



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 17-084	Contact	Jenn Moses, jmoses@duluthmn.gov	
Type	Street Vacation	Planning Commission Date	June 13, 2017	
Deadline for Action	Application Date	N/A	60 Days	N/A
	Date Extension Letter Mailed	N/A	120 Days	N/A
Location of Subject	Matterhorn Circle, south of Matterhorn Drive and Maple Grove Road			
Applicant	Capstone Apartments, LLC	Contact	Scott Vesterstein	
Agent	William M. Burns	Contact		
Legal Description	PIDs 010-4423-00070 and 010-4423-00080. Complete legal description on file.			
Site Visit Date	June 5, 2017	Sign Notice Date	May 31, 2017	
Neighbor Letter Date	June 1, 2017	Number of Letters Sent	17	

Proposal

Applicant proposes to vacate portions of an existing cul de sac along Matterhorn Circle in the Duluth Heights neighborhood. While part of the roadway was previously developed, the portions proposed for vacation have not been developed.

Note that application currently does not have a signed exhibit, but one is expected prior to the public meeting on June 13.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-C	Vacant	Neighborhood Mixed Use
North	MU-C	Retail	Large-scale Commercial
South	MU-N	Multi-family	Neighborhood Mixed Use
East	MU-C	Office	Neighborhood Mixed Use
West	MU-C	Vacant	Neighborhood Mixed Use

Summary of Code Requirements

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.

UDC Section 50-37.6C. The Planning Commission shall review the proposed vacation, and the 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 Governing Principle and/or Policies and Current History (if applicable):

Governing Principle #7 – Create and maintain connectivity: Connectivity should be provided for vehicular and non-vehicular modes.

Future Land Use – Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets.

History: This cul-de-sac was platted in 1981 as the terminus of Matterhorn Circle. In 2005, the road was extended to allow for the residential development to the south, negating the need for a cul-de-sac at this location.

Review and Discussion Items

Staff finds that:

- 1) Applicant is proposing to vacate portions of platted Matterhorn Drive that have never been developed. A 66' easement through the middle of the cul-de-sac, where it aligns with the build roadway extending north and south, will be maintained.
- 2) Due to the road extension in 2005, there is no need for a cul-de-sac to provide any turnaround at this location. The existing road, as well as utilities and sidewalks, can be accommodated into the remaining 66' easement, which meets the standard roadway easement in the city. Therefore, 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.
- 3) This right of way is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.
- 4) No public, agency, or City comments have been received.
- 5) Vacations of streets 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

1) 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; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



City Planning

PL 17-084

XXXX Matterhorn Drive
Vacation









Legend



Vacated ROW

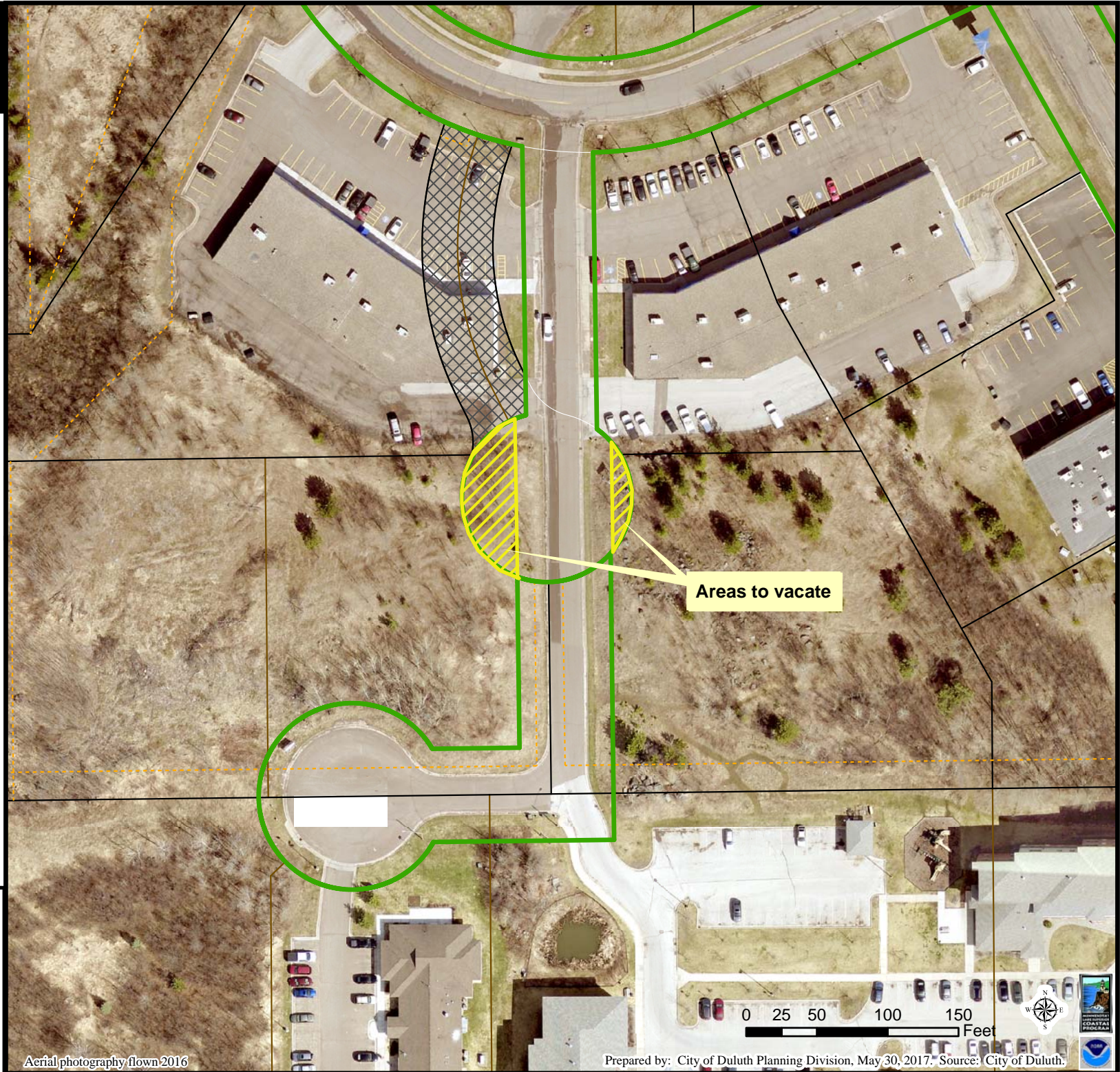
Boundary Lines

Subtype, ROW_TYPE

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

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.

Aerial photography, flown 2016



Areas to vacate



Prepared by: City of Duluth Planning Division, May 30, 2017. Source: City of Duluth.

PROPOSED MATTERHORN CIRCLE STREET VACATION

LOTS 5, 6, 7 AND 11; BLOCK 1

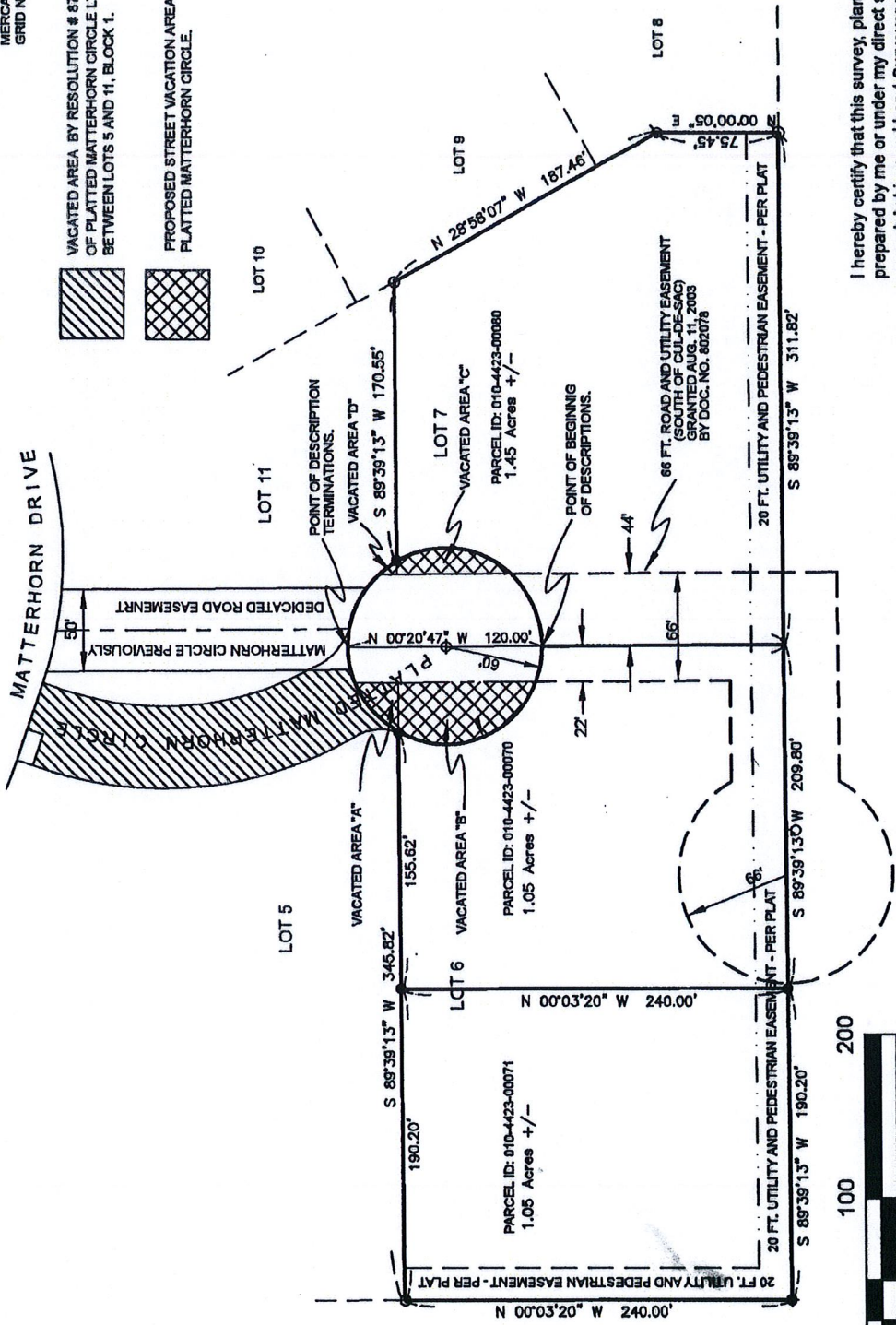
PLAT OF VILLAGE MALL FIRST ADDITION

IN THE EAST HALF OF NW QUARTER OF THE NW QUARTER OF SECTION 19,
T50N, R14W AND RE-ARRANGEMENT OF BLOCK 4, VILLAGE MALL
CITY OF DULUTH, ST. LOUIS COUNTY, MINNESOTA

BEARINGS REFERENCED TO:
ST. LOUIS COUNTY TRANSVERSE
MERCATOR 96 COORDINATE SYSTEM
GRID NORTH.

VACATED AREA BY RESOLUTION # 87-0780 (APPROVED 9/28/1987)
OF PLATTED MATTERHORN CIRCLE LYING NORTH OF CUL-DE-SAC
BETWEEN LOTS 5 AND 11, BLOCK 1.

PROPOSED STREET VACATION AREA -
PLATTED MATTERHORN CIRCLE.



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.

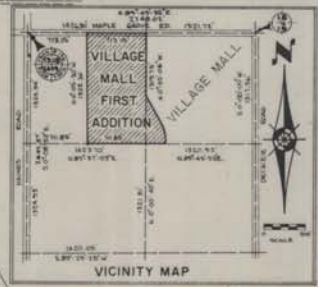
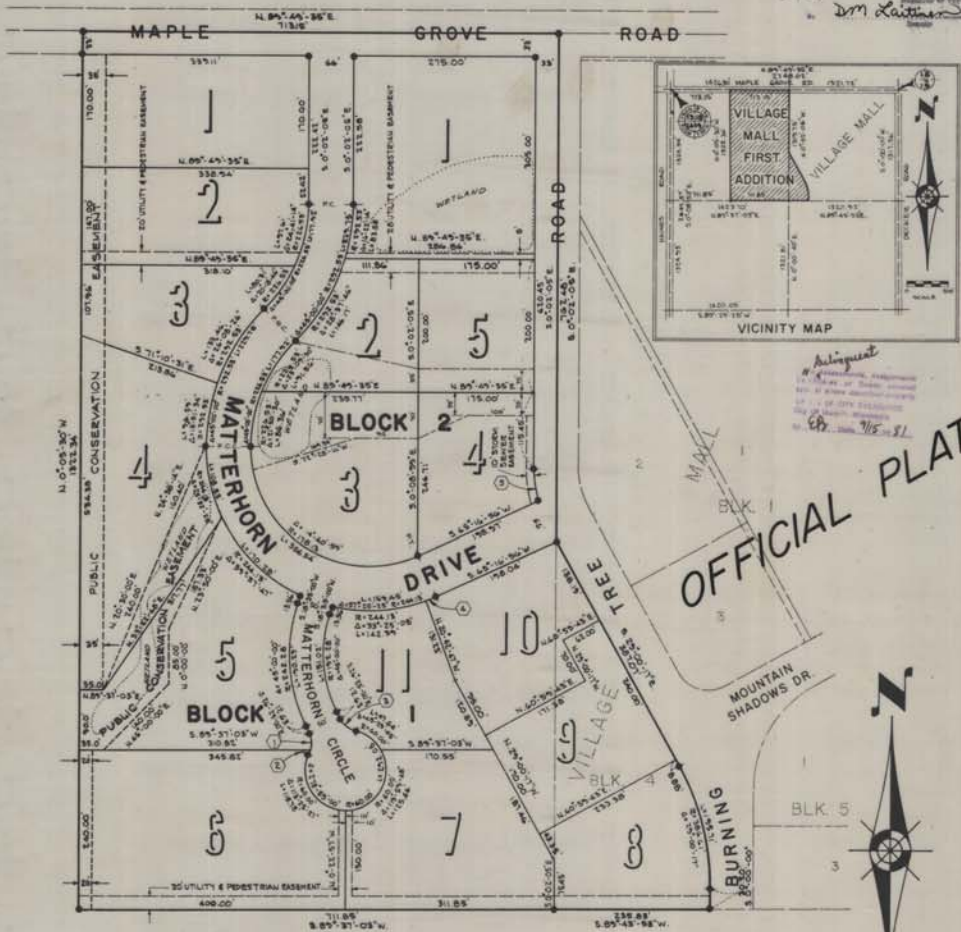
James T. Nelson Date: May 4th, 2017
James T. Nelson License Number: 49578

PLAT OF VILLAGE MALL FIRST ADDITION

IN THE EAST 1/2 OF THE NW 1/4 OF THE NW 1/4 OF SECTION 19,
T.50N., R.14W., & RE-ARRANGEMENT OF BLOCK 4, VILLAGE MALL,
DULUTH, ST. LOUIS COUNTY, MINNESOTA.

490520

OFFICE OF REGISTRAR
STATE OF MINNESOTA
COUNTY OF ST. LOUIS
I hereby certify that this plat
was filed in this office on
SEP 18 1981
at 3:17 PM
and that the duly registered
map is on file
600313
DM Laitinen
16
112



OFFICIAL PLAT

NO	Δ	X	L
1	40°-08'-01"	40.00	28.08
2	9°-18'-39"	40.00	6.50
3	49°-11'-30"	40.00	34.95
4	4°-00'-17"	244.15	17.04
5	14°-44'-07"	197.08	49.18

LEGEND

- IRON ROD
- BASEMENT
- PLAT BOUNDARY
- STRENGTHENED EXTENSION BASEMENT FOR BENEFIT OF PROPERTY OWNERS WITHIN THE PLAT. SEE DOCUMENT NUMBER 490520
- PUBLIC CONSERVATION EASEMENT TO BE RETAINED IN NATURAL STATE FOR TRAIL PURPOSES AND WATER RESTRICTION PURPOSES AS FURTHER DEFINED IN DOCUMENT NUMBER 490519



PLAT DEDICATION—VILLAGE MALL, FIRST ADDITION, DULUTH, ST. LOUIS COUNTY, MINNESOTA

KNOW ALL MEN BY THESE PRESENTS: That John W. Bodin, single, First Bank (N.A.), - Duluth-West, a United States Corporation and Sharon Labovitz and Joel Labovitz, her husband being the owners and proprietors and North American Life Assurance Company, a Canadian Corporation, First Federal Savings and Loan Association of Duluth, a United States Corporation and First National Bank of Duluth, a United States Banking Corporation, being the mortgagees of the following described property situated in the City of Duluth, County of St. Louis, State of Minnesota to wit: All of Block 4 of the recorded plat of Village Mall and the East Half of Northwest Quarter (E1/2 of NW1/4 of NW1/4), Section Fifteen (15), Township Fifty (50) North, Range Fourteen (14) West of the Fourth Principal Meridian according to the United States Government survey thereof, described as follows: Beginning at the Northeast corner of said East Half of Northwest Quarter of Northwest Quarter (E1/2 of NW1/4 of NW1/4) and said corner also being the Northwest corner of said recorded plat of Village Mall, thence South 0°-02'-05" East (assumed bearing), along the East line of said East Half of Northwest Quarter of Northwest Quarter (E1/2 of NW1/4 of NW1/4) and said line also being the West line of said recorded plat of Village Mall, a distance of 762.48 feet; thence South 29°-00'-17" East, along the Northeastly line of said Block 4, a distance of 307.07 feet; thence Southerly along the Easterly line of said Block 4, a distance of 195.71 feet, along a tangent curve concave to the Southwest, said curve has a radius of 208.61 feet and a central angle of 79°-00'-17"; thence South 0°-00'-00" along the East line of said Block 4, a distance of 30.20 feet; thence South 89°-43'-53" West, along the South line of said Block 4, a distance of 225.03 feet to the Southeast corner of said East Half of Northwest Quarter of Northwest Quarter (E1/2 of NW1/4 of NW1/4) and said corner also being the Southwest corner of said Block 4; thence South 87°-37'-03" West, along the South line of said East Half of Northwest Quarter of Northwest Quarter (E1/2 of NW1/4 of NW1/4), a distance of 711.85 feet; thence North 0°-05'-30" West, along the West line of said East Half of Northwest Quarter of Northwest Quarter (E1/2 of NW1/4 of NW1/4), a distance of 1322.34 feet; thence North 89°-49'-35" East, along the North line of said East Half of Northwest Quarter of Northwest Quarter (E1/2 of NW1/4 of NW1/4), a distance of 713.15 feet to the point of beginning, containing 23.45 acres of land, more or less, and being desirous of platting and rearranging the same into lots, streets, easements; no vehicular access shall be allowed onto Maple Grove Road from Lot 1, Block 1 and Lot 1, Block 2; have caused said land to be surveyed and the annexed plat thereof to be made in accordance with the statutes in such cases made and provided. Now, therefore, we do hereby ratify and confirm in all respects and said survey and plat thereof as VILLAGE MALL, FIRST ADDITION and sign, seal and execute the said plat and hereby dedicate to the public the use of the streets and easements, hereto delineated.

IN WITNESS WHEREOF: We herunto set our hand this 17th day of July, 1981.

OWNERS:
John W. Bodin, President, First Bank (N.A.) - Duluth-West
Sharon Labovitz, Secretary, First National Bank of Duluth
Joel Labovitz, Secretary, First National Bank of Duluth

MORTGAGEES:
North American Life Assurance Company, Ed. V. President, First Federal Savings and Loan Association of Duluth, Ed. V. President, First National Bank of Duluth
Mortgage Commissioner, Mortgages Commissioner, Mortgages Commissioner
Mortgage Commissioner, Mortgages Commissioner, Mortgages Commissioner
Mortgage Commissioner, Mortgages Commissioner, Mortgages Commissioner

State of Minnesota }
County of St. Louis }
The foregoing instrument was acknowledged before me this 17 day of July, 1981, by John W. Bodin, a single person.

State of Minnesota }
County of St. Louis }
The foregoing instrument was acknowledged before me this 17 day of July, 1981, by S. Bourdon, Pres. and E. E. Olson, Sec. of First Bank (N.A.) - Duluth-West, a United States Corporation, on behalf of the corporation.

State of Minnesota }
County of St. Louis }
The foregoing instrument was acknowledged before me this 22 day of July, 1981, by Sharon Labovitz and Joel Labovitz, her husband.

CANADA }
PROVINCE OF ONTARIO }
JUDICIAL DISTRICT OF YORK }
The foregoing instrument was acknowledged before me this 17th day of July, 1981, by J. H. Smith, Manager Mortgage Administration and J. H. Smith, Assistant Manager of North American Life Assurance Company, a Canadian Corporation, on behalf of the corporation.

State of Minnesota }
County of St. Louis }
The foregoing instrument was acknowledged before me this 17 day of July, 1981, by M. J. Kilroy, Ex. V. P. and J. T. Zelencik, V. P. & Sec. of First Federal Savings and Loan Association of Duluth, a United States Corporation, on behalf of the corporation.

State of Minnesota }
County of St. Louis }
The foregoing instrument was acknowledged before me this 20 day of July, 1981, by Dennis W. Dunne, President and Robert M. Soderberg, Secretary, of First National Bank of Duluth, a United States Banking Corporation, on behalf of the corporation.

I hereby certify that I have surveyed and platted the property described on this plat as VILLAGE MALL, FIRST ADDITION, that this plat is a correct representation of the survey, that all distances are correctly shown on the plat in feet and hundredths of a foot, and that there are no wet lands or public highways to be designated other than as shown.

State of Minnesota }
County of St. Louis }
The foregoing Surveyor's Certificate was acknowledged before me this 26th day of August, 1981, by Dale L. Bentsen, Minnesota Registration No. 13794.

Approved by the Planning Commission of the City of Duluth, Minnesota, at a regular meeting thereof, on the 22nd day of April, 1981.

Director, Dept. of Planning and Development