



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

File Number	PL 22-221	Contact	Chris Lee, clee@duluthmn.gov	
Type	Vacation of Platted Right of Way	Planning Commission Date		January 10, 2023
Deadline for Action	Application Date	December 26, 2022	60 Days	February 24, 2023
	Date Extension Letter Mailed	December 9, 2022	120 Days	April 25, 2023
Location of Subject		5910 Fremont Street. Platted and unimproved right of way of platted 5 <sup>th</sup> Avenue West currently known as 60 <sup>th</sup> Avenue W.		
Applicant	FAM Leasing Partnership	Contact	Terry Anderson	
Agent		Contact		
Legal Description		See Attached		
Site Visit Date	December 22, 2022	Sign Notice Date		December 27, 2022
Neighbor Letter Date	December 16, 2022	Number of Letters Sent		5

**Proposal**

The applicant is requesting to vacate the unimproved 66-foot wide platted right of way of 5<sup>th</sup> Avenue West per plat retaining a 30 foot portion on the north end adjacent to 5910 Fremont Street.

Staff is recommending approval with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	I-G	Contractor Lot	General Mixed Use
<b>North</b>	I-G	Towing Service	General Mixed Use
<b>South</b>	I-G	Undeveloped	General Mixed Use
<b>East</b>	I-G	Contractor Lot	General Mixed Use
<b>West</b>	I-G	Contractor Lot	General 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.

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;
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 #5** - Promote reinvestment in neighborhoods. The vacation will allow for the applicant to combine parcels owned either side of the unimproved right of way.

**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.

**History** – The adjacent properties have been used historically as a tar plant, a junkyard, and currently a contractor shop for EBI Drilling.

**Review and Discussion Items:**

Staff finds that:

1. The applicant is requesting to vacate an unimproved portion of the platted street 5<sup>th</sup> Avenue West currently known as 60<sup>th</sup> Avenue West as part of the West Duluth 4th Division, as shown on the attached exhibit.
2. The proposed vacation is 66 feet wide and 371 feet long. The platted right of way dead-ends on the south end.
3. The proposed vacation will help create larger lots for the applicant who owns the parcels on the east and west of the proposed vacated right of way. The vacation cleans up an unused right of way and grants the space that is already used by the adjacent owner.
4. There are no utilities located within the right of way.
5. The street is not needed by the City for the promotion of public health, safety, or welfare of the citizens of Duluth since City Engineering does not expect to need it in the future.
6. The City has determined that the rights of way are not needed for street or pedestrian use. Vacating the right of way will not impact or deny access to other property owners.
7. Other than City Engineering, no other public or City comments have been received at the time of drafting this report.
8. Vacations of rights of way 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.) The vacation must be recorded within 180 days of final approval by City Council or such approval will lapse.
- 2.) 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 administration approval shall constitute a variance from the provisions of Chapter 50.





PL22-221  
Vacation of Right of Way  
5910 Fremont St

**Legend**

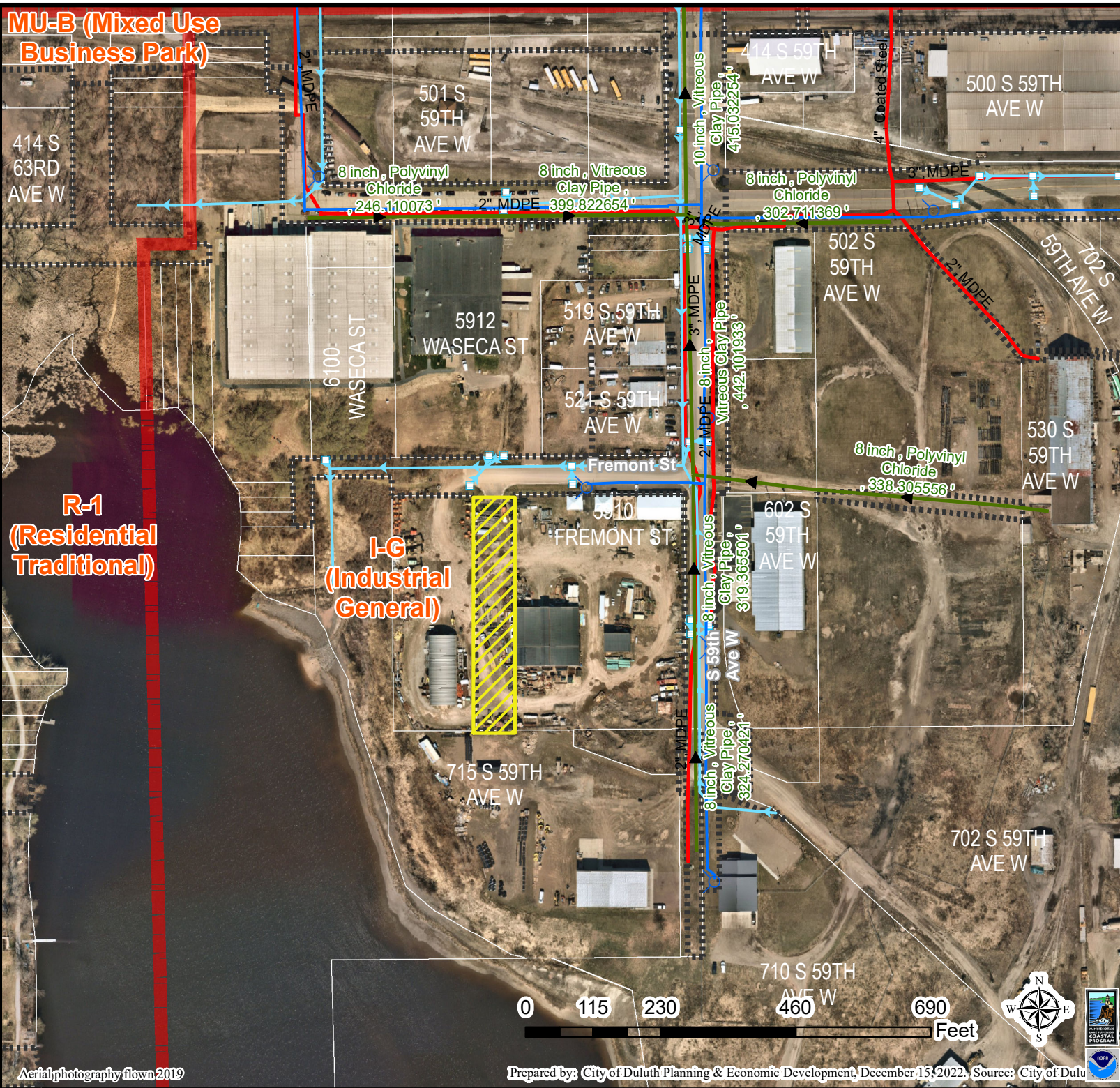
- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
  - CITY OF DULUTH
  - WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
  - Road or Alley ROW
  - Zoning Boundaries

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.

**MU-B (Mixed Use  
Business Park)**

**R-1  
(Residential  
Traditional)**

**I-G  
(Industrial  
General)**



Aerial photography flown 2019

Prepared by: City of Duluth Planning & Economic Development, December 15, 2022. Source: City of Duluth



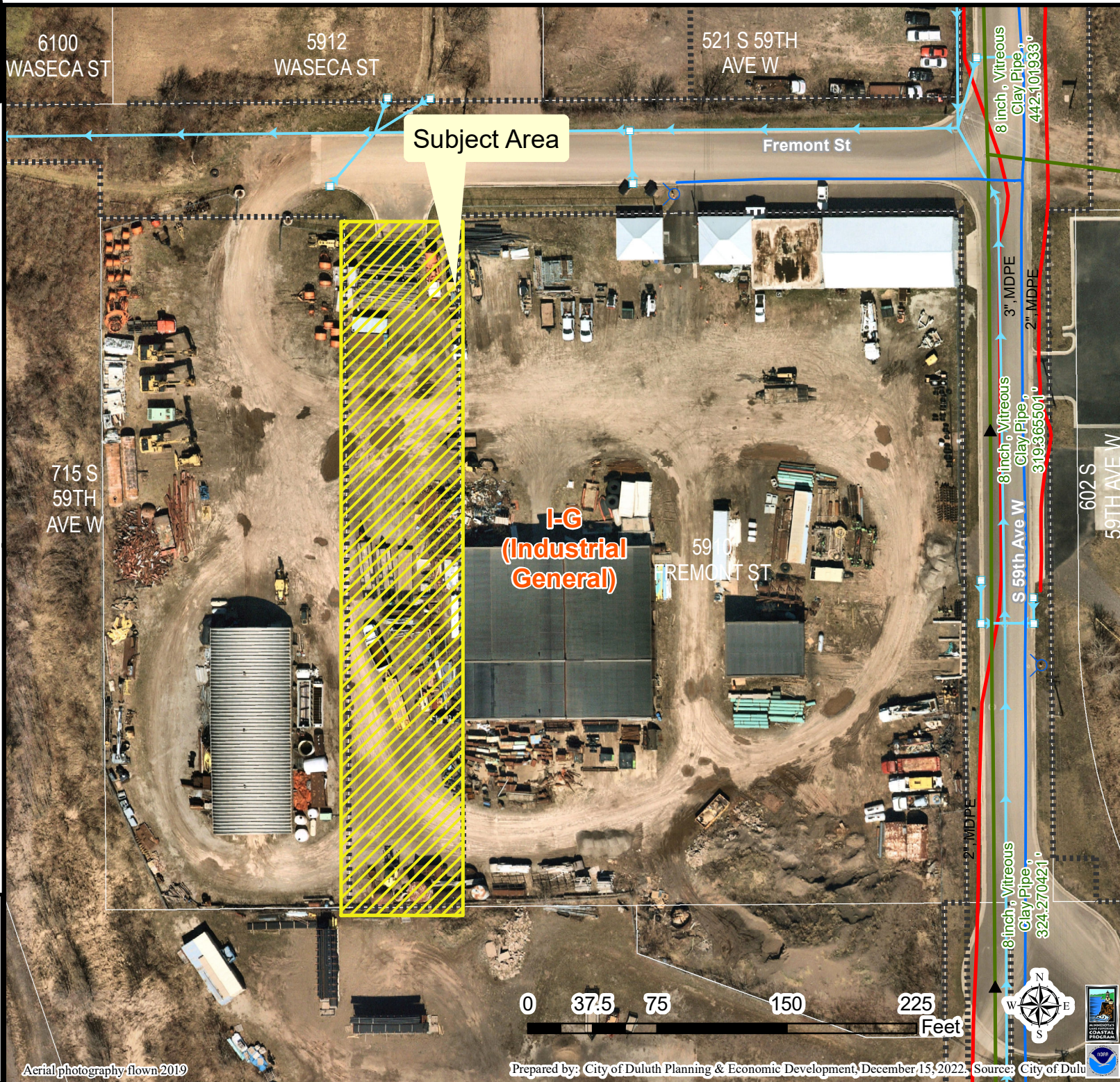


PL22-221  
Vacation of Right of Way  
5910 Fremont St

**Legend**

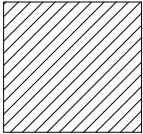
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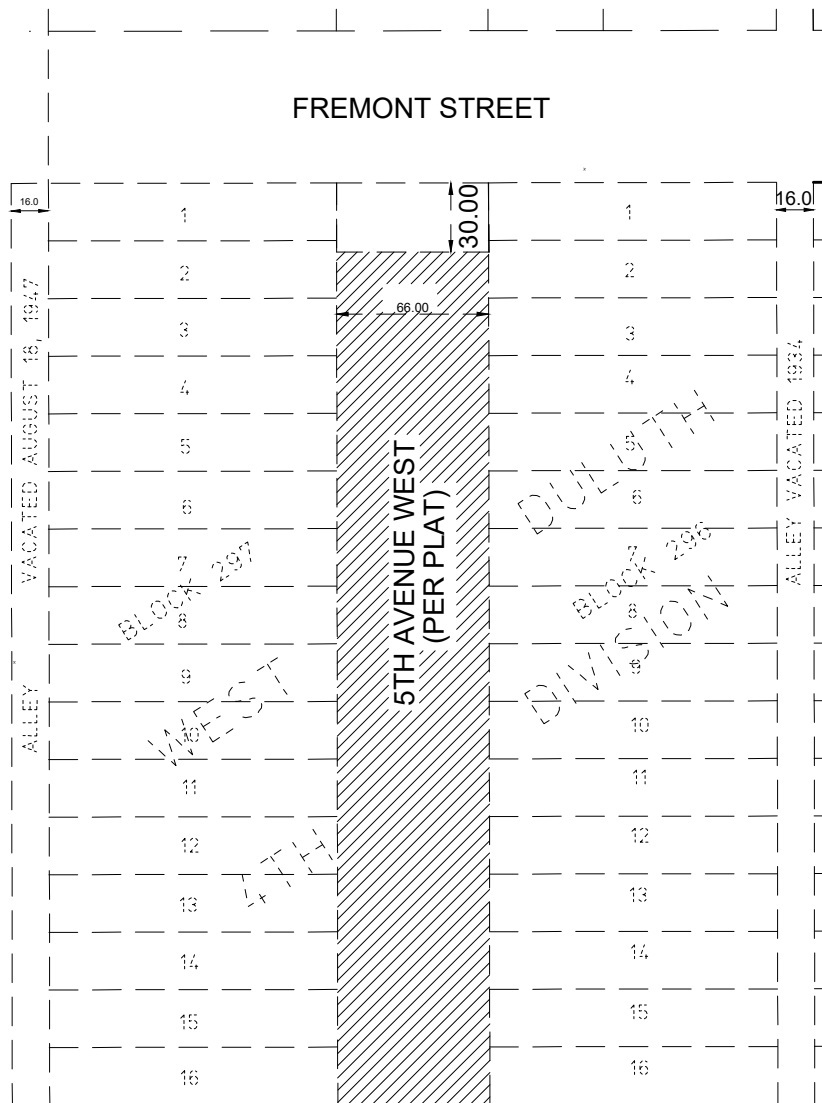
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# VACATION EXHIBIT

  
VACATION OF  
RIGHT OF WAY

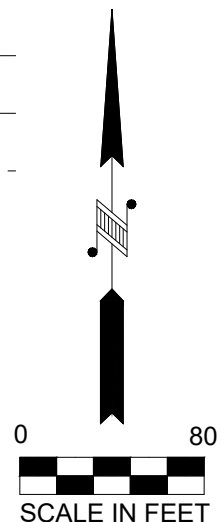


## LEGAL DESCRIPTION OF 5th AVENUE WEST TO BE VACATED

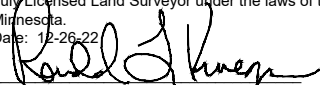
That part of 5th Avenue West which lies Southerly of the Westerly extension of the Northerly line of Block 296 and which lies Northerly of the Westerly extension of the South line of Block 296, West Duluth 4<sup>th</sup> Division, except the North 30.0 feet thereof.

Approved by the City Engineer of the City of Duluth, this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

By \_\_\_\_\_



DATE: 12/26/22  
SCALE: 1 IN = 80 FEET  
PROP ADD: XXX  
PROJECT NO: 22-049

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.  
Date: 12-26-22  
  
Ronald L. Krueger MN License No. 14374

**RON KRUEGER**  
Land Surveyor  
7066 HIGHWAY 8  
SAGINAW, MN 55779  
Phone: 218-390-4030



PLAT OF  
WEST DULUTH

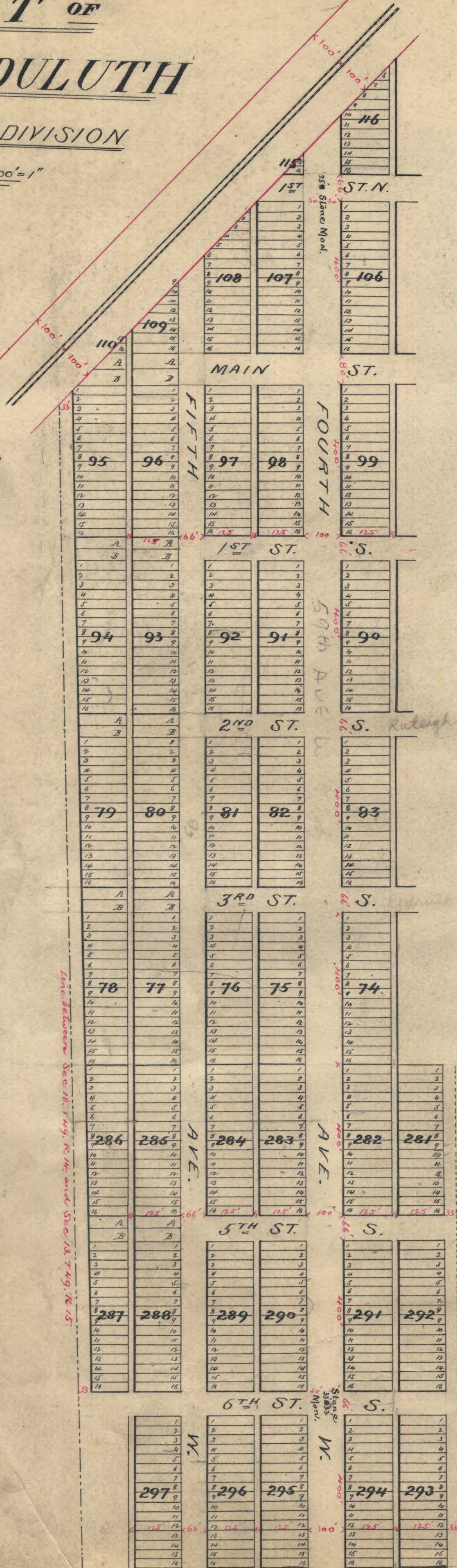
FOURTH DIVISION

SCALE 200' = 1"

Vacation #180495

Vacation #276940

Vacation #315203





I & J. Jointly &c. hereby certify that the same were made a  
mon of the property herein described and stated the same with lot blocks streets and all  
as herein shown. Dated at Duluth Minn Oct 12<sup>th</sup> 1888

In Presence of  
H C Wagner  
H H Myers

S J Jointly

State of Minnesota for I hereby certify that on the twelfth day of Oct 1888 before me personally  
County of St Louis appeared S J Jointly to me known to be the person who has signed  
the above certificate and he acknowledged said certificate and that there is to his own per  
act and deed.

H H Myers Notary Public

St. Louis County, Minn

State of Minnesota for I know all given by these presents that the West Duluth Land Company  
County of St Louis City of Duluth Minn being the proprietor of the following real estate in  
said County and State to wit: Lot Seven (7) and the West half of the North half of the quarter of  
Section Eighteen (18) and the Southwest quarter of the Southwest quarter of Section Twenty all in  
Town Six and Range Fourteen (14) West does hereby certify that it has caused  
and property to be plotted with lot blocks streets and all as herein made and described  
to be known and called "Plot of West Duluth Land Division" that it has placed monuments  
designated on the map to which this certificate is attached from which to make  
future surveys which monuments are of Red sand stone six inches by six inches  
by eight inches set in the ground between inches of the points designated in  
said map. In Witness Whereof the said West Duluth Land Company has caused this  
certificate to be signed and acknowledged by the hands of its Vice President and  
Secretary and its Corporate seal to be affixed at Duluth aforesaid this twelfth day of  
October A.D. 1888.

In Presence of  
H C Wagner  
H H Myers

Corporate Seal

West Duluth Land Company

By J R Myers Vice President

Attest O M Hammond Secretary

State of Minnesota for On this twelfth day of October 1888 before me appeared Jacob R  
County of St Louis Myers and Oscar A Hammond to me personally known who being  
one duly and legally sworn did say that the said Myers is Vice President of  
the West Duluth Land Company and that the said Hammond is Secretary of the same  
and that the said Myers and the said Hammond did say the seal affixed to said  
instrument is the Corporate seal of said Corporation and that said instrument was  
signed and sealed on behalf of said Corporation by authority of its Board of Directors and Board  
of Directors and the said Jacob R Myers and Oscar A Hammond acknowledged the  
said instrument to be the free and true deed of said West Duluth Land Company.

H H Myers Notary Public

St. Louis County, Minn

State of Minnesota for I hereby certify that the taxes on the above land as described  
County of St Louis are fully paid to date. Dated Duluth October 12<sup>th</sup> 1888

Seal

James R Smith County Auditor

or Alex Schott Def

Office of Register of Deeds

State of Minnesota for I hereby certify that the within Plot was filed in this office  
County of St Louis on the 12<sup>th</sup> day of Oct AD 1888 at 11 o'clock AM and was duly  
recorded in Book C of Plots page 6

Joseph Burke Jr Register of Deeds

By R A Leachard Deputy