



CITY OF DULUTH
Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL 14-123	Contact	Jenn Reed Moses, jmoses@duluthmn.gov	
Application Type	Variance	Planning Commission Date	September 9, 2014	
Deadline for Action	Application Date	August 15, 2014	60 Days	October 14, 2014
	Date Extension Letter Mailed	August 26, 2014	120 Days	December 11, 2014
Location of Subject	1300 block of East Skyline Parkway			
Applicant	George Hovland	Contact	218-310-2517, ghovland2@gmail.com	
Agent	N/A	Contact	N/A	
Legal Description	PID 010-0276-00030 and 010-0276-00040			
Site Visit Date	N/A	Sign Notice Date	August 26, 2014	
Neighbor Letter Date	August 26, 2014	Number of Letters Sent	55	

Proposal

Applicant is proposing a 24'x84' home with attached garage in the Skyline Parkway Overlay district that would occupy approximately 66% of the width of the lot (over the maximum 50% allows in the SP-O), have its long axis located parallel to Skyline Parkway (instead of within 20 degrees of perpendicular) and would be 25' from the front property line (half the distance of the 50' setback along the SP-O).

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Undeveloped	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood
West	R-1	Residential/Undeveloped	Traditional Neighborhood/Preservation

Summary of Code Requirements (reference section with a brief description):

50-18.4.D - Skyline Parkway Overlay Design Controls: Building must be located at least 50 feet from right of way; long axis shall be located within 20 degrees of perpendicular to the right-of way; width shall not exceed 50% of lot width.

50-37.9.C. - General Variance Criteria (paraphrased here): 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 undue hardship. The Planning Commission must find the following for a variance to be granted: a) That they are proposing to use the property in a reasonable manner, b) that the need for relief from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

III. G-1

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

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.

Governing Principle #6 - Reinforce the place-specific. This includes "view corridors to the Lake or River which serve to provide location and context."

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

Staff finds that:

- 1.) A single-family home in a R-1 district is a permitted use.
- 2.) The purpose of the Skyline Parkway Overlay district is to protect views from Skyline Parkway toward Lake Superior, the St. Louis River, and the harbor, from a wide variety of vantage points along the Parkway and to encourage the construction of narrower buildings located farther from the parkway rather than wider buildings located closer to the parkway. Applicant is proposing a house that is wider and located closer to the parkway, which is inconsistent with the purposes of the UDC.
- 3.) The two parcels are undeveloped. After taking into consideration the setbacks of the SP-O and R-1 districts, a sizable buildable area remains that also is on the flattest portion of the lot. This suggests a variance is not needed for the preservation and enjoyment of a substantial property right. Application does not include information showing it is not feasible to build a house within the buildable area and therefore has not demonstrated the existence of a practical difficulty or undue hardship.
- 4.) Applicant states the need for a variance is due to topographical considerations; however, the SP-O regulations recognize that most lots along Skyline have substantial slopes (see UDC Sec. 50-18.4.B). Slopes on the subject property are steeper at the front of the lot. Similar conditions exist just to the west on Skyline Parkway as well as other locations. Thus, the special circumstances or conditions are not peculiar to this property.
- 5.) Granting this variance would not alter the essential character of the area. The neighboring property at 1326 E Skyline Parkway was built prior to the SP-O; it sits very close to the front property line and occupies nearly 100% of the lot width. The building pattern created by this house and similar houses along the Parkway led to a concern about views from the parkway prior to the SP-O, and the overlay district was created to encourage a different development pattern along the parkway.
- 6.) Applicant states that the need for a variance is due to different zoning regulations in place at the time of purchase; however, zoning codes are not frozen in time at the point of a property's purchase. All city codes (building, fire, zoning, etc.) apply to all property whenever they are updated or a new code is adopted.
- 7.) Per UDC Sec. 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun within 1 year.
- 8.) No public, agency, or City comments were received.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Staff recommends that the Planning Commission deny the variance to build a house within the Skyline Parkway Overlay that is a) 25' from the property line, b) covers approximately 66% of the lot width, and c) has the long axis parallel to the Parkway, for the following reasons:

- 1.) It is inconsistent with the purpose and intent of the Comprehensive Land Use Plan and Unified Development Chapter.
- 2.) It is not needed for the preservation and enjoyment of a substantial property right and does not demonstrate practical difficulty.
- 3.) The special circumstances or conditions are not peculiar to this property.

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

G-2

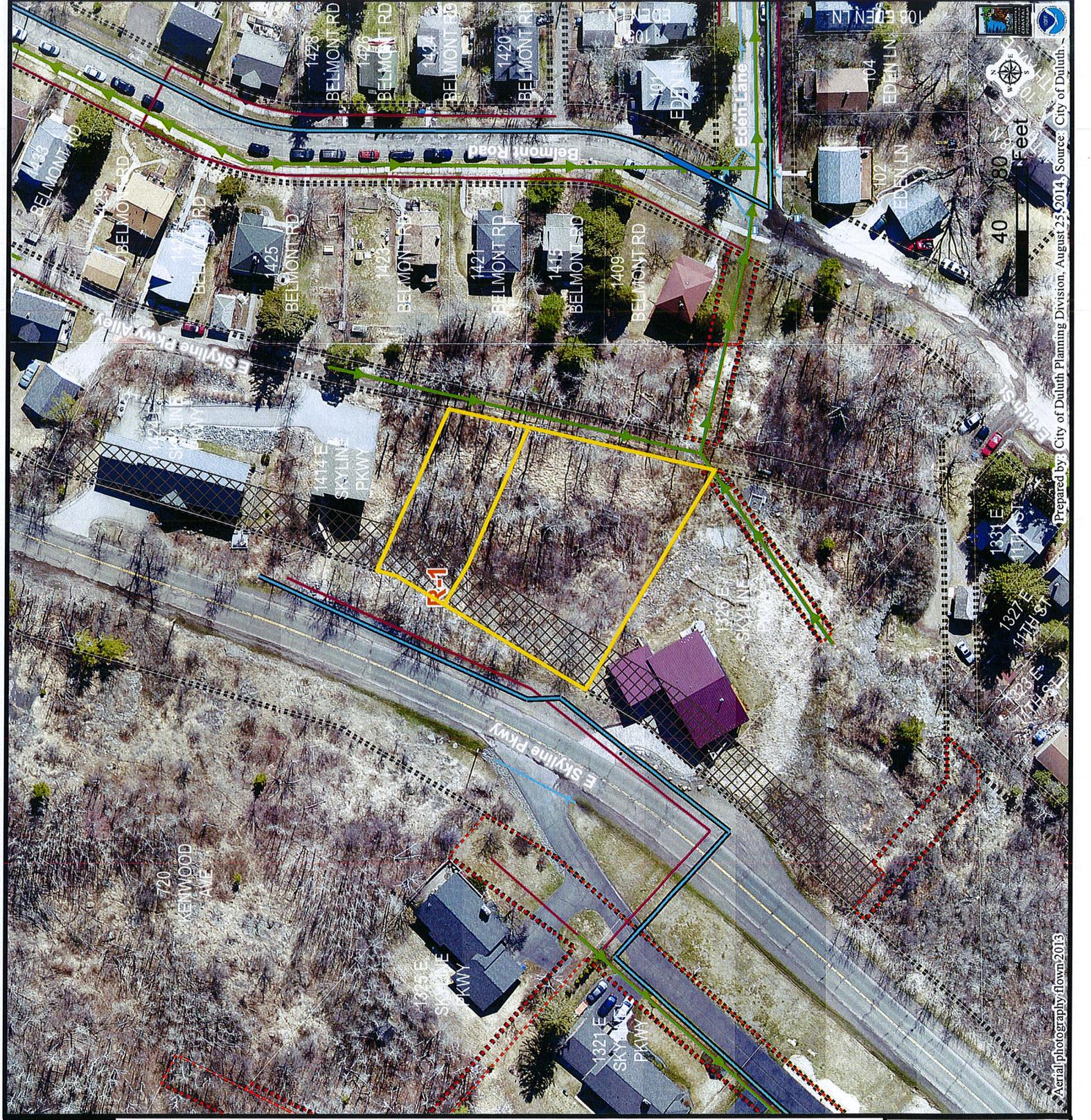


City Planning
PL 14-123
Skyline Parkway

Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- Zoning Boundaries**
- Zoning Boundaries
- Water Distribution System**
- 30 - 60" Water Pipe
- 16 - 24" Water Pipe
- 4 - 6" Water Pipe
- Sanitary Sewer Collection System**
- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Gas Distribution Main**
- 8" - 16" Gas Pipes
- 4" - 6" Gas Pipes
- 0" - 4" Gas Pipes
- Storm Sewer Collection System**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Right-of-Way Type**
- Road or Alley ROW
- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- Shoreland Overlay Zone**
- Cold Water
- Natural Environment
- General Development
- Floodplain Type**
- General Flood Plain
- Flood Way
- Flood Fringe

The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used as one. The drawing/data is a compilation of records, information and data located in various City, County and State offices and other sources affecting the area shown and is to be used for reference purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.





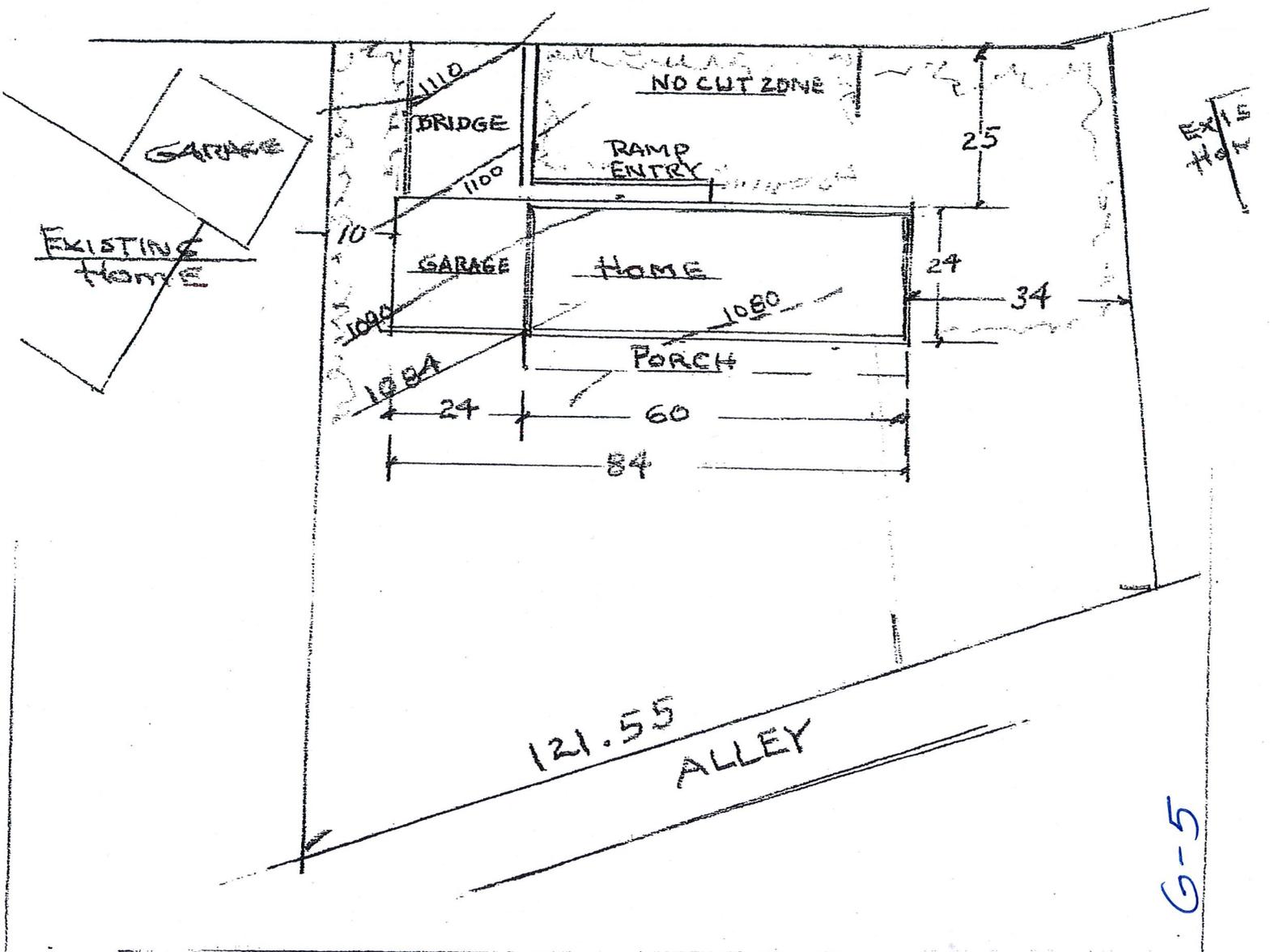
Skyline Parkway

Print Date: 08/28/2014
Image Date: 05/12/2013
Level: Neighborhood

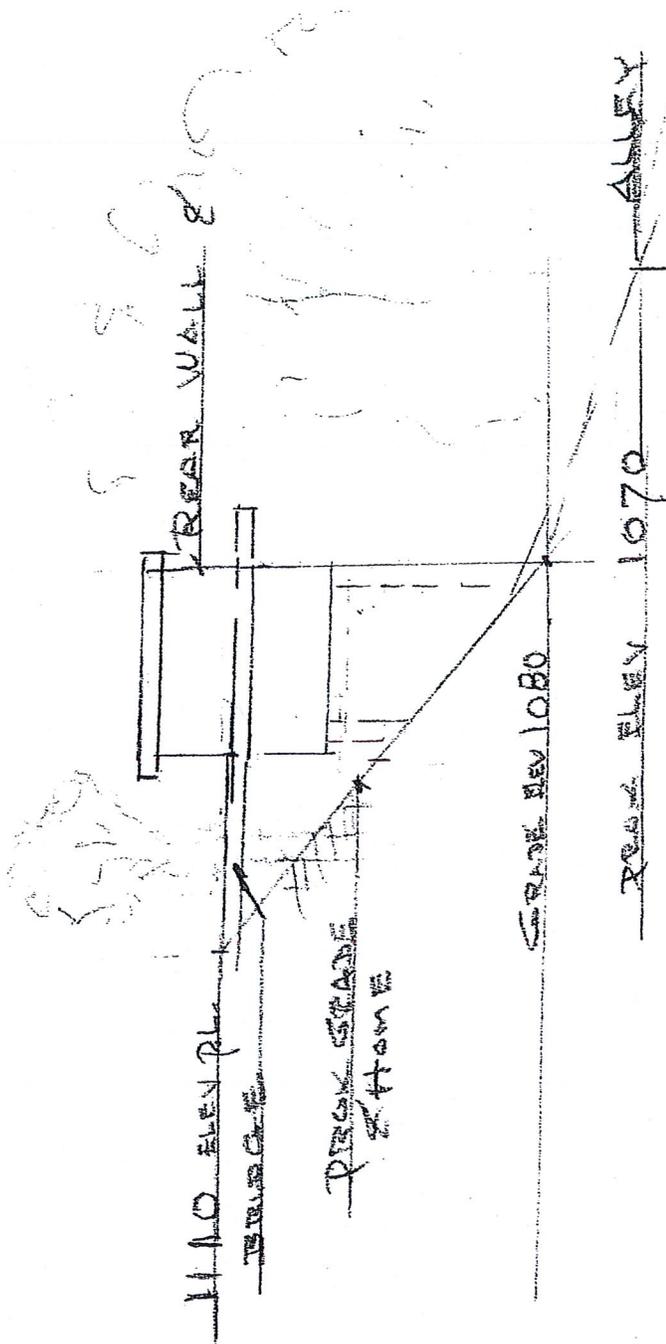
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HOWLAND APPEAL
1328 E. SKYLINE
8-18-14

SKYLINE

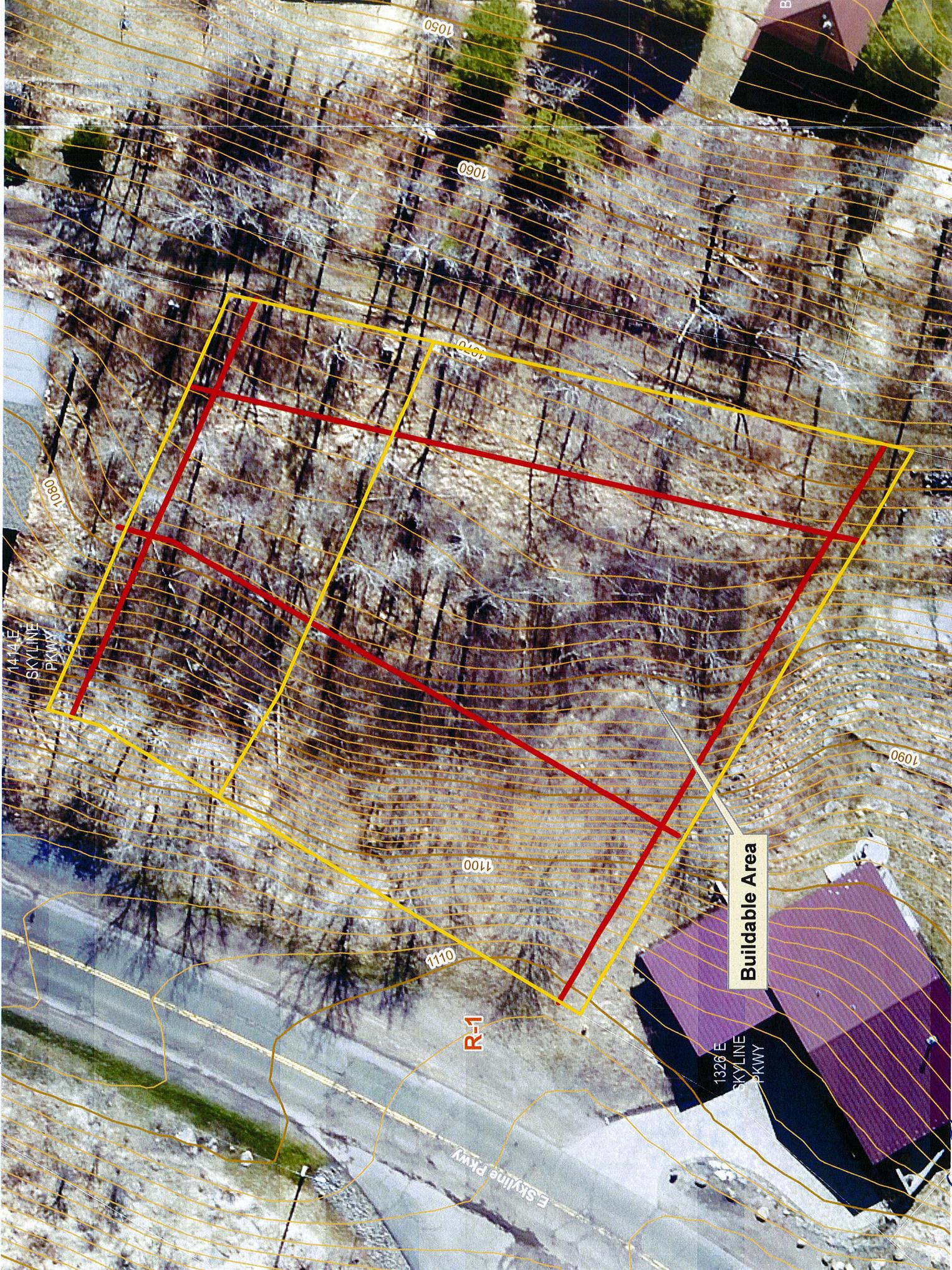


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SECTION

C. HOLLAND APPEAL
1328 E. SKYLINE
8-18-14



6-1



City of Duluth
Planning and Construction Services

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Variance Application Supplemental Form

In order to submit a complete variance application, please explain how your request meets all of the below variance criteria. This is information that is required by the zoning code and that is necessary for Planning Commission review.

List the UDC Section you are seeking relief from (example: "50-14.5 – front yard setback in an R-1"):

50-18.4 SKYLINE DRIV

Is the applicant proposing to use the property in a reasonable manner? Yes No

Please explain the applicant's use of the property, and how the relief requested is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant: PROPERTY WAS PURCHASED PRIOR TO THE

IMPOSITION OF NEW 50-18,4-6 50-18,4-7 CODE
THE DEMANDS DENY OWNERS THE RIGHT TO BUILD AS ALLOWED
UNDER CODES EXISTING AT TIME OF PURCHASE - (SEE BELOW)

Is the need for relief due to circumstances unique to this property? Yes No

Please explain how these circumstances are due to exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other conditions related to the property:

EXTREME TOPO DEMANDS REQUIRE EXCEPTIONAL
TO
DESIGN, RETAIN OWNERS' RIGHTS WHEN PURCHASED =

Will granting this variance alter the essential character of the area? Yes No

Explain how this property fits the character of the neighboring area, and how the special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity:

ADJACENT HOMES HAVE EXISTING TREES IN FRONT
YARDS - NEW CODE ADOPTED CATERES TO PEDESTRIANS AND
DRIVERS AT EXPENSE OF OWNER.
NEW CODE, IF DEMANDED, WOULD DEVALUE THE LOT
SUBSTANTIALLY

Revised July 14, 2014

ALTERNATIVE: WEST OF THIS LOT IS CITY OWNED LAND
WITH POTENTIALLY BETTER VIEW, WHICH IF CLEARED WOULD
PROVIDE AMPLE VIEWING AT NO NEGATIVE EFFECT -

2-6

Is this request consistent with the intent of the UDC and Comprehensive Plan? Yes No

Explain how the UDC and Comprehensive Plan support this request: _____

FUTURE LAND USE VS TRADITIONAL NEIGHBORHOOD -

Explain how the special circumstances or conditions that create the need for relief were NOT directly or indirectly created by the action or inaction of the property owner or applicant:

NO ACTION BY OWNER -

LOT HAS NOT BEEN ALTERED FROM ORIGINAL STATE -

Will the variance impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety or public welfare of the inhabitants of the city? Yes

No

Please explain: CONSTRUCTION OF PLANNED HOME WOULD NOT

IN ANY WAY NEGATIVELY AFFECT ADJACENT HOME OWNERS

Does the relief allow any type of sign that is not allowed in the zone district where the property is located? Yes No

Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M? Yes No

Discuss what subsections are applicable and how this request meets those: NONE!

Duluth City Planning Dept.
Attn: Steven Robertson/ Jenn Moses

Subject: Skyline Pkwy. lots, originally known as all or part of lots 3,4, Boulevard Terrace, currently legally described " schedule A" attached.

Appeal: property was purchased by the current owners Ferdinand and Gisela Peters prior to changes in the zoning code, with the full knowledge of the existing zoning code regarding setbacks, side yards, heights etc...While the lots presented challenges, the ultimate solution was attractive.

While well intended, Overlay (SP-0), has imposed unreasonable restrictions for design and does not fulfill the intent of the code. Attached photos show that existing trees deny view access at present, plus drivers looking for a view at that point on Skyline present unreasonable dangers.

Note: suggested solution: several hundred feet west of this property is a stretch of land owned by the city, with some property along this stretch where viewers can and have for years parked to enjoy the view...Trees along this stretch could easily be pruned to allow better visual access with little to no negative impact.

We submit that our suggested use of the lots (see attached sketch plan) would not negatively affect the public's view via Skyline as proposed in 50-18.4 (SP-0), but would allow homeowner to enjoy the view as originally expected.

Sincerely submitted,

George Hovland 2

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