

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

14-0075R

RESOLUTION VACATING PORTIONS OF PLATTED ALLEY BETWEEN EAST FIRST STREET AND EAST SECOND STREET, UTILITY EASEMENT IN VACATED 11TH AVENUE EAST AND ACCESS EASEMENT IN VACATED 11TH AVENUE EAST (ST. LUKE'S HOSPITAL).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council finds a sufficient petition was filed with the city requesting the vacation described below 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 petitioned easements are useless for all purposes; and

(c) The city planning commission, at its Tuesday, January 14, 2014, regular meeting, recommended approval of the vacation petition; and

(d) The city council of the city of Duluth approves the vacation of the alley and easements described below and as described and depicted on Public Document No. \_\_\_\_\_:

Existing 20 foot alley located between Blocks 39 and 37 as platted in the Portland Division of Duluth that lies between the centerline of the former right-of-way of north 11th Avenue East and the westerly right-of-way line of North 12th Avenue East; and

Existing 24 foot access easement lying over under and across the southwesterly 24 feet of the northeasterly 28 feet of that portion of the vacated 11th Avenue East lying between Blocks 40 and 39 as platted in the Portland Division of Duluth; and

Existing 20 foot utility easement lying over under and across that portion of the vacated 11th Avenue East lying between Blocks 36 and 37 as platted in the Portland Division of Duluth. Commencing at northeasterly corner of Lot 16, Block 36, said Portland Division of Duluth; thence northeasterly along

the northeasterly extension of the northerly line of said Block 36, a distance of 32.86 feet to the point of beginning of the centerline of existing 20 foot utility easement to be vacated; thence deflecting to the right at an angle of 90 degrees 05 minutes 08 seconds, a distance of 140.09 feet to the northeast extension of the southerly line of said Block 36 and there terminating;

(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 alley and easements to be vacated.

Approved as to form:

  
\_\_\_\_\_  
Attorney

PC/PLNG JRM:cs 1/31/2014

STATEMENT OF PURPOSE: St. Luke's Hospital is requesting vacation of alley and easements that are no longer needed after construction of their parking lot and pedestrian walkway.

On January 7, 2014, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 0 nays and 0 abstentions to recommend that the city council approve the vacation.

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

Petition received: November 15, 2013

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



**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 13-037	<b>Contact</b>	Jenn Reed Moses, jmoses@duluthmn.gov	
<b>Application Type</b>	Vacation of Street and Utility Easement	<b>Planning Commission Date</b>	January 14, 2014	
<b>Deadline for Action</b>	<b>Application Date</b>	November 15, 2013	<b>60 Days</b>	N/A
	<b>Date Extension Letter Mailed</b>	December 19, 2013	<b>120 Days</b>	N/A
<b>Location of Subject</b>	Between 1st and 2nd Street and 11th and 12th Avenue East			
<b>Applicant</b>	St. Luke's Hospital	<b>Contact</b>	249-5555	
<b>Agent</b>	Kenneth Butler	<b>Contact</b>	625-2278, kbutler@kenbutlerlaw.com	
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	November 22, 2013	<b>Sign Notice Date</b>	December 19, 2013	
<b>Neighbor Letter Date</b>	December 31, 2013	<b>Number of Letters Sent</b>	33	

**Proposal**

The property owner is requesting vacations of an unimproved alley, access easement, and utility easement.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-I	Medical campus	Medical District
<b>North</b>	R-2	Residential	Medical District
<b>South</b>	MU-I	Medical campus	Medical District
<b>East</b>	MU-N	Residential	Central Business Secondary/Urban Residential
<b>West</b>	MU-I	Medical campus	Medical District

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

Vacation of public rights of way and/or easements requires a Planning Commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the Council.

Code Requirements are found in the UDC Section 50-37.6. The Planning Commission shall review the proposed vacation, and council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway or easement proposed for vacation:

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient, supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth .

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

Governing Principle #4 - Support emerging economic growth sectors. The medical industry is among those identified in the comprehensive plan.

Future Land Use - Institutional: Applicable to university and college and public school campuses, large religious facilities or governmental campuses, cemeteries, etc.

In 2013, Planning Commission adopted a District Plan for the St. Luke's campus, showing employee parking lots in this area.

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

Staff finds that:

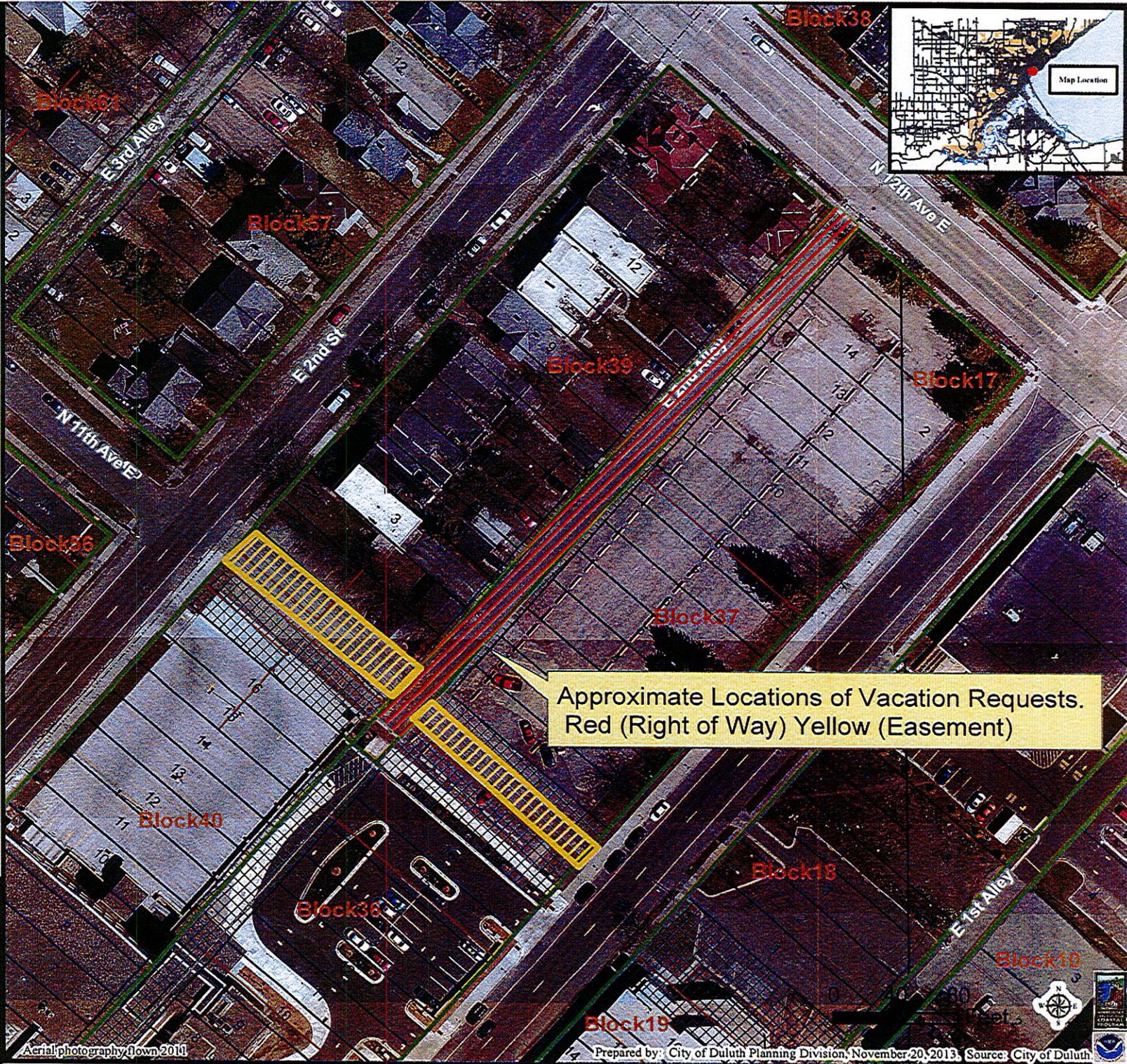
- 1.) The applicant (St. Luke's Hospital) owns the land surrounding the proposed vacation area. The property owners submitted a petition that contained a majority of the affected property owners' signatures.
- 2.) The alley and utility easement are 20' wide; the access easement is 24' wide. The sanitary sewer line in the alley and utility easement has been abandoned. Minnesota Power and CenturyLink have also removed all utilities from the alley.
- 3.) The access easement was originally dedicated in January 2011 for the purposes of City plowing of the alley. With construction of the parking lots, this easement is no longer needed.
- 4.) This vacation, if approved, will not deprive any currently platted lots of access to a public right of way.
- 5.) Alley and easements are 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.
- 6.) Granting of the petition is consistent with Governing Principle #4 of the comprehensive plan and with the approved District Plan for the St. Luke's campus.
- 7.) No other public, City, or agency comments were received.
- 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 findings, Staff recommends that the Planning Commission recommend approval to the City Council for the petition to vacate the alley and easements with the following condition:

- 1.) Vacation goes into effect after being recorded at the County Recorder's office. Applicant will work with Duluth City Clerk's office if needed to assist in the recording process.

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



**Legend**

**Boundary Lines**  
 — <all other values>

**Subtype, ROW\_TYPE**

- Lot Line
- Parcel Line
- ROW (Road)
- - - ROW (Not Road)
- Subdivision Line
- Water Line
- Survey Line
- Municipal Boundary

**Blocks**

**Lots**

Vacated ROW

**Easement Type**

- Utility Easement
- Other Easement

Approximate Locations of Vacation Requests.  
 Red (Right of Way) Yellow (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.



### Legend

**Water Distribution System**

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

**Sanitary Sewer Collection System**

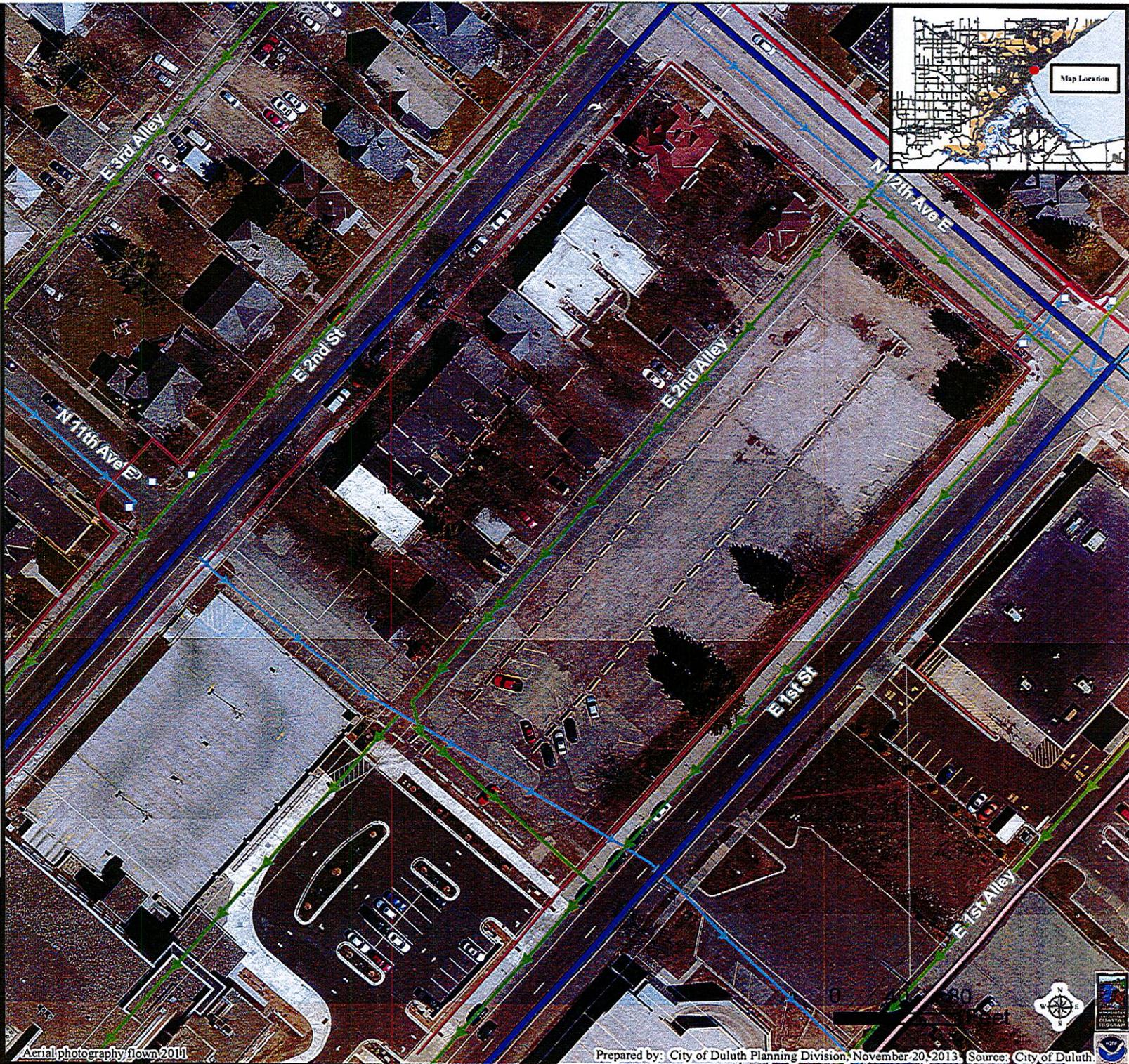
- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

**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



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Aerial photography flown 2011

Prepared by: City of Duluth Planning Division, November 20, 2013. Source: City of Duluth



**AMENDED PETITION FOR VACATION OF AN  
ALLEY AND EASEMENTS  
PURSUANT TO  
DULUTH CITY CODE SEC. 45-38**

PETITIONER ST. LUKE'S HOSPITAL OF DULUTH (hereinafter "Petitioner") hereby petitions the City of Duluth City Council to:

- vacate the public alley between Blocks 37 and 39;
- vacate a 24.00 foot wide easement for access purposes lying over, under and across the southwesterly 24.00 feet of the northeasterly 28.00 feet of that portion of the vacated 11<sup>th</sup> Avenue East lying between Blocks 39 and 40;
- vacate the utility easement in vacated 11<sup>th</sup> Avenue East between Blocks 36 and 37; and
- abandon the sewer line below the subject alley and easements,

all in PORTLAND DIVISION OF DULUTH, for the facts and reasons hereinafter set forth.

1. Your Petitioner owns all of the lineal footage of land abutting both sides of the portion of the alley and access easement proposed to be vacated.
2. Attached as Exhibit A is a copy of the plat of the ground with that portion of the alley and access easement proposed to be vacated shown in yellow.
3. Only your Petitioner would be affected by the proposed vacation.
4. The sewer line located beneath the subject alley and between Blocks 36 and 37, PORTLAND DIVISION OF DULUTH no longer serves any purpose for which it was constructed.
5. The Land is envisioned to be used for future medical campus expansion which will be more feasible without the subject alley and easements.
6. Attached as Exhibit B are letters from Minnesota Power and Centurylink Communications disclaiming any interests in utility easements previously granted them for cable and electrical purposes.

Dated: October 27, 2013.

ST. LUKE'S HOSPITAL OF DULUTH

By Arnold P. King  
Its Vice President



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EXHIBIT B  
Page 1 of 2

October 18, 2013

Mr. John Simpson  
St. Luke's Hospital  
915 E 1<sup>st</sup> St  
Duluth, MN 55805

RE: Removal of Minnesota Power owned facilities

Dear Mr. Simpson,

All Minnesota Power utilities have been removed from E 2<sup>nd</sup> Alley between N 10<sup>th</sup> Ave E and N 12 Ave E. Since St. Luke's Hospital owns the land on either side of this alley Minnesota Power has no need to retain a utility easement there. The vacation of the alley will be approved once City Planning officially notifies Minnesota Power.

If you should have any questions, please feel free to call me at 355-2409.

Sincerely,

Josh Guck  
Distribution Engineer

EXHIBIT B  
Page 2 of 2

**Centurylink Communications**

322 W 1<sup>st</sup> Street

Duluth, Minnesota 55802

To: John Simpson

St. Luke's Hospital

915 E 1<sup>st</sup> Street

Duluth, Minnesota 55805

RE: Alley Easement Vacation

John,

Centurylink has completed relocation, and vacated or removed, all aerial and buried facilities, in the alley located from E 1<sup>st</sup> Street to E 2<sup>nd</sup> Street, between 11 Ave E and 12<sup>th</sup> Ave E in Duluth, Minnesota.

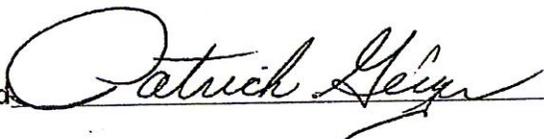
Centurylink no longer has an interest or will pursue utility right of way in this alley easement.

PLEASE feel free to contact me with any questions @ 218-723-4213

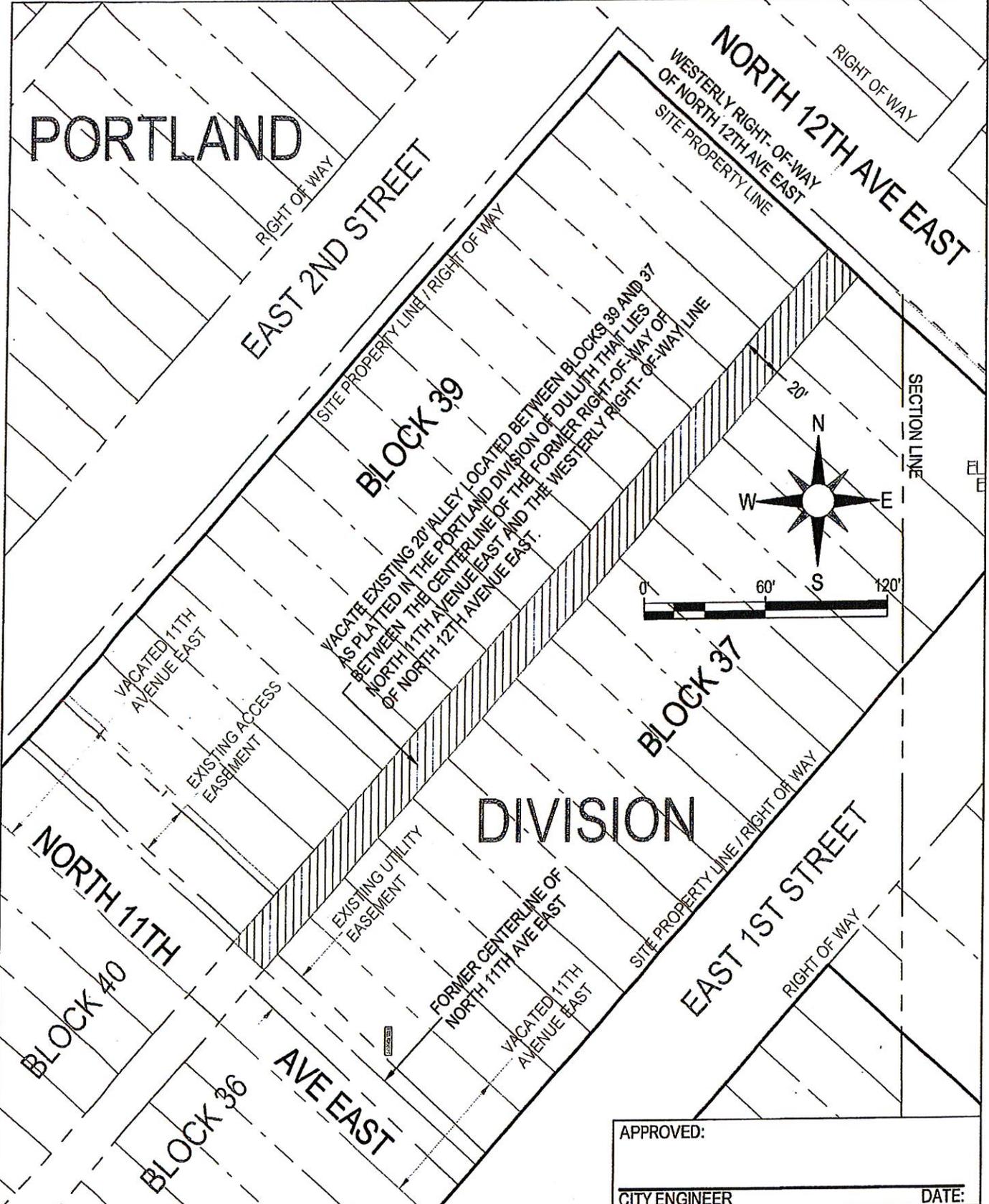
THANK YOU

Patrick Geiger

Sr. Design Engineer

Signed  dated 10-17-2013

# PORTLAND



APPROVED: \_\_\_\_\_  
CITY ENGINEER DATE: \_\_\_\_\_

 **Northland**  
Consulting Engineers L.L.P.  
Structural, Civil and Forensic Engineering Services  
Voice: (218) 727-5995  
Fax: (218) 727-7779  
www.nce-engineers.com

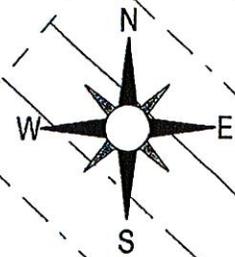
# EXHIBIT A

PORTLAND

EAST 2ND STREET

NORTH 12TH AVE EAST

BLOCK 39



VACATE EXISTING 24' ACCESS EASEMENT LYING OVER UNDER AND ACROSS THE SOUTHWESTERLY 24' OF THE NORTHEASTERLY 28' OF THAT PORTION OF THE VACATED 11TH AVENUE EAST LYING BETWEEN BLOCKS 40 AND 39 AS PLATTED IN THE PORTLAND DIVISION OF DULUTH.

DIVISION

BLOCK 37

SECTION LINE

VACATED 11TH AVENUE EAST

NORTH 11TH

EXISTING UTILITY EASEMENT

BLOCK 40

BLOCK 36

AVE EAST

VACATED 11TH AVENUE EAST

EAST 1ST STREET

APPROVED: \_\_\_\_\_  
CITY ENGINEER DATE: \_\_\_\_\_



**Northland**  
Consulting Engineers L.L.P.

Structural, Civil and Forensic Engineering Services

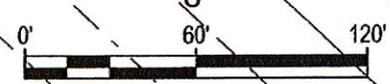
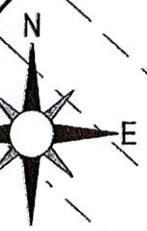
Voice: (218) 727-5995  
Fax: (218) 727-7779

www.nce-engineers.com

**EXHIBIT B**

PORTLAND

NORTH  
12TH AVE EAST



EAST 2ND STREET

BLOCK 39

SECTION LINE

VACATED 11TH  
AVENUE EAST

EXISTING ACCESS  
EASEMENT

NORTH 11TH

BLOCK 40

BLOCK 36

AVE  
LOT 16  
EAST

90°05'08"

32.86'

140.09'

VACATED 11TH  
AVENUE EAST

BLOCK 37

EAST 1ST STREET

DIVISION

VACATE EXISTING 20' UTILITY EASEMENT LYING OVER UNDER AND ACROSS THAT PORTION OF THE VACATED 11TH AVENUE EAST LYING BETWEEN BLOCKS 36 AND 37 AS PLATTED IN THE PORTLAND DIVISION OF DULUTH. COMMENCING AT NORTHERLY CORNER OF LOT 16, BLOCK 36. SAID NORTHEASTERLY EXTENSION OF THE NORTHWESTERLY LINE OF SAID BLOCK 36, A DISTANCE OF 32.86' TO THE POINT OF BEGINNING OF THE CENTERLINE OF SAID BLOCK 36, A DISTANCE OF 05 MINUTES 08 SECONDS, A DISTANCE OF 140.90' ALONG SAID CENTERLINE TO THE NORTHEAST EXTENSION OF THE SOUTHEASTERLY LINE OF SAID BLOCK 36 AND THERE TERMINATING.

APPROVED: \_\_\_\_\_  
CITY ENGINEER DATE: \_\_\_\_\_

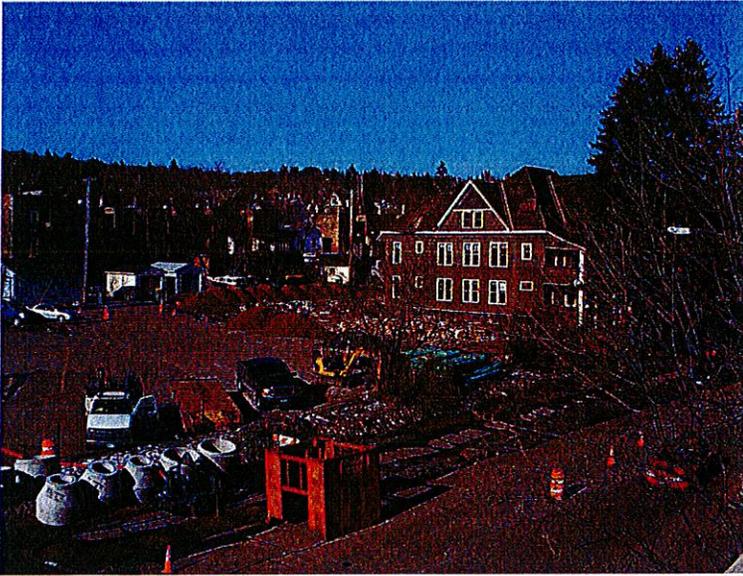


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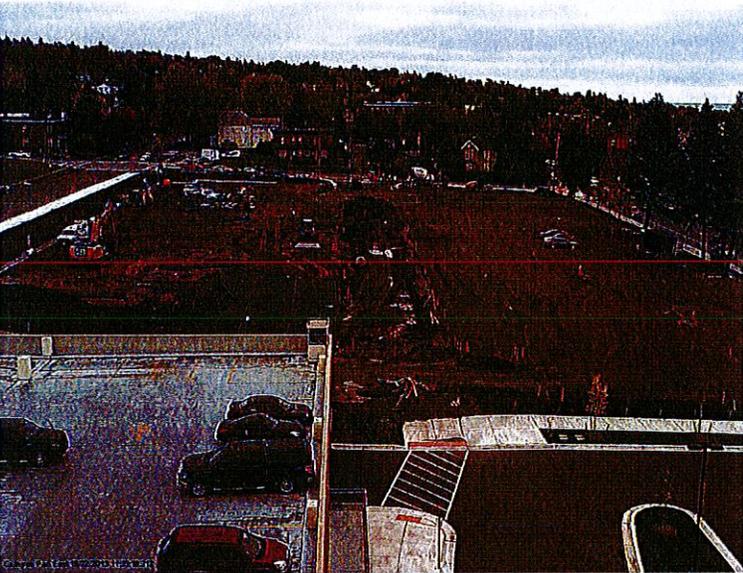
# EXHIBIT C

# St. Luke's Parking Lots

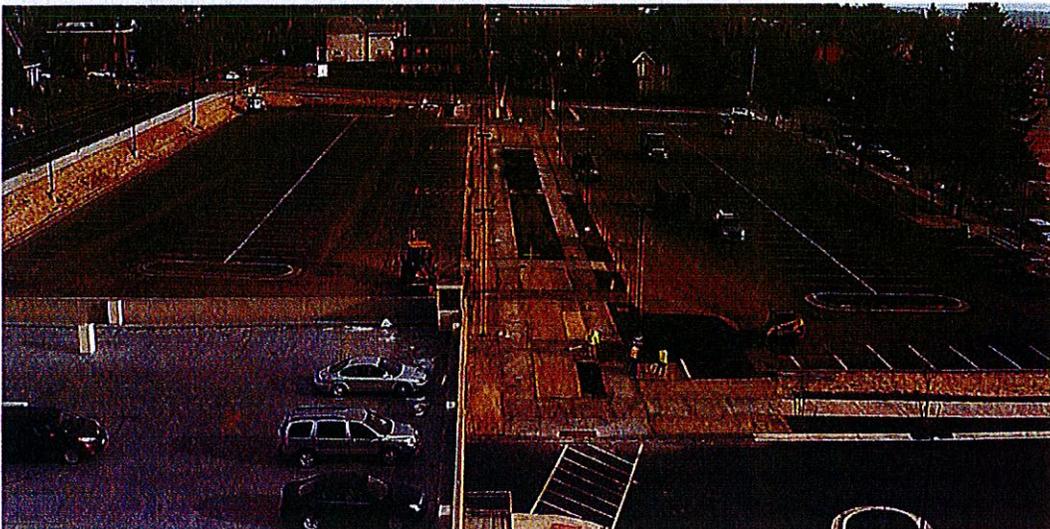
## Site Photos



Before parking lot construction, showing 1<sup>st</sup> Street in foreground, looking towards alley and rear of buildings facing 2<sup>nd</sup> Street.



During construction



Parking lots are nearly complete. Landscaping will be installed in 2014.