



MEETING AGENDA

Planning Commission Agenda

City Council Chambers, 3rd Floor Duluth City Hall
Tuesday, September 10, 2019 – 5:00 PM

Call to Order and Roll Call

Approval of Planning Commission Minutes (August 13, 2019)

Consent Agenda

1. PL 19-020 Concurrent Use Permit for Private Utility Work Under the Right of Way of Fourth Avenue East and East First Street, Related to the New Hospital Facility at 502 East Second Street by Essentia Health
2. PL 19-022 (Amendment to Previously Approved) Concurrent Use Permit for Private Utility Work Under the Right of Way of Fifth Avenue East, Related to the New Hospital Facility at 502 East Second Street by Essentia Health
3. PL 19-113 Concurrent Use Permit at 5401 E Superior Street by Spirit of the Lake Community School
4. PL 19-117 Interim Use Permit for Vacation Rental in the F-8 **"Downtown Mix"** District at 30 N 1st Avenue W, Jason Taly and Rachel Watson
5. PL 19-125 Interim Use Permit at 1004 Lake Avenue S by Steve Peters – Petra Properties, LLC

Public Hearings

6. PL 19-122 UDC Map Amendment to Rezone from Residential-Traditional (R-1) to Planned Residential (R-P) Property at the North of Marble Street, between North Robin Avenue and Stanford Avenue, by Lotus Realty
7. PL 19-112 UDC Map Amendment to Rezone From Rural Residential 1 (RR-1) to Mixed Use Commercial (MU-C) property at 4250 Haines Road by IGO Properties LLC
8. PL 19-116 Mixed Use Waterfront (MU-W) Planning Review for a Storage Structure at 800 W Railroad Street by Sandy Hoff
9. PL 19-128 Special Use Permit for a Hotel at 8721 W Skyline Parkway by Skyline Parkway Properties LLC

10. PL 19-119 Variance from Front Yard Parking, 420 N 15th Ave. E., Mark Jilek
11. UDC (Unified Development Chapter) Text Amendments
 - PL 19-107 Tiny Houses and Small Lot Development
 - PL 19-108 Tree Preservation, Craft Brewing and Distilleries, Temporary Structures and Shipping Containers

Communications

- **Manager's** Report
- PL 19-072 Spirit Lake Sediment Remediation EAW

Reports of Officers and Committees

- Heritage Preservation Commission Representative
- Joint Airport Zoning Board
- Midway-Duluth Joint Planning & Zoning Commission

Adjournment

City of Duluth
 Planning Commission
 August 13, 2019 Meeting Minutes
 Council Chambers - Duluth City Hall

Call to Order

President Janet Kennedy called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, August 13, 2019, in city hall council chambers.

Roll Call

Attending: Jason Crawford, Gary Eckenberg, Janet Kennedy, Tim Meyer, Margie Nelson, Michael Schraepfer, Sarah Wisdorf, and Zandra Zwiebel

Absent: Andrea Wedul

Staff Present: Adam Fulton, Robert Asleson, Steven Robertson, Kyle Deming, John Kelley, Chris Lee, Kaleb Montgomery, and Cindy Stafford

Presentations

1. Zenith Awards were presented by Former Director Keith Hamre. For supporting the community and implementing the values of the Imagine Duluth 2035 comprehensive plan, the sixth annual Zenith awards were presented to: Darren Jablinsky of Redstone Lofts LLC, for reuse of a historic structure at 15th Avenue East and Superior Street, Joe Kleiman for creative project design and adaptive reuse of a former filling station at the corner of Central Entrance and Arlington Road, and Luke Sydow for his nine years of service and expertise as a planning commissioner.

Approval of Planning Commission Minutes

July 9, 2019

MOTION/Second: Nelson/Wisdorf approve the minutes with changes

VOTE: (8-0)

Consent Agenda

2. PL 19-093 Interim Use Permit for a Vacation Dwelling Unit (Renewal of Existing Permit) at 1210 South Lake Avenue by Steve and Heather Pitschka
3. PL 19-094 Interim Use Permit for a Vacation Dwelling Unit (Renewal of Existing Permit) at 1535 South Lake Avenue by Steve and Heather Pitschka
4. PL 19-095 Interim Use Permit for a Vacation Dwelling Unit (Renewal of Existing Permit) at 1302 Minnesota Avenue by Steve and Heather Pitschka
5. PL 19-091 Minor Subdivision Dock 7 Lesure Street by Hallett Railroad Storage and Services LLC
6. PL 19-092 Minor Subdivision at 4215 Trinity Road by Michael Simonson
7. PL 19-097 Minor Subdivision at 1317 Minnesota Avenue by 1 LLC

(Item 8. Was removed from the consent agenda for an added condition)

Staff: N/A

Applicant: N/A

Public: N/A

Commissioners: N/A

MOTION/Second: Eckenberg/Nelson recommend approval of the consent agenda items (items 2 – 7) **as per staff's recommendations.**

VOTE: (8-0)

8. PL 19-101 Concurrent Use Permit for a Monitoring Well at 4609 Grand Avenue

Staff: N/A

Applicant: N/A

Public: N/A

Commissioners: Zandra Zwiebel asks how long the monitoring well be in use. The applicant's representative stated indefinitely. Zwiebel would like to add a condition stating the monitoring will be removed once the project is complete and/or there is no longer a need for the monitor.

MOTION/Second: Zwiebel/Wisdorf recommend approval with the added condition that the monitoring well be removed once the project is complete.

VOTE: (8-0)

Public Hearings

9. PL 19-072 Spirit Lake Sediment Remediation Project Environmental Assessment

Worksheet (EAW) – Public Comment

Staff: Kyle Deming gives an overview.

Applicant: N/A

Public: Tom Arbour is a member of the Lake Superior Railroad. He asked who completed the EAW. Deming notes the city did with the help of a consultant. Arbor asks **where he can get a copy. Deming notes it's on the city's website, and he will assist him** in finding it.

Commissioners: Chair Kennedy asks how much longer the comment period stays open. Per Deming the comment period ends on August 21, 2019.

MOTION/Second: N/A – opportunity for oral comments. The decision on the need for an EIS is anticipate to be made at **the planning commission's September 10, 2019** meeting

10. PL 19-103 Variance from Form District Standards (Occupied Space for Parking Ramps/Areas) for a New Structure at 2102 West Superior Street by Rachel Development

Staff: **John Kelley introduces the applicant's proposal for a variance from the occupied** space setback for a multi-family apartment building in an F-5 (Mid-Rise Community Shopping and Office) zone district. One letter was received and shared with the commissioners in opposition of the variance. Staff recommends approval with the conditions listed in the staff report.

Applicant: Patrick Cruikshank (agent for Rachel Development) addresses the commission. A retail shop front façade will be mimicked to fit the neighborhood. He welcomes questions. He notes the importance of housing in the community, and the benefits of housing to support existing retail in the community.

Gary Eckenberg asks if they have had contact with the business community in the neighborhood. Cruikshank notes the owner is from the cities, but they are smitten with the Lincoln Park neighborhood. Their next step is community outreach. Eckenberg notes the comment they received regarding having businesses on the lower level. Cruikshank notes this is located in an opportunity zone to bring revitalization back into the area. He thinks housing is missing from this specific area. Housing is their niche, and notes city staff has been supportive. The design will look like retail from the street, including the use of staggered doors and canopies. He thinks it enhances the rest of the retail area. Tim Meyer asked if they looked at creating retail on the ground level. Cruikshank noted if they invited retail to the space, they would have to significantly increase their rental pricing. Meyer asks if they would consider it in the future, if it becomes financially feasible. Cruikshank states **there is potential later down the road, but doesn't know if it will be possible.**

Eckenberg asks staff to show the site plan and questions the plans along Superior Street. Cruikshank points to the additional facades. Eckenberg clarifies the fitness center and parking would be for tenants only. Cruikshank affirms. The market is asking for studio apartments and 1-bedroom apartments. There will be a total of 81 rooms (which includes some 2-bedroom units) and 86 parking stalls. Their studios are 450-500 square feet. **They don't have any micro units, which can be as small as 200 feet.** Eckenberg asks if the apartments will be market rate. Cruikshank states they are working with the city to reduce rent on some of the studios to make it more affordable. They are still working out the plans with the city.

Margie Nelson asks if the project is seeking other public assistance. Cruikshank states to move the project forward this component **is the only variance needed. They don't** have any other public money secured. Interim Director Fulton notes the intent to seek a TIF district, which would be a future consideration.

Zwiebel comments that she appreciates the parking for the tenants. She notes the empty lot next to the proposed development, could it be used for additional public parking? Cruikshank states someone else owns the land, and is currently utilizing it. Zwiebel appreciates the efforts the applicant is making, and notes it's not uncommon not to have retail on the lower level and notes the Lambert project.

Public: Tom Hanson, 2210 W. 13th St., is excited to see this new project. He drives and walks between Duluth Grill and 19th Avenue West every day. There are still vacant buildings available. He welcomes change, and thinks they need provide housing for growth.

Jodi Slick, Eco 3, 2014 W. Superior St., addresses the commission. They are the GDC of Lincoln Park. They support revitalization in the neighborhood. This was an emerging district five years ago. The next big step is new construction and this new project supports this. It would be ideal if there was retail on the bottom, but the design efforts to create a pleasant façade for walkability is appreciated. There is risk to organic growth if they were to bring in box-retail.

Jon Aamodt, Northland Consulting Engineers, adjacent property owner addresses the commission. He is in support of the project. He feels parking for development should be on top of the list. Pam Kramer, 720 E. 4th St. of LISC, **addresses the commission. It's**

important to have people living in the community. The proposal maintains flexibility for the future, and has a positive appearance for walkability. She is in support of the project. She thinks this can take Lincoln Park to the next level, and urges commissioners to support.

Commissioners: Michael Schraepfer thinks store frontage is important, but this makes a positive impact, and he appreciates this process. Eckenberg has lived in Lincoln Park for 44 years. He finds this development thrilling.

MOTION/Second: Zwiebel/Eckenberg approved **as per staff's** recommendations.

VOTE: (8-0)

(President Kennedy left during the next item. Vice-President Nelson takes over chair duties)

11. UDC Map Amendments to Rezone into Conformance with Imagine Duluth 2035
 -PL 19-109 Rezone from Rural Residential 1 (RR-1) to Mixed Use Business Park (MU-B)
 -PL 19-110 Rezone from Rural Residential 1 (RR-1) and Residential Traditional (R-1) to Mixed Use Business Park (MU-B)

Staff: **Steven Robertson introduces the city's proposal to rezone property from the** current zoning of Rural Residential (RR-1) and Residential – Traditional (R-1) to Mixed Use Business (MU-B) as per Imagine Duluth 2035 Comprehensive Plan. Staff recommends approval. Sarah Wisdorf asks how many existing single-family dwellings are there. She asks if they will be effected by new development and will buffering be required? Robertson states that current homes will be legal non-conforming. Buffering will be required according to the new zoning, but be required of new developments or projects, not required from existing legal structures or uses.

Applicant: N/A

Public: Jeremy Cash, 1503 99th Ave W., addresses the commission. He feels the River side of the railroad should remain residential. He is opposed to the rezoning.

Elliot Zurich, 15 Drava Ct., addresses the commission. He **lived in Duluth since the 60's**. He bought his home in 1988. He is opposed to the rezoning. New development includes **Dollar General. This is a mile from Gary. He doesn't feel new commercial will be added**, but thinks a special use for garbage disposal for Veit could be. He feels it will devalue his property and is opposed.

Chair Kennedy asks if this is tax-forfeit land for sale. Robertson usually county is eager to sell land, but could take years. Tim Granquist, 11818 Becks Rd., addresses the commission. He notes the land is state land, not tax-forfeit. He questions what has changed. Per Robertson, this area is a natural fit to change to business park. Interim Director Fulton notes this land is not for sale, it is a rezoning. The speaker is concerned about the value of his property. Per Robertson, usually commercial property will increase the value of property. There are no proposals at this time.

Jason Crawford notes land classified as state of Minnesota land can still be tax forfeited land. City Attorney, Robert Asleson notes this is not an issue of **ownership, it's an issue** of zoning. The property can be owned by the state. The land is owned by the state, but is administered by the county.

Commissioners: Zwiebel would like to table to resolve the neighbors' concerns. She made a motion to table, but there was no second.

MOTION/Second: PL 19-109: Eckenberg/Meyer **recommend approval as per staff's** recommendations.

VOTE: (6-1, Zwiebel Opposed)

MOTION/Second: PL 19-110: Meyer/Crawford **recommend approval as per staff's** recommendations.

VOTE: (6-1, Zwiebel Opposed)

12. PL 19-100 Mixed Use-Commercial Planning Review for a New Retail (Liquor) Store at 202 North Central Avenue by Miners Incorporated

Staff: **Chris Lee introduces the applicant's proposal for the construction of a new** 11,280 square foot liquor store in the location of an existing liquor store and office building. Both existing buildings will be razed. Staff recommends approval with the four conditions listed in the staff report.

Applicant: John Geissler of DSGW Architects addresses the commission. He gives an overview and invites questions. Zwiebel notes the drive through. Will it stay the same? It will be similar, but the design will be improved, and will take away the traffic confusion.

Public: No speakers.

Commissioners: Zwiebel asks about the landscaping credit. Will it be equal to 125%?

Per Lee, they are making it equivalent to the landscaping itself.

MOTION/Second: Zwiebel/Crawford approved **as per staff's** recommendations.

VOTE: (7-0)

13. PL 19-082 Special Use Permit at 1028 E. 8th St. by Therese E. Gruba/New Hope for Families

Staff: **Chris Lee introduces the applicant's proposal to open a new daycare and** preschool in a former church building. The daycare will provide space for up to 8 infants and 14 toddlers while the pre-school will house up to 20 students. There will also be assembly space to allow the Ministry to provide faith-based services that include counseling and visitation for foster families among other accessory uses. Staff recommends approval with the two conditions listed in the staff report. Wisdorf asks about the hours **of operation. Are there restrictions? Lee it's tough to limit a daycare due** to operation. It impacts the operation more to have set pick-up times. The foster care is part of the faith-based ministry.

Applicant: Therese Gruba of New Hope for Families is present, and will answer any questions. There are none.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Eckenberg/Meyer approved **as per staff's** recommendations.

VOTE: (7-0)

14. PL 19-096 Interim Use Permit for a Vacation Dwelling Unit (New) at 5801 Grand Avenue (located in form district F-3) by Tanya and Ryan Templer

Staff: **John Kelley introduces the applicants' proposal to use the upper floor of an** existing commercial building with two apartments as a vacation rental property. Each apartment contains one bedroom. A vacation dwelling unit allows for periods of occupancy of 2 to 29 days. Staff recommends approval with the conditions listed in the

staff report. Nelson asks if there are there 2 permits, or are they lumped together? Per Kelley they are accepting one application for both units due to the form district status.
 Applicant: Tanya and Ryan Templer present.
 Public: No speakers.
 Commissioners: N/A
 MOTION/Second: Crawford/Meyer **recommend approval as per staff's** recommendations.

VOTE: (7-0)

15. PL 19-070 Vacation of Right of Way along Bessemer St. by the City of Duluth
 Staff: **John Kelley introduces the city parks department's proposal to vacate portions of the platted right-of-way of 84th Avenue West, 85th Avenue West, Bessemer Street and Alley's while retaining a pedestrian and utility easement over a portion of the vacated area of 85th Avenue West. Staff recommends approval with the condition listed in the staff report. Wisdorf notes error of the location in the staff report. Per Kelley, it was caught and the commissioners were sent an email.**
 Applicant: N/A
 Public: No speakers.
 Commissioners: N/A
 MOTION/Second: Zwiebel/Wisdorf **recommend approval as per staff's** recommendations.

VOTE: (7-0)

16. PL 18-133 Shoreland Variance at 2512 Providence Rd. by Aaron and Lori Davis
 Staff: Chris Lee introduces the **applicants' proposal for a variance from UDC requirements which mandate a 150' structure setback for construction in proximity of a branch of Miller Creek. The applicant is proposing to reconstruct an existing deck from (originally 10' x 10') to 12' x 16' to their single family house. They are requesting to reduce the setback from 150' to approximately 93'. Staff recommends approval with the two conditions listed in the staff report. Eckenberg notes the home was built in 1990. Other decks are located closer to the setbacks. Per Lee the shoreland setbacks are new since 1990. The south home has a deck which is similar, which did not require a variance at the time.**
 Applicant: N/A
 Public: No Speakers.
 Commissioners: Zwiebel asks about the rain gardens. In 2018 their plan was to keep **the area more natural. She notes she isn't concerned about decks because it's impervious, but doesn't like a rain garden noted if it won't be added.** Per Lee, staff will follow up with the applicant.
 MOTION/Second: Wisdorf/Eckenberg approved **as per staff's recommendations.**

VOTE: (7-0)

17. PL 19-087 Variance to Rebuild Damaged Structure in Rear Yard Setback in an R-1 Zone District at 1509 99th Avenue West by Betty Knapp (Norton)
 Staff: Kaleb Montgomery **introduces the applicant's proposal for a rear yard setback variance to rebuild the interior of a nonconforming structure from recent fire damage where rear yard setback requirements are 25 feet, and the proposed setback is 7.21 feet for the northwest corner to the rear property line and 7.38 feet from the southwest corner to the rear property line. Staff recommends approval with the conditions listed in**

the staff report. Zwiebel noted the application was received in time. Montgomery affirms. Zwiebel asks if there is a time limit for them to obtain the building permit. If not there should be. She asks what enforcement will be in place to make sure the property is free of debris. Per Montgomery there is no time limit and Life Safety would follow up on debris issues. Nelson if this variance is not granted. What would happen?

Montgomery notes if the application was not received, a condemnation for demolition would have been put into place. Zwiebel asks about the fire escrow amount.

Montgomery notes the value is assessed by 25% of the assessed damage to the home. Interim Director Fulton notes the fire escrow is held by the city, which was allotted from the insurance company.

Applicant: Betty Knapp (Norton) addresses the commission. She notes the debris is cleaned up on the property. She currently lives 60 miles from the property, so has had a **rough time. Zwiebel asks if the applicant will move back to the property once it's fixed up. Knapp (Norton) affirms. Eckenberg asks if its' currently condemned.** Montgomery affirms. Knapp (Norton) states nobody is living there currently. Eckenberg notes they received comments from neighbors talking about police calls. Per Montgomery it was due to abandoned vehicles and debris.

Public: Jeremy Cash, 1503 99th Ave. W., addresses the commission. He lives next door to the property, and has made a police call on the folks that were living there. The **applicant's son has been living at the property since the fire. They are burning their garbage while they are staying there.** He opposes the variance, and thinks the home should be torn down.

Roberta Bourassa, 1518 Commonwealth Ave., addresses the commission. She lives across the alley. She questions why it took so long to be addressed. There are people living there with no water or sewer. She is concerned about rodents.

Toni Beals, **lives in Finlayson (applicant's son's girlfriend)**, addresses the commission. **She notes they don't live there, but are there to clean up the property. She is in support of the variance.**

Ms. Berich, 1519 99th Ave W., address the commission. She thinks people are living there, and notes traffic early mornings and late nights. She opposes the variance.

Commissioners: **Zwiebel notes the neighbor's letters in the staff report. She feels the applicant is taking the proper steps to get her home back.** Meyer would like to add an additional time frame for construction finish. Schraepfer is supportive. Wisdorf also supportive, but asks what happens if the conditional time frame is not met. Interim Director Fulton notes a condition on the front end is doable.

MOTION/Second: Zwiebel/Schraepfer approved **as per staff's** recommendations with added condition that the building permit be submitted by September 30, 2019.

VOTE: (5-2, Meyer and Nelson Opposed)

18. PL 19-098 Variance from Front Yard Structure Setback in an R-1 Zone District at 1030 South 71st Avenue West by Richard Erickson
Staff: **Kaleb Montgomery introduces the applicant's proposal for a variance to rebuild the front porch.** The front yard setback requirement is 25 feet, while the proposed setback would be 13 feet from the home to the front property line. According to the applicant it **"would extend the roof line from the primary gable to the front façade of the home in order to increase bedroom square footage for standing room without adding to**

the impervious area of the property.” Staff recommends approval with the conditions listed in the staff report.

Applicant: **Applicant’s contractor present and invited questions. There are none.**

Public: No speakers.

Commissioners: Meyer asks staff what the practical difficulty is. Montgomery notes the layout and the location of the kitchen.

MOTION/Second: Wisdorf/Zwiebel approved **as per staff’s** recommendations.

VOTE: (6-1, Meyer Opposed)

19. PL 19-099 Variance from Front Yard Parking Standards at 4002 London Road by Ecumen Lakeshore

Staff: **Kyle Deming introduces the applicant’s proposal for a variance to construct 24** off-street parking spaces between the principle structure and London Road. Staff recommends approval with the conditions listed in the staff report. Wisdorf asks about stormwater. Per Deming, they will treat it with a sediment control system.

Applicant: Blaine Gamst (Executive Director) of Ecumen Lakeshore addresses the commission, and Tom DesMarais, Civil Engineer, of Northland Consulting Engineers LLP address the commission and invite questions. There were none.

Public: No speakers.

Commissioners: Zwiebel feels this is good fit, and notes the turf grass, and adding shrubs and parking is great.

MOTION/Second: Eckenberg/Zwiebel approved **as per staff’s** recommendations.

VOTE: (7-0)

Other Business

Discussion - UDC (Unified Development Chapter) Text Amendments, -PL 19-107 Tiny Houses and Small Lot Development and PL 19-108 Tree Preservation, Craft Brewing and Distilleries, Temporary Structures and Shipping Containers

Steven Robertson gives an overview. Tiny houses focusing on flexibility with tiny lots, and among other things, reduces the minimum side yard setback to help promote redevelopment of small lots. Taking out a minimum square footage requirement for a two-family dwelling is also proposed. He also notes cottage housing development language, as a more flexible alternative **to “planned developments”**. He added that this may be a more approachable way for small developments to reuse sites such as parking lots, to allow for groovy housing options. He also stated that the current language on shipping containers would remain, but be further clarified.

Zwiebel asks if they want comments now. Robertson notes they can have another brown bag to discuss before Septembers meeting. Zwiebel notes the shipping container language and feels 14 days may not be enough.

Todd Meyer 4242 MN Ave. comments he approves on the shipping container language. He **thinks they are an eyesore and don’t belong in someone’s front yard.**

Jesse, 5326 Glendale St., addresses the commission. He is a proponent for tiny houses. The **ability to move around is a plus. He doesn’t like the requirements for foundations. Interim**

Director Fulton notes needed connections to sewer and water and maintaining sanitation aspect.

Communications

- **Manager's Report** (Verbal) – Per Interim Director Fulton notes at the next planning commission meeting, staffing within the department will be discussed. The **Mayor's** Housing Task Force will be announced. The city flag is moving forward and will be in the news in the next few days.

Reports of Officers and Committees

- Heritage Preservation Commission Representative – Wisdorf notes **they didn't meet.**
- Joint Airport Zoning Board – Nelson notes **they didn't meet.**
- Midway-Duluth Joint Planning & Zoning Commission – Per Interim Director Fulton, Kennedy did attend. They broadly talked about land use and annexed area by Midway township.

Adjournment

Meeting adjourned at 8:30 p.m.

Respectfully,

Adam Fulton – Interim Director
Planning and Economic Development



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 19-020	Contact	Steven Robertson	
Type	Concurrent Use Permit	Planning Commission Date	September 10, 2019	
Deadline for Action	Application Date	August 2, 2019	60 Days	October 8, 2019
	Date Extension Letter Mailed	August 23, 2019	120 Days	December 7, 2019
Location of Subject	4 th Avenue East, and East 1 st Street			
Applicant	Essentia Health	Contact	Scot Ramsey, Vice President Facilities	
Agent	LHB	Contact	Evan Aljoe, Healthcare Studio Lead	
Legal Description	See Attached	Sign Notice Date	August 27, 2019	
Site Visit Date	September 2, 2019	Number of Letters Sent	N/A	

Proposal

The applicant is seeking a concurrent use permit to construct private underground utilities within the public right-of-way of Fourth Avenue East and East First Street, for electrical power conduits from their project to new Minnesota Power transformers.

Staff Recommendation

Staff is recommending Planning Commission recommend approval to the City Council.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-I	Medical	Medical District
North	MU-I	Medical	Neighborhood Mixed Use/Urban Res.
South	F-8	Highway/Commercial	Tourism/Open Space
East	MU-N/MU-I	Residential	Urban Residential
West	MU-I/F-5/F-8	Commercial	Central Business Primary/Secondary

Summary of Code Requirements

UDC Section 50-37.7C. The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.

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

Principle #5 -Promote reinvestment in neighborhoods.

Duluth is strongly defined by its neighborhoods. This system should be supported through land use and transportation that foster neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the neighborhood's character.

Governing Principle #8 - Encourage mix of activities, uses and densities

Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide.

Future Land Use

Future Land Use Institutional. Applicable to medical, university/college, public school, religious, or governmental campuses. Can include adjacent areas that support them, with related commercial and/or office uses, and residential uses in the fringe areas of the district.

Review and Discussion Items:

- 1) The applicant is seeking a concurrent use permit to construct private underground utilities within the public right-of-way of Fourth Avenue, to provide electrical duct banks from the existing emergency generators. This application is related to the MU-I Planning Review (PL 19-018) for the new 940,000 square foot medical facility proposed by Essentia Health.
- 2) The area proposed for the concurrent use permit will not take away from the public's ability to use the public right-of-way, nor will it harm or inconvenience the health, safety and general welfare of the city.
- 3) Concurrent use permits are approved by the City Council via an ordinance. Unlike street right-of-way vacations, concurrent use permits are not recorded at with St. Louis County as they are voidable agreements between the City and property owners. City engineering has reviewed and approved the exhibits.
- 4) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against all occurrences in the right-of-way. Other protections for the city and the public are typically included in the ordinance that is submitted for the City Council's review. The ordinance will require that the project proposer will locate any underground items in accordance with Gopher State One Call rules, and that the city will bear no responsibility for locating any facility related to the concurrent use permit except as it is legally responsible under the Gopher State One Call rules.
- 5) No comments were received from the public or other government agencies at the time this staff report was written (September 3, 2019), other than technical comments/corrections to the exhibits.
- 6) A condition of earlier zoning applications was that Essentia Health locate any private improvements in accordance with Gopher State Once Call rules and that they or subsequent owner of the private improvements shall relocate any improvements found to be in conflict with existing or future city utility or street projects. On August 14, 2019, Essentia Health was enrolled in Gopher One as a provider (MN01741).
- 7) Per UDC Sec. 50-37.1.N, approved concurrent use permits lapse if the project or activity authorized by the permit has not begun within one-year.

Staff Recommendation

PC Meeting 09-10-19

Based on the above findings, Staff recommends that Planning Commission approve the concurrent use permit with the following conditions:

- 1) Applicant construct and maintain the project as identified in the attached exhibits.
- 2) Applicant provide annual proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit.
- 3) Applicant will remove the obstructions at the applicant's expense if directed to by the City with appropriate notice.
- 4) The structure will need to comply with any applicable engineering standards, or building or fire code requirements.
- 5) 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.





**PERFORMANCE
DRIVEN DESIGN.**
LHBcorp.com

August 22, 2019

Community Planning Division – City Hall
c/o Steven Robertson
411 W. 1st Street
Room #110
Duluth, MN 55802

RE: Concurrent Use Permit for 4th Avenue East

Dear Mr. Roberson:

The purpose for this concurrent use is to locate private underground electrical conduits from the new Minnesota Power transformers located west of 4th avenue east to the new project located east of 4th avenue east. These electrical feeds provide the main power for the project.

Please feel free to contact me directly if you have any further questions or concerns.

LHB

A handwritten signature in blue ink that reads 'Evan Aljoe'.

Evan Aljoe
Healthcare Studio Leader

c: Scot Ramsey
Vice President – Facilities
Essentia Health East

Q:\18Proj\180203\400 Design\403 Regulatory\concurrent use\4th Ave\Re-submittal 20190802\Concurrent Use cover letter-4th ave.docx



April 17, 2019

Community Planning Division – City Hall
c/o Keith Hamre, Director
411 W. 1st Street
Room #110
Duluth, MN 55802

RE: Concurrent Use Permit Acknowledgement

Dear Mr. Hamre:

Pursuant to our Concurrent Use of Streets Application and the requirement of Section 50-37.7.C (f), we acknowledge that to the extent any of Essentia's private improvements are installed in the public right of way that they may be removed by the City of Duluth if needed for installation or repair of public improvements or if Essentia, as applicant, violates the terms of the permit granted.

Please feel free to reach me by phone at (218) 786-2625 with any questions or concerns related to this correspondence.

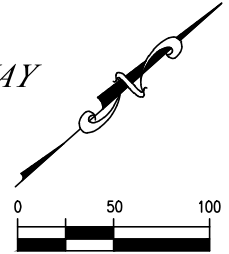
Sincerely,

A handwritten signature in black ink, appearing to read "Scot Ramsey", written in a cursive style.

Scot Ramsey
Vice President – Facilities
Essentia Health East

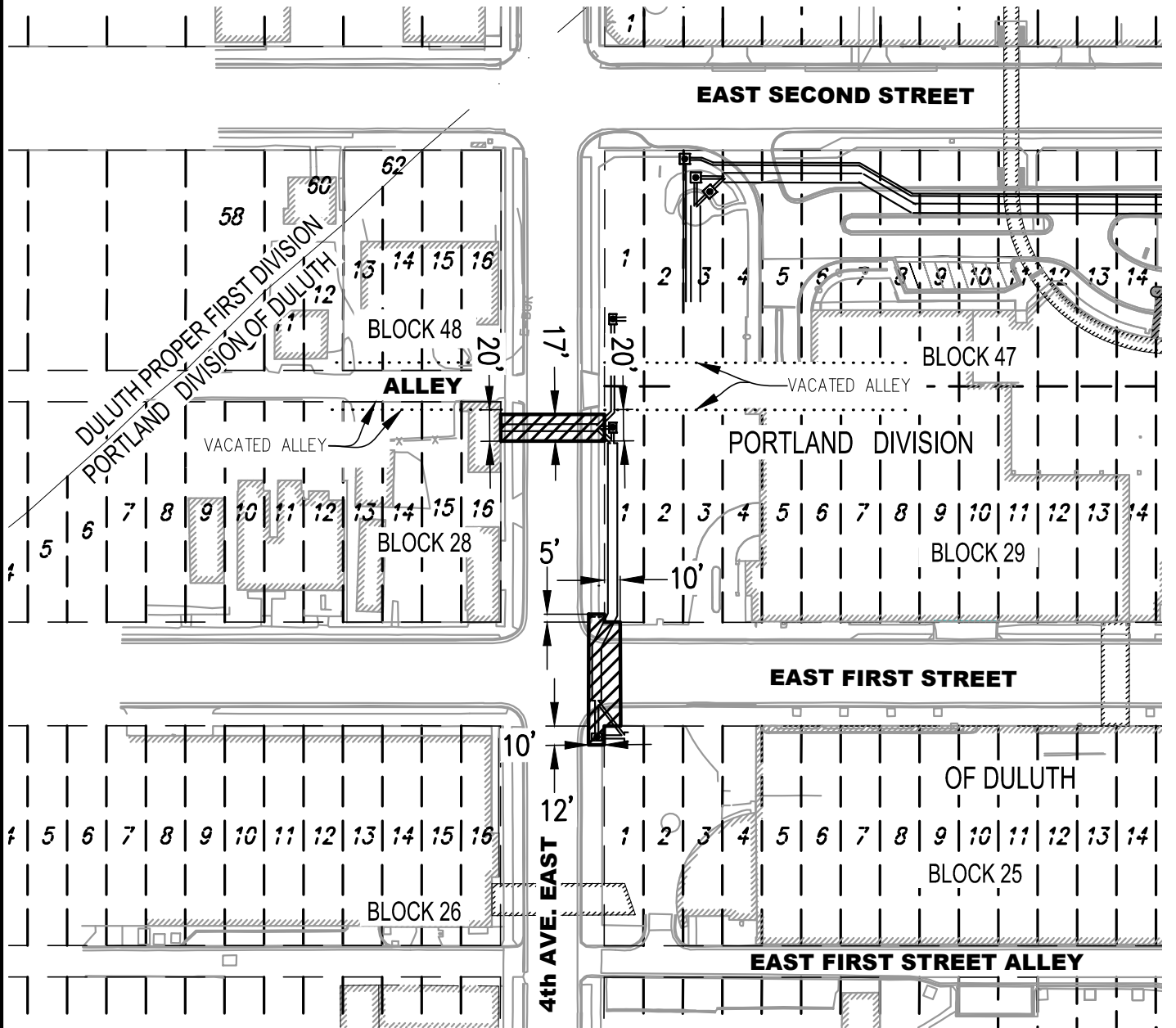
EXHIBIT CONCURRENT USE

PRIVATE ELECTRICAL DUCT BANK IN CITY RIGHT-OF-WAY
Part of Streets and Avenues
PORTLAND DIVISION OF DULUTH



LEGEND

= CONCURRENT USE AREA



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: 08/02/2019

REVISED: 08/02/19

DATE PREPARED: 03/05/19

PROJ NO: 180203

FILE: 180203 Concu

SHEET 1 of 1 SHEETS



**PERFORMANCE
DRIVEN DESIGN.**
LHBcorp.com

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

LEGAL DESCRIPTION:

That part of Fourth Avenue East southwesterly of the northeasterly line of said Fourth Avenue East, adjacent to the southeasterly 17.00 feet of the northwesterly 20.00 feet of Lot 1, Block 29, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

That part of Fourth Avenue East northeasterly of the southwesterly line of said Fourth Avenue East, adjacent to the southeasterly 17.00 feet of the northwesterly 20.00 feet of Lot 16, Block 28, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

Those parts of East First Street and Fourth Avenue East adjacent to the southeasterly 5.00 feet of the southwesterly 10.00 feet of Lot 1, Block 29, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota; lying between two lines 10.00 feet southwesterly of and 10.00 feet northeasterly of the northeasterly line of said Fourth Avenue East and said Fourth Avenue East extended.

AND

Those parts of East First Street and Fourth Avenue East adjacent to the northwesterly 12.00 feet of the southwesterly 10.00 feet of Lot 1, Block 25, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota; lying between two lines 10.00 feet southwesterly of and 10.00 feet northeasterly of the northeasterly line of said Fourth Avenue East and said Fourth Avenue East extended.

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.

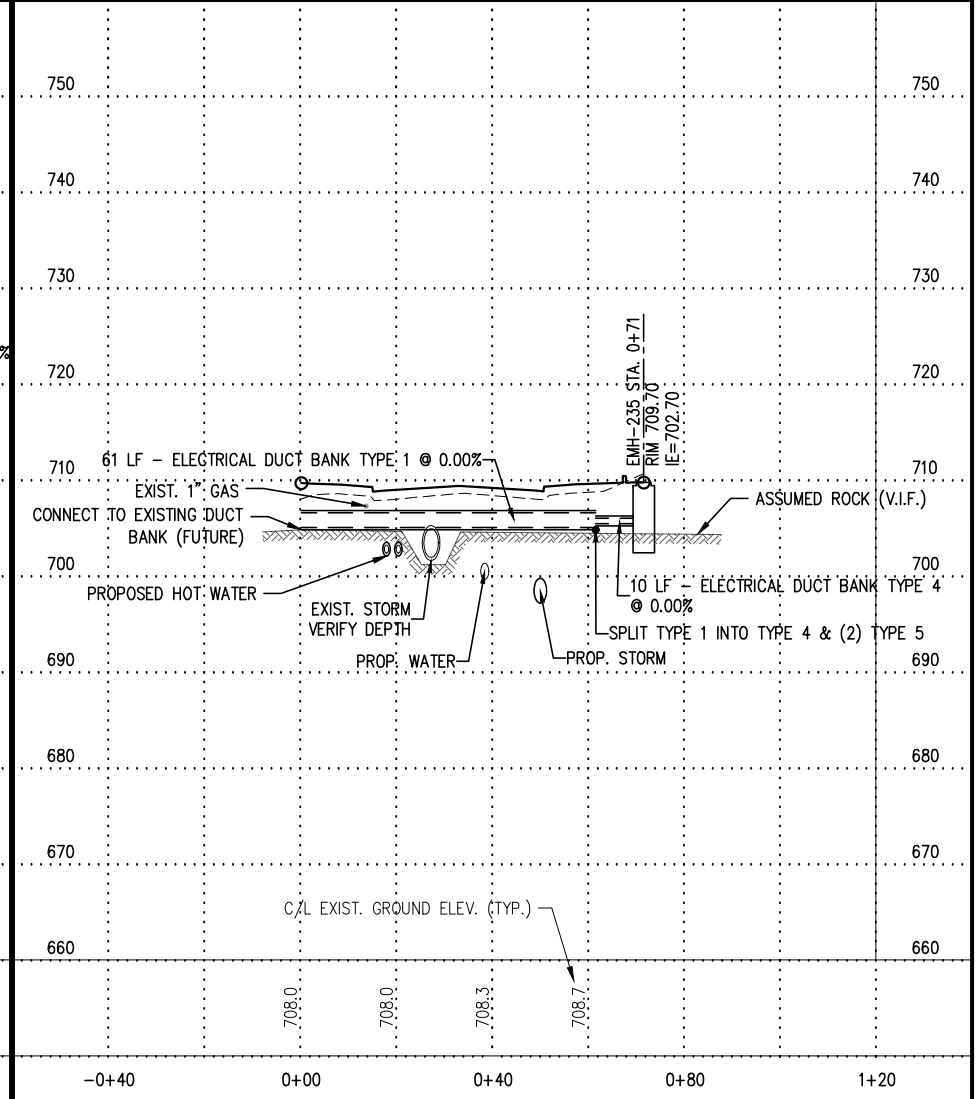
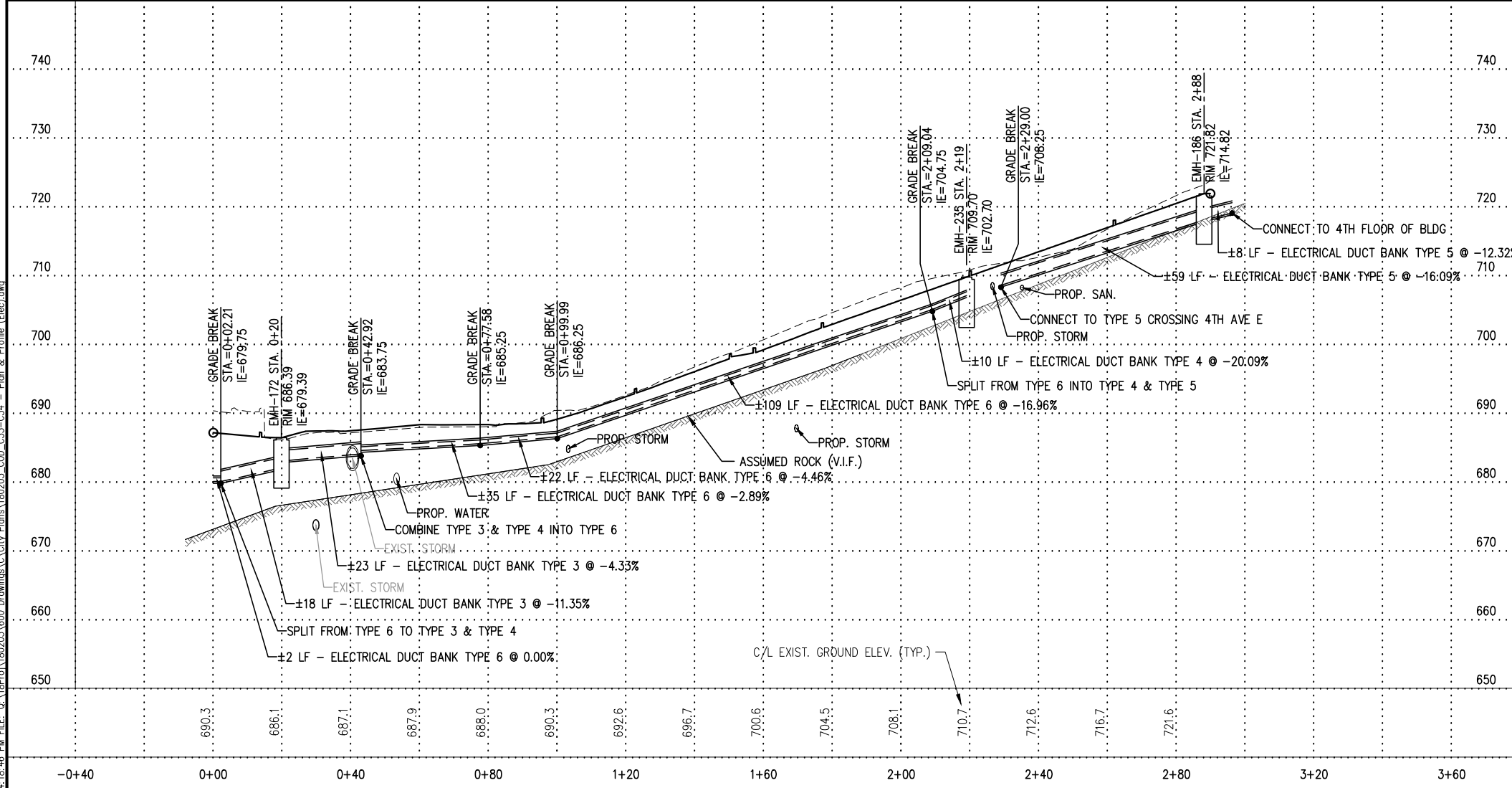
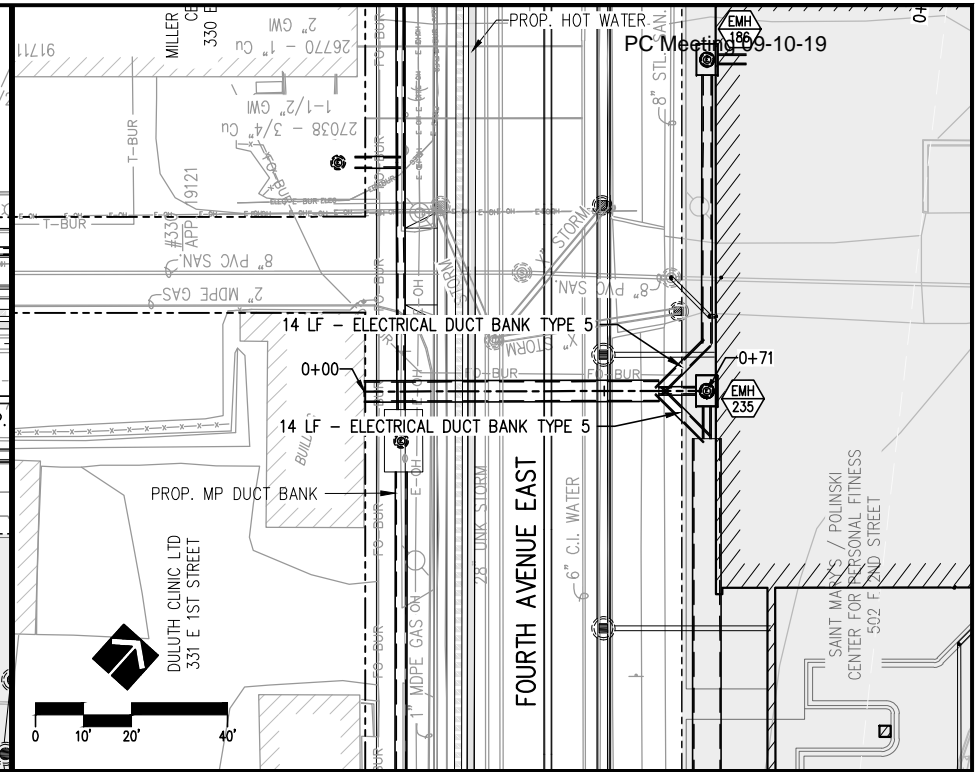
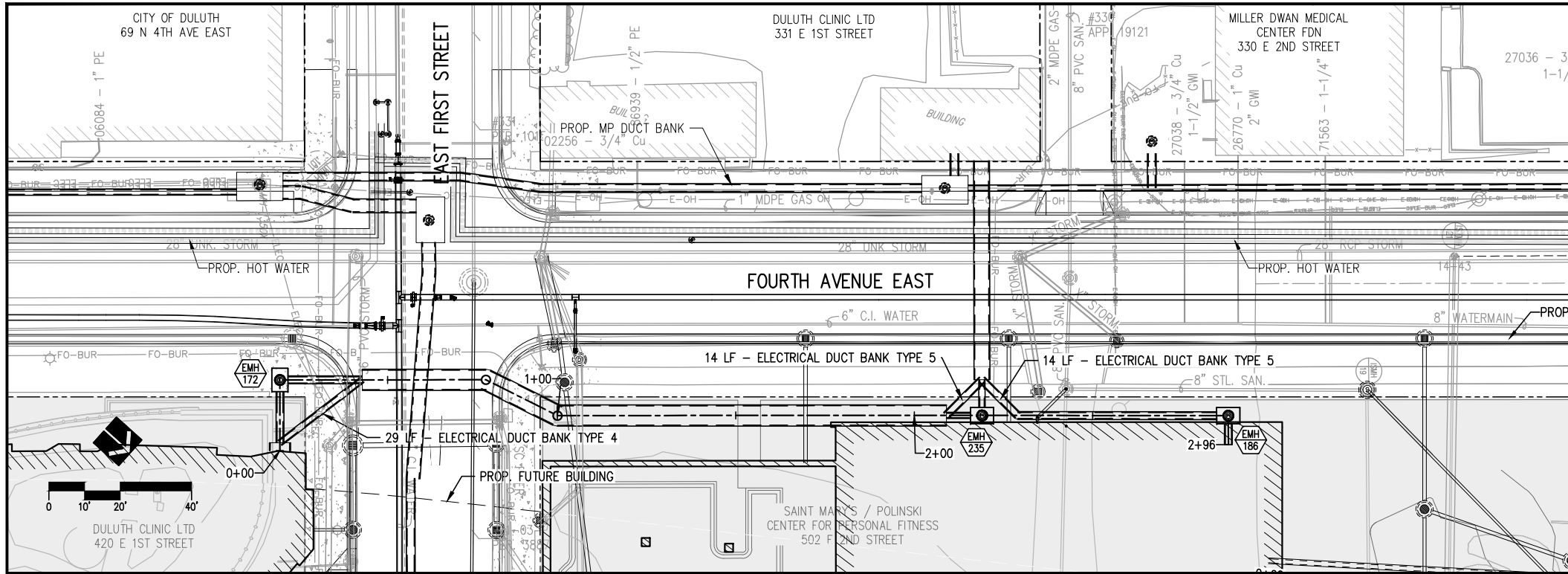
Paul A. Vogel

Signed



Date 8/2/2019 License No. 44075





LHB PROJECT NO. 180203

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 Professional Engineer under the laws of the State of Minnesota.

DANIEL G. SHAW
PRINTED NAME

Daniel G. Shaw
SIGNATURE

08/23/19
DATE
41423
LIC. NO.

CITY PROJECT NO. 1863 Page 31 of 151

ELECTRICAL DUCT BANK PLAN & PROFILE


SHEET NO. 33 OF 87 SHEETS

PLOT DATE: 8/22/2019 4:18:46 PM FILE: Q:\p\proj\180203\600 Drawings\City Plans\180203_CDD_C33-C34 - Plan & Profile (Elec).dwg



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 19-022*	Contact	Steven Robertson	
Type	Concurrent Use Permit*	Planning Commission Date	September 10, 2019	
Deadline for Action	Application Date	August 2, 2019	60 Days	October 8, 2019
	Date Extension Letter Mailed	August 23, 2019	120 Days	December 7, 2019
Location of Subject	5 th Avenue East, Generally Between East Third and East Second Street			
Applicant	Essentia Health	Contact	Scot Ramsey, Vice President Facilities	
Agent	LHB	Contact	Evan Aljoe, Healthcare Studio Lead	
Legal Description	See Attached	Sign Notice Date	August 27, 2019	
Site Visit Date	September 2, 2019	Number of Letters Sent	N/A	

Proposal

The applicant is seeking an amendment to an approved concurrent use permit to construct private underground utilities within the public right-of-way of Fifth Avenue. The applicant intends on adding a second bank of underground private conduit for low voltage communication and data cabling along the same route.

Staff Recommendation

Staff is recommending Planning Commission recommend approval to the City Council.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-I	Medical	Medical District
North	MU-I	Medical	Neighborhood Mixed Use/Urban Res.
South	F-8	Highway/Commercial	Tourism/Open Space
East	MU-N/MU-I	Residential	Urban Residential
West	MU-I/F-5/F-8	Commercial	Central Business Primary/Secondary

Summary of Code Requirements

UDC Section 50-37.7C. The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.

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

Principle #5 -Promote reinvestment in neighborhoods.

Duluth is strongly defined by its neighborhoods. This system should be supported through land use and transportation that foster neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the neighborhood's character.

Governing Principle #8 - Encourage mix of activities, uses and densities

Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide.

Future Land Use

Future Land Use Institutional. Applicable to medical, university/college, public school, religious, or governmental campuses. Can include adjacent areas that support them, with related commercial and/or office uses, and residential uses in the fringe areas of the district.

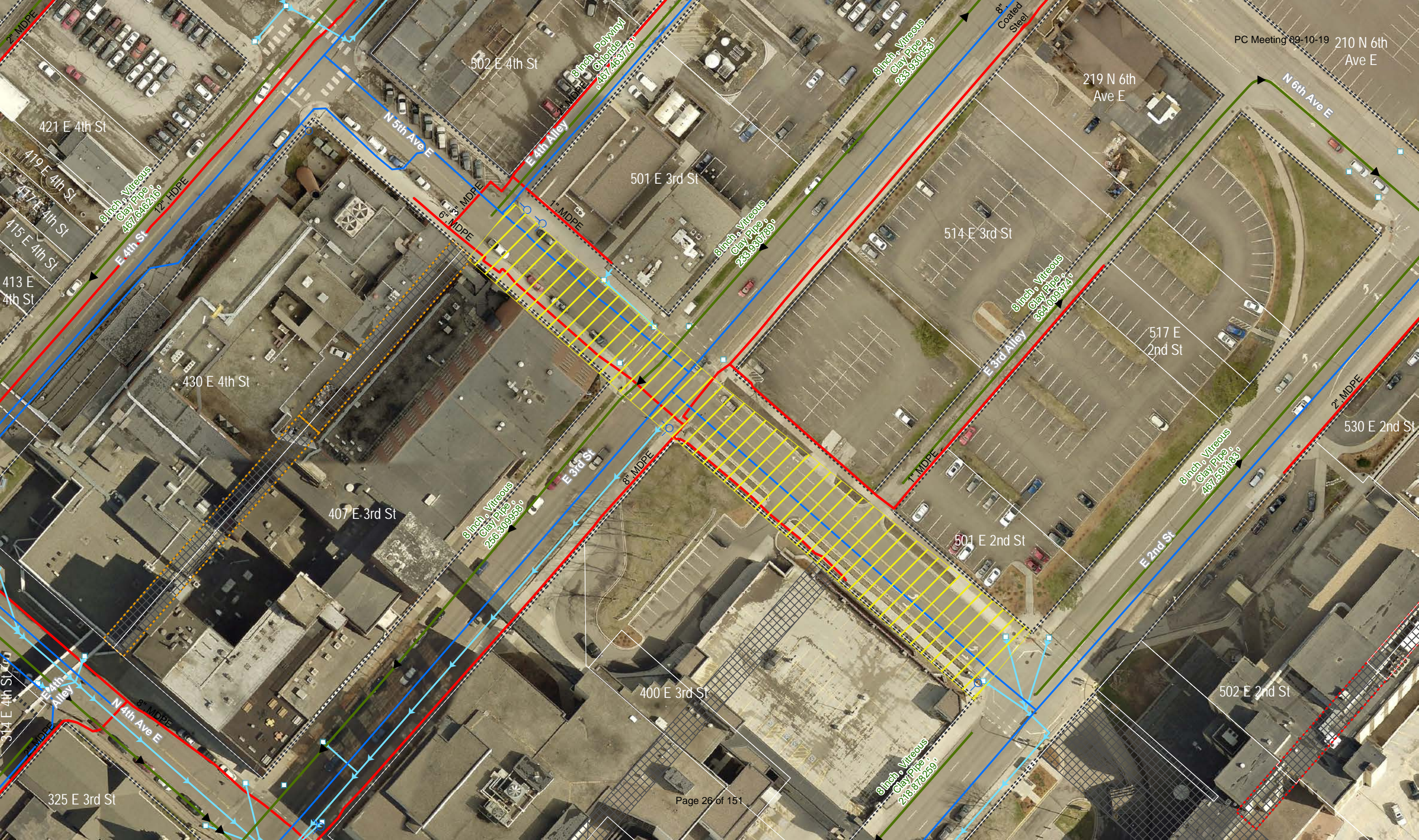
Review and Discussion Items:

- 1) The applicant is seeking an amendment to a previously approved concurrent use permit to construct private underground utilities within the public right-of-way of Fifth Avenue, adding a second bank of underground private conduit for low voltage communication and data cabling along the same route. This application is related to the MU-I Planning Review (PL 19-018) for the new 940,000 square foot medical facility proposed by Essentia Health.
- 2) The area proposed for the concurrent use permit will not take away from the public's ability to use the public right-of-way, nor will it harm or inconvenience the health, safety and general welfare of the city.
- 3) Concurrent use permits are approved by the City Council via an ordinance. Unlike street right-of-way vacations, concurrent use permits are not recorded at with St. Louis County as they are voidable agreements between the City and property owners. City engineering has reviewed and approved the exhibits.
- 4) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against all occurrences in the right-of-way. Other protections for the city and the public are typically included in the ordinance that is submitted for the City Council's review. The ordinance will require that the project proposer will locate any underground items in accordance with Gopher State One Call rules, and that the city will bear no responsibility for locating any facility related to the concurrent use permit except as it is legally responsible under the Gopher State One Call rules.
- 5) No comments were received from the public or other government agencies at the time this staff report was written (September 3, 2019), other than technical comments/corrections to the exhibits.
- 6) A condition of earlier zoning applications was that Essentia Health locate any private improvements in accordance with Gopher State Once Call rules and that they or subsequent owner of the private improvements shall relocate any improvements found to be in conflict with existing or future city utility or street projects. On August 14, 2019, Essentia Health was enrolled in Gopher One as a provider (MN01741).
- 7) Per UDC Sec. 50-37.1.N, approved concurrent use permits lapse if the project or activity authorized by the permit has not begun within one-year.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission approve the concurrent use permit with the following conditions:

- 1) Applicant construct and maintain the project as identified in the attached exhibits.
- 2) Applicant provide annual proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit.
- 3) Applicant will remove the obstructions at the applicant's expense if directed to by the City with appropriate notice.
- 4) The structure will need to comply with any applicable engineering standards, or building or fire code requirements.
- 5) 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.



PC Meeting 09-10-19
210 N 6th Ave E



**PERFORMANCE
DRIVEN DESIGN.**
LHBcorp.com

August 22, 2019

Community Planning Division – City Hall
c/o Steven Robertson
411 W. 1st Street
Room #110
Duluth, MN 55802

RE: Concurrent Use Permit for 5th Avenue East

Dear Mr. Roberson:

The purpose for this concurrent use is to locate private underground utilities within the ROW. The utilities consist of two separate sets of electrical conduit. 1 set of conduit will extend emergency electrical power from existing emergency generators located north of 3rd Avenue down the west side of 5th avenue east and across 2nd street to the project. The second set of conduit will extend low-voltage communication and data cabling along the same route.

Please feel free to contact me directly if you have any further questions or concerns.

LHB

Evan Aljoe
Healthcare Studio Leader

c: Scot Ramsey
Vice President – Facilities
Essentia Health East

Q:\18Proj\180203\400 Design\403 Regulatory\concurrent use\5th Ave\20190802 Amendment\Concurrent Use cover letter - 5th Ave.docx



April 17, 2019

Community Planning Division – City Hall
c/o Keith Hamre, Director
411 W. 1st Street
Room #110
Duluth, MN 55802

RE: Concurrent Use Permit Acknowledgement

Dear Mr. Hamre:

Pursuant to our Concurrent Use of Streets Application and the requirement of Section 50-37.7.C (f), we acknowledge that to the extent any of Essentia's private improvements are installed in the public right of way that they may be removed by the City of Duluth if needed for installation or repair of public improvements or if Essentia, as applicant, violates the terms of the permit granted.

Please feel free to reach me by phone at (218) 786-2625 with any questions or concerns related to this correspondence.

Sincerely,

A handwritten signature in black ink, appearing to read "Scot Ramsey", written in a cursive style.

Scot Ramsey
Vice President – Facilities
Essentia Health East

EXHIBIT CONCURRENT USE

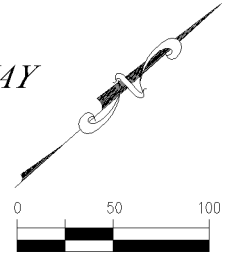
PRIVATE ELECTRICAL DUCT BANK IN CITY RIGHT-OF-WAY

Part of Streets and Avenues

PORTLAND DIVISION OF DULUTH

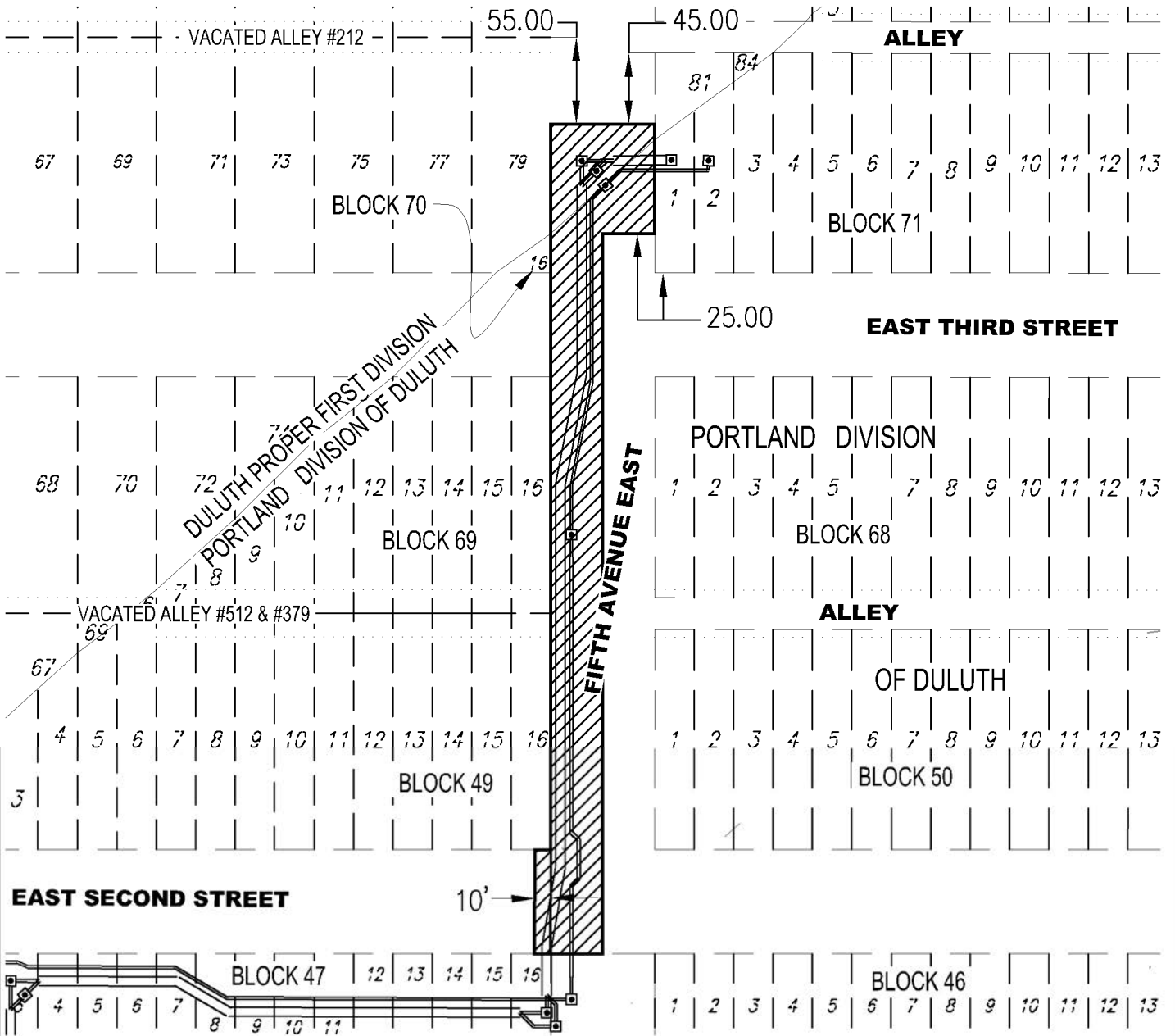
AND

DULUTH PROPER FIRST DIVISION



LEGEND

= CONCURRENT USE AREA



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: 08/20/2019

REVISED: 08/20/19

DATE PREPARED: 03/05/19

PROJ NO: 180203

FILE: 180203 Concu

SHEET 1 of 1 SHEETS



**PERFORMANCE
DRIVEN DESIGN.**

LHBcorp.com

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

LEGAL DESCRIPTION:

All that part of Fifth Avenue East and East Second Street easterly of a line 10.00 feet westerly of the west line of said Fifth Avenue East and northerly of the south line of East Second Street adjacent to Lot 16, Block 47, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East and East Second Street easterly of a line 10.00 feet westerly of the west line of said Fifth Avenue East adjacent to Lot 16, Block 49, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East and East Third Street easterly of west line of said Fifth Avenue East adjacent to Lot 16, Block 69, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East and East Third Street easterly of west line of said Fifth Avenue East adjacent to Lot 16, Block 70, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East northerly of line 25.00 feet northerly of the north line of East Third Street adjacent to Lot 1, Block 71, PORTLAND DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East adjacent to Lot 79 southerly of a line 55.00 feet southerly of and parallel with the centerline of vacated alley adjacent to said Lot 79, East Third Street, DULUTH PROPER FIRST DIVISION, City of Duluth, St. Louis County, Minnesota.

AND

All that part of Fifth Avenue East adjacent to Lot 81 southerly of a line 45.00 feet southerly of and parallel with the south line of alley adjacent to said Lot 81, East Third Street, DULUTH PROPER FIRST DIVISION, City of Duluth, St. Louis County, Minnesota.

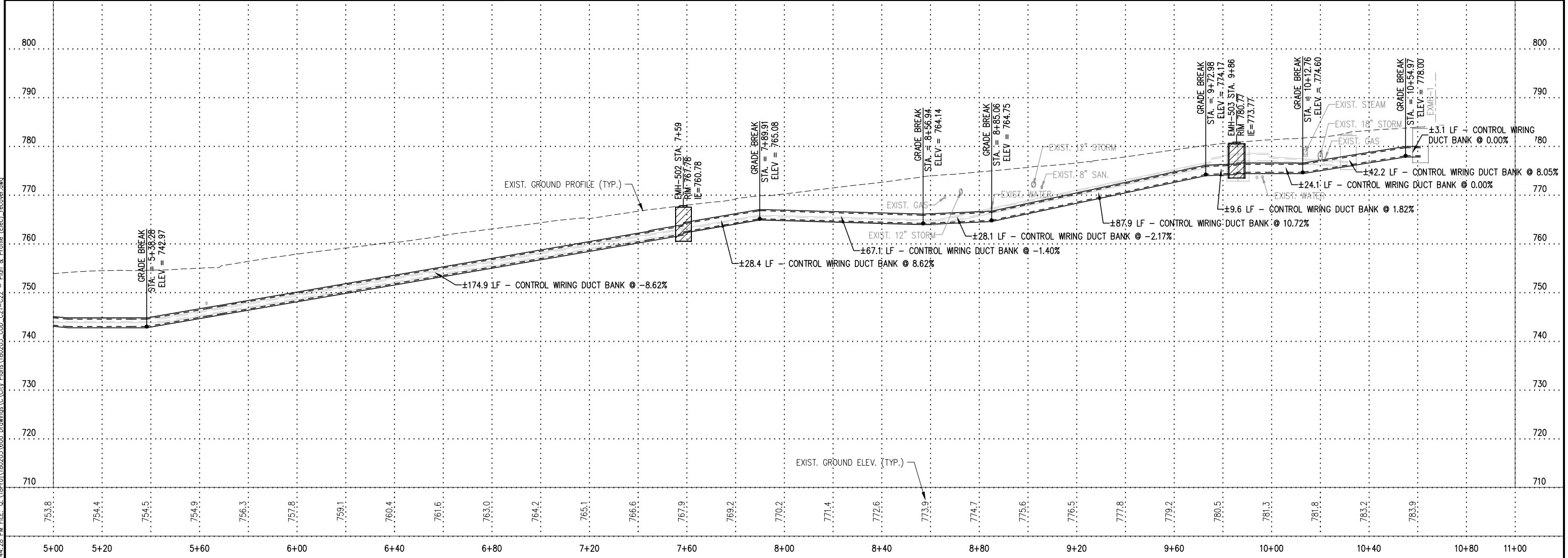
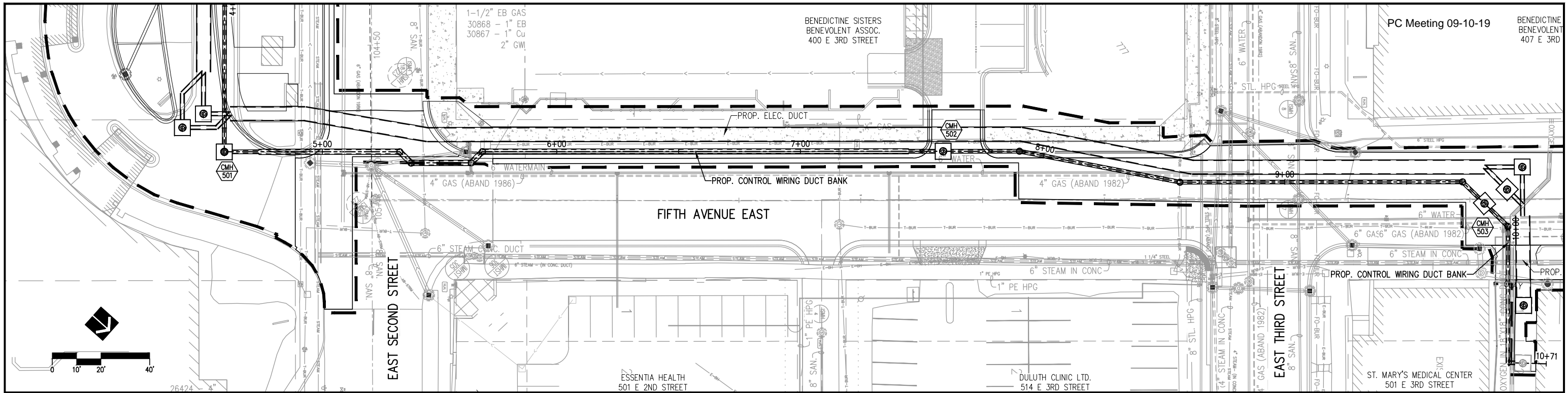
I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.

Paul A. Vogel

Signed 

Date 8/20/2019 License No. 44075





PLOT DATE: 8/1/2019 3:44:28 PM FILE: G:\182023\182023\600 Drawings\City Plans\182023.COD_C21-C22 - Plan & Profile (Elev)_recover.dwg

LHB PROJECT NO. 180203

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 Professional Engineer under the laws of the State of Minnesota.

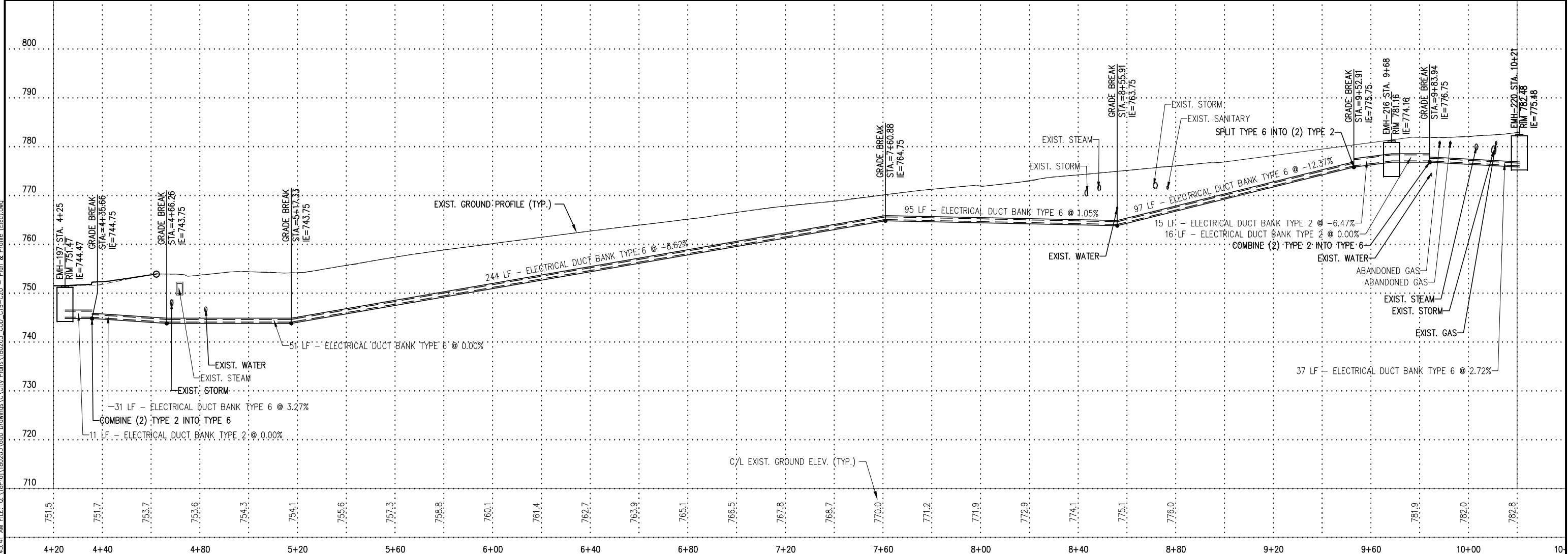
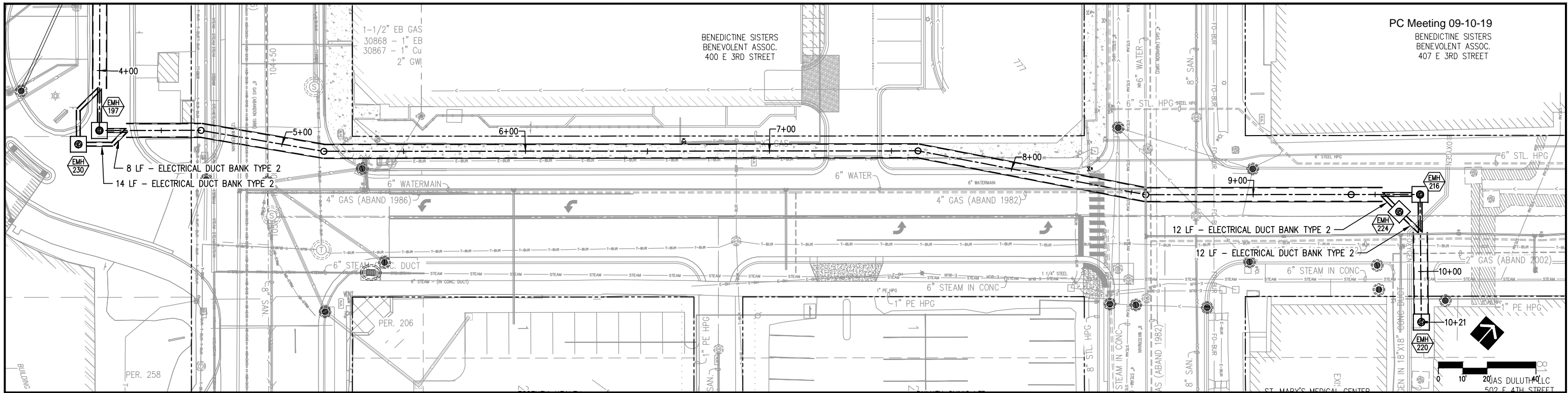
DANIEL G. SHAW
PRINTED NAME

Daniel G. Shaw
SIGNATURE

07/25/19
DATE
41423
LIC. NO.


CITY PROJECT NO. 1842 Page 31 of 151

CONTROL WIRING DUCT BANK PLAN & PROFILE
SHEET NO. 22 OF 65 SHEETS



LHB PROJECT NO. 180203

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 Professional Engineer under the laws of the State of Minnesota.

DANIEL G. SHAW
 PRINTED NAME

 SIGNATURE

07/25/19
 DATE
 41423
 LIC. NO.

 CITY PROJECT NO. 1812
 Page 32 of 151

ELECTRICAL DUCT BANK PLAN & PROFILE
 SHEET NO. 20 OF 59 SHEETS

PLOT DATE: 7/28/2019 2:45:41 AM FILE: G:\p\proj\180203\600 Drawings\City Plans\180203_CDD_C19-C20 - Plan & Profile (Elev).dwg



Legislation Details (With Text)

File #: 19-033-O **Name:**

Type: Ordinance **Status:** Passed

File created: 6/14/2019 **In control:** Planning and Economic Development

On agenda: 6/24/2019 **Final action:** 7/8/2019

Title: AN ORDINANCE GRANTING ESSENTIA HEALTH A CONCURRENT USE PERMIT FOR A PRIVATE ELECTRICAL DUCT BANK IN THE PLATTED STREET RIGHT OF WAY OF NORTH FIFTH AVENUE EAST.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachment 1, 2. Attachment 2

Date	Ver.	Action By	Action	Result
7/8/2019	1	City Council	adopted	
6/24/2019	1	City Council	read for the first time	

AN ORDINANCE GRANTING ESSENTIA HEALTH A CONCURRENT USE PERMIT FOR A PRIVATE ELECTRICAL DUCT BANK IN THE PLATTED STREET RIGHT OF WAY OF NORTH FIFTH AVENUE EAST.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is granted to St. Mary's Duluth Clinic Health System, dba Essentia Health East, and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

- (a) A private electrical duct bank, as shown in the exhibit Attachment 1.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the planning division a certification of insurance approved by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

- (a) Comprehensive general liability insurance in an amount not less than \$1,500,000 for bodily injuries and in an amount not less than \$500,000 for property damage or \$1,500,000 single limit coverage; and

- (b) Insurance coverage shall include all permittee's activities occurring upon or within public right of way or easement occupied pursuant to this ordinance whether said activities are performed by the permittee or its agents or representatives; and

- (c) The insurance policy shall contain a condition that it may not be canceled without 30 days written notice to the city of Duluth, directed to the attention of the director of planning and economic development; and

- (d) The city of Duluth shall be named as an additional insured; and

- (e) The certificate shall also reference this ordinance by its ordinance number.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to

use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 60 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to hold harmless and defend and indemnify the city of Duluth against claims or demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of installation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, sidewalks, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the planning division within five days of such transfer. The permittee's successor in interest shall file with the planning division within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

(a) Permittee's use of the public right of way or easement shall be limited to the designated area described in Section 1 above and further shown on the exhibits; and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement; and

(c) Permittee will locate any private improvements in accordance with Gopher State Once Call rules and the Permittee or subsequent owner of the private improvements shall relocate any improvements found to be in conflict with existing or future city utility or street projects; and

(d) Within 45 days of installing the private improvements, Permittee shall submit record drawings shall be in accordance with the city of Duluth Public Works and Utilities' "Engineering

guidelines for Professional Services and Developments”; and

(e) Permittee shall provide notice to City Engineer at 218-730-5200 at least two working days in advance of any work permitted under this permit or any other permits related to such work and shall schedule such work to coordinate with any required inspections; and

(f) Permittee shall obtain all other permits as may be required by the city, other governmental agencies, and, including, but not limited to obstruction, excavation, electrical, stormwater, etc; and

(g) Permittee must repair or replace at their expense any damage to anything in the right-of-way caused by the Permittee’s permitted installation or operations to the city’s reasonable satisfaction; and

(h) The Permittee shall maintain the private improvements in a good and safe condition, and in compliance with all applicable fire, health, building or other codes or permits as applicable.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file the required insurance certificate as specified in Section 2 60 days after this ordinance takes effect, or to file the insurance certificates annually thereafter; or

(b) The failure of the permittee to commence the improvements authorized by this ordinance within 180 days after this ordinance takes effect; or

(c) The failure of the permittee to register with Gopher State One Call as a facility operator, or to maintain current contact information with Gopher One.

Section 10. That this ordinance shall take effect and be in force 30 days from and after its passage and publication.

STATEMENT OF PURPOSE: This is one of three concurrent use permits allowing private obstructions in the public right of way, granted to Essentia Health East for the new Vision Northland project (replacement hospital bed tower, clinic space, and surgery suites).

PL 19-019, inpatient tower and replacement of a portion of existing clinic over the alley right of way between Superior Street and East First Street;

PL 19-021, inpatient tower and replacement of a portion of existing clinic over First Street and placement of new structural supports within right of way of East First Street,

PL 19-022, private utility work to provide electrical duct banks from the existing emergency generators within the right of way of North 5th Avenue East.

These three concurrent use permits are being reviewed in coordination with a MU-I Planning Review (PL 19-018) and an UDC Map Amendment to rezone (PL 19-023) in conformance with the City’s Comprehensive Plan and future land use map.

On May 29, 2019, the Duluth city planning commission held a special public hearing on the proposal as described in Attachment 2, and voted 7 yeas, 0 nays, 0 abstentions, to recommend that the city council approve the request for a concurrent use of streets, with the condition that the applicant comply with all the conditions listed in the ordinance.

File #: 19-033-O, **Version:** 1

Petition received: May 8, 2019

Action deadline: September 5, 2019

Applicant: Essentia Health East

PL 19-022



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 19-113	Contact	Jenn Reed Moses, 730-5328	
Type	Concurrent Use Permit	Planning Commission Date	9/10/19	
Deadline for Action	Application Date	8/16/19	60 Days	10/15/19
	Date Extension Letter Mailed		120 Days	12/14/19
Location of Subject	5401 E Superior St			
Applicant	Spirit of the Lake Community School	Contact		
Agent	N/A	Contact		
Legal Description	Parcel ID Number 010-2840-00570			
Site Visit Date	9/3/19	Sign Notice Date	8/27/19	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal

The Spirit of the Lake Community School would like to continue to use two existing parking spaces within the right of way of 5401 E Superior Street as accessible parking.

Staff Recommendation

Staff is recommending that planning commission recommend approval to City Council.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N	Former church	Mixed Use Neighborhood
North	R-1	Residential	Residential Traditional
South	MU-N	Residential	Mixed Use Neighborhood
East	MU-N	Residential	Mixed Use Neighborhood
West	R-1	Residential	Residential Traditional

Summary of Code Requirements

UDC Section 50-37.7C. The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.

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

Governing Principle #1 – Reuse previously developed lands: includes adaptive reuse of existing building stock and historic resources, as this strengthens neighborhoods. This property is a former Methodist church that was vacant, and will now be used as a school.

Governing Principle #11 – Consider education systems in land use actions: Neighborhood-based schools promote walkable, safe communities and reduce transportation expenses. This school is located in the Lakeside neighborhood.

Future Land Use – Mixed Use Neighborhood: 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.

Recent History:

- Early 2018: Lester Park United Methodist Church discontinues operation and lists property for sale.
- August 14, 2018: Planning Commission approves a variance to allow a school to operate in a building 3' from the side property line and 9' from the rear property line. At this time, property owner is informed that existing parking within the right of way of 54th Avenue E did not have a proper concurrent use permit, so a condition of the variance approval was that the school must either apply for and receive a concurrent use permit for this parking, or remove the parking.

Review and Discussion Items**Staff finds that:**

- 1.) The applicant is seeking a concurrent use permit to use an existing paved area within the right of way for accessible parking. This area was paved and striped when the applicant purchased the property from the Methodist church in 2018.
- 2.) The concurrent use would provide two parking spaces, which are the only accessible spaces on the site. These two spaces bring the total site parking to 11 spaces (which includes parking in a nearby gravel lot adjacent to the alley).
- 3.) While there are no known snow clearing issues previously, the City's Street Maintenance Division has indicated concerns about alley access for snow clearing if a car is parked in the northernmost space, as well as snow from clearing operations being deposited into the parking area. The applicant is aware of these concerns and has been advised additional permit conditions will specify the school's responsibility for snow clearing in these situations.
- 4.) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against occurrences in the right of way. Other protections for the city and the public are typically included in the ordinance that is submitted to City Council. The ordinance will require the applicant be responsible for snow clearing within the parking area, including snow from City plowing operations that lands within the area, and that the school will be responsible for alley clearing in the event that a parked vehicle blocks a plow's access to the alley.
- 5.) The area proposed for the concurrent use permit will not take away from the public's ability to use the public right of way, nor will it harm or inconvenience the health, safety, and general welfare of the city.
- 6.) No public, agency, or other comments have been received as of August 29, 2019.

Staff Recommendation

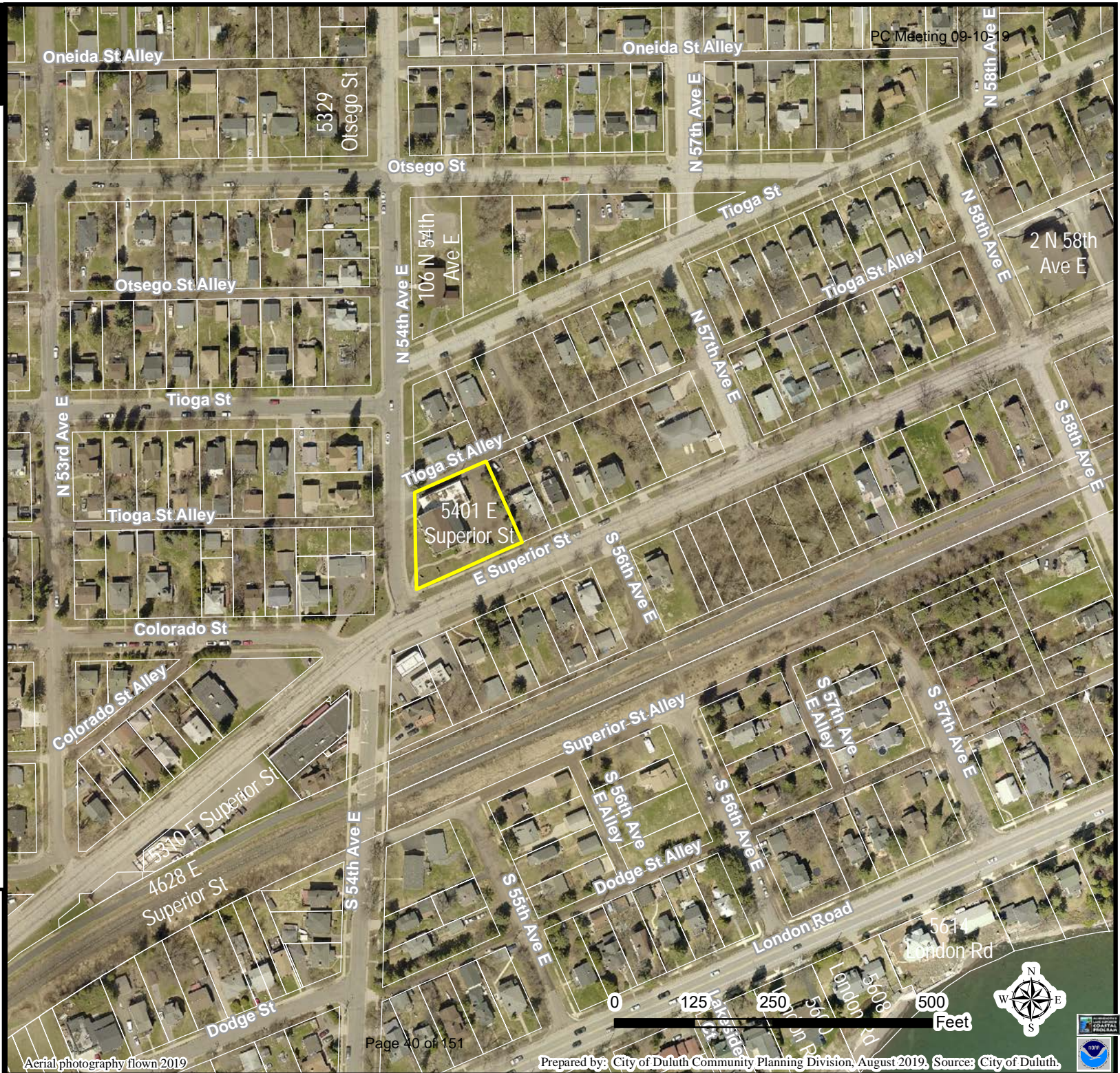
Based on the above findings, Staff recommends that Planning Commission recommend approval of the concurrent use permit with the following conditions:

- 1.) The school may continue to use and maintain the existing parking spaces but may not alter or reconstruct the area. Any future changes shall require a subsequent Concurrent Use Permit or, if snow clearing or other issues arise, relocation of the accessible parking.
- 2.) Applicant shall provide annual proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit.
- 3.) Applicant will remove the obstructions at the applicant's expense if directed to by the City with appropriate notice.



Concurrent Use Permit
5401 E Superior St.

PC Meeting 09-10-19



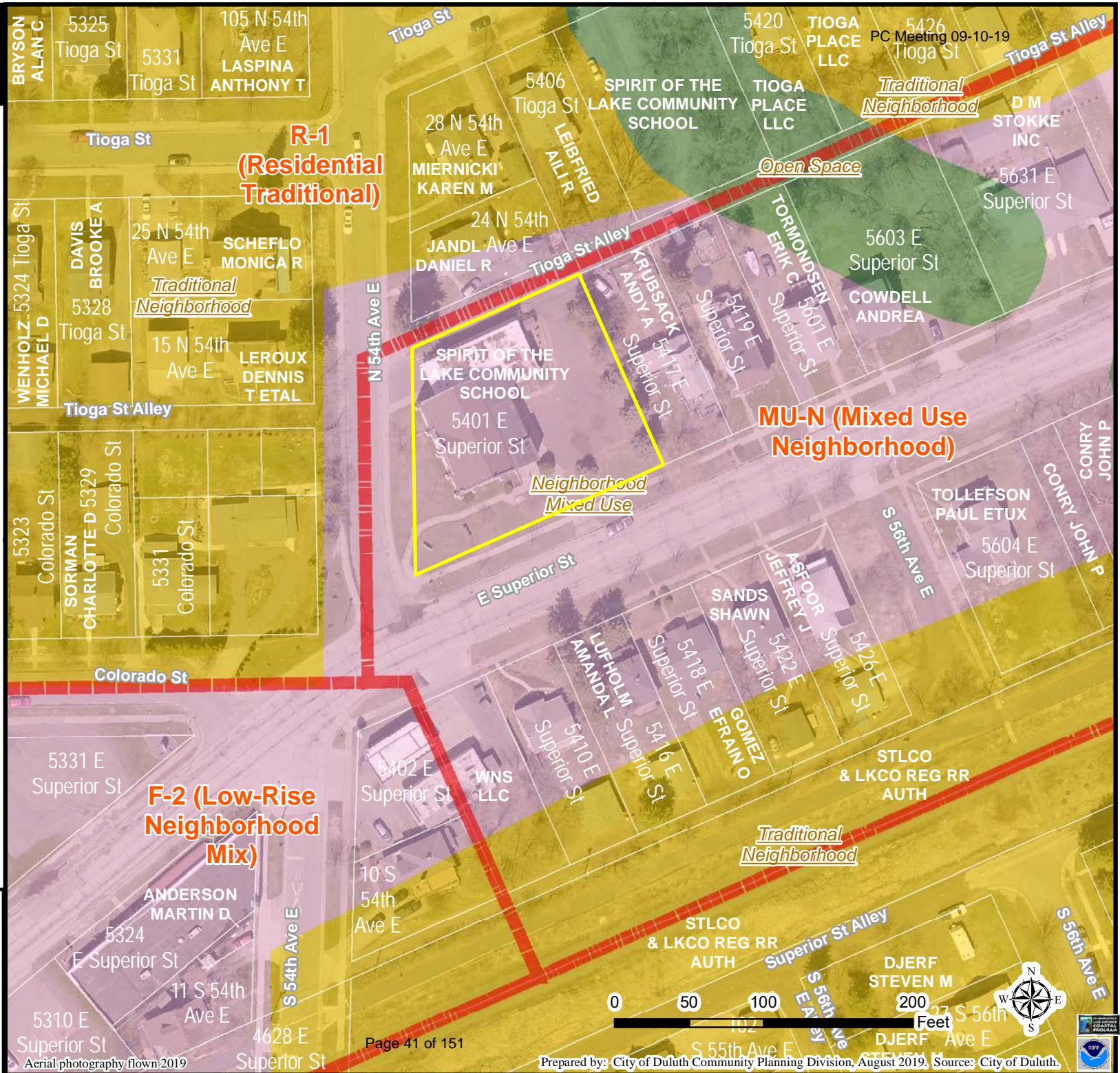
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Legend

- Zoning Boundaries
- Open Space
- Open Space/Outside Duluth
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Central Business Secondary
- Central Business Primary
- Large-scale commercial
- Tourism/Entertainment District
- Commercial Waterfront
- General Mixed Use
- Neighborhood Mixed Use
- Light Industrial
- General Industrial
- Industrial Waterfront
- Business Park
- Transportation and Utilities
- Transportation and Utilities/Outside Duluth
- Medical District
- Institutional

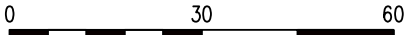


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Certificate of Survey

Exhibit for existing
 "Accessible Parking Plan"
 in City of Duluth Right of Way
 along 54th Avenue East adjacent
 with Lot 18 in Block 11 in the plat
 of LESTER PARK 2ND DIVISION.



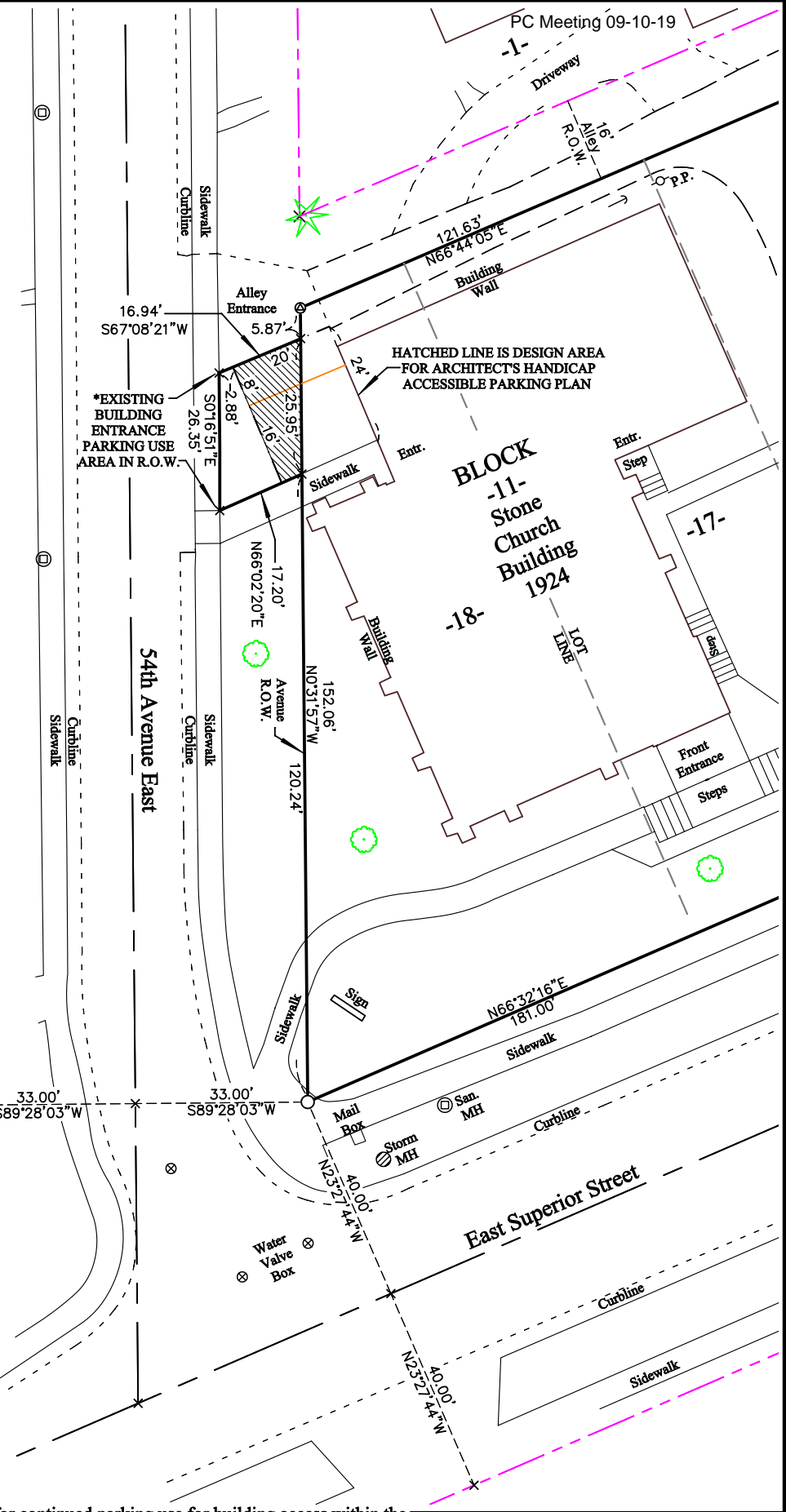
SCALE IN FEET

St. Louis County Coordinate
 SLCTM96(mod)-NAD83
 VRS GPS-Geoid09
 U.S. Feet-NAVD88

LEGEND

- Found Survey Monument:
See Map for Description.
- Set Property Corner: 5/8"
Rebar x 2' long with 1" d.
RLS Cap inscribed 24587.
- ⊗ Set 1" d. Pavement Spike
labeled "Survey Mark."
- × Computed Survey Position.

*Area of Use in City Right of Way for continued Handicap Accessible Parking Entrance to Building at 54th Avenue East to be described as follows: Commencing at the SW corner of Lot 18 in Block 11 in the plat of LESTER PARK SECOND DIVISION; thence N0°31'57"W, bearing assumed for basis of description, along the right of way line of 54th Avenue East a distance of 120.24' to the point of beginning of parking area to be described; thence continue N0°31'57"W a distance of 25.95'; thence S67°08'21"W a distance of 16.94' near the city sidewalk; thence S0°16'51"E along the city sidewalk a distance of 26.35'; thence N66°02'20"E a distance of 17.20' to the said right of way line of 54th Avenue East and there terminating at the point of beginning.



Request for continued parking use for building access within the Right of Way of 54th Avenue East and Superior Street affecting Parcel No. 010-2840-00570 on Lot 18 of Block 11 in the plat of LESTER PARK SECOND DIVISION
 Spirit of the Lake Community School
 819 N. 18th Avenue E.
 Duluth, MN 55812

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

NAME: Anthony Lueck
 SIGNATURE: Anthony Lueck
 DATE: 6/1/2018 Print 8/2/2019 LIC. No. 24587

NORTH COUNTRY LAND SURVEYOR, INC.
 Anthony Lueck Surveyor
 GPS Drafting Mapping Property Lines
 Minnesota/Wisconsin
 M.N.L.C. 24587 / W.L.C. 2386
 BUS. TEL: 218. 349. 8057
 anthony@nclsi.com
 8056 Ryan Road
 Duluth, MN 55804

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 Architect under the laws of the State of Minnesota.
Robert D. Aho
Date: 2/28/2019 License #A3002

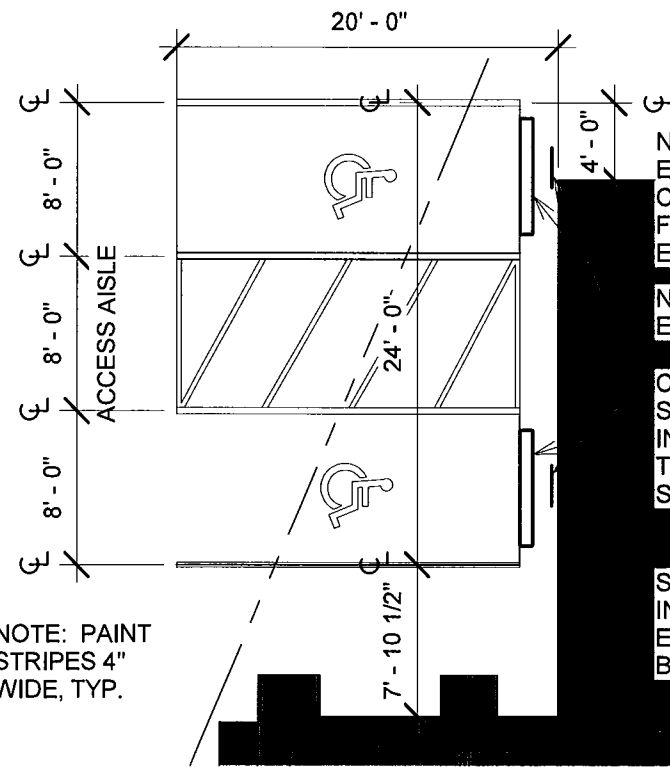
ARCHITECTURAL,
EXISTING & NEW

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 Professional Engineer under the laws of the State of Minnesota.
James P. Berry
Date: 02/28/2019 License #A2000

NEW STRUCTURAL
ENGINEERING

DATE: 2/28/2019
JOB NO.: 18013
DRAWN BY: RA
REVISED: 7/25/2019
APPROVED BY: RA

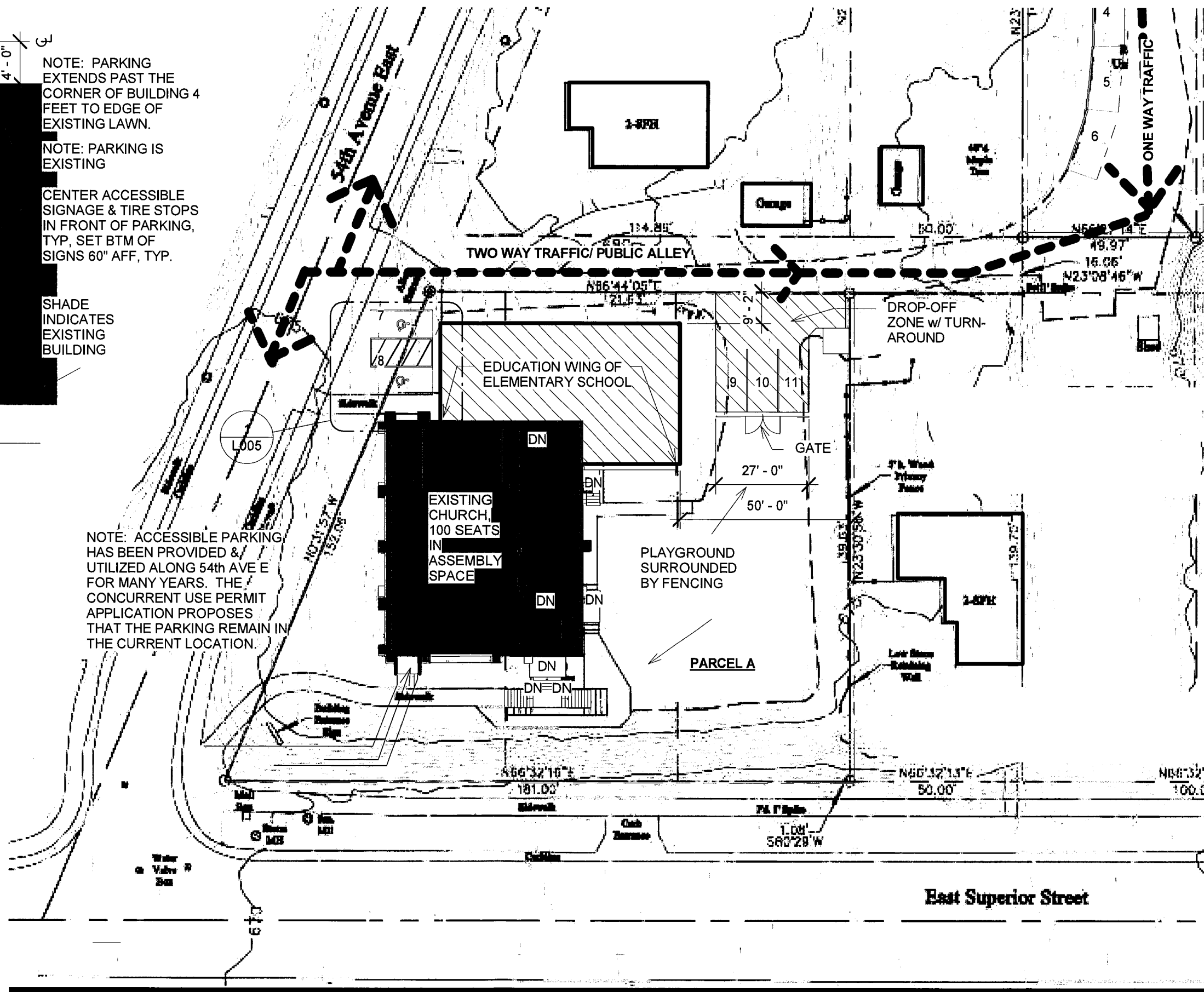
SHEET:
L005



1 ACCESSIBLE PARKING PLAN
1" = 10'-0"

NOTE: EXISTING ACCESSIBLE PARKING DOES NOT INTERFERE WITH TRAFFIC AT EITHER THE ADJACENT ALLEY OR THE AVENUE. THE SIDEWALK IS ALSO NOT BLOCKED. AS CAN BE SEEN IN THE SURVEY AND THE SITE PLAN, THE PARKING IS PARTIALLY ON THE PROPERTY AND PARTIALLY IN THE RIGHT-OF-WAY.

NOTE: ACCESSIBLE PARKING HAS BEEN PROVIDED & UTILIZED ALONG 54th AVE E FOR MANY YEARS. THE CONCURRENT USE PERMIT APPLICATION PROPOSES THAT THE PARKING REMAIN IN THE CURRENT LOCATION.



2 PARKING FOR CONCURRENT USE
1" = 30'-0"

Jennifer Moses

From: Jennifer Moses
Sent: Monday, August 26, 2019 3:14 PM
To: 'SLCS'
Cc: Kaleb Montgomery; Cindy Voigt; Bruce Kellerhuis
Subject: Concurrent Use Permit - Parking

Hello,

As we have been reviewing your application for a Concurrent Use Permit at 5401 E Superior St., I wanted to let you know about some concerns that have arisen regarding the existing parking, centered on snow clearing. The existing alley is very narrow, as you know, and the snow plows already have challenges getting the alley plowed. I'm not sure whether the previous owners had any issues related to this (and if you are in touch with them you may want to reach out and ask about snow clearing), but given the narrow space here, 1. If there is anyone parked in the space closest to the alley, the plow would not be able to gain access to the alley (which of course is used by neighbors as well, so this could potentially impact them) and 2. The snow from alley plowing would land in the parking spaces, and you would be responsible for removing that snow. I wanted you to understand this before we moved forward, as we would include language in the staff report and city council ordinance about your responsibility for snow clearing in the area, and consequences if a plow is unable to gain access due to parked cars. Although it has been used for parking up until this point, the City has never before granted official approvals, so we want to make sure any concerns are addressed at this point. I'm happy to talk about these concerns if you'd like. I understand you've had the unfortunate circumstance of buying this property with the understanding that the prior improvements were fully allowed, and that you are depending on these spaces for your accessible parking for the building, so we'd like to keep working with you on the CUP process even though we will need to add caveats about snow clearing.

As a reminder, your sign notice for the Concurrent Use Permit is required to be in place by tomorrow, 8/27. Let me know if you have any questions.

Thanks,

Jenn

Jenn Reed Moses, AICP | Community Planning Division | City of Duluth | 411 W 1st Street Room 110, Duluth, MN 55802
| 218-730-5328 (direct) | jmoses@duluthmn.gov



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 19-117		Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Interim Use Permit – Vacation Dwelling Unit		Planning Commission Date		September 10, 2019
Deadline for Action	Application Date		August 7, 2019	60 Days	October 6, 2019
	Date Extension Letter Mailed		August 21, 2019	120 Days	December 5, 2019
Location of Subject	30 North First Avenue West (Downtown)				
Applicant	Jason Taly / Rachel Wagner		Contact		
Agent			Contact		
Legal Description	Nly 40 feet of Lots 14 and 16, Duluth Proper First Division (010-0940-00730)				
Site Visit Date	August 26, 2019		Sign Notice Date		August 27, 2019
Neighbor Letter Date	August 27, 2019		Number of Letters Sent		46

Proposal

Applicant proposes to rent out a 2-bedroom apartment on the 2nd floor of a two-story building downtown to groups in size up to 5 people.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	Downtown Mix (F-8)	Mixed Use – retail & residential	Central Business District - Primary
North	Downtown Mix (F-8)	Mixed Use	Central Business District - Primary
South	Downtown Mix (F-8)	Mixed Use	Central Business District - Primary
East	Downtown Mix (F-8)	Mixed Use	Central Business District - Primary
West	Downtown Mix (F-8)	Institutional	Central Business District - Primary

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-8 District.

UDC Sec. 50-37.10.B . . . Council shall make a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The . . . Council may impose appropriate conditions and safeguards, including but not limited to financial security pursuant to Section 50-37.1.P, a development agreement regarding the design, construction, and operation of the special use, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the special use permit will continue to meet.

UDC Sec. 50-37.10.E . . . the Council shall only approve an interim use permit, or approve it with conditions, if it determines that:

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location or to allow the city time to develop a regulation addressing the potential longer term impacts of the requested use in that location;
2. The applicant agrees to sign a development agreement with the city confirming that (a) approval of the permit will not result in increased costs to the city if the property is later acquired by

the city through eminent domain; (b) the use will be terminated at the applicant's expense on the date(s) stated in the permit, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures or improvements related to the use, and (d) the applicant agrees to all conditions imposed by the city. No interim use permit shall be issued until a development agreement confirming these points is executed.

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

Governing Principle #5 - Strengthen neighborhoods

Governing Principle #8 - Encourage mix of activities, uses, and densities

- Econ. Dev. Policy #3 - Build on Existing Economic Strengths & Competitive Advantages
S9: Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth

Future Land Use – 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, high height and density limits, protection of historic buildings or building groups, form-based guidelines, pedestrian-oriented design, no off-street parking required, but loading required, avenue lake views are protected.

Review and Discussion Items:

- 1) Applicant's property is located at 30 North First Avenue West, which is also known as 30 West First Street in some City records. The vacation dwelling unit is on the second floor of a two-story, mixed-use building constructed in 1883. The proposed vacation dwelling unit contains 4,000 sq. ft., has 2 bedrooms, which would allow for a maximum of 5 guests.
- 2) The applicant lives within the required distance when the property is rented and will notify the owners within 100 feet with their contact info. after Council approval (which is recommended to be a condition of approval).
- 3) Because the property is in a Form district, the provision of off-street parking is not required by the UDC. However, the applicant has leased two parking spaces from a private party that will be available for guests' use. The parking spaces are located off the alley below First Street between 1st Ave. W. and 2nd Ave. W. The applicant has indicated that they will not accept guests with motorhomes or trailers.
- 4) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 5) Applicant has obtained a City of Duluth Tourism Tax permit and has a State Tax ID number for paying sales tax. They have had inspections for the Minnesota Department of Health Lodging License and Fire Operational Permit, but they will need to complete the process and be issued permits from the two entities before their IUP can be issued. Therefore, staff recommends this be a condition of approval. An additional recommended condition is that they apply for, and be issued, a Hotel/Motel License from the City Clerk.
- 6) Applicant must comply with Vacation Dwelling Unit Use Specific Standards, including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 7) No comments from citizens, City staff, or any other entity were received regarding the application.

Staff Recommendation:

Based on the above findings, Staff recommends that Planning Commission recommend approval subject to the following:

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation, including State Lodging License, Fire Operational Permit, and Hotel/Motel License; and
- 2) The Interim Use Permit shall not be effective until the applicant has provided evidence that property owners within 100 feet of the vacation dwelling unit have been noticed with their or their managing agent's contact info.; and
- 3) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit document and provide evidence of compliance, which will be included in the resolution, and any modifications deemed necessary by the Land Use Supervisor, provided that no such administrative approval shall constitute a variance from Chapter 50.



PL 19-117
 Vacation Dwelling Unit
 Interim Use Permit
 30 N 1st Ave W
 Jason Taly/Rachel Watson

PC Meeting 09-10-19



Legend

Easement Type

- Utility Easement
- Other Easement

Zoning Boundaries

Floodplain (UDC)

- General Flood Plain
- Flood Way
- Flood Fringe

Shoreland (UDC)

- Cold Water
- Natural Environment
- General Development
- Wetlands (NRR)

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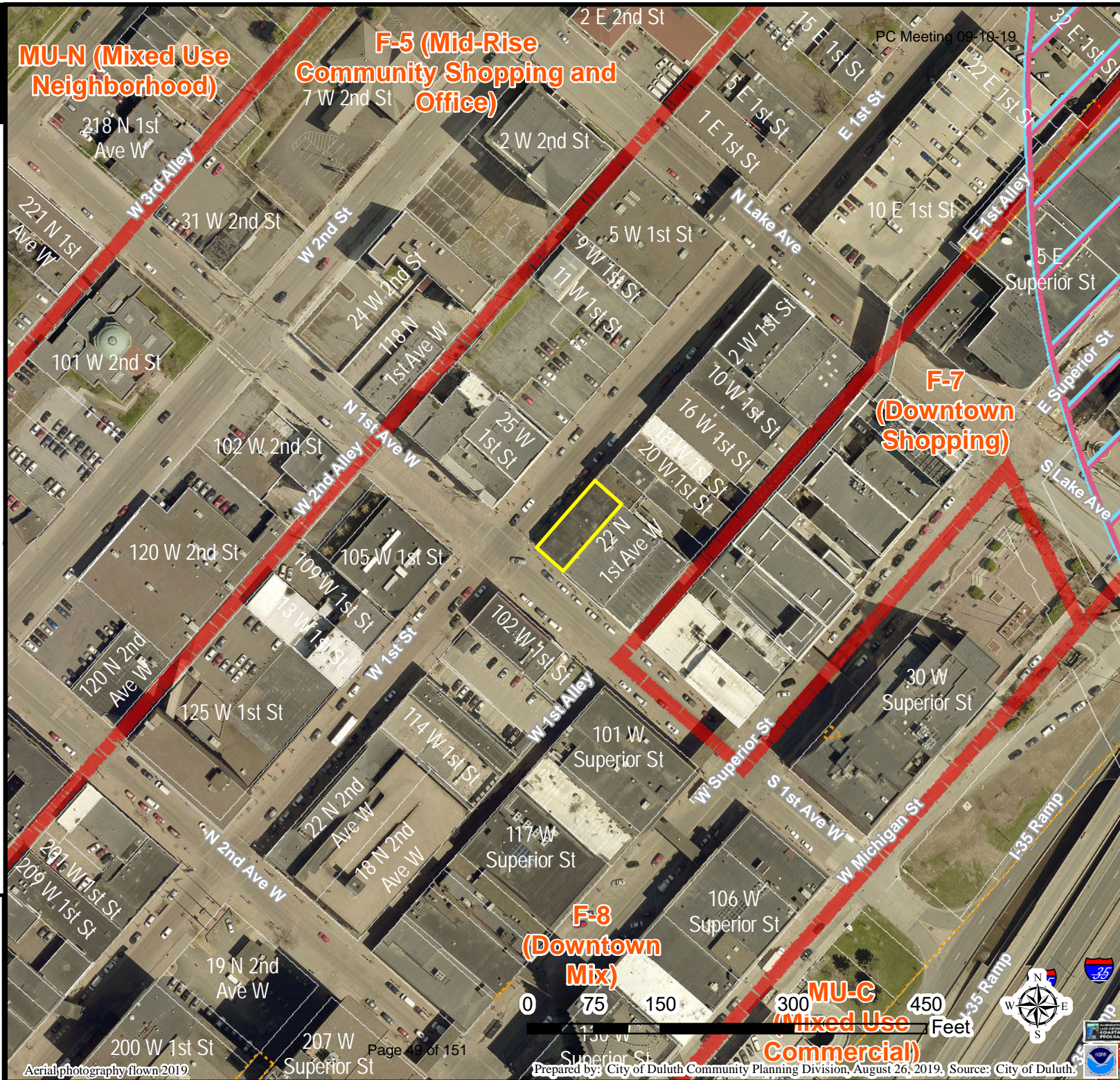


PL 19-117
 Vacation Dwelling Unit
 Interim Use Permit
 30 N 1st Ave W
 Jason Taly/Rachel Watson

MU-N (Mixed Use Neighborhood)

F-5 (Mid-Rise Community Shopping and Office)

PC Meeting 09-10-19



Legend

Easement Type

- Utility Easement
- Other Easement
- Zoning Boundaries

Floodplain (UDC)

- General Flood Plain
- Flood Way
- Flood Fringe

Shoreland (UDC)

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- Natural Environment
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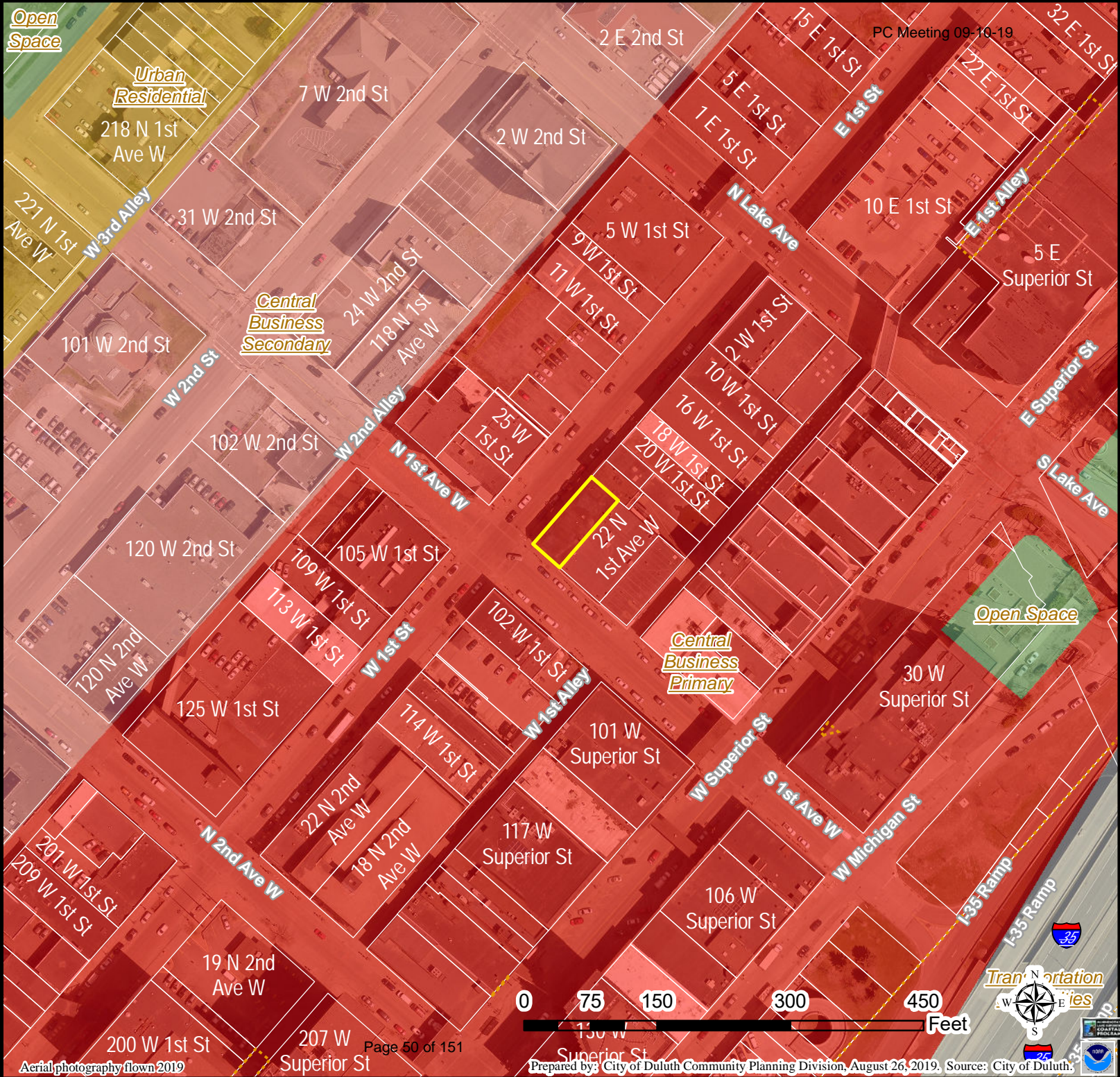
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Aerial photography flown 2019





PL 19-117
 Vacation Dwelling Unit
 Interim Use Permit
 30 N 1st Ave W
 Jason Taly/Rachel Watson



Open Space

Urban Residential

Central Business Secondary

Central Business Primary

Open Space

Legend

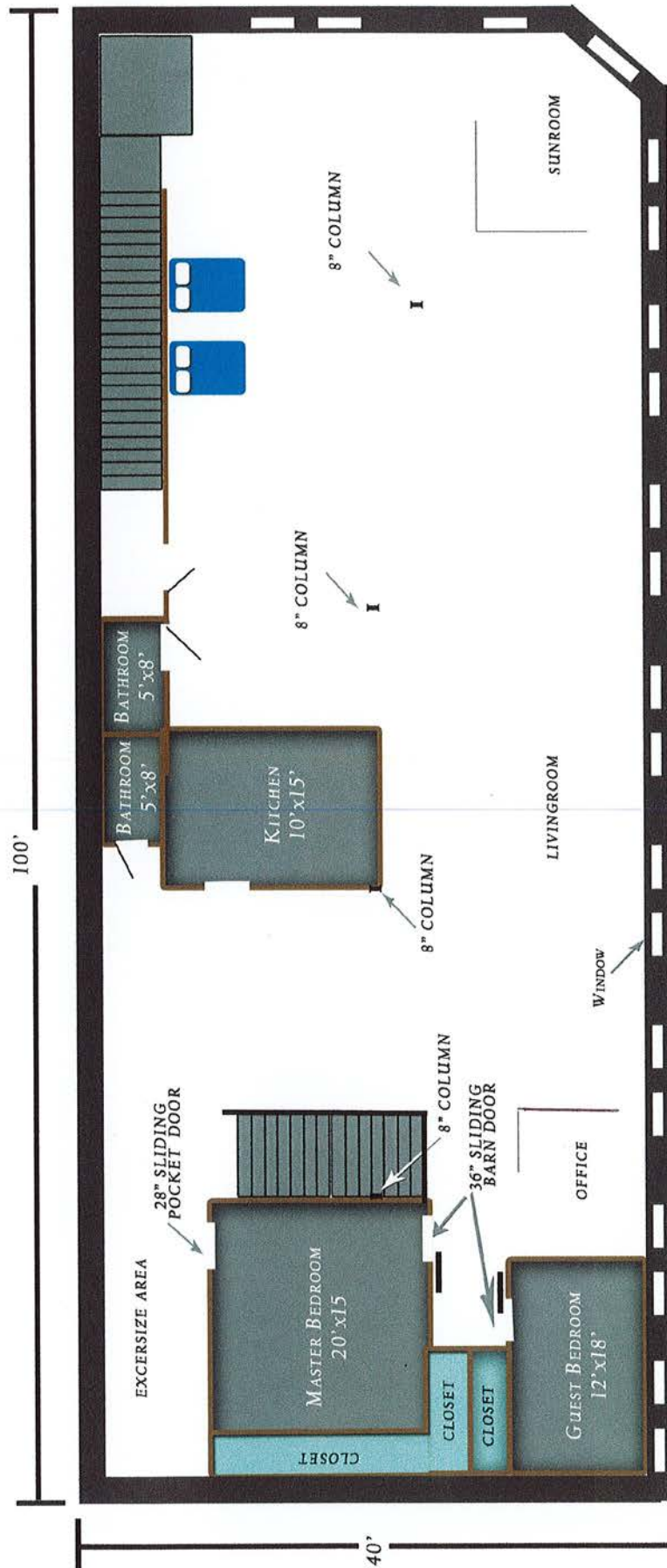
Easement Type

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- Transportation and Utilities/Outside Duluth
- Medical District
- Institutional

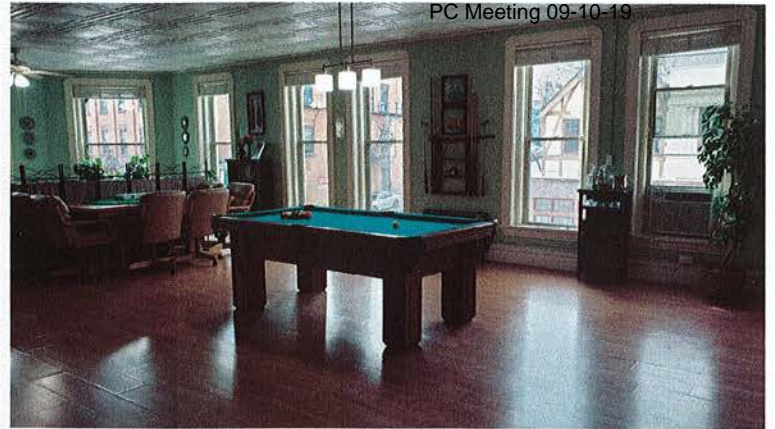
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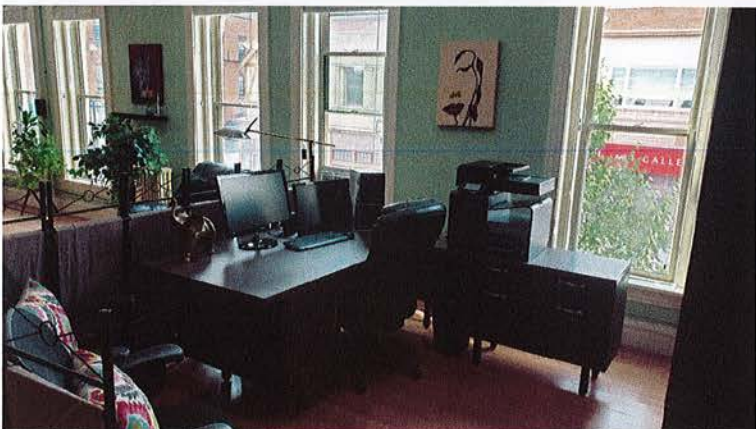
Aerial photography flown 2019











Vacation Dwelling Unit Worksheet (April 2018)

1. The minimum rental period shall be not less than two consecutive nights. **What will be your minimum rental period?** 2 nights

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.

How many legal bedrooms are in the dwelling? What will be your maximum occupancy?

2 5

3. Off-street parking shall be provided at the following rate:

a. 1-2 bedroom unit, 1 space

b. 3 bedroom unit, 2 spaces

c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.

d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.

*N/A
Form District*

How many off-street parking spaces will your unit provide? 0

4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street. **Will you allow motorhome or trailer parking? If so, where?**

NO

5. The property owner must obtain all licenses and permits from the City of Duluth and State of Minnesota required for guest occupancy on the property for 2 to 29 days. Provide copies of the lodging and fire inspection reports with your initial application.

Mn Department of Health Lodging License (Requires Inspection)

City of Duluth Fire Operational Permit (Requires Inspection)

City of Duluth Hotel/Motel License

City of Duluth Tourism Tax Number [REDACTED]

State of Mn Tax Identification Number [REDACTED]

6. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.

7. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbeque grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties. Please note that this must be on 8 x 11 size paper.

8. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first. An owner of a vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as amended, for the remainder of the permit term.

9. Permit holder must keep a guest record including the name, address, phone number, and vehicle (and trailer) license plate information for all guests and must provide a report to the City upon 48 hours' notice. **Please explain how and where you will keep your guest record (log book, excel spreadsheet, etc):**

Log Book for Guests to Sign

10. Permit holder must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the Land Use Supervisor within 10 days of a change in the managing agent or local contact's contact information. **Please provide the name and contact information for your local contact:**

Jason Taly [REDACTED]

11. Permit holder must disclose in writing to their guests the following rules and regulations:

- a. The managing agent or local contact's name, address, and phone number;
- b. The maximum number of guests allowed at the property;
- c. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked;
- d. Property rules related to use of exterior features of the property, such as decks, patios, grills, recreational fires, pools, hot tubs, saunas and other outdoor recreational facilities;
- e. Applicable sections of City ordinances governing noise, parks, parking and pets;

Please state where and how this information will be provided to your guests:

Info Packet Left on The Counter

12. Permit holder must post their permit number on all print, poster or web advertisements. **Do you agree to include the permit number on all advertisements?** yes

13. **Prior to rental**, permit holder must provide the name, address, and phone number for the managing agent or local contact to all property owners within 100' of the property boundary; submit a copy of this letter to the Planning and Community Development office. In addition, note that permit holder must notify neighboring properties within 10 days of a change in the managing agent or local contact's contact information.

14. **Prior to rental**, the building must be inspected and an Operational Permit issued by the Fire Prevention office. Permit holder must apply for and be granted State and local sales tax numbers, including Hotel and Motel Use Sales Tax, as discussed in item number 5 above; submit a copy of these approvals to the Planning and Community Development office.



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 19-125	Contact	Chris Lee, clee@duluthmn.gov	
Type	Interim Use Permit Renewal – Vacation Dwelling Unit	Planning Commission Date		September 10, 2019
Deadline for Action	Application Date	August 15, 2019	60 Days	October 23, 2019
	Date Extension Letter Mailed	August 23, 2019	120 Days	December 22, 2019
Location of Subject	1004 Minnesota Ave			
Applicant	Petra Properties	Contact	Steve Peters	
Agent	Francine Spears	Contact		
Legal Description	Lot 179 Block 0, Upper Duluth Lake Avenue (010-4380-00900)			
Site Visit Date	August 24, 2019	Sign Notice Date	August 27, 2019	
Neighbor Letter Date	August 26, 2019	Number of Letters Sent	37	

Proposal

Applicant proposes to use the house with 4 bedrooms for vacation rental. Up to 9 people will be allowed to stay in the home. A vacation dwelling unit allows for periods of occupancy of 2 to 29 days, with a minimum stay of 2 nights.

Staff is recommending that planning commission recommend approval.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	One-family dwelling	Traditional Neighborhood
North	R-1	Undeveloped street	Traditional Neighborhood
South	R-1	Dwellings	Traditional Neighborhood
East	R-1	Park Point Beach	Preservation
West	R-1	Dwellings	Traditional Neighborhood

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the R-1 District.

UDC Sec. 50-37.10.B . . . Council shall make, a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The . . . Council may impose appropriate conditions and safeguards, including but not limited to financial security pursuant to Section 50-37.1.P, a development agreement regarding the design, construction, and operation of the special use, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the special use permit will continue to meet.

UDC Sec. 50-37.10.E . . . the Council shall only approve an interim use permit, or approve it with conditions, if it



Planning & Development Division
Planning & Economic Development Department

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 Duluth, Minnesota 55802

☎ 218-730-5580

✉ planning@duluthmn.gov

determines that:

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location or to allow the city time to develop a regulation addressing the potential longer term impacts of the requested use in that location; 2. The applicant agrees to sign a development agreement with the city confirming that (a) approval of the permit will not result in increased costs to the city if the property is later acquired by the city through eminent domain; (b) the use will be terminated at the applicant's expense on the date(s) stated in the permit, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures or improvements related to the use, and (d) the applicant agrees to all conditions imposed by the city. No interim use permit shall be issued until a development agreement confirming these points is executed.

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

Governing Principle #5 - Strengthen neighborhoods

Governing Principle #8 - Encourage mix of activities, uses, and densities

- Econ. Dev. Policy #3 - Build on Existing Economic Strengths & Competitive Advantages
S9: Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth

Future Land Use – Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home-businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

The site is developed consistent with the future land use as described and the applicant is not proposing alterations to the use.


Review and Discussion Items:

- 1) Applicant's property is located at 1004 South Lake Avenue. The proposed vacation dwelling units contain 4 bedrooms, which would allow for a maximum of 9 guests. This 1,985 square foot traditional home was constructed in 1891.
- 2) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. Applicant has listed Francine Spears to serve as the managing agent.
- 3) The site has room for 6 vehicles to be parked on the driveway and off the street as required by the UDC. There will be a space for a single trailer in the garage on the property.
- 4) The applicant has indicated that there will be a picnic table and a grill for use by renters and it is adequately screened.



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5) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.

6) Applicant has obtained the City of Duluth Tourism Tax license, the Minnesota Department of Health Lodging License, have a Tax ID number, a fire operational permit, and a Hotel/Motel License.

7) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").

8) No comments from citizens, City staff, or any other entity were received regarding the application.

Staff Recommendation:

Based on the above findings, Staff recommends that Planning Commission recommend approval subject to the following:

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant must provide a written disclosure to all guests stating that quiet hours shall be observed between the hours of 10 p.m. and 8 a.m.
- 3) No fires on the beach.
- 4) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit document and provide evidence of compliance, which will be included in the resolution.



PL 19-125: Interim Use Permit
1004 S Lake Ave

PC Meeting 09-10-19



Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

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

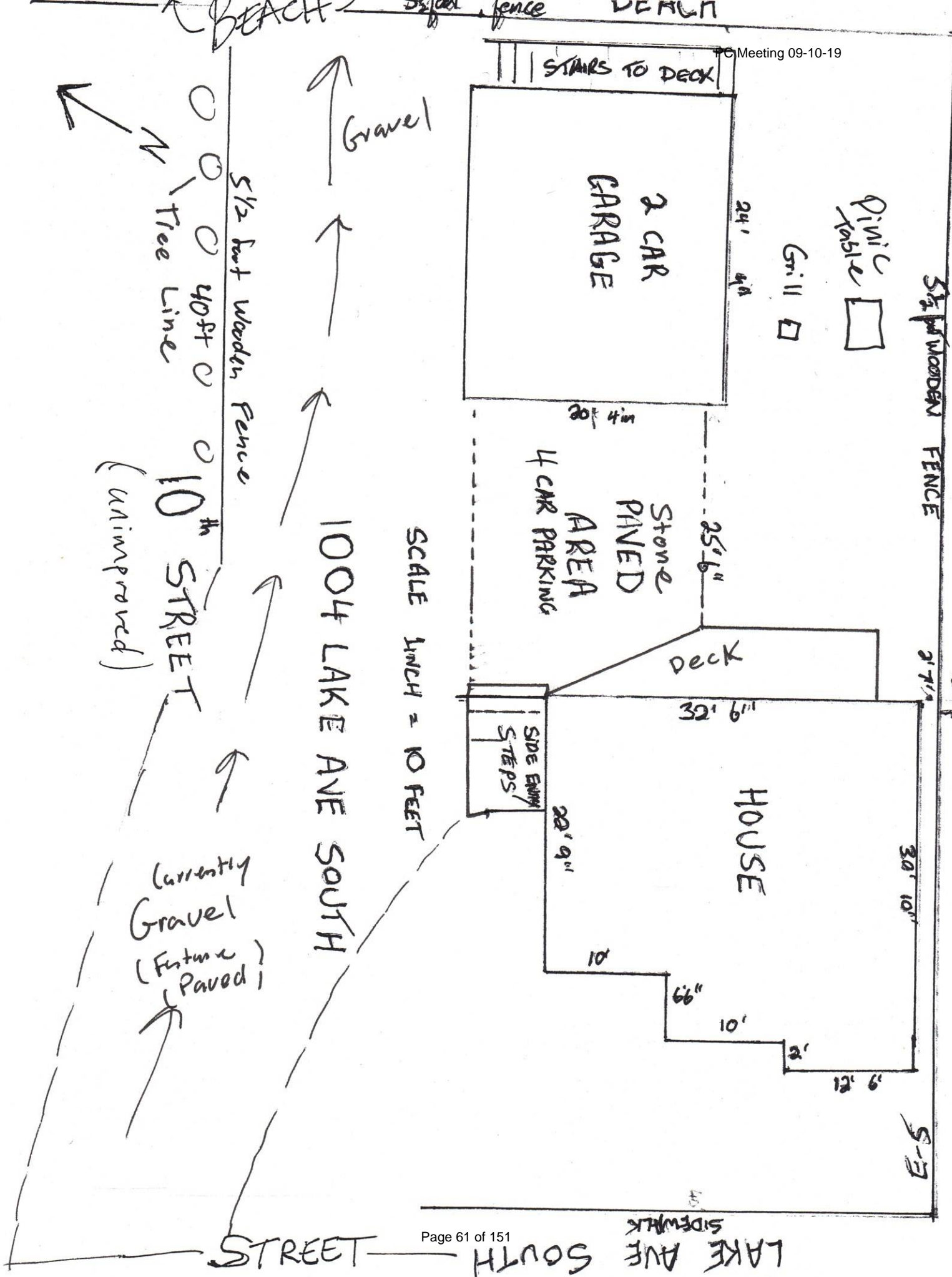
Storm Sewer Mains

- Storage Basin
- Pump Station
- Storm Sewer Pipe
- Storm Sewer Catch Basin

Zoning Boundaries

- Zoning Boundaries

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1004 South Lake Ave



Legend
 Zoning Boundaries

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File Number	PL 19-122		Contact	Kyle Deming	
Type	Rezone from R-1 to R-P		Planning Commission Date		September 10, 2019
Deadline for Action	Application Date		August 27, 2019	60 Days	October 26, 2019
	Date Extension Letter Mailed		August 28, 2019	120 Days	December 25, 2019
Location of Subject		North side of Marble Street between Robin Avenue and Stanford Avenue (Duluth Heights)			
Applicant	Lotus Realty Services and Gospel Tabernacle		Contact	Brad Johnson	
Agent	LHB, Inc.		Contact	Heidi Bringman	
Legal Description		Lot 4, Block 1, Harbor Light Division; Lots 5-13 & Lots 36-40, Block 5, Kensington Place Addition			
Site Visit Date		August 27, 2019	Sign Notice Date		August 27, 2019
Neighbor Letter Date		August 28, 2019	Number of Letters Sent		29

Proposal

Rezone a 9.8 acre property from the Residential-Traditional (R-1) to Residential-Planned (R-P) to facilitate a development of 25 single-detached and twinhome dwellings on a private street with 3.5 acres of open space.

Staff Recommendation

Staff is recommending approval of the proposed rezoning to R-P.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Undeveloped	Low-Density Neighborhood
North	R-1	Undeveloped	Low-Density Neighborhood
South	R-1	Single-Family Dwellings	Low-Density Neighborhood
East	R-1	Single-Family Dwelling	Low-Density Neighborhood
West	R-1	Single-Family Dwelling	Low-Density Neighborhood

Summary of Code Requirements

- UDC Sec. 50-14.7.A: Purpose

The R-P district is established to provide a flexible development option for residential projects that integrate creative site design, provide a variety of housing types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each R-P district requires approval of an R-P regulating plan that includes the location, type and intensity of proposed development and a description of public amenities or benefits included. Single-family residences, two-family residences and townhouses, as well as accessory uses, are permitted, as shown in Table 50-19.8, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the approved R-P plan;

- UDC Sec. 50-14.7.C: Modifications

An applicant may seek only the modifications in Table 50-14.7-1, based on demonstration of how the proposal supports the

purpose of the R-P district as stated in subsection 50-14.7.A and the following desired R-P amenities:

1. Significant preservation and protection of natural resources and undeveloped areas, including wetlands and trees.
 2. A higher level of sustainability in buildings, site design, and transportation.
 3. More efficient and effective use of streets, utilities, and public facilities to support high quality development at a lesser cost.
 4. Recreational facilities that are open to the public, such as parks and playgrounds.
 5. Accommodations for and linkages to mass transit.
 6. Creative site design as appropriate for the site.
 7. Bike lanes and trails within the development and connecting to other trails and destinations.
 8. Pedestrian amenities such as benches, plazas, pedestrian-scaled lighting, traffic calming, and art.
- UDC Table 50-14.7-1: Modifications Allowed.

Applicant may seek only certain modifications to the base zoning.

- UDC Sec. 50-14.7.H: Required rezoning application and regulating plan contents.

1. The rezoning application (approved per Section 50-37.3) shall include the following information:

- (a) A concept map showing the property to be rezoned and general uses within the area; (b) Maximum residential densities and maximum square footage for nonresidential land uses; (c) Maximum building heights;

- UDC Sec. 50-37.3.B: Planning Commission shall review the application, conduct a public hearing ... with public notice ... and make a written recommendation to council.

- UDC Sec. 50-37.3.C: The Planning Commission shall review the application, and Council shall approve the application or approve it with modifications, if it determines that the application:

1. Is consistent with the Comprehensive Land Use Plan;
2. Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use; 3. Is required by public necessity, convenience, or general welfare, or good zoning practice;
4. Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

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

Governing Principles

Governing Principle #2 - Declare the necessity and secure the future of undeveloped places.

Undeveloped areas are an essential part of Duluth’s municipal fabric— urban plazas, neighborhood parks, large tracts of public ownership, and private lands zoned for minimal development. This project preserves open space by allowing for a more clustered form of development than anticipated under the base zoning category.

Governing Principle #7 - Create and maintain connectivity.

Connectivity is established through our network of streets and highways, transit system, sidewalks, greenways, bikeways, and trails (local and regional). This development would include a private street that connects to the public street network, and a paved trail connecting into the northern portion of Harbor Light. The development will better utilize Marble Street and available city utilities, as described in the comprehensive plan.

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

The costs of public service must be considered in land use decisions. This project reduces public costs by providing a private street and otherwise using existing utilities and streets.

Future Land Use

Low-Density Neighborhood - Single-family housing with urban services. Typified by curvilinear streets, houses with longer dimension parallel to street, and attached garages. Includes a range of house sizes and lot sizes. Non-residential uses are mainly uses such as schools and churches. Parks and open space are located within or adjacent. 3-4 units/acre (future study), conservation development an option, required with sensitive lands overlay limited number of secondary/granny flats

Site History or Previous Studies

1. Site is part of a 40-acre area originally owned by ISD 709 who determined the land was surplus and sold it to Duluth Gospel Tabernacle in 2011.
2. April 12, 2016: Planning Commission approved the Arrowhead Road Land Use Study that considered higher intensity land uses along Arrowhead Rd. from Arlington Ave. to Swan Lake Rd. (PL 16-030).
3. May 19, 2016: Wetland Delineation approved for the site identifying 8.7 acres of mostly Type 7 Hardwood Swamp scattered throughout the 39.2-acre site (PL 15-173).
4. December 12, 2016: City Council rezoned the north half of the subject site from RR-1 Rural Residential to R-2 Urban Residential & the south half of the site from RR-1 to R-1 Traditional Residential (Ord. 16-074-O, #10486, PL 16-127).
5. November 2, 2016: Wetland Replacement Plan approved to allow 0.9 acres of wetland impact on the site for a new church and commercial use of the property. Wetland credits to be purchased in Cook Co. (PL 16-132).
6. April 25, 2017: City Council approved Comprehensive Plan Future Land Use Map amendments to implement the land use study, which resulted in changing the north half of the subject site to Urban Residential from Low-Density Residential and leaving the south half of the subject site Low-Density Residential (Res. #16-0305, PL 16-030).
7. May 9, 2017: Planning Commission approved the Preliminary Plat of the 39.2 acre Harbor Light Division (PL 17-061).
8. October 10, 2017: Planning Commission approved the Final Plat of the Harbor Light Division (PL 17-107) subdividing 39.2 acres into 4 building lots, including the this subject property.
9. March 13, 2018: Planning Commission approved the replatting of Harbor Light Division to dedicate two public roads for the property (PL 18-019).
10. July 9, 2018: City Council approved Ordinance #10578 rezoning the north 18 acres of the Harbor Light plat to Mixed Use-Planned (MU-P) (PL 18-069).
11. August 14, 2019: Land Use Supervisor approved a Boundary Line Adjustment affecting Lots 3 and 4, Block 1, Harbor Light Division, to take 2.3 acres from Lot 3 and add it to Lot 4 resulting in Lot 4 being 7.19 acres (PL 19-102).

Review and Discussion Items:

- 1) The proposal is a 25-unit (with a mix of single-detached and twinhome dwellings) Common Interest Community (CIC) located on private streets with 3.5 acres of open space, trails, a pocket park, and storm water treatment facilities all owned and managed by a home owners association. Approval of the R-P Plan will enable the applicant to use the CIC process to subdivide the land and allow for common ownership of shared spaces. The open space, trails, and pocket park will be designed for and intended to be made available for the general public, including the surrounding neighborhood and the new uses to the north, to use.
- 2) The applicant has provided a Concept Map and General Layout as well as a table showing proposed modifications to zoning requirements. The applicant's Public Benefits Summary explains how the proposed site design will meet the purpose statement of the R-P Zone District.
- 3) The proposed project is consistent with the future land use designation showing single and twinhome dwellings with attached garages on a curving street with all municipal utilities. The overall density is 2.6 units per acre and the proposal is to conserve 3.5 acres as open space with trails. The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan, and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or be considered arbitrary and capricious. Good zoning practice requires that zone districts be consistent with the future land use category identified for the area. In this case, the Low-Density Neighborhood designation speaks of single-family housing with urban services on curvilinear streets, attached garages, with a range of house sizes, with an overall density of 3-4 units per acre. Conservation development is listed as an option with parks and open space areas located within or adjacent.

4) The applicant's Public Benefits Summary says "the site design and layout of the R-P development has been studied and intentionally designed to work well with existing site constraints and the natural topography" and "will be providing public benefit by conserving natural areas and allowing community access to 3.5 acres of green space . . . made up of preserved wetlands along with a designated tree conservation area with high quality woods that include white pine, red pine, maple, birch, aspen and basswood species." Additional public benefits include natural surface trails to connect Marble Street to Evergreen Circle and the paved pathway for a looped trail system, a pocket park along Marble Street, and on-site storm water management using green infrastructure systems draining to preserved wetland areas. These Concept Plan features advance R-P zoning requirements.

5) The 2018 Housing Indicator Report (<https://duluthmn.gov/media/8390/2018-housing-indicator-report.pdf>) identifies the continued need for housing units in Duluth. The proposed development provides housing in an area with existing infrastructure and is consistent with the scale of the surrounding neighborhood. The proposed housing, open space, and trails contributes to the general welfare of the community.

6) The proposed project orients the 25 new dwellings to the internal private streets and retains trees along the north side of part of Marble Street as a buffer and "pocket park" managed by the homeowners association for the benefit of new and existing residents. The new trails and open space will be a benefit to the surrounding neighborhood. Existing utility and street infrastructure have capacity to handle the proposed development according to the City Engineering Division.

7) The applicant held a neighborhood meeting (summary of comments attached) on August 28 with about 15 people in attendance. No other written correspondence has been received as of the date that this report was printed.

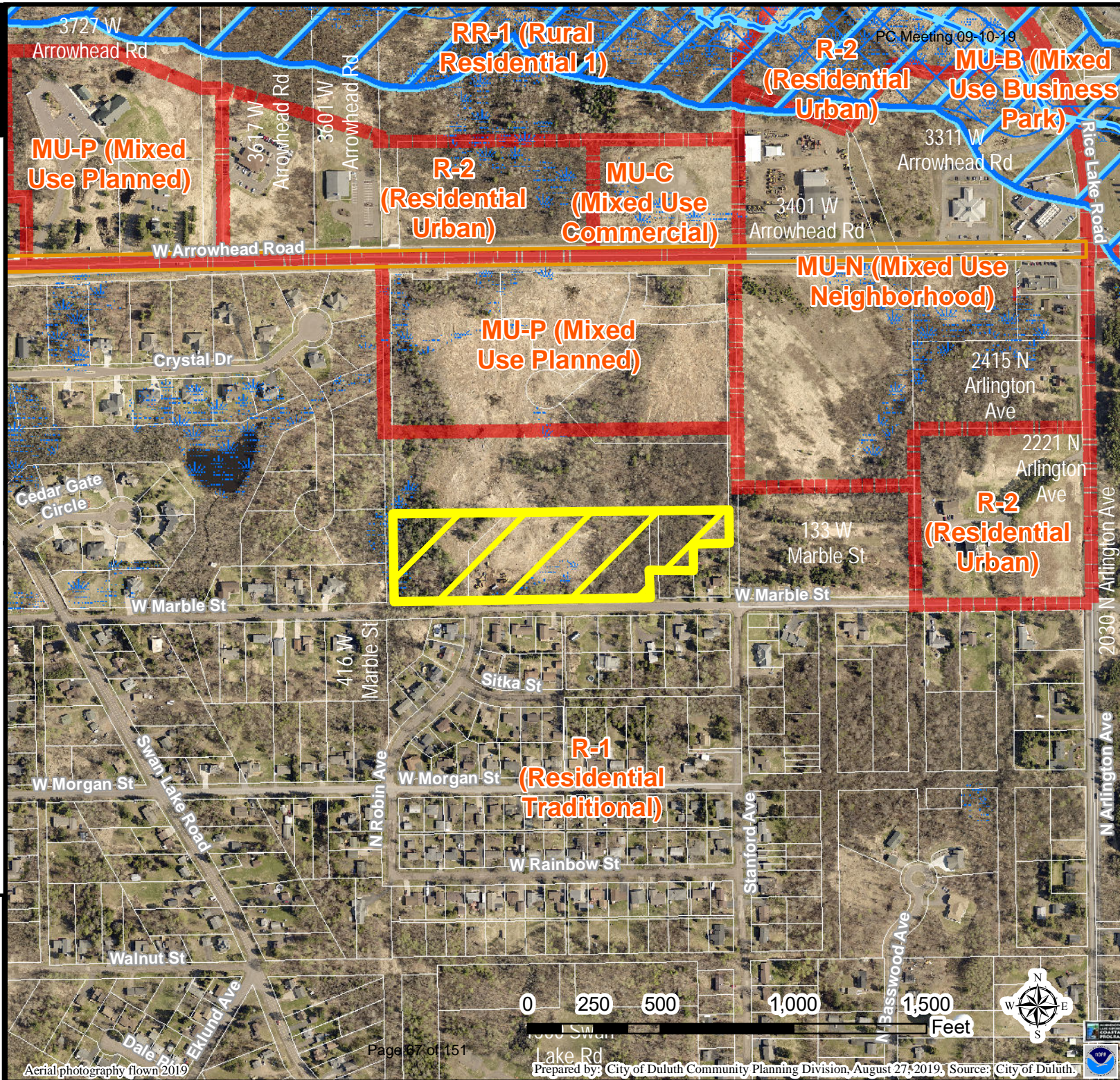
Staff Recommendation:

Based on the above findings, summarized below, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning to R-P.

- 1) The proposed zone district is reasonably able to implement the objectives of the Comprehensive Plan related to the land use for this area; and
- 2) The proposed rezoning is related to the overall housing and open space needs of the community and the scale of adjacent land uses; and
- 3) The proposed Concept Plan features, when detailed in a Regulating Plan, are anticipated to satisfy R-P zoning requirements; and
- 4) Material adverse impacts on nearby properties are not anticipated.



PL 19-122
UDC Map Amendment
R-1 to R-P
Lotus Realty Services
and Gospel Tabernacle



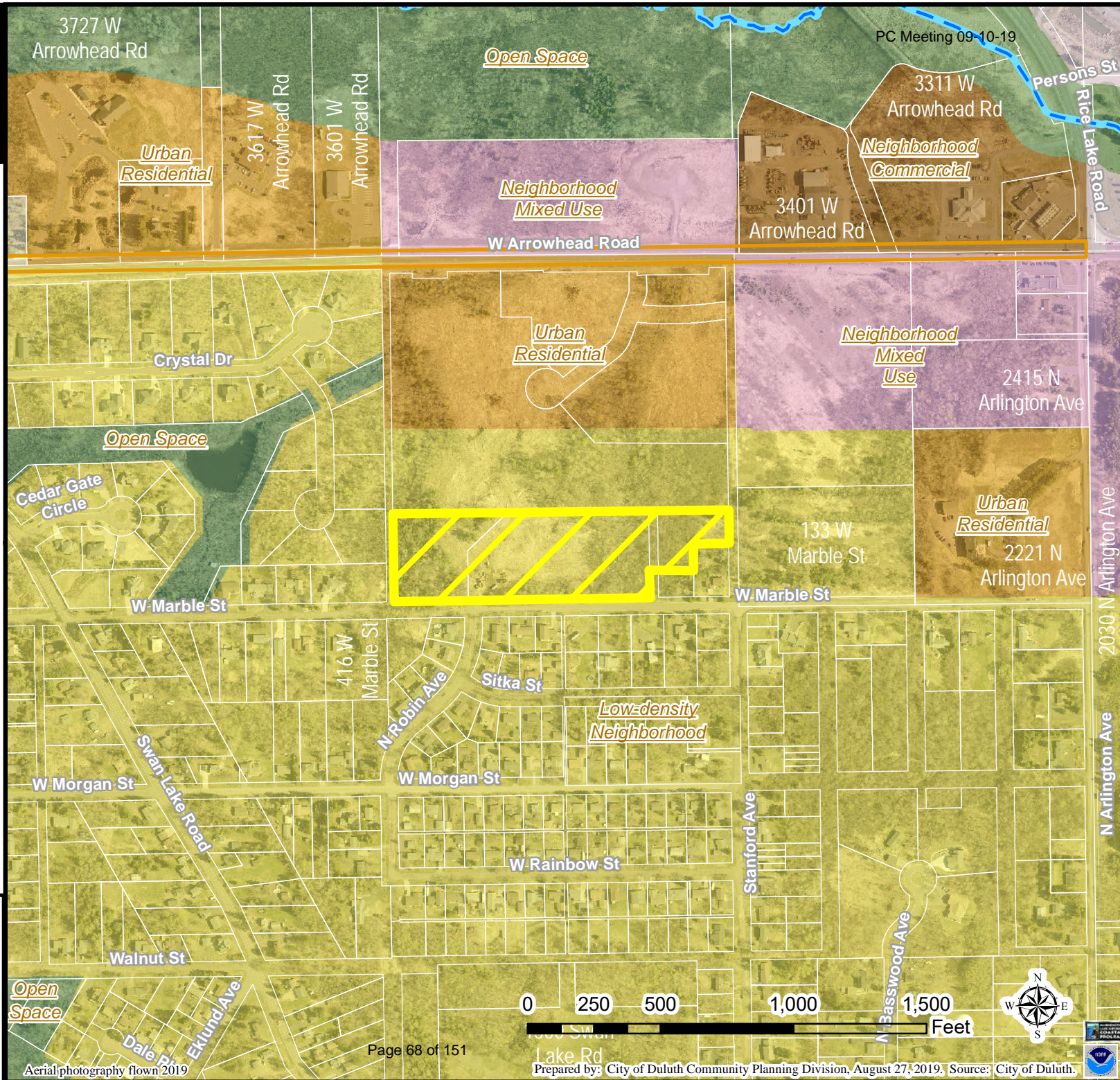
Legend

- Concurrent Use Permits
- Zoning Boundaries
- Floodplain (UDC)**
 - General Flood Plain
 - Flood Way
 - Flood Fringe
- Shoreland (UDC)**
 - Cold Water
 - Natural Environment
 - General Development
 - Trout Stream (GPS)
 - Other Stream (GPS)
 - Wetlands (NRR1)

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PL 19-122
UDC Map Amendment
R-1 to R-P
Lotus Realty Services
and Gospel Tabernacle -
Future Land Use Map



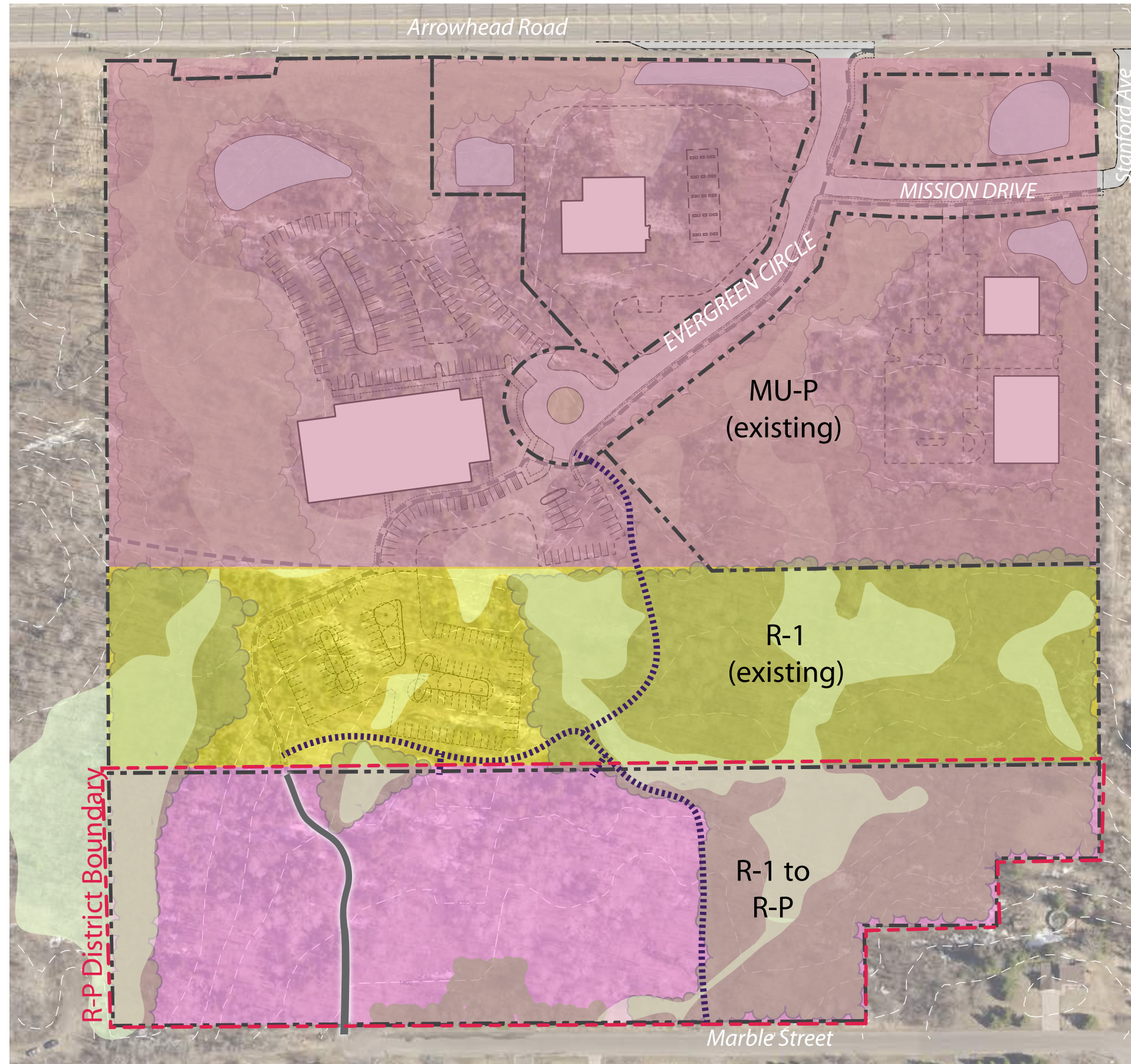
Legend

- Concurrent Use Permits
- Trout Stream (GPS)
- Other Stream (GPS)
- Open Space
- Open Space/Outside Duluth
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Central Business Secondary
- Central Business Primary
- Large-scale commercial
- Tourism/Entertainment District
- Commercial Waterfront
- General Mixed Use
- Neighborhood Mixed Use
- Light Industrial
- General Industrial
- Industrial Waterfront
- Business Park
- Transportation and Utilities
- Transportation and Utilities/Outside Duluth
- Medical District
- Institutional

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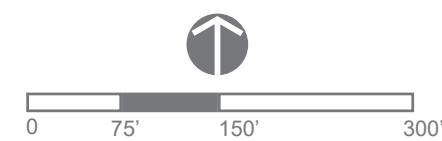


R-P Concept Map



Parcel Allocation						
PC Meeting 09-10-19						
Parcel	Gross Acres	Open Space/ Green Space	Net Devel- oped Acres	Permitted Uses	Maximum Density	Max. Height
3	9.8 ac	3.5 ac	6.3 ac	Single-family residences, Two-family residences, and Town-houses	Medium Density	35'








R-P District Dimensional Standards		
		Lot Standards
Minimum Lot Area	Single Family	3,200 sq ft
	Two-Family, Townhouse	2,400 sq ft
Minimum Lot Frontage	Single Family, Two-family, and Townhouse	30 ft
Minimum depth of front and rear yard	Single Family, Two-family, and Townhouse	20 ft
Minimum side yard setback	Single Family, Two-family, and Townhouse	5 ft

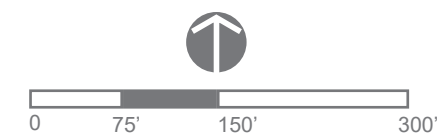


R-P General Layout (Proposed)



Legend

-  Private Street
-  Building Footprint
-  Stormwater Pond Location
-  New Public Pathway
-  New Public Trail
-  Wetland
-  Undisturbed Green Space



Harbor Light Development Lot 4 RP District – Public Benefits Summary

Per UDC Section 50-14.7, the following design features and desired amenities will be included in the Lot 4 RP District:

Variety of housing types, creative site design + a high level of sustainability:

The proposed Residential Planned (RP) district at Harbor Light Lot 4 will consist of a unique residential development with a mix of housing types including 9 single-family residences and 16 twinhome units surrounded by a mature maple basswood forest. The development will be situated within the Duluth Heights neighborhood, accessed from West Marble Street, and will include a private looped road with a dead-end spur for individual and shared driveway access. The building architecture of the new homes will be sustainable, aesthetically pleasing and will fit into the existing neighborhood character with the use of similar roof lines and natural materials to provide a consistent and intentional look.

Unique site amenities, public open spaces + neighborhood connections:

The project will incorporate distinctive on-site amenities including a small pocket park, bench seating, visitor parking (for 4 cars), and will also increase neighborhood connectivity by providing a new pedestrian looped trail system which will begin at the intersection of West Marble Street and North Robin Avenue. A new paved trail will run along the west side of the private road to the shared visitor parking area, then travel north through Lot 3, and eventually will connect with the sidewalk/trail system on Evergreen Circle, Mission Drive and Arrowhead Road. In addition to the paved trail, a natural surface footpath will link to the adjacent neighborhood to the west via Crystal Drive (on Lot 3), as well as loop back towards Marble Street on the east side of the development of Lot 4. The new trail system will be maintained in partnership by the home-owners association and the Gospel Tabernacle Church, but will be open to the general public to enjoy. This new pedestrian circulation system will total over 1 mile in length and will provide new connections to the adjoining neighborhoods as well as to Arrowhead Road that have not otherwise existed before.

Preservation and protection of natural resources, + undeveloped areas:

The RP district will be providing a public benefit by conserving natural areas and allowing community access to 3.5 acres of green space on privately owned land. The green space is made up of preserved wetlands along with a designated tree conservation area with high-quality woods that include white pine, red pine, maple, birch, aspen and basswood species. The green space areas are home to wildlife habitat and act as buffers from wind as well as provide screening from other developed areas. A small pocket park, located just north of Marble Street and managed by the homeowners association, will also serve as a passive green space for the neighborhood and community to enjoy.

Preserving this ample green space will be benefiting the community in multiple ways, as providing the opportunity to experience nature in a close setting has been shown to be beneficial to human health and wellness by reducing stress, improving general mood and attitude, increase mental health, improve mindfulness and creativity. It will also provide homeowners a chance to connect with each other as the presence of trees and landscape has been shown to promote community connections. Lastly, views of green space are linked to greater perceptions of well-being, neighborhood satisfaction and safety.

Effective use of site design to support high quality development at lesser cost:

The site design and layout of the RP development has been studied and intentionally designed to work well with existing site constraints and the natural topography to reduce overall construction costs, thereby providing another great public benefit. Because of recent development occurring on adjacent Lots 1 & 3, there was a considerable cost savings to rough grade Lot 4 simultaneously with the current project. To even further lessen costs, the overall development footprint was reduced which also allowed for significant preservation of wetlands and mature vegetation to occur. As part of the low impact design philosophy, a looped road system was planned to maximize housing units on both sides of the streets and where feasible, driveways will be shared. In addition to the visitor parking area, some on-street parking near the trail may be incorporated into the design. Private utilities will be located within the loop road and will be brought to each building with connection hook-ups. Twinhomes on the north side of the site will be sited to maximize the existing grades and will have a 5'-6' elevation change providing a desirable look-out condition with views to the north. Other sustainable and cost-effective site design features include curb and gutter along the road to assist with drainage, green infrastructure practices such as raingardens or biofiltration swales, to help manage stormwater run-off, as well as the planting of landscape trees and turf restoration in all disturbed areas. Because the site design and infrastructure for the development has already been intentionally planned for and designed as one whole project, the building costs for each home will be greatly reduced. Obtaining this type of housing density while still providing a high-quality development at lower costs will benefit the neighborhood and general public.

With these design features and desired amenities listed above, the RP district will provide a lower cost option and a better final product for the LOT 4 development and will be providing a greater level of public benefit than required under the existing zone district.

Harbor Light Lot 4 Development - Neighborhood Meeting Summary

A neighborhood Open House meeting was held on August 28th 2019, from 4:30 – 6pm at the Crooked Pint Ale House to share proposed residential development plans for Lot 4 of the Harbor Light Development with interested residents. There was approximately 15 attendees present, see attached sign-in sheet for details. A summary of the general comments and questions are below.

- Many residents liked the proposed trail system and were happy to see how it linked to adjacent neighborhoods.
- One resident on Marble Street was not happy with the proposed housing development as it will increase traffic on the quiet street and she will be losing privacy and views to the trees across the street.
- A few people appreciated that the development will have its own private road rather than having many driveways outlet onto Marble Street.
- Many residents liked that there are no plans to connect Marble Street to Evergreen Circle, only a pedestrian through-route will exist to Arrowhead Road.
- Will Marble Street get upgraded with the new development? A few people commented on the poor condition of Marble Street to the east.
- There was concern that the proposed development would be low-income housing. A board of possible housing styles was present to show housing types, style, and approximate sizes.
- There was desire to preserve the large maple tree at the corner of Marble Street and N Robin Ave. The plans currently show the private road meeting up with N Robin Ave near the tree's location. LHB will assess the grades and street alignment to see if it can be preserved.
- There was also desire to preserve the remaining trees to serve as a buffer between Marble Street and the housing development (some in the ROW). LHB will assess the grades and make a concerted effort to salvage as many trees as possible.



Planning & Development Division
Planning & Economic Development Department

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 Duluth, Minnesota 55802

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File Number	PL 19-112	Contact	Steven Robertson	
Type	Rezone from RR-1 to MU-C	Planning Commission Date	September 10, 2019	
Deadline for Action	Application Date	July 23, 2019	60 Days	September 21, 2019
	Date Extension Letter Mailed	August 14, 2019	120 Days	November 20, 2019
Location of Subject	4250 Haines Road			
Applicant	IGO Properties, LLC	Contact		
Agent	Johnson Killen and Seiler, PA	Contact	Amanda Mangan	
Site Visit Date	September 2, 2019	Sign Notice Date	August 23, 2019	
Neighbor Letter Date	August 22, 2019	Number of Letters Sent	18 (+7 Hermantown)	

Proposal

The property owner is proposing to rezone property from the current zoning of Rural Residential 1 (RR-1) to Mixed Use Commercial (MU-C).

Staff Recommendation

Staff is recommending approval of the proposed rezoning to MU-C.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1	N/A (Formerly Club/Assembly)	Central Business Secondary
North	MU-C	Commercial	Central Business Secondary
South	RR-1	Undeveloped	Preservation
East	RR-1	Undeveloped	Preservation
West	Hermantown	Commercial/Undeveloped	Hermantown

Summary of Code Requirements

- UDC Sec. 50-37.3.B: Planning Commission shall review the application, conduct a public hearing ... with public notice ... and make a written recommendation to council.

- UDC Sec. 50-37.3.B.3 Where a proposed amendment to the zoning map would change any property from a residential district to a mixed use, form or special purpose district, a planning commission hearing and a notice of three weeks shall be required. In addition, the affirmative vote of 2/3 of the council shall be required if the city has not received the written consent of the owners of 2/3 of those properties located wholly or partially within 100 feet of the property proposed to be rezoned;

- UDC Sec. 50-37.3.C: The Planning Commission shall review the application, and Council shall approve the application or approve it with modifications, if it determines that the application:

1. Is consistent with the Comprehensive Land Use Plan;
2. Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use;
3. Is required by public necessity, convenience, or general welfare, or good zoning practice;
4. Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

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

Governing Principle#8-Encourage mix of activities, uses and densities

Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide

Governing Principle #10-Take actions that enhance the environment, economic, and social well-being of the community. Initiate land use, site design, transportation, building design, and materials policies which reduce consumption of finite resources, generation of solid waste, and introduction of toxic materials to land, air, or waters. Also implement resiliency in design and operation with City systems and infrastructure that serve both public and private land uses.

Future Land Use

Central Business Secondary- An area adjacent to and supporting the central business primary area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities. *Density/Design/Intensity: Medium densities; multi-story and mixed-use buildings are encouraged, Form-based guidelines, Pedestrian-oriented design, Limited off-street parking required, loading facilities required*

Site History or Previous Studies

A wetland delineation was completed for this approximately 5-acre site in September 2016 (PL 16-118). The wetland delineation identified "two predominant wetland areas, which are associated with the Miller Creek floodplain to the south. This wetland occupies about half of the property and exhibits both Type 6 and Type 7 characteristics with Type 6/7 features being the dominant condition in the area near the Haines Road property."

This property was the site of the former Elks Lodge#133. The 14,100 square foot structure was demolished in 2017 (BWRCK1709-005). An approximately 30,000 square foot gravel/hard surfaced parking surface remains on the property from the previous use. Around September 2017, an additional approximately 20,000 square feet of the site was cut and graded to the rear of the Elks Lodge, generally outside of delineated wetland areas.

Review and Discussion Items:

- 1) The applicant is proposing to rezone property from the current zoning of Rural Residential 1 (RR-1) to Mixed Use Commercial (MU-C). The front 1/3 of the property is currently zoned MU-C and the rear 2/3 of the parcel is zoned RR-1. The applicant is submitting zoning petition so that the entire parcel is zoned MU-C.
- 2) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan, and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or be considered arbitrary and capricious. Good zoning practice requires that zone districts be consistent with the future land use category identified for the area.
- 3) The future land use category of Central Business Secondary is most commonly reflected in the City's zoning map as either as a form district or MU-C. Other criteria for zoning include considering existing land use patterns and if the rezoning is related to the needs to the community or existing land use. This area, both in Hermantown and Duluth, has developed as a commercial strip heavily dependent and designed for vehicle access only, MU-C zoning is more appropriate than form district zoning. Haines Road is adjacent to the west, and Arrowhead Road and Hwy 53 are north and south of the site respectively, each a distance of approximately ¼ of a mile.

- 4) The purpose of the MU-C district is to provide for community and regional commercial development along commercial corridors and nodal centers. Intended non-residential uses include retail, lodging, service, and recreational facilities needed to support the community and region. Development should facilitate pedestrian connections between residential and non-residential uses.
- 5) The applicant's representative has stated that the goal for the property as a storage area to support "light vehicle sales, recreational trailers, ATVs, etc. Ultimately, the goal of the owners is to make the whole property more marketable as a mixed-use commercial property". In the MU-C district, new structures over 500 square feet need a MU-C Planning Review approved by the Planning Commission as part of the building permit application approval process. The land use "automobile and light vehicle repair and service" has three use specific standards, including the requirement that storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property.
- 6) Reuse of the site would be limited by the presence of wetlands and any proposed new impacts to existing wetlands would need to follow the Wetlands Conservation Act of 1991 (avoid impacts, minimize impacts, reduce impacts, and replace impact wetlands). Any additional tree removal would require an updated tree replacement plan reviewed and approved by the City Forester.
- 7) Based on the development pattern of adjacent areas and the purpose statement of MU-C zone districts, rezoning as proposed in the attached map is appropriate for this area.
- 8) No written correspondence has been received as of the date that this memo was printed (August 28, 2019), with the exception of an email from St. Louis County stating that future access to Haines Road (CSAH 91) must be permitted by the St. Louis County Public Works Department.

Staff Recommendation:

Based on the above findings and supporting statements below, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning as shown on the map titled Proposed Rezoning Area Map.

- 1) The proposed zone districts are the most reasonably able to implement the objectives of the Comprehensive Plan related to the land use for this area.
- 2) Material adverse impacts on nearby properties are not anticipated.



MU-B (Mixed Use Business Park)

NW BELL TELEPHONE CO

ST OF MN C278 L35 *Central Business Secondary*

ST OF MN C278 L35

HAINES ROAD PROPERTY LLC

MU-C (Mixed Use Commercial)

IGO PROPERTIES LLC

ST OF MN C278 L35

Large-scale commercial

HUNTERS PK CONG JEHOVAHS

MU-C (Mixed Use Commercial)

HUNTERS PK CONG JEHOVAHS

Miller Creek Dr

ASSESSED ELSEWHERE

Urban Residential

BUDISALOVICH RANDY ETUX

RR-1 (Rural Residential 1)

Rezone from RR-1 to MU-C

PC Meeting 09-10-19

HUNTERS PK CONG JEHOVAHS

BEAULIER LAWRENCE F & CYNTHIA S

BEAULIER LAWRENCE F & CYNTHIA S

PREMIER BANK

LEE CANDACE ESTELLE

PREMIER BANK

PREMIER BANK

PREMIER BANK

ST OF MN C278 L35

MU-C (Mixed Use Commercial)


















Central Business Secondary



Page 78 of 151

Prepared by: City of Duluth Community Planning Division, Aug 14, 2019, Source: City of Duluth.

Legend

-  Zoning Boundaries
-  Open Space
-  Open Space/Outside Duluth
-  Rural Residential
-  Low-density Neighborhood
-  Traditional Neighborhood
-  Urban Residential
-  Neighborhood Commercial
-  Central Business Secondary
-  Central Business Primary
-  Large-scale commercial
-  Tourism/Entertainment District
-  Commercial Waterfront
-  General Mixed Use
-  Neighborhood Mixed Use
-  Light Industrial
-  General Industrial
-  Industrial Waterfront
-  Business Park
-  Transportation and Utilities
-  Transportation and Utilities/Outside Duluth
-  Medical District
-  Institutional

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ST OF MN
C278 L35

HAINES ROAD
PROPERTY LLC

ASSESSED
ELSEWHERE

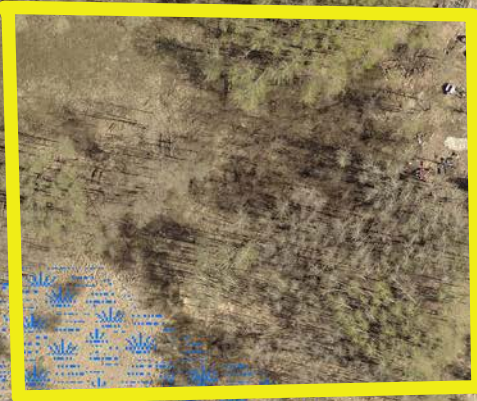
IGO
PROPERTIES
LLC

BUDISALOVICH
RANDY ETUX

Haines Road

Sundby Road

Miller Creek Dr



ST LOUIS
COUNTY

ST OF MN
C278 L35

CITY OF
DULUTH

ST LOUIS
COUNTY



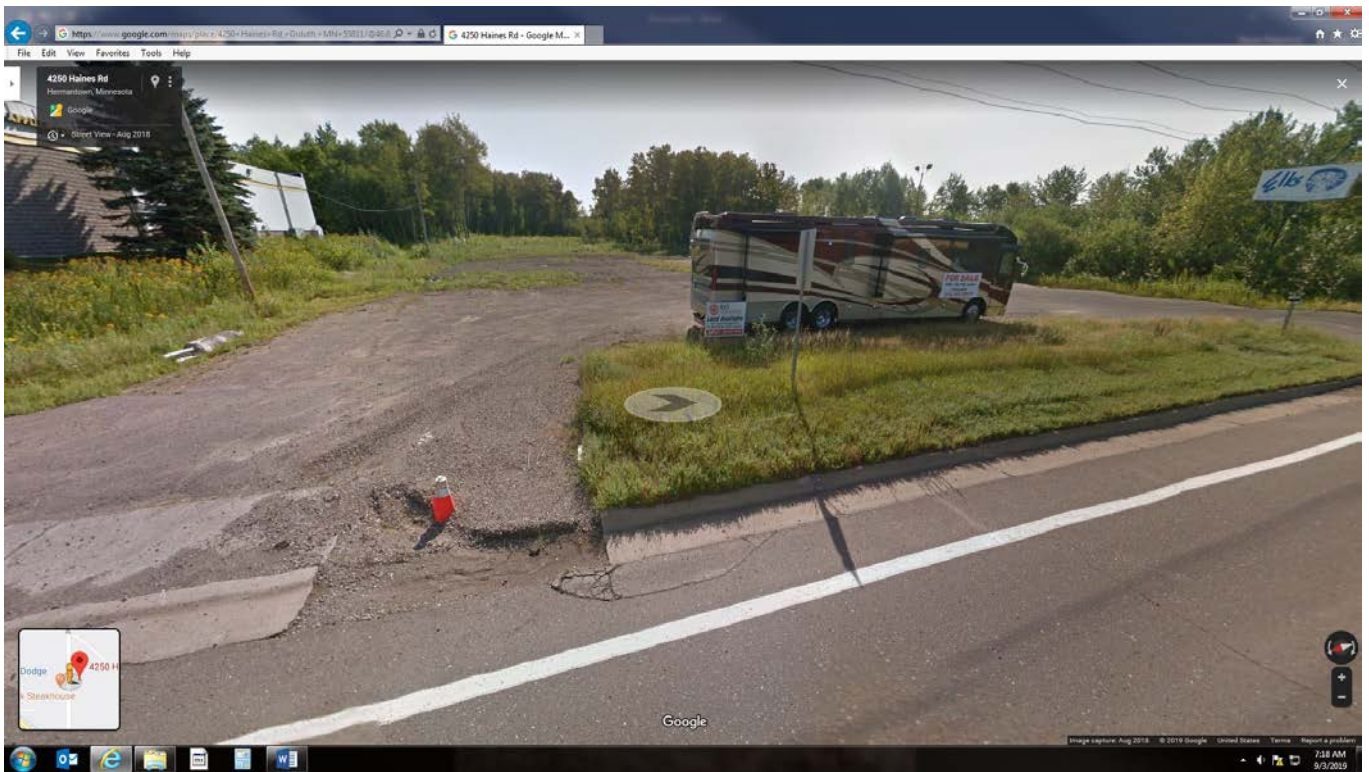
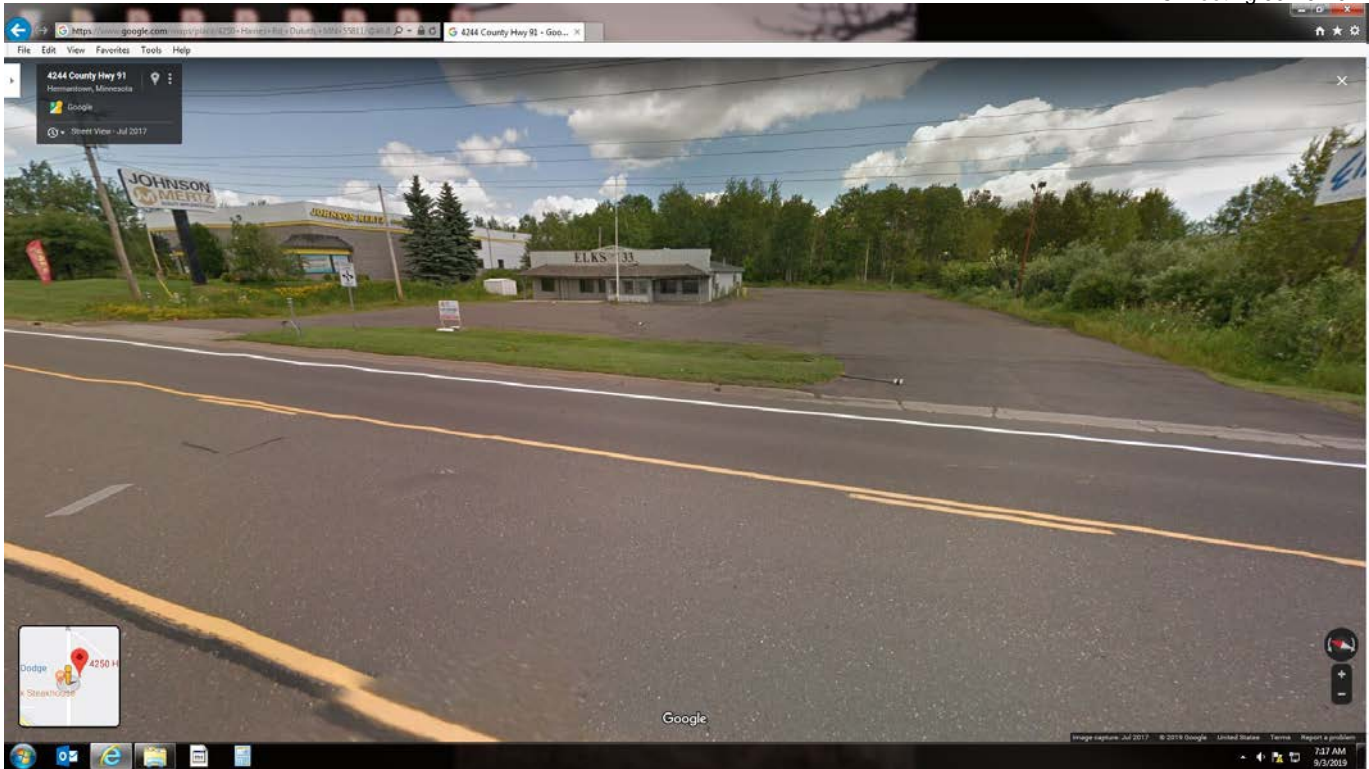
Legend

Floodplain (UDC)

- General Flood Plain
- Flood Way
- Flood Fringe
- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRR)

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Uses Allowed in Mixed Use-Commercial (MU-C) Zone District Revised January 2019

Permitted Uses

- | | |
|--|---|
| <ul style="list-style-type: none"> - Dwelling, multi family - Dwelling, live-work - Residential care facility/assisted living (7 or more) - Rooming house - Bus or rail transit station - Club or lodge (private) - Government building or public safety facility - Museum, library or art gallery - Park, playground or forest reserve - Religious assembly, small (less than 50,000 sq ft) - Religious assembly, large (50,000 sq ft or more) - Business, art or vocational school - School, elementary - Medical or dental clinic - Nursing home - Agricultural, community garden - Veterinary or animal hospital - Convention or event center - Indoor entertainment facility - Restaurant, small (less than 5,000 sq. ft.) - Restaurant (5,000 sq. ft. or more) - Theater - Hotel or motel | <ul style="list-style-type: none"> - Bed and breakfast - Bank - Office - Data center - Preschool - Day care facility, small (14 or fewer) - Day care facility, large (15 or more) - Funeral home or crematorium - Personal service and repair, small (less than 10,000 sq. ft.) - Personal service and repair, large (10,000 sq. ft. or more) - Garden material sales - Grocery store, small (less than 15,000 sq. ft.) - Grocery store, large (15,000 sq. ft. or more) - Retail store not listed, small (less than 15,000 sq. ft.) - Retail store not listed, large (15,000 sq. ft. or more) - Automobile and light vehicle repair and service - Automobile and light vehicle sales, rental, or storage - Filing station - Parking lot (primary use) - Parking structure |
|--|---|

Special Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> - Cemetery or mausoleum - School, middle or high - Agricultural, farmers' market - Agricultural, urban - Kennel - Other outdoor entertainment or recreation use not listed - Building materials sales - Electric power transmission line or substation | <ul style="list-style-type: none"> - Major utility or wireless telecommunication facility - Solar, geothermal, or biomass power facility (primary use) - Water or sewer pumping stations/reservoirs - Recycling collection point (primary use) |
|--|--|



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 19-116	Contact	John Kelley	
Type	Planning Review Storage Building & Sports Court	Planning Commission Date	September 10, 2019	
Deadline for Action	Application Date	August 6, 2019	60 Days	October 5, 2019
	Date Extension Letter Mailed	August 19, 2019	120 Days	December 4, 2019
Location of Subject	800 West Railroad Street			
Applicant	Sandy Hoff/Pier B Resort	Contact	Sandy Hoff	
Agent	Mike Polzin	Contact		
Legal Description	010-0200-01300, 010-0200-01330			
Site Visit Date	August 30, 2019	Sign Notice Date	August 28, 2019	
Neighbor Letter Date	August 28, 2019	Number of Letters Sent	3	

Proposal

The applicant proposes construction of a new 1,800 square foot storage garage and a sport court on the grounds of the Pier B Resort.

Recommended Action

Staff recommends approval of the proposed storage garage and sport court, subject to the conditions proposed by staff.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-W	Pier B Resort	Tourism/Entertainment District
North	F-8	Highway	Central Business Secondary
South	N/A	Harbor	N/A
East	MU-W, MU-N	Park	Tourism/Entertainment District
West	MU-W	Vacant land	Tourism/Entertainment District

Summary of Code Requirements

50-15.6 MU-W District – Planning review by the Planning Commission is required for most development and redevelopment.

50-18.1.E Storm Water Management – Addresses water runoff quality and quantity pre- and post-construction.

50-20.3 Use Specific Standards for Commercial Uses – Delineates use specific standards.

50-23 Connectivity and Circulation – Focuses on pedestrian and bicycle accommodations.

50-24 Parking and Loading – Addresses required minimum and maximum parking spaces and loading docks, dimensional standards, snow storage, and pedestrian circulation.

50-25 Landscaping and Tree Preservation – Landscaping standards such as materials, plant size, location, and tree preservation.

50-26 Screening, Walls, and Fences – Screening of mechanical equipment, loading areas, and commercial containers, plus regulations regarding fences and retaining walls.

50-31 Exterior Lighting – Directs the minimum and maximum illumination values and lighting fixtures for a site.

50-37.11 Planning Review – Planning Commission shall approve the Planning Review or approve it with modifications, if it is determined that the application complies with all applicable provisions of the Chapter.

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

Governing Principle #1 - Reuse previously developed lands.

Governing Principle #4 – Support economic growth sectors.

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

Governing Principle #9 – Support private actions that contribute to the public realm.

Future Land Use – Tourism/Entertainment - Retail, entertainment, and lodging facilities, meeting facilities, waterfront-related uses, open space uses.

Site History – PL 14-061, Planning Review for Hotel

PL 14-067, Variance from parking located in front yard area.

Review and Discussion Items

Staff finds that:

1) 50-15.6 (MU-W District) – The site plan shows that the building will meet MU-W accessory structure setbacks and height.

2) 50-18.1.E (Storm Water Management) – The proposed structure will cause a slight increase in the site's impervious surface area. The new building must meet storm water requirements as stipulated in the UDC.

3) 50-20.5 J (Use Specific Standards) – Applicable use specific standards for this MU-W Planning Review have been met.

4) 50-23 (Connectivity) – The site plan indicates that there will be connectivity from the existing hotel using sidewalks. An 8-foot wide sidewalk will connect to the existing sidewalk by the front entry to the hotel and will provide access to the sport court area. The second sidewalk will provide access to the storage garage.

5) 50-24 (Parking and Loading) – The off-street parking requirements have been satisfied through a previous plan review approval.

6) 50-25 (Landscaping and Tree Preservation) –Not applicable.

7) 50-26 (Screening, Walls, and Fences) – Not applicable as there is no exterior mechanical equipment.

8) 50-31 (Exterior Lighting) – The building elevation drawings show light fixtures on all side of the building and are noted as being “dark sky compliant”. All fixtures must be downcast and full cut-off meeting lighting standards of

the Unified Development Chapter.

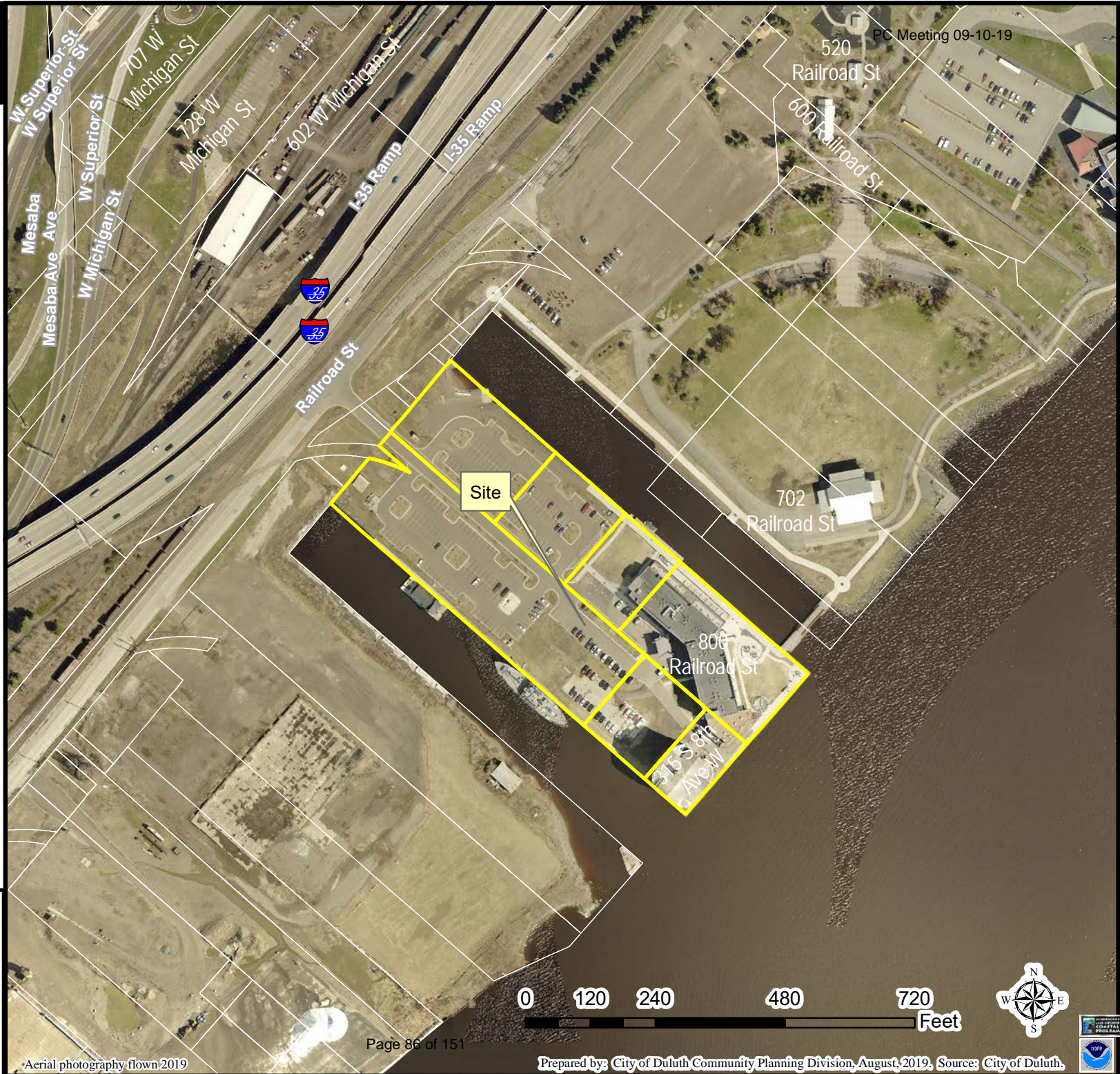
9) To date, no City, public, or agency comments have been received.

10) Per UDC 50-37.1.N, an approved Planning Review will expire if the project or activity authorized is not begun within one year, which can be extended for one additional year at the discretion of the Land Use Supervisor.

Staff Recommendation

Based on the above findings, staff recommends approval of the Planning Review, subject to the following conditions:

- 1) The project be limited to, constructed, and maintained according to the site plan provided on August 29, 2019, and exterior elevations provided with this application on August 6, 2019;
- 2) Applicant will need to complete an elevation certificate for the proposed building site and obtain a second elevation certificate for the storage garage indicating the elevation of 608 feet for the building as constructed prior to a Certificate of Occupancy can be granted.
- 3) Applicant must submit a stormwater management plan to the City Engineering Department for review and approval.
- 4) Any alterations to the approved plans that do not alter major elements of the plans 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 UDC Chapter 50.



PC Meeting 09-10-19

Site

Legend

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ASSOCIATES
WWW.SASLANDARCH.COM

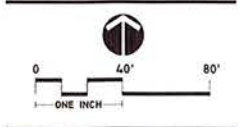
219 WEST FIRST STREET, SUITE 350
DULUTH, MN 55802
(P) 218.391.1335
(F) 218.722.6697

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ISSUE RECORD/REVISION

Purpose	DATE

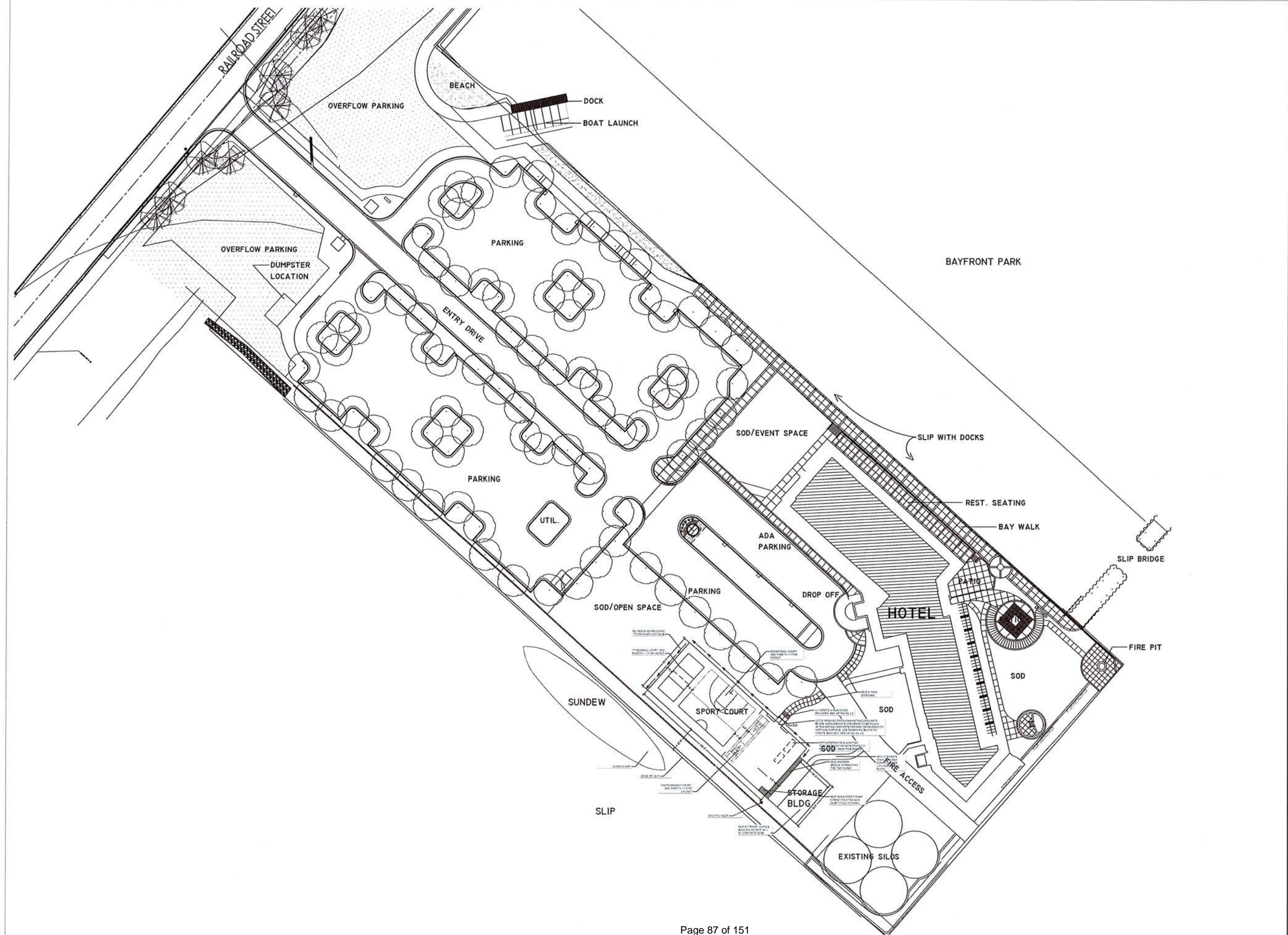
**PIER B
OVERALL
SITE PLAN**
800 W. RAILROAD ST.
DULUTH, MINNESOTA



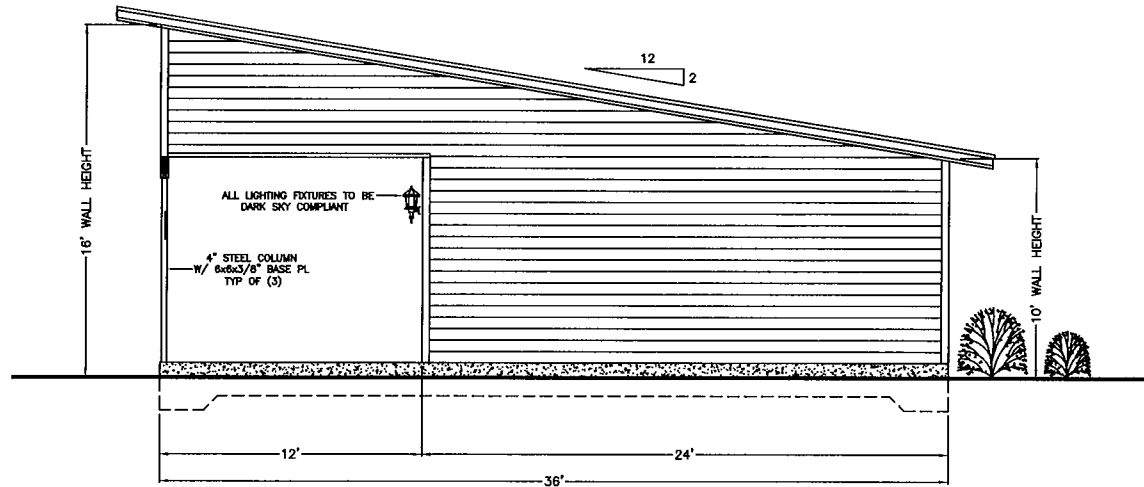
SHEET KEY

SHEET TITLE
OVERALL PLAN

DATE:	7/12/2019
DRAWN BY:	AMA
CHECKED BY:	LWS
PROJECT NUMBER	19110
SHEET NUMBER	L-0.0

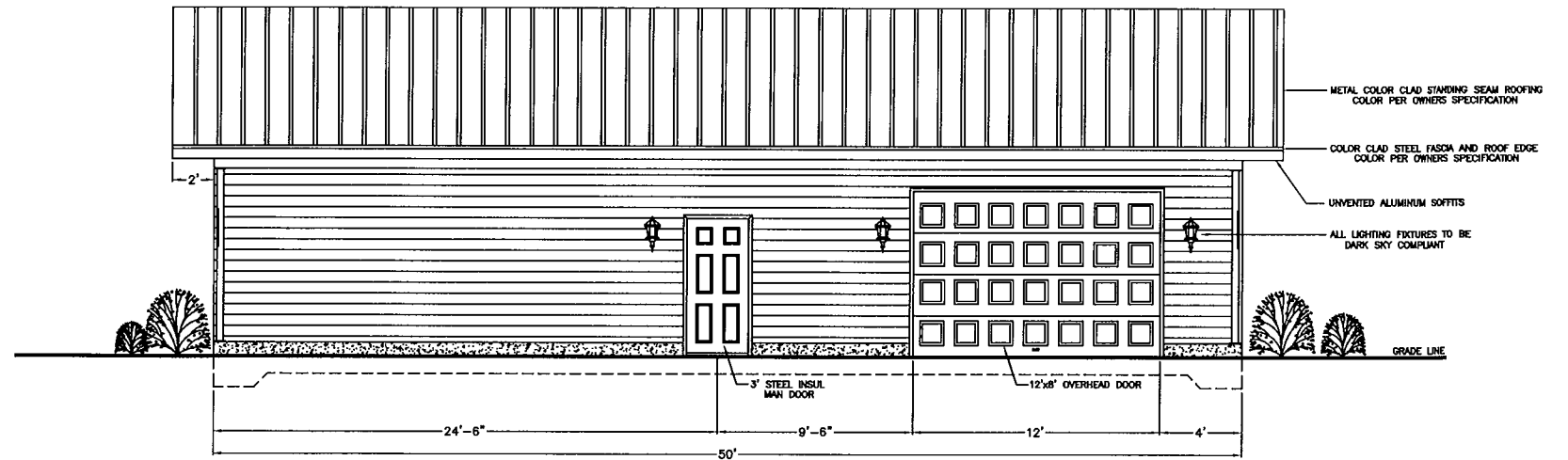


7/12/19 10:57 AM
 Project: Pier B Design - 19110 - 31 - Pier B Design - 19110.dwg



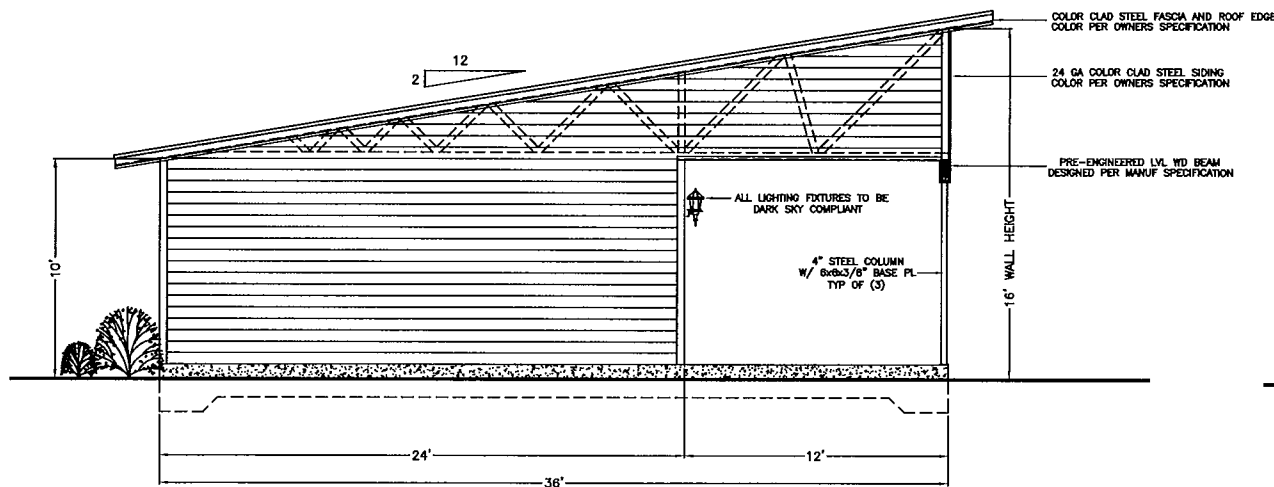
WEST ELEVATION

1/4"=1'-0"



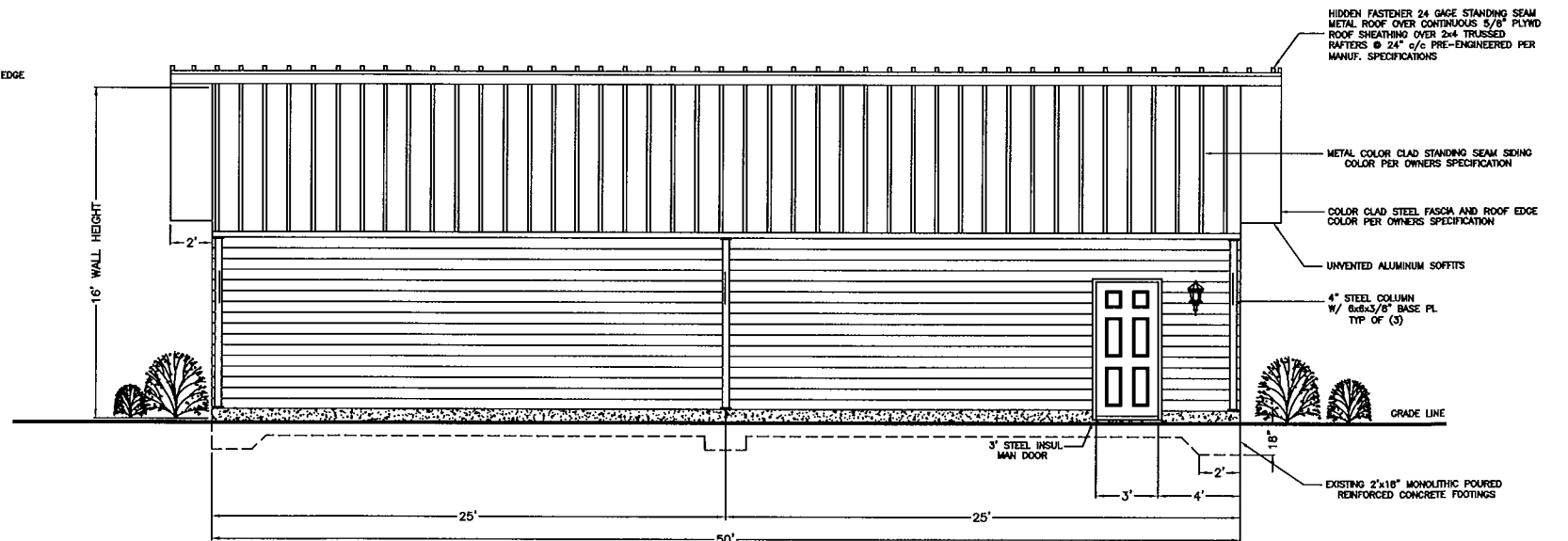
SOUTH ELEVATION

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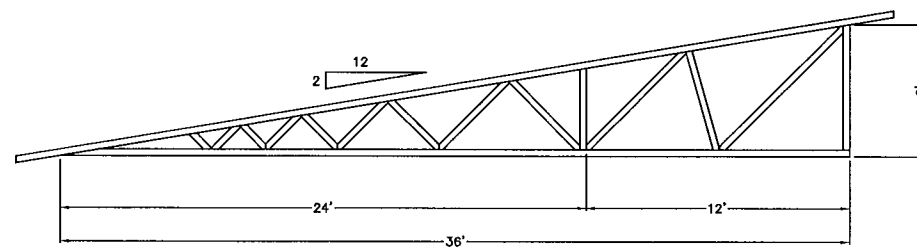
EAST ELEVATION

1/4"=1'-0"



NORTH ELEVATION

1/4"=1'-0"



TRUSS PRIFILE FOR INFO ONLY

ENGINEERED PER MANUF. SPECIFICATIONS

MUCH CARE AND EFFORT HAVE GONE INTO THE DESIGN OF THESE PLANS. HOWEVER BECAUSE OF THE IMPOSSIBILITY OF PROVIDING PERSONAL AND OR SITE CONSULTATION, SUPERVISION AND CONTROL OVER THE ACTUAL CONSTRUCTION, AND BECAUSE OF THE VARIANCE IN LOCAL BUILDING CODES AND WEATHER CONDITIONS THE DESIGNER ASSUMES NO RESPONSIBILITY FOR ANY DAMAGES, INCLUDING STRUCTURAL FAILURES, DUE TO ANY OBTUSCENCIES, OMISSIONS OR ERRORS IN THE DESIGN OR BLUEPRINTS. IT IS RECOMMENDED THAT OWNER AND OR CONTRACTOR CONSULT A LOCAL ARCHITECT OR ENGINEER AND CHECK WITH YOUR LOCAL BUILDING OFFICIALS PRIOR TO THE START OF ACTUAL CONSTRUCTION. CONTRACTOR TO VERIFY ALL ELEVATIONS AND DIMENSIONS PRIOR TO START OF ANY WORK.

PIER B RESORT HOTEL STORAGE GARAGE		
SCALE	1/4"=1'-0"	DRAWN BY
NORTH, SOUTH EAST & WEST ELEVATIONS		
DATE	7/15/2019	DRAWING NUMBER
		1 OF 1

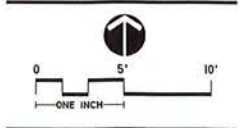


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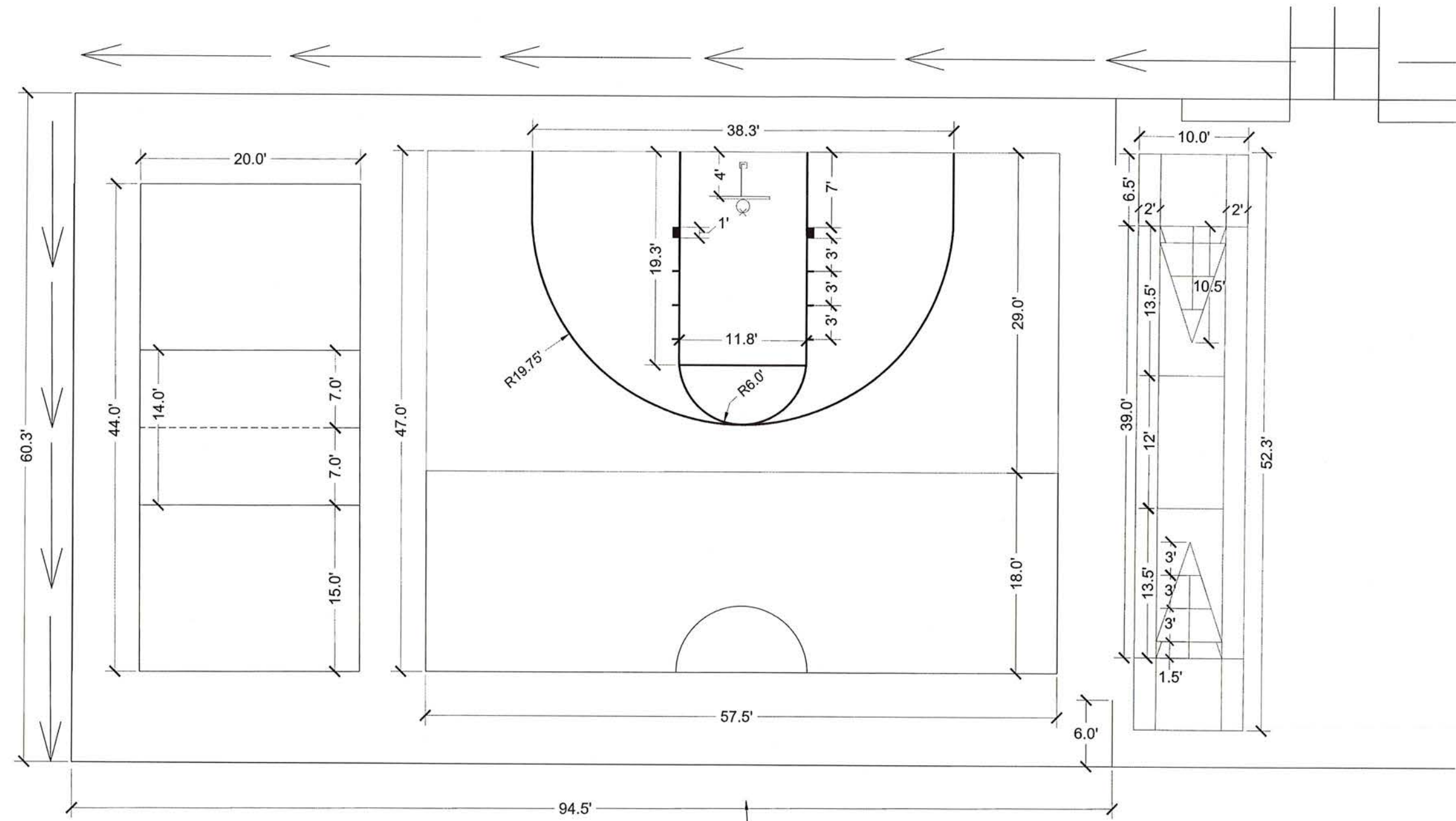
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ISSUE RECORD/REVISION	
PURPOSE	DATE

**PIER B
 STORAGE BUILDING &
 SPORT COURT**
 800 W. RAILROAD ST.
 DULUTH, MINNESOTA



SHEET KEY	
SHEET TITLE	
COURT LAYOUTS	
DATE:	7/12/2019
DRAWN BY:	AMA
CHECKED BY:	LWS
PROJECT NUMBER:	19110
SHEET NUMBER:	L-1.1




1 COURT LAYOUTS
 SCALE: 1"= 5'-0"



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 19-128	Contact	Jenn Reed Moses, 730-5328	
Type	Special Use Permit	Planning Commission Date	9/10/19	
Deadline for Action	Application Date	8/20/19	60 Days	10/19/19
	Date Extension Letter Mailed		120 Days	12/18/19
Location of Subject	8721 W Skyline Pkwy			
Applicant	Skyline Parkway Properties LLC	Contact		
Agent	CF Design LTD	Contact	Jake Kieper	
Legal Description	Parcel ID Number 010-1550-00060			
Site Visit Date	9/3/19	Sign Notice Date	8/27/19	
Neighbor Letter Date	8/30/19	Number of Letters Sent	7	

Proposal

The applicant is proposing to add five small dwelling units to a property with an existing vacation rental. The UDC defined use is "hotel," which requires a special use permit in the MU-N district.

Staff Recommendation

Staff is recommending that planning commission approve the special use permit with conditions noted below.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N	Residential (vacation rental)	Low-density Neighborhood
North	RR-1	Undeveloped	Low-density Neighborhood
South	RR-1	Recreation/Open Space	Open Space
East	RR-1	Residential	Low-density Neighborhood
West	R-1	Residential	Low-density Neighborhood

Summary of Code Requirements

UDC Section 50-37.10. Special Use Permits: Planning Commission shall approve the planning review or approve it with modifications, if it is determined that the application complies with all applicable provisions of this Chapter.

- 1) The application is consistent with the Comprehensive Land Use;
- 2) The application complies with all applicable provisions of this Chapter; including without limitations to any use-specific standards applicable to the proposed use, development or redevelopment, and is consistent with any approved district plan for the area.
- 3) Without limiting the previous criteria, the Commission may deny any application that would result in a random pattern of development with little contiguity to existing or programmed development or would cause anticipated negative fiscal or environmental impacts on the community.

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

Governing Principle #4 – Support economic growth sectors: These include outdoor recreation and visitor services. Located near Spirit Mountain, this development is a unique lodging opportunity that will appeal to visitors who appreciate the outdoors.

Future Land Use – Low-density Neighborhood: Single-family housing with urban services. Typified by curvilinear streets, houses with longer dimension parallel to street, and attached garages. Non-residential uses are mainly uses such as schools and churches.

Recent History:

- August 28, 2017: City council approved an Interim Use Permit for a vacation dwelling unit. This vacation dwelling unit is expected to continue operating.
- Per Imagine Duluth 2035, Duluth's recent comprehensive plan, this area's current zoning does not match the Future Land Use. Rezoning of the area is likely in the future, and could result in a hotel becoming a nonconforming use.
- Per UDC Land Use Supervisor Interpretation #19-004, a hotel can include multiple structures.

Review and Discussion Items**Staff finds that:**

- 1.) A hotel must have a reception desk staffed at all times. The registration and office are located in a former garage, shown on the site plan.
- 2.) UDC Sec. 50-24 (Parking and loading). The proposed site plan includes 8 parking spaces. Two parking spaces are required for the existing vacation rental, leaving 6 spaces for the hotel which meets UDC requirements.
- 3.) UDC Sec. 50-25 (Landscaping and Tree Preservation). Given the heavily wooded nature of this site, existing trees and vegetation provide buffers and aesthetic amenities on the site. Applicant will likely use an Alternative Landscaping Plan to formally demonstrate that existing vegetation meets the intent of the UDC, and will need to submit a landscape plan showing compliance with 50-25. Alternative Landscaping Plans must be approved by the Land Use Supervisor prior to receiving a building permit.
- 4.) UDC Sec. 50-26 (Screening, Walls and Fences). Garbage and recycling will be stored inside an existing shed with no exterior dumpsters on the site; no fences are proposed; and no rooftop or ground-mounted mechanicals will be used.
- 5.) UDC Sec. 50-28 (Stormwater). The development will add additional impervious surface for the cabins and an expansion of the parking area. If additional impervious surface exceeds 3,000 sf in area, permanent stormwater controls will be required.
- 6.) UDC Sec. 50-29 (Sustainability Standards) and 50-30 (Building Design Standards). These requirements do not apply for this project.
- 7.) UDC Sec. 50-31 (Exterior Lighting). The hotel will include bollard-style lighting along grass pathways to the cabins. All lighting must be full cut-off fixtures that meet UDC requirements.
- 8.) The Fire Marshall has indicated that fire rig access and hydrant locations need to be evaluated for conformance with life safety regulations. No other public or City comments were received as of 8/30/19.
- 9.) Applicant will need to ensure utility connections can be made to units if needed, and should work closely with the City's Engineering and Construction Services divisions on plans for these.
- 10.) UDC Section 50-37.1.N states that an approved Special Use Permit will expire if the project or activity authorized by the permit has not begun within one year.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission approve the Special Use Permit, subject to the following requirements:

- 1.) The project shall be limited to, constructed, and maintained according to the site plan dated 8/20/19 and the floor plans and building elevations dated 8/20/19.
- 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 review; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



Special Use
8721 W Skyline Pkwy

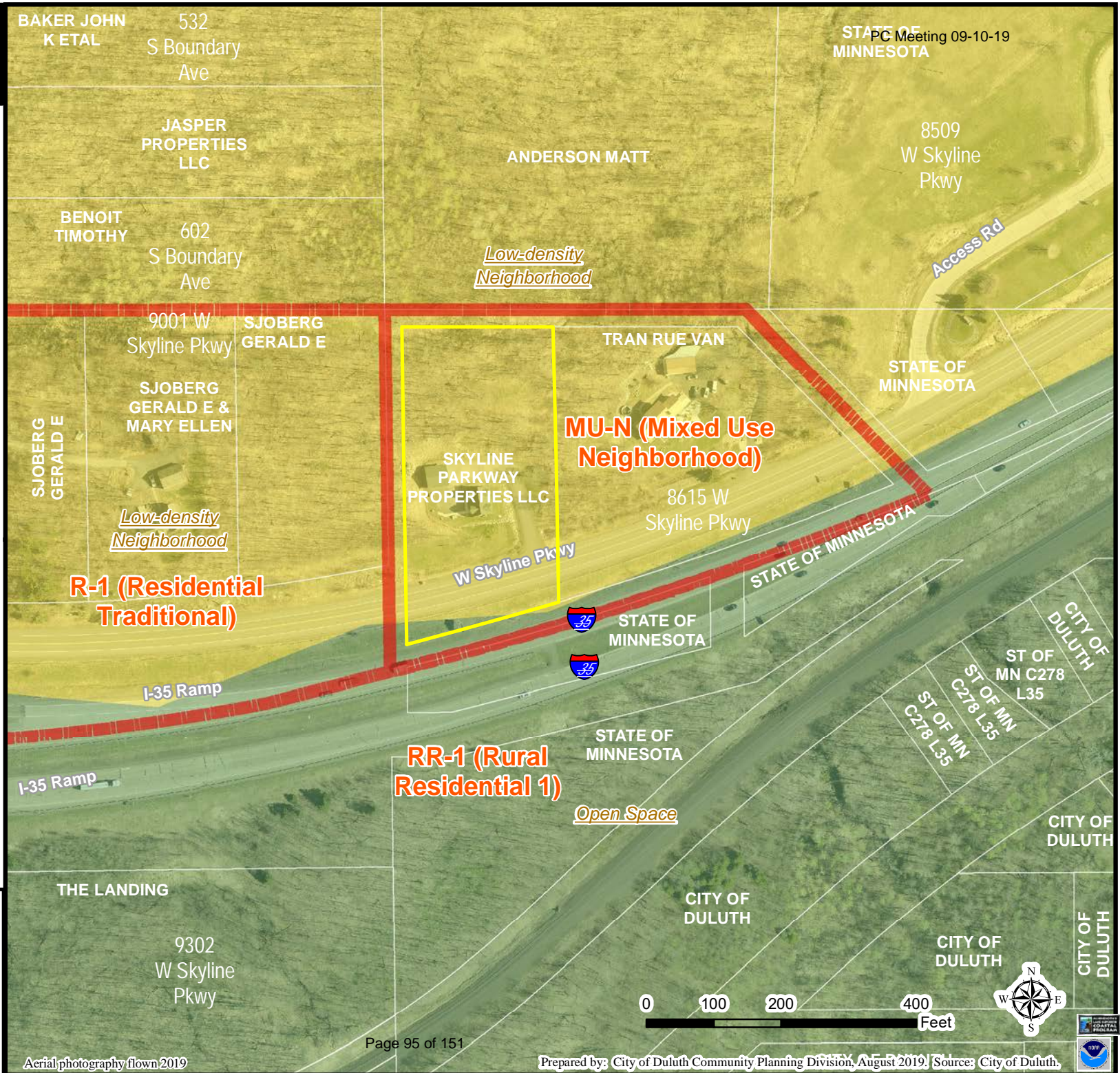


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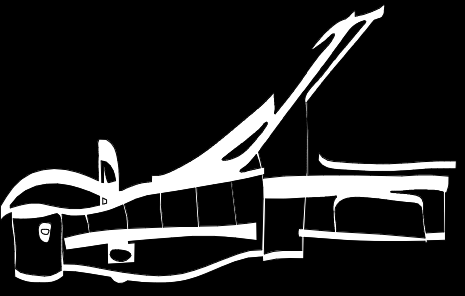
Legend

- Zoning Boundaries
- Open Space
- Open Space/Outside Duluth
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Central Business Secondary
- Central Business Primary
- Large-scale commercial
- Tourism/Entertainment District
- Commercial Waterfront
- General Mixed Use
- Neighborhood Mixed Use
- Light Industrial
- General Industrial
- Industrial Waterfront
- Business Park
- Transportation and Utilities
- Transportation and Utilities/Outside Duluth
- Medical District
- Institutional

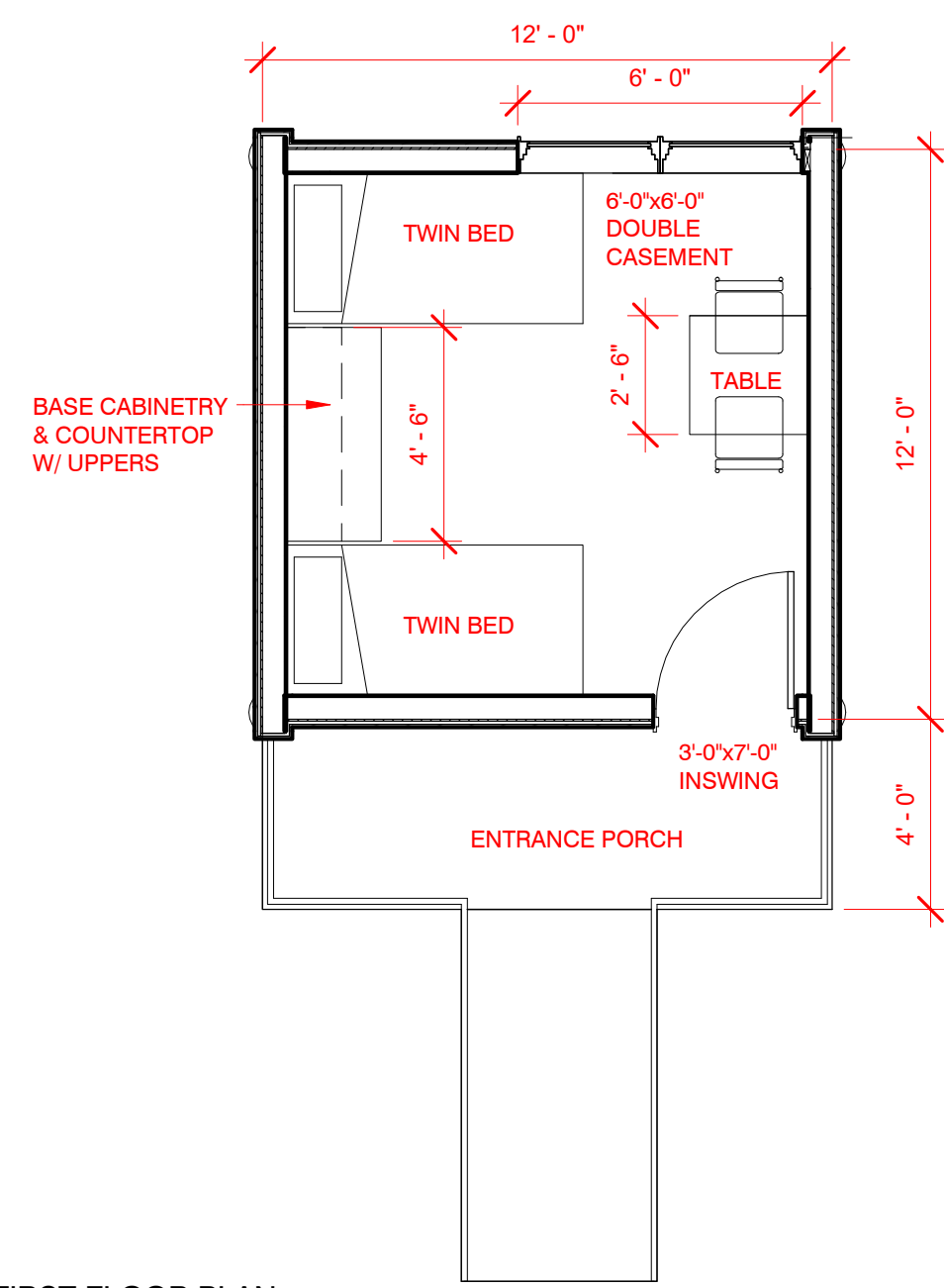


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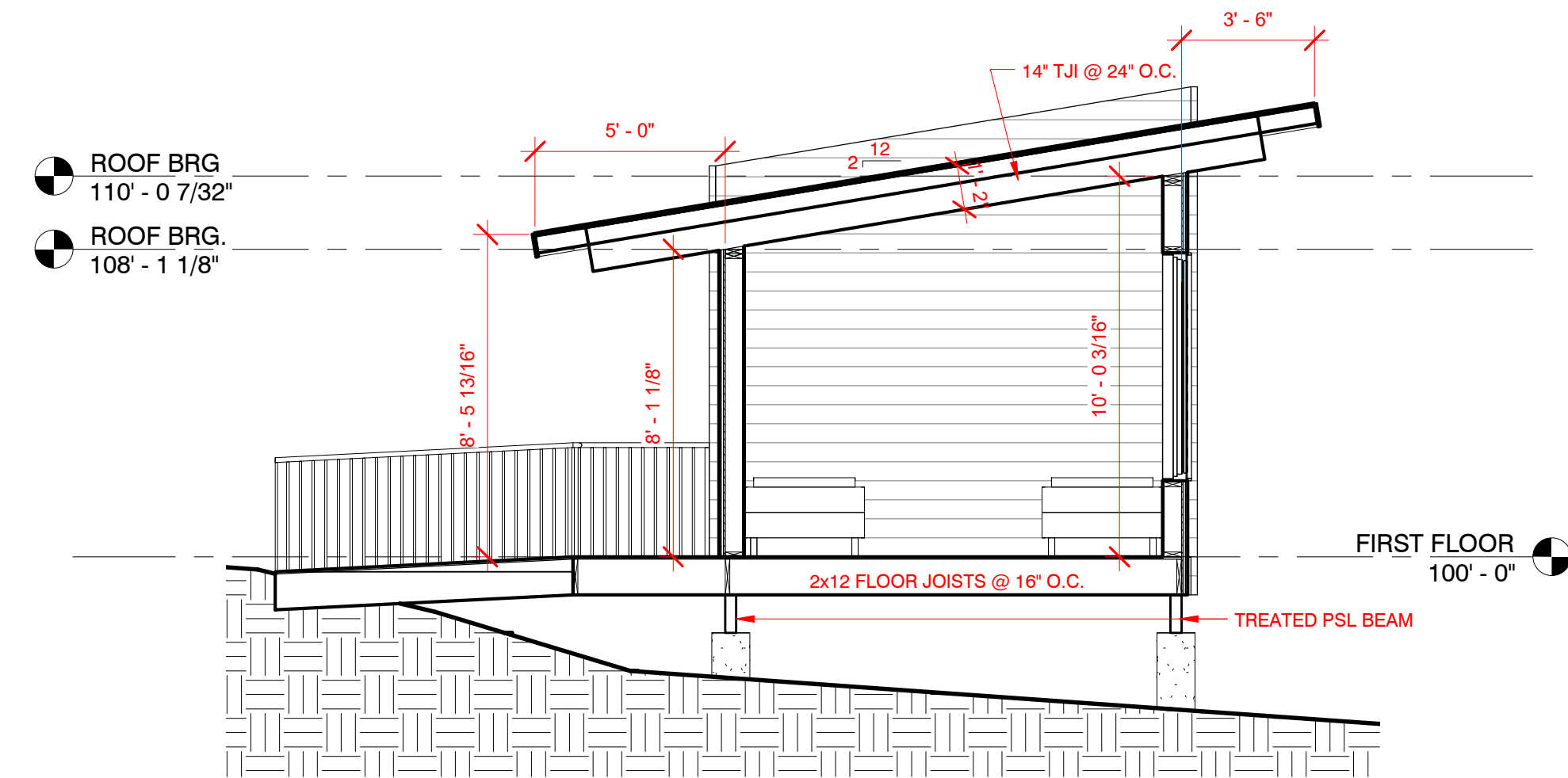




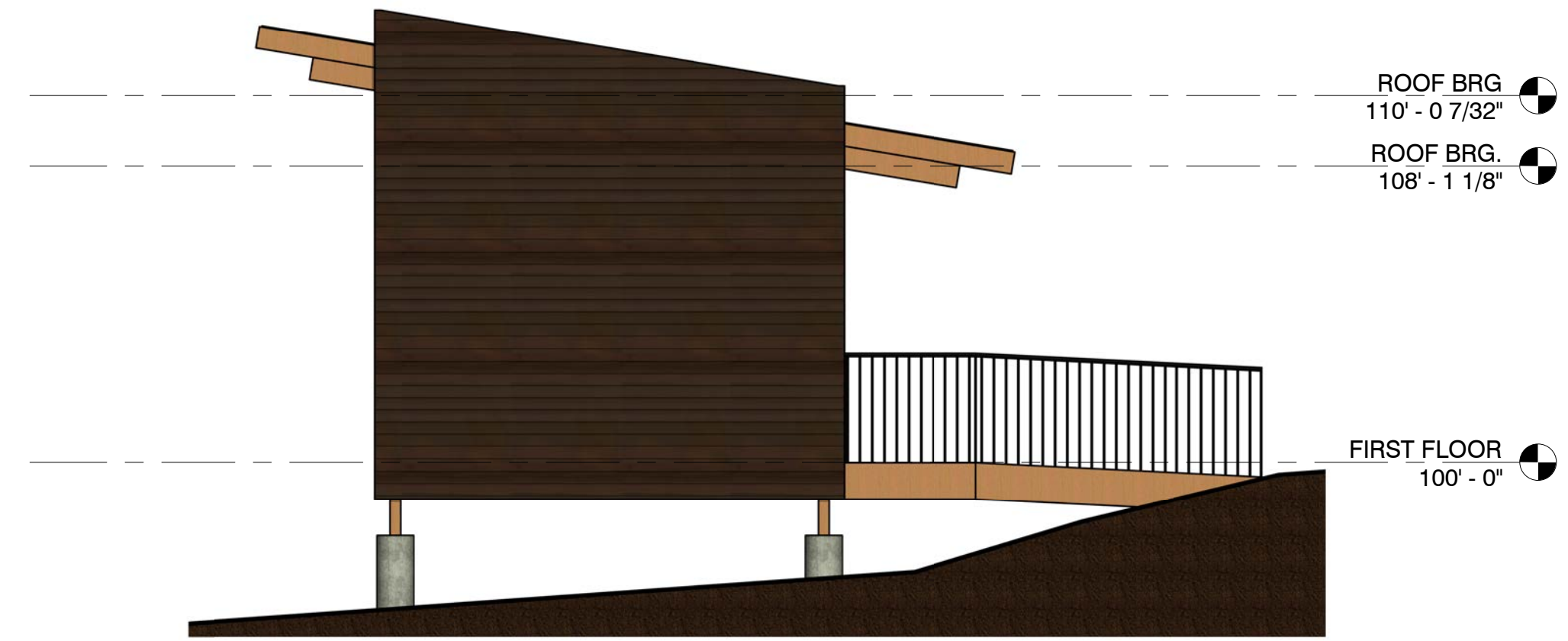
cf design ltd
230 East Superior Street
Suite 102
Duluth, MN 55802
Phone: 218.722.1060
Fax: 218.722.1086
www.cfdesignltd.com



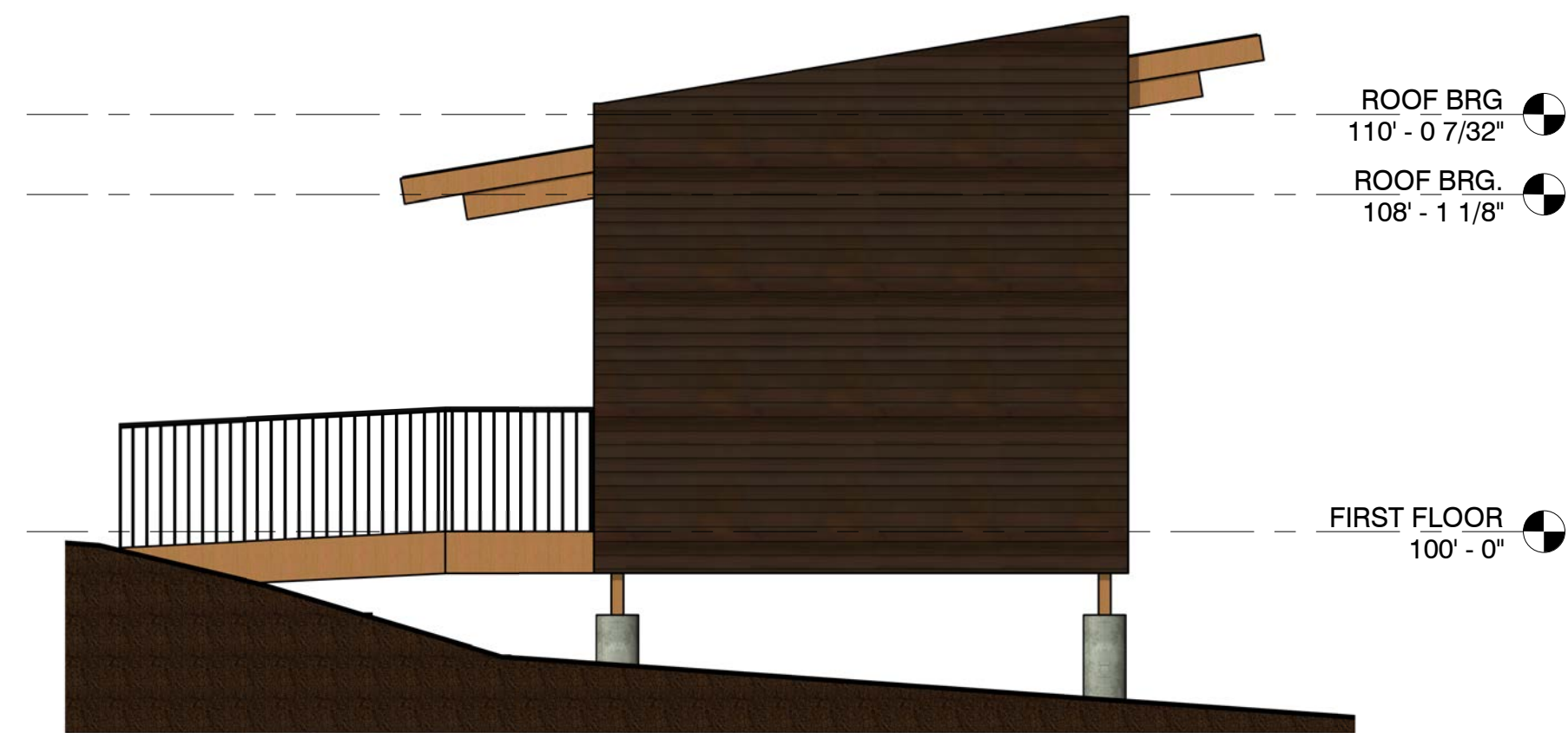
① FIRST FLOOR PLAN
1/4" = 1'-0"



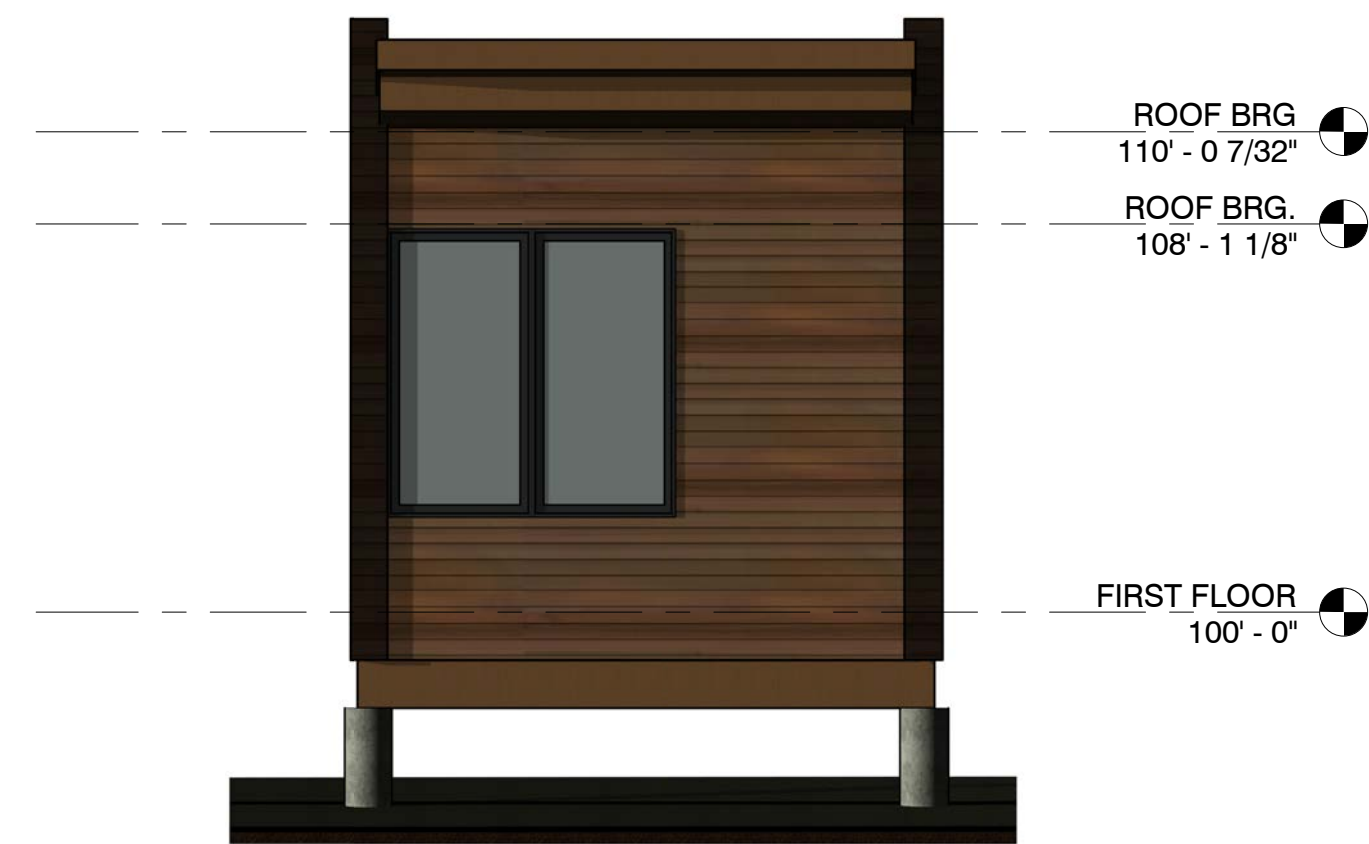
⑦ BUILDING SECTION
1/4" = 1'-0"



⑥ BUILDING ELEVATION
1/4" = 1'-0"



④ BUILDING ELEVATION
1/4" = 1'-0"



③ BUILDING ELEVATION
1/4" = 1'-0"



⑤ BUILDING ELEVATION
1/4" = 1'-0"

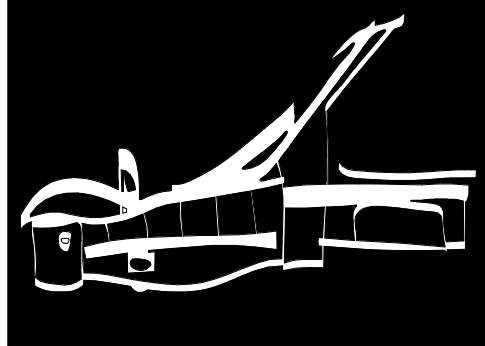
SKYLINE PARKWAY CABINS
8721 WEST SKYLINE PARKWAY
DULUTH, MN 55810

NEW CABINS & WASHROOM

#	REVISION	DATE

JTK
(C) 2019
08.20.2019

A1.01



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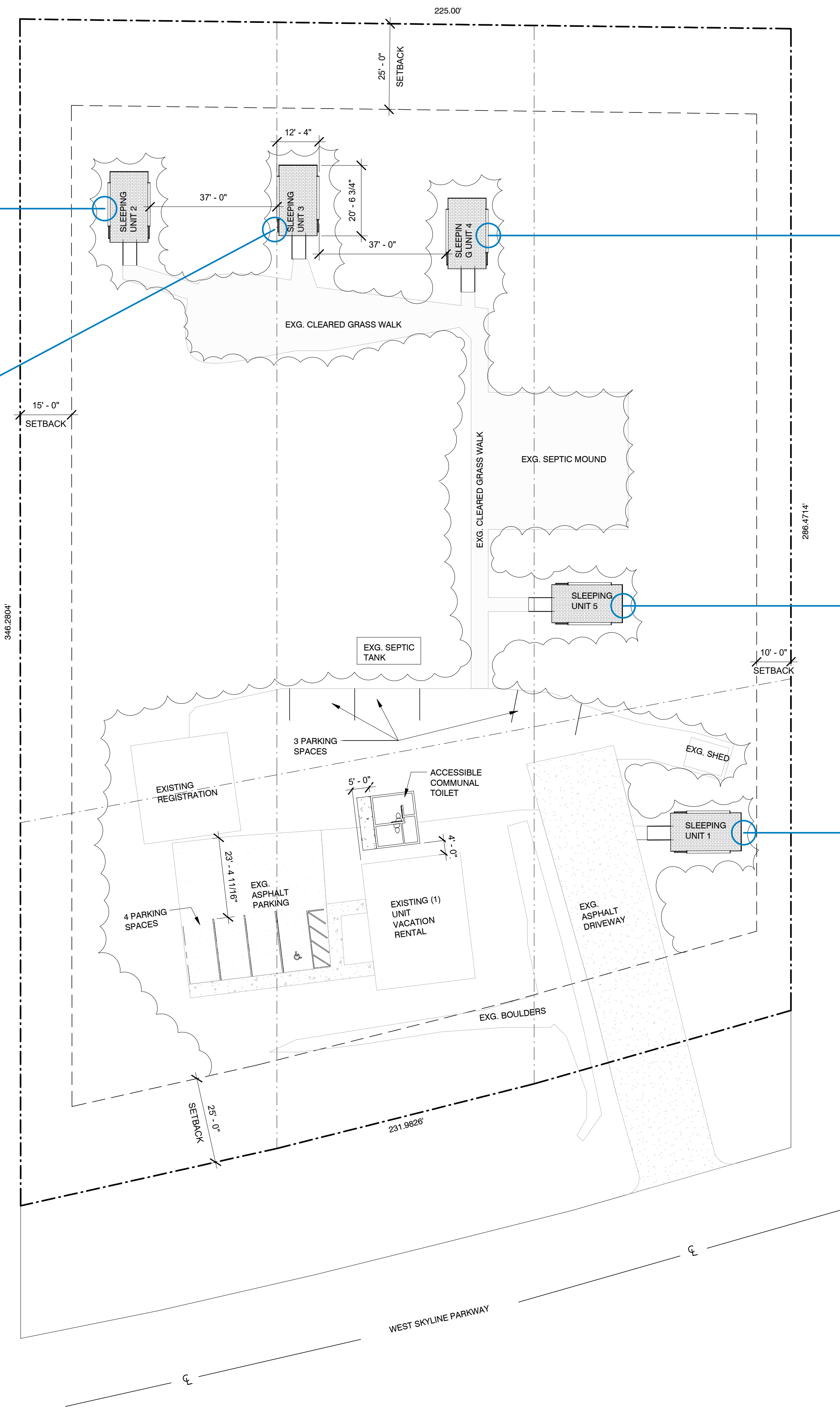
230 East Superior Street
Suite 102
Duluth, MN 55802
Phone: 218.722.1060
Fax: 218.722.1086
www.cfdesignltd.com

SKYLINE PARKWAY CABINS
8721 WEST SKYLINE PARKWAY
DULUTH, MN 55810

NEW SLEEPING & BATH

#	REVISION	DATE
JTK		
(C) 2019		
08.20.2019		

A1.00



SITE DATA
 SITE AREA: 71,505 SF
 NEW SQUARE FOOTAGE:
 (5) NEW SLEEPING UNITS- 144 SF/UNIT
 (1) COMMUNAL BATH- 167.50 SF
 SITE ZONED- MU-N- MIXED USE
 NEIGHBORHOOD
 SETBACK REQUIREMENTS=
 FRONT=25 FT
 SIDE=15 FT & 10 FT
 REAR= 25 FT
 MAX. BUILDING HT= 35 FT
 LEGAL DESCRIPTION
 FAIRMOUNT GARDENS REARRANGEMENT
 DULUTH, LOTS 5, 6, 7, 8, 9 AND 10, BLOCK
 1, EXCEPT HIGHWAY RIGHT OF WAY
 PARCEL ID
 010-1550-00060
 GENERAL NOTES:
 1. REFER TO LEGAL PLAT OF SURVEY FOR
 ADDITIONAL
 INFORMATION

1 SITE PLAN
1" = 20'-0"

Transmittal Letter

Date: 11.19.2018

Project: Skyline Parkway Cabins
8721 West Skyline Parkway
Duluth, MN 55810

Statement about how the requested use will not have a negative impact on the community, with supporting evidence (such as photos) as needed

The site in question is located at 8721 West Skyline Parkway and is visible from I-35 near Spirit Mountain. Currently there is a 1 unit vacation rental and garage scaled as a single-family residence perched on the hill. The owners are requesting the approval of a special use in order to construct a “hotel” on the property in the MU-N district. The proposal, however, is not to construct another large multi-room hotel along the I-35 corridor that has dramatic impact on the visual experience as motorists enter Duluth. The proposal is to create (5) unique, separate, 12x12, private sleeping units that are set into the 2 acre landscape to privatize the visitor experience; each unit is invisible to another. The sleeping units float above the forest floor treading lightly on the land to honor and respect the wilderness quality of the property and weave the sleeping units into the forest. Not only are the additional units invisible from I-35 and Skyline Parkway, they are nearly imperceptible directly on site being clad in natural wood to fade into the trees. The new sleeping units are without any kitchen or toilet amenities. The toilet amenities are included in a small 12'-4"x15'-0" communal toilet building. The new building is tucked directly north of the existing vacation rental structure to eliminate any visual impact on neighboring properties. The communal building includes one fully accessible toilet room with shower and one non-accessible toilet room. Both toilet rooms have separate entrances and the building will tie-in to the existing septic system and water utilities. The proposed structures are strategically located to have minimal visual impact on the surrounding neighborhood. The small size of the private sleeping units will lead to minimal (if any) increase in vehicular traffic to the immediate neighborhood.

Statement about how the requested use is consistent with the comprehensive plan (12 guiding principles, future land use designation)

1. Constructing additional sleeping units and a toilet building on an already developed piece of land. Overall, we are proposing to add less than 1,000 SF of built structures to the land. The sleeping units tread lightly on the property and float above the forest floor only impacting the earth with (4) small piers per structure. The owners intend to take advantage of an existing natural path that leads to each individual sleeping unit. The separate toilet building will utilize existing utility infrastructure.
2. The new structures are designed and located to provide minimal disruption to the natural qualities of the existing landscape. Keeping the existing wilderness of the site intact. This is the

type of development that would attract environmentally conscious and active/adventurous visitors.

3. Increasing tax base and providing much needed unique housing options for visitors.
4. Adding to Duluth's economic diversity and providing housing options for visitors interested in the natural landscapes and outdoor recreational opportunities of our community.
5. Neighborhood scaled project with unique visitor housing options.
6. A hotel project unique to Duluth and specific to its site through use of natural materials and a light touch on the land. Weaving small sleeping units into the existing wilderness where the structures and nature exist in unison.
7. Central connectivity to trails and recreation opportunities with easy access to "City" amenities.
8. Provide a unique housing solution with simplicity and economy in mind.
9. Being a good neighbor by constructing buildings that blend in to existing natural landscape and have minimal visual effect on the surroundings while bringing a new and exciting aesthetic to Duluth.
10. The structures are to be constructed on an already developed site and are designed to have minimal impact on the landscape with each being placed on (4) piers. The owners plan to utilize local natural products for building materials. We plan to reuse as much existing infrastructure as possible by letting the existing natural path lead to the new sleeping units and locating the new toilet building to take advantage of existing water and sewer facilities. The new sleeping units will have electricity, but no other utilities will be provided.
11. N/A
12. Utilizing a previously developed site with existing utilities. Conveniently locating new toilet building to utilize existing utilities.



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 19-119	Contact	Chris Lee, clee@duluthmn.gov	
Type	Variance –Front Yard Parking	Planning Commission Date		September 10, 2019
Deadline for Action	Application Date	August 9, 2019	60 Days	October 8, 2019
	Date Extension Letter Mailed	August 19, 2019	120 Days	December 7, 2019
Location of Subject	420 North 15 th Avenue East			
Applicant	Mark Jilek	Contact		
Agent		Contact		
Legal Description	S 25 FT OF N 75 FT OF LOTS 1 AND 2 OF BLOCK 095 OF THE ENDION DIVISION OF DULUTH			
Site Visit Date	August 24, 2019	Sign Notice Date	August 27, 2019	
Neighbor Letter Date	August 26, 2019	Number of Letters Sent	58	

Proposal

Applicant is requesting a variance from the residential parking standards to locate a parking stall between the façade of the house and the street.

Staff is recommending that planning commission approve the variance.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	One-family dwelling	Traditional Neighborhood
North	R-1	One-family dwelling	Traditional Neighborhood
South	R-1	One-family dwelling	Traditional Neighborhood
East	R-1	One-family dwelling	Traditional Neighborhood
West	R-1	One-family dwelling	Traditional Neighborhood

Summary of Code Requirements:

Sec. 50-37.9.G.1. Residential districts. (a) A variance may be granted to allow parking on a portion of a lot in an R zone where parking is not permitted by Section 50-24.6.B in the following two cases: (i) On any non-corner lot in an R district where the permitted parking area as shown in Table 50-24-3 is of insufficient size or configuration to allow for compliance with the off street parking requirements of this Chapter, and the applicant demonstrates hardship; (ii) On any corner lot in an R district where the R district parking area is of insufficient size or configuration to allow for compliance with the off street parking requirements of this Chapter, without a showing of hardship;

50-37.9. C.- General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would cause the landowner practical difficulties or hardship. The Planning Commission must find the following for a variance to be granted: a) Because of the exceptional narrowness, shallowness, shape, or exceptional topographic or other conditions related to the property, the



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strict application of the UDC requirements would result in practical difficulties to the property owner, b) The plight of the property owner is due to circumstances unique to the property, and not created by the property owner, c) The property owner proposes to use the property in a reasonable manner not permitted by this code; D) The relief may be granted without substantially impairing the intent of this Chapter, the official zoning map, and will not alter the essential character of the locality;

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

Governing Principle #5 - Strengthen neighborhoods

- Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods.

Future Land Use – Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home-businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth’s older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

The site is developed consistent with the future land use as described and the applicant is not proposing alterations to the use.

Review and Discussion Items:

1. Applicant’s property is located at 420 North 15th Avenue East. The property is 25 feet wide and 100 feet deep. This property does not have access to the rear yard via an alley or street. The house (built in 1912) is 1,304 square feet and occupies nearly the entire width of the parcel leaving no room for a driveway on the property.
2. The applicant is proposing to park between the façade and the street in a space that is approximately 12 feet wide and 16 feet deep. There is a history of vehicles parking in the location prior to the current owners.
3. 50-37.9.G(b)(i) The proposed parking is less than 55% of the total width of the lot.
4. 50-37.9.G(b)(ii) There is a 3 foot wide concrete sidewalk that provides connectivity to the street from the front door.
5. 50-37.9.G(b)(iii) The applicant will have to screen the vehicles from the neighboring properties.
6. 50-37.9.G(b)(iv) The applicant will have to provide a barrier to prevent vehicle overrun and place a placard indicating the parking spaces on the property.
7. No comments from citizens, City staff, or any other entity were received regarding the application.



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Staff Recommendation:

Based on the above findings, Staff recommends that Planning Commission approve the variance subject to the following:

1. The applicant screens the parking, installs the overrun barrier, and installs the parking location placard.
2. The project be limited to, constructed, and maintained substantially according to the plans submitted with this application.
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; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.UDC 50-37.1.N,
4. An approved variance will expire if the project or activity authorized is not begun within 1 year



420 N. 15th Ave E

PC Meeting 09-10-19



Legend
 Zoning Boundaries

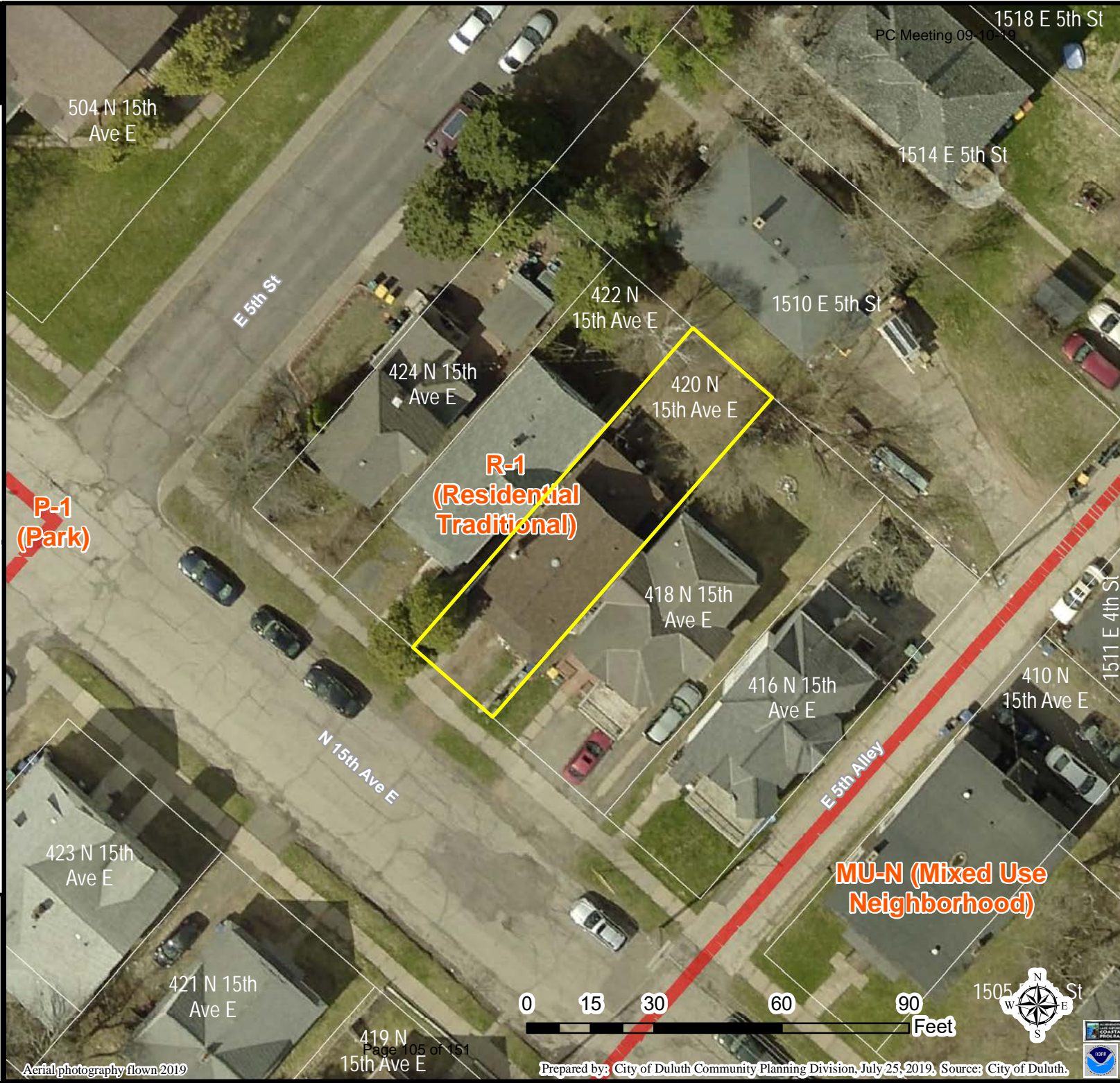
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Aerial photography flown 2019





PL 19-119: Front Yard
Parking Variance
420 N 15th Ave E



Legend

- Concurrent Use Permits
- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- Zoning Boundaries

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420 N. 15th Ave E

Front of House

Property Line

Property Line

6'

12 1/2'

3'

22'

walking to house

existing parking (1) space

bluestone Retaining wall

side walk

15th Ave E





Planning & Development Division
Planning & Economic Development Department

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 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

Date: September 3, 2019
 To: Members of the Planning Commission and Interim Director Fulton
 From: Steven Robertson, Senior Planner and Emilie Voight, Planner
 RE: PL 19-107 & PL 19-108: UDC Text Amendments Pertaining to Tiny Home and Small Lot Development, Shipping Containers and Temporary Structures, Tree Preservation, and Craft Brewing and Distilleries

Planning Staff are recommending changes to the Unified Development Chapter (UDC) related to tiny homes and accessory dwelling units, shipping containers and temporary structures, tree preservation, and craft brewing and distilleries.

The proposed draft ordinances are attached to this document and are based upon comments received from the public and members of the Planning Commission, and are subject to change based upon the final comments or recommendations received at the September 10, 2019, Planning Commission meeting.

ITEM 1, TINY HOMES AND SMALL LOT DEVELOPMENT (PL 19-107)

During the Imagine Duluth 2035 comprehensive plan update process, community members asked the City to consider the subject of tiny houses. Upon the adoption of Imagine Duluth 2035 in June 2018, the Planning & Development Division began researching national best practices on tiny houses. Based on this research, city staff have proposed code language amendments to address this subject.

What is a Tiny Home?

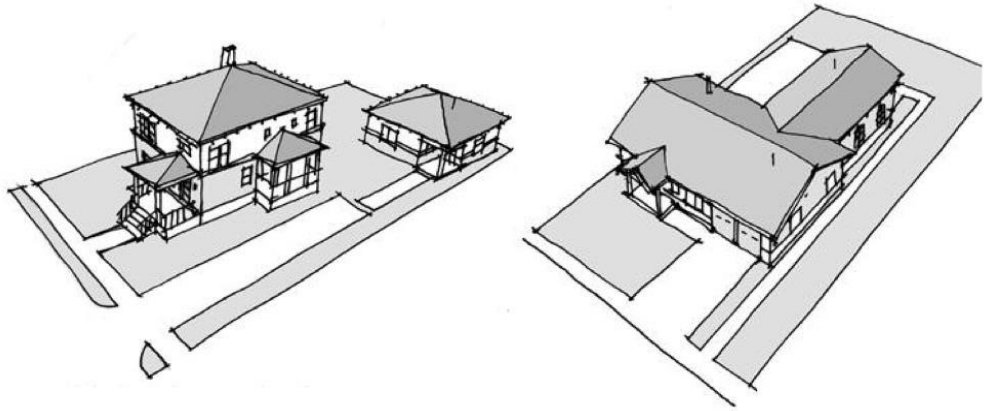
Although descriptions vary, a tiny house is generally defined as a detached single-family dwelling with a total floor area of 400 sq. ft. or less. Gross floor area usually does not include lofts, porches, and/or crawlspaces. They can be a principal dwelling on a parcel or they can be accessory dwelling unit (ADU) subordinate to a one-family dwelling.

There are two principal versions of tiny house: tiny house on wheels (THOW), and permanently fixed-in-place (FIP) tiny house. A THOW can be mobile and function “off the grid” by relying on infrastructure like solar power and composting toilets. THOWs can sometimes be relatively stationary and some may be designed to be removed from their axles and wheels, tied down to slab foundations, and potentially be connected to municipal sewer and water. A permanently fixed-in-place tiny house most strongly resembles a traditional single-family house: it is immobile, built on a permanent foundation with standard utility connections, and not designed to change locations.

A tiny house can be site-built or modular. The Minnesota state building code includes specific regulations for prefabricated, industrialized/modular, and manufactured housing. These standards are laid out in the MN Department of Labor and Industry Tiny Houses Code Fact Sheet (attached).

What is an Accessory Dwelling Unit?

An Accessory Dwelling Unit (ADU) is a secondary dwelling unit with complete independent living facilities for one or more persons and generally detached, and is separated from, the primary structure, but may also be an attached to the primary structure. Commonly called mother-in-law homes, carriage houses, or granny flats, these are limited to no more than 800 square feet in total size.



Examples of accessory dwelling units. Source: City of Santa Cruz

What are Cottage Developments?

Staff are proposing an option for development of a village of tiny homes called “cottage home park”. This is an alternative to “planned development” zoning of Residential-Planned or Mixed Use-Planned. These developments would be reviewed and approved by the Planning Commission under a Special Use Permit application. These would not be an urban campground, where houses share a central building for shared services such a running water and shower/bathing facilities, but instead be a collection of tiny homes that each function as individual dwellings, but in a community setting. These projects may be coupled with subdivision applications as applicable, or be part of a subdivision conservation design development.

Where can tiny homes be placed?

Tiny homes fixed in place (FIP) are allowed as principal dwellings or accessory dwelling units on a lot, if they meet applicable building code and zoning standards (setbacks, etc).

Structures built on a permanent chassis intended for use as a permanent dwelling and constructed to code, transportable in one or more sections, are secured to the ground by either a permanent foundation, footings, or similar anchoring and support system, are considered manufactured homes (commonly called mobile homes in the past) and are generally allowed in “manufactured home parks”. They may also may be allowed in zone districts where single-family dwellings are allowed if they meet applicable building code and zoning standards.

Tiny Homes on Wheels (THOW) and vehicles or trailers that are self-propelled or permanently towable are considered recreational vehicles and are subject to UDC standards for recreational vehicles (also called “travel trailers/travel vehicles”). They are allowed in approved “seasonal camp or cabins” or “recreational vehicle parks”. Self-propelled vehicles and trailers equipped as temporary human living quarters need a license plate issued by MNDMV. The Duluth zoning code does not consider self-propelled vehicles or trailers equipped as temporary living quarters as permanent dwellings or permanent accessory dwelling units.

Can Shipping Containers Be Used For Housing?

According to a city staff research memo from 2014 by R. Aho and C. Edwardson, a major issue with using shipping containers for habitation involves removing any contaminants that may have been spilled within the units, as well as removing toxins that have been applied to the wood floors in order to meet international standards for the transport of wood. The toxicity of units can vary considerably, depending upon the history of the unit. Since shipping containers are not, in and of themselves, ready to be occupied without modifications, structural engineering is required for

modifications and for anchoring the containers to a foundation. To cut openings in them or otherwise modify them means that accepted engineering practices must be implemented to ensure their safety and to demonstrate that they are in compliance with the building code.

A shipping container would be considered under the Minnesota code to exceed the limits of Section R301 Design Criteria for structures and would fall under R301.1.3 Engineered design. Once modifications are made to the shipping container, additional construction becomes necessary, and this can add cost. It is essential to keep in mind that modifications are required in order to create habitable space out of shipping containers. It is important to consider all building codes, as well as the health of the occupants, when shipping containers are modified for habitation. Among these are insulation, plumbing, ventilation, heat and electricity. Considerable modifications are necessary before storage containers can meet this criteria. Other building systems must be integrated into and around the shipping container in order for the containers to be used as dwellings, while meeting building codes.

What are the Other Codes That Relate to This Discussion?

In addition to zoning regulations, all structures must adhere to other applicable codes or standards, such as the 2015 Minnesota Building Code, 2015 Minnesota Fire Code, 2019 City of Duluth Construction Standards, or 2015 City of Duluth Engineering Guidelines.

Summary of Tiny Home Code Language Change for Tiny Homes

- Reduce side yard and corner side yard setbacks in R-1 and R-2.
- Eliminate the minimize size of Two family dwellings.
- Clarify the maximum height allowed for Accessory Dwelling Units.
- Amend definitions
- Amend allowed the zone districts allowed for: Cottage Home Park: RR-1, RR-2, R-1, R-2, R-P, MU-N; and Seasonal Camp or Cabin: R-C, RR-1, RR-2, R-P, MU-W; and Recreational vehicle park: R-C, RR-1, RR-2, R-P, MU-W

ITEM 2, SHIPPING CONTAINERS AND TEMPORARY STRUCTURES (PL 19-108)

Staff are proposing to generally maintain current limitations on shipping containers and temporary structures in most zone districts, but to clarify the requirement for screening, and exceptions. Proposed amended language:

Temporary moveable storage containers must comply with the same setback standards as for accessory structures, and shall not be located on any public right of way or utility, pedestrian, or drainage easement.

Temporary moveable storage containers:

- are allowed in the MU-B and MU-W district only if buffered and screened from adjoining property to the same extent required for primary or accessory structures;
- are allowed in the I-G or I-W districts without a requirement for buffering or screening;
- are allowed in the RR-1, RR-2, R-1, R-2, and MU-N zone districts but shall not remain on any property for more than 15 days in any calendar year;
- are allowed in all other zone districts but shall not remain on any property for more than 45 days during any calendar year.

Exceptions to the above standards:

- Licensed and bonded contractors may use shipping containers for temporary housing of equipment and materials during construction projects only as expressly authorized by a City building, excavation, or obstruction permit.
- The Land Use Supervisor may grant extensions to the time limit listed in subsection 2 above, but in no case shall the duration exceed 180 day.

ITEM 3, TREE PRESERVATION (PL 19-108)

A requirement for tree preservation for greenfield sites was introduced in the 2010 UDC, as recommended from the 2006 Comprehensive Land Use Plan. The language requires a tree preservation plan for new development or redevelopment (excluding single-family homes) on lots greater than 10,000 square feet, with the end result is that new development is encouraged to avoid impacting/removing all the existing vegetation on site and instead locate site improvements (structures, parking, drive lanes, outside storage) in such a way as to minimize impacts.

Staff are proposing to generally maintain current standards in the zoning code, but change the terminology from “special trees” and “significant trees” to reduce confusion, improve the preservation plan reporting submission and review process, increase the replacement requirement for removing special trees, and strengthen the requirement that replacement trees be installed by (or under the direction of) an arborist, forester, or landscape architect.

ITEM 4, CRAFT BREWING AND DISTILLERIES (PL 19-108)

When these two new land uses were first proposed in 2015 (Ordinance 10414), the city introduced them in only a few zone districts. In the intervening years, there generally have been few land use conflicts generated from these uses. City staff are proposing to expand these uses in to several additional zone districts, as applicable with the districts’ purpose statements.

Staff are proposing that “Manufacturing, craft, artisan production shop or artisan studio” be allowed in the following zone districts: MU-C, MU-B, All Form; and that “Manufacturing, craft, brewery or distillery” be allowed in the following zone districts: MU-C, MU-B, F-3, 4, 5, 7, I-G.

The ordinance change to the permitted use table (50-19.8) for this item will be incorporated in the permitted use table change for the tiny home ordinance, so as not to have two separate ordinances amending the same section of the code language at the same time.

These Tiny Homes on Wheels (THOW) are Considered Recreational Vehicles or Trailers





TINY HOUSES

CODE FACT SHEET

Minnesota Department of Labor and Industry

OVERVIEW

"Tiny houses" have received a lot of attention and interest in recent years. The following information is provided to clarify how these small structures are regulated by the Minnesota State Building Code. The Minnesota State Building Code is the standard of construction that applies statewide for the construction of buildings (MS § 326B.121) including tiny houses.

Some tiny houses are designed as trailers and referred to as park models or recreational park trailers that are on a chassis with wheels. Tiny houses built like park models but without the chassis and wheels are often referred to as industrialized/modular buildings and regulated accordingly.

Loosely defined, tiny houses range from about 100 to 400 square feet. The following describes how these houses are regulated by building codes, zoning codes and the Department of Housing and Urban Development (HUD).

Zoning requirements

Municipalities establish zoning ordinances to regulate land use, location, height, width, type of foundation, number of stories and size of buildings. These zoning ordinances vary by municipality.

Minimum building size varies from areas of 500 to 2,000 square feet. Jurisdictions may also require minimum lot sizes related to the house size. Sometimes there are minimum house size requirements such as 24 feet by 24 feet or a minimum dimension of 20 feet. Because of these varying requirements, the jurisdiction must be consulted for specifics.

Building codes

Tiny houses, like all other houses, are required to comply with building codes. Minnesota adopts the 2012 International Residential Code (IRC) by reference with amendments. It is known as the 2015 Minnesota Residential Code. The "code," for the purpose of constructing houses, means the 2015 Minnesota Residential Code. It is the standard that applies statewide.

The 2015 Minnesota Residential Code defines a dwelling as a single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation. By definition, a tiny house is a dwelling unit and



The trend of tiny houses has received a lot of attention in recent years. This handout is provided to clarify how these small structures are regulated by the Minnesota State Building code.

Other codes related to house construction include:

- 2015 Minnesota Energy Code
- 2015 Minnesota Mechanical Code
- 2015 Minnesota Electrical Code
- 2015 Minnesota Rules Chapter 1303
- Minnesota Plumbing Code

regulated by the code. The code includes requirements for light, ventilation, heating, minimum room sizes, ceiling heights, sanitation, toilet, bath and shower spaces, emergency escape and rescue openings, means of egress, smoke alarms and carbon monoxide alarms.

RECREATIONAL PARK TRAILER

PC Meeting 09-10-19

Recreational park trailers, or park models, are tiny houses built on a chassis with wheels. These trailers are primarily designed as temporary living quarters for recreational, camping or seasonal use but not a year-round dwelling. These trailers are often constructed to ANSI standard (A119.5) and are self-certified by the manufacturer with the Recreational Vehicle Industry Association (RVIA).

The gross floor area for park models must not exceed 400 square feet when set up. Recreational park trailers exceeding 400 square feet must comply with HUD's manufactured housing program as a manufactured home. HUD defines the gross square footage as encompassing the full width and full length of the unit, including

porches.

A data plate must be attached to the recreational park trailers that includes:

- name and address of the manufacturer
- serial number or vehicle identification number (VIN) of the unit
- date of manufacture
- a statement that the unit is designed to ANSI A119.5.

Recreational park trailers or park models intended as permanent living dwelling units must be designed, constructed and installed in accordance with the 2015 Minnesota Residential Code.

PREFABRICATED BUILDINGS

Minnesota Rules, Chapter 1360

Dwellings constructed as prefabricated buildings must comply with the requirements of Minnesota Rules Chapter 1360 and be designed and constructed in accordance with the 2015 Minnesota Residential Code. Review of building plans and inspections are performed by the Minnesota Department of Labor and Industry. The completed building requires a Minnesota prefabricated building label.

Prefabricated building manufacturers are permitted to build three or fewer buildings per year. Construction of more than three buildings is regulated by Minnesota Rules Chapter 1361 for industrialized/modular buildings.

A data plate must be attached to the dwelling that includes the following minimum information:

- design loads
- codes
- IBC label numbers
- serial numbers
- model designation
- date of manufacture
- name and address of manufacture
- occupancy and type of construction.



Example prefab construction label -
located under kitchen sink.

All on-site work is subject to local jurisdiction and inspections according to the 2015 Minnesota Residential Code.

INDUSTRIALIZED/MODULAR BUILDINGS

Minnesota Rules, Chapter 1361; Industrialized Modular Building Commission (IMBC)

Dwellings constructed as modular buildings must comply with Minnesota Rules Chapter 1361 and the Industrialized Modular Buildings Commission (IMBC). These modular dwellings must be designed and constructed in accordance with the 2015 Minnesota Residential Code. Review of dwelling plans and in-plant inspections are performed by a certified IMBC third-party agency.

Modular buildings must have IMBC construction labels on each building section or every 600 square feet of closed panels.

A data plate must be attached to the dwelling that includes the following minimum information:

- design loads
- codes

Continued: Minnesota Rules, Chapter 1361; Industrialized Modular Building Commission (IMBC)

- serial numbers
- IBC label numbers
- model designation
- date of manufacture
- name and address of manufacture
- occupancy and type of construction.



Example IMBC label - located inside each home section.

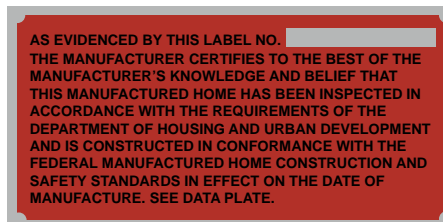
All on-site work is subject to local jurisdiction and inspections according to the 2015 Minnesota Residential Code.

HUD MANUFACTURED HOMES

"Manufactured home" means a single family dwelling in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length, or, when erected on site, is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities.

A data plate must be attached to the dwelling unit to include the following as a minimum:

- design loads
- codes
- label numbers
- serial numbers
- model designation,
- date of manufacture
- name and address of manufacturer



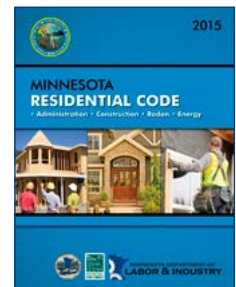
Example HUD construction label - located on exterior of each section.

Review of dwelling plans and in-plant inspections are performed by HUD-certified third-party agencies. All on-site work is subject to the local jurisdiction and inspections according to the 2015 Minnesota Residential Code.

SITE-BUILT STRUCTURES

Tiny homes constructed on site are regulated by the Minnesota State Building Code. The dwelling construction must comply with all the requirements of the 2015 Minnesota Residential Code.

The 2015 Minnesota Residential Code can be viewed at <http://codes.iccsafe.org/app/book/toc/2015/Minnesota/Residential/index.html>.



SUMMARY

If the tiny house does not:

- have a chassis and axles, or
- have a HUD manufactured home label, or
- have a RVIA park model label, then
- it is either a prefabricated or industrialized modular building subject to Minnesota Rules Chapters 1360 or 1361 or site-built subject to Minnesota Rules Chapter 1309.

NOTE: Any modular unit of closed construction built away from the site of occupancy must be labeled (Minnesota Rules, chapters 1360 or 1361).

Closed construction means any building manufactured so that all portions cannot be readily inspected at the installation site without disassembly, damage to, or destruction thereof (Minnesota Rules, Chapter 1360.0200 Subp. 5).

The following code references provide general code requirements related to dwelling construction. Knowledge of the entire state code is necessary to obtain compliance.

General requirements

R202 – Definition of dwelling unit and habitable space.

Dwelling unit: A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking and sanitation.

Habitable space: A space in a building for living, sleeping, eating or cooking. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces.

R301.1 Application.

Buildings and structures shall be constructed to safely support all loads, including dead loads, live loads, roof loads, flood loads, snow loads, wind loads and seismic loads prescribed in this code. The construction of buildings and structures in this code shall result in a structure that transfers all loads from their point of origin to the foundation.

R303 – Light, ventilation and heating

R303.1 – Habitable rooms shall have 8 percent of the floor area as natural light and 4 percent of the floor area as natural ventilation (see exceptions).

R303.3 – Bathrooms shall have 3 square feet of natural light and 1.5 square feet of natural ventilation (see exception).

R303.4 – Mechanical ventilation (see Minnesota Rules 1322 and 1346) requirements.

R303.5 – Intake and exhaust openings (see Minnesota Rules 1346) requirements.

R303.9 – Dwelling must be capable of maintaining a minimum room temperature of 68 degrees at three feet above the floor and two feet from the exterior walls (excludes use of portable heaters).

R304 – Minimum room areas

R304.1 – Every dwelling unit shall have at least one habitable room of 120 square feet.

R304.2 – Other habitable rooms (except kitchens) 70 square feet. R304.3 – Habitable rooms (except kitchens) must have a minimum dimension of 7 feet.

R305 – Ceiling height

R305.1 – Habitable space (hallways,

bathrooms, toilet rooms, laundry rooms and portions of basements containing these spaces) must have a ceiling height of 7 feet (see exceptions for measuring sloped ceilings).

R305.1.1 – Basements without habitable space (hallways, bathrooms, toilet rooms, laundry rooms and portions of basements containing these spaces) must have a minimum ceiling height of 6 feet, 8 inches (see exceptions for beams and girders).

R306 – Sanitation

R306.1 – Every dwelling unit must have a water closet, lavatory and a tub or shower.

R306.2 – Each kitchen must have a sink.

R306.3 – All plumbing fixtures must be connected to a sanitary sewer or approved private sewage system.

R306.4 – All plumbing fixtures must be connected to an approved water supply. Kitchen sinks, lavatories, bathtubs, showers, bidets, laundry tubs, and washing machines must have hot and cold water.

R307 – Toilet, bath and shower spaces

R307.1 – Space required, see Minnesota plumbing code for required plumbing fixture clearances.

R307.2 – Bathtub and shower floors and walls (bathtubs installed with shower heads and in shower compartments) must have a nonabsorbent surface a minimum of six feet above the floor.

R310 – Emergency escape and rescue openings

R310.1 – Basements, habitable attics and every sleeping room must at least one operable emergency escape and rescue opening (door or window).

R310.1.1 – Minimum opening area must be 5.7 square feet (see full code text for minimum height and width dimensions).

R311 – Means of egress

R311.1 – All dwellings must have a means of egress.

R311.2 – The egress door must have a clear width of 32 inches and a clear height of 78 inches.

R311.3 – A floor or landing is required on each side of exterior doors (see R311.3.1

through R311.3.3).

R311.5.1 – Exterior landings must be positively attached to the primary structure.

R311.6 – Hallway must have a minimum width of 36 inches. R311.7 – Stairways must have a minimum width of 36 inches. R311.7.5 – Stair treads must be 10 inch minimum and stair risers 7.75 inch maximum.

R311.7.5.3 – Stair nosings must be provided and compliant with this section.

R311.7.5.4 – Composite wood or plastic stair treads must comply with R507.3.

R311.7.6 – A floor or landing is required at the top and bottom of each stairway.

R311.7.8 – A handrail is required at stairs having four or more risers (see all railing requirements).

R314 – Smoke alarms

R314.3 – Smoke alarms are required in each sleeping room, in the immediate vicinity of the bedrooms and on each additional story of the dwelling including basements and habitable attics.

R315 – Carbon monoxide alarms

R315.1 – A carbon monoxide alarm is required in every dwelling unit having fuel fired appliances or attached garage.

MR 1322 – 2015 Minnesota Residential Energy Code

The dwelling must comply with the Minnesota Energy Code.

MR 1346 – 2015 Minnesota Mechanical Code

The dwelling must comply with the Minnesota Mechanical Code.

MR 1303 – Radon requirements

The dwelling must comply with Minnesota Rules Chapter 1303 for either passive or active radon control systems.

MR 1315 – Minnesota Electrical Code

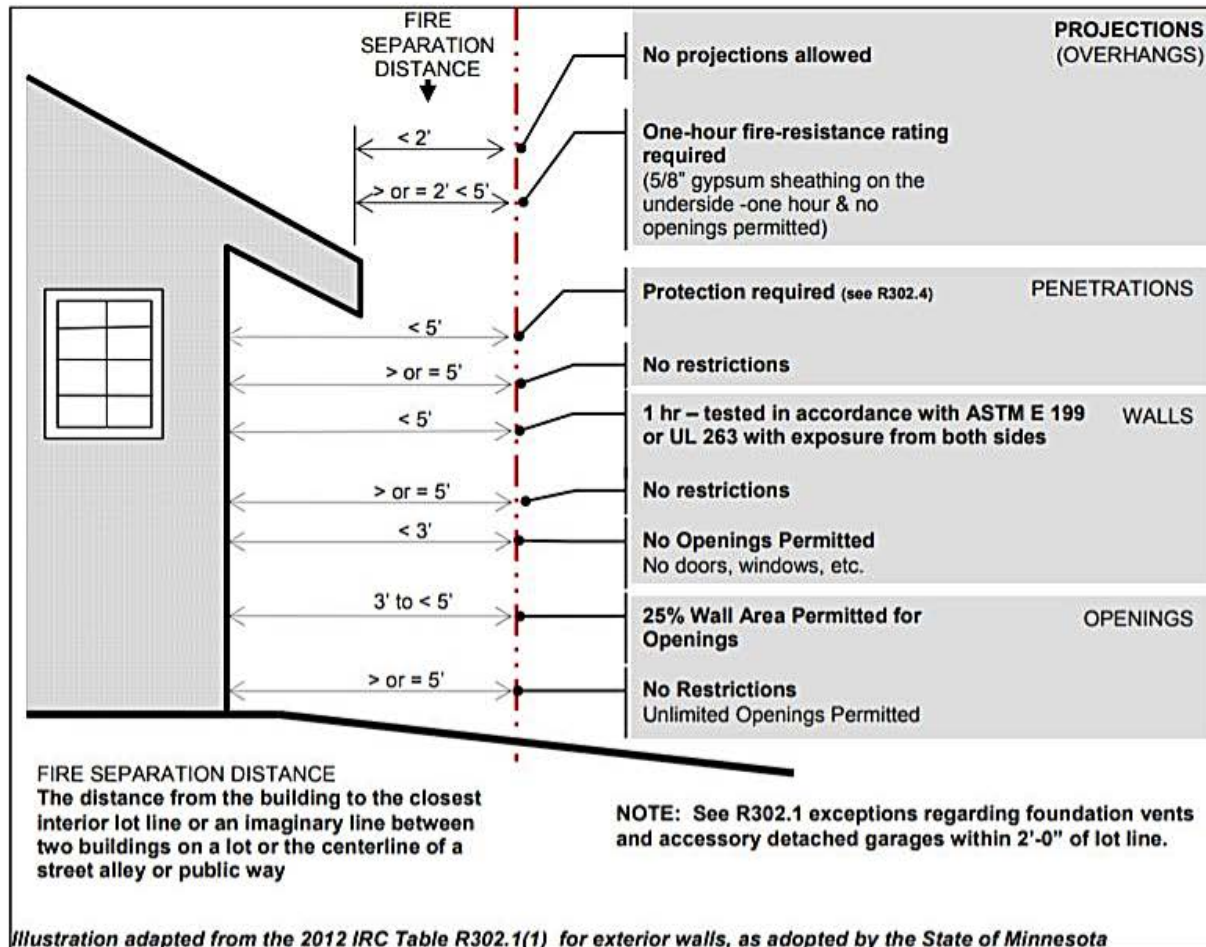
All electrical service, wiring and fixtures for the structure must comply with the 2014 National Electrical Code.

MR 4715 – Minnesota Plumbing Code

The dwelling must comply with the Minnesota Plumbing code.

Exterior wall – distance to property line (per diagram below). Construction, projections, openings and penetrations of exterior walls of dwellings and accessory buildings shall comply with Table R302.1(1); for dwellings equipped throughout with an automatic sprinkler system installed in accordance with Section P2904 shall comply with Table R302.1(2). These provisions shall not apply to walls, projections, openings or penetrations in walls perpendicular to the line used to determine the fire separation distance. Walls of dwellings and accessory structures located on the same lot. Detached tool sheds and storage sheds, playhouses and similar structures exempted from permits are not required to provide wall protection based on location on the lot. Projections beyond the exterior wall shall not extend over the lot line. Detached garages accessory to a dwelling located within 2 feet of a lot line are permitted to have roof eave projections not exceeding 4 inches. Foundation vents installed in compliance with this code are permitted. R302.1

Exterior Walls – Dwellings Without Fire Sprinklers



..Title

AN ORDINANCE AMENDING SECTION 50-14, RESIDENTIAL DISTRICTS
And SECTION 50-19, PERMITTED USE TABLE
And SECTION 50-20, USE SPECIFIC STANDARDS
And SECTION 50-21, DEVELOPMENT STANDARDS
And SECTION 50-41, DEFINITIONS

..Body

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-14.5 of the Duluth City Code, 1959, as amended, be amended as follows:

50-14.5 Residential-Traditional (R-1).

A. Purpose.

The R-1 district is established to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots. This district is intended to be used primarily in established neighborhoods. Many of the dimensional standards in this district require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas. Uses are allowed as shown in Table 50-19.8;

TABLE 50-14.5-1

R-1 DISTRICT DIMENSIONAL STANDARDS

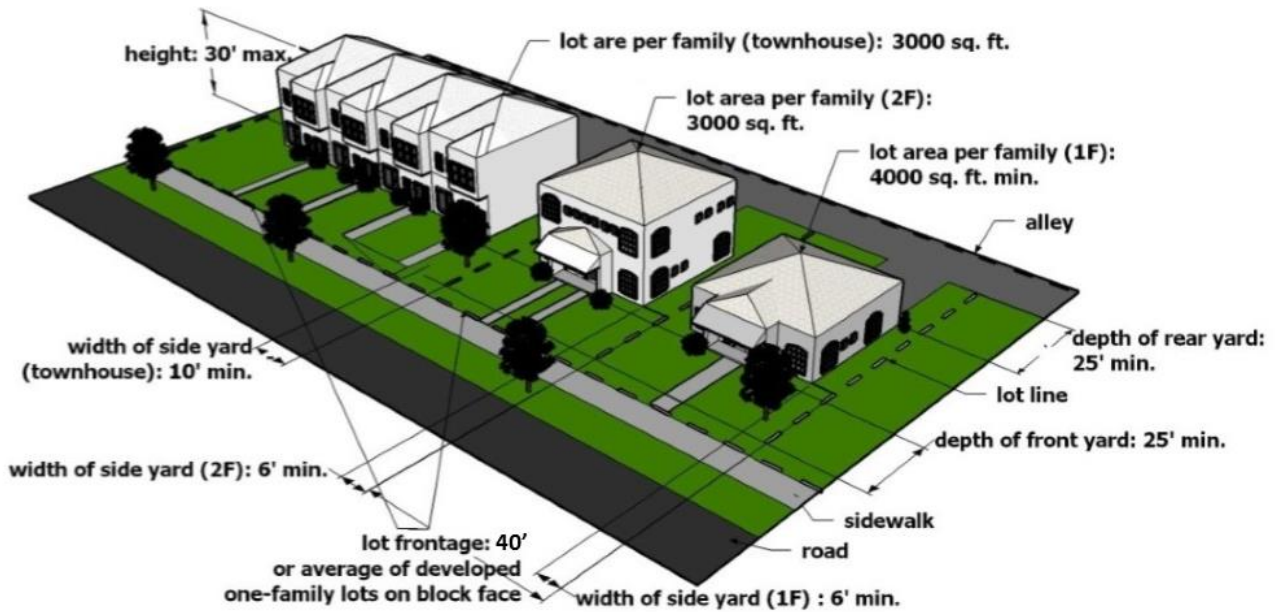
		LOT STANDARDS
Minimum lot area per family (One-family) ^{[1][2]}		The smaller of 4,000 sq. ft. or average of developed 1-family lots on the block face
Minimum lot area per family (Two-family) ^{[1][2][3]}		The smaller of 3,000 sq. ft. or average of developed 2-family lots on the block face
Minimum lot area per family (Townhouse) ^[1]		3,000 sq. ft.
Minimum lot frontage (one-family) ^[1]		The smaller of 40 ft. or average of developed lots with similar uses on the block face
Minimum lot frontage (two-family and townhouses) ^[1]		The average of developed lots with similar uses on the block face, but not less than 40 feet.
		STRUCTURE SETBACKS
Minimum depth of front yard		The smaller of 25 ft. or average of adjacent developed lots facing the same street
Minimum width of side yard (one- and two-family)	General	6 ft.
	Lots with less than 50 ft. <u>but more than 25 ft.</u> frontage and garage	Combined width of side yards must be at least 12 ft., <u>with no side yard less than 3 ft. wide</u>
	<u>Lots with 25 ft. or less frontage</u>	<u>Combined width of side yards must be at least 8 ft., with no side yard less than 3 ft. wide</u>
Minimum width of side yard (Townhouse, <u>All Other Principal Structures</u>)		10 ft. if adjacent to another lot
		25 ft. if adjacent to platted street
Corner Lot: width of front side yard	Dwelling	15 ft.
	Detached accessory building	<u>15</u> 20 ft.
	Permitted non-residential building	25 ft.
Minimum depth of rear yard		25 ft.
		STRUCTURE HEIGHT
Maximum height of building		30 ft.
^[1] Determined using "Lots on the block face" definition. When doing this calculation, exclude the subject lot from the calculation. ^[2] Lots without municipal sewer must also meet requirements of 50-21.2. ^[3] Existing structures that have a change of use from one-family to two-family must meet minimum lot area and frontage, but not setbacks. Section 50.21 <i>Dimensional standards</i> contains additional regulations applicable to this district.		

B. Example.



A. Illustration.

R-1 Example Lot Layout



(Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 7; Ord. No. 10225, 5-28-2013, § 1; Ord. No. 10337, 11-24-2014, § 1; Ord. No. 10421, 11-9-15, § 1.)

Section 2. That Section 50-14.6 of the Duluth City Code, 1959, as amended, be amended as follows:

50-14.6 Residential-Urban (R-2).

A. Purpose.

The R-2 district is established to accommodate multi-family apartments and townhouses, in an urban setting. This district also allows for single-family detached dwellings, duplexes and group living accommodations as shown in Table 50-19.8. The district is intended primarily for locations closer to commercial and mixed use activity centers, and may serve as a transition between lower-density residential areas and more intense commercial and mixed use neighborhoods;

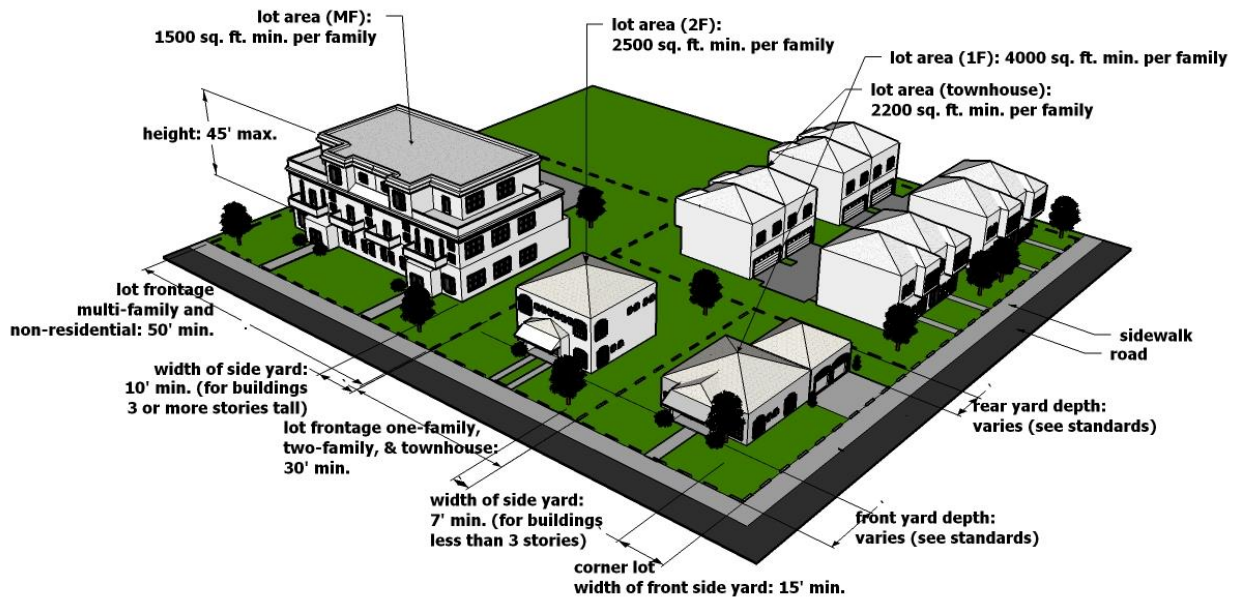
TABLE 50-14.6-1 R-2 DISTRICT DIMENSIONAL STANDARDS		
		LOT STANDARDS
Minimum lot area per family	One-family	4,000 sq. ft.
Minimum lot area per family	Two-family	2,500 sq. ft.
Minimum lot area per family	Multi-family	750 sq. ft.
Minimum lot area per family	Townhouse	2,200 sq. ft.
No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use.		
Minimum lot frontage	One-family, two-family, and townhouse	30 ft.
	Multi-family and non-residential	50 ft.
		STRUCTURE SETBACKS
Minimum depth front yard		The smaller of 25 ft. or average of adjacent developed lots facing the same street
Minimum width of side yard for buildings less than 3 stories		6 ft.
<u>Minimum width of side yard for buildings less than 3 stories (one-family)</u>		<u>Combined width of side yards must be at least 8 ft., with no side yard being less than 3 ft. wide</u>
Minimum width of side yard for building 3 stories or more		10 ft.
Corner Lot: width of front side yard	Dwelling	15 ft.
	Detached accessory building	<u>15</u> 20 ft.
	Permitted non-residential building	25 ft.
Minimum depth of rear yard		25 ft.
		STRUCTURE HEIGHT
Maximum height of building		45 ft.
Section 50.21 <i>Dimensional standards</i> contains additional regulations applicable to this district.		

B. Example.



C. Illustration.

R-2 Example Lot Layout



(Ord. No. 10042, 8-16-2010, § 1; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2-11, § 8; Ord. No. 10192, 12-17-2012, § 3.)

Section 3. That Section 50-19.8 of the Duluth City Code, 1959, as amended, be amended as follows:

Section 4. That Section 50-20.1 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.1 Residential uses.

A. Dwelling, two-family.

In the R-1, R-2 and R-P districts, two-family dwellings shall be designed to protect and reflect the character of one-family residences as set forth below:

- ~~1. Minimum size. A two-family dwelling shall contain at least 1,800 square feet of floor area (not including garages or utility rooms or basement or attic space not used for living quarters);~~
- ~~1. 2. Exterior stairways. No exterior stairways with a total vertical rise greater than five feet shall be permitted;~~
- ~~2. 3. In the R-1 and R-2 districts, each unit in a two family dwelling must have a separate exterior entrance on the facade facing the front property line;~~

G. Cottage home park

In the RR-1, RR-2, R-1, R-2, and MU-N districts, this use is allowed upon approval of a special use permit as described in Section 50-37.10, and compliance with use-specific standards as set forth below:

1. Development Standards. Dwelling units within a cottage home park shall be subject to setback, height, off-street parking, and other regulations appropriate for one-family dwellings in the applicable zone district that the cottage home park is located, except as provided within this section;
2. Minimum Lot Area and Lot Frontage. Dwelling units shall meet the minimum lot area and lot frontage requirement for multi-family, townhome, or two family developments of the applicable zone district that the home park is located, whichever is smaller or least;
3. Principal Entrance. Each dwelling unit shall have a principal entrance facing the front lot line. Exceptions to the requirement of a dwelling unit having a principal entrance facing the front lot line may be made by the Land Use Supervisor, but only if the unit has a porch or deck on the front façade and the primary entrance is within 10 feet of the front façade;
4. Common open space or amenity area. Cottage housing developments shall provide common open space or an amenity area which is centrally located, equally accessible from, and at the disposition of all dwelling units;
5. Connectivity and access. Sidewalks or multi-use paths must be provided to ensure pedestrian access from each individual dwelling unit to the front lot line or public street;
6. Subdivision. Approval of a cottage home park does not negate to the need for subdivision review and approval, where applicable.

(Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 16; Ord. No. 10286, 3-10-2014, § 7.; Ord. No. 10421, 11-9-2015, § 2.)

Section 5. That Section 50-20.5 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.5 Accessory uses.

D. Accessory dwelling unit.

An accessory dwelling unit may be created within, or detached from, any one-family or two family dwelling, as a subordinate use, in those districts shown in Table 50-19.8, provided the following standards are met:

1. Only one accessory dwelling unit may be created per lot;
2. No variances shall be granted for an accessory dwelling unit;
3. Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit;
4. One off-street parking space shall be provided in addition to off-street parking that is required for the primary dwelling;
5. Accessory dwelling units shall contain no more than 800 square feet of floor space and shall be consistent in character and design with the primary dwelling. An accessory dwelling unit shall not exceed the floor area square footage of the principal structure and shall not exceed the height of the principal structure;
6. If a separate outside entrance is necessary for an accessory dwelling unit located within the primary dwelling, that entrance must be located either on the rear or side of the building;
7. An accessory dwelling unit shall not be considered a principal one-family dwelling and shall not be located on a separate tax parcel from the principal one or two-family dwelling.

Section 6. That Section 50-21.2 of the Duluth City Code, 1959, as amended, be amended as follows:

50-21.2 Special dimensional standards.

A. Lot without municipal sewer.

Lot areas for properties not provided with municipal sewer shall be at least two acres in size or the minimum lot area for the zone district, whichever is larger, and shall be subject to county ordinances and standards regulating individual sewage treatment systems. Lots with large wetlands or shallow bedrock may be required to be larger than two acres, and shall be determined on a case-by-case basis based on the area needed to fit a sewage treatment system on the site. Lots smaller than two acres may be allowed in areas zoned R-P based on soil and site conditions;

B. Front yards on double frontage lots.

On lots having double frontage and where the first and second frontages are on opposite lot lines, the required front yard shall be provided on the frontage that is the generally established frontage on the block, as determined by the building official;

C. Side yards.

1. Dwelling units above commercial uses.

In all residential and mixed use districts, where dwelling units are erected above commercial establishments, no residential side yard is required, except for any side yard required for the

commercial building on the side of a lot adjoining a residential district. in form districts, no side yard is required even if the lot adjoins a residential district;

2. Attached and multi-family dwellings.

For the purpose of side yard regulations, a two-family dwelling, townhouse, or multi-family dwelling shall be considered as one building occupying one lot;

3. Driveways.

Where no garage facilities are provided and the alley is not developed for access at the time the dwelling is constructed in an R-1 or R-2 district, there shall be provided one side yard of a minimum of nine feet for a driveway and the other side yard shall have a minimum width of five feet;

D. Rear yards.

An accessory structure cannot exceed 20 feet in height, except for accessory dwelling units, which shall not exceed the height of the principal residential structure.

An accessory structure ~~and~~ may not occupy more than 30 percent of the rear yard area. All accessory structures on a lot may not occupy more than 60 percent of the rear yard area;

E. Street improvements in public right of way.

Except as provided in Section 50-37.1.L, for development or redevelopment proposed on lots without a principle structure:

1. The street shall be improved to the most current standards on file in the office of the city engineer and shall be designed for the road classification within the zone in which the property is located;
2. The street shall be improved across the entire frontage of the lot proposed to be developed and all other contiguous property owned by the owner of the subject lot;
3. Any street improvement that results in a dead-end street that is greater than 150 feet in length shall require construction of a turn-around for emergency and maintenance vehicles approved by the city fire marshal.

For lots developed with an existing legal principle structure, the street improvement requirements need not be met when the landowner proposes an expansion of the existing legally constructed structure or a replacement principle structure, if the landowner provides evidence of a perpetual easement to access the property from an improved street of a distance not greater than 150 feet, and such access shall be improved to meet Fire Code standards.

F. Common Open Space

1. All structures intended to be owned and occupied by an individual unit owner of a Common Interest Community shall be constructed within the space allocated in the governing documents for that specific unit owner, except as allowed in section 2 below;
2. A Home Owner Association or other applicable governing body of the community may grant building easements, with city approval as provided for in this sub-paragraph below, to allow encroachments of structures into the common open space as platted in the Common Interest Community Plat. In such instances, the building easement shall be considered part of the adjacent building parcel or unit. Before constructing any such encroaching structure, the owner of said adjacent building parcel or unit shall file with the Planning Department a copy of a recorded easement and survey depicting same by the private landowner are required to verify the circumstances in each instance. The Land Use Supervisor may grant city approval for the proposed building easement(s) if they do not impact more than 10% of the common open space of the community; the Planning Commission may grant city approval for impacts more than 10%. In no event can more than 30% of the common open space of the community be impacted. The Land Use Supervisor or Planning Commission may require the CIC to be re-platted to reflect the change in the reduced common open space. Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 21; Ord. No. 10225, 5-28-2013, § 8; Ord. No. 10337, 11-24-2014, § 2; 10591, 9-24-18, § 1)

50-27.1 Exceptions and encroachments.

The following exceptions and encroachments to required yard areas and height limits are allowed. These provisions do not apply to form districts except as specifically noted in exceptions to building heights.

Table 50-21-1: Exceptions and Encroachments

Structure or Feature	Conditions or Limits
Encroachments into Required Yard Areas	
Architectural features (sills, belt courses, eaves, cornices) awnings and canopies, bay windows, gutters and downspouts	Up to 18 in. into any required yard area
Unenclosed or lattice-enclosed stairs, fire escapes and balconies opening upon fire towers	Up to 5 ft. into any required rear yard, except as required to comply with applicable fire code or Americans with Disabilities Act
Chimneys and flues	Up to 2 ft. into any required front or side setback.
Open sided porch, deck, or paved terrace	Up to 10 ft. into front yard, but no closer than 5 ft. from any property line
Enclosed vestibule or fixed canopy with a floor area of not more than 40 sq. ft.	Up to 4 ft. into front yard
Fuel pumps or pump islands	Not closer than 15 ft. from any street line or closer than 50 ft. from any residential use
Fences meeting the standards of Section 50-26.4	Fences may not be located closer than 3 ft. to any publicly maintained right-of-way
Porte cochere, carport or canopy if every part is unenclosed except for necessary structural supports	Permitted in any side setback, but not less than 5 ft. from any side lot line
Residential window well	Permitted to encroach up to two feet from any property line, provided that window well: (a) has a minimum distance of at least 5 feet from any structure on any adjacent property, and (b) is limited to the minimum window well depth and width required by fire and building codes.
Accessory structures	No accessory structure may be located: (a) between a street and any façade of a primary building facing that street, or (b) closer than 10 ft. to any principal structure on an adjoining property, or (c) closer than 5 ft. to any rear lot line, or (d) closer than 3 ft. to any side lot line, except as listed for specific accessory structures below.
<i>Accessory structures in MU-W</i>	If 200 square feet or larger, not closer than 25 feet to any side or rear lot line, and not closer than 25 to any existing principal or accessory structure.
<i>Accessory boat dock, residential</i>	No setback required from property lines along the water
<i>Accessory clotheslines, play equipment, trash containers, odor-controlled composting bins and rainwater harvesting tanks</i>	Permitted in side and rear yards
<i>Accessory rain garden</i>	Permitted in all (front, side and rear) yards
Exceptions to Building Height Limits	
Television and radio towers, accessory communications towers for private use, religious assembly or ornamental spires and towers, belfries, monuments, tanks, water and fire towers, stage tower or scenery lofts, cooling towers, chimneys, elevator penthouses, air conditioning penthouses, skylights, smokestacks, conveyors, storage elevators and facilities, flagpoles, accessory wind power equipment or accessory rooftop solar collectors	In the Form District, the exceptions to building height limits for religious assembly or ornamental spires and towers only apply if the applicant proposes an Iconic Building

Section 7. That Section 50-41.1 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.1 Definitions: A

Accessory agriculture roadside stand. A structure erected for the display and sale of agriculture products grown on the premises and that is subordinate to the primary residential or agricultural use of the premises.

Accessory bed and breakfast. An owner-occupied building designed as a one-family dwelling that provides no more than five guest rooms for lodging accommodations by prior arrangements for compensation. The primary residence in the building or a separate, lawfully existing building located on the same site must be occupied by the building owner on a permanent basis. It may or may not include serving of meals to guests.

Accessory boat dock, residential. A personal use boating structure, subordinate to a primary residential use of property, that is built over or floats upon the water of a lake, river, or stream, and that serves one property owner for mooring boats or as a landing place for marine transport.

Accessory caretaker quarters. A subordinate dwelling unit intended for an employee or owner who looks after or takes charge of goods or property. The unit shall be either inside or attached to a main structure by a common wall. The unit is a complete, independent living facility with provisions for cooking, eating, sanitation and sleeping.

Accessory communications tower for private use. Any structure, subordinate to a primary use of land, that is designed and constructed primarily for the purpose of supporting one or more wireless analog or digital telecommunication facilities, that is located on the ground or anchored to the ground and exceeds 24 feet in height. Such a tower may have a variety of configurations, including a monopole, a lattice tower or a guyed tower.

Accessory day care facility. A private or public establishment licensed by the state that regularly provides one or more dependents with care, training, supervision, rehabilitation or developmental guidance on a regular basis, for periods less than 24 hours a day, for gain or otherwise, as a secondary and subordinate activity to a permitted or approved special use of the property.

Accessory dwelling unit. A subordinate dwelling unit added to, created within, or detached from a one single-family dwelling residence, but located on the same lot or parcel as a primary residential structure, and providing that provides basic requirements for living, sleeping, cooking, eating, and sanitation, that is not on a chassis, and that is placed on a permanent foundation that complies with the State Building Code.

Accessory heliport. An area used or intended to be used for the landing and takeoff of helicopters that is secondary and incidental to, and is operated in support of, a permitted or approved special use on the same property, including operations facilities, such as maintenance, loading, and unloading, storage, fueling or terminal facilities.

Accessory home occupation. A business or occupation incidental and subordinate to the principal residential use. All home occupations must comply with the conditions in Section 50-20.5.F. Examples include but are not limited to: artist's studio; dressmaking; accessory beauty salon or barber shop, office of a physician or dentist for consultation or emergency treatment but not for general professional practice, lawyer, engineer, architect or accountant; teaching, with instruction limited to not more than two pupils at the same time. A home occupation shall not be interpreted to include accessory bed and breakfast, restaurants or tea rooms.

Accessory home share. A habitable room or space in an owner-occupied dwelling offered for trade or sale, whether for money or exchange of goods or services, for periods of 29 days or less.

Accessory recycling collection point. A facility used for the collection and temporary storage of empty beverage containers, aluminum, glass, paper or clothing for recycling purposes conducted totally within an enclosed structure or container, and that is accessory to a permitted or approved special use in the zone district. This definition does not include processing except for can banks that crush cans as they are deposited.

Accessory sidewalk dining area. An outdoor eating and drinking area that is generally associated with and subordinate to a permitted or approved special use on the same property and that is, located on a

public sidewalk. This use may include removable tables, chairs, planters, or similar features and equipment.

Accessory solar or geothermal power equipment. Accessory uses and structures that are clearly subordinate in size and use to the primary use and structure on the property, and that are used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. These structures and uses may include but are not limited to the following, and may be located at ground level or above or below ground unless specifically limited in this Chapter, provided that they meet all other applicable requirements of this Chapter: solar photovoltaic modules, solar thermal hot water collectors, solar arrays; and geothermal heat pumps, earth tubes, or downhole heat exchangers.

Accessory use or structure. A use or structure subordinate in use, area or purpose to the principal use or structure on the same lot and serving a purpose naturally and normally incidental to the principal use or structure and that is not included in a separate definition of an accessory use or structure in this Chapter. Where an accessory building is attached to the principal building in a substantial manner by a wall or a roof, it shall be considered part of the principal building. An accessory building or use may be permitted on a lot of record that abuts or is separated by a public easement of no more than 25 feet in width to another lot or lots on which the primary use is located, provided all lots are owned by the same owner and none of the parcels are severed, legally sold, conveyed, or used without the other parcels. Examples include but are not limited to: pet houses, storage sheds, swimming pools, garages, accessory uses and structures for energy conservation and renewable energy production, and accessory structures for stormwater management and water conservation.

Accessory vacation dwelling unit. An accessory dwelling unit as defined by this Chapter that is used as a vacation dwelling unit as defined by this Chapter for periods of occupancy from 2 to 29 days.

Accessory wind power equipment. A small scale accessory wind power generating or distribution system, that is clearly subordinate in size and use to the primary use and structure on the property, and that is used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. Accessory wind power equipment is designed to generate no more than 10Kw of energy.

Accessory wireless antenna attached to existing structure. Any wireless service antenna located in or on the roof or upper facade of a structure that is not a telecommunications tower, such as a building, water tower, steeple, silo or utility pole.

Adjacent developed lots facing the same street. Where a dimensional standard is related to dimensions on "adjacent developed lots facing the same street" the measurement shall only include those lots that contain a primary structure and that share a side lot line with the subject property and shall not include corner lots where the primary structure faces a different street. If there is only one adjacent developed lot that fronts the same street, the measure shall refer only to the dimension on that lot. For purposes of this measurement, all contiguous lots in common ownership shall be considered as a single lot, not as separate platted lots.

Adult entertainment establishment. See definition in Chapter 5 of the City Code.

Adult bookstore. See definition in Chapter 5 of the City Code.

Agriculture, community garden. A use in which land managed by a group of individuals is used to grow food or ornamental crops, such as flowers, for donation or for use by those cultivating the land and their households. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

Agriculture, farmers market. A recurring event, held outdoors or in another defined place, on designated days and times, where market vendors, consisting of agricultural producers, home processors, and craft producers that manufacture non-food goods by the force of their own labor, are organized for the purpose of selling their products directly to the public. A minimum of 30% of vendors shall be vendors selling food crops.

Agriculture, general. The production or keeping of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products. This definition includes all activities listed under "agriculture, urban."

Agriculture, urban. An establishment where food or ornamental crops are grown that includes, but is not limited to, growing on the ground, on a rooftop or inside a building, aquaponics, and aquaculture.

Airport boundary. Those lands including the property owned by the city, state, and the United States, and their respective political subdivisions, that are used for aeronautical purposes and are contiguous with the runway and building area facilities. The Duluth International Airport boundaries are illustrated on Sheet 3, airport property map, of the approved set of airport layout plans on file in the offices of the Duluth Airport Authority. The Sky Harbor Municipal Airport boundaries are illustrated on Exhibit 50-18.2-2.

Airport elevation. The established elevation of the highest point on the usable landing area, which elevation is established to be 1,428 feet above mean sea level for Duluth International Airport and 610 feet above mean sea level for Sky Harbor Municipal Airport.

Airport hazard. Any structure, tree, or use of land that obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land that is hazardous to persons or property because of its proximity to the airport.

Airport and related facilities. An area of land that is used or intended for the landing and takeoff of aircraft, and includes its buildings and facilities, if any. Accessory uses may include but are not limited to: car rental, aircraft servicing, fueling, or leasing, private aviation clubs or associations, and hotels.

Alley. A dedicated public right-of-way not more than 30 feet wide affording a secondary means of access to abutting property and not intended for general traffic circulation.

Alley line. The established side line of an alley easement.

Antenna. A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

Apartment. A part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a one-family, including full cooking and bathroom facilities for individual use.

Apartment hotel. A building designed for or containing not less than 20 apartments, individual guest rooms or suites and in which may be furnished services ordinarily furnished by hotels, such as drugstores, tea room, barbershop, cigar and newsstands when such uses are located entirely within the building with no separate entrance from the street, and having no sign or display visible from the outside of the building indicating the existence of such use.

Artisan production shop. A building or portion thereof used for the creation of original handmade works of art or craft items by no more than six artists or artisans, either as a principal or accessory use, where the facility includes an area for retail of the art/craft items being produced.

Artisan studio. A building or portion thereof used for the creation of original handmade works of art or craft items by no more than three artists or artisans, either as a principal or accessory use, where the facility includes an area for retail of the art/craft items being produced.

Automobile and light vehicle sales, rental, or storage. The sale, display, lease, rental, or storage of light motor vehicles, including automobiles, vans, light trucks, light trailers, boats, and recreational vehicles. This shall not include salvage operations, scrap operations, vehicle impound yards, or commercial parking lots available for short-term use.

Automobile, Repair. An establishment engaged in performing repairs of, automobiles, light vehicles, and small engines. Repair may include all activities or repair or servicing of automobiles allowed in "automobile service", rebuilding or reconditioning of passenger automobiles, body, frame or fender straightening, dent repair, replacement or repair, painting or rust-proofing, or other similar repair or servicing of automobiles. Such work excludes commercial wrecking or dismantling, scrap/salvage yards, tire recapping and truck-tractor repair.

Automobile, Service. An establishment engaged in performing servicing of automobiles, light vehicles, and small engines. Service may include muffler replacement, oil changing and lubrication, tire repair and replacement except tire recapping, wheel alignment, brake repair, suspension repair, transmission repair and replacement, flushing of radiators, servicing of air conditioners, audio installation, detailing, and other similar activities of light repair or servicing of automobiles. This shall not include car washes, retail sale of automotive supplies, tires, or parts unrelated to repairs being performed on the premises, the retreading or vulcanizing of tires, filling stations, or convenience stores that sell gasoline or lubricating oil.

Average lot depth. The average of the lengths of the two side lot lines of a platted lot. In the case of flag lots (lots where the buildable portion of the lot is connected to a public street by an access or driveway 20 feet wide or less), the length of the access or driveway portion of the lot shall be ignored in measuring either side lot line. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 58; Ord. No. 10204, 3-11-2013, § 4; Ord. No. 10225, 5-28-2013, § 12; Ord. No. 10414, 10-12-2015, § 5; Ord. No. 10446, 4-11-2016, §6; Ord. No. 10563, 4-9-18, § 3)

Section 8. That Section 50-41.3 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.3 Definitions: C

Cemetery or mausoleum. Land used or dedicated to the burial of the dead or the storage of cremated remains in a columbaria, and including necessary sales and maintenance facilities.

Channel. A natural or artificial depression of perceptible extent with a definite bed and banks to confine and conduct flowing water either continuously or periodically.

Club or lodge (private). A building or portion of a building or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service that is customarily carried on as a business. This category includes fraternities and sororities.

Co-housing facility. A residential development that combines individual owned dwelling units with smaller or partial kitchens and a larger community kitchen and dining room intended for communal use on a regular basis, and in which all residents agree to share in the provision of regular communal services such as cooking meals or providing child care.

Co-location. The use of an existing tower or structure to support antennae for the provision of wireless services. A replacement tower that is constructed on the same site as an existing tower will be considered a co-location as long as the new tower is no taller than the old tower and that the old tower is removed in a reasonably short time frame after the new tower is constructed.

Coldwater river. Rivers including trout streams and their tributaries.

Commercial impracticability or commercially impracticable. The inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be commercial impracticable and shall not render an act or the terms of an agreement commercially impracticable.

Common open space. A portion of a development permanently set aside to preserve elements of the natural landscape for public or private use, which will not be developed or subdivided and is either owned in common by the individual owners in the development or by a permanently established management entity. Common open space does not include the area within 25 feet of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings when the development is designed using clustered compact lots or clustered units or sites to create and preserve green space, such as in a conservation subdivision, planned unit development, or resort.

Common plan of development or sale. A contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan. For redevelopment projects, contiguous includes parcels separated by a right-of-way.

Composting. The controlled microbial degradation of organic waste to yield a humus-like product.

Confined animal feeding operation. A facility, area, or place where the feeding of livestock, poultry, pigs, or small animals takes place for commercial purposes in lots, pens, ponds, sheds or buildings where food is supplied primarily by means other than grazing, foraging, or other natural means.

Construction debris. Waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of buildings and roads.

Contractor's shop and storage yard. A lot or portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor. This definition includes architects, engineers, surveyors' construction offices and shops, real estate sign placement service, and showroom and shops for the display and sale of electrical, plumbing, heating, air conditioning, sheet metal and other material in connection with contracting services.

Convention or event center. A facility specially designed to host conferences, exhibitions, events, large meetings, seminars and training facilities, which may be associated with a hotel or motel.

Cottage home park. A residential development consisting of two or more one-family dwellings with a common open space or amenity area.

Critical root radius. An area around a tree measured with a radius of one foot for every in. diameter of the tree, which is generally the area of soil that must remain undisturbed to ensure long-term viability of the tree.

Cutoff angle. For purposes of exterior lighting regulations, the angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above from which no light is emitted. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 58; Ord. No. 10204, 3-11-2013, § 4.)

Section 9. That Section 50-41.4 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.4 Definitions: D

Data center. An establishment primarily involved in the compiling, storage, conversion or analysis and maintenance of documents, records, and other types of information in digital form.

Daycare facility. A facility that provides accommodations for persons of any age who receive custodial care for less than 24 hours by individual other than parents or guardians, relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for.

Decorative fence. A powder coated steel fence, solid core ornamental fence, decorative wood fence, or fence of similar construction or appearance, but not including a snow fence, chain link or highway guard rail.

Demolition debris. Solid waste resulting from the demolition of buildings, roads and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. It does not include asbestos wastes, appliances, furniture or household refuse.

Dense urban screen. Continuous screening wall, berm, fence, or row of planting at least six feet tall, with screening material designed to provide 75 percent opacity one year after planting along the full required height and length of the screening buffer.

Design storm. A rainfall event used in the analysis and design of drainage facilities. See the engineering guidelines for the current rainfall data.

Detention. The temporary storage of drainage water.

Deteriorated. A building or component of a building shall be deemed to have deteriorated when its function has been so impaired by natural forces including but not limited to weathering or decay that it needs to be replaced to restore its functionality.

Developable area. All land within a zone district not occupied by streets and public rights-of-way.

Development. The construction of a building or structure, any clearing, grading, excavation or other movement of land, or the division of a parcel of land into two or more parcels. Within flood plain districts, development is defined as any manmade change to improved or unimproved real estate, including but not limited to: buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Diameter at breast height (DBH). The primary method of measuring the diameter of a tree trunk. Diameter is measured in inches 54 inches above the ground. If the tree splits into multiple trunks at a height below 54 inches, but above the ground, the diameter is measured at the highest point beneath the split.

Direct illumination. Illumination by light sources that are effectively visible, either directly or through a translucent material, as a part of the sign and illuminating outward.

Discharge. The discharge of any pollutant into the waters of the state from any point source.

Discharge rate. The rate at which drainage water is released from a specific site and expressed as a volume per unit of time, such as cubic feet per second.

Discharge volume. The volume of drainage water discharged from a site from a single rainfall event, expressed as cubic feet or acre-feet.

Distillery, craft. A facility that manufactures distilled spirits, as defined by Minn. Stat. § 340A.301, with a capacity to manufacture 40,000 or fewer proof gallons in a calendar year. A small craft distillery is one that contains less than 7,000 square feet of gross floor area. A large craft distillery is one that contains 7,000 square feet or more of gross floor area.

District. Any section of the city within which the zoning regulations are uniform.

DNR. Minnesota department of natural resources.

Drainage basin. The tributary area through which drainage water is collected, regulated, transported and discharged to receiving waters.

Drainage system. Any system that conveys stormwater or surface water including sewers culverts, ditches, and swales.

Drainage water. Stormwater, snow melt, surface and irrigation water, water from footing drains and sump pumps or other drains approved by the city.

Drip line. A vertical line extending from the outermost edge of a tree's canopy to the ground.

Dry cleaning or laundry plant. An establishment where laundry or dry cleaning is performed in bulk and primarily for commercial and institutional customers. This use does not include facilities where the public drops off or picks up dry cleaning or laundry that is cleaned off-site.

Dwelling. Any building or portion of a building that is designed for or used for residential purposes and that either (a) has a minimum width of 20 feet, or (b) has a principal entrance facing the front lot line.

Dwelling unit. A habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities designed for and occupied by one family only, occupied by the owner or by another family for periods of occupancy exceeding one week, and that is physically separated from any other habitable unit that may be located in the same building.

Dwelling unit, efficiency. A dwelling unit in a multi-family, townhouse, or two-family dwelling, which is not an accessory dwelling unit, and which consists consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing that such dining alcove does not exceed 125 square feet in area.

Dwelling, cottage. A one-family dwelling unit which does not include any accessory dwelling units, which is placed on a permanent foundation that complies with the State Building code, and which is located in a cottage housing development.

Dwelling, live-work. A dwelling unit containing an integrated living and working space that is intended to function predominately as business workspace with incidental residential use. The unit typically has a store-front, with the workspace, public display area, or show-room on the ground floor of the unit and the majority of the residence located either on the upper floor if there are two floors, or the back of the unit if there is only one floor.

Dwelling, multi-family. A building containing three or more dwelling units, none of which are accessory dwelling units, that is not a townhouse.

Dwelling, one-family. A building containing one dwelling unit designed for exclusive occupancy by one family and occupied exclusively by one family, except that the structure may also contain an accessory dwelling unit where expressly authorized, having a minimum outside width of 20 feet measured at its narrowest point and that is placed on a permanent foundation that complies with the State Building Code. An accessory dwelling unit shall not be considered a one-family dwelling. This definition includes a manufactured or modular home that meets this definition and the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sections 5401 et. seq.).

Dwelling, townhouse. A structure containing three to eight dwelling units, none of which are accessory dwelling units, each sharing two vertical party or division walls, except that each end unit will have a single party or division wall, with no dwelling units sharing a common horizontal surface.

Dwelling, two-family. A building containing two dwelling units, neither of which is an accessory dwelling unit, designed for exclusive occupancy by two families and occupied exclusively by two families. A twin home is a two-family dwelling where each unit shares a common vertical wall and where a side lot line exists on the common wall extending to the front and rear lot lines, but is on two separate lots. (Ord. No. 10041, 8-16-2010, § 13; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 58; Ord. No. 10204, 3-11-2013, § 4; Ord. No. 10225, 5-28-2013, § 13; Ord. No. 10285, 3-10-2014, § 5; Ord. No. 10338, 11-24-2014, §4; Ord. No. 10414, 10-12-2015, § 7.)

..Title

AN ORDINANCE AMENDING SECTION 50-20 SHIPPING CONTAINERS

..Body

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-20.5.J of the Duluth City Code, 1959, as amended, be amended as follows:

J Accessory uses or structures not listed elsewhere.

1. In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:
 - a) The construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory building;
 - b) Prior to issuance of a building permit for such accessory use, a building demolition bond shall be approved by the city and in an amount sufficient to demolish such accessory structure be filed with the building official;
 - c) The owner shall execute a license, in a form approved by the city, authorizing the city to enter upon the real property for the purpose of demolishing such accessory structure in the event a principal structure is not completed as required by this Section.
- ~~2. In the RR-2 district, business shall not be conducted from a garage;~~
3. In the R-2 district, accessory building includes a storage garage on a lot occupied by a multi-family dwelling, townhouse or rooming house;
4. ~~In the MU-N district~~ in all zone districts, accessory buildings shall be subject to the following restrictions:
 - a) Except for truckload or trailer-load retail sales lasting less than 30 days where allowed, no accessory use shall be conducted in or out of a trailer or truck;
 - b) Storage of trailers and trucks or storage of goods within trailers and trucks shall not be a permitted accessory use unless (i) the primary use of the lot is a parking lot, parking garage, or filling station, or (ii) the truck or trailer is used on a regular basis for deliveries or the hauling of supplies to or from a business;
5. In the MU-C, MU-I and MU-W districts, accessory buildings shall be erected at the same time or after the construction of the principal building and subject to the following restrictions:
 - a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
 - b) The storage of trailers and trucks or the storage of goods within trailers and trucks shall not be a permitted use unless (i) the primary use of the lot is a parking lot, parking garage, filling station, automobile or light vehicle sales or service, or automobile or light vehicle storage, or (ii) the truck or trailer is used on a regular basis for deliveries or the handling of supplies to or from a business;

6. In the MU-B, I-G, and I-W districts, accessory buildings shall be erected at the same time or after the construction of the building for the principal use;
7. An accessory building may observe an equal or greater distance to the front property line as provided by a principal structure if the accessory building provides the front and side yards required for dwelling in that district as per Article II and Section 50-20;

Section 2. That Section 50-20.6.B of the Duluth City Code, 1959, as amended, be amended as follows:

B Temporary moveable storage container.

- ~~1. Temporary moveable storage containers for residential uses shall not be located on any public street, and shall not remain on any property in a residential zone district for more than 14 consecutive days;~~
- ~~2. Temporary moveable storage containers for non-residential uses shall not be located on any public street and shall not be located on private property for more than 90 days during any calendar year unless located and buffered from adjoining property to the same extent required for primary or accessory structures;~~

- 1 Temporary moveable storage containers must comply with the same setback standards as for accessory structures, and shall not be located on any public right of way or utility, pedestrian, or drainage easement.
- 2 Temporary moveable storage containers:
 - are allowed in the MU-B and MU-W district only if buffered and screened from adjoining property to the same extent required for primary or accessory structures;
 - are allowed in the I-G or I-W districts without a requirement for buffering or screening;
 - are allowed in the RR-1, RR-2, R-1, R-2, and MU-N zone districts but shall not remain on any property for more than 15 days in any calendar year;
 - are allowed in all other zone districts but shall not remain on any property for more than 45 days during any calendar year.
- 3 Exceptions to the above standards:
 - Licensed and bonded contractors may use shipping containers for temporary housing of equipment and materials during construction projects only as expressly authorized by a City building, excavation, or obstruction permit.
 - The Land Use Supervisor may grant extensions to the time limit listed in subsection 2 above, but in no case shall the duration exceed 180 day.

Section 3. That Section 50- of the Duluth City Code, 1959, as amended, be amended as follows:

Temporary moveable storage container. A container designed for the storage of property that is typically rented to owners or occupants of property and that customarily is delivered and removed by truck. This includes metal shipping containers.

..Title

AN ORDINANCE AMENDING SECTION 50-25.9, TREE PRESERVATION

..Body

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-25.2 of the Duluth City Code, 1959, as amended, be amended as follows:

50-25.2 Tree preservation requirements.**P. Protection of Required Landscaping Trees**

Maintenance of landscaping required by this chapter or landscape areas shown on approved site plans is the ongoing responsibility of the property owner and his or her successors. Trees and vegetation that has died must be replaced in kind as approved by the City.

Trees required by this section that are placed within 5 feet of a driving or parking surface shall be placed behind a raised curb, or planter, or similar physical barrier or obstacle to protect the tree trunks from interference by vehicles or snow removal operations. Curb openings for sidewalks or for drainage to the landscape areas are allowed.

Tree soil shall have a minimum depth of 2 feet and shall not contain different soil layers. The soil may not have any herbicides, heavy metals, biological toxins, or hydrocarbons that will impact plant growth or are at levels exceeding the EPA's standards for soil contaminants. No stones or particles greater than 1 inch in the longest dimension are permitted. This includes fragments of brick, concrete, wood, glass, metal, stone and plastic.

Section 2. That Section 50-25.9 of the Duluth City Code, 1959, as amended, be amended as follows:

50-25.9 Tree preservation requirements.**A. Purpose.**

The city recognizes that trees provide numerous benefits and services to city residents, including increased property values reduced stormwater runoff and soil erosion with associated cost savings, noise buffering, aesthetic value, reduced energy costs from shade in summer and windbreaks in winter, and removal of greenhouse gases and other pollutants from the air. The city seeks to maintain the tree cover that protects the city's water quality and gives the city its character, while recognizing the need to remove some trees for development, safety, view preservation and other purposes;

B. Tree replacement.

1. Exemptions.

The following activities are not subject to the tree replacement requirement in this Section 50-25.9:

- (a) Forest management activities that maintain pre-existing tree canopy cover, such as minor thinning that eliminates no more than 25 percent of the canopy;

- (b) Forestry activities that disturb the canopy are exempt if covered by a current forest management plan approved by the city forester;
- (c) Removal of trees that are an obstruction to traffic or power lines or other utilities;
- (d) Removal of trees necessary for rescue in an emergency or for clean-up after a natural disaster;
- (e) Removal of public trees deemed hazardous by the city forester;
- (f) Removal of trees that are airport hazards;
- (g) Removal and trimming of trees along Skyline Parkway to preserve views from established or historic overlooks and viewpoints, with approval by the city forester;
- (h) Installation or replacement of city streets or utilities;

2. Replacement required.

- (a) Tree replacement shall be required pursuant to Table 50-25-3;

Table 50-25-3: Tree Replacement Required				
Tree Type	Removal Threshold	Replacement Standards		
		% DBH to be Replaced	Replacement Ratio	
			If Replacing With Special Trees	If Replacing with <u>Trees of Interest</u> <u>Other Tree Species</u>
Special Tree > 20 in. DBH <u>or greater</u>	Prohibited unless approved pursuant to subsection (b) below	If approval received, <u>60</u> 50 % of DBH removed	1 inch DBH per 1.5 inch of DBH required to be replaced	1 inch DBH per <u>1</u> inch of DBH required to be replaced
Special Trees Between 8 and 20 in. DBH	10 or more	<u>40</u> 25 % of DBH removed		
<u>Other Significant Trees</u> <u>Trees of Interest</u>	20 or more	<u>20</u> 40 % of DBH removed		

- (b) Removal of special tree species ~~over~~ 20 inches diameter at breast height (DBH) or greater is prohibited unless any of the following applies:
 - (i) The city forester determines that the tree is dead, dying, diseased or a threat to public health or safety;
 - (ii) The city engineer determines that the tree interferes with the provision of public services or is a hazard to traffic;
 - (iii) The land use supervisor determines that the location of the tree is preventing development or redevelopment that cannot be physically designed to protect the tree;
- (c) When ten or more replacement trees are required, not more than 30 percent shall be the same species without approval from the city forester;
- (d) Replacement trees provided pursuant to this Section 50-25.9 shall count towards landscaping required under other portions of this Section 50-25.9 if they meet the size, type and location standards for the type of landscaping required;
- (e) Replacement trees shall be considered significant trees in any future tree replacement plan;
- (f) If any part of the property is permanently protected from development by a conservation easement or by transfer to a city park or other natural area or a private conservation organization, the combined diameter of the protected trees that meet the size requirement for a significant tree will count toward the replacement requirement;
- (g) With the approval of the appropriate city staff (land use supervisor or city forester), developers should have the option of meeting the tree replacement requirements by putting

equivalent funds into a dedicated city tree account. The amount of funds should be calculated based on the cost to the city of hiring contractors to plant the number of required replacement trees;

3. Calculation.

(a) If you meet the removal threshold:

$$\frac{\text{Inches removed(DBH)}}{\text{\% DBH}} \times \text{\%} = \text{replacement requirement in inches}$$

(b) If replacing with special trees:

$$\text{Replacement requirement} \div 1.5 = \text{Total inches required}$$

(c) If replacing with other trees:

$$\text{Replacement requirement} = \text{Total inches required};$$

4. Example.

Step 1: Removal of 12 10 ~~inch-in.~~ special trees = Total of 120 in. DBH

Step 2: 120 in. DBH x 25% = 30 ~~inch in.~~ replacement requirement

Step 3: If replacing with special tree species: 30 ~~inch in.~~ ÷ 1.5 = 20 ~~inch in.~~ total inches required to be planted;

5. Tree replacement plans.

Where this replacement requirement applies, the applicant shall submit a tree replacement plan prepared and certified by a certified forester, arborist or landscape architect. The tree replacement plan shall be part of and integrated with the landscaping plan for the site. No replacement shall occur until the city forester has approved the tree replacement plan, and all replacement shall be consistent with that approved plan. The plan shall meet all applicable requirements in the UDC application manual;

6. Calculation for developments exceeding five acres.

For development of forested acres over five acres, with the approval of the appropriate city staff, the total diameter of trees removed should be able to be estimated based on measuring the diameter of trees in representative sample plots. The plots should be scattered throughout the area to be cleared and should cover no less than ten percent of the entire area. All special tree species in the forest must be measured. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 35.)

Section 3. That Section 50-41 of the Duluth City Code, 1959, as amended, be amended as follows:

~~Significant tree~~ Tree of interest. All trees of more than ten inches DBH, and all special tree species of more than six inches DBH shall be considered ~~significant trees of interest~~, unless they are under power lines or deemed hazardous by a certified arborist or landscape architect or professional forester. In addition, any replacement tree planted as part of a tree replacement plan shall be considered ~~significant trees of interest~~, even if it does not meet the size definition above.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: _____, 2019)

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form							Special				Use Specific Standards				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G		I-W	P-1	AP	
RESIDENTIAL USES																											
Household Living																											
Dwelling, one-family	P	P	P	P	P	P ³	P				P ³	P	P	P	P	P	P	U	U	U							
Dwelling, two-family				P	P	P ³	P				P ³	P	P	P	P	P	P	U	U	U							
Dwelling, townhouse				S	P ²	P ³	P ²				P ¹	P ³															
Dwelling, multi-family					P ²	P ³	P ²	P ¹	P ¹		P ¹	P ³	P	P	P	P	P	U	P	P						50-20.1.C	
Dwelling, live-work							P ²	P ¹	P ¹		P ¹	P ³	P	P	P	P	P		P	P							
Manufactured home park				S	S ²	P ³	S ²																			50-20.1.F	
Cottage home park		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P³</u>	<u>S</u>																			50-20.1.G	
Group Living																											
Co-housing facility				S	S ²	P ³	P ²				P ³																
Residential care facility/assisted living (6 or fewer)		P	P	P	P ²	P ³	P ²				P ³	U	P	U	P	P	U	U	P	P						50-20.1.D	
Residential care facility/assisted living (7 or more)				S	P ²	P ³	P ²	P ¹	P ¹		P ¹	P ³	U	P	U	P	P	U	U	P	P					50-20.1.D	
Rooming house					S ²		P ²	P ¹	P ¹		P ¹	P ³	U	P	U	P	P	U	U	P	P						

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards		
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP	
PUBLIC, INSTITUTIONAL AND CIVIC USES																											
Community and Cultural Facilities																											
Bus or rail transit station							P ²	P ¹	P ¹	P	P ¹	P ³	P	P	P	P	P	P	P	P	P	P					
Cemetery or mausoleum	S	S	S	S	S ²	P ³	S ²	S	S	S																S	
Club or lodge (private)					S ²	P ³	P ²	P ¹	P ¹		P ¹	P ³	P	P	P	P	P	P	P	P	P				S		
Government building or public safety facility		P	P	S	P ²	P ³	P ²	P ¹	P	P	P ¹	P ³	P	P	P	P	P	P	P	P	P	S	S	S	P		
Museum, library or art gallery				S	S ²	P ³	P ²	P ¹		S	P ¹	P ³	P	P	P	P	P	P	P	P	P			S			
Park, playground or forest reserve	P	P	P	P	P ²	P ³	P ²	P ¹	P ¹		P ¹	P ³	P	P	P	P	P	P	P	P	P			P			
Religious assembly, small (less than 50,000 sq. ft.)		P	P	S	P ²	P ³	P ²	P ¹	P ¹	S	P ¹	P ³	P	P	P	P	P	P	P	P							
Religious assembly, large (50,000 sq. ft. or more)		S	S	S	S ²	P ³	P ²	P ¹	P ¹	S	P ¹	P ³	P	P	P	P	P	P	P	P					50-20.2.F		
Educational Facilities																											
Business, art or vocational school							P ²	P ¹	P ¹	P	P ¹	P ³	P	P	P	P	P	P	P	P							
School, elementary		P	P	P	P ²	P ³	P ²	P ¹	P ¹			P ³	U	P	U	P	P	U	U	U							
School, middle or high		S	S	S	S ²	P ³	S ²	S ¹	S ¹			P ³	U	P	U	P	P	U	U	U							
University or college									P ¹			P ³			U	P	P	U	U	U							
Health Care Facilities																											
Hospital									P ¹																		
Medical or dental clinic					S ²	P ³	P ²	P ¹	P ¹	P	P ¹	P ³	P	P	P	P	P	P	P	P					50-20.2.E		
Nursing home					P ²	P ³	P ²	P ¹	P ¹		P ¹	P ³		P		P											
Medical cannabis distribution facility										I												I			50-20.2.B		
Medical cannabis laboratory										I												I			50-20.2.C		
Medical cannabis manufacturer																						I			50-20.2.D		
Other institutional support uses not listed in this table									P ¹																		

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards		
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP	
COMMERCIAL USES																											
Agriculture and Animal-Related																											
Agriculture, community garden	P	P	P	P	P		P	P	P																		
Agriculture, farmers market			S		S ²		S ²	S	S		S	P ³															
Agriculture, general	P	P																									
Agriculture, urban			P	S	S ²	P ³	S ²	S	S																		
Kennel	S	S						S	S	P		P ³	S	S	S	S	S	S	S	S						50-20.3.T	
Riding stable	S	S	S			P ³					S												S				
Veterinarian or animal hospital	S	S			P ²	P ³	P ²	P ¹	P ¹	P	P ¹	P ³	P	P	P	P	P	P									
Food, Beverage and Indoor Entertainment																											
Adult entertainment establishment																							P			50-20.3.A	
Convention or event center								P ¹		P	P ¹	P ³				P	P		P	P	P					50-20.3.H	
Indoor entertainment facility								P ¹		P	P ¹	P ³		P		P	P		P	P	P						
Restaurant (less than 5,000 sq. ft.)					S ²	S ³	S ²	P ¹	P ¹	P	P ¹	S ³	P	P	P	P	P	P	P	P	P					50-20.3.Q	
Restaurant (5,000 sq. ft. or more)						S ³		P ¹	P ¹	P	P ¹	S ³	P	P	P	P	P	P	P	P	P					50-20.3.Q	
Theater							S ²	P ¹			P ¹	P ³		P	P	P	P		P	P	P						
Lodging																											
Hotel or motel							S ²	P ¹	P ¹	P	P ¹	P ³		P		P	P		P	P	P						
Bed and breakfast				S	P ²	P ³	P ²	P ¹	P ¹	P	P ¹	P ³		P		P		P								50-20.3.F	
Seasonal camp or cabin	<u>P</u>	<u>S</u>	<u>P</u>	<u>S</u>		P ³					P ¹												S		50.20.3.S		
Vacation dwelling unit		I	I	I	I ²	I ³	I ²						I	I	I	I	I	I	I	I	I	I					50-20.3.U

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP
Offices																										
Bank							S ²	P ¹	P ¹	P	S	P ³	P	P	P	P	P	P	P	P	P					50-20.3.E
Office					S ²		P ²	P ¹	P ¹	P	P ¹	P ³	P	P	P	P	P	P	P	P	P					50-20.3.M
Data center							S ²	P ¹	P ¹	P	S	P ³	U	U	U	U	U	U	U	U	U	P				
Outdoor Recreation & Entertainment																										
Golf course		S	S			P ³																		P		
Marina or yacht club											P ¹												S	S		
Recreational vehicle park	S	S	S			P ³					S													S		50.20.3.P
Other outdoor entertainment or recreation use not listed		S						S		S	S															50.20.3.N
Personal Services																										
Business park support activities										P	P ³															
Preschool		S	S	S	P ²	P ³	P ²	P ¹	P ¹		P ¹	P ³	P	P	P	P	P	P	S	P	S					
Daycare facility, small (14 or fewer)	P	P	P	P	P ²	P ³	P ²	P ¹	P ¹	S	P ¹	P ³	P	P	P	P	P	P	P	P	P					50-20.3.I
Daycare facility, large (15 or more)		S	S	S	S ²	P ³	P ²	P ¹	P ¹	S	P ¹	P ³	P	P	P	P	P	P	S	P	S					50-20.3.I
Funeral home or crematorium					S ²		S ²	P ¹	P ¹	P		P ³		P		P		P				P				
Mini-storage or self-service storage facility		S								P							P		P	P		P	P			50-20.3.L
Personal service and repair, small (less than 10,000 sq. ft.)						P ³	P ²	P ¹	P ¹	P	P ¹	P ³	P	P	P	P	P	P	P	P	P					
Personal service and repair, large (10,000 sq. ft. or more)							S ²	P ¹	P ¹	P	P ¹	P ³		P		P		P		P		P				

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards		
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP	
Retail Sales																											
Adult bookstore																										P	Chapter 5
Building materials sales								S		P	P ³															50-20.3.G	
Garden material sales		S						P ¹			P ³				P												
Grocery store, small (less than 15,000 sq. ft.)						P ³	P ²	P ¹			P ¹	P ³		P		P	P	P	P	P						50-20.3.K	
Grocery store, large (15,000 sq. ft. or more)								P ¹				P ³														50-20.3.K	
Retail store not listed, small (less than 15,000 sq. ft.)					S ²	P ³	P ²	P ¹	P ¹		P ¹	P ³	P	P	P	P	P	P	P	P	P					50-20.3.R	
Retail store not listed, large (15,000 sq. ft. or more)								P ¹			P ¹	P ³		P		P	P		P	P						50-20.3.R	
Vehicle Related																											
Automobile and light vehicle, service							S ²	P ¹		P		P ³		P		P	P	P							P		
Automobile and light vehicle, repair								P ¹		P ¹		P ³													P		
Auto. and light vehicle sales, rental, or storage								P ¹		P															P		
Filling station (small)					S ²	P ³	S ²	P ¹		P	P ¹	P ³		P		P	P	P						P	P	50-20.3.J	
Filling station (large)								P ¹		P	P ¹	P ³		P		P	P	P						P	P	50-20.3.J	
Parking lot (primary use)					S		S	P ¹	P ¹	P	P ¹	P ³	S	S	S	S	S	S		S	S			P	P	50.20.3.O	
Parking structure								P ¹	P ¹	P	P ¹	P ³					S		S					P	P	50.20.3.O	
Truck or heavy vehicle sales, rental, repair or storage										P															P		

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP
INDUSTRIAL USES																										
Industrial Service																										
Contractor's shop and storage yard										P	P ³					P						P	P			50-20.4.B
Dry cleaning or laundry plant										P												P				
Research laboratories									P ¹	P	P ³											P	P			
Industrial services										P												P	P			
Manufacturing and Mining																										
Manufacturing, craft, artisan production shop or artisan studio								P		P		P	P	P	P	P	P	P	P	P	P					50-20.4.F
Manufacturing, craft, brewery or distillery								P		P				P	P	P		P				P				50-20.4.F
Manufacturing, light									P ¹	P	P ³					P						P				50-20.4.G
Manufacturing, heavy																						P				
Manufacturing, hazardous or special																						S				50-20.4.H
Mining, extraction and storage		S																				S	S			50-20.4.I
Water-dependent manufacturing, light or heavy																							P			
Transportation-Related																										
Airport and related facilities	S																					P			P	50-20.4.A
Railroad yard or shipyard and related facilities																						P	P			
Truck freight or transfer terminal										P												P	P			
Utilities																										
Electric power or heat generation plant																						P	P			
Electric power transmission line or substation	S	S	S	S	S ²	P ³	S ²	S	S	S	S	P ³	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.C
Major utility or wireless telecommunication facility	S	S	S	S	S ²	P ³	S ²	S	S	S	S	P ³	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.E
Radio or television broadcasting tower		S								S												S	S			50.20.4.J

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards		
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP	
Solar, geothermal or biomass power facility (primary use)		S				P ³		S	S	P		P ³											P	S			
Water or sewer pumping stations/reservoirs	S	S	S	S	S ²	P ³	S ²	S	S	S	S	P ³	S	S	S	S	S	S	S	S	S	S	S	S	S	S	S
Water or sewer treatment facilities																						P	P				
Wind power facility (primary use)		S							S	S												P	S				50-20.4.N
Waste and Salvage																											
Junk and salvage services																						S	S				50.20.4.D
Recycling collection point (primary use)								S	S	S												P	P				
Solid waste disposal or processing facility		S								S												S	S				50-20.4.K
Wholesale Distribution and Storage																											
Storage warehouse										P							P					P					50.20.4.L
Wholesaling										P							P					P					50-20.4.M
Bulk storage not listed elsewhere																						P					
Water-dependent bulk storage or wholesaling not listed elsewhere																							P				

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use						Form									Special				Use Specific Standards				
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP					
ACCESSORY USES																														
Accessory agriculture roadside stand	A	A																								A	50.20.5.A			
Accessory bed and breakfast	A	A	A	A	A	A	A		A		A																	50-20.5.B		
Accessory boat dock, residential	A	A	A	A	A	A	A	A	A		A																	50-20.5.C		
Accessory caretaker quarters										A													A	A	A					
Accessory communications tower for private use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Accessory day care facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A								
Accessory dwelling unit	A	A	A	A	A	A	A																					50-20.5.D		
Accessory heliport	A								A		A												A					50-25.5.E		
Accessory home occupation	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A							50-20.5.F		
Accessory home share	A	A	A	A	A	A	A				A		A	A	A	A	A	A	A	A	A							50-20.5.G		
Accessory recycling collection point					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			A	A			
Accessory sidewalk dining area					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A							50-20.5.H		
Accessory solar or geothermal power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.I	
Accessory uses and structures not listed elsewhere	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.J	
Accessory vacation dwelling unit		I	I	I	I	I ³	I						I	I	I	I	I	I	I	I							50-20.5.M			
Accessory wind power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					A	A	A	A	50-20.5.K
Minor utilities and accessory wireless antennas attached to existing structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					A	A	A	A	50-20.5.L

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use						Form									Special				Use Specific Standards			
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP				
TEMPORARY USES																													
Temporary construction office or yard	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.6.A
Temporary event or sales	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.6.B	
Temporary farm stand	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A							
Temporary moveable storage container	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		50-20.6.C	
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A							50-20.6.D	
Temporary use not listed in this table	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
FORM DISTRICT BUILDING TYPES																													
Main Street Building I													P	P															
Main Street Building II															P	P	P	P											
Main Street Building III																			P	P									
Corridor Building I														P															
Corridor Building II																P	P												
Lakefront Corridor Building																						P							
Corridor Building III																						P							
Cottage Commercial I														P				P											
Cottage Commercial II																P													
Iconic Building														P		P	P	P			P								

(Ord. No. 10041, 8-16-2010, § 3; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 15; Ord. No. 10153, 5-14-2012, § 1; Ord. No. 10192, 12-17-2012, § 9; Ord. No. 10225, 5-28-2013, § 4; Ord. No. 10286, 3-10-2014, § 6; Ord. No. 10296, 5-27-2014, § 1; Ord. No. 10329, 10-13-2014, § 1; Ord. No. 10414, 10-12-2015, § 1; Ord. No. 10415, 10-12-2015, § 1; Ord. No. 10446, 4-11-2016, § 1; Ord. No. 10461, 7-11-2016, § 1; Ord. No. 10513, 6-12-2017; Ord. No. 10563, 4-9-2018, § 1)

Kingsbury Bay – Grassy Point Habitat Restoration

August 27, 2019 Update

Project Overview

In June 2019, Minnesota DNR began restoring and enhancing coastal marsh habitat at Kingsbury Bay and Grassy Point by removing excess sediment, remediating historic wood waste, removing non-native vegetation, and improving habitat. This work will mitigate historic impacts to fish and wildlife habitat and contribute towards delisting the St. Louis River Area of Concern. The DNR has contracted with Veit & Company, Inc. to construct the project and Barr Engineering Co. to provide construction administration and quality control oversight. This \$15M project is being completed with funding from Great Lakes Restoration Initiative, Minnesota Outdoor Heritage Fund, and St. Louis River/Interlake/Duluth Tar Superfund Site Natural Resources Damage Assessment and Restoration settlement.



Photo: Grassy Point sediment placement

Work Completed

- ✓ Completed gravel buttress construction at Grassy Point
- ✓ Adjusted silt curtains at Grassy Point
- ✓ Installed silt curtains at Kingsbury Bay
- ✓ Secured the Dock #7 access agreement
- ✓ Prepped the Dock #7 material staging area
- ✓ Began dredging sediment at Kingsbury Bay and placing in Grassy Point restoration areas

Upcoming Work

- Deliver sand to Dock #7 and construct island berm at Grassy Point
- Clear vegetation for equipment access to Kingsbury Bay
- Continue dredging sediment from open water areas at Kingsbury Bay and placing at Grassy Point and 40th Avenue West project areas.

Public Interest Items

Access: Kingsbury Bay residents will have managed access to their docks during open water dredging and have been notified with instructions for boat use and safety. Parking and public trail access at Kingsbury Bay may be temporarily impacted while crews are clearing vegetation; users should pay attention to posted signs.

Work Schedule: Veit continues to work a single 12-hour shift, Monday-Saturday 7am-7pm. Veit is preparing to begin 24-hr work at Grassy Point in September.

Haul Routes: Sand will be delivered to Dock #7, likely via I-35, N. Central Ave., Roosevelt St, and Waseca Industrial Rd.

For More Information

Renée Samuelson, Admin. Specialist, 218-302-3252
Minnesota Department of Natural Resources

Project website: [St. Louis River Restoration Initiative](#)

GovDelivery: Look for this box on the project website to sign up for email update:

 Sign up for updates



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MEMORANDUM

TO: Planning Commission

FROM: Adam Fulton, Deputy Director, Planning and Economic Development

DATE: September 3, 2019

RE: EAW for Spirit Lake Sediment Remediation Project

The final step in the Environmental Assessment Work (EAW) process was originally scheduled for your September 10, 2019 meeting. However, we are delaying your review of EAW comment responses and making a final decision on the EAW until the October 8, 2019 Planning Commission meeting in order to more completely answer comments submitted on two potential environmental issues (summarized below) submitted from both Minnesota Pollution Control Agency and Minnesota Department of Natural Resources:

- 1) A request for further evaluation of project impacts on the availability of fisheries habitat within the project footprint; and
- 2) A request for additional justification of the proposed self-mitigating nature of the project to be provided to each agency, potentially in the form of performing additional habitat evaluations.

No action by the Planning Commission is necessary at the September 10, 2019.

Staff will notify the necessary parties of the need for postponing the decision according to MN Rules 4410.1700, Subpart 2a.