CITY OF DULUTH
Community Planning Division

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

File Number	PL 16-045		**Contact**	Jenn Moses, jmoses@duluthmn.gov	
Type	Vacation		**Planning Commission Date**		July 12, 2016
Deadline for Action	**Application Date**	June 29, 2016	**60 Days**		August 28, 2016
	Date Extension Letter Mailed		**120 Days**		October 27, 2016
Location of Subject	101 S 54th Avenue E				
Applicant	Luke Schmitz		**Contact**	213-2745, lschmitz55@gmail.com	
Agent	N/A		**Contact**	N/A	
Legal Description	See attached				
Site Visit Date	June 2, 2016		**Sign Notice Date**		May 31, 2016
Neighbor Letter Date	June 24, 2016		**Number of Letters Sent**		42

Proposal

Application to vacate portions of Peabody Street and S 54th Avenue E, retaining a public utility easement over the full extent of area to be vacated. Applicant intends to use vacated area for off-street parking. Structures cannot be built within a utility easement, which would preclude Applicant from constructing a garage in this location in the future.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Single-family residential	Traditional Neighborhood
North	R-1	Railroad right of way	Neighborhood Mixed Use
South	R-1	Single-family residential	Traditional Neighborhood
East	R-1	Single-family residential	Traditional Neighborhood
West	R-1	Single-family residential	Traditional Neighborhood

Summary of Code Requirements

Vacation of public rights of way and/or easements require a Planning commission public hearing with a recommendation to City Council. City Council action is to approve or deny by resolution. Resolutions approving either a full or partial vacation require a 6/9's vote of the council.

UDC Section 50-37.6. 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 vacation is not needed for safe and efficient circulation of autos, trucks, bicycles, or pedestrians or the efficient supply of utilities or public services in the City;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed for pedestrian or recreational access to the water;
3. Is not needed to promote the public health, safety, or welfare of the citizens of Duluth.

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

Governing Principle #7 – Create and maintain connectivity.

Future Land Use Map Designation – Traditional Neighborhood (TN): 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.

The site has been used as a single family home for many years. The proposed vacation will formalize a parking situation that has been in place, granting the Applicant formal ability to park vehicles off-street to the north of the existing house. This action will assist in building toward Principle #5, Strengthening Neighborhoods.

Review and Discussion Items

The existing ROW is not utilized for a public street, and no public street or trail is anticipated in the future. A utility easement will be retained for underground utilities. To support the continuing use of the property to the south as a single family home, the addition of off-street parking is appropriate.

Staff finds that:

1.) Proposal is to vacate portions of Peabody Street and S 54th Avenue E adjacent to 101 S 54th Avenue E. Area is not developed for any public purposes but includes a paved driveway presumably constructed by the adjacent property owner. Property to the north is railroad right of way used for the North Shore Scenic Railroad.
2.) Right of way dead-ends near the rear of the adjacent property, at the subdivision line. The platted road was never continued into the Morris Park Division of Lakeside.
3.) As this alley dead-ends and is only adjacent to one residential property, this right of way is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians.
4.) There are no city utilities located in this right of way. Minnesota Power has requested a utility easement be retained over the entire area to be vacated. With the utility easement in place, the right of way is not needed for the efficient supply of utilities or public services in the City.
5.) The right of way is not and will not be needed to provide pedestrian or recreational access to the water; and the public right of way is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.
6.) Other than Minnesota Power, no public, agency, or City comments have been received.
7.) Vacations of streets lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission recommend approval of the vacation of the right of way subject to the following condition:

1. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

City Planning

PL 16-045
101 S 54th Ave E

Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- Hydrant
- Water Main

Network Structure

Subtype

- Storage Basin
- Pump Station

Sanitary Gravity Mains

Owner

- CITY OF DULUTH
- WLSSD; PRIVATE; RICE LAKE TWP
- Sanitary Sewer Forced Main
- Storm Sewer Catch Basin

Subtype

- Storm Sewer Pipe

Gas Distribution Main

Material

- Coated Steel
- Plastic

Zoning Boundaries

- Zoning Boundaries

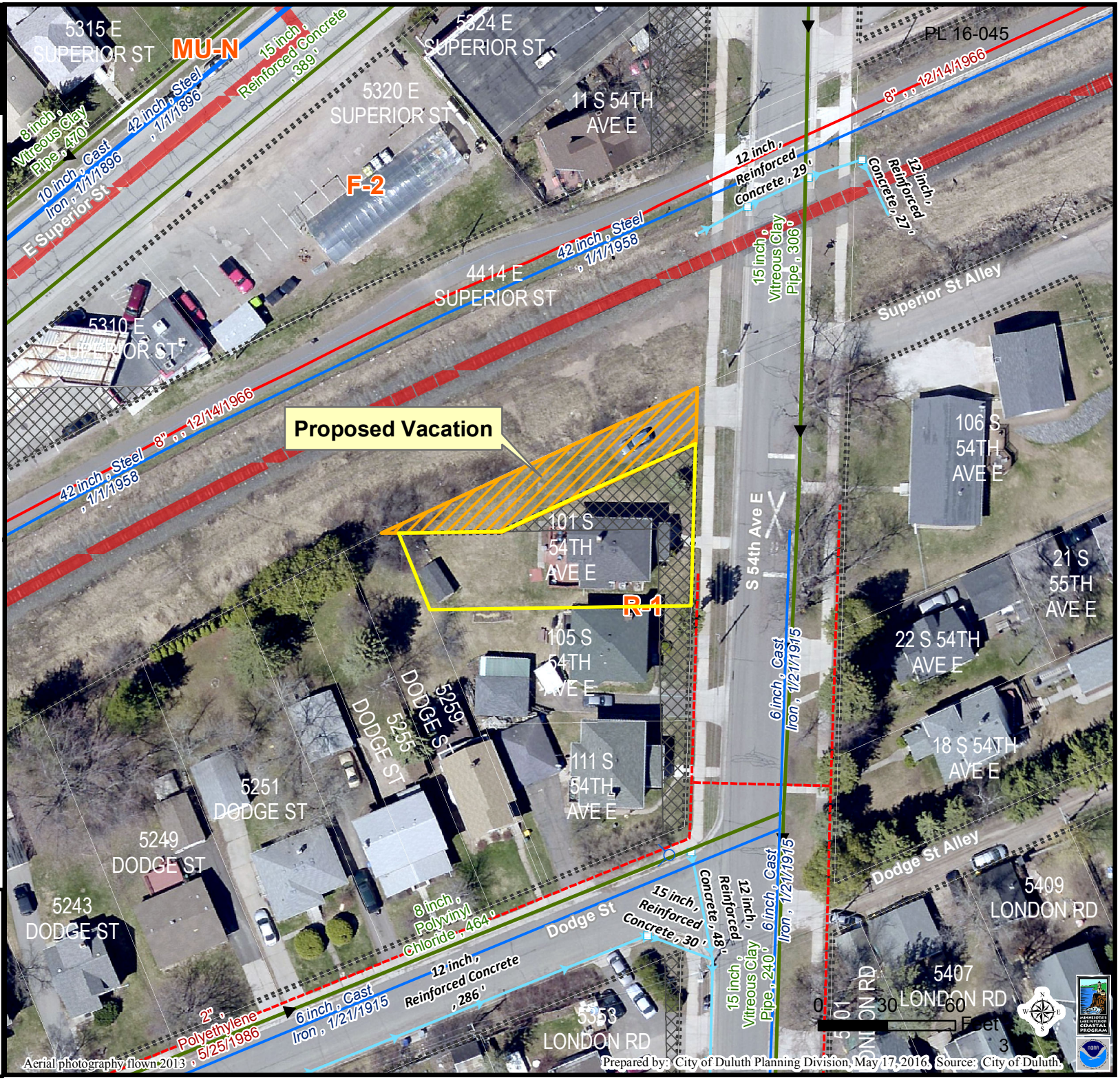
Right-of-Way Type

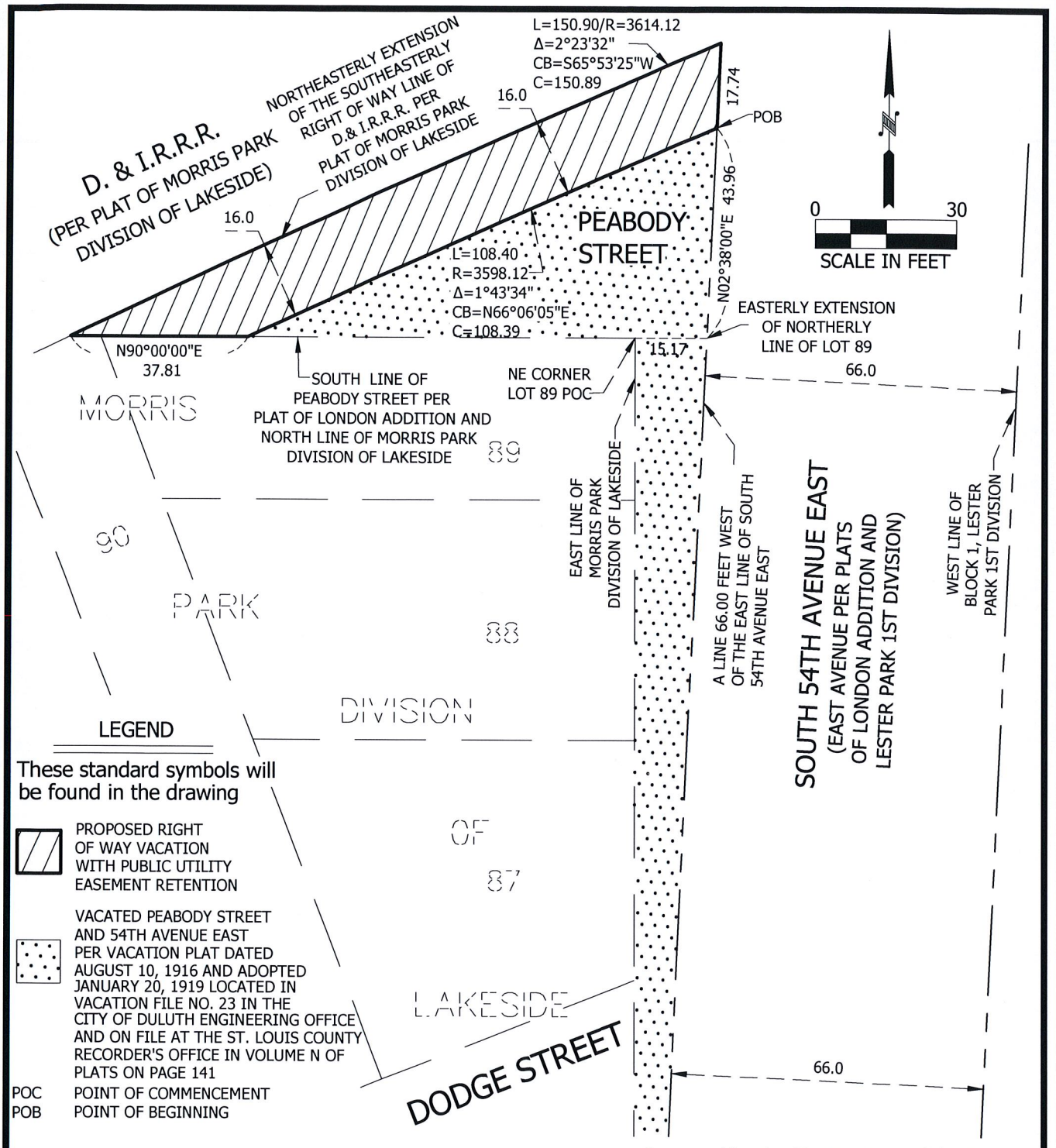
- Road or Alley ROW
- Vacated ROW

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.





LEGEND

These standard symbols will be found in the drawing

PROPOSED RIGHT OF WAY VACATION WITH PUBLIC UTILITY EASEMENT RETENTION

VACATED PEABODY STREET AND 54TH AVENUE EAST PER VACATION PLAT DATED AUGUST 10, 1916 AND ADOPTED JANUARY 20, 1919 LOCATED IN VACATION FILE NO. 23 IN THE CITY OF DULUTH ENGINEERING OFFICE AND ON FILE AT THE ST. LOUIS COUNTY RECORDER'S OFFICE IN VOLUME N OF PLATS ON PAGE 141

POC POINT OF COMMENCEMENT

POB POINT OF BEGINNING

THIS IS NOT A BOUNDARY SURVEY.

THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY.

Approved by the City Engineer of the City of Duluth, MN. this 29 day of June 2016

By _____

SHEET 2 OF 2

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.

David R. Evanson
MN Lic. No. 49505

Date: FEBRUARY 10, 2016

RIGHT OF WAY VACATION EXHIBIT

CLIENT: LUKE SCHMITZ	REVISIONS: 5-26-16 ADD DOCUMENT REFERENCE
DATE: FEBRUARY 10, 2016	6-27-16 REVISE LEGAL DESC.
ADDRESS: 101 S. 54TH AVENUE EAST DULUTH, MN 55804	
JOB NUMBER: 16-021	

ALTA
LAND SURVEY COMPANY
* LAND SURVEYING
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PHONE: 218-727-5211
LICENSED IN MN & WI
CERTIFIED FEDERAL SURVEYOR
WWW. ALTALANDSURVEYDULUTH.COM

LEGAL DESCRIPTION OF VACATION OF RIGHT OF WAY AND PUBLIC UTILITY EASEMENT RETENTION

All that part of 54th Avenue East and Peabody Street, LONDON ADDITION TO DULUTH according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the Northeast corner of Lot 89, MORRIS PARK DIVISION OF LAKESIDE; thence on an assumed bearing of North 90 degrees 00 minutes 00 seconds East, along the Easterly extension of the Northerly line of said Lot 89 for a distance of 15.17 feet, more or less, to the intersection with a line which is parallel and distant 66.00 feet West of the West line of Block 1, LESTER PARK 1ST DIVISION; thence North 02 degrees 38 minutes 00 seconds East; along said parallel line for a distance of 43.96 feet to the Point of Beginning of the parcel herein described; thence continue North 02 degrees 38 minutes 00 seconds East, along said parallel line 17.74 feet to the Northeasterly extension of the Southeasterly right of way line of the D.&I.R.R.R.; thence Southwesterly 150.90, along said Northeasterly extension of the Southeasterly right of way line of the D.&I.R.R.R., along a non-tangential curve, concave to the Southeast, having a radius of 3614.12 feet, a central angle of 02 degrees 23 minutes 32 seconds, the chord of said curve bears South 65 degrees 53 minutes 25 seconds West for a distance of 150.89 feet to the intersection with the Northerly line of said MORRIS PARK DIVISION TO LAKESIDE, said line also being the South line of Peabody Street; thence North 90 degrees 00 minutes 00 seconds East, along the last described line for a distance of 37.81 feet to the point of intersection with a line which is parallel with and distant 16.00 feet Southeasterly of the Northeasterly extension of the Southeasterly right of way line of said D.&I.R.R.R.; thence Northeasterly 108.40 feet, along said line which is parallel with and distant 16.00 feet Southeasterly of the Northeasterly extension of the Southeasterly right of way line of the D.&I.R.R.R, along a non-tangential curve, concave to the Southeast, having a radius of 3598.12 feet, a central angle of 01 degrees 43 minutes 34 seconds, the chord of said curve bears North 66 degrees 06 minutes 05 seconds East for a distance of 108.39 feet to the Point of Beginning.

Said parcel contains 2,075 square feet or 0.05 acres, more or less.

SHEET 1 OF 2

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Site Photos