, more or less, to the most northerly corner of Block 37; thence South 62°10'10" West along the northwest line of said Block 37 for a distance of 10.13 feet, more or less, to the right-of-way of the Northbound Garfield Ramp; thence North 54°03'40" West along the right-of-way of the Northbound Garfield Ramp for a distance of 83.61 feet, more or less, to the southeast line of said Block 38; thence North 62°10'10" East along the southeast line of said Block 38 for a distance of 47.09 feet, more or less, to the most easterly corner of said Block 38; thence North 27°49'50" West along the northeast line of said Block 38 for a distance of 400.00 feet to the most southerly corner of property previously vacated by City of Duluth Resolution 08-0525; thence North 62°10'10" East along the southeast line of said previously vacated property for a distance of 4.00 feet to the most easterly corner of said previously vacated property; thence North 27°49'50" West along the northeast line of said previously vacated property for a distance of 100.00 feet to the most northerly corner of said previously vacated property; thence North 62°10'10" East on a line connecting the most northerly corner of said Block 38 and the most westerly corner of said Block 46 for a distance of 8.00 feet to the point of beginning.

Retaining a utility easement over that portion of said described vacation which lies northwest of the centerline of Lynn Avenue.

8-7

010-3910-05720  
N.P.R.V. CO

010-3910-05640  
G.N.R.V. CO

010-3910-04550  
SEAWAY PORT AUTHORITY OF DULUTH

### Block 46

Dedicated ROW

### Block 4

010-3910-03730  
DULUTH BUILDERS EXCHANGE

### Block 38

010-3910-03740  
STATE OF MINNESOTA

010-3910-03750  
STATE OF MINNESOTA

010-3910-03760  
STATE OF MINNESOTA

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STATE OF MINNESOTA

010-3910-03510  
STATE OF MINNESOTA

### Block 3

B-7



# Duluth Seaway Port Authority

1200 Port Terminal Drive  
Duluth, Minnesota 55802-2609 U.S.A.  
218-727-8525 • Fax 218-727-6888  
E-Mail: [admin@duluthport.com](mailto:admin@duluthport.com) • [www.duluthport.com](http://www.duluthport.com)

April 29, 2015

Mr. Steven Robertson  
City of Duluth – Planning Division  
City Hall – Room 208  
411 West First Street  
Duluth, MN 55802

Dear Steven:

During our phone conversation this morning, you requested some background information on two redevelopment projects the Port Authority is engaged in on Rice's Point and the right-of-way vacation requests we have filed with the City Planning Dept. in relation to both.

The first project is our \$17.6M rehabilitation and remediation of a 28-acre dock property adjacent to the Clure Public Marine Terminal. This project is the culmination of more than 20 years of work by the Port Authority, dating back to when the property was donated by Cargill in 1989. In those years we invested over \$3M to demolish the defunct structures on the site and worked with the City of Duluth to leverage our financial resources to construct Helberg Drive, establishing public road access to the site.

The current project is focused on investing in new intermodal transportation infrastructure, including a new dock wall, a new rail spur served by two Class 1 carriers, and improved entrances onto Helberg Drive. We are also remediating all contaminated soils on the property and the contaminated sediments in an adjacent slip. The site will further benefit from grading, lighting and the security enhancements that would be expected on any international dock property in a post 9/11 era.

Of the \$17.6M budget, the Port Authority's local funds amount to \$3,939,683.66. We are leveraging this investment to bring an additional \$13,740,000 into the City of Duluth in the form of Federal and State grants. Once complete, this site will be used on an interim basis to support our cargo handling operations, which support industries of local, state and national significance. Long-term, we look at this as shovel-ready site that is among the most competitive on the Great Lakes in its ability to attract private sector investment and job creation in maritime-related industries.

As we invest in these improvements, we wish to eliminate any confusion our contractors may have about our ability to work across the entire property. It is from this position that we request the vacation of the previously unvacated portions of the Elm Avenue ROW that run across the site, as shown in the exhibit included with our application materials.

6-10

To the west of our C&D Dock Property, we have a small piece of land on Garfield Avenue, located at the intersection of Garfield Avenue and a separate, unvacated portion of the Elm Avenue ROW that is not involved in the other request detailed above. This land consists of a former Union Pacific rail yard that was acquired by the Port Authority in 2004 and some State turn-back land the Port Authority acquired from the City of Duluth in 2007.

Being that this land consists of a former rail yard, our Phase I investigation suggests there will be some level of soil contamination on the site, a fact which has deterred private sector entities that might otherwise develop their businesses and create jobs on the property.

The Port Authority is currently seeking a State of Minnesota grant to fund the Phase II investigation and Response Action Plan (RAP) development costs, a critical first step in returning this property back to tax-generating, productive use. The City Council approved this application on April 13, 2015. Our plan for cleaning up this site and putting it back to work for the Duluth economy will come in two steps:

Step one is to get it cleaned up and minimally improved to where we can lease it out as an outdoor storage yard for industrial operations on Rice's Point. We view this as the most expedient way to get the property back into service, generating personal property taxes paid by the tenant(s). Step two will focus on finding a higher and better use for the property, perhaps through construction a facility to serve a manufacturing operation or some other job-creating entity.

The former UP land is separated from the land we purchased from the City by an unused, unneeded alley ROW. Part of this ROW was already vacated when the owners of the Seaway Building expanded their footprint and we wish to vacate the remaining portion (along with a small piece of the Lynn Ave ROW that was inadvertently left out of our vacation of the Lynn Ave ROW in 2014) to make our land contiguous and to avoid any confusion about what rights the Port Authority has over this property as we move into the remediation and redevelopment phase of the project.

Thank you, Steven, for the support you and your colleagues have given us as we work through these issues and move to get these exciting redevelopment projects underway. We consider the City of Duluth to be a significant partner in our economic development work on Rice's Point and elsewhere in the City and we value the efficient working relationship we have established with City Hall.

Please let me know if there is any additional information you need me to provide.

Sincerely,



Jeff Boring  
Director of Industrial/Economic Development

JB/amm

11-7



L-12



**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 15-069	<b>Contact</b>	Steven Robertson, 218 730 5295	
<b>Application Type</b>	Vacation of Street Right of Way	<b>Planning Commission Date</b>	May 12, 2015	
<b>Deadline for Action</b>	<b>Application Date</b>	April 19, 2015	<b>60 Days</b>	June 18, 2015
	<b>Date Extension Letter Mailed</b>	April 22, 2015	<b>120 Days</b>	August 17, 2015
<b>Location of Subject</b>	Rice's Point			
<b>Applicant</b>	Duluth Seaway Port Authority	<b>Contact</b>		
<b>Agent</b>	Jeff Borling	<b>Contact</b>	jborling@duluthport.com	
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	April 18, 2015	<b>Sign Notice Date</b>	April 27, 2015	
<b>Neighbor Letter Date</b>	April 24, 2015	<b>Number of Letters Sent</b>	11	

**Proposal**

The applicant is proposing to vacate an unimproved street right of way, former Elm Avenue. The unimproved right of way is approximately 75 feet wide and 1,750 feet long. According to the applicant, "the port authority owns all of this land which includes the 100+ acre Clure Public Marine Terminal and the 28 acre dock property known as Dock C&D. Some of the ROWS across the Clure have been vacated in the past, but others have not.....we consider it "good housekeeping" to vacate the unneeded ROWs prior to construction".

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	I-W	Heavv Transportation/Port	Industrial Waterfront
<b>North</b>	I-W	Heavy Transportation/Port	Industrial Waterfront
<b>South</b>	I-W	Heavy Transportation/Port	Industrial Waterfront
<b>East</b>	I-W	Heavy Transportation/Port	Industrial Waterfront
<b>West</b>	I-W/I-G	Highway/Business/Rail	Industrial Waterfront/Transportation and Util

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

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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.

IV. M-1

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

Future Land Use - Industrial Waterfront. Waterfront-or port-dependent industrial uses. May co-exist in proximity to other waterfront-related uses. Should have access to regional roads or rail.

Governing Principle #1: Reuse previously developed lands.

Governing Principle #7: Create and maintain connectivity.

This is a companion application to vacation application PL 15-068.

Much of the platted public right of way in this general area has been vacated by previous City actions.

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

1) The applicant is proposing to vacate an unimproved street right of way, former Elm Avenue. The unimproved right of way is approximately 75 feet wide and 1,750 feet long.

2) Applicant owns all the abutting property to the proposed vacation of Elm Avenue.

3) This vacation, if approved, will not deprive any currently platted lots of access to a public right of way, and will not result in any dead-ends (other than at the water's edge). Per criteria #2 of 50-37.6, Planning Staff believe that the right of way is not and will not be needed to provide pedestrian or recreational access to the water.

4) 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.

5) No public, agency, or City comments were received.

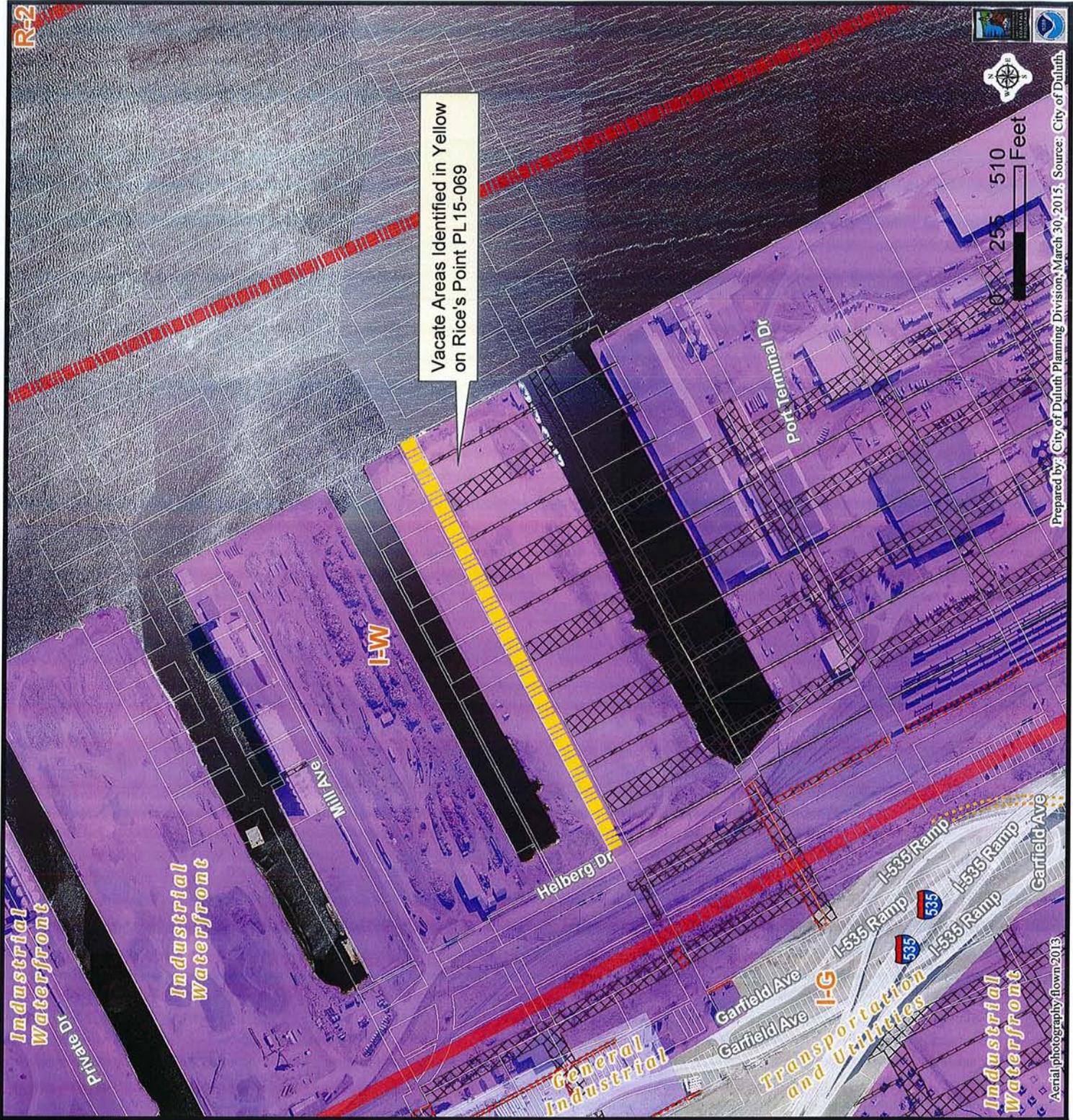
6) Vacations are approved by the City Council via a resolution. Vacations lapse unless a plat showing the vacation is recorded with the county recorder within 90 days after final approval. The Duluth City Clerk facilitates the recording process.

**Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):**

Based on the above findings, Staff recommends that the Planning Commission recommend approval of the vacation of the street public right of way, without conditions.

M-2

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



Vacate Areas Identified in Yellow on Rice's Point PL15-069

Legend	
	Zoning Boundaries
	Zoning Boundaries
	Vacated ROW
	Easement Type
	Utility Easement
	Other Easement
	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
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Aerial photography flown 2013.

Prepared by: City of Duluth Planning Division, March 30, 2013. Source: City of Duluth.

M-3



Vacate Areas Identified in Yellow on Rice's Point PL 15-069



Prepared by: City of Duluth Planning Division, March 30, 2015. Source: City of Duluth.

Legend	
	Trout Stream (GPS)
	Other Stream (GPS)
<b>Water Distribution System</b>	
	30 - 60" Water Pipe
	16 - 24" Water Pipe
	4 - 6" Water Pipe
<b>Sanitary Sewer Collection System</b>	
	Sanitary Sewer Collector
	Sanitary Sewer Interceptor
	Sanitary Sewer Forced Main
	Storage Basin
	Pump Station
<b>Gas Distribution Main</b>	
	8" - 16" Gas Pipes
	4" - 6" Gas Pipes
	0" - 4" Gas Pipes
<b>Storm Sewer Collection System</b>	
	Storm Sewer Pipe
	Storm Sewer Catch Basin
	Vacated ROW
<b>Easement Type</b>	
	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.

00-4

Aerial photography flown 2013



M-5

010-3460-00010  
AZCON CORP

010-3940-00080  
R MILLER MILLING CO

Proposed Vacation

010-3910-07040  
SEAWAY PORT AUTHORITY DUL

010-3910-07070; -07180; -07290; -07410; -07500; -07620; -07710; -07880; -07980; -07990; -08090  
SEAWAY PORT AUTHORITY OF DULUTH

Helberg Drive



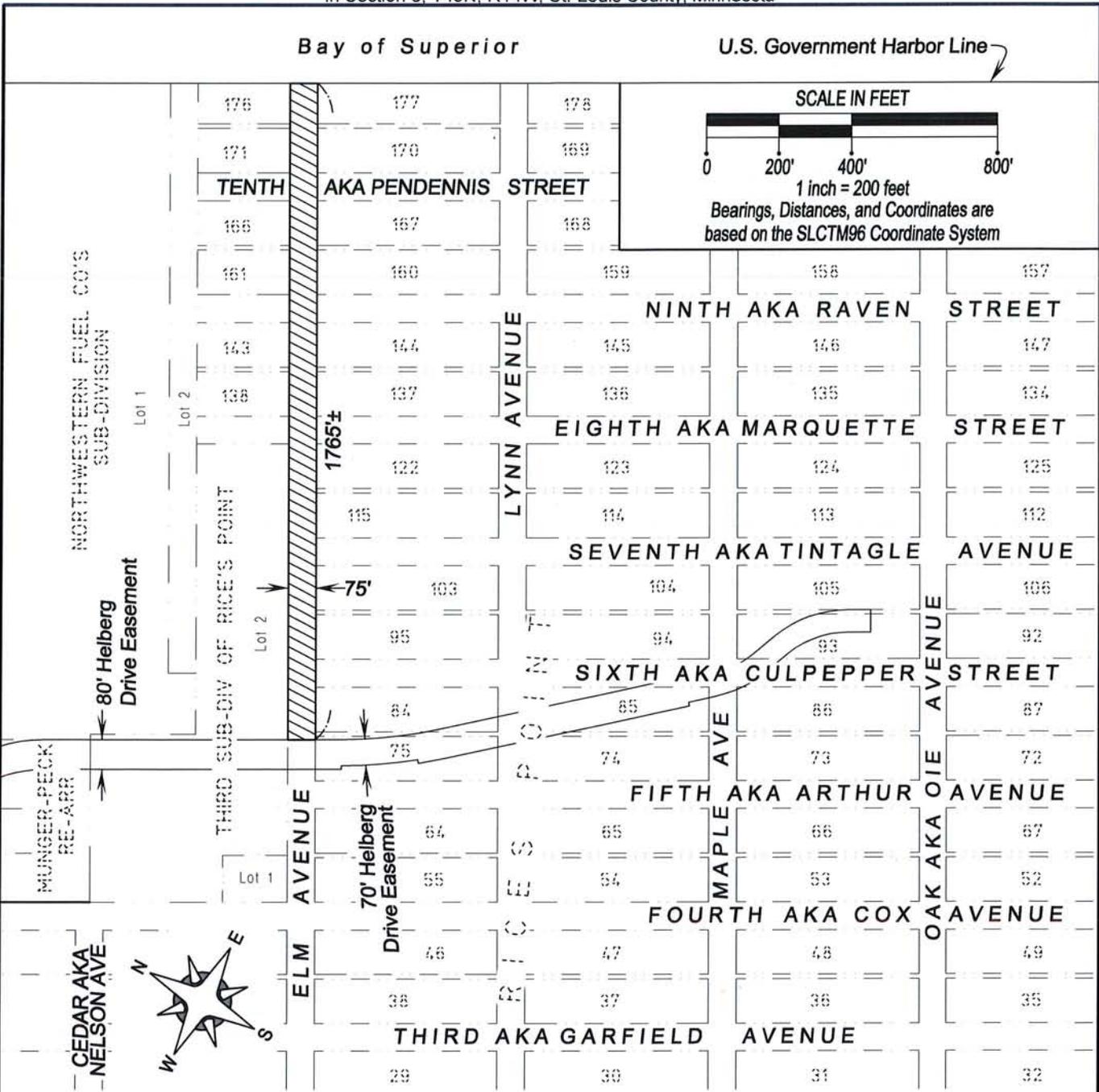
0 112.5 225 450 Feet

Vicinity Map



M-6

Vacation Exhibit - Page 1 of 2  
 in Section 3, T49N, R14W, St. Louis County, Minnesota



SCALE IN FEET  
 0 200' 400' 800'  
 1 inch = 200 feet  
 Bearings, Distances, and Coordinates are based on the SLCTM96 Coordinate System

LEGEND

 VACATION

Approved by the City Engineer of Duluth, MN

By: \_\_\_\_\_

Date: \_\_\_\_\_

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.  
 DAVID SZYSZKOSKI  
 MINNESOTA LICENSE NO. 47046

Date: 4/23/2015



4560 Norway Pines Place  
 Duluth, MN 55811  
 218-727-8796  
 tkda.com

Job Number: 15518.018 / L2434E

Avenue, Street and Alley  
 Vacation in Rice's Point  
 Duluth, Minnesota  
 For : DSPA c/o J. Borling

M-7

Vacation Exhibit - Page 2 of 2  
in Section 3, T49N, R14W, St. Louis County, Minnesota

Legal Description:

That part of Elm Avenue in Rice's Point, according to the recorded plat thereof, filed in the St. Louis County Recorder's Office in Duluth, Minnesota, lying northeast of the northeast line of Helberg Drive, Helberg Drive as described by others as follows:

A 60.00-foot wide easement for roadway purposes, the centerline of said easement is described as follows:

Commencing at the southwest corner of Lot 2, First Subdivision of RICE'S POINT; thence on an assigned bearing of North 27 degrees 50 minutes 22 seconds West along the westerly line of said Lot 2 and its extension 745.00 feet to the point of beginning; thence North 62 degrees 09 minutes 38 seconds East 288.70 feet; thence 198.71 feet along a tangential curve, concave southwest, having a radius of 120.00 feet and a central angle of 94 degrees 52 minutes 30 seconds; thence South 22 degrees 57 minutes 53 seconds East 138.68 feet; thence 533.95 feet along a tangential curve, concave northeast, having a radius of 845.00 feet and a central angle of 36 degrees 12 minutes 18 seconds and said center line there terminating.

Together with an 80.00-foot wide easement for roadway purposes over, under, and across the above-described property. The centerline of said easement is described as follows:

Beginning at the terminus of the previously described centerline; thence South 59 degrees 10 minutes 11 seconds East 288.54 feet; thence 218.73 feet along a tangential curve, concave southwest, having a radius of 400.00 feet and a central angle of 31 degrees 19 minutes 49 seconds; thence South 27 degrees 50 minutes 22 seconds East 807.82 feet and said centerline there terminating.

Together with a 70.00-foot wide easement for roadway purposes over, under, and across the above-described property. Said easement being 40.00 feet to left and 30.00 feet to the right of the following described line:

Beginning at the terminus of the above-described line; thence 205.76 feet along a tangential curve, concave northeast, having a radius of 1340.00 feet and said line there terminating.

Together with an 80.00-foot wide easement for roadway purposes over, under, and across the above-described property. The centerline of said easement is described as follows:

Beginning at the terminus of the above-described line, thence 73.58 feet along a continuation of the above-described curve; thence South 39 degrees 47 minutes 01 seconds East 678.41 feet; and said centerline there terminating.

Together with a 60.00-foot wide easement for roadway purposes over, under, and across the above-described property. The centerline of said easement is described as follows:

Beginning at the terminus of the above-described line; thence continuing South 39 degrees 47 minutes 01 seconds East 71.43 feet; thence 137.75 feet along a tangential curve, concave northeast, having a radius of 300.00 feet and a central angle of 26 degrees 18 minutes 30 seconds; thence South 66 degrees 05 minutes 31 seconds East 83.38 feet; thence 199.53 feet along a tangential curve, concave southwest, having a radius of 300.00 feet and a central angle of 38 degrees 06 minutes 26 seconds; thence South 27 degrees 59 minutes 05 seconds East 60.00 feet and said centerline there terminating.

Said parcel contains 3.04 acres, more or less

(Helberg Easement Description by others)

Approved by the City Engineer of Duluth, MN

By: \_\_\_\_\_

Date: \_\_\_\_\_

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.

DAVID SZYSZKOSKI  
MINNESOTA LICENSE NO. 47046

Date : 4/23/2015



4560 Norway Pines Place  
Duluth, MN 55811  
218-727-8796  
tkda.com

Job Number: 15518.018 / L2434E

Avenue, Street and Alley  
Vacation in Rice's Point  
Duluth, Minnesota  
For : DSPA c/o J. Borling

M-8



4560 Norway Pines Place  
Duluth, MN 55811  
218.727.8796  
tkda.com

April 14, 2015

Cindy Voigt  
City of Duluth  
411 West 1<sup>st</sup> Street  
Room 211  
Duluth, MN 55802

Re: Rice's Point Ownership

Dear Ms. Voigt:

I am working for Jeff Borling of the Duluth Seaway Port Authority and with Steven Robertson of City of Duluth Planning to assist with vacations of public rights of way in the plat of Rice's Point. There has been some confusion about the existing parcel ownership and right of way lines in the vicinity of Blocks 37, 38, 46, and 47 in Rice's Point. I offered to type up a brief synopsis of what I have found to assist the Port Authority and the City of Duluth in moving forward with this matter.

I have zipped up and uploaded all of the exhibits I refer to here (26MB):

<http://www.saloengsurveys.com/files/EXHIBITS.zip>

Please let me know if you have any trouble accessing these files or need hard copies.

Currently, the GIS Parcels show the State of Minnesota as owner of Lots 174-200, Block 38, and all of Blocks 37 & 47 (EXHIBIT A). As the Duluth Seaway Port Authority tries to move forward with a vacation request of part of the alley between Blocks 38 & 46, Blocks 37 & 47 and part of Lynn Avenue (EXHIBIT B), this has raised some questions and concerns.

The GIS parcels and Right-of-Way location appears to reflect an old configuration of the Blatnik Bridge Approach. (EXHIBIT C)

MNDOT executed a turn back Quit Claim Deed in 1980 (EXHIBIT D; Abstract Doc 315461, Torrens Doc 431297) which reconveyed part of Blocks 37 (part of Parcels 46 & 50), 38 (part of Parcels 13, 29, 31, 32, 33, 34, 35, 36, 37), 46 (part of Parcel A) and 47 (part of Parcel A) to the City of Duluth. This is referred to as "Release No. 98" in several places, including on the Blatnik Bridge Approach Map (EXHIBIT C), a letter from the City of Duluth Attorney's office to MNDOT (EXHIBIT E), and a portion of what appears to be a state or county right-of-way map stamped April 21, 2006 provided by Andy McDonough of DSPA to Dale Berntsen of Salo Engineering on June 27, 2006 (EXHIBIT F).

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Ms. Cindy Voigt  
City of Duluth  
Rice's Point Ownership  
April 14, 2015  
Page 2

Andy McDonough requested a survey as shown via the note in Exhibit F. The result was a survey of that portion of the 'turned back property' which was in Blocks 38 & 47 and was north of a 33 foot offset of the Garfield Ramp centerline alignment (presumably the ramp right-of-way). This was performed by Jerry Taylor in 2006 as Salo Engineering Job No. L-4286G (EXHIBIT G).

After the 1980 reconveyance, the Duluth Seaway Port Authority acquired a portion of the lands which had been turned back to the City of Duluth. This was accomplished via City of Duluth Ordinance No. 9864 (File No. 07-060) adopted September 24, 2007, Torrens Doc. No. 954702 (EXHIBIT H) and an accompanying Quit Claim Deed from the City of Duluth to the Duluth Seaway Port Authority dated March 3, 2008, Torrens Doc. No. 954703. (EXHIBIT I). The GIS parcels on the vicinity map on Page 2 of the proposed vacation (EXHIBIT B) were updated (by me, not by the County Assessor) to reflect these documents.

An item worth noting is that the City of Duluth via Resolution and accompanying Quit Claim Deed (EXHIBITS H & I) quit claimed more land to the Port Authority than MNDOT had quit claimed to the City of Duluth. Specifically, the City conveyed Lots 201 - 217 (odd numbered) in Block 47. However, per the 1980 Quit Claim Deed (turn back) from the State of Minnesota to the City of Duluth, the State did not convey all of Lots 215 & 217 to the City of Duluth.

In 2015, Jeff Borling, DSPA, contracted with TKDA to perform a survey of the lands owned by the Port Authority in this area. The result was a survey dated 3/18/2015 (EXHIBIT J), which takes into account all of the above-mentioned documents.

The Interstate 35 ROW line which is a 190 foot offset of the Interstate 35 Alignment is pretty clear-cut as it is described in the 1980 QCD. However, the 33 foot right-of-way for the Garfield Ramp Alignment which is shown on the 2015 survey was presumed. This was based off of the 2006 map from Andy McDonough and the resulting 2006 survey by Jerry Taylor. It is unknown if there is an actual easement or right-of-way document for this part of the Garfield Ramp.

It appears that all GIS maps show parcels and rights of way consistent with configurations found prior to the 1980 MNDOT turn back Quit Claim Deed.

If you have any questions regarding this matter, please feel free to contact me.

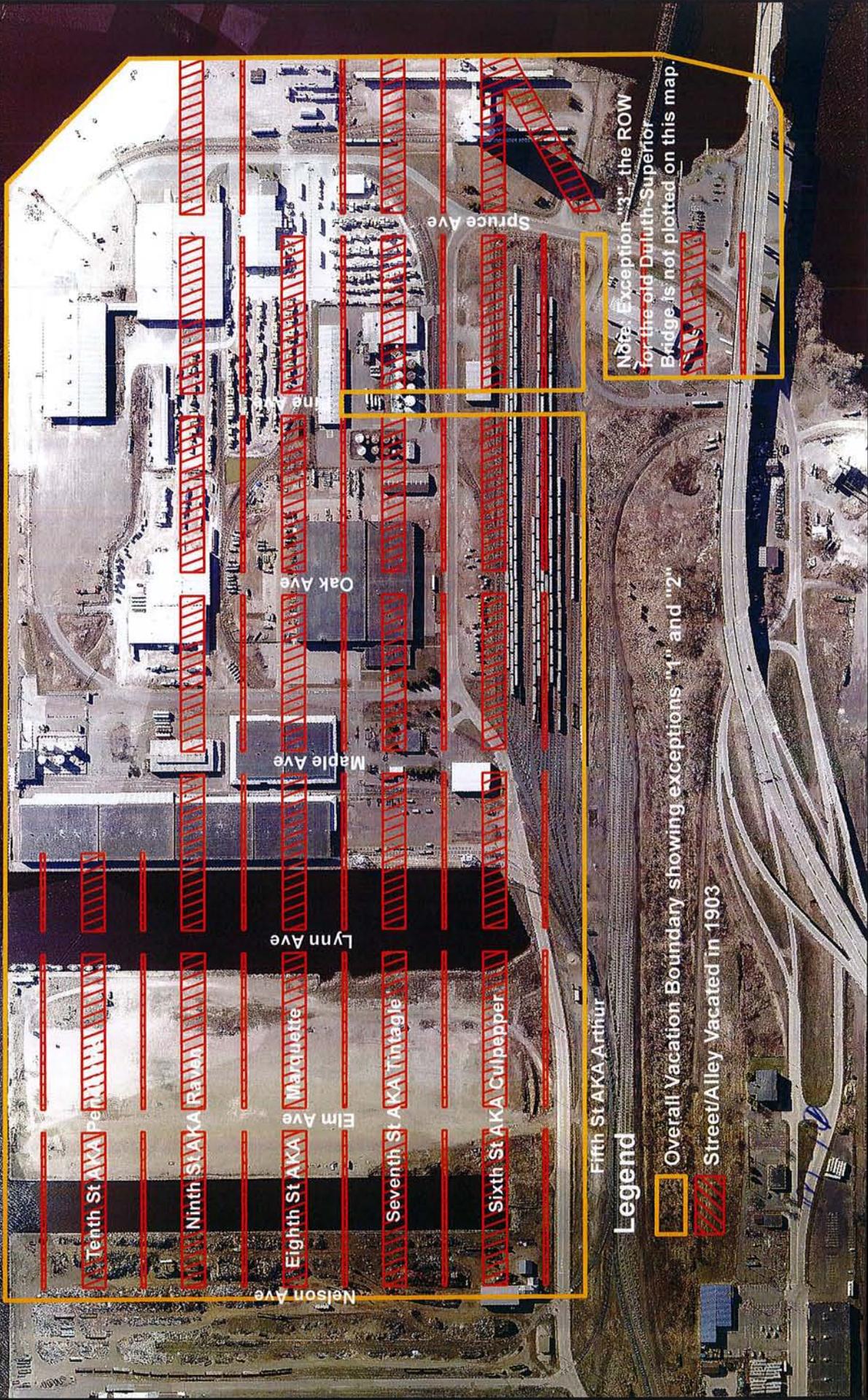
Sincerely,



David Szyszkoski

M-10





Fifth St AKA Arthur

**Legend**

Overall Vacation Boundary showing exceptions "1" and "2"

Street/Alley Vacated in 1903



**1903/1907 Vacation Map**





1200 Port Terminal Drive  
Duluth, Minnesota 55802-2609 U.S.A.  
218-727-8525 • Fax 218-727-6888  
E-Mail: admin@duluthport.com • www.duluthport.com

April 29, 2015

Mr. Steven Robertson  
City of Duluth – Planning Division  
City Hall – Room 208  
411 West First Street  
Duluth, MN 55802

Dear Steven:

During our phone conversation this morning, you requested some background information on two redevelopment projects the Port Authority is engaged in on Rice's Point and the right-of-way vacation requests we have filed with the City Planning Dept. in relation to both.

The first project is our \$17.6M rehabilitation and remediation of a 28-acre dock property adjacent to the Clure Public Marine Terminal. This project is the culmination of more than 20 years of work by the Port Authority, dating back to when the property was donated by Cargill in 1989. In those years we invested over \$3M to demolish the defunct structures on the site and worked with the City of Duluth to leverage our financial resources to construct Helberg Drive, establishing public road access to the site.

The current project is focused on investing in new intermodal transportation infrastructure, including a new dock wall, a new rail spur served by two Class 1 carriers, and improved entrances onto Helberg Drive. We are also remediating all contaminated soils on the property and the contaminated sediments in an adjacent slip. The site will further benefit from grading, lighting and the security enhancements that would be expected on any international dock property in a post 9/11 era.

Of the \$17.6M budget, the Port Authority's local funds amount to \$3,939,683.66. We are leveraging this investment to bring an additional \$13,740,000 into the City of Duluth in the form of Federal and State grants. Once complete, this site will be used on an interim basis to support our cargo handling operations, which support industries of local, state and national significance. Long-term, we look at this as shovel-ready site that is among the most competitive on the Great Lakes in its ability to attract private sector investment and job creation in maritime-related industries.

As we invest in these improvements, we wish to eliminate any confusion our contractors may have about our ability to work across the entire property. It is from this position that we request the vacation of the previously unvacated portions of the Elm Avenue ROW that run across the site, as shown in the exhibit included with our application materials.

M-12



To the west of our C&D Dock Property, we have a small piece of land on Garfield Avenue, located at the intersection of Garfield Avenue and a separate, unvacated portion of the Elm Avenue ROW that is not involved in the other request detailed above. This land consists of a former Union Pacific rail yard that was acquired by the Port Authority in 2004 and some State turn-back land the Port Authority acquired from the City of Duluth in 2007.

Being that this land consists of a former rail yard, our Phase I investigation suggests there will be some level of soil contamination on the site, a fact which has deterred private sector entities that might otherwise develop their businesses and create jobs on the property.

The Port Authority is currently seeking a State of Minnesota grant to fund the Phase II investigation and Response Action Plan (RAP) development costs, a critical first step in returning this property back to tax-generating, productive use. The City Council approved this application on April 13, 2015. Our plan for cleaning up this site and putting it back to work for the Duluth economy will come in two steps:

Step one is to get it cleaned up and minimally improved to where we can lease it out as an outdoor storage yard for industrial operations on Rice's Point. We view this as the most expedient way to get the property back into service, generating personal property taxes paid by the tenant(s). Step two will focus on finding a higher and better use for the property, perhaps through construction a facility to serve a manufacturing operation or some other job-creating entity.

The former UP land is separated from the land we purchased from the City by an unused, unneeded alley ROW. Part of this ROW was already vacated when the owners of the Seaway Building expanded their footprint and we wish to vacate the remaining portion (along with a small piece of the Lynn Ave ROW that was inadvertently left out of our vacation of the Lynn Ave ROW in 2014) to make our land contiguous and to avoid any confusion about what rights the Port Authority has over this property as we move into the remediation and redevelopment phase of the project.

Thank you, Steven, for the support you and your colleagues have given us as we work through these issues and move to get these exciting redevelopment projects underway. We consider the City of Duluth to be a significant partner in our economic development work on Rice's Point and elsewhere in the City and we value the efficient working relationship we have established with City Hall.

Please let me know if there is any additional information you need me to provide.

Sincerely,



Jeff Boring  
Director of Industrial/Economic Development

JB/amm

M-13