



**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
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 Duluth, Minnesota 55802

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✉️ [planning@duluthmn.gov](mailto:planning@duluthmn.gov)

<b>File Number</b>	PL 20-195	<b>Contact</b>	John Kelley, <a href="mailto:jkelley@duluthmn.gov">jkelley@duluthmn.gov</a>	
<b>Type</b>	Vacation of Street	<b>Planning Commission Date</b>	April 13, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	March 11, 2021	<b>60 Days</b>	June 10, 2021
	<b>Date Extension Letter Mailed</b>	March 16, 2021	<b>120 Days</b>	July 9, 2021
<b>Location of Subject</b>	North 32nd Avenue West between Carlton Street and West Superior Street			
<b>Applicant</b>	William Maney	<b>Contact</b>		
<b>Agent</b>	Michael Cooper	<b>Contact</b>		
<b>Legal Description</b>	See Attached			
<b>Site Visit Date</b>	April 2, 2021	<b>Sign Notice Date</b>	March 30, 2021	
<b>Neighbor Letter Date</b>	April 1, 2021	<b>Number of Letters Sent</b>	11	

**Proposal:** The applicant is requesting the vacation of a portion of North 32<sup>nd</sup> Ave West between Carlton Street and West Superior Street (see vacation exhibit) with retained utility easement to allow use of the area by Mid-State Truck Service.

**Staff Recommendation:** Staff is recommending that the Planning Commission approve the vacation with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-B	32 <sup>ND</sup> Avenue West	General Mixed Use
<b>North</b>	MU-B	Commercial	General Mixed Use
<b>South</b>	MU-B	Railroad/Vacant land	Transportation and Utilities
<b>East</b>	MU-B	ISD 709 Bus lot	General Mixed Use
<b>West</b>	MU-B	Railroad/vacant land	General Mixed Use

**Summary of Code Requirements:**

Vacation of public streets, highways, 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.

UCD Sec. 50-37.6.C – 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; DOES NOT APPLY
3. Is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.

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

Governing Principle #1 – Reuse of previously developed lands. The proposed street vacation allows for future investment to a site that has potential to perform at a higher level than its current state.

Governing Principle #5 – Promote reinvestment in neighborhoods. The proposed street vacation will allow the applicant to utilize an area between existing parcels occupied by the same business.

Future Land Use – 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.

**Review and Discussion Items:**

Staff finds that:

1. The applicant is requesting to vacate a portion of 32nd Avenue West right-of-way between Carlton and Superior Streets while retaining a utility easement over the entire vacated area as shown in the attached exhibit.
2. The applicant owns the property on both sides of 32<sup>nd</sup> Avenue West. The applicant intends to use the vacated area for business purposes such as display area for Mid- State Truck Service.
3. There is an existing gas and water line within the street. The City Engineering office has reviewed the proposed vacation and has indicated that a utility easement shall be retained over the entire portion of area to be vacated.
4. City Engineer's stated that that any modifications to the vacated street and the area within the utility easement will need to be reviewed and approved by the engineering department prior to any disturbance.
5. The City has determined that this portion of the right of way is not needed for street or pedestrian use. Vacating the right of way will not impact or deny access to other property owners.
6. No other public or City comments have been received at the time of drafting this report.
7. Vacations of streets and easements lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

**Staff Recommendation:**

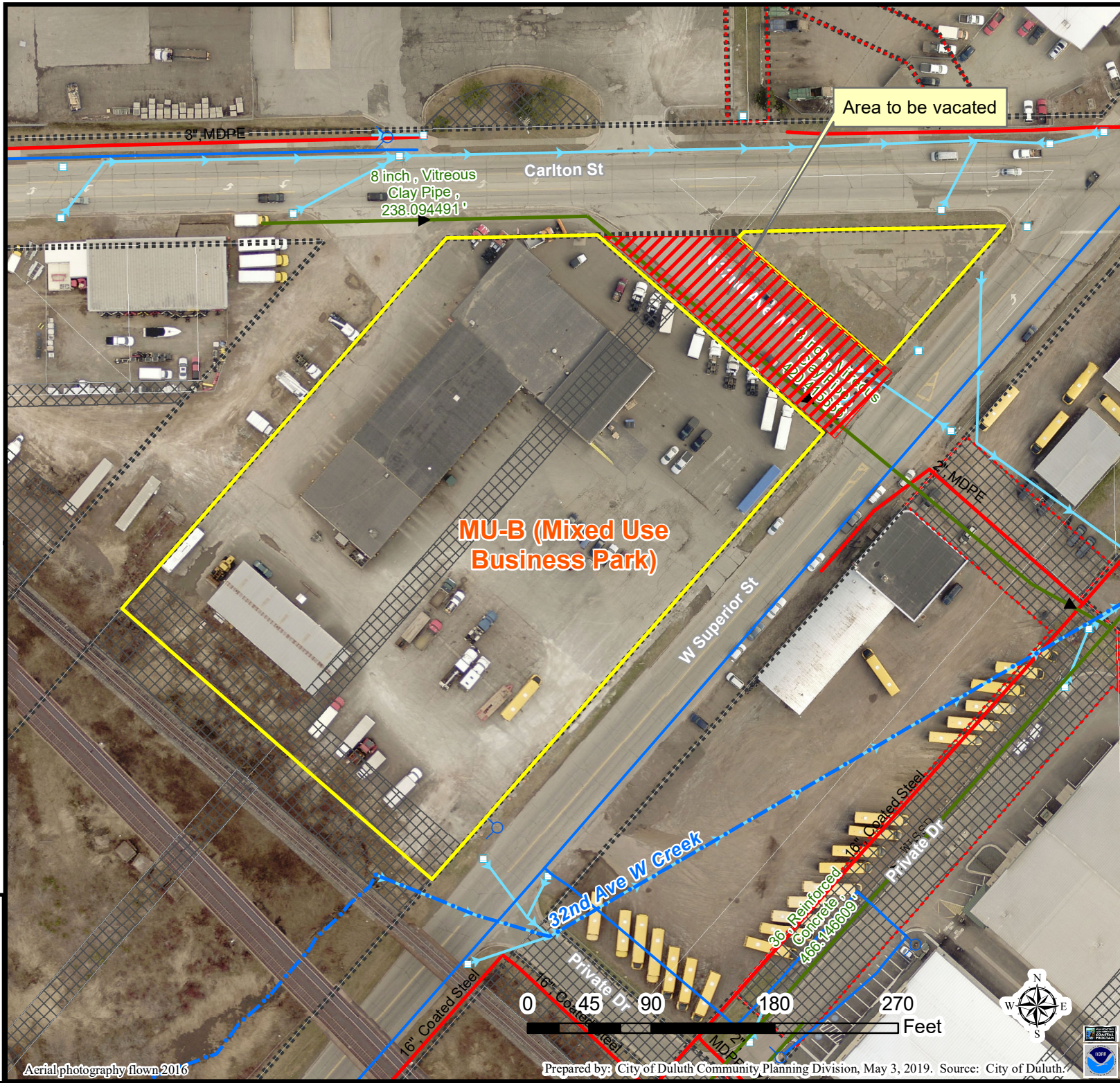
Based on the above findings, Staff recommends that Planning Commission recommend approval of the vacation with the following conditions:

- 1.) A utility easement will be retained as shown in the attached exhibit.
- 2.) The vacation must be recorded within 90 days of final approval by City Council or such approval will lapse. The vacation shall not be final until the plat is recorded in the office of the St. Louis County Recorder.
- 3.) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.





PL 20-195  
Vacation of right of way



**Legend**

- Gas Main
- Water Main
- Hydrant

**Sanitary Sewer Mains**

- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main

**Storm Sewer Mains**

- Storm Sewer Pipe
- Storm Sewer Catch Basin

**Easement Type**

- Utility Easement
- Other Easement
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRR)

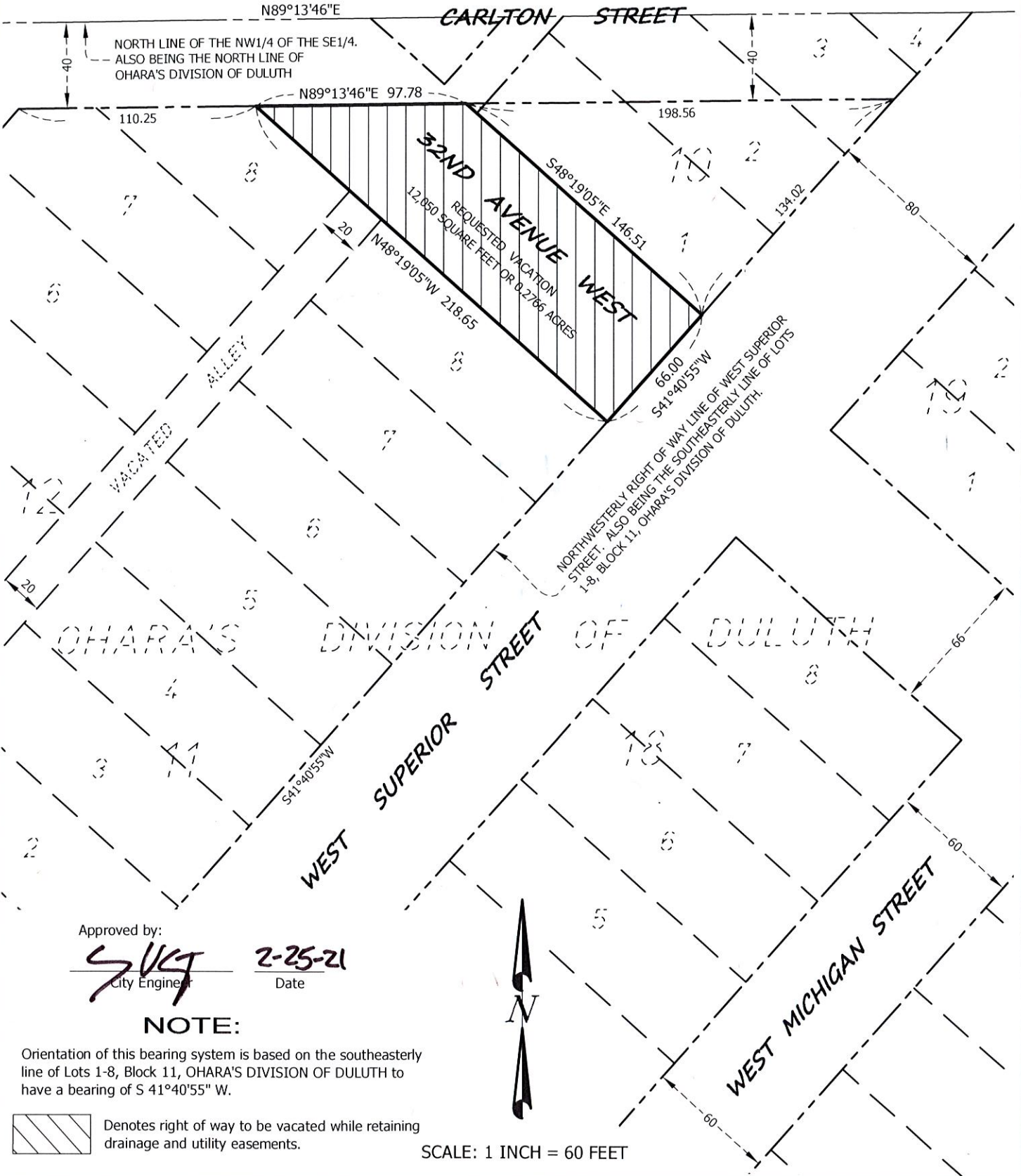
**Other Symbols**

- Storage Basin
- Pump Station
- Road or Alley ROW
- Vacated ROW

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.



# VACATION



Approved by:

*SUK*  
City Engineer

2-25-21  
Date

**NOTE:**

Orientation of this bearing system is based on the southeasterly line of Lots 1-8, Block 11, OHARA'S DIVISION OF DULUTH to have a bearing of S 41°40'55" W.



Denotes right of way to be vacated while retaining drainage and utility easements.

SCALE: 1 INCH = 60 FEET

T:\Mid-State Truck Service\dwg\700\20-816 Mid-State Truck Vacation.dwg 2/26/2021 10:28 AM



5670 Miller Trunk Hwy  
Suite A,  
Duluth, MN 55811  
(218) 720-6219  
www.jpjeng.com

**VACATION EXHIBIT:**

For: Mid-State Truck Service, Duluth, MN

PROJECT NUMBER

20-816

SHEET NUMBER

2 of 2 Sheets

# VACATION

## VACATION DESCRIPTION:

That part of 32nd Avenue West as platted and dedicated in the plat of OHARA'S DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, lying southerly of the line drawn 40 feet southerly and parallel with the north line of the Northwest Quarter of the Southeast Quarter of Section 5, Township 49 North, Range 14 West, St. Louis County, Minnesota, also being the north line of OHARA'S DIVISION OF DULUTH, and lying northwesterly of the northwesterly right of way line of West Superior Street as platted and dedicated in said OHARA'S DIVISION OF DULUTH.

Reserving a drainage and utility easement over under and across the above described tract.

## SURVEYOR NOTES:

Orientation of the bearing system is based on the southeasterly line of Lots 1-8, Block 11, OHARA'S DIVISION OF DULUTH, to have a bearing of S 41°40'55" W.

JPJ Engineering has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.

Area of proposed vacation is 12,050 square feet or 0.2766 acres.

Parcel Identification Numbers for this property are 010-3590-00400 and 010-3590-00520.

Approved by:

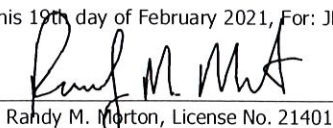
  
City Engineer

2-25-21  
Date

## CERTIFICATION:

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.

Signed this 19<sup>th</sup> day of February 2021, For: JPJ Engineering

  
Randy M. Morton, License No. 21401



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