



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 20-043 | | Contact | Chris Lee, clee@duluthmn.gov | |
| Type | Vacation of platted right of way | | Planning Commission Date | May 12, 2020 | |
| Deadline for Action | Application Date | April 13, 2020 | 60 Days | June 12, 2020 | |
| | Date Extension Letter Mailed | April 21, 2020 | 120 Days | August 11, 2020 | |
| Location of Subject | Platted avenue adjacent to 010-0410-00420, near Lake Avenue and Superior Street | | | | |
| Applicant | Minnesota Power | | Contact | Ken Ogston | |
| Agent | Danielle Erjavec, City of Duluth | | Contact | derjavec@duluthmn.gov | |
| Legal Description | See Attached | | | | |
| Site Visit Date | April 26, 2020 | | Sign Notice Date | April 28, 2020 | |
| Neighbor Letter Date | April 28, 2020 | | Number of Letters Sent | 63 | |

Proposal

Vacate a portion of Lake Avenue that was dedicated to the public as a street in the late 1800's, but has been unused for street purposes for over 30 years; Lake Avenue has been reconstructed on land adjacent to platted Lake Avenue.

Staff recommends approval with conditions.

| | Current Zoning | Existing Land Use | Future Land Use Map Designation |
|----------------|-----------------------|--------------------------|--|
| Subject | F-7/F-8 | MN Power Plaza | Open Space/Central Business Primary |
| North | F-7 | Commercial | Central Business Primary |
| South | F-8 | Commercial | Open Space/Central Business Primary |
| East | F-7 | Roadway/Bridge | Central Business Primary |
| West | F-8 | Commercial | Open Space |

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. 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 #8 – Encourage a mix of activities, uses, and densities.

Governing Principle #12- Create efficiencies in delivery of public services.

Zoning – Downtown Shopping (F-7), Downtown Mix (F-8).

Future Land Use – Open Space: High natural resource or scenic value, with substantial restrictions and development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls.

Central Business Primary: Encompasses a broad range of uses and intensities: Governmental campus, Significant retail, Entertainment and lodging, Opportunities for high - density housing, Central plaza, public/ open space, Public parking facilities

Related files: PL 20-042 - Concurrent Use Permit for Parking Structure

Review and Discussion Items:

Staff finds that:

1. The applicant is requesting to vacate an unused portion of platted Lake Avenue. This land was platted for public use in 1800's, but Lake Avenue was later built to the east of this area. This right of way has been unused for over 30 years.
2. The purpose is to give the owners of the property (Minnesota Power) access to the parcel for their underground parking garage.
3. A small portion of Lake Avenue is constructed in this right of way and Minnesota Power will grant an easement on that small portion for roadway purposes.
4. There is a stormwater pipe located within platted Lake Avenue and the property owner (Minnesota Power) will grant and convey a utility easement to the City of Duluth for the pipe, together with the right of access to said stormwater pipe.
5. One public comment was received in opposition to the vacation.
6. No other public or City comments have been received at the time of drafting this report (April 27, 2020).
7. 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 90 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

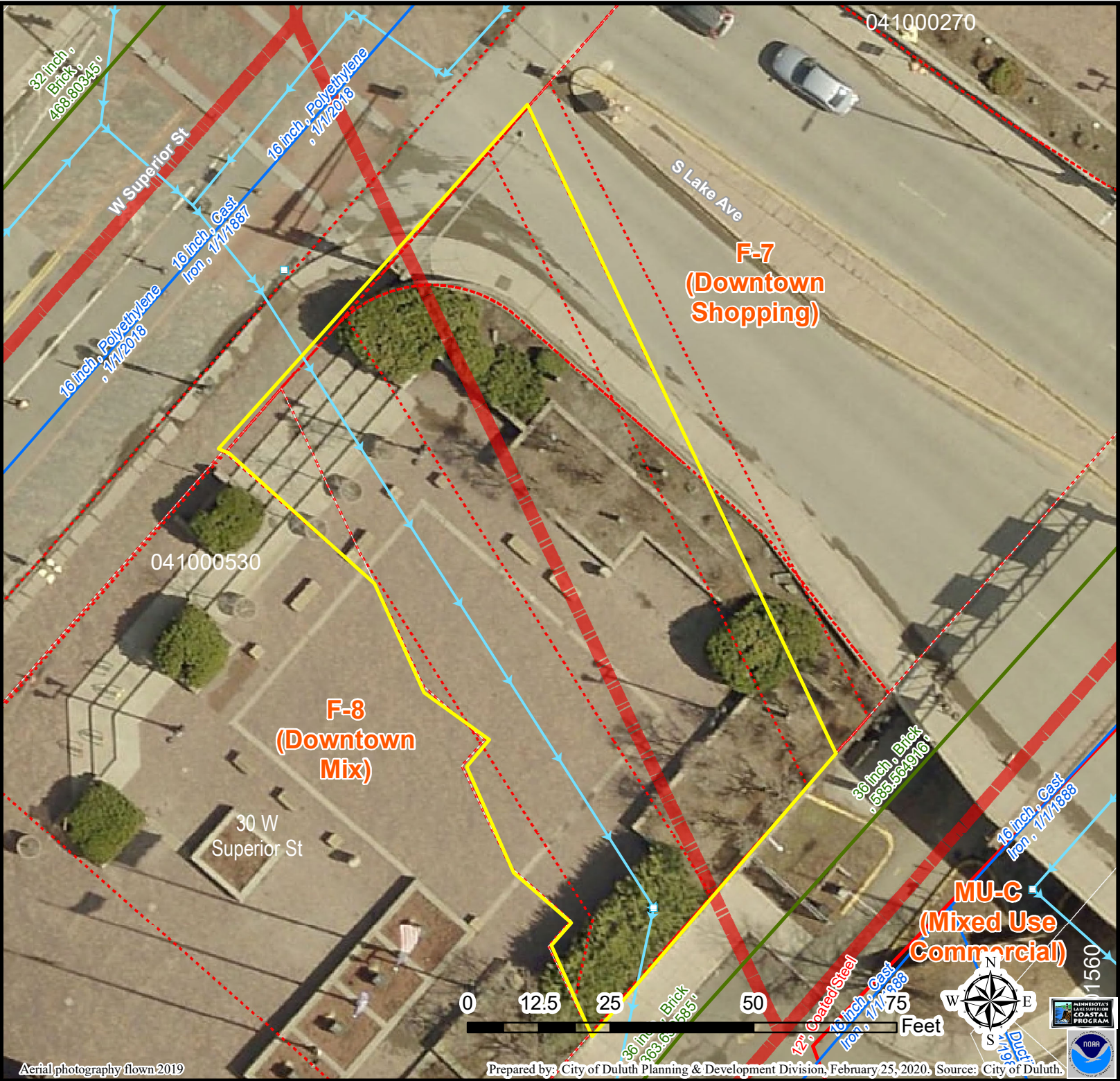


PL 20-043:
Vacation of Right of Way

Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
 - ▶ CITY OF DULUTH
 - WLSRD; PRIVATE
 - Sanitary Sewer Forced Main
- Storage Basin
- PS Pump Station
- Storm Sewer Mains
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
- Easement Type
 - Utility Easement
 - Other Easement
 - 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.



Aerial photography flown 2019

Prepared by: City of Duluth Planning & Development Division, February 25, 2020, Source: City of Duluth.



EXHIBIT A

DESCRIPTION :

ALL THAT PART OF LOT 4, BLOCK 4, CENTRAL DIVISION OF DULUTH, THAT LIES EASTERLY OF A LINE DRAWN THROUGH SAID LOT PARALLEL WITH AND FIFTY FEET DISTANT FROM THE WESTERLY LINE OF SAID LOT 4, ST. LOUIS COUNTY, MINNESOTA.

TOGETHER WITH

THAT PART OF PLATTED LAKE AVENUE IN THE CITY OF DULUTH, DESCRIBED AS FOLLOWS: BEGINNING AT THE MOST WESTERLY CORNER OF LOT A, BLOCK 3, CENTRAL DIVISION OF DULUTH; THENCE RUN SOUTHWESTERLY ALONG THE SOUTHWESTERLY EXTENSION OF THE NORTHWESTERLY LINE OF SAID LOT A TO ITS INTERSECTION WITH THE MOST NORTHERLY CORNER OF LOT 4, BLOCK 4, CENTRAL DIVISION OF DULUTH; THENCE RUN SOUTHEASTERLY ALONG THE NORTHEASTERLY LINE OF SAID LOT 4 TO THE MOST EASTERLY CORNER OF SAID LOT 4; THENCE RUN NORTHEASTERLY TO THE MOST SOUTHERLY CORNER OF BLOCK 3, CENTRAL DIVISION OF DULUTH; THENCE RUN NORTHWESTERLY ALONG THE SOUTHWESTERLY LINE OF SAID BLOCK 3 TO THE POINT OF BEGINNING, ST. LOUIS COUNTY, MINNESOTA EXCEPT THOSE PORTIONS OF VACATED LAKE AVENUE DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 4, BLOCK 4, CENTRAL DIVISION OF DULUTH, THEN NORTHERLY ALONG THE NORTHEAST LINE OF SAID LOT 4 A DISTANCE OF 17.00 FEET TO THE POINT OF BEGINNING; THENCE DEFLECT 66 DEGREES 46 MINUTES 00 SECONDS TO THE RIGHT AND PROCEEDING NORTHEASTERLY PARALLEL TO THE SOUTHEAST LINE OF SAID LOT 4 A DISTANCE OF 6.10 FEET; THENCE DEFLECT 90 DEGREES 00 MINUTES 00 SECONDS TO THE LEFT AND PROCEEDING NORTHWESTERLY A DISTANCE OF 14.20 FEET; THENCE DEFLECT 156 DEGREES 46 MINUTES 00 SECONDS TO THE LEFT AND PROCEEDING IN A SOUTHERLY DIRECTION ALONG THE NORTHEAST LINE OF SAID LOT 4 A DISTANCE OF 15.45 FEET TO THE POINT OF BEGINNING;

AND

COMMENCING AT THE SOUTHEASTERLY CORNER OF LOT 4, BLOCK 4, CENTRAL DIVISION OF DULUTH, THEN NORTHERLY ALONG THE NORTHEAST LINE OF SAID LOT 4 A DISTANCE OF 52.00 FEET TO THE POINT OF BEGINNING; THEN DEFLECT 66 DEGREES 46 MINUTES 00 SECONDS TO THE RIGHT AND PROCEEDING NORTHEASTERLY PARALLEL TO THE SOUTHEAST LINE OF SAID LOT 4 A DISTANCE OF 6.10 FEET; THENCE DEFLECT 90 DEGREES 00 MINUTES 00 SECONDS TO THE LEFT AND PROCEEDING NORTHWESTERLY A DISTANCE OF 14.20 FEET; THENCE DEFLECT 156 DEGREES 46 MINUTES 00 SECONDS TO THE LEFT AND PROCEEDING IN A SOUTHERLY DIRECTION ALONG THE NORTHEAST LINE OF SAID LOT 4 A DISTANCE OF 15.45 FEET TO THE POINT OF BEGINNING.

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.

Print Name: Paul A. Vogel License # 44075

Signature:  Date: 03/11/2020

VACATION

DATE PREPARED: 03/11/20

PROJ NO: 200217

FILE: 200217vEXHIB

SHEET 1 of 1 SHEETS



**PERFORMANCE
DRIVEN DESIGN.**

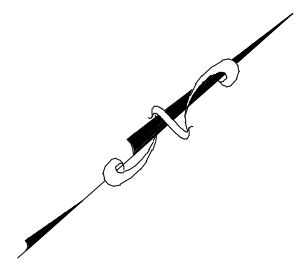
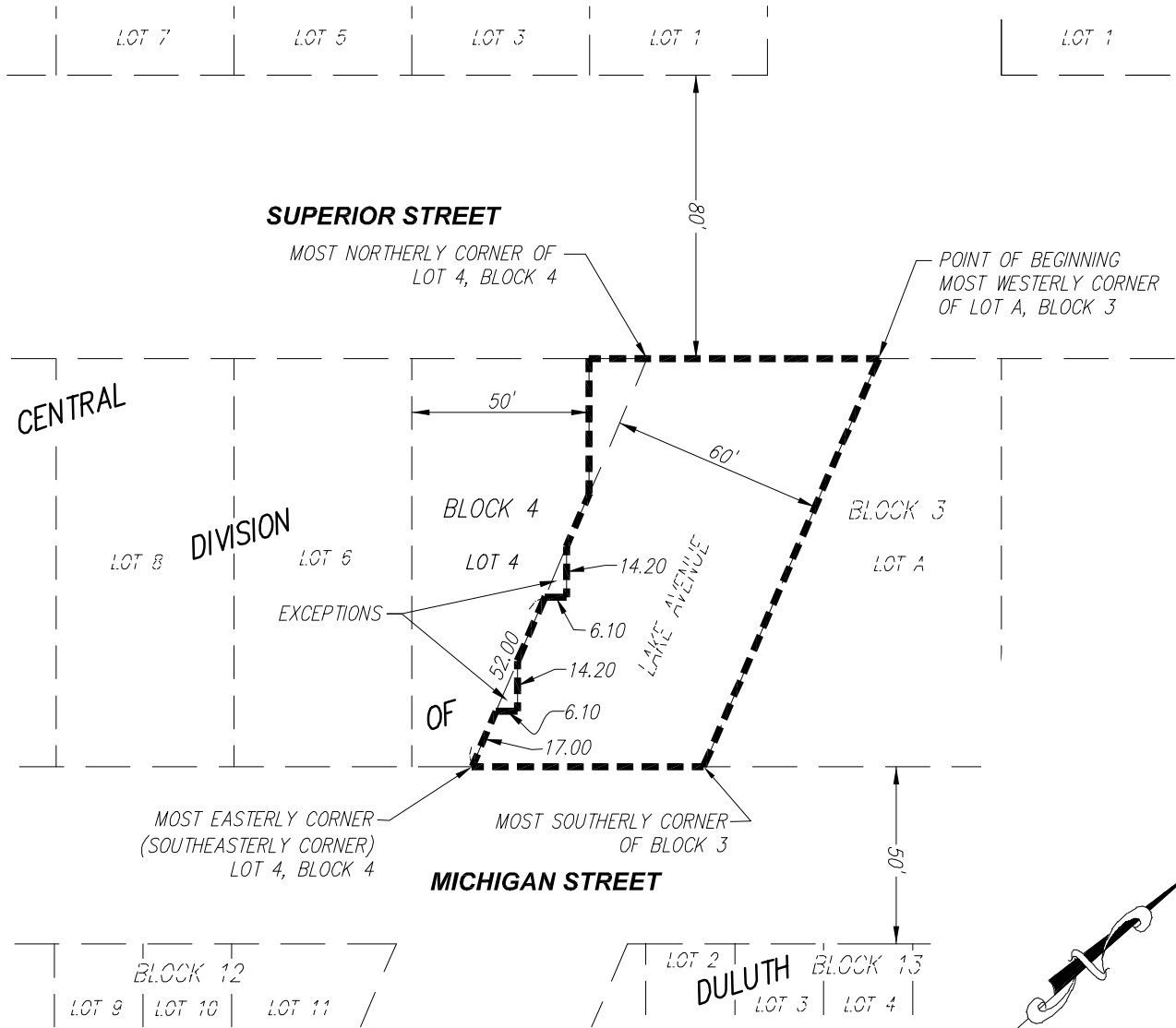
LHBcorp.com

21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.8446

EXHIBIT B

[Dashed Line] = AREA TO BE VACATED

APPROVED BY: _____
CITY ENGINEER



0 25 50
(SCALE IN FEET)

Basis of Bearing is Grid North,
St. Louis County Transverse
Mercator 96 Coordinate System.

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.

Print Name: Paul A. Vogel License # 44075

Signature:  Date: 03/11/2020

| |
|-------------------------|
| VACATION |
| DATE PREPARED: 03/11/20 |
| PROJ NO: 200217 |
| FILE: 200217vEXHIB |
| SHEET 1 of 1 SHEETS |



**PERFORMANCE
DRIVEN DESIGN.**

LHBcorp.com

21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.8446

From: [James Gittlemeier](#)
To: [Chris Lee](#)
Subject: PL 20-043 Vacation of Lake Ave comment
Date: Monday, April 27, 2020 4:23:40 PM

Hi Chris,

Thank you for the opportunity to comment. While this is not an “official” ARDC or MIC comment, I still would like to make a comment from the transportation planner perspective on PL 20-043 Vacation of Lake Avenue item:

The future needs of this Lake Avenue right-of-way are not fully clear today. What is clear, is that there is a need presently to better connect Downtown Duluth and Canal Park for people walking and bicycling and future micro-mobility modes. Where and/or how this better connection between Downtown and Canal Park can be made is under-determined at this time. The Lake Ave right-of-way is one potential connection point.

In addition, MnDOT will be conducting an I-35 study starting this year that will define the long term vision for the I-35 corridor through the entire City of Duluth. Without knowing what this vision will be, and how this thoroughfare will interact with Downtown and Canal Park in the future, I have great hesitation about vacating right-of-way that could potentially be needed back for unknown but reasonably anticipated transportation needs.

Thank you again.
James Gittlemeier