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 15-142		**Contact**	Steven Robertson, 218 730 5295	
Application Type	Partial Vacation of Street Right of Way		**Planning Commission Date**	October 13, 2015	
Deadline for Action	**Application Date**	August 28, 2015	**60 Days**		
	Date Extension Letter Mailed	September 22, 2015	**120 Days**	January 12, 2016	
Location of Subject	625 West 9th Street				
Applicant	Lee Erickson		**Contact**	218-391-2632	
Agent			**Contact**		
Legal Description	Lots 107, 109, and 111, Block 137, Duluth Proper Third Division				
Site Visit Date	September 29, 2015		**Sign Notice Date**	September 29, 2015	
Neighbor Letter Date	October 1, 2015		**Number of Letters Sent**	10	

Proposal

The applicant is proposing to vacate a portion of the platted street right of way for improved West 9th Street. If the partial vacation is approved, West 9th street would still have a right of way width of 66 feet.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1	Undeveloped/Cell Tower	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood/Preservation
East	R-1	Residential	Traditional Neighborhood
West	R-1	Residential	Traditional Neighborhood

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.

II. C-1

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

Future Land Use - Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

Governing Principle #7: Create and maintain connectivity.

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

-Proposal: Applicant is proposing the City partially vacate the platted street right of way of West Ninth Street.
-Issue/Item for Review: Vacation of the city's ability/right to use platted right of way can only be approved by City Council (via resolution), after a public hearing is conducted, and a recommendation is made, by the Planning Commission.

1) The applicant is proposing to vacate a portion (approximately 75 to 130 feet in width) of the platted street right of way for improved West Ninth Street. The applicant's home and garage (constructed in 1969 and 1973 respectively) are partially in the public right of way.
2) The property is within the Duluth Heights First Division (platted 1890), and adjacent to the Duluth Proper Third Division (platted 1870). If the partial vacation is approved, West Ninth street would still have a right of way width of 66 feet.
3) Applicant owns all the abutting private property directly adjacent, to and abutting, the proposed partial right of way to be vacated. The partial vacation would not impact any other private property owners. St. Louis County Land Department administers and supervises tax forfeit property, which is also adjacent to the platted right of way. They have an agreement with the applicant to sell him the tax forfeit property (which he needs for a new septic system drain field) if the vacation is approved. The end result would be that the applicant fully owns all the property that his home and garage is on, and he would have room for a complaint septic system.
4) 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.
5) Staff believe this portion of 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 portion of 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.
6) No public, agency, or City comments were received. There are no existing city underground utilities in the platted street right of way.
7) 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 partial vacation of the street public right of way, without conditions.

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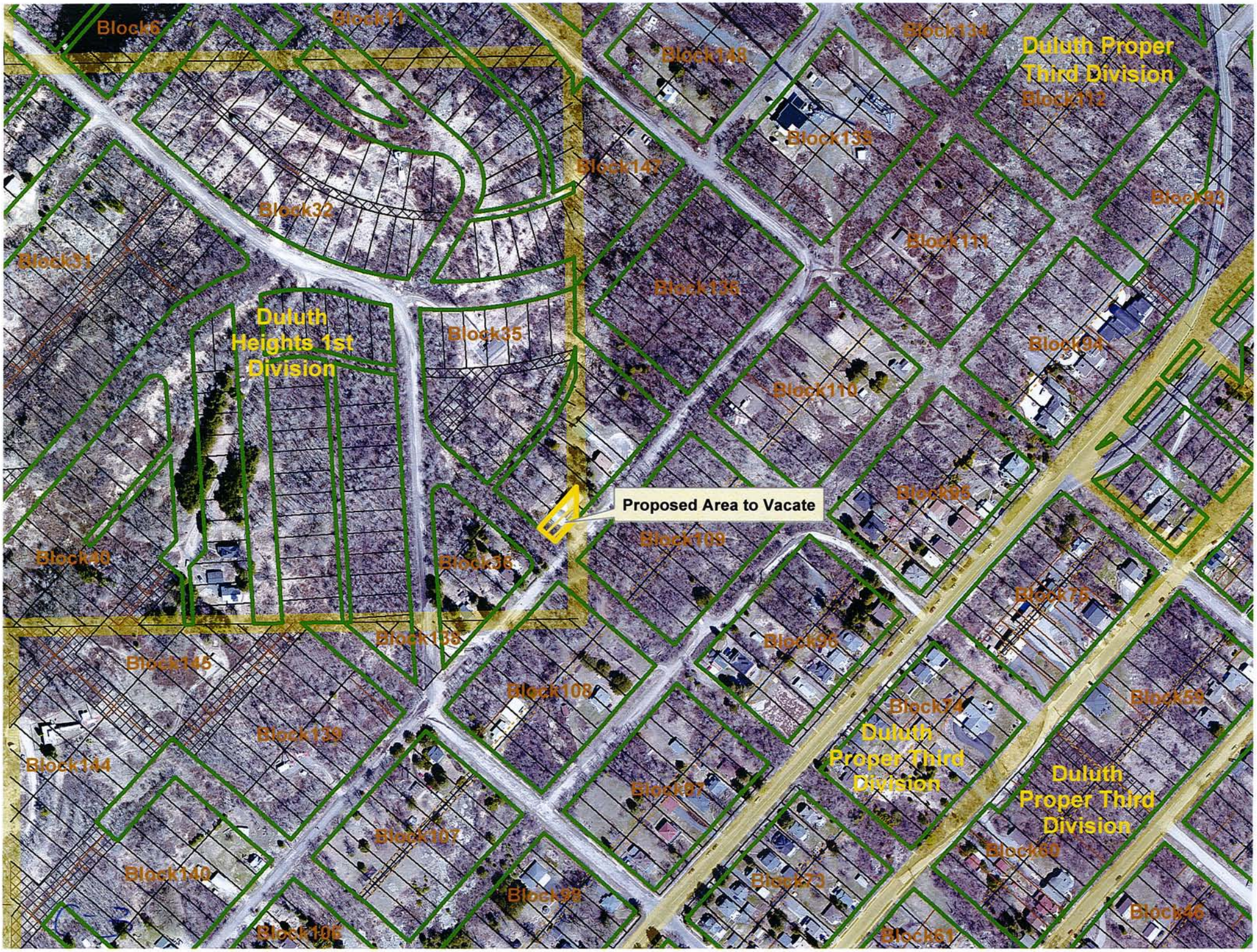
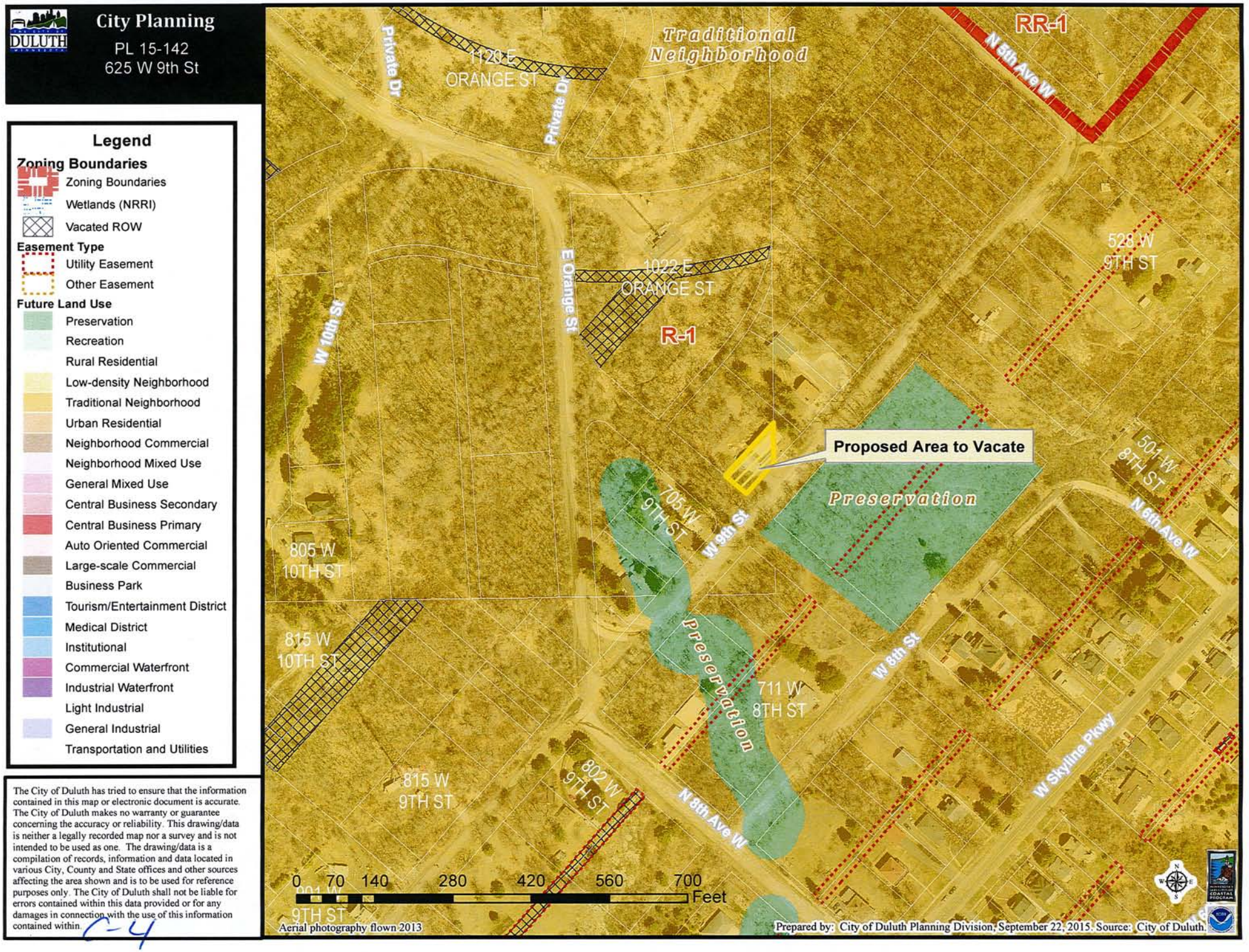
Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)


Block6
Block11
Block148
Block134
Duluth Proper Third Division
Block112
Block133
Block147
Block32
Block93
Block31
Block111
Block135
Duluth Heights 1st Division
Block35
Block94
Block110
Proposed Area to Vacate
Block95
Block109
Block30
Block36
Block75
Block138
Block96
Block145
Block108
Block59
Block74
Block139
Duluth Proper Third Division
Block144
Block97
Duluth Proper Third Division
Block107
Block60
Block140
Block73
Block98
Block46
Block106
Block61



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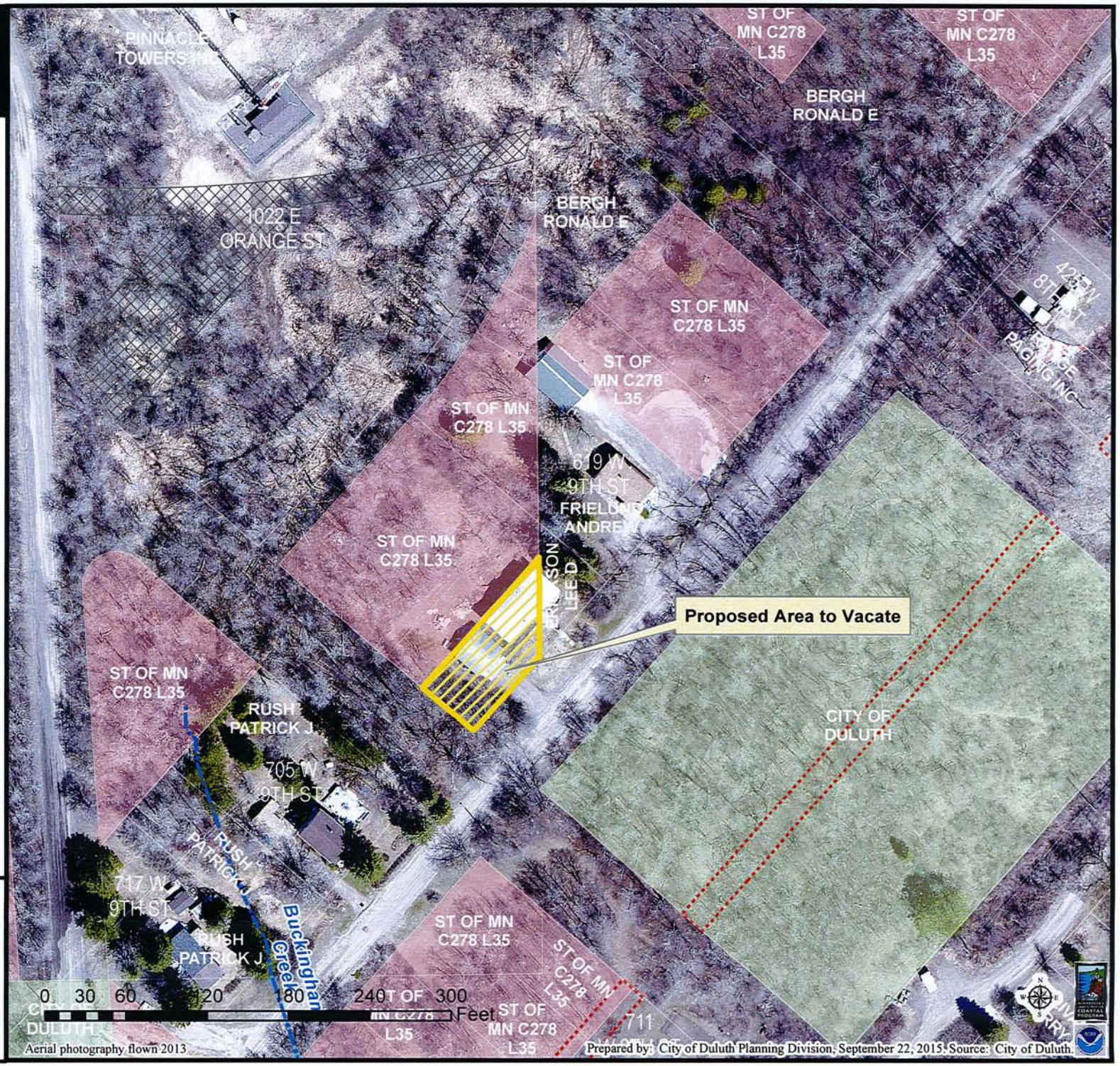
City Planning

PL 15-142
625 W 9th St



Legend

- Trout Stream (GPS)
- Other Stream (GPS)

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

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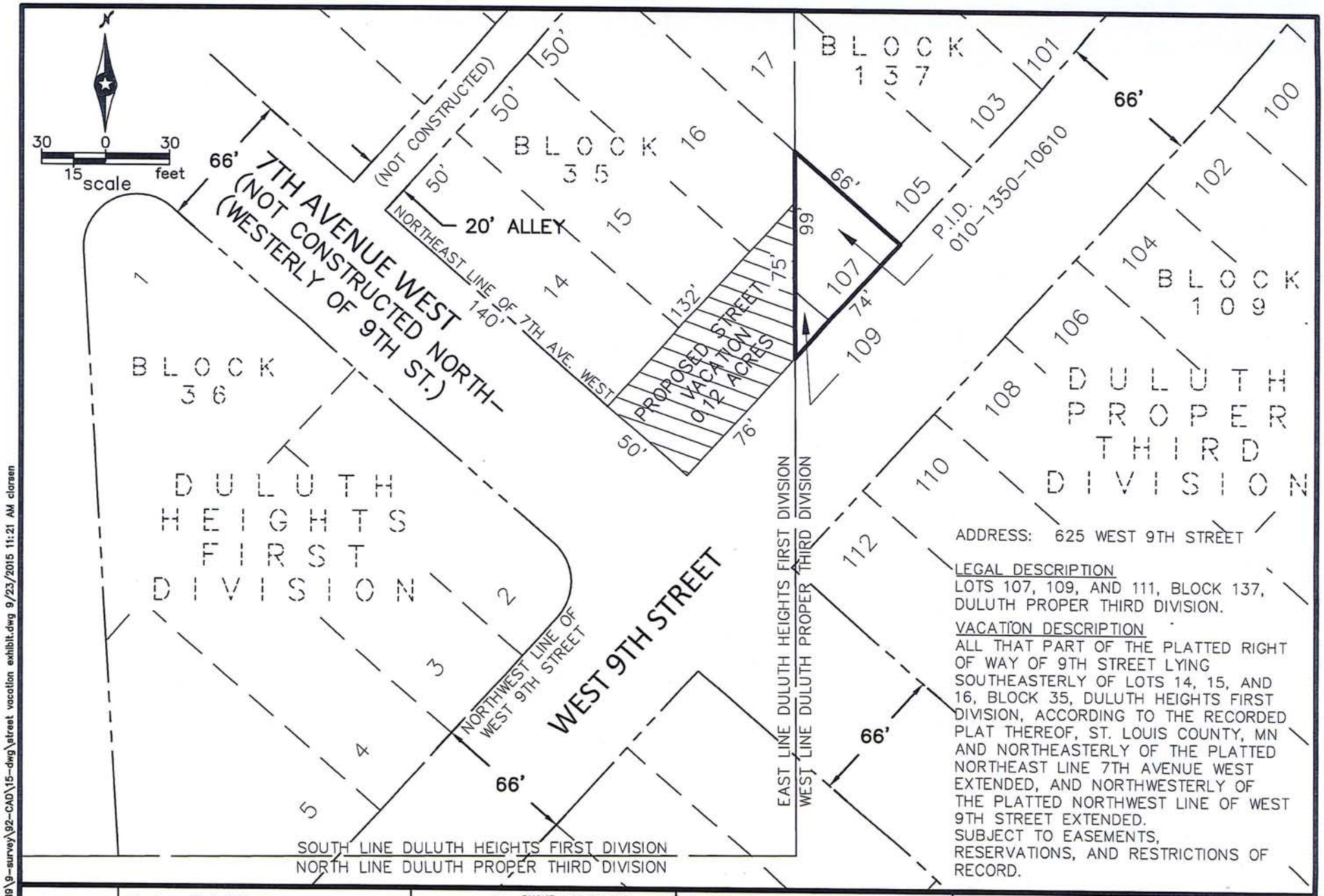


ADDRESS: 625 WEST 9TH STREET

LEGAL DESCRIPTION
LOTS 107, 109, AND 111, BLOCK 137, DULUTH PROPER THIRD DIVISION.

VACATION DESCRIPTION
ALL THAT PART OF THE PLATTED RIGHT OF WAY OF 9TH STREET LYING SOUTHEASTERLY OF LOTS 14, 15, AND 16, BLOCK 35, DULUTH HEIGHTS FIRST DIVISION, ACCORDING TO THE RECORDED PLAT THEREOF, ST. LOUIS COUNTY, MN AND NORTHEASTERLY OF THE PLATTED NORTHEAST LINE 7TH AVENUE WEST EXTENDED, AND NORTHWESTERLY OF THE PLATTED NORTHWEST LINE OF WEST 9TH STREET EXTENDED.
SUBJECT TO EASEMENTS, RESERVATIONS, AND RESTRICTIONS OF RECORD.

DRAWN BY: KLA
CHECKED BY: CAL
SURVEYED BY: N/A

I hereby certify that this survey, plan, 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.

Signature: _____ Lic. No. 45848

Printed Name: CHRIS A. LARSEN Date: 9/23/15

SEH
PHONE: 218.279.3000
418 W SUPERIOR ST
STE 200
DULUTH, MN
55802-1512
www.sehinc.com

NO.	BY	DATE	REVISIONS
1	CAL	9/23/15	Revised street name

I hereby certify that this street vacation exhibit has been checked and approved this _____ day of _____, 20___.

Signature: _____
City Engineer

Printed Name: _____ Date: _____

EXHIBIT FOR STREET VACATION IN DULUTH HEIGHTS FIRST DIVISION (NOT A BOUNDARY SURVEY)

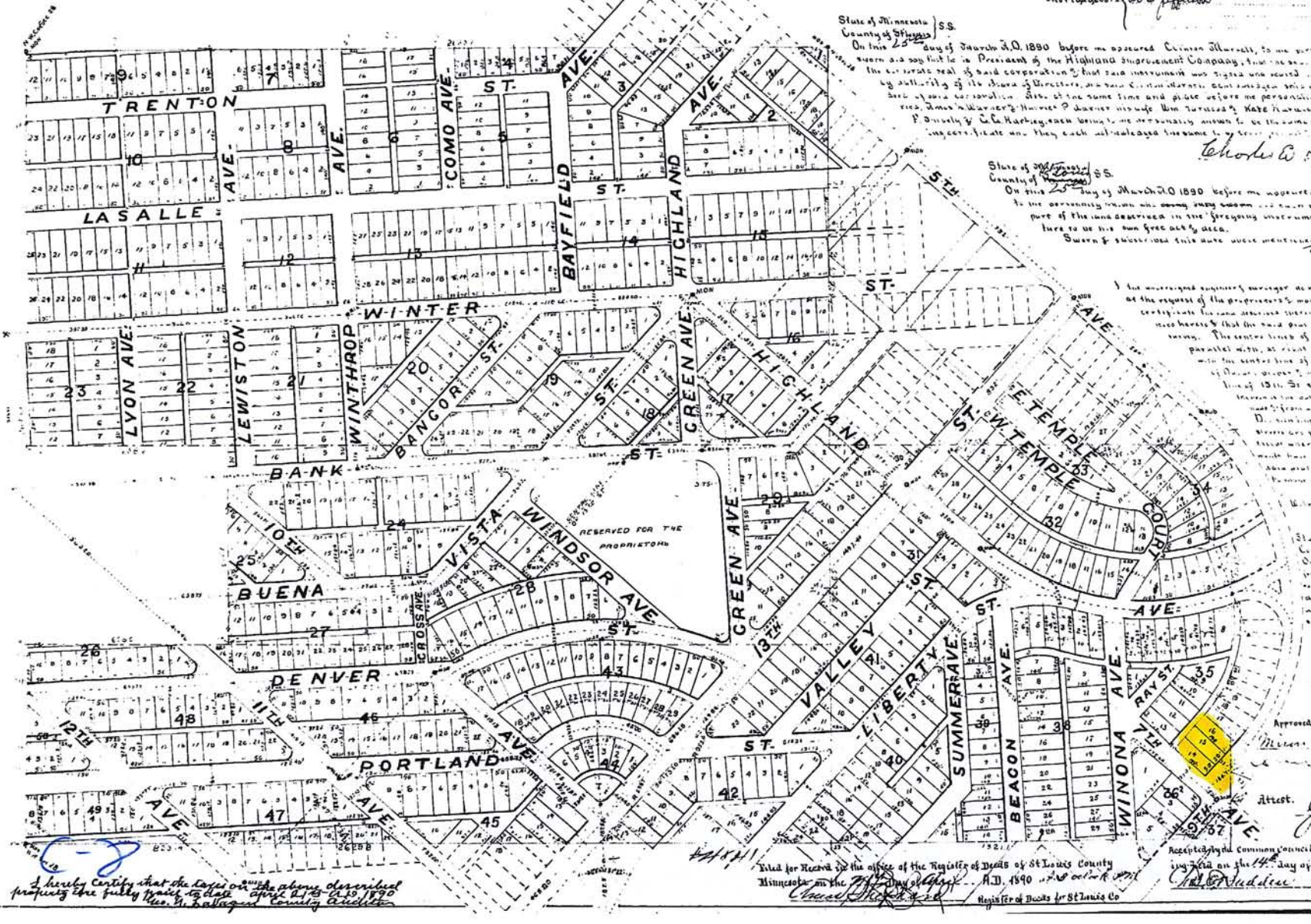
FILE NO. ERICL 133089
DATE 8/6/2015
SHEET 1 OF 1

S:\AE\E\ERICL\133089\9-survey\92-CAD\15-dwg\street vacation exhibit.dwg 9/23/2015 11:21 AM clarsen

DULUTH HEIGHTS

FIRST DIVISION

SCALE 1 INCH = 200 FEET S. L. RICE C.E.



KNOW ALL MEN BY THESE PRESENTS:— That the Highland Improvement Company, a corporation organized under the laws of the State of Minnesota, together with Wm. H. Seerns, Amos L. Warner, and his wife Wm. Harwood & wife, Craig & Smisely G. C. Hartley, James Kasson & R. C. Jefferson as mortgagees have caused to be surveyed & platted into streets, avenues, alleys blocks & lots that tract or parcel of land lying and being in the City of Duluth County of St Louis & State of Minnesota, described as follows, To Wit:— ..... All of the N. W. ¼ of Sec 28 T. 50. R 14 except the N. W ½ of the S. W ¼ of said N. W. ¼ of Sec 28, also the S. W ¼ of the N. E ¼ of Sec. 28, T 50, R 14. The streets, avenues & alleys on said plat, the same being a plat of the above mentioned land, are hereby dedicated to public use and said plat is also made for the same purpose. In Witness Whereof, the Highland Improvement Company through its president together with Wm G. Seerns, Amos L. Warner and the wife, Wm. Harwood & his wife as proprietors & Craig & Smisely G. C. Hartley, James Kasson & R. C. Jefferson as mortgagees have caused this instrument to be drawn up & signed by said several proprietors & mortgagees and the corporate seal of the Highland Improvement Company hereon impressed by its secretary this 25th day of March A. D. 1890.

The Highland Improvement Company by
Wm. G. Seerns Pres't.
Amos L. Warner
Pres't. pro tem.
William Harwood
Wife & Harwood
Craig & Smisely
Samuel Hartley
Chas P. Craig
James Kasson
R. C. Jefferson

Proprietors

Witnessed by
C. F. Thompson
Robert D. Mason

Mortgagees

State of Minnesota } S.S.
County of St Louis }
On this 25 day of March A.D. 1890 before me appeared Clinton Morrell, to me personally known and being duly sworn did say that he is President of the Highland Improvement Company, that the seal affixed to the instrument is the corporate seal of said corporation & that said instrument was signed and sealed in behalf of said corporation by authority of its Board of Directors, and said Clinton Morrell acknowledged said instrument to be the free act & deed of said corporation. And at the same time and place before me personally appeared W. G. Seerns unmarried, Amos L. Warner & Harriet P. Warner his wife, Wm Harwood & Kate Harwood his wife, Chas P. Craig, Samuel P. Smisely & C. G. Hartley, each being to me personally known to be the same persons who executed the foregoing instrument & acknowledged that same to be their free act & deed.
Thos. E. Thomson
Notary Public

State of Minnesota } S.S.
County of [illegible] }
On this 25 day of March A.D. 1890 before me appeared James Kasson & R. C. Jefferson to me personally known who being duly sworn did each say that he was mortgagee in part of the lands described in the foregoing instrument & acknowledged said instrument to be his own free act & deed.
Sworn & subscribed this date above mentioned.
Thos. E. Thomson
Notary Public

I the undersigned engineer & surveyor do hereby certify that I have surveyed at the request of the proprietors & mortgagees the lands & premises in the foregoing certificate to the same annexed & represented on the plat and have marked & staked the same & that the plat is a correct & accurate plat of said survey. The centre lines of all the said streets are either parallel with, at right angles to, or at an angle of 45° with the centre line of 15th St as bearing from the ... of Duluth proper & the exterior lines of said plat is on a course ... line of 15th St as aforesaid & the interior lines of ... are on courses ... from the exterior lines ... made from ... plat is correct ...
E. S. Rice

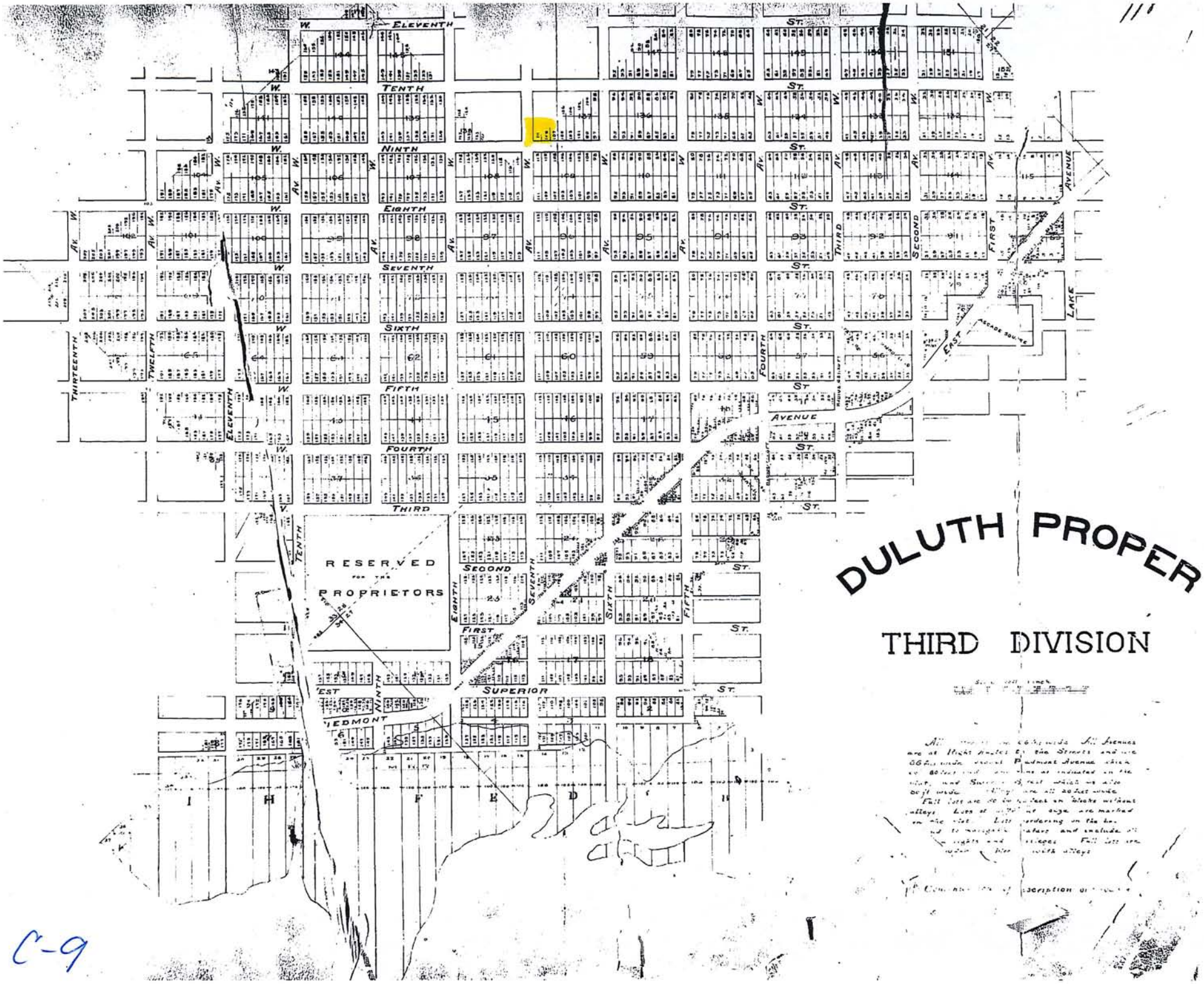
State of Minnesota } ss
County of St Louis }
On this 25th day of March A.D. 1890 before me appeared E. S. Rice to me personally known who being duly sworn did say that he executed the foregoing instrument & acknowledged the same to be his free act & deed.
Thos. E. Thomson
Notary Public

Approved April 7th A.D. 1890
Board of Public Works of the City of Duluth
Attest. Geo. H. Hughes
Clerk Board of Public Works

Accepted by the Common Council of the City of Duluth at a meeting held on the 14th day of April A.D. 1890
Chas. E. Sudduth
City Clerk of the City of Duluth

I hereby Certify that the taxes on the above described property are fully paid to date April 4th A.D. 1890
Geo. N. Gallagher County Auditor

Filed for Record in the office of the Register of Deeds of St Louis County Minnesota on the 7th day of April A.D. 1890 at 10 o'clock A.M.
Chas. McKenzie
Register of Deeds for St Louis Co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TWELFTH
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FIRST
FIRST
SECOND
THIRD
FOURTH
LAKE
ARCADE SQUARE
RESERVED
FOR THE
PROPRIETORS
DULUTH PROPER
THIRD DIVISION
C-9

C-10