



PLANNING & ECONOMIC DEVELOPMENT

Planning & Development Division
City Hall – 411 W 1st Street – Room 110
Duluth, Minnesota 55802
218-730-5580 / planning@duluthmn.gov

Planning Commission Agenda

City Council Chambers, 3rd Floor Duluth City Hall
Tuesday, May 14, 2019 – 5:00 PM

Call to Order and Roll Call

Approval of Planning Commission Minutes (March 26, 2019 and April 9, 2019)

Presentations

1. **PL 19-057** St. Louis River Corridor Duluth Natural Areas Program Nomination by City of Duluth Parks Department

Unfinished Items

2. **PL 19-014** UDC Text Amendment Exempt Vacation Dwelling Units in Form Districts from the Maximum Cap of 60 Units by the City of Duluth

Consent Agenda

3. **PL 19-028** Renewal of Existing Vacation Dwelling Unit Interim Use Permit at 124 North Hawthorne Road by Theresa Hanson
4. **PL 19-034** Minor Subdivision at 431 East Skyline Parkway by Ralph Raschick
5. **PL 19-037** Minor Subdivision at 4306 Enterprise Circle by Duluth Seaway Port Authority
6. **PL 19-033** Vacation of Pedestrian Easement and Dedication of Replacement Easement at 4500 Cambridge Street by Saint Francis of Assisi, Inc.
7. **PL 19-031** Vacation of Oakland Avenue between Gold Street and Maryland Street by City of Duluth Parks Department on behalf of the University of Minnesota, Duluth

Public Hearings

8. **PL 19-032** R-P Regulating Plan Amendment to allow Type I, Type VI and Type VII Buildings on the west side of North 53rd Avenue West north of Ramsey Street by Talle & Associates for Ramsey VI
9. **PL 19-042** Vacation of Skywalk Easement in Minnesota Power Building at 30 West Superior Street and Vacation of Easements with rededication of replacement easements for the plazas on either side of Lake Avenue at Superior Street by Minnesota Power
10. **PL 19-029** Variance from the Shoreland Setback to build a New Single Family Home at 442 North 85th Avenue West
11. **PL 19-035** Variance from Corner Side Yard Setback for a garage at 5419 London Road by Philmore Properties, LLC

12. **PL 19-036** Variance from Shoreland Setbacks for a garage and home addition at 435 W. Toledo St. by Kelly Kairos
13. **PL 19-038** Interim Use Permit for Lake View Land Co LLC for Vacation Dwelling Unit at 1235 Minnesota Avenue
14. **PL 19-039** Interim Use Permit for Lake View Land Co LLC for Accessory Vacation Dwelling Unit at 1235 Minnesota Avenue
15. **PL 19-024** Appeal of a Land Use Supervisor's Decision Related to a Required Improvements of a Driveway Easement

Other Business

16. **PL 19-058** Hartley Duluth Natural Areas Program Management Plan Extension by City of Duluth Parks Department

Communications

Manager's Report

-Mud Lake Special Joint Meeting – Rescheduled to May 30, 2019, at the DECC

Reports of Officers and Committees

-Heritage Preservation Commission Representative

Adjournment

City of Duluth
 Planning Commission
 March 26, 2019 Meeting Minutes
 Special Meeting - 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, March 26, 2019, in city hall council chambers.

Roll Call

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

Absent: None

Staff Present: Keith Hamre, Robert Asleson, Steven Robertson, and Chris Lee

EAW/EIS Decision

Director Keith Hamre reviewed the project proposal before the Planning Commission. Planner Steven Robertson briefly reviewed the comments received from citizen and neighborhood groups, and local and state agencies. He added that the most common issues raised related to light pollution, bird safety, and environmental concerns related to demolition, stormwater, and similar items. Robertson stated that staff believe that the concerns addressed can be mitigated or controlled by permitting and review processes in place.

President Kennedy referenced the NAACP policy and comp plan documents, including principles #10, #13, and #14 as per comments received by the NAACP Health and Environmental Equity Committee. President Kennedy also referenced the mission words used by Essentia and that the lack of equity anywhere noted in their mission. As this project moves forward it would be in the best interest of the developers and the city to consider equity with regards to the social, economic, and environmental impact of this project will have today and for generations. Commissioner Meyer stated that he agrees that an EIS may not be necessary, but is never the less concerned about lighting and screening. Director Hamre reminded the Planning Commission that because this project is in a Mixed Use Institutional zone, the project must come back before the commission for a planning review at a public hearing, and the commissioners will have a chance to ensure that the project proposer is actively addressing the concerns. Commission Zwiebel asked about the record of decision and wanted to make sure it would incorporate the issues raised by citizens and how the city and project proposer plans to address them. Robertson showed the commissioners the example of the Kayak Bay EAW and Record of Decision from 2018, which listed out the permits and processes needed to be achieved by the project proposer in order for the project to move forward. President Kennedy noted considering input from the community stakeholders. She is in support of the project's vision to improve economic and health impacts throughout the community with the considerations noted. Meyer suggested a friendly amendment be added to the motion to include equity. Director Hamre noted rather than include the amendment in the motion, staff will include equity as a requirement within the plan review process along with the other principles mentioned here.

MOTION/Second: Meyer/Wisdorf determine that an Environmental Impact Statement is not required, and that the environmental issues and other concerns identified in the Environmental Assessment Worksheet can be addressed by regulatory or permitting processes and standards.

VOTE: (9-0)

Unfinished Business

PL 19-009 Vacation of Unimproved Right of Way of N 61st Avenue West (Approximately 400 Feet, North of the Intersection of 61st Ave West and West 8th Street) at 12 S 61st Avenue West by David Polson

Planner Chris Lee presented information related to the staff report, stating that staff recommended approval of the vacation as it meets the standards in the UDC. He added that vacation of the right of way will not land locked any adjacent parcel and will not limit future development of any other properties in the neighborhood. Commissioner Sydow asked if there is sufficient water utilities available nearby so as to allow other property owners to easily develop. Director Hamre reminded the commissioners that prior to bringing this to them for review, they brought it to engineering, and they had no concerns with it. Lee showed the commissioners a map of the sewer and water utilities in the area, and confirmed that there is availability for public water service to the north of this area, and it would not be impacted by this proposed vacation.

MOTION/Second: Nelson/Sydow recommend the City Council approve the vacation as shown in the staff report exhibit.

VOTE: (9-0)

PL 19-014 UDC Text Amendment Exempt Vacation Dwelling Units in Form Districts from the Maximum Cap of 60 Units by the city of Duluth

Planner Steven Robertson briefly reviewed the proposed ordinance change related to vacation rental properties in form districts, adding that most of the current standard were written from the point of view of these developments being located in residential districts. Director Hamre stated that this proposed change is designed to make it easier to develop in form districts, which are an important part of our downtown area and some core investment areas.

President Kennedy expressed concern with the potential to remove additional single-family housing out of the market. Commissioner Sydow stated that he was concerned about parking, especially in form districts on 4th Avenue East. Commissioner Eckenberg asked for clarification on the general purpose of form districts. Vice President Nelson reminded the commissioners that regardless of the proposed rule change under consideration, every new interim use permit comes before the commission and they can add additional conditions as necessary. Commission Schraepfer stated that the market for structures in form districts is different from other areas of the city, and added that he generally supports this change. Commissioner Sydow stated the still has concerns with ensuring there is enough parking, as this is a common concern heard at previous public hearings.

MOTION/Second: Sydow/Wisdorf table discussion for more information.

VOTE: (9-0)

Discussion on Imagine Duluth 2035 Metrics and Measurements Report 2018 and Draft Implementation Actions Matrix 2018

Commissioner Wisdorf stated that she appreciated the change to some of the graphics, as they are much easier to read now. Commissioner Zwiebel stated that she would like some additional time to review the documents.

MOTION/Second: Zwiebel/Meyer table to allow more time to review the documents.

VOTE: (8-1) Nelson Opposed

Director Hamre stated that the Planning Commission only needs to pass a recommendation to the City Council on the Implementation Actions Matrix, not the Identified Indicators Report as it is more of an annual report for the Planning Commissioners' review and information.

Communications

Director Hamre stated that there would be many incoming zoning applications related to the Essentia Health Vision Northland Project. However, as the zoning applications need additional information, there will not be a need for a special planning commission meeting on April 30th. With that being said, it may be prudent to schedule a brown bag session in the future when sufficient information is received so that the zoning applications are considered complete.

Adjournment

Meeting adjourned at 6:04 p.m.

Respectfully,

Keith Hamre
Director of Planning and Economic Development

City of Duluth
 Planning Commission
 April 9, 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, April 9, 2019, in city hall council chambers.

Roll Call

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

Absent: Luke Sydow and Zandra Zwiebel

Staff Present: Keith Hamre, Robert Asleson, Kyle Deming, Chris Lee, and Cindy Stafford

Approval of Planning Commission Minutes

March 12, 2019, Regular Meeting & March 19, 2019 Annual Meeting

MOTION/Second: Meyer/Nelson approve the minutes

VOTE: (7-0)

March 26, 2019, Special Meeting

MOTION/Second: Changes needed, Staff will revise and bring back for consideration next month

VOTE: (7-0)

Unfinished Items

1. PL 19-026 Recommendation for Adoption Imagine Duluth 2035 Implementation Actions Matrix for 2018

Staff: Director Keith Hamre gives an overview.

Applicant: N/A

Public: N/A

Commissioners: Chair Kennedy asks about leveraging the impacts. How would this work? Director Hamre notes the text that has changed pertains to which party will be implementing the strategies. The Mayor is putting together an energy commission who will work on implementation steps. Chair Kennedy asks if they adopt this, will it have any leverage on the Essentia project? Director Hamre believes so. Chair Kennedy notes the west Duluth community organizations could already be partners in some of the implementation strategies. How is this being equitable across the city? Director Hamre states these are city partners and authorities. Before the final report is completed next year, they will reach out to the non-profit community based organization for their input.

MOTION/Second: Meyer/Schraepfer remove from Table

VOTE: (7-0)

MOTION/Second: Meyer/Nelson recommend approval as per staff's recommendation.

VOTE: (7-0)

2. PL 19-014 UDC Text Amendment Exempt Vacation Dwelling Units in Form Districts from the Maximum Cap of 60 Units by the City of Duluth
Staff: Director Keith Hamre would like to leave this item on the table.
Applicant: N/A
Public: N/A
Commissioners: N/A
MOTION/Second: Leave on the Table as recommended by staff.
- VOTE: (7-0)**

Public Hearings

3. PL 19-011 UDC Map Amendment to Rezone 5300 Bristol Street and 202/210 North Central Avenue from Mixed Use-Neighborhood (MU-N) and Form District Mid Rise Community Mix (F-4) to Mixed Use-Commercial (MU-C) by Miners Inc
Staff: Kyle Deming introduces the applicant's proposal to rezone the property from the current zoning districts of Mixed Use Neighborhood (MU-N) and Form District 4, Mid-Rise Community Mix (F-4) to Mixed Use-Commercial (MU-C). Staff is recommending approval of the proposed rezoning to MU-C. Tim Meyer asks why this wasn't originally zoned MU-C. Deming noted the consultant included the portions all in one piece with other F-4 zones. Meyer asks what the initial rationale to label it MU-N was. Deming would only be guessing, but thought maybe they were permitted uses at that time. There was automatic rezoning from C-2 to MU-N. Over time form districts were implemented. Chair Kennedy asks about connectivity and safety. F-4 may include more consideration for pedestrian safety. If zoning changes, how can pedestrian safety be ensured? Deming MU-C does state large parking lots have pedestrian connections. If the site changes, connectivity would be addressed at that time.
Applicant: Bill Burns, Hanft Fride P.A., addresses the commission. He thinks the original zoning didn't make sense, and they want to correct it by rezoning. All of the property is owned by Miners. Gary Eckenberg asks about the notch off of Bristol Street. Director Hamre states the small portion is not owned by Miners. Eckenberg asks if it should be included. Per Director Hamre, it's the owner's application being considered. Meyer asks if will there be a change in use after the rezoning. Burns states nothing concrete at this time, but possibly redoing the liquor store for access improvements. Director Hamre notes the planning commission will see it again if they move forward with any major changes.
Public: No speakers.
Commissioners: N/A
MOTION/Second: Schraepfer/Wisdorf recommend approval as per staff's recommendations.
- VOTE: (7-0)**
4. PL 19-013 Upper Central and East Hillside Future Land Use Study
Staff: On behalf of John Kelley who completed the staff report, Kyle Deming introduces the city's proposal to change the Comprehensive Plan – future land use maps. The city's proposal includes two items: 1) Change the future land use from traditional neighborhood to Open Space in the western portion of the study area above East 11th Street and below East Skyline Parkway, and 2) Change the future land use from Traditional Neighborhood and Urban Residential to Neighborhood Mixed Use. Staff recommends approval. Eckenberg asks about the open space designation. Does the city

currently own this land? Per Deming it's a combo of city owner land and tax forfeited land.

Applicant: N/A

Public: Lance Reasor, 130 E. 9th St., owner of the former UDAC building addresses the commission. He gives a history of the property, which used to be a food store, and then a shoe company. It was owned UDAC until last November. Reasor purchased the building at that time. He feels the best use would be a commercial use. He is in support of the changes. Kathy Bogen, 501 E. 11 St., addresses the commission. If there is development, she would like to see more parking for the taxi company. She also sees a need for housing in the neighborhood, but agrees it would be beneficial to have a business that supports the neighborhood.

Commissioners: Chair Kennedy asks staff to recap the scenarios. Deming goes over the scenarios. Chair Kennedy points out the taxi company location, and it is similar in scenarios 1 and 2.

MOTION/Second: Eckenberg/Nelson recommend approval as per staff's recommendations.

VOTE: (7-0)

5. PL 19-002 Special Use Permit for a Residential Care Facility (More than 7 Individuals) at 4425 Norwood Street by American Indian Community Housing Organization, Withdrawn from the February 12, 2019, Planning Commission Agenda

Staff: Chris Lee introduces the applicant's proposal for a special use permit to create housing for women and children for short-term stays in the home with 24-hour-a-day staff supervision by 2-3 staff. The home will be licensed for 18 beds. Staff recommends approval subject to the conditions listed in the staff report. Eckenberg asks staff about the fire marshal's 4 requirements in her letter dated February 4, 2019. Lee states there could be more before final building permit is issued. But confirms the four items listed are needed.

Applicant: Michelle Lebeau, Executive Direction of the American Indian Community Housing Organization (AICHO) addresses the commission and asks for questions. Eckenberg asks what the benefit is of having this facility in this location. Lebeau states there is a wide variety of offerings. And they would like to have a location which allows them to branch out to other parts of the community. There is more green space located here. There is room and land to provide healing, and the kids to go out and play. This site has ample land, and abuts to Hawks Ridge, where the kids can hike and enjoy bird watching. This house will be a place of healing, art workshops and cultural activities. They are conscious that the neighbors may have some resistance, but stresses they are good neighbors in their other properties. Eckenberg asks if there has been any neighborhood meetings. Lebeau states, there have been no meetings, but a sign has been posted. Eckenberg notes the seclusion of the home on the land. Contractors have been out to give estimates on the fire marshal's list. Lebeau wants to have SUP in hand before they move forward with updates. Eckenberg asks about sleeping arrangements for 18 beds. Lebeau notes it will depend on the sprinkler system configuration. There is room for beds, and for art activities. The home is multi-level which allows for privacy between families.

Public: Robert Kaner, 4300 Norwood St., addresses the commission and notes he has an attorney, Robert Magie, who will speak on Kaner's behalf. Attorney Magie addresses the commission. They are strongly opposed to this application. At a minimum, it needs

to be tabled. They don't oppose the need of the facility for women and children, but don't feel the location is appropriate. The property is remote from stores, schools and public transportation. Norwood Street is very narrow, and the lighting on the street is minimal. He is concerned about safety. There needs to be a 2-week notice on signage, and a mailing. There wasn't appropriate time given.

Jason Noe, 4433 Norwood St., addresses the commission. He also submitted a letter. He will note key points. His driveway grade is 19% and their driveway is steeper than his. He doesn't feel this location is suitable for 18 people to be living in this home. The neighbors enjoy space and quiet. This facility would be a detriment to their neighborhood. He is concerned this facility would affect his property value. He feels this facility does not comply with requirements of a special use permit, and is opposed.

Dale Fjelstad, 4509 Norwood St., addresses the commission. He opposes this proposal. He has been inside this house, and doesn't feel it would fit 18 beds and also notes the steep grade of the driveway. The lot isn't wide enough to create the angle they need to meet grade. He notes garbage on the site and feels the new neighbor won't have a sense of pride like the current neighbors do. Joe Berger, 4501 Norwood St., addresses the commission. He has lived there less than one year. They moved there for the quiet neighborhood. To fix the grade they will need to take down a bunch of trees, which will affect the privacy. He is opposed.

Robert Finstan, 1627 N 34th St., Superior, WI, addresses the commission. He served on the planning commission in Superior years ago. He thinks this a terrible location for a shelter. Beyond the grade issues, there are residents with young children who will have to come down steep driveway. The bus stop five blocks away, and the grocery store is further. He thinks traffic will increase. He praises a facility located in Superior by the Culvers restaurant, which is a more appropriate location. He thinks with this proposed location, their downtown van will be making multiple stops to and from the home. He thinks there will be extra pollution, and is concerned about safety. He notes there are no sidewalks on Norwood Street.

Marissa Berger, 4501 Norwood St., addresses the commission. She notes their access to Hawk's Ridge. She thinks they would need to bring kids to Hawk's Ridge via a vehicle. She thinks there will be increased traffic. She is opposed to the project. Greg Enright, 4402 Norwood St., addresses the commission. He enjoys a quiet neighborhood to raise his family. He feels that jamming 18 people into a single-family home does not fit the neighborhood. There are no sidewalks, and the bus stop is far away. Plowing doesn't occur sometimes until two days after a snowfall. The house is hidden, but to change the grade they would need switchbacks. There is no place for kids to play. He thinks it's a poor location, and is against the proposal.

Niles Batdorf, 4411 Norwood St., addresses the commission. He is a 32 year resident. A relative of his lives in a group home, on 43rd Avenue East. Their maximum allowance is four residents. How can this location (although not a group home) jump to 18 residents? Driving and walking up the street is difficult after snow. He is concerned about fire truck access. He assumes people will be allowed to smoke there. He is opposed. LeBeau (applicant) addresses the commission. They will address the neighbors' concerns once

they get approval to move forward with contractors, etc. The garbage on the site does not belong to them. Nobody is living there yet. They need the SUP to move forward. Otherwise, it would be a 5-unit facility with people coming and going.

Commissioner Margie Nelson asks how long would the residents stay. Lebeau states, 30-45 days. They work quickly to move people to permanent housing.

Commissioner Sarah Wisdorf asks if they foresee all 18 beds being used. Lebeau states, yes.

Commissioner Michael Schraepfer asks about room configuration. Lebeau notes there are quite a few rooms. She likes the residential feel, and thinks it is more conducive to healing trauma. Schraepfer confirms if the building is not sprinklered, it would become a five-bedroom rental. He asks about having fewer occupants. Do they really need 18?

Kaner urges the commissioners to go and look at the location.

Chad Peterson, 4410 Norwood St., addresses the commission. He thinks art events would bring non-residents to the facility. He is strongly opposed.

Jeri Noe, 4433 Norwood St., addresses the commission. She is opposed. She loves the neighborhood, but her kids don't play on the street. It's not a kid-friendly place.

Commissioners: Meyer encourages the rest of the commissioner to vote in support. Most of the technical concerns can be addressed. 20% grade is not impossible to remedy. He believes the planning commission should move forward and approve. He encourages AICHO to meet with the neighbors and try to address their concerns. Wisdorf asks about the notice requirements and if they were properly given. Lee states the typical notice is a sign posted 14 days prior to the meeting. The sign was initially posted 1/29/19. The neighbors within 350 feet were sent notices on 1/29/19 and 3/26/19. The sign was posted on 1/29/19. The new date was not updated until last Friday. City attorney, Robert Asleson, notes the code requires the posting of a sign and that it is visible. The date may be reused. Adequate notice and the sign could be deemed efficient. Schraepfer feels the driveway grade will be fixed along with the other technical issues. He is concerned about 18 residents. Meyer thinks construction services can address the number of occupants in the building per code. Chair Kennedy asks if the number of beds is based on need, or safe occupancy. Director Hamre, states the permit will from the department of health and construction services will address. They have a need for more beds, but the number is based on the size of the building and what is allowed. Eckenberg is concerned with the technical aspects, and if the notice requirements have been met. Asleson, posted notice requirement – the notice that was posted did not have the correct date 14-days prior. The commission could deem this as unacceptable, but on the other hand, it could be determined that everyone knew the meeting was tonight. Regarding the mailing notices, any defect in the notice given should not invalidate any action of the planning commission or council provided that a bonafide attempt to comply was made. Eckenberg, agrees with Schraepfer about the need for a neighborhood meeting at a neutral location could alleviate concerns. He would like to table until a public meeting is held. Schraepfer agrees and suggests tabling

for future notice of a neighborhood meeting. Director Hamre a tabling action and re-posting would complete the requirements, but notes clause 50-99 is May 8th. The applicant would need to waive the time frame, or it would automatically be deemed as approved. Chair Kennedy notes the planning commission is the time to have open neighbor conversation. She doesn't think a neighborhood meeting, or tabling would change anything. Eckenberg feels a conversation beyond these walls is an appropriate next step, but notes the time frame. Nelson notes the topic of holding a community meeting. She doesn't feel a community meeting would change any of the neighbors' minds. A domestic shelter is different from a group home. She feels they should make a decision tonight. Wisdorf is torn on the community meeting. She is concerned with the number of residents. She confirms the planning commission won't see this again if approved. Eckenberg feels a meeting is the best process, and is needed. He doesn't necessarily believe the neighbors' will change their minds. He feels there should be more conversation. Meyer agrees with Eckenberg but he feels the neighbors' concerns can be handled during execution. He would like to vote on this tonight. Chair Kennedy asks if the applicant would reconsider May 8th deadline. Asleson if applicant wanted to waive timeline of 50-99. They would certainly add it to the record. The applicant would need to agree to the extension of a time to 150 days versus 120 days. LeBeau doesn't feel a neighborhood meeting would change anything. She was hoping to have a decision tonight. She would invite neighbors to her other location and talk about their concerns. She wants to do the right thing, but needs to get going on their project.

MOTION/Second: Meyer/Nelson approved as per staff's recommendations with amendment to add a condition for the applicant to hold a public meeting to discuss the execution of the project.

VOTE: (6-1, Wisdorf Opposed)

6. PL 19-017 Mixed Use Commercial (MU-C) Planning Review for a New 82 Room Hotel at 1506 Maple Grove Road by Brutger Equities
Staff: Chris Lee introduces the applicant's proposal to construct a new hotel structure on a vacant lot, which requires a Planning Review in the MU-C district. The proposed hotel will be four-stories in height and contain 82 units. There is currently a single-family residence on the property which will be removed prior to hotel construction. Staff recommends approval with the five conditions listed in the staff report.
Applicant: Melissa Graftaas of Architecture Advantage, LLC, addresses the commission. The owner owns Days Inn, and is excited for another opportunity. She accepts questions. There are none.
Public: Lori Richards, widow of Earl Richards, addresses the commission. She is opposed. She feels the owner does not respect his neighbors. The owner has repeatedly stored snow on her husband's property. They consistently push all of their snow onto the Richards' property. They have rental homes in the area, and she doesn't want more snow pushed onto her property. She also notes the adverse effects of another hotel would be to her renters. Ellen Betzold, 1000 Minnesota Ave., addresses the commission. She is a board member of Visit Duluth, and the former general manager to Fairfield inn. She is opposed to adding another hotel in the area. There are not enough guests to go around. She doesn't believe adding another hotel will add more visitors to the area. She is opposed. Eckenberg asks if visit Duluth is opposed. Betzold states she represents herself. Marie Casper, manager of American Inn, 901 Joshua Ave., addresses the

commission. She opposes the new hotel, and notes adding 82 more rooms will decrease the overall occupancy of other hotels in the area. Peggy Kuepela, 1601 Maple Grove Rd., addresses the commission. She is a renter and lives in a home across from the newly proposed development. This area is getting very busy. She is opposed. Melinda Duvall, 1517 Maple Grove Rd., (Lori Richards speaks on her behalf). She is opposed for many reasons, including increased traffic, bright lights, and looking at a hotel instead of the wooded area she now views. Gail Encarlo addresses the commission. She owns commercial property across the road. This whole area was rezoned commercial. She supports the project and notes both sides of Maple Road is commercially zoned, and not residential. The public meeting was closed

Commissioners: Commissioner Eckenberg has questions for the Mrs. Richards.

MOTION/Second: Eckenberg/Nelson would like to reopen the public hearing.

VOTE: (7-0)

Eckenberg asks Mrs. Richards which property she owns. She states: 1517 Maple Grove Rd., 1601 Maple, 1602 Maple, 1610 and 1618 Maple Grove Rd. Wisdorf asks about buffering. Can they add it, since it's so close to residential properties. Architect Graftaas notes there is the possibility of adding a privacy wall there along the northwest side.

MOTION/Second: Wisdorf/Meyer approved as per staff's recommendations with an added condition to include a wall section on the west side of the property.

VOTE: (6-1, Nelson Opposed)

Communications

Manager's Report – Director Hamre states Adam Fulton is the designated Land Use Supervisor. He will be in attendance next time. Director Hamre gives an update on the appeals to city council which included the minor subdivision in Lincoln Park and the vacation of the avenue and alley adjacent to 61st Avenue West.

Reports of Officers and Committees

- Heritage Preservation Commission – Zwiebel – N/A

Upcoming Special Meeting

-US Steel and Mud Lake Workshop, Wednesday, May 1, 5:30 PM, Morgan Park Good Fellowship Club, Joint Meeting of Planning Commission, Parks and Recreation Commission, and Heritage Preservation Commission

Adjournment

Meeting adjourned at 8:12 p.m.

Respectfully,

Keith Hamre - Director
Planning and Economic Development



PLANNING & ECONOMIC DEVELOPMENT

Planning and Development Division
City Hall – 411 W 1st Street – Room 110
Duluth, Minnesota 55802
218-730-5580 / planning@duluthmn.gov

Date: May 6, 2019

To: Planning Commission

From: Kyle Deming, Planner II

RE: PL 19-057 Saint Louis River Nomination to the Duluth Natural Areas Program

The City of Duluth Parks Department, with support from the MN Land Trust, are nominating for inclusion into the Duluth Natural Areas Program (DNAP) public and private properties along the St. Louis River as depicted in the attached nomination document.

This property is being nominated under the following DNAP criteria:

- Native Plant Communities
- Sensitive Species
- Natural Water Features
- Important Bird Congregation Areas
- Geological Landforms

Recommended Action

Staff reviewed the attached nomination and recommend that the Planning Commission recommend provisional designation of these areas for inclusion in the DNAP. This recommendation is based on the finding that appropriate qualified natural resources professionals have adequately identified important habitat areas and documented their conditions as being satisfactory for inclusion in the DNAP.

If the City Council approves this nomination, the applicants will need to produce a management plan for the DNAP parcels as well as establish appropriate program protections for each parcel included in the program within one year of the provisional designation or the designation will terminate. These program protections could include the landowner establishing a conservation easement over the parcel, sale or donation of any privately-owned parcel to the City or other public agency or non-profit who may hold the land for purposes in keeping with the management plan. For City-owned land, the City Council may designate the property being held for the program which would require a vote of 8 City Councilors to transfer ownership of the parcel. Likewise, the City may transfer its land to a public agency or non-profit group who may hold it in keeping with the management plan. Each parcel in the DNAP will need to have program protections established for it.

To: President Kennedy and Members of the Duluth Planning Commission
From: Diane Desotelle, Natural Resources Coordinator
CC: Jim Filby Williams, Jessica Peterson, Lisa Lluokkala
Date: April 30, 2019
Re: Nomination of areas along the St. Louis River to the Duluth Natural Areas Program

The City of Duluth with the support of the MN Land Trust is nominating lands as shown in the attached nomination report to the Duluth Natural Area Program (DNAP). The DNAP provides a process to nominate certain lands with environmental values as permanent open space. For years, Duluth has recognized the value of the St. Louis River corridor for both natural resource protection and restoration, recreation and human sanctuary. Designating these lands in accordance with the DNAP will ensure citizens and visitors will always have access to this special area where they can appreciate as well as continue to better understand the natural environment.

The public process for a decision from the City Council for this nomination is as follows:

- **February 27, 2019:** Stakeholder meeting held at Morgan Park. 17 people attended and to hear staff provide information on the DNAP and the St. Louis River nomination. The feedback was overwhelmingly positive.
- **March 13, 2019:** Present information on the nomination to the Parks and Recreation Commission.
- **May 14, 2019:** Present the DNAP nomination to the Planning Commission. Receive a vote on the nomination from the Planning Commission to carry forward.
- **May 28, 2019:** Recommendation for the St. Louis River Natural Area nomination into the DNAP to the City Council.

ST. LOUIS RIVER NATURAL AREA



The St. Louis River Natural Area is comprised of nine places along the shoreline of the St. Louis River from Chambers Grove Park in the Fond du Lac neighborhood on the west, to Grassy Point in the Irving neighborhood on the east. The approximately 1,200 acres are home to a mix of 17 distinct native plant communities and over 150 species of birds. The natural area protects the waters of the St. Louis River estuary and provides river access for Duluth's residents and visitors.



Photo credit: Steve Kolbi



UNIQUE FEATURES

Native Plant Communities

- Lake Superior estuary marsh—this community only occurs in estuaries and river mouths influenced by Lake Superior water elevations
- Sandstone cliffs, upland and floodplain forest, wet meadows

Sensitive Species

- Sensitive plants, including: discoid beggarticks (*Bidens discoidea*), soapberry (*Shepherdia canadensis*), and the endangered pale sedge (*Carex pallescens*)
- Fifty-two sensitive bird species, including: Common Tern, Horned Grebe, Trumpeter Swan, and Peregrine Falcon

Natural Water Features

- St. Louis River Estuary, the largest freshwater estuary in North America
- Trout streams: Knowlton, Stewart, Kingsbury and Keene Creeks

Important Bird Congregation Area

- Tens of thousands of shorebirds, waterbirds, waterfowl, and migratory landbirds congregate in the natural area

Geological Landforms

- Shallow sheltered backwaters of Rask Bay, North Bay, Radio Tower Bay, Mud Lake, and Kingsbury Bay are evidence of the drowned river mouth that once flowed into glacial Lake Duluth

THINGS TO DO

Explore, Relax, Get Healthy

- Hike and bike on designated trails, including the Western Waterfront Trail
- Go kayaking or canoeing on the National Water Trail (designation pending)
- Go fishing or boating
- Enjoy bird watching

Volunteer

- Contact Parks and Recreation Division at 218-730-4300

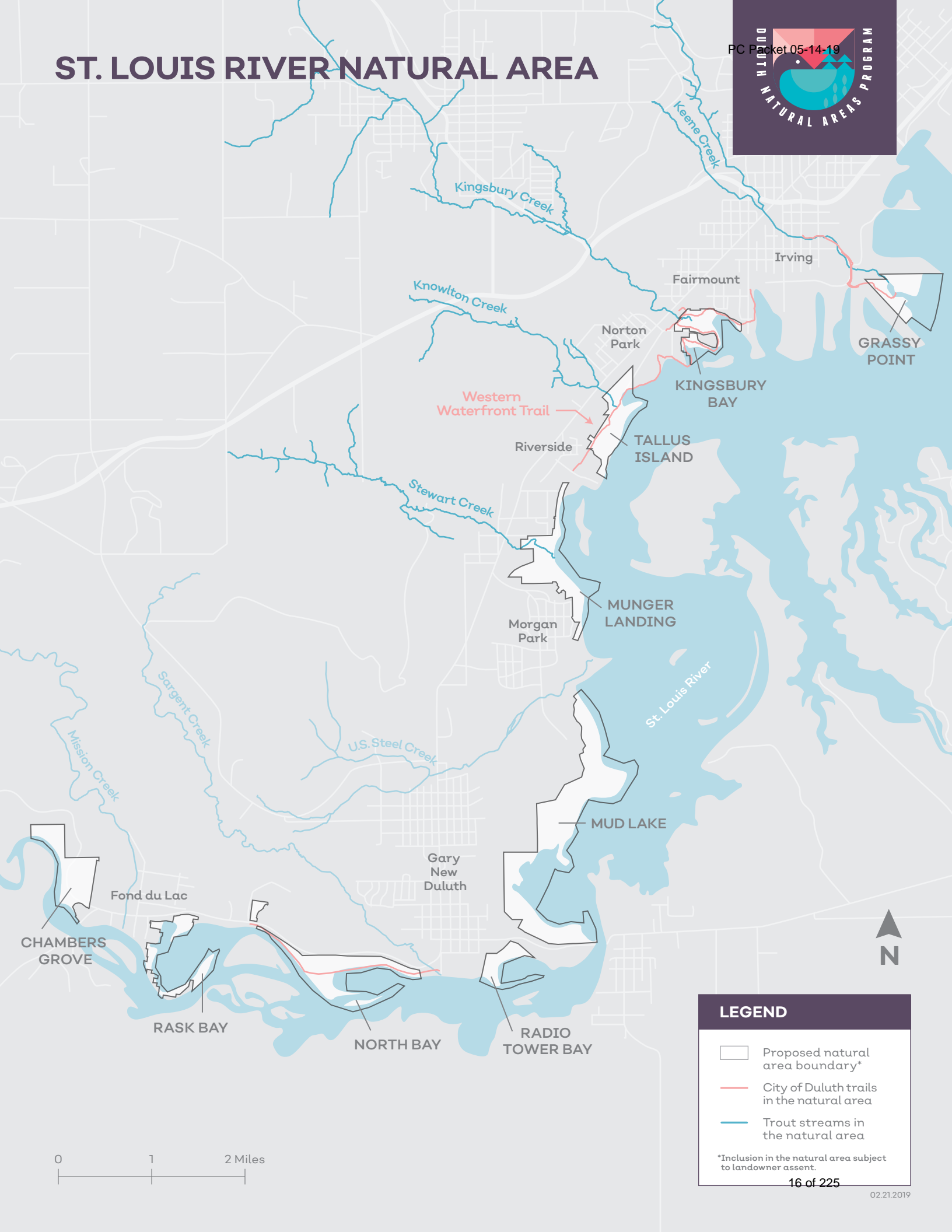
HABITAT PRIORITIES

Management and restoration of human-induced impacts and invasive species control are important to long-term protection of St. Louis River Natural Area's native plant and animal communities.

 **The Duluth Natural Areas Program enables the city to celebrate and sustain select open places that enrich the lives of all Duluthians by preserving and protecting the city's natural heritage.**

ST. LOUIS RIVER NATURAL AREA

PC Packet 05-14-19



CHAMBERS GROVE
RASK BAY



LEGEND

- Proposed natural area boundary*
- City of Duluth trails in the natural area
- Trout streams in the natural area

*Inclusion in the natural area subject to landowner assent.



DRAFT

NOMINATION OF THE

St. Louis River Natural Area

TO THE DULUTH NATURAL AREAS PROGRAM

DATE: 3/7/19

Nominated by: City of Duluth Parks & Recreation Division



This report was produced by the Minnesota Land Trust under contract to the City of Duluth and funded by U.S. Environmental Protection Agency Great Lakes Restoration Initiative grant number GL00E02202. Many organizations and individuals participated in a variety of ways as collaborators to the report.





Table of Contents

- Executive Summary.....iii**
- Introduction1**
- Eligibility.....2**
 - Land Ownership..... 2
 - Scientific Criteria..... 3
- References.....10**
- Figures.....12**
- Appendices.....36**

List of Figures

- Figure 1: Proposed St. Louis River Natural Area13
- Figure 2: Wildlife Action Network Along the St. Louis River.....14
- Figure 3: Sites of Biodiversity Significance Along the St. Louis River.....15
- Figure 4: Property Ownership in the Chambers Grove Project Area.....16
- Figure 5: Property Ownership in the Rask Bay Project Area17
- Figure 6: Property Ownership in the North Bay Project Area18
- Figure 7: Property Ownership in the Radio Tower Bay Project Area.....19
- Figure 8: Property Ownership in the Mud Lake Project Area.....20
- Figure 9: Property Ownership in the Munger Landing Project Area21
- Figure 10: Property Ownership in the Tallus Island Project Area.....22
- Figure 11: Property Ownership in the Kingsbury Bay Project Area23
- Figure 12: Property Ownership in the Grassy Point Project Area.....24
- Figure 13: Native Plant Communities in the Chambers Grove Project Area25
- Figure 14: Native Plant Communities in the Rask Bay Project Area26
- Figure 15: Native Plant Communities in the North Bay Project Area27
- Figure 16: Native Plant Communities in the Radio Tower Bay Project Area28
- Figure 17: Native Plant Communities in the Mud Lake Project Area29
- Figure 18: Native Plant Communities in the Munger Landing Project Area30
- Figure 19: Native Plant Communities in the Tallus Island Area31
- Figure 20: Native Plant Communities in the Kingsbury Bay Project Area.....32
- Figure 21: Native Plant Communities in the Grassy Point Project Area33
- Figure 22: Natural Water Features in the St. Louis River Natural Area34



List of Tables

Table 1: Land Ownership within the St. Louis River Natural Area	2
Table 2: Native Plant Communities in the St. Louis River Natural Area in 2018.....	4
Table 3: Condition Ranks of Native Plant Communities in the St. Louis River Natural Area	5
Table 4: Comparison of 2018 Bird Survey Results to the DNAP Nomination Criteria	6
Table 5: Sensitive Bird Species Observed During 2018 Surveys	8



Executive Summary

The City of Duluth, with assistance from the Minnesota Land Trust, developed this nomination for lands along the St. Louis River to be included in the Duluth Natural Area Program (DNAP) and requests submission to the Planning Commission and City Council for review under Duluth City Code, Chapter 2, Article XXIX, Sect 2-152.

The DNAP was created as a city program to protect and preserve Duluth's natural heritage by using mechanisms to identify valued environmental properties owned by the city and/or other owners interested in participating by establishing a means to protect such properties from development or exploitation. The qualifications for lands to be incorporated into the DNAP and the various avenues to protect these special places are specified in the ordinance and its complementary guidelines (City of Duluth, 2002).

The St. Louis River is a showcase feature for the City of Duluth. The river provides many recreational, health, and economic benefits to the community and its visitors. The City identified places along the river with the most intact terrestrial and aquatic habitats and the least development potential. These places align with City plans for additional community access and enjoyment initiatives. These undeveloped areas, encompassing 1,230 acres, are included in St. Louis River Natural Area (SLRNA) nomination for the (Figure 1). The nominated lands are currently owned by the City of Duluth, State of Minnesota, and private landowners (Appendix A).

The SLRNA represents a diverse and important ecosystem within the City of Duluth. As described in the DNAP Guidelines (City of Duluth, 2002), to accomplish the purpose of the DNAP, the goal is to designate the best remaining examples of viable natural areas representative of the Duluth area. The nominated lands along the St. Louis River corridor represent the best remaining examples of all five of the categories defined in the DNAP ordinance:

- Significant native plant communities area – The area supports 17 distinct native plant communities including the Lake Superior estuary marsh community that exists predominantly in the St. Louis River estuary within the state.
- Special species area – Three special plant species (pale sedge, discoid beggarticks, and soapberry) and 52 special bird species (listed in Table 5) were identified in the natural area in surveys conducted for this nomination.
- Natural water features area – the St. Louis River Estuary and four state designated trout streams, Keene, Kingsbury, Stewart, and Knowlton Creeks, are located within the proposed natural area.
- Important bird congregation area – A plethora of bird species congregate in the proposed natural area for nesting, foraging, and migratory habitat including shorebirds, waterbirds, waterfowl, and migratory landbirds.
- Geologic landform area – The geologic formation of Duluth is represented by landforms present in the nominated natural area, particularly the backwater areas of Rask Bay, North Bay, Radio Tower Bay, and Kingsbury Bay. These bays visually indicate the drowned river mouth that once flowed into Glacial Lake Duluth.



Introduction

The City of Duluth, with assistance from the Minnesota Land Trust, seeks to nominate certain lands to the Duluth Natural Areas Program (DNAP). This proposal would create a 1,230-acre Duluth Natural Area along the St. Louis River comprised of nine distinct project areas (Figure 1).

The DNAP was created as a city program to protect and preserve Duluth's natural heritage by using mechanisms to identify valued environmental properties owned by the city and/or other owners interested in participating by establishing a means to protect such properties from development or exploitation. The qualifications for lands to be incorporated into the DNAP and the various avenues to protect these special places are specified in the ordinance (Duluth City Code, Chapter 2, Article XXIX, Sect 2-152) and its complementary guidelines (City of Duluth, 2002).

The St. Louis River is an integral part of the City of Duluth's identity, providing a wealth of recreational, health, and economic benefits to the City's residents and visitors. Over the past several years, significant efforts have been and continue to be undertaken by local, state, and federal partners to clean up contamination and restore degraded habitat from legacy impacts to the river associated with its designation as a Great Lakes Area of Concern. In 2016, the City of Duluth launched the St. Louis River Corridor Initiative, a series of public park and trail improvement projects on the west side of Duluth from Fond du Lac to Lincoln Park with goals to support the natural environment and enrich neighborhood quality of life. The nomination of a natural area along the St. Louis River corridor supports these goals. The Western Waterfront Trail, one of the projects in the initiative, will eventually connect all but the easternmost portion of the SLRNA. Further, a number of existing and planned access points for the St. Louis River National Water Trail (designation pending) are located within the SLRNA.

In addition to its' importance to the City of Duluth, the lower St. Louis River is vitally important to the health of the region and Lake Superior. It serves as an important migration corridor for wildlife and is included in Minnesota Department of Natural Resources' (MNDNR's) Wildlife Action Network (Figure 2), which identifies priority areas for conservation in the state. Audubon has designed the estuary, from Chambers Grove downstream to Lake Superior and southeast to Wisconsin Point, as an "Important Bird Area" (IBA), because of its' significance as a migratory corridor for birds. The river's coastal wetland complex and adjacent plant communities are important to the biodiversity of the State of Minnesota; the majority of the lower river through Duluth falls within designated "sites of biological significance" as mapped by the Minnesota Biological Survey (Figure 3).

The following sections of this report provide necessary information on eligibility for nominating the SLRNA to the DNAP.



Eligibility

Eligibility of a tract for nomination under the DNAP requires both ownership and scientific criteria to be satisfied. This nomination provides documentation for the SLRNA that satisfies both types of criteria.

LAND OWNERSHIP

A tract is eligible for nomination as a natural area if it meets one of four ownership conditions, as specified by the DNAP Guidelines (City of Duluth, 2002). For the SLRNA the following ownership situations apply:

- City-owned property located within the boundaries of the City.
- Property located within the boundaries of the City which is owned by other persons or entities, whether public or private, where such owner desires to have their property enrolled in the Program and where the owner is willing to convey the necessary property interests to the City or other qualified party (e.g. state, nonprofit, etc.) to accomplish those ends.

The SLRNA comprises 1,230 acres of undeveloped land within the city of Duluth along the river corridor. A total of 274 parcels are encompassed within the natural area. Current ownership of the parcels is a mix of City, private, St. Louis County tax-forfeit, and State of Minnesota (Table 1; Figure 4 through 12). A list of the individual parcels and current ownership is provided in Appendix A.

Table 1: Land Ownership within the St. Louis River Natural Area

Ownership	Number of Parcels	Area (%)
City of Duluth	88	32
Private	45	36
St. Louis County Tax-Forfeit	139	27
State Public Property	2	5
Total	274	100

The initial boundaries of the SLRNA were selected based on the following considerations:

- Intact areas of known high quality aquatic and terrestrial habitat;
- Low development potential for neighborhoods, businesses, or industry;
- Proximity to current and planned City parks and amenities (e.g., Chambers Grove, Kingsbury Bay, Grassy Point, Munger Landing);
- Opportunities to provide protection of important undeveloped riverfront where willing private landowners exist.



Prior to finalizing the boundaries of the proposed natural area, a development suitability analysis was completed to determine if any of the areas within the original boundaries were better suited for economic or business development. The analysis consisted of two steps: 1) desktop evaluation using the City of Duluth's Development Suitability GIS-based tool and 2) review of the results of the evaluation with City staff. City staff from Business Development, Community Planning, and Public Administration were involved in the review.

As a result of the development suitability analysis, several City-owned parcels and a private parcel were completely removed from the proposed natural area, and the boundaries of several private parcels partially within the proposed natural area were adjusted. Adjustments were made to remove properties that could be future infill areas for residential development, commercial development near existing infrastructure, and commercial development inland from the immediate shoreline.

Fourteen private and two other government agencies own land within the natural area. The City has contacted each of these landowners and is in the process of discussing participation in the natural area based on these contacts. The natural area boundaries may be further refined based on the results of these discussions.

SCIENTIFIC CRITERIA

The DNAP Guidelines (City of Duluth, 2002) require nominations to support one or more of the following scientific criteria:

- Significant native plant communities
- Natural water feature area
- Important bird congregation area
- Special species area
- Geological landform area

The SLRNA is being nominated under all five scientific criteria.

Significant Native Plant Communities

The SLRNA contains many assemblages of native plant species that classify as native plant communities (NPC) as defined by the Minnesota Department of Natural Resources (MDNR, 2003). A mappable NPC indicates sufficient ecological integrity of the plant community present in an area that it demonstrates characteristics of a particular natural assemblage of plants.

Native plant communities were mapped for the natural area in Summer/Fall 2018 using a combination of remote sensing and field surveys (Appendix B; Figure 13 through 21). The mapped areas differ slightly from the final natural area boundaries being nominated, as the boundaries were adjusted for various land use reasons as the project proceeded.

There are 17 distinct native plant community types within the natural area comprised of various types of hardwood forest, mixed hardwood-conifer forest, floodplain forest, forested swamps, shrub swamps, wet meadows, and marshes (Table 2). These communities are present across 85% of the natural area. Widespread past and current human disturbance has occurred throughout the corridor and although these disturbances pose challenges to the ecological integrity of the corridor, NPCs and rare plant species have persisted except in limited patches.



Non-native/disturbed cover exists on 15% of the mapped area. This includes transportation corridors (e.g., railroad, streets), invasive species, restoration areas, and old fields. These areas are included in the natural area because they are limited patches surrounded by NPCs and have the potential to reduce fragmentation; in addition, some have potential to be restored with management actions (such as invasive species control).

Table 2: Native Plant Communities in the St. Louis River Natural Area in 2018

System	Class	Subtype Description	Subtype Code	Mapped Area (%)	
Sparse Vegetated Upland	Cliff/Talus	Dry Sandstone Cliff (Northern)	CTn11e	0.6	
	Cliff/Talus	Wet Sandstone Cliff (Northern)	CTn42d	0.1	
Forested Upland	Mesic Hardwood Forest	Aspen - Birch - Basswood Forest	MHn35a	2.3	
	Mesic Hardwood Forest	Red Oak - Sugar Maple - Basswood - (Bluebead Lily) Forest	MHn35b	0.5	
	Mesic Hardwood Forest	Aspen - Birch - Red Maple Forest	MHn44a	19.7	
	Mesic Hardwood Forest	White Pine - White Spruce - Paper Birch Forest	MHn44b	0.8	
	Mesic Hardwood Forest	Aspen - Birch - Fir Forest	MHn44d	1.5	
	Mesic Hardwood Forest	Aspen - Ash Forest	MHn46a	4.5	
	Mesic Hardwood Forest	Black Ash - Basswood Forest	MHn46b	0.8	
	Mesic Hardwood Forest	Sugar Maple - Basswood - (Bluebead Lily) Forest	MHn47a	0.1	
	Forested Wetland	Floodplain Forest	Black Ash - Silver Maple Terrace Forest	FFn57a	5.3
		Wet Forest	Black Ash - Aspen - Balsam Poplar Swamp (Northeastern)	WFn55a	4.7
Forested Rich Peatland		Alder Swamp	FPn73a	1.6	
Shrub and Open Wetland	Marsh	Cattail - Sedge Marsh (Northern)	MRn83a	12.8	
	Marsh	Estuary Marsh (Lake Superior)	MRu94a	16.2	
	Wet Meadow/Carr	Willow - Dogwood Shrub Swamp	WMn82a	7.7	
	Wet Meadow/Carr	Sedge Meadow	WMn82b	5.3	

Each mapped area of NPC was assigned a condition rank according to the definitions in Table 3. Condition ranks consider both the amount of human disturbance and abundance of invasive species. Within the SLRNA, 62% of mapped NPCs are in good (B) to excellent (A) condition (Table 3). Conversely, only 3% of the mapped NPCs were below fair integrity (C/D or D).



Table 3: Condition Ranks of Native Plant Communities in the St. Louis River Natural Area

Condition Rank	Description	Mapped Area (%)
A	Excellent ecological integrity. Little disturbed by recent human activity or invasive species.	7
A/B		2
B	Good ecological integrity. Lightly disturbed or recovered from past disturbance. Can return to A-rank with protection or management.	54
B/C		1
C	Fair ecological integrity. Strong evidence of human disturbance, but retain some characteristic species.	33
C/D		2
D	Poor ecological integrity. Severely altered by human disturbance or invasive species.	1

Source: MDNR, 2009.

Significant native plant communities in the natural area include Estuary Marsh (Lake Superior), NPC code MRu94a. This coastal wetland community occurs only in estuaries and river mouths influenced by the Lake Superior seiche. The fluctuating water levels of the seiche, caused by wind-driven changes in Lake Superior elevation, can reverse the flow of the river and flush sediment and nutrients back upstream. The MRu94a community is more species-diverse than similar native marsh communities in inland settings. The St. Louis River below the Fond du Lac dam contains the largest area of this community in the state; its only other documented presence is in much smaller patches at river mouths on the north shore of Lake Superior through Lake County, Minnesota.

In Rask Bay and other project areas with large areas of wetlands influenced by the seiche of Lake Superior, there were significant areas of dead or dying woody species, likely past forested or shrub swamps that are currently classified as sedge meadows or marshes. It appears that wetland shrubs and trees have been stressed by higher Lake Superior water levels over the past several years, after experiencing historic low water levels in 2007. The lake elevation at the time of the August 2018 survey was approximately 602.69 feet, compared to a long-term average of 602.13 feet, and a low of 600.43 feet in August 2007. These communities likely fluctuate between open wetland and tree/shrub dominated communities as water levels vary. The presence of NPCs across a range of water elevations helps to preserve the ability of these communities to transition between different NPCs as water levels change.

Natural Water Feature Area

There are four eligible natural water features located within or adjacent to the SLRNA. These include the St. Louis River Estuary and four trout streams, Knowlton Creek, Stewart Creek, Kingsbury Creek, and Keene Creek.

The St. Louis River Estuary is both regionally and globally significant. The St. Louis River is the largest U.S. tributary to Lake Superior and drains over 3,600 square miles of northeastern Minnesota and northwestern Wisconsin. The lower 21 miles of the river bordering the City of Duluth is considered its' estuary, because it is part of the mixing zone with Lake Superior. This 12,000-acre freshwater estuary supports globally important coastal wetland ecosystems and is also the home to the busiest harbor and international port on the Great Lakes.



The diversity of ecosystems in the estuary, including estuarine wetland and aquatic habitats, baymouth bar complex (i.e., Minnesota and Wisconsin Points), and surrounding upland forest, are very unusual in Lake Superior, the Great Lakes Region, and the world (SLRCAC, 2002). The coastal wetlands in the St. Louis River are the largest complex on Lake Superior and provide a significant proportion of biological productivity for the entire lake and serves as the primary source for the more than 40 native fish species found in western Lake Superior, including walleye, lake sturgeon, muskellunge, and northern pike.

Numerous tributary streams drain into the St. Louis River across Duluth, including eight state designated trout streams. Four of these trout streams, Knowlton, Stewart, Kingsbury, and Keene, are located within the nominated SLRNA (Figure 22). These streams are significant natural water features, as they retain temperatures cold enough to support native brook trout populations. In recent years, MNDNR has spent significant effort restoring the Knowlton Creek watershed; restoration work is also planned for Kingsbury and Keene Creeks within the next several years.

Important Bird Congregation Area

The St. Louis River is well-known as an important migratory corridor for birds. Audubon has designed the estuary, from Chambers Grove downstream to Lake Superior and southeast to Wisconsin Point, as an “Important Bird Area” (IBA). It is described by Audubon as one of the best and most popular birding sites in all of Minnesota (Audubon, 2018). The IBA contains an exceptional diversity of bird species, with 76% of the species found in Minnesota every year regularly using the estuary (Audubon, 2018).

The DNAP Guidelines (City of Duluth, 2002) focus on areas where large concentrations of birds occur, termed Important Bird Congregation Areas. These areas are designated globally as locations that provide essential habitat for avian species during some phase of their life cycle. They may be important for species that are vulnerable, threatened, endangered, particular to a certain area, representative of a distinct region, and/or significant concentrations of birds from a diversity of guilds (e.g., waterfowl, shorebirds, migratory landbirds). The specific criteria for an Important Bird Congregation Area given in the DNAP Guidelines (City of Duluth, 2002) include numerical criteria for certain guilds of birds. Guilds are groups of species in a community that exploit the same set of resources in a similar manner, but are not necessarily closely related taxonomically.

To support the nomination of the SLRNA, bird surveys were conducted by researchers from the Natural Resources Research Institute in 2018 (Appendix C). Spring and fall migration and breeding season surveys were completed in each of the nine project areas (Figure 1). Each project area was surveyed 14 times between April and October 2018. A total of 13,953 individuals representing 169 species were documented. Overall, the surveys indicate that the diverse habitats along the St. Louis River and within the proposed natural area provide critical stop-over habitat for a wide diversity of migrating and breeding birds. Based on the 2018 survey results, the SLRNA meets the DNAP criteria for four out of six guilds (Table 4).

Table 4: Comparison of 2018 Bird Survey Results to the DNAP Nomination Criteria

Guild	Description	Number of Individuals	Number of Species	Nomination Criteria Met
Waterfowl	A group of species that are highly adapted to living on the surface of the water and include ducks, geese, and swans.	5,184	22	✓
Shorebirds	Birds that live in wet or coastal environments; most species are commonly found wading along shorelines	126	12	✓



	while foraging for food in mud or sand such as sandpipers, plovers, and yellowlegs.			
Waterbirds	Birds that live on or around water and have special adaptations such as webbed feet, bills and legs adapted to feed in water, and the ability to dive from the surface or the air to catch prey in water. Examples of waterbirds include pelicans, kingfishers, grebes.	995	14	✓
Raptors	Known as “birds of prey” and consist of species that primarily hunt and feed on vertebrates this group includes hawks, falcons, and eagles.	158	12	Not well assessed by survey methods
Wading Birds	Wading birds refer to birds that wade through shallow water while foraging (e.g. bitterns, herons, cranes).	44	5	
Migratory Landbirds	Refers largely to passerines or perching birds (e.g., warblers, sparrows, woodpeckers) for the purposes of these surveys.	7,373	99	✓

Twenty-three of the 169 total species observed in the 2018 survey are sensitive bird species (defined as endangered, threatened, or of special concern). These are described in the “Special Species Area” section below.

Special Species Area

The SLRNA is being nominated as a Special Species Area due to the presence of sensitive plant and sensitive bird species.

Sensitive Plant Species

Sensitive plant surveys were conducted in the SLRNA in the summer of 2018 by scientists at SEH (SEH, 2018). One state-listed endangered species, pale sedge (*Carex pallescens*), and two state-listed special concern species, discoid beggarticks (*Bidens discoidea*) and soapberry (*Shepherdia canadensis*), were found. Plant communities in the corridor may also provide suitable habitat for other rare species, including state-listed special concern narrow reedgrass (*Calamagrostis lacustris*) and state-listed endangered two leaf waterweed (*Elodea bifoliata*).

The estuary marsh (Lake Superior), MRu94a, habitat is suitable for discoid beggarticks, which was found in four of the nine project areas. The proposed natural area contains 118 acres of this NPC. Soapberry was found in an area of upland forest, while pale sedge was found in wet meadow.

Sensitive Bird Species

Bird surveys were conducted within the SLRNA in 2018 by researchers from NRRI, as described above. A large number of species (169) were observed. Of these, 52 are species that are deemed “sensitive species” based on their designation as species of greatest conservation need (SCGN); U.S. shorebirds of conservation concern (SHCC); waterbirds of conservation concern (WACC); Partners in Flight species of continental concern (PIF), and U.S. Fish & Wildlife Service (USFWS) Region 3 and/or national birds of conservation concern (USFWS Regional or National).



Birds may be listed for many reasons, including steep population declines, elevated threats, or small populations and ranges. The sensitive bird species in the SLRNA are given in Table 5.

Table 5: Sensitive Bird Species Observed During 2018 Surveys

Species	Listing
American Black Duck	SGCN
American Bittern	USFWS Regional, SGCN, WACC
American Kestrel	SGCN
American White Pelican	SGCN, WACC
Bald Eagle	USFWS National/Regional
Baird's Sandpiper	SHCC
Black-billed Cuckoo	USFWS Regional, SGCN, PIF
Belted Kingfisher	SGCN
Bobolink	SGCN, PIF
Bonaparte's Gull	WACC
Brown Thrasher	SGCN
Caspian Tern	WACC
Canada Warbler	USFWS National/Regional, PIF
Chimney Swift	SGCN
Common Loon	SGCN, WACC
Common Merganser	SGCN
Common Tern	USFWS Regional, SGCN, WACC
Dunlin	USFWS National, SHCC
Evening Grosbeak	SGCN, PIF
Forster's Tern	SGCN, WACC
Greater Yellowlegs	SGCN, SHCC
Green Heron	WACC
Golden-winged Warbler	USFWS National/Regional, SGCN, PIF
Herring Gull	WACC
Horned Grebe	USFWS Regional, SGCN, WACC
Killdeer	SHCC
Least Bittern	USFWS Regional, SGCN, WACC
Least Sandpiper	SHCC
Lesser Scaup	SGCN
Lesser Yellowlegs	USFWS National, SHCC
Northern Harrier	SGCN
Northern Pintail	SGCN
Northern Rough-winged Swallow	SGCN
Olive Sided Flycatcher	USFWS National/Regional, SGCN, PIF
Peregrine Falcon	USFWS National/Regional, SGCN
Pectoral Sandpiper	SHCC
Philadelphia Vireo	SGCN
Pied-billed Grebe	USFWS Regional, WACC
Purple Finch	SGCN
Red-necked Grebe	SGCN, WACC
Red-shouldered Hawk	SGCN
Rusty Blackbird	USFWS National/Regional
Semipalmated Plover	SHCC



Semipalmated Sandpiper	USFWS National, SGCN, SHCC
Sedge Wren	SGCN
Sora	WACC
Solitary Sandpiper	USFWS National/Regional, SHCC
Spotted Sandpiper	SHCC
Trumpeter Swan	SGCN
Veery	SGCN
Virginia Rail	SGCN
Wilson's Snipe	SHCC

Geological Landform Area

The SLRNA has an interesting geologic history. It is located in the immediate drainage basin of a geological landform, the St. Louis River, which was significant in the formation of Lake Superior and the Great Lakes during the Post Glacial changes that followed the Great Ice Age. The geomorphology of the St. Louis River Estuary clearly depicts the natural process instrumental to the development of the present landscape of Duluth.

The St. Louis River was the largest tributary to Glacial Lake Duluth, which formed due to the retreat of the Ice Age glaciers approximately 11,500 years ago at the end of the Pleistocene era. The Great Lakes were slowly formed as the glaciers retreated and drainage outlets formed further and further east, connecting portions of the large basin that had been carved by the glaciers. The weight of the glacial mass depressed the Earth's crust, such that the elevation of the basin's outlet at Sault St. Marie was much lower than its current elevation, and the glacial deposits that had formed at the Duluth end of the lakes from the many tributaries draining into it were exposed. The St. Louis River then cut through the glacial moraine on its way to the new lower lake, whose elevation was approximately 200' lower than the current elevation of Lake Superior. Once the Earth's crust started to slowly rebound, water levels began to rise and fill in the St. Louis River valley, creating the current estuary, which is essentially a drowned river valley (Green, 1996).

Evidence of the drowned river valley is present in the form of the back waters of Rask Bay, North Bay, Radio Tower Bay, and Kingsbury Bay in the SLRNA (Figure 1). (The clay soils present throughout much of Duluth are evidence of the bed of Glacial Lake Duluth.)

Bedrock geology in the SLRNA is from the Midcontinent Rift, which is a long rift located in the center of North America that formed when the geological core of the North American continent began to split apart during the Precambrian period. From the Chambers Grove project area downstream to the North Bay project area, sedimentary sandstone and shale from the Fond du Lac formation are present. From the Radio Tower Bay project area to the Grassy Point project area, bedrock has not been mapped in the floodplain areas. However, the layered series of Troctolite and Gabbro of the Duluth Complex is present in the more elevated areas (USGS, 2006).

The surficial geology present in the natural area is predominantly floodplain alluvium and disturbed sediment from the current interglacial Hudson period within the low-lying floodplain areas (Minnesota Geological Survey, 2009). Till deposits from the Barnum period of the Wisconsin Episode, the last glaciation period, are present in the more elevated areas (Minnesota Geological Survey, 2009).



References

- Audubon. 2018. Important Bird Areas: St. Louis River Estuary, Minnesota. Retrieved from <https://www.audubon.org/important-bird-areas/st-louis-river-estuary>. Accessed December 20, 2018.
- City of Duluth. 2002. Guidelines for the Permanent Protection of Ecologically Significant Lands in Duluth, Minnesota. Duluth Natural Areas Program Guidelines with Appendices.
- Green, John C. 1996. Geology on Display: Geology and Scenery of Minnesota's North Shore State Parks. State of Minnesota Department of Natural Resources.
- Minnesota Geological Survey. 2009. Surficial Geology of the West Duluth Quadrangle, St. Louis County, Minnesota by Howard C. Hobbs.
- Minnesota Department of Natural Resources (MDNR). 2003. Field Guide to the Native Plant Communities of Minnesota: the Laurentian Mixed Forest Province. Ecological Land Classification Program, Minnesota County Biological Survey, and Natural Heritage and Nongame Research Program. MDNR St. Paul, MN.
- Minnesota Department of Natural Resources (MDNR). 2009. Guidelines for Assigning Statewide Biodiversity Significance Ranks to Minnesota County Biological Survey Sites. Guidance document, 2 pp. MDNR St. Paul, MN.
- Natural Resources Research Institute (NRRI). 2018. St. Louis River Natural Area Project. Nomination Report Important Bird Congregation Area.
- St. Louis River Citizens Action Committee (SLRCAC). 2002. Lower St. Louis River Habitat Plan.
- United States Geological Survey (USGS). 2006. Geomorphic Characteristics and Classification of Duluth-Area Streams, Minnesota. Scientific Investigations Report 2006-5029.





Figures

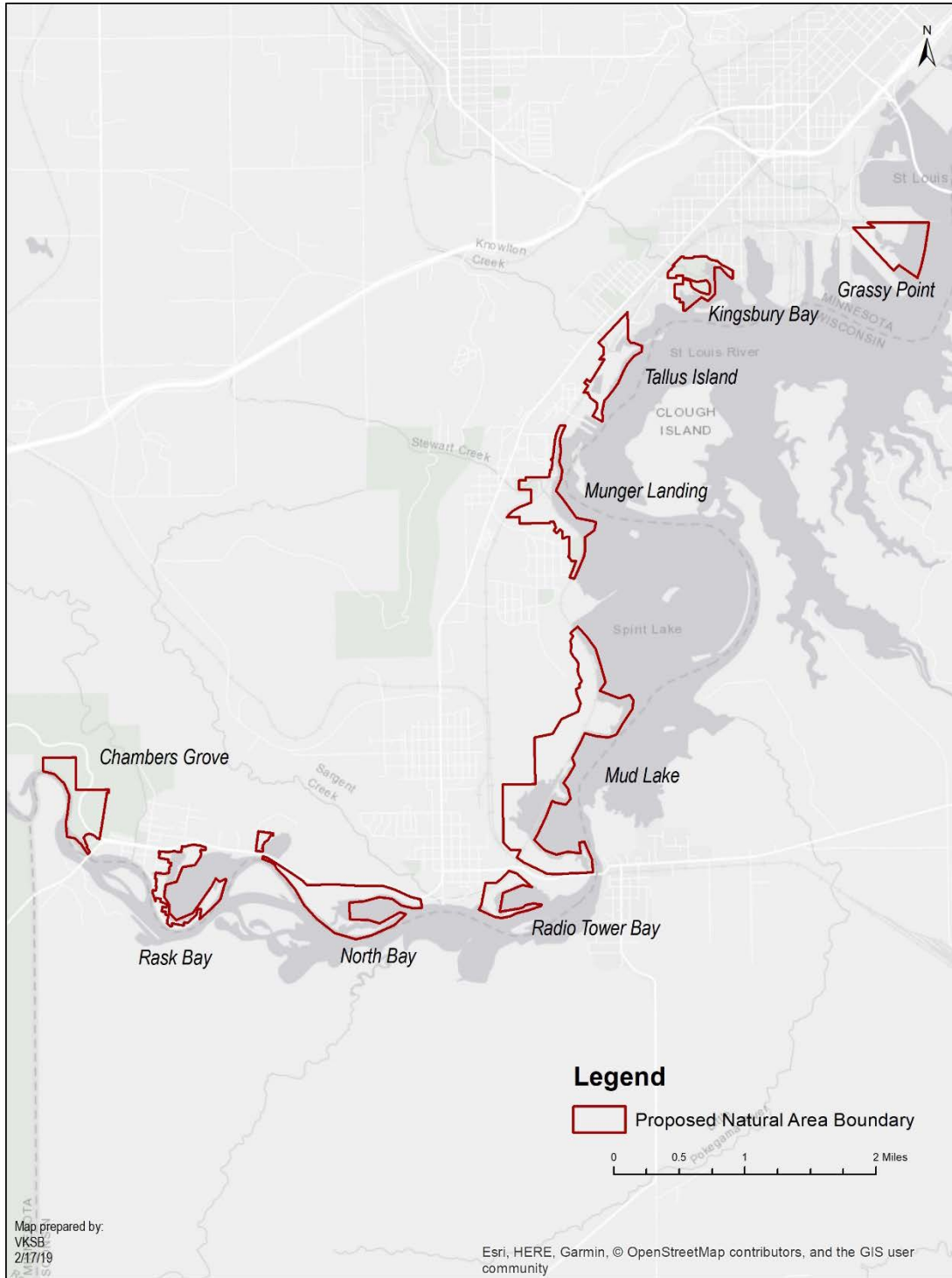


Figure 1: Proposed St. Louis River Natural Area

Inclusion in the natural area subject to landowner assent.

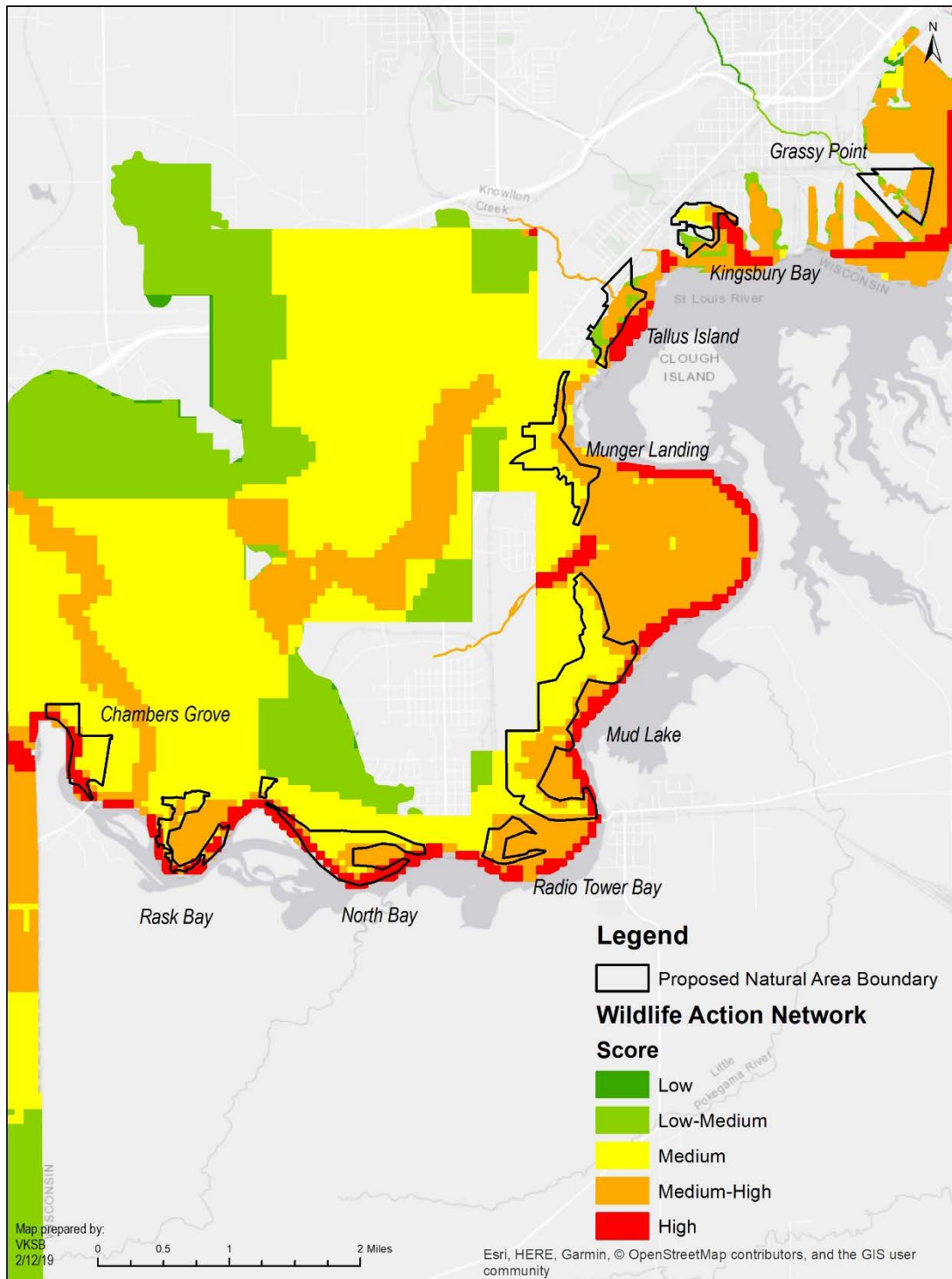


Figure 2: Wildlife Action Network Along the St. Louis River

Inclusion in the natural area subject to landowner assent.

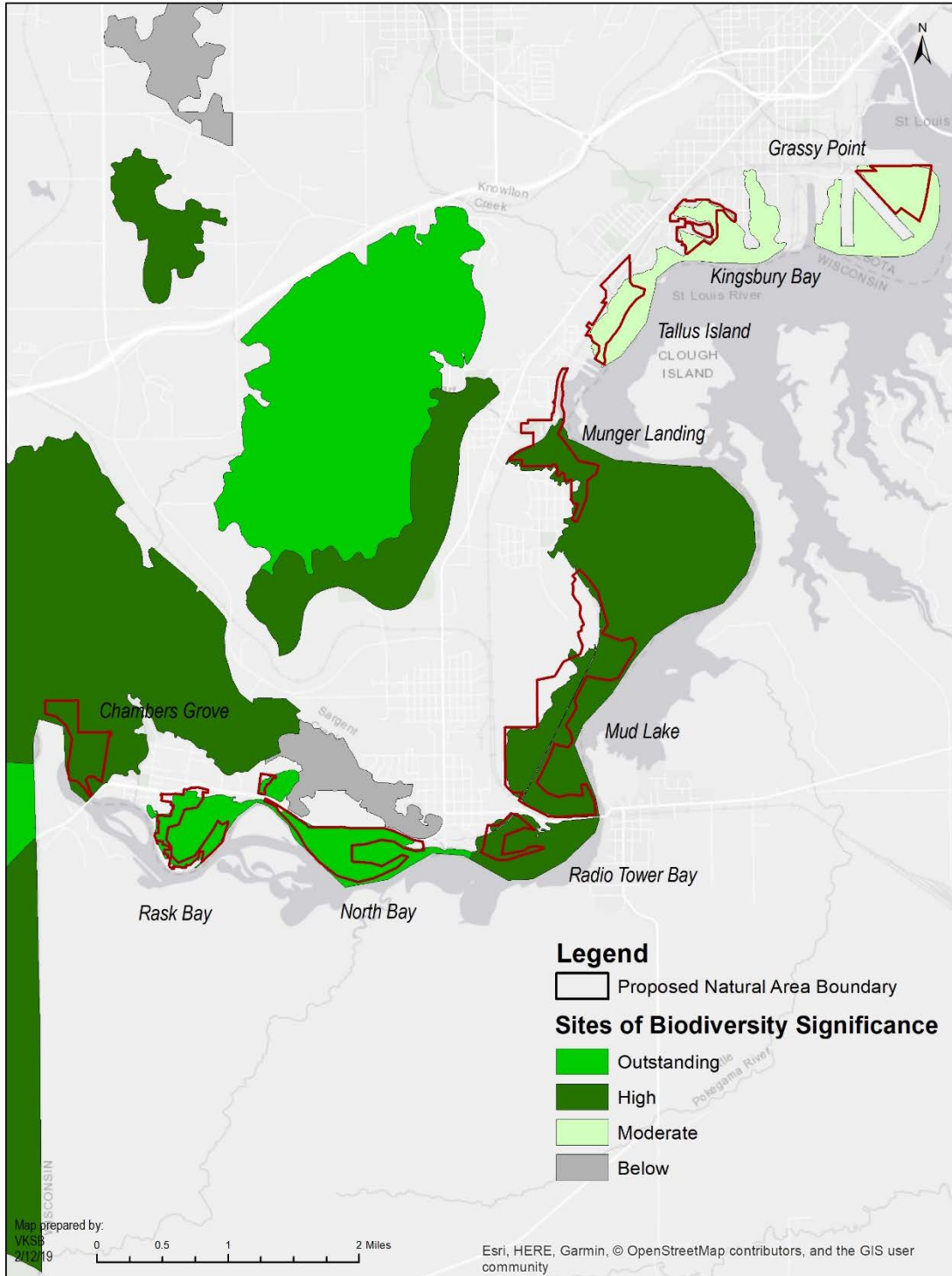


Figure 3: Sites of Biodiversity Significance Along the St. Louis River

Inclusion in the natural area subject to landowner assent.

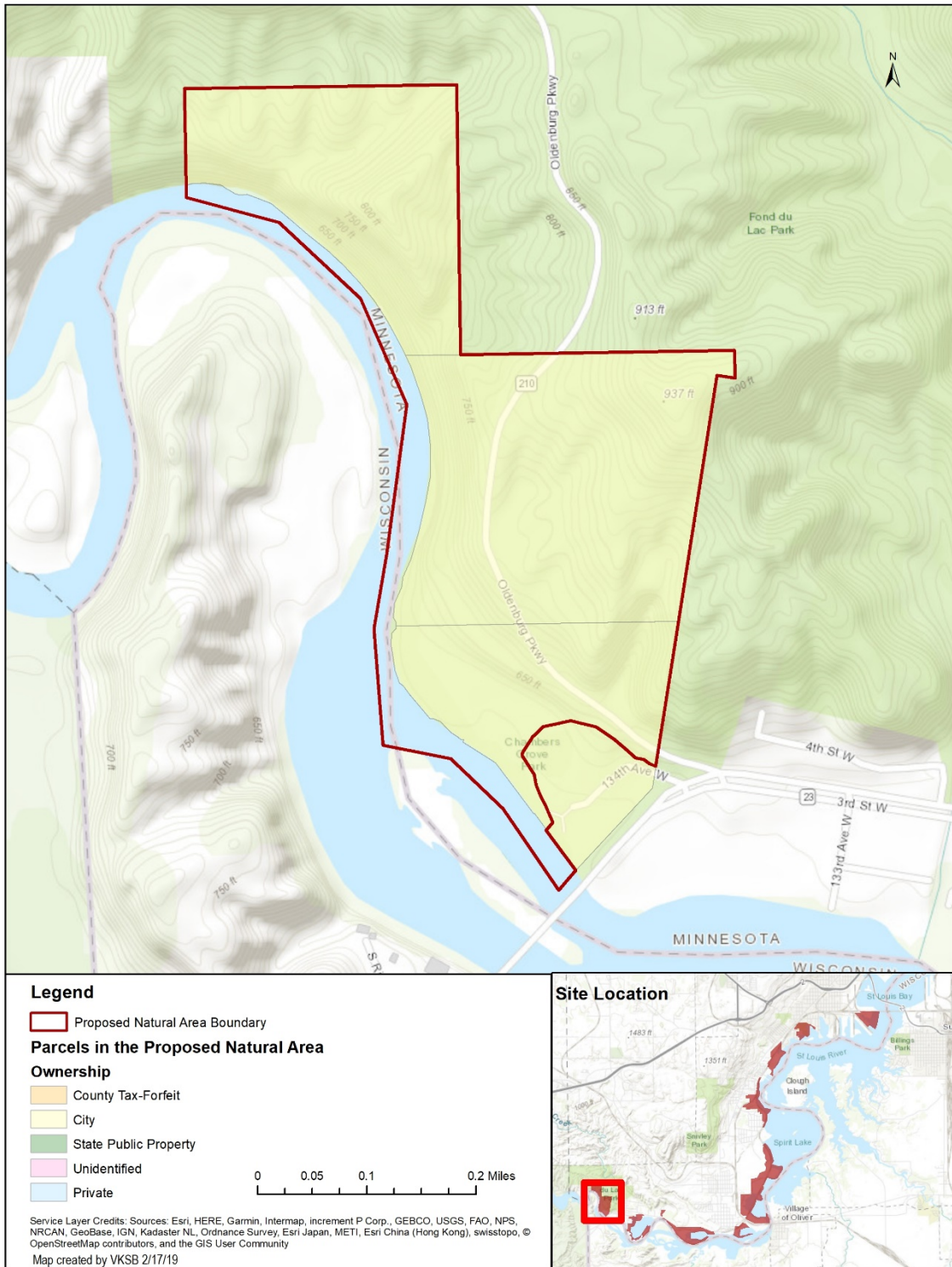


Figure 4: Property Ownership in the Chambers Grove Project Area



Figure 5: Property Ownership in the Risk Bay Project Area

Inclusion in the natural area subject to landowner assent.

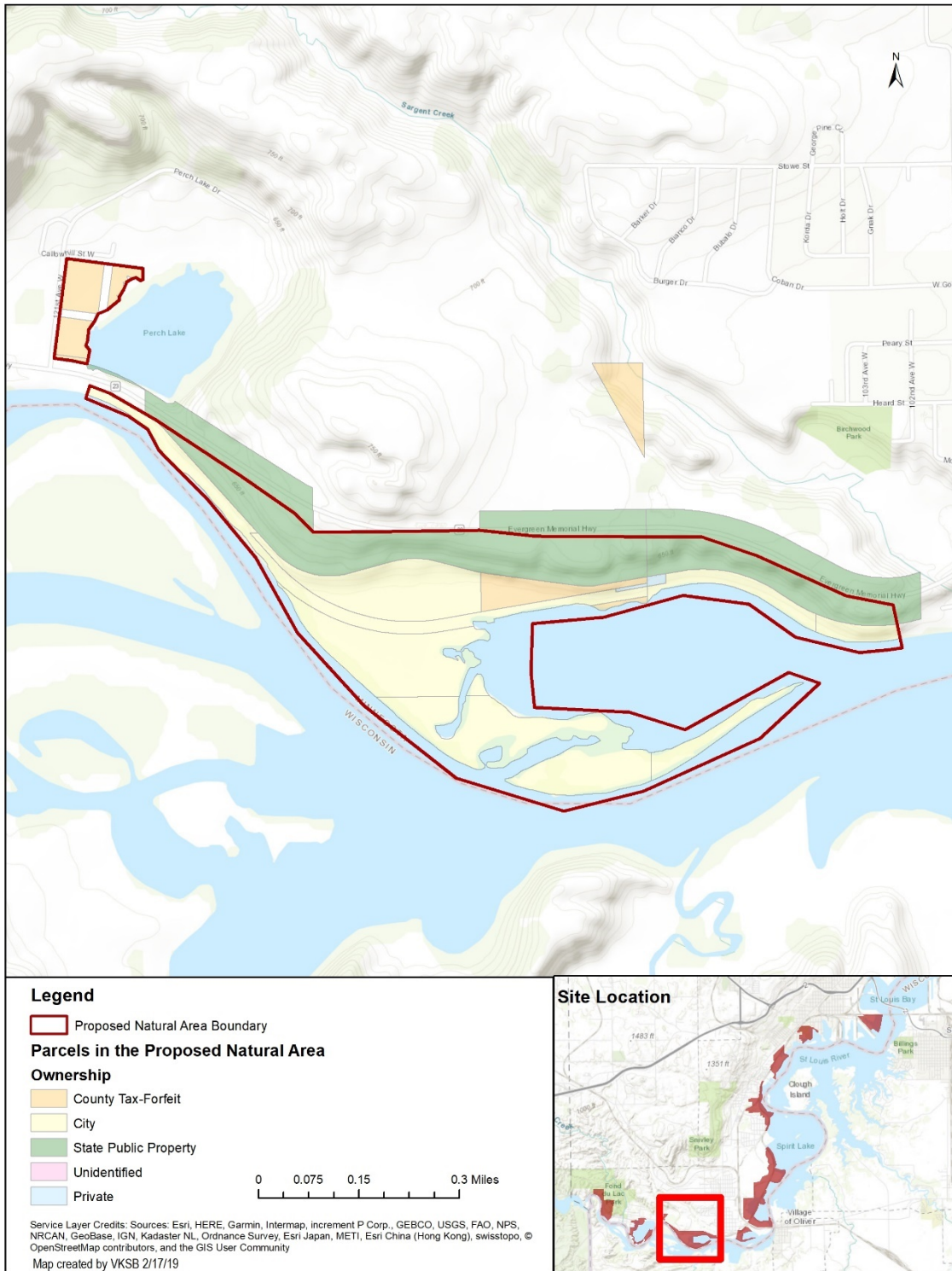


Figure 6: Property Ownership in the North Bay Project Area

Inclusion in the natural area subject to landowner assent.

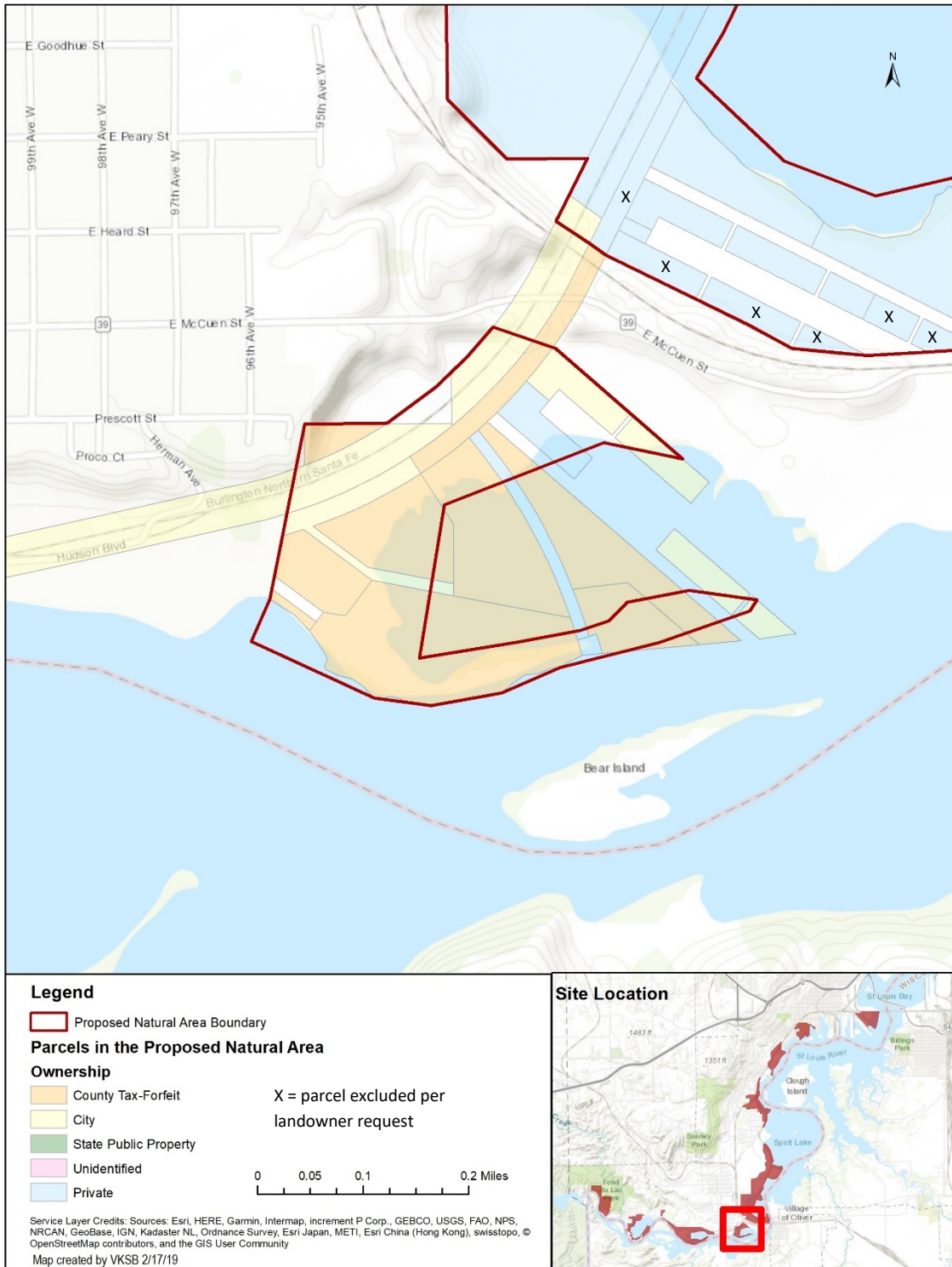


Figure 7: Property Ownership in the Radio Tower Bay Project Area

Inclusion in the natural area subject to landowner assent.

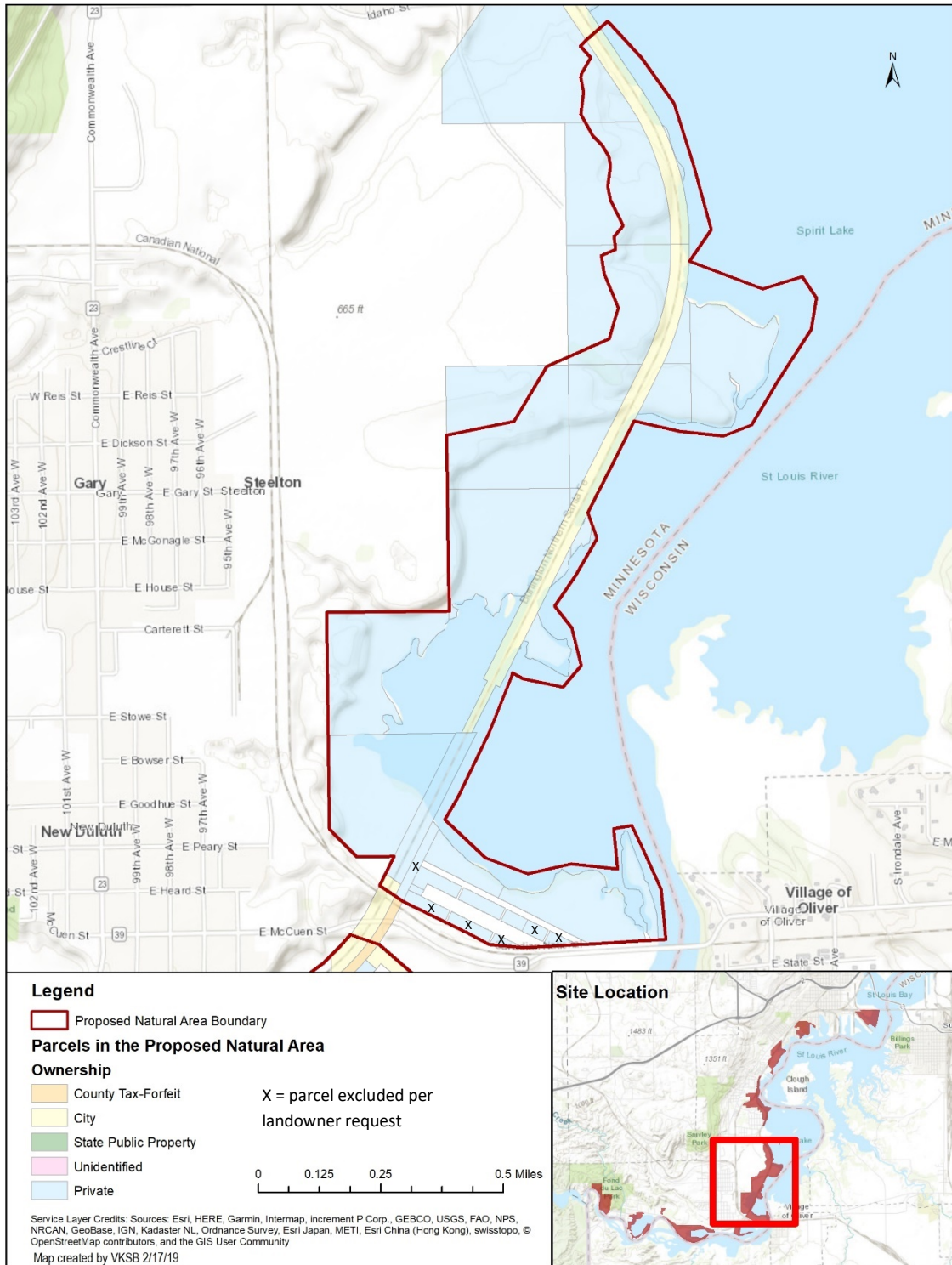


Figure 8: Property Ownership in the Mud Lake Project Area

Inclusion in the natural area subject to landowner assent.

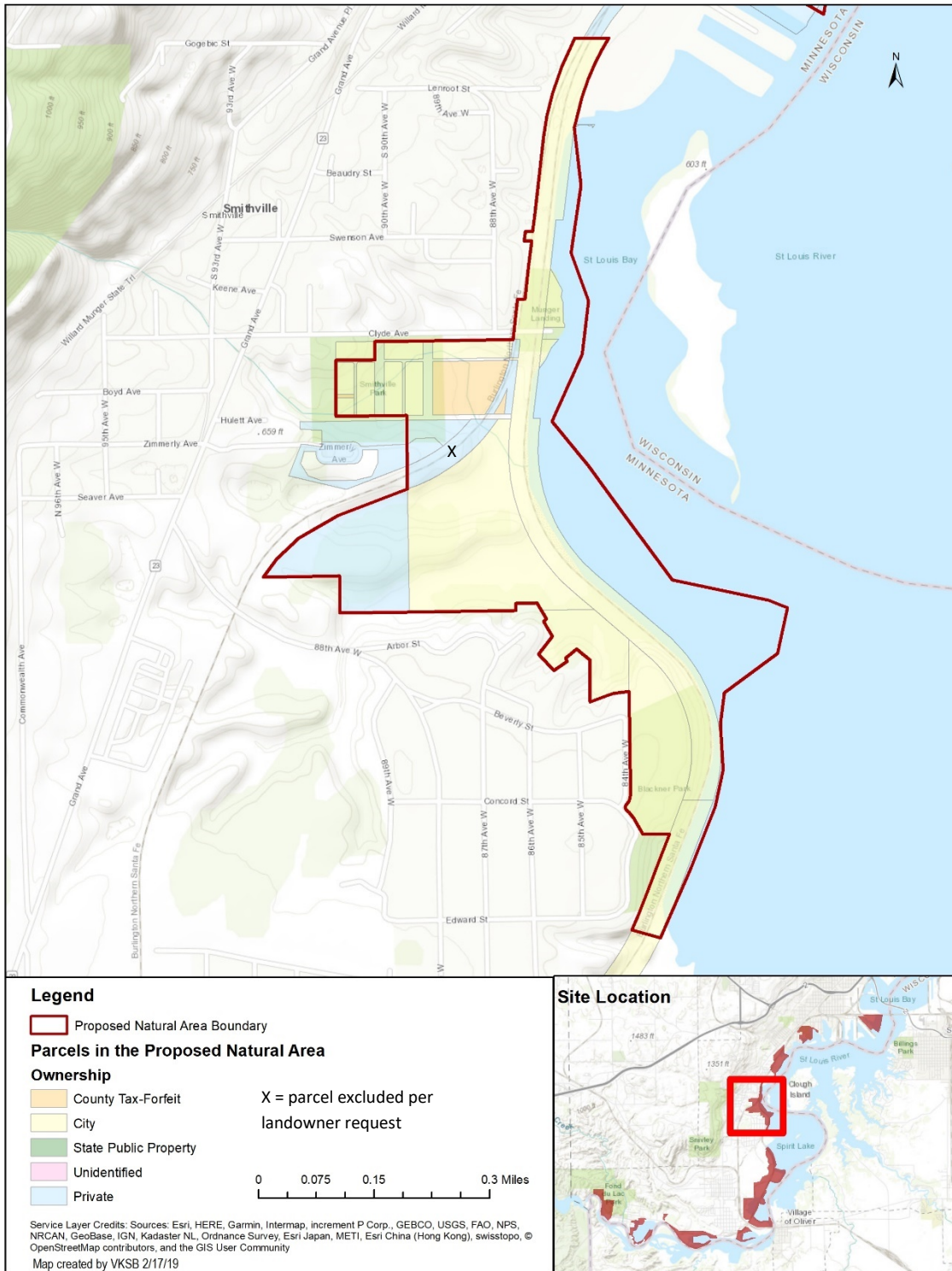


Figure 9: Property Ownership in the Munger Landing Project Area

Inclusion in the natural area subject to landowner assent.

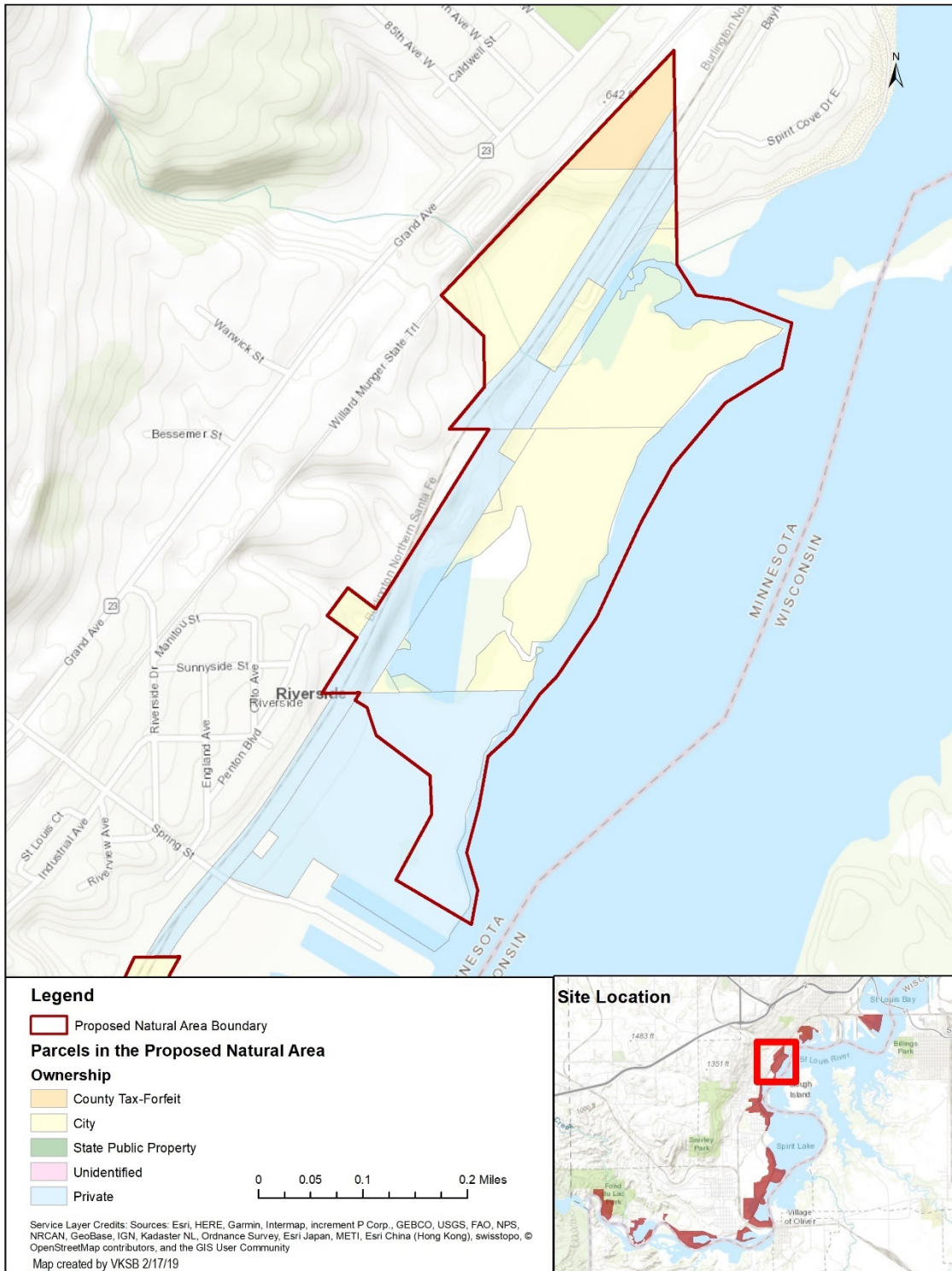


Figure 10: Property Ownership in the Tallus Island Project Area

Inclusion in the natural area subject to landowner assent.



Figure 11: Property Ownership in the Kingsbury Bay Project Area

Inclusion in the natural area subject to landowner assent.

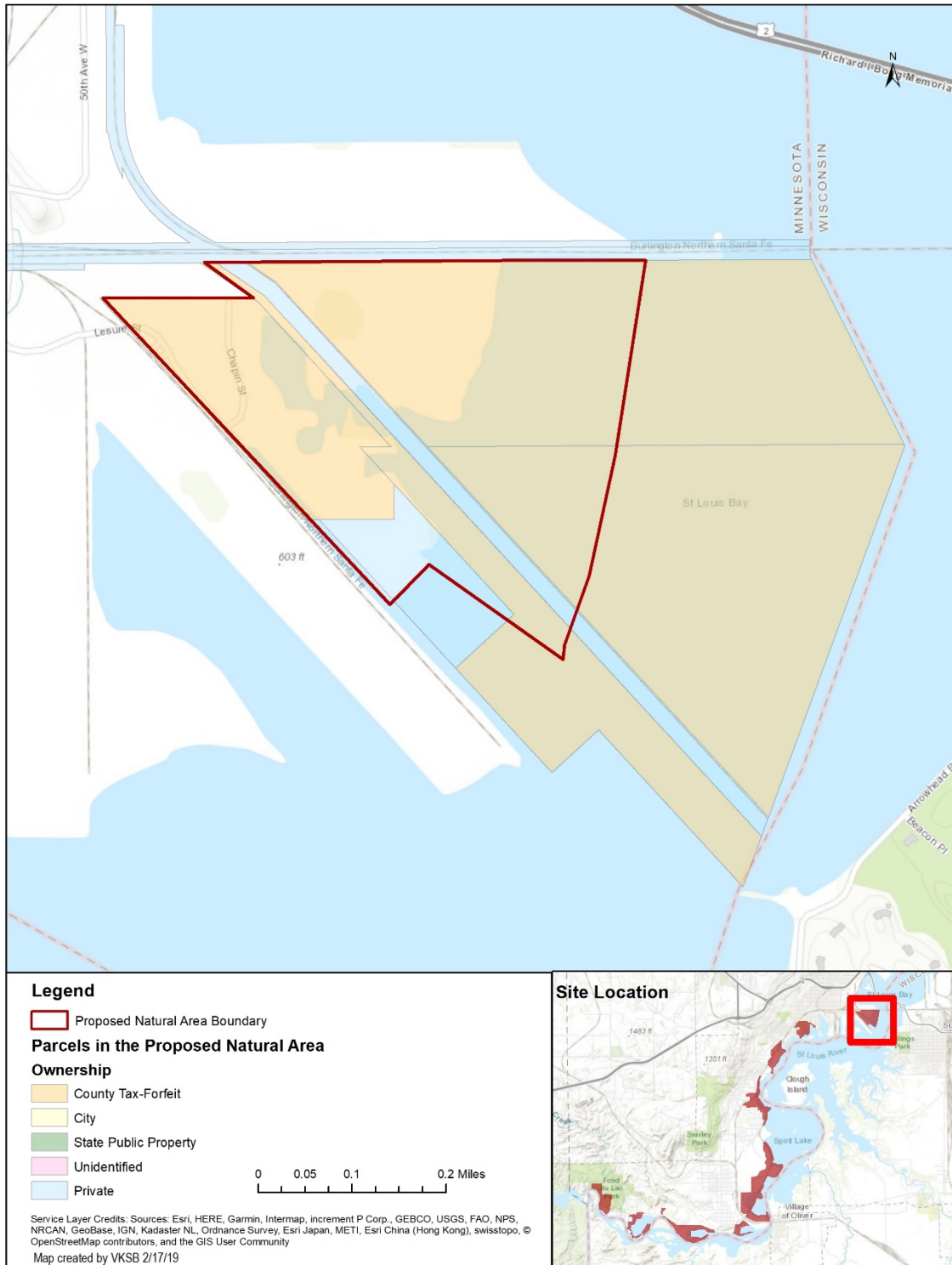


Figure 12: Property Ownership in the Grassy Point Project Area

Inclusion in the natural area subject to landowner assent.

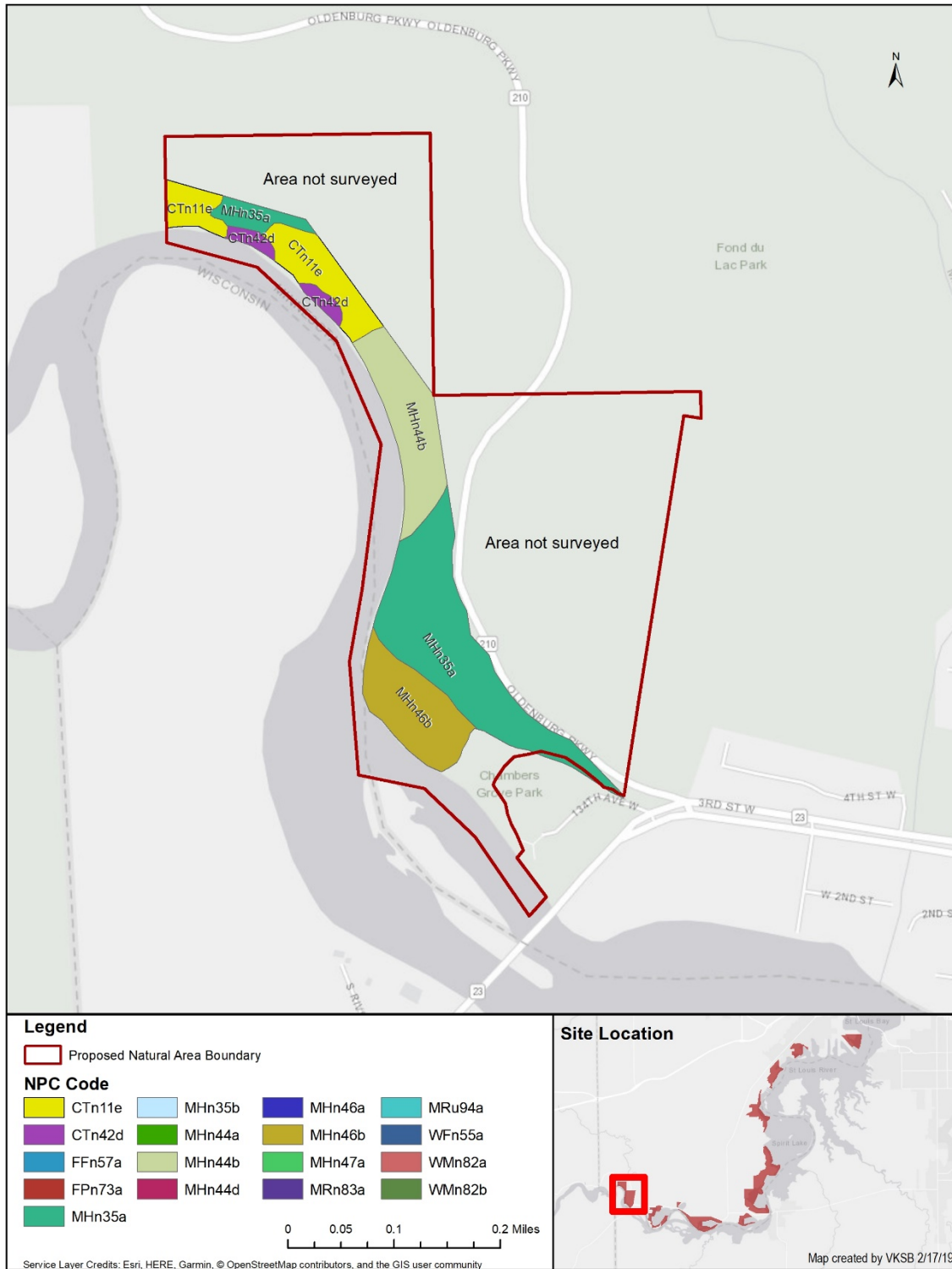


Figure 13: Native Plant Communities in the Chambers Grove Project Area

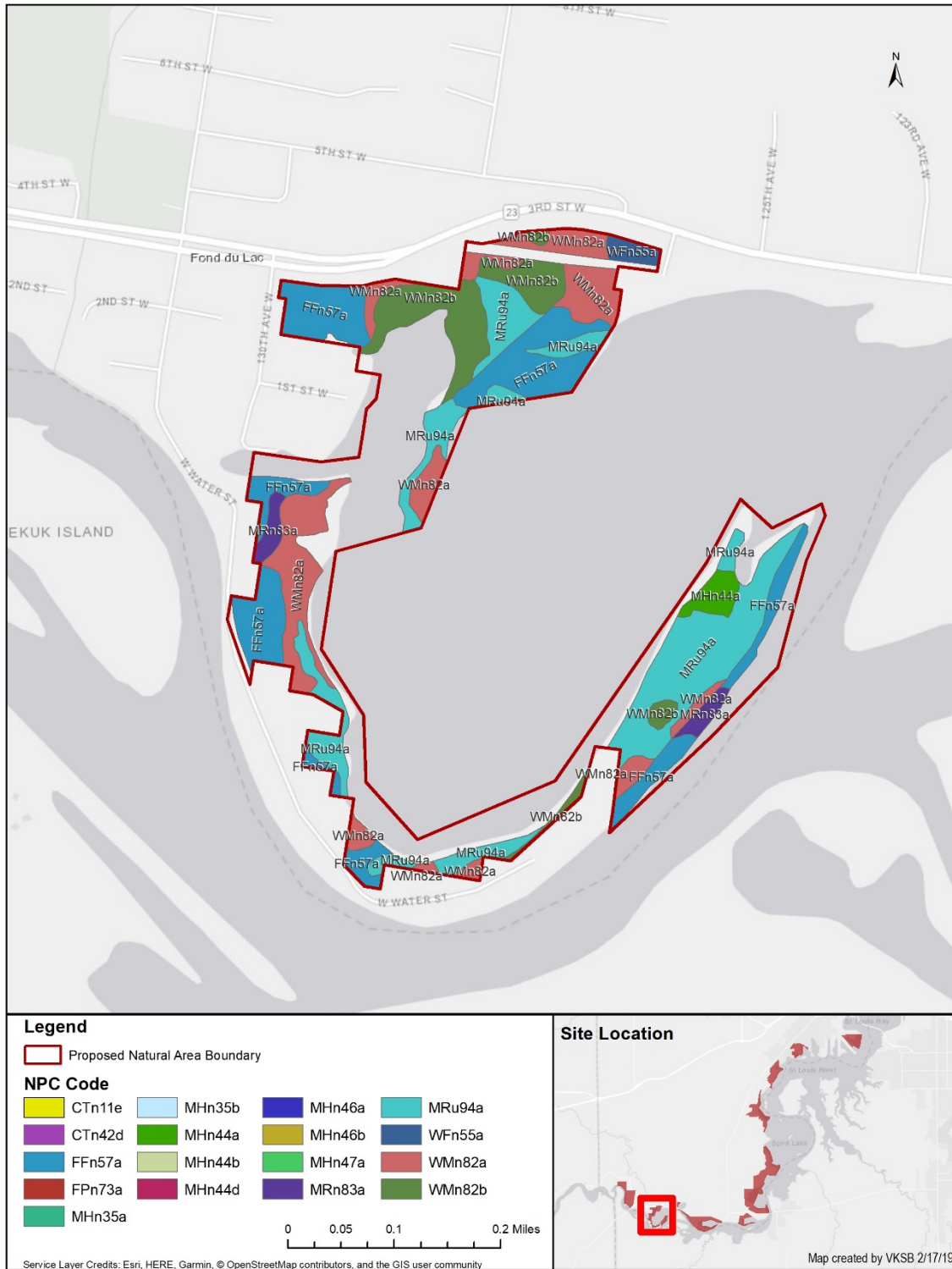


Figure 14: Native Plant Communities in the Rask Bay Project Area

Inclusion in the natural area subject to landowner assent.

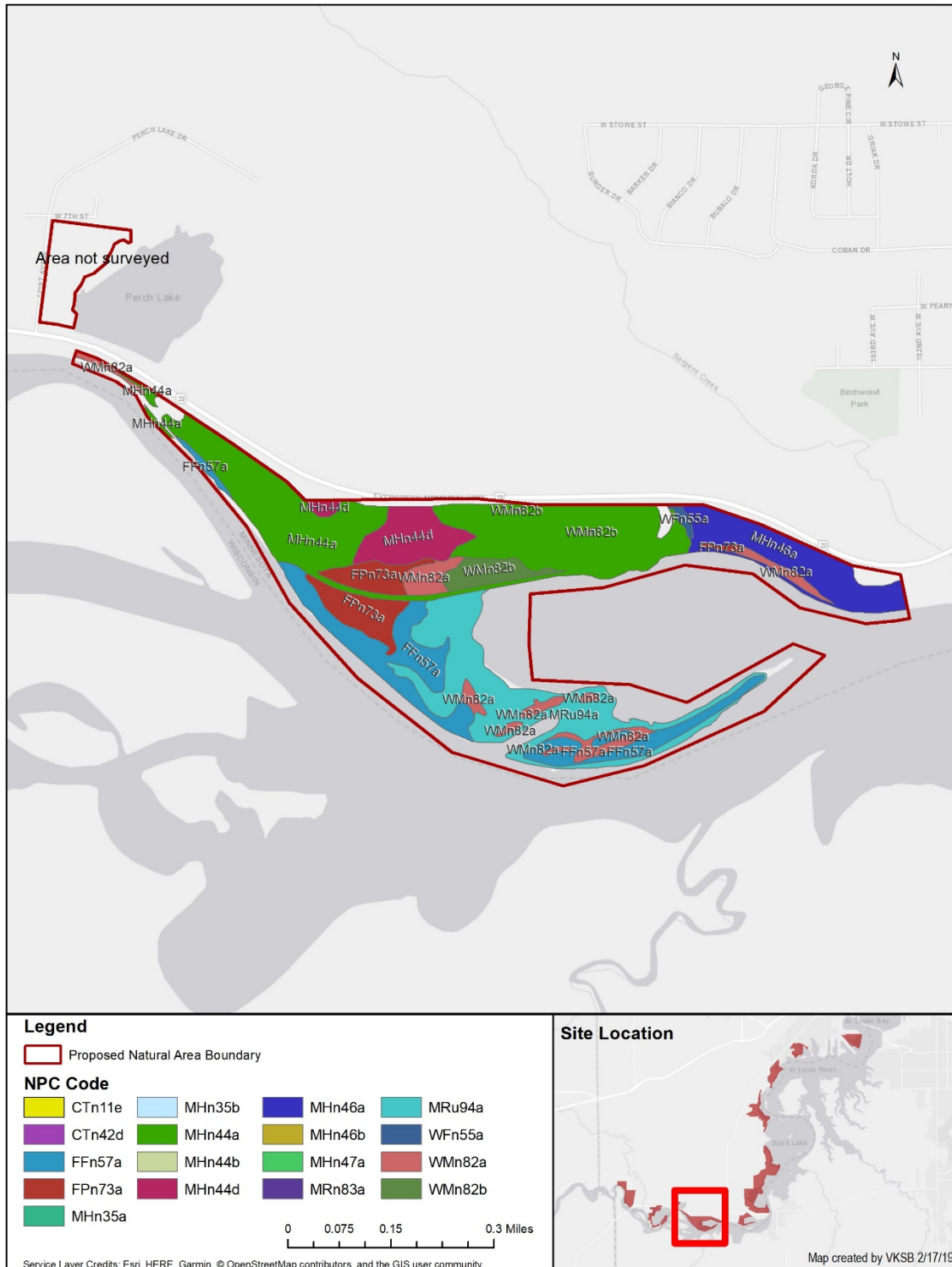


Figure 15: Native Plant Communities in the North Bay Project Area

Inclusion in the natural area subject to landowner assent.

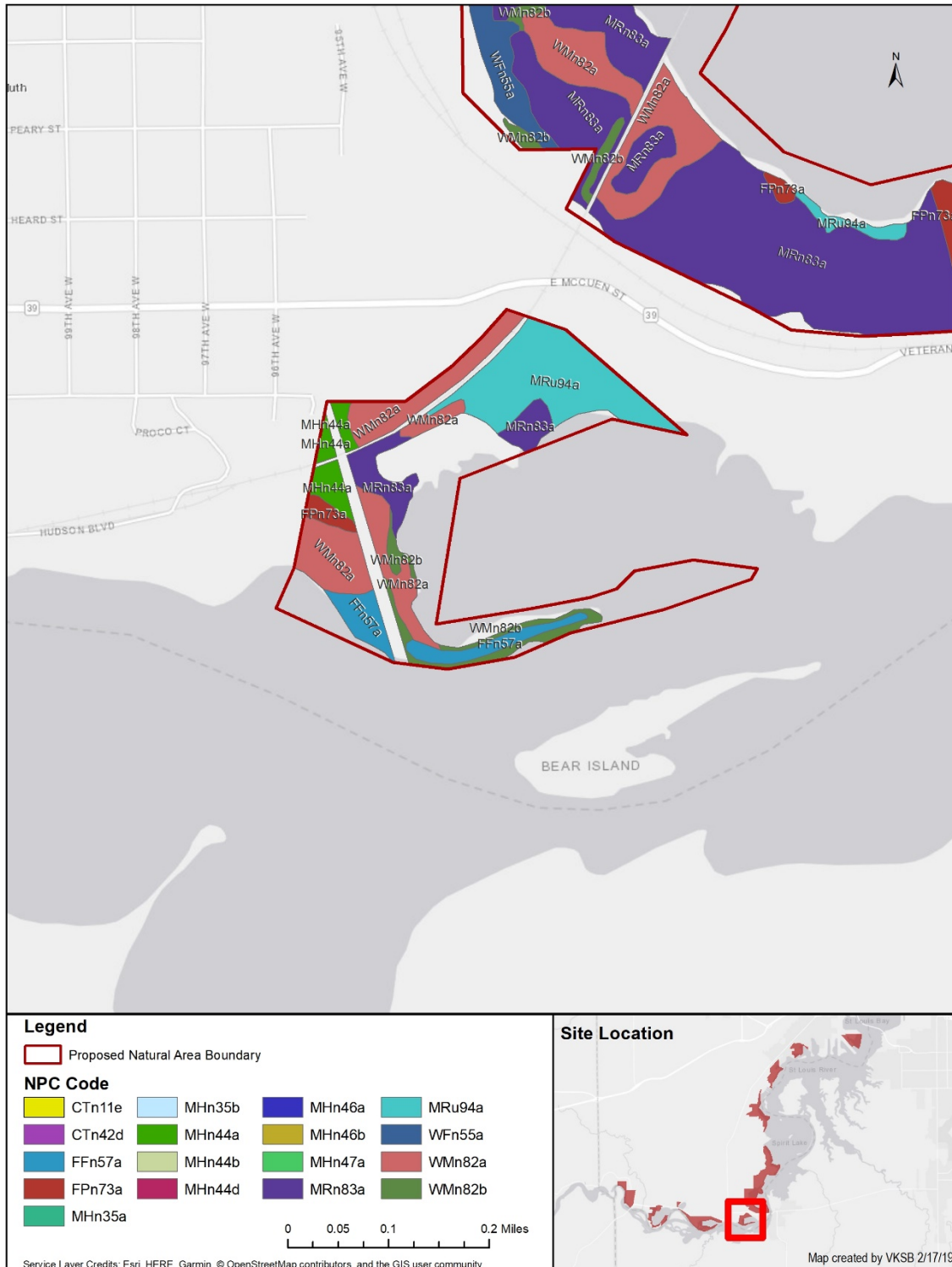


Figure 16: Native Plant Communities in the Radio Tower Bay Project Area

Inclusion in the natural area subject to landowner assent.

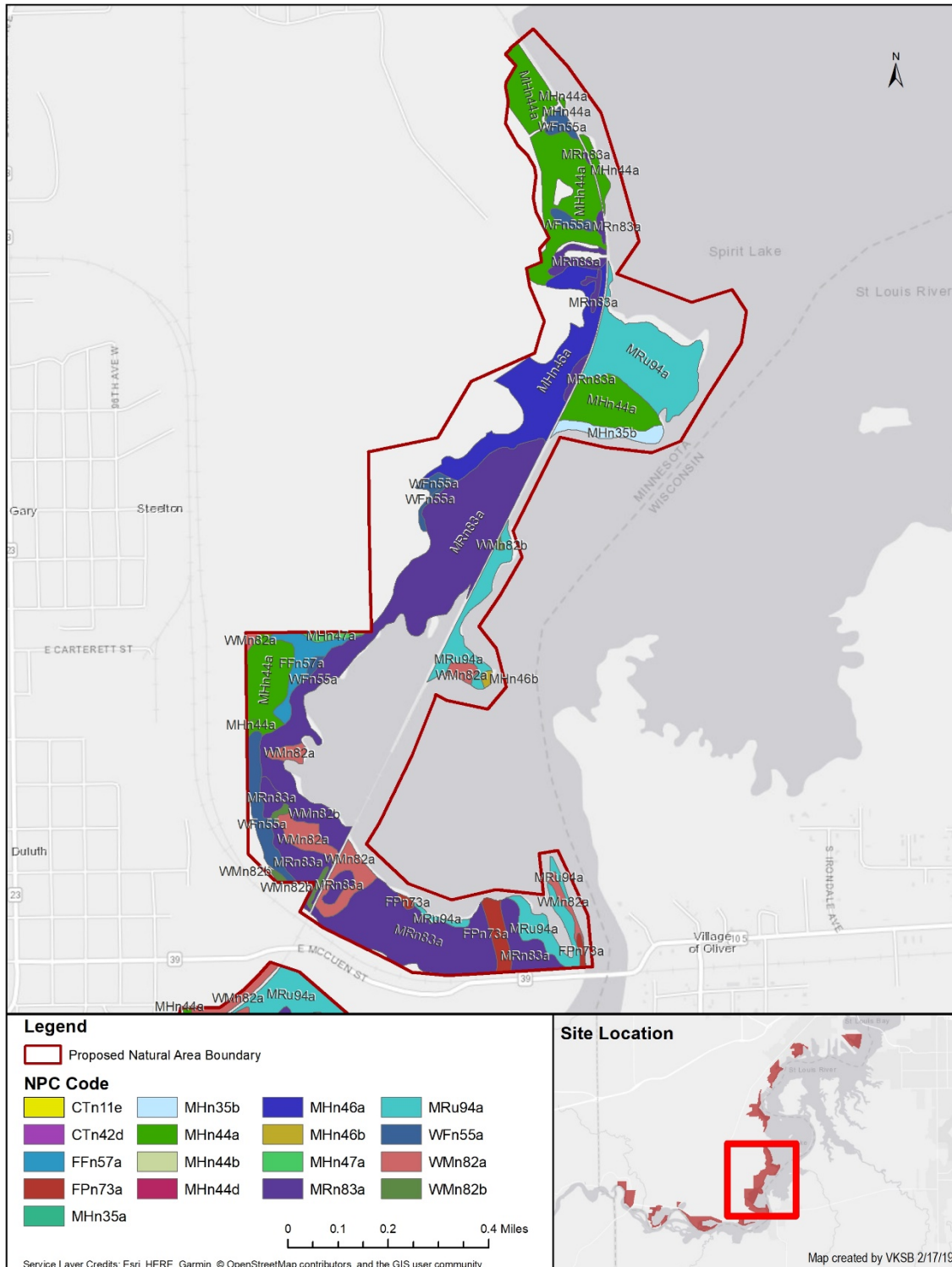


Figure 17: Native Plant Communities in the Mud Lake Project Area

Inclusion in the natural area subject to landowner assent.

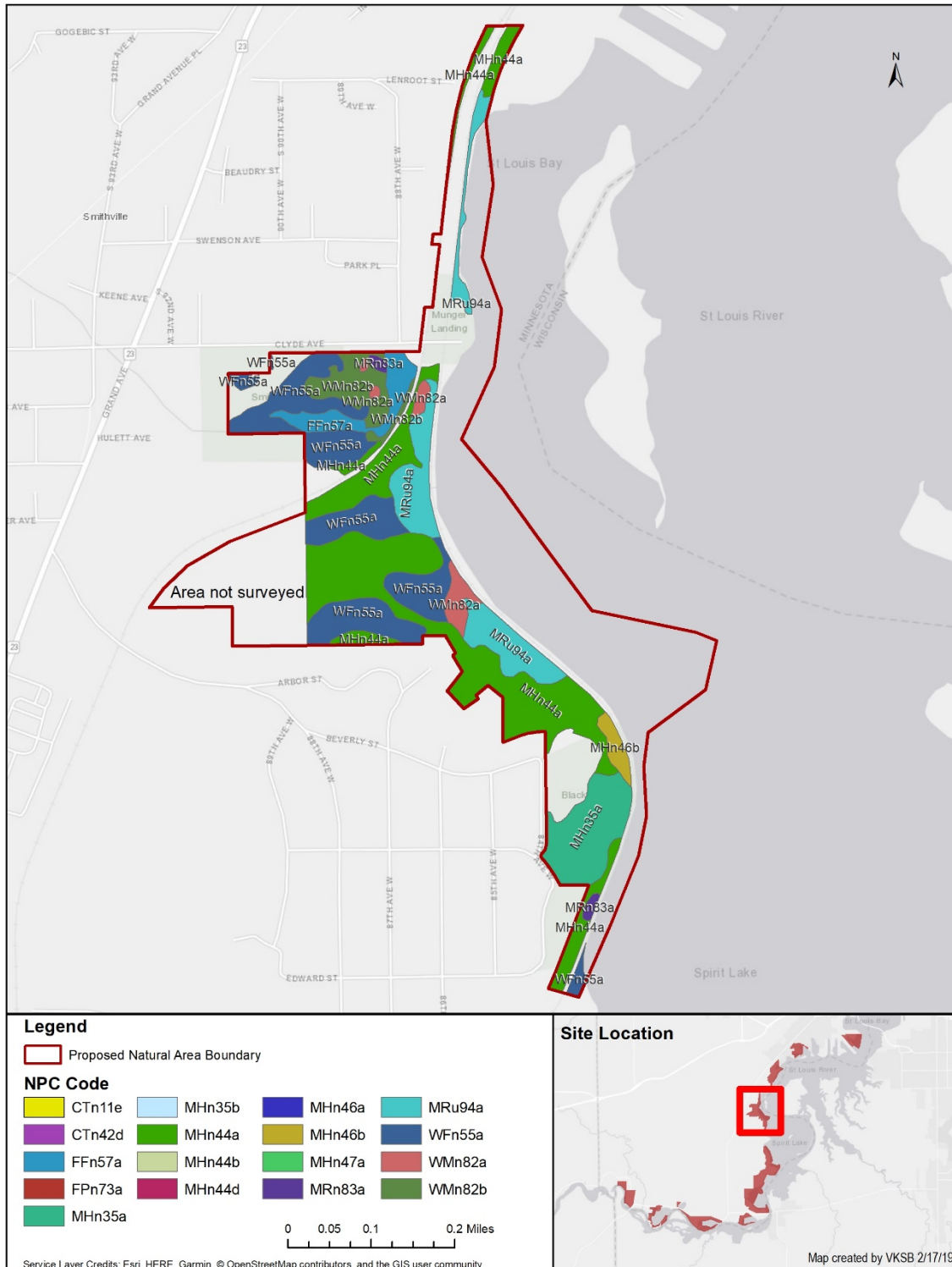


Figure 18: Native Plant Communities in the Munger Landing Project Area

Inclusion in the natural area subject to landowner assent.

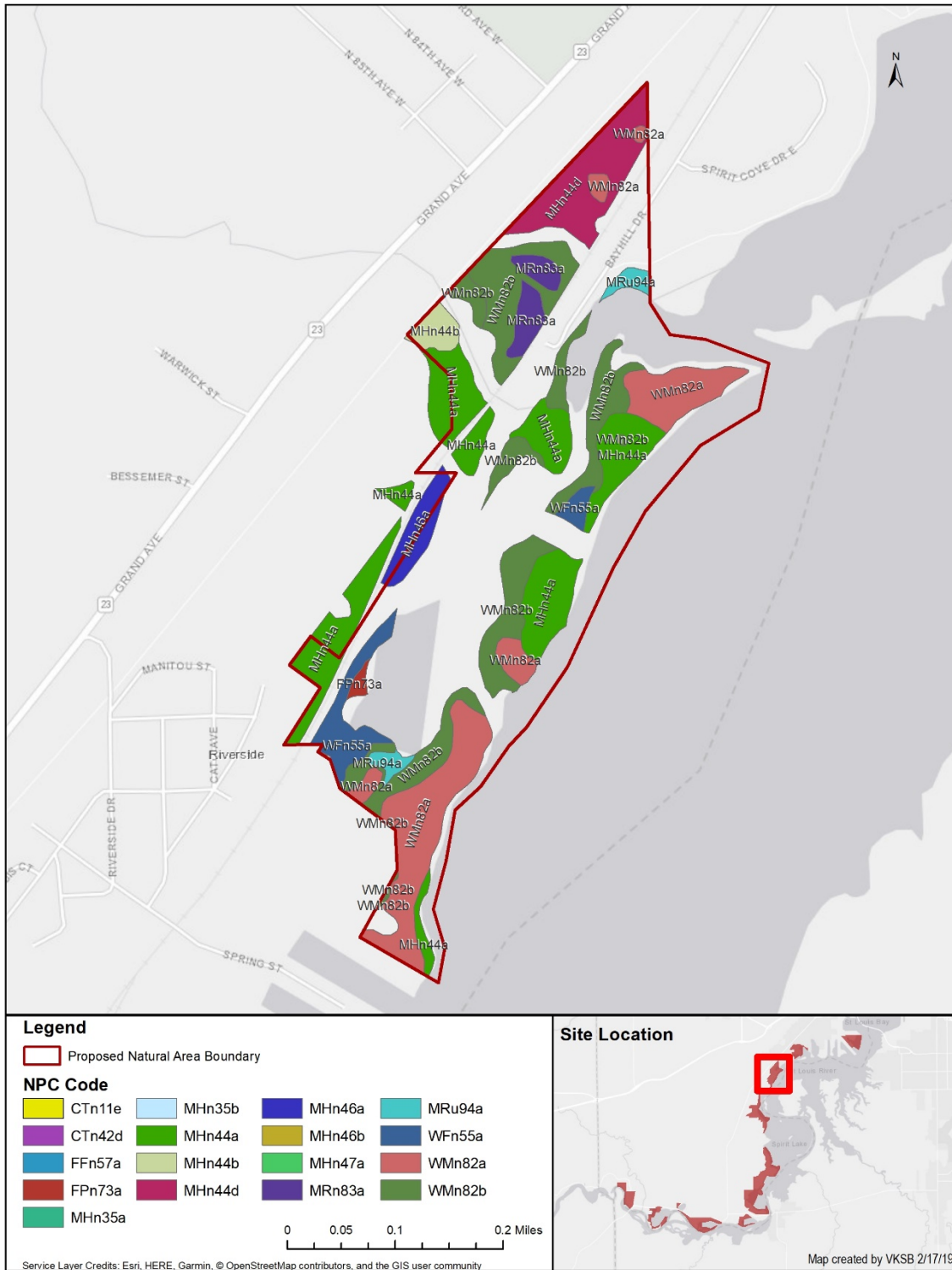


Figure 19: Native Plant Communities in the Tallus Island Area

Inclusion in the natural area subject to landowner assent.

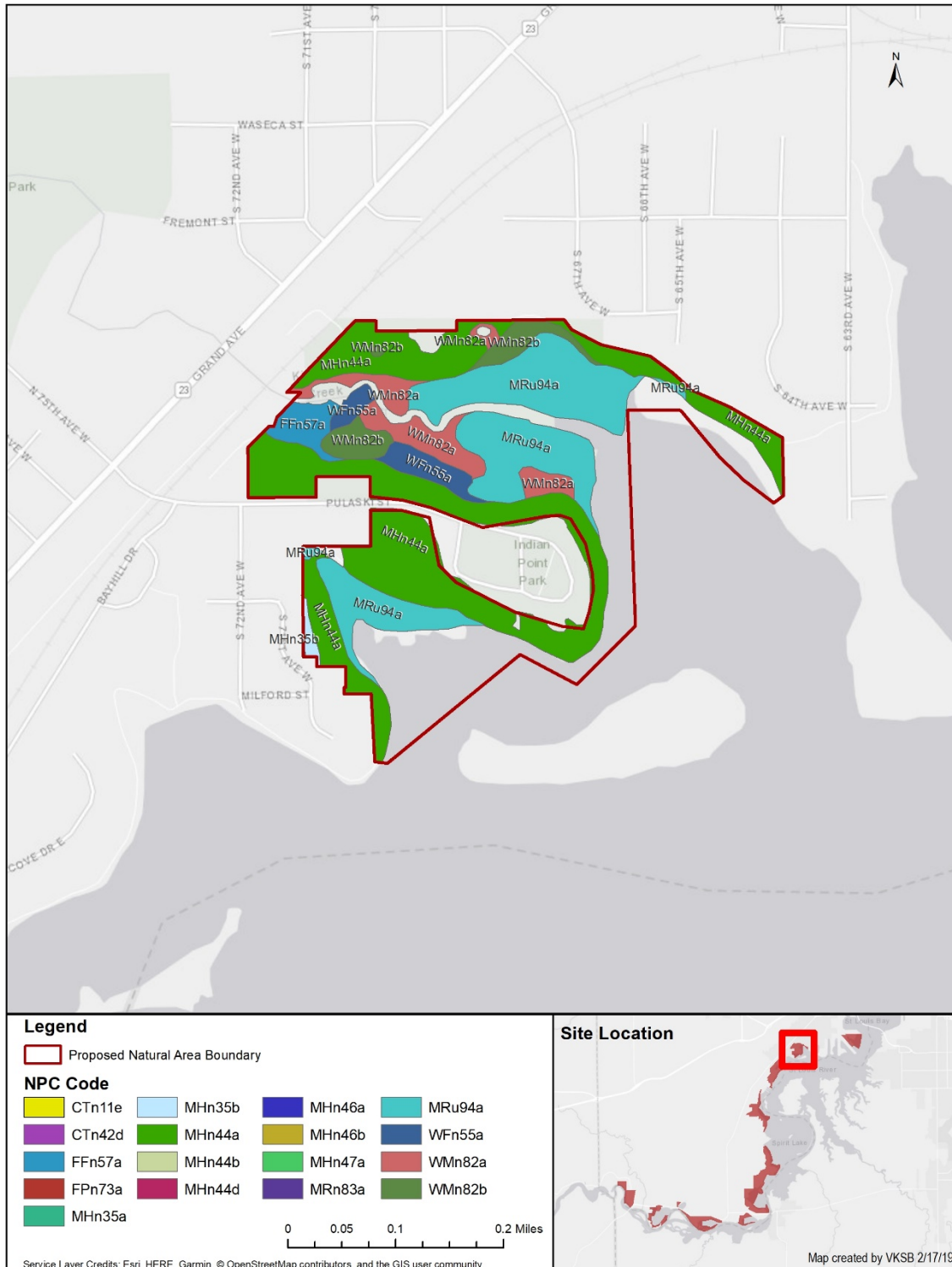


Figure 20: Native Plant Communities in the Kingsbury Bay Project Area

Inclusion in the natural area subject to landowner assent.



Figure 22: Natural Water Features in the St. Louis River Natural Area



Appendix A: List of Parcels in the St. Louis River Natural Area by Ownership



Parcels in City of Duluth Ownership

Parcel IDs

010-0130-00180	010-2420-05810	010-2730-00900
010-0130-00430	010-2420-05960	010-2730-01090
010-1620-01820	010-2420-05970	010-2730-01100
010-1710-00025	010-2420-06130	010-2730-01110
010-1710-00435	010-2420-06530	010-2730-01200
010-1720-00405	010-2420-06540	010-2730-01210
010-1740-00040	010-2420-06570	010-2730-01215
010-1740-00070	010-2420-06580	010-2730-01217
010-1750-00840	010-2420-06590	010-2730-01230
010-1783-00260	010-2420-06620	010-2746-00245
010-2400-02960	010-2420-06710	010-2746-00246
010-2400-03380	010-2420-08110	010-2746-00248
010-2400-03970	010-2420-08310	010-2746-00290
010-2400-04140	010-2420-08430	010-2746-00291
010-2400-04290	010-2420-08750	010-2746-00291
010-2400-04400	010-2420-08760	010-2746-00291
010-2400-04720	010-2420-08770	010-2746-00425
010-2420-03890	010-2420-08900	010-2746-00441
010-2420-04050	010-2420-09330	010-2746-00550
010-2420-04350	010-2520-12670	010-2746-00620
010-2420-04630	010-2550-02240	010-2746-01600
010-2420-04650	010-2550-02300	010-3160-00500
010-2420-04770	010-2550-03760	010-3160-00980
010-2420-04890	010-2550-04160	010-3160-01180
010-2420-04900	010-2550-04370	010-3160-01400
010-2420-04950	010-2550-05140	010-3160-01600
010-2420-04970	010-2550-05150	010-3300-04620
010-2420-05090	010-2730-00150	None (Blackmer Park)
010-2420-05370	010-2730-00860	
010-2420-05490	010-2730-00870	



Parcels in Private Ownership

Parcel IDs

010-0020-00010	010-2730-00130	010-3160-00490
010-0130-00410	010-2730-00140	010-3160-00510
010-0130-00420	010-2730-01115	010-3160-00530
010-1600-01640	010-2730-01216	010-3160-00540
010-1610-00700	010-2730-01231	010-3160-00550
010-1933-00140	010-2746-00315	010-3160-01830
010-1933-00150	010-2746-00350	010-3160-01830b
010-2550-04380	010-2746-00390	010-3160-02060
010-2550-05130	010-2746-00420	010-3160-02260
010-2730-00020	010-2746-00440	010-3160-03460
010-2730-00020b	010-2746-00560	010-3160-03770
010-2730-00040	010-2746-00590	010-3160-03770b
010-2730-00050	010-2746-01520	010-3160-03970
010-2730-00100	010-2746-01590	010-3160-04170
010-2730-00110	010-3160-00460	Unidentified (in Grassy Point)

Note: Strikethrough indicates parcel removed per landowner request



Parcels in St. Louis County Tax-Forfeit Ownership

Parcel IDs

010-1680-00130	010-1610-00710	010-1700-00530
010-1690-00110	010-1610-00870	010-1700-00540
010-1690-00620	010-1610-01540	010-1700-00600
010-1700-00110	010-1610-01550	010-1700-00610
010-1710-00100	010-1610-01560	010-1700-00650
010-1710-00530	010-1610-01590	010-1700-00660
010-1720-00100	010-1610-01600	010-1700-00780
010-1720-00470	010-1610-01640	010-1700-00790
010-1730-00400	010-1610-01740	010-1710-00010
010-1740-00080	010-1610-01750	010-1710-00020
010-2420-04820	010-1610-01760	010-1710-00030
010-0130-00230	010-1620-00780	010-1710-00040
010-0130-00330	010-1620-00880	010-1710-00050
010-0130-00340	010-1620-01760	010-1710-00430
010-1590-00410	010-1620-01810	010-1710-00440
010-1590-00420	010-1680-00110	010-1710-00450
010-1590-00470	010-1680-00120	010-1710-00460
010-1590-00520	010-1680-00270	010-1710-00470
010-1590-01350	010-1680-00790	010-1710-00600
010-1590-01400	010-1680-00850	010-1710-00610
010-1590-01530	010-1680-01030	010-1710-00660
010-1600-00620	010-1680-01040	010-1710-00670
010-1600-00690	010-1680-01060	010-1720-00350
010-1600-00820	010-1680-01070	010-1720-00390
010-1600-01460	010-1690-00030	010-1720-00400
010-1600-01550	010-1690-00200	010-1720-00460
010-1600-01600	010-1690-00210	010-1720-00510
010-1600-01650	010-1690-00520	010-1720-00520
010-1600-01800	010-1690-00530	010-1720-00560
010-1610-00510	010-1690-00540	010-1720-00570
010-1610-00640	010-1690-00700	010-1720-00600
010-1610-00650	010-1690-00720	010-1720-00610
010-1610-00660	010-1700-00040	010-1730-00060
010-1610-00670	010-1700-00460	010-1730-00220
010-1610-00690	010-1700-00520	010-1730-00360



Parcels in St. Louis County Tax-Forfeit Ownership (Continued)

Parcel IDs

010-1730-00650	010-1760-02180	010-2746-00541
010-1740-00140	010-1760-02340	010-3160-00360
010-1740-00280	010-2400-03300	010-3160-00370
010-1740-00340	010-2420-04910	010-3160-00380
010-1740-00350	010-2420-04920	010-3160-00390
010-1740-00360	010-2420-04930	010-3160-00400
010-1740-00380	010-2420-04940	010-3160-00410
010-1740-00390	010-2550-02290	010-3160-00505
010-1740-00410	010-2550-05120	010-3160-04400
010-1750-00150	010-2730-00930	010-3160-04410
010-1760-00010	010-2730-00980	
010-1760-00070	010-2746-00200	



Parcels in State Public Property Ownership

Parcel IDs

010-2730-01120

010-2730-01150



PLANNING & ECONOMIC DEVELOPMENT

Community Planning Division
 City Hall – 411 W 1st Street – Room 110
 Duluth, Minnesota 55802
 218-730-5580 / planning@duluthmn.gov

MEMORANDUM

DATE: April 2, 2019
TO: Planning Commission
FROM: Steven Robertson, Senior Planner
SUBJECT: UDC Text Amendment – Vacation Dwelling Units in Form Districts

Staff has prepared a draft text amendments to the Unified Development Chapter related to providing flexibility for vacation dwelling units in form districts. At the previous two Planning Commission meetings (March 12 and March 26), the members of the Planning Commission have asked for additional information related to the character and composition of land uses in the form districts. That information is attached at the end of this memo.

Unlike traditional zone districts, form districts allow a wide variety of permitted land uses without the requirement of a planning review at a public hearing. The tradeoff for the property owner is that the city has additional development standards not found in traditional zone districts, such as a minimum amount widow transparency, the requirement to build new structures closer to the sidewalk or front lot line, and limitations on location of parking areas. Most of the areas that are now form districts were rezoned in 2011. The rezoning process starting with the West Duluth/Spirit Valley area, although a portion of that area (shopping center) was rezoned to MU-C 2014 at the request of the property owner due to perceived concerns with debt refinancing.

The vacation rental ordinance is written assuming that these uses will be in R-1 zones, which is true for most of the existing permits. As such, the existing code has standards to reduce conflicts with adjoining residential properties, such as by requiring additional off-street parking and regulating minimum stays. Staff do not think those two specific items will cause conflict between properties in the form districts, and so in addition to exemption vacation rentals in form districts, the proposed ordinance relaxes standards related to off-street parking and minimum stays.

Proposed Text Amendment:

50-37-10.E Criteria for interim use permits.

In addition to the criteria in subsection C above, 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 of 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.
3. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units. **Permits issued for vacation dwelling units or accessory vacation dwelling units in any form district shall not be counted toward said maximum number of permits;**
4. **The minimum rental period and off-street parking requirements of 50-20.3.U and 50-20.5.M shall not apply for vacation dwelling units or accessory vacation dwelling units in any form district.**

Existing Definitions and Standards:

Vacation dwelling unit. A dwelling unit, as defined by this Chapter, offered for trade or sale, whether for money or exchange of goods or services, for periods of 2 to 29 days.

50-20.3U. Vacation dwelling unit.

1. The minimum rental period shall not less than two consecutive 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;
3. Off street parking shall be provided at the following rate:
 - (a) Vacation dwelling units licensed on May 15, 2016, shall provide the following minimum number of off street parking spaces:
 1. 1-2 bedroom unit, one space
 2. 3-4 bedroom unit, two spaces
 3. 5+ bedroom unit, three spaces.
 - (b) Vacation dwelling units licensed after May 15, 2016, shall provide the following minimum number of off street parking spaces:
 1. 1-2 bedroom unit, one space
 2. 3 bedroom unit, two spaces
 3. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
 - (c) 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.
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;
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 two to 29 days;
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, barbecue 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.
8. Any vacation dwelling unit that will be located in a multi-family structure that has nine or more dwelling units shall:
 - (a) Make available 24-hour staffing at a front desk that is accessible to all tenants;
 - (b) If determined applicable by the Land Use Supervisor, provide a letter from a duly established Home Owner's Association stating the support of the Home Owner's Association Board of Directors for the vacation dwelling unit, and enumerating any Home Owner's Association rules to be incorporated into the interim use permit;
9. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.
10. 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.

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.

50-20.5.M Accessory Vacation Dwelling

An accessory vacation dwelling unit may be created within, or detached from, any one-family dwelling or vacation dwelling unit in those districts shown where allowed by Table 50-19.8, provided these standards are met:

1. Only one accessory vacation dwelling unit may be created per lot;
 2. No variances shall be granted for an accessory vacation dwelling unit;
 3. An accessory vacation dwelling unit shall contain no more than 800 square feet of floor area and shall be consistent in character and design with the primary dwelling;
 4. If a separate outside entrance is necessary for an accessory vacation dwelling unit located within the primary building, that entrance must be located either on the rear or side of the building;
 5. The minimum rental period shall be not less than two consecutive nights;
 6. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;
 7. Off-street parking shall be provided at the following rate:
 - (a) Accessory vacation dwelling units licensed on or before May 15, 2016, shall provide the following minimum number of off street parking spaces:
 - 1-2 bedroom unit, one space;
 - 3-4 bedroom unit, two spaces;
 - 5+ bedroom unit, three spaces;
 - (b) Accessory vacation dwelling units licensed after May 15, 2016, shall provide the following minimum number of off-street parking spaces:
 - 1-2 bedroom unit, one space;
 - 3 bedroom unit, two spaces;
 - 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
- Accessory vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for accessory vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
8. 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;
 9. 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 two to 29 days;
 10. 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;
 11. 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;
 12. Any accessory vacation dwelling unit that will be located in a multi-family structure that has nine or more dwelling units shall:
 - (a) Make available 24-hour staffing at a front desk that is accessible to all tenants;
 - (b) If determined applicable by the Land Use Supervisor, provide a letter from a duly established Home Owner's Association stating the support of the Home Owner's Association Board of Directors for the accessory vacation dwelling unit, and enumerating any Home Owner's Association rules to be incorporated into the interim use permit.
 13. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.
 14. An owner of an accessory 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.

Form District 1 (F-1) low-rise neighborhood shopping.

The F-1 District consists of only one building type, Main Street Building I. This district is meant to be mapped within the East Superior Street study area (Lakeside/Lester Park) along the commercial nodes that take the form of traditional mixed use development. Main Street Building I has a build-to zone of between 0 and 15 feet, that allows the building to either be built adjacent to the sidewalk or set back further on the lot to match its surrounding residential context. This building type also requires a high amount of transparency on the ground floor.

Form District 2 (F-2) low-rise neighborhood mix.

The F-2 District permits Main Street Building I, Corridor Building I, Cottage Commercial Building I and the Iconic Building. This district was designed for both the East Superior Street (Lakeside/ Lester Park) and London Road (12th to 21st avenues East) study areas, and is meant to serve as a mixed use, neighborhood-scale commercial district. Corridor Building I is better suited for office or residential (apartment) uses. Due to its residential character, Cottage Commercial I is well suited to commercial uses that may occur adjacent to a residential area.

Form District 3 (F-3) mid-rise community shopping.

Several pockets within the West Duluth (Grand Avenue and Central Avenue) and Canal Park study areas contain older mixed use buildings, with retail or office uses on the ground floor and office or residential uses on the upper floors. F-3: Main Street Building II was created to preserve this style of development and provide standards for future infill development to emulate the style as well. Main Street Building II has a small build-to zone, requiring the building to be constructed fairly close to the front property line.

Form District 4 (F-4) mid-rise community mix.

Portions of the London Road and West Duluth (Grand Avenue and Central Avenue) study areas either contain auto-oriented development or a mixture of different building types. The F-4 District was created for those areas that are not strictly comprised of mixed use buildings. These areas are often transitional in nature, as the study area switches from commercial to residential. The integration of Corridor Building II and Cottage Commercial II will assist in stepping down the intensity as the district approaches residential neighborhoods.

Form District 5 (F-5) mid-rise community shopping and office.

The F-5 District is applied to both the West Superior Street study area (Lincoln Park) and the transitional areas surrounding Downtown, including Canal Park and Central Hillside (Second Street from Sixth Avenue West to Third Avenue East). These areas consist of a combination of traditional mixed use buildings and office buildings, which conform to the style of Main Street Building II and Corridor Building II.

Form District 6 (F-6) mid-rise neighborhood shopping.

This district was created to respond to the commercial nodes present in the Central Hillside neighborhood (14th Street from Mesaba Avenue to Third Avenue East). These nodes are separated by residential developments, which were not included in the study area. Main Street Building II, Corridor Building II, and Cottage Commercial Building I provide flexibility in the style of commercial building, with the Cottage Commercial building type especially applicable when it's located adjacent to residential development.

Form District 7 (F-7) downtown shopping.

To preserve the historic mixed use core of Downtown, F-7 was created to be applied in specific areas along Superior Street. This district permits only Main Street Building III, which seeks to codify the existing urban structure of the heart of Downtown. The building type requires a storefront on the ground floor and that the building be located adjacent to the sidewalk. The F-7 and F-8 districts also permit the highest intensity development, with a maximum height along Superior Street of 15 stories.

Form District 8 (F-8) downtown mix.

F-8 applies to other Downtown areas not included in the F-7 district. The district provides slightly more flexibility in building form than does F-7, as it permits both Main Street Building III and Corridor Building III for office and residential uses.

Form District 9 (F-9) Canal Park lakefront.

F-9 applies specifically to the east side of Canal Park Drive, addressing the parcels currently occupied by hotels. This district is unique in that the parcels are deep and front both Lake Superior and Canal Park Drive. The Lakefront Corridor Building was developed specifically for these locations, requiring frontage on both sides with enough depth to nestle parking in between the buildings. Views through these parcels to the lake are also addressed with view corridors.



Form Districts

Unified Development Chapter of the City of Duluth Legislative Code (UDC)

What are Form Districts?

- Form-based districts focus on the **form** of development
- Regulations support **pedestrian-friendly** commercial centers
- Visual Preference Surveys were used to indicate **types of buildings** people like
- Located in traditional **shopping areas** of the city
- Buildings to be designed to fit into **existing context**
- Districts will allow for a **mix of residential and commercial uses**

Where will Duluth have Form Districts?



- Grand Ave & Central Ave in West Duluth
- West Superior St in Lincoln Park
- Downtown/Canal Park/Central Hillside
- London Rd (12th to 21st Ave East)
- East Superior St in Lakeside/ Lester Park

There are 9 Form Districts in Duluth

- Districts are named F1 through F9.

		Building Types									Areas	
		Main Street Building I	Main Street Building II	Main Street Building III	Corridor Building I	Corridor Building II	Lakefront Corridor Building	Corridor Building III	Cottage Commercial I	Cottage Commercial II		Iconic Building
Districts	F1: Low-Rise Neighborhood Shopping	●										East Superior
	F2: Low-Rise Neighborhood Mix	●			●				●			East Superior, London Road
	F3: Mid-Rise Community Shopping		●									West Duluth, Canal Park
	F4: Mid-Rise Community Mix		●			●				●		West Duluth, London Road
	F5: Mid-Rise Community Shopping/Office		●			●						West Superior, Canal Park
	F6: Mid-Rise Neighborhood Shopping		●						●			Central Hillside
	F7: Downtown Shopping			●								Downtown
	F8: Downtown Mix			●					●			Downtown
	F9: Canal Park						●					68 of 225 Canal Park

● Building Type permitted

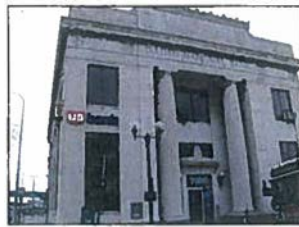
Each District has a Mix of **Building Types**

- Main Street Buildings - *Allows for service, retail, and office uses on the ground floor, and office or residential above.*
- Corridor Buildings - *Can house a single category of uses, such as office or residential, or a mix of uses.*
- Cottage Commercial Buildings - *Residential in character but commercial in use. Meant to blend in with a surrounding residential neighborhood.*
- Iconic Buildings - *Meant to house community, cultural, civic, educational, or governmental uses.*

For example: The F4: Mid-Rise Community Mix District allows four Building Types: Main Street Building II, Corridor Building II, Cottage Commercial Building II, and Iconic Building.



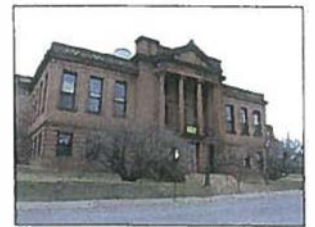
Main Street Building II



Corridor Building II



Cottage Commercial II

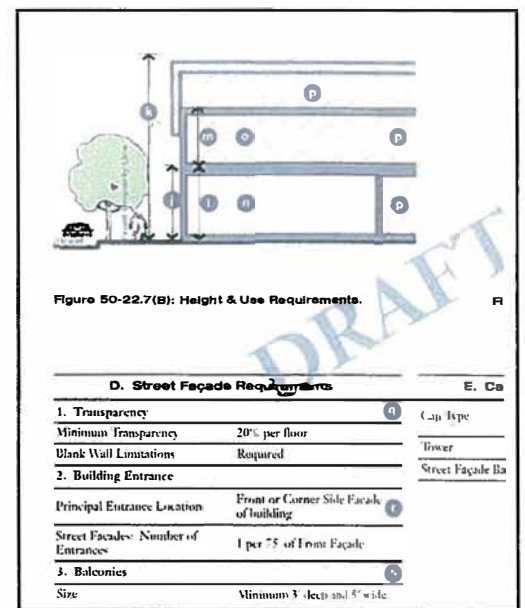


Iconic Building

Each Building Type has a Set of **Standards**

Standards focus on:

- Building Siting – *A Built-To Zone (BTZ) requires buildings be built close to the street, which is different than conventional zoning which specifies setbacks.*
- Height – *Ground stories are allowed to be taller than upper stories to accommodate retail/commercial business uses*
- Uses – *A mix of residential and commercial uses allowed.*
- Street Façade Requirements – *Minimum transparency percentages encourage windows provides visual interest for pedestrians*
- Cap & Base Type Requirements – *Design guidelines ensure appropriate, aesthetically pleasing buildings*



City of Duluth:
A Guide to Mapping the Form Districts

Draft September 9, 2009

The form-based districts (F-1 through F-8), listed in the proposed zoning code, each contain a mix of building types and use regulations. This document provides guidelines to assist in the location of these districts on the City's zoning map.

General Guidelines

Form-Based Code Areas

The following mixed use commercial areas are those generally defined by the City to receive form-based districts:

- West Duluth
- West Superior
- Downtown and Canal Park
- Central Hillside
- London Road
- Lakeside/Lester Park (East Superior)

These areas were utilized as survey sites to develop the building types included in the code, although the building types may apply to other locations within the city. The form-based districts should be applied to pedestrian-oriented mixed use and commercial corridors or nodes within the city.

A sample map for each form-based code area is included for illustrative purposes, with the assumption that the City will map each area more specifically as they are remapping the entire city. The sample maps illustrate one possible application of the standards with a detailed description discussing how the standards were applied. Within these areas, appropriate mixed use and commercial locations will receive a form-based district, while residential properties within or adjacent to the areas should receive an appropriate [non-form-based] residential district.

Form-Based Districts

New districts were created for those areas within the City that are regulated by form-based coding. A brief description of each district follows; See **Section XX** for more information on Building Types. Table 1 lists the building types available in each district, as well as the study area surveyed

F-1: Main Street Building I

The F-1 District consists of only one building type, Main Street Building I. This district is meant to be mapped within the East Superior study area along the commercial nodes that take the form of traditional mixed-use development. Main Street Building I has a build-to zone of between 0' and 15', which allows the building to either be built adjacent to the sidewalk or set back further on the lot to match its surrounding residential context. This Building Type also requires a high amount of transparency on the ground floor.

F-2: Main Street Building I, Corridor Building I, Cottage Commercial Building I, Iconic Building

The F-2 District permits Main Street Building I, Corridor Building I, Cottage Commercial Building I, and the Iconic

Building. This district was designed for both the East Superior and London Road study areas, and is meant to serve as a mixed-use, neighborhood-scale commercial district. Corridor Building I is better suited for office or residential (apartment) uses. Due to its residential character, Cottage Commercial I is well suited to commercial uses that may occur adjacent to a residential area.

F-3: Main Street Building II

Several pockets within the West Duluth and Canal Park study areas contain older mixed-use buildings, with retail or office uses on the ground floor and office or residential uses on the upper floors. F-3: Main Street Building II was created to preserve this style of development and provide standards for future infill development to emulate the style as well. Main Street Building II has a small build-to zone, requiring the building to be constructed fairly close to the front property line.

F-4: Main Street Building II, Corridor Building II, Cottage Commercial Building II, Iconic Building

Portions of the West Duluth study area either contain auto-oriented development or a mixture of different Building Types. The F-4 District was created for those areas within West Duluth that are not strictly comprised of mixed-use buildings. These areas are often transitional in nature, as the study area switches from commercial to residential. The integration of Corridor Building II and Cottage Commercial II will assist in stepping down the intensity as the district approaches residential neighborhoods.

F-5: Main Street Building II, Corridor Building II, Iconic Building

The F-5 District is applied to both the West Superior area and the transitional areas surrounding Downtown, including Canal Park and 2nd Street from 6th Ave West to 3rd Ave East. These areas consist of a combination of traditional mixed-use buildings and office buildings, which conform to the style of Main Street Building II and Corridor Building II.

F-6: Main Street Building II, Cottage Commercial Building I

This district was created to respond to the commercial nodes present in the Central Hillside neighborhood. These nodes are separated by residential developments, which were not included in the study area. Main Street Building II and Cottage Commercial Building I provide flexibility in the style of commercial building, with the Cottage Commercial Building Type especially applicable when it's located adjacent to residential development.

F-7: Main Street Building III

To preserve the historic mixed-use core of Downtown Duluth, F-7 was created to be applied in specific areas along West Superior Street. This district permits only Main Street Building III, which seeks to codify the existing urban structure of the heart of Downtown. The Building Type requires a storefront on the ground floor and that the building be located adjacent to the sidewalk. The F-7 and F-8 districts also permit the highest intensity development, with a maximum height along West Superior Street of 15 stories.

F-8: Main Street Building III, Corridor Building III, Iconic Building
 F-8 applies to other Downtown areas not included in the F-7 district. The district provides slightly more flexibility in building form than does F-7, as it permits both Main Street Building III and Corridor Building III for office and residential uses.

Mapping the Districts

The sample maps on the following pages illustrate the Districts outlined in the previous section. These standards relate back to the Building Types and Uses sections, which outline the physical requirements for buildings, such as location of the building on a lot, height, use, and general facade requirements. The discussions associated with each map also outline the permitted uses (refer to Section 3. Permitted Uses).

When mapping the districts, there are a few general planning guidelines to follow:

1. *Face Similar Districts Across Streets.* Similar districts should typically be located across the street, so that front doors face the same type of development. Building types can be mixed as long as their uses are similar, or, at a minimum, compatible.
2. *Transition Districts at Rear Property Line.* When transitioning between higher and lower intensity districts, such as Main Street-type commercial to single-family residential, the ideal transition point is typically along the rear property line.
3. *Corner Lots may be more intense.* Corner lots may be more intensely developed than the interior of a block, particularly if the corner lot faces a primary street or a street with a higher volume of traffic.
4. *Mapping Nodes.* Most of the study areas are continuous commercial corridors, multiple blocks in length. Some, however, are more nodal in character. For example, in

Central Hillside along 4th Street, the commercial occurs mainly at intersections, less than one block long. These nodes serve the neighborhood well. In some cases, one corner may be occupied by a commercial building. In others, when a building one lot in is commercial, it is recommended that the node be mapped to the corner.

Multiple Building Options

Several of the districts contain multiple Building Type options, all of which have their own purpose and appropriate application. For the most part, Main Street Buildings are meant to embody the historic pattern of development in Duluth - storefronts on the ground floor containing retail, office, or service uses with office or residential uses in the upper stories.

The Corridor Building Type has less transparency required on the ground floor, and is therefore better suited to office or multifamily uses, but in more intensive shopping areas such as Canal Park, can include retail and services on the ground floor. The Cottage Commercial Building Type is meant to blend in with the form of existing surrounding residential single-family but utilize commercial and office uses. It can serve as a nice transition between Main Street buildings and single family residences.

Lastly, the Iconic Building Type is reserved for unique civic, institutional, or public buildings that may not fit the standards for the other Building Types.

Primary Streets

Each form-based code area sample map also locates primary streets. Primary street designation indicates its importance as a walkable commercial thoroughfare; buildings should front on the primary street, treating the side of the lot adjacent to the primary street as the front of the lot. Typically, building types call for the entrances to be located on the front of the lot and parking may be accessed off a secondary street.

Districts	Building Types								Areas	
	Main Street Building I	Main Street Building II	Main Street Building III	Corridor Building I	Corridor Building II	Corridor Building III	Cottage Commercial I	Cottage Commercial II		Iconic Building
F1: Low-Rise Neighborhood Shopping	●									East Superior
F2: Low-Rise Neighborhood Mix	●			●			●		●	East Superior, London Road
F3: Mid-Rise Community Shopping		●								West Duluth, Canal Park
F4: Mid-Rise Community Mix		●			●			●	●	West Duluth
F5: Mid-Rise Community Shopping/Office		●			●				●	West Superior, Canal Park, 2nd St Downtown
F6: Mid-Rise Neighborhood Shopping		●					●			Central Hillside
F7: Downtown Shopping			●							Downtown
F8: Downtown Mix			●			●			●	Downtown

Table 1: Building Types by Districts and Areas.

Duluth Form-Based Districts

West Duluth, West Superior, London Road, & East Superior Study Area Sample Maps

West Duluth

The West Duluth study area has relatively intact areas of historic main street-style development as well as newer development including strip malls and other auto-oriented building types. To respond to these two very different context areas, the West Duluth study area should contain 2 districts: F-3 and F-4. The F-3 District is mapped to preserve those areas that currently contain traditional mixed-use development (see Figure xx). It is also mapped to transition key areas, such as the intersection at Grand and Central, to create walkable connections to the intact portions of the study area. However, this will create multiple non-conformances in these locations and should be considered carefully during the mapping process performed by the City.

The F-4 District, which permits the Corridor II, Cottage Commercial II, and Iconic building types in addition to Main Street Building II, provides greater flexibility outside of the traditional mixed-use areas and should be utilized to transition away from the mixed use core. The existing large scale shopping center could be mapped as either F-3 or F-4, depending on the type of development desired in that area. Either district, however, will require that the buildings are built up to the street (Bristol, Ramsey, and/or a new street) to extend the pedestrian-orientation of West Duluth. Alternatively, the shopping center could be mapped as a more automobile oriented commercial district and remain as is.

West Superior

The West Superior study area consists primarily of older mixed-use buildings; however, many do not meet the transparency requirements of a storefront. Additionally, many of the uses along West Superior tend more towards office and service than retail. To preserve these buildings but allow lower levels of transparency to occur on the groundfloor, the F-5 district is recommended for this study area. Within F-5, Main Street Building II fits the characteristics of the majority of existing buildings in West Superior, and Corridor Building II is permitted in this area as well to provide some flexibility in building type.

Uses permitted in this area are similar to those permitted for other study areas. Main Street Building II is meant to house commercial or office uses on the ground floor and office or residential above, while Corridor Building II should have primarily office or residential uses. However, due to existing uses in the West Superior study area, there are also some light industrial and manufacturing uses permitted that could occur in either building type.

Finally, it might make more sense to confine the form-based districts to the areas between 22nd and 19th Streets, as this constitutes the most intact, walkable section. Remaining portions could be zoned with non-form districts to allow flexibility as the area transitions.

London Road

Recent planning efforts for the area of London Road have indicated a desire to return to a pedestrian-scaled environment, including a plan to narrow London Road to facilitate the ability of residents, visitors, and employees to cross the street freely and safely. To capitalize on this street improvement, it is recommended that development along London Road take the form of more pedestrian-friendly development. For this reason, the F-2 District is mapped for the London Road study area, as it provides a good amount of flexibility in building style and type, but also will further the walkability of the area.

The F-2 District permits a wide range of building types, including Main Street Building I, Corridor Building I, Cottage Commercial Building I, and the Iconic Building for use as the corridor completely transitions away from its existing form. It is important to note that this process will create multiple non-conformances. In this location, perhaps more so than any other, a plan should be in place to support this extensive change in character.

Lakeside/Lester Park (East Superior)

The East Superior corridor is a lengthy corridor extending through the Lakeside and Lester Park neighborhoods. The commercial areas along East Superior extend a couple of blocks, transition to residential, and then pick up again, making it nodal in character. The character of the area is less intensive, with smaller scale buildings and more cottage commercial than other locations.

There are two districts applied to the East Superior study area: F-1 and F-2. F-1 is mapped at the very western edge of the study area, while F-2 covers the majority of the rest of the area. There are also residential pockets in between the commercial areas, which should be given zoning classifications based on Chapter 2 of the Unified Development Code.

The F-1 district, mapped only in one very specific location in the East Superior area, requires Main Street Building I to match the existing mixed-use buildings in the area. The F-2 district, however, permits Corridor Building I, Cottage Commercial Building I, and the Iconic Building to provide more diversity in building style and the ability to blend in with single-family residential with the Cottage Commercial I building. Corridor Building I also provides an opportunity to incorporate more multifamily housing into the area, as the building type allows both office and residential uses.

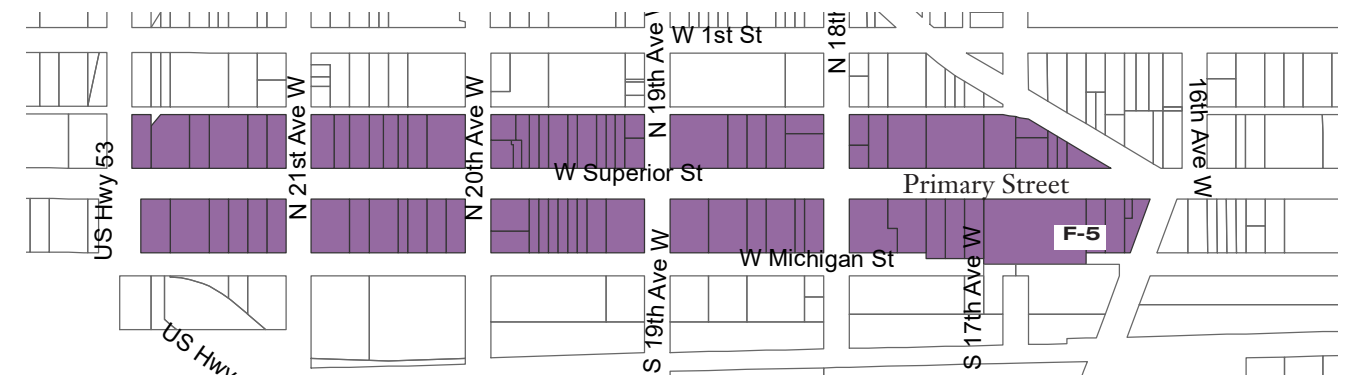


Figure XX: West Superior Sample Regulating Plan.

West Duluth, West Superior, London Road, & East Superior Study Area Sample Maps

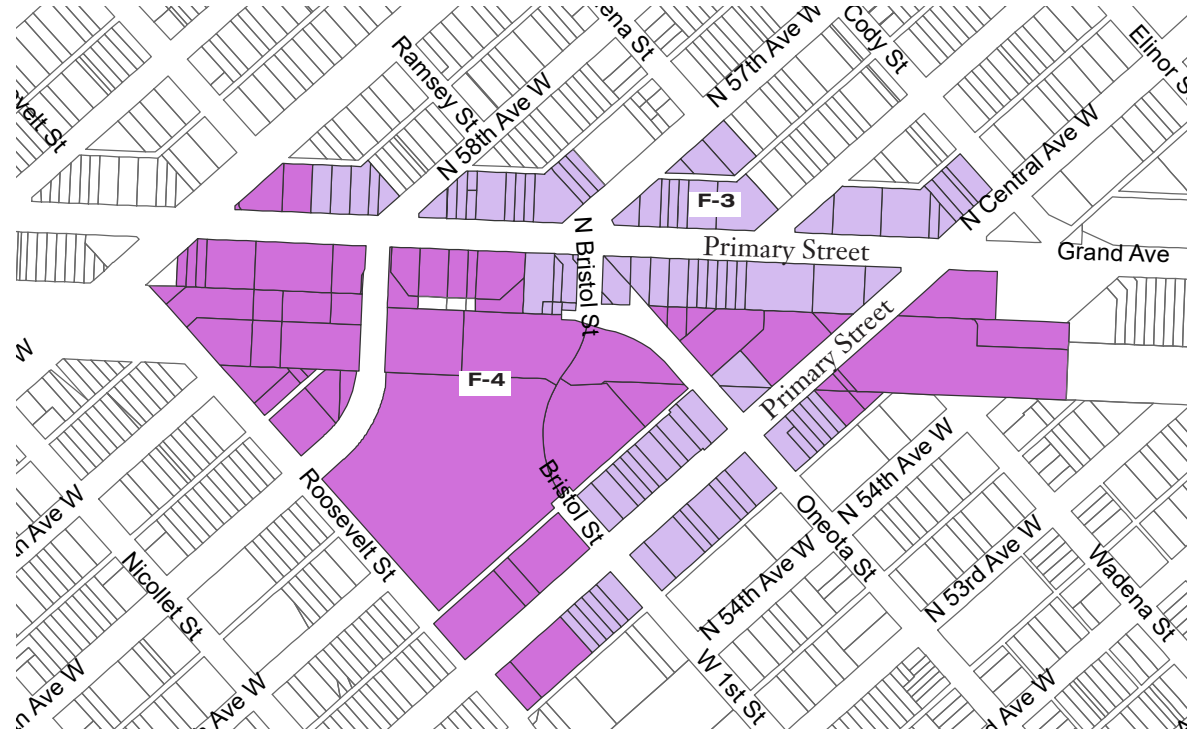


Figure XX: West Duluth Sample Regulating Plan.

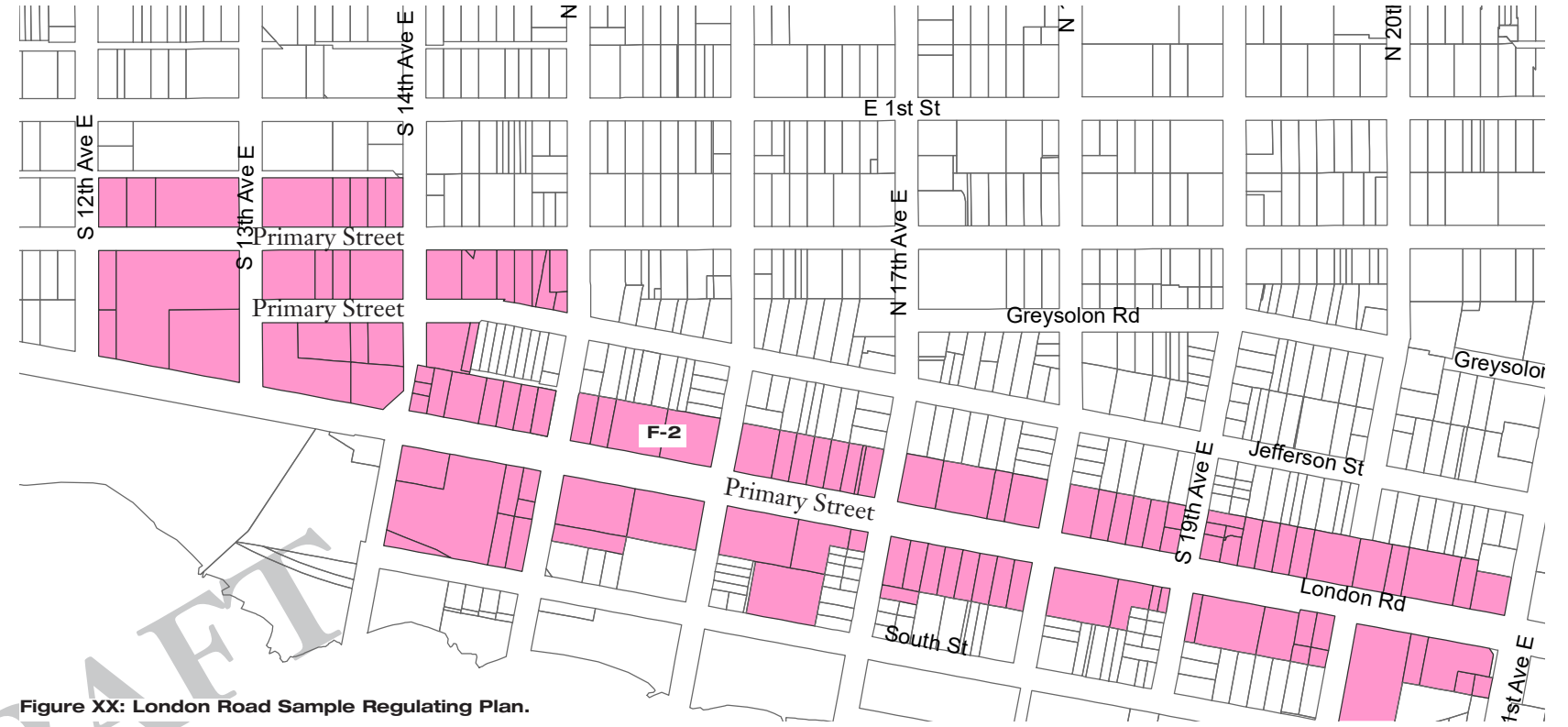
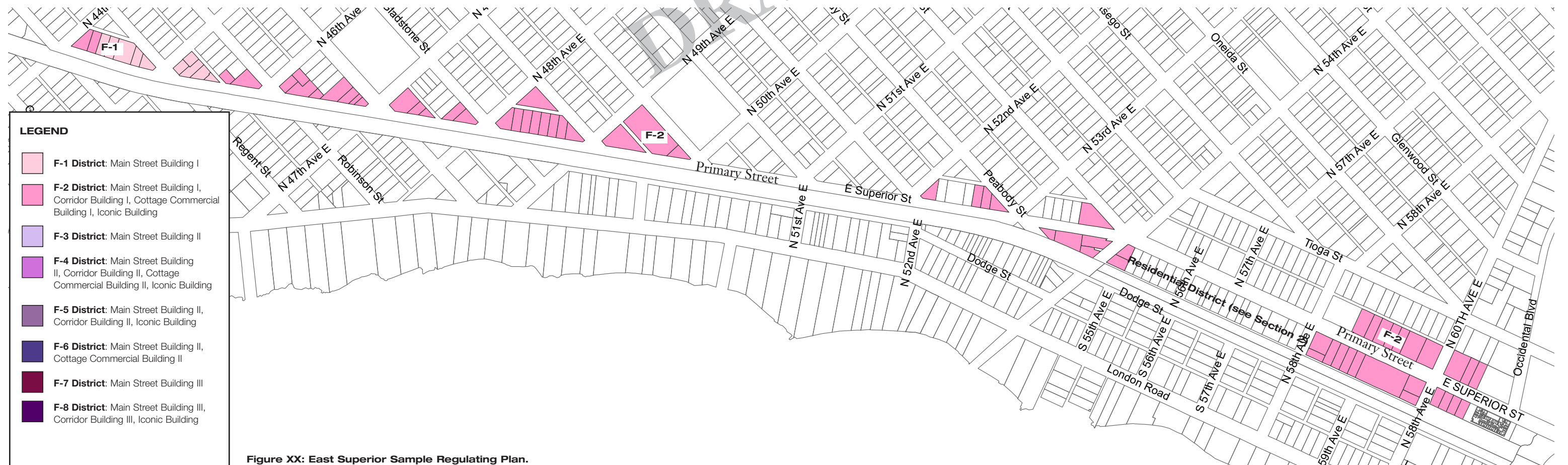


Figure XX: London Road Sample Regulating Plan.



LEGEND

- F-1 District: Main Street Building I
- F-2 District: Main Street Building I, Corridor Building I, Cottage Commercial Building I, Iconic Building
- F-3 District: Main Street Building II
- F-4 District: Main Street Building II, Corridor Building II, Cottage Commercial Building II, Iconic Building
- F-5 District: Main Street Building II, Corridor Building II, Iconic Building
- F-6 District: Main Street Building II, Cottage Commercial Building II
- F-7 District: Main Street Building III
- F-8 District: Main Street Building III, Corridor Building III, Iconic Building

Figure XX: East Superior Sample Regulating Plan.

Duluth Form-Based Districts

Central Hillside, Downtown, & Canal Park Study Area Sample Maps

Central Hillside

The Central Hillside study area is characterized by nodes of neighborhood-scale commercial development interspersed with residential areas. The F-6 District is proposed to preserve and enhance the commercial nodes along West 4th Street, while the residential areas should be assigned a residential district per Chapter 2 of the Unified Development Code. The F-6 District includes Main Street Building III for typical mixed-use buildings and Cottage Commercial Building II, which will help to blend commercial areas with the adjacent residential. This district should be mapped primarily at the ends of blocks; If the district is required in the middle of a block, it should be extended to cover the whole block. In many cases, parking lots on corners are mapped as F-6 to encourage this extension to the corner.

Downtown Duluth

Downtown Duluth's map consists of three different districts: F-5, F-7, and F-8. These districts exist to preserve the retail core of Downtown in F-7, provide a flexible retail and supportive services area in F-8, and provide a transitional area between Downtown and the adjacent residential neighborhoods to the northeast in F-5. The F-7 District, mapped very sparingly along West Superior Street, permits only one building type, Main Street Building III. Most, if not all, of the existing building types in the F-7 area conform to the characteristics of Main Street Building III; this district is meant to preserve the historic storefront core of Downtown.

The F-8 District provides a little more flexibility than the F-7 district, permitting Main Street Building III as well but also Corridor Building III for supportive office and residential apartment uses. The Iconic Building is also permitted for civic and institutional uses. Finally, the F-5 district is mapped along West 2nd Street and permits essentially the same building types as F-8 but as different versions - Main Street Building II, Corridor Building II, and, again, the Iconic Building. Main Street Building II and Corridor Building II are less intensive building types than their counterparts in the F-7 and F-8 districts

(Main Street Building III and Corridor Building III), making them ideal to step down development from the Downtown core towards the residential neighborhoods.

There is also a variation of heights allowed in different parts of the Downtown study area. For example, Main Street Building III and Corridor Building III are permitted to reach up to 15 stories along West Superior Street; this number drops down to 9 stories on adjacent streets. Main Street Building II and Corridor Building II, being located in a transitional area, are permitted to reach up to 6 stories along 2nd Street. These heights were set based on existing buildings in the Downtown, but should be verified prior to mapping and implementation.

Primary street frontages have been defined for the study area; buildings should treat the side of the lot facing the primary street as the front of the lot. In instances where the lot is a through lot, as between West Superior Street and East Michigan Street, the lot should treat West Superior Street as the primary frontage.

Commercial, office, and limited residential uses are permitted throughout Downtown in order to provide flexibility to respond to market changes as well as to limit nonconforming uses. However, since the F-7 district represents the retail core of Downtown, effort should be made when possible to keep the district as retail-oriented as possible.

Canal Park

Canal Park has two permitted districts, F-3 and F-5. The F-3 district permits only Main Street Building II to preserve the mixed-use retail node along Canal Park Drive. While office and residential uses are permitted in the F-3 district, retail should be emphasized as the desired ground floor use in this area to promote a strong commercial node. The F-5 District permits Main Street Building II as well, and adds in Corridor Building II and the Iconic Building. Corridor Building II is meant for office and apartment uses as well as to accommodate hotel uses along Lake Superior. While it is recommended that the majority of

buildings in Canal Park front on the primary streets indicated on Figure xx, buildings along Lake Superior may front on the lake.



Figure XX: Central Hillside Sample Regulating Plan.

Central Hillside, Downtown, & Canal Park Study Area Sample Maps

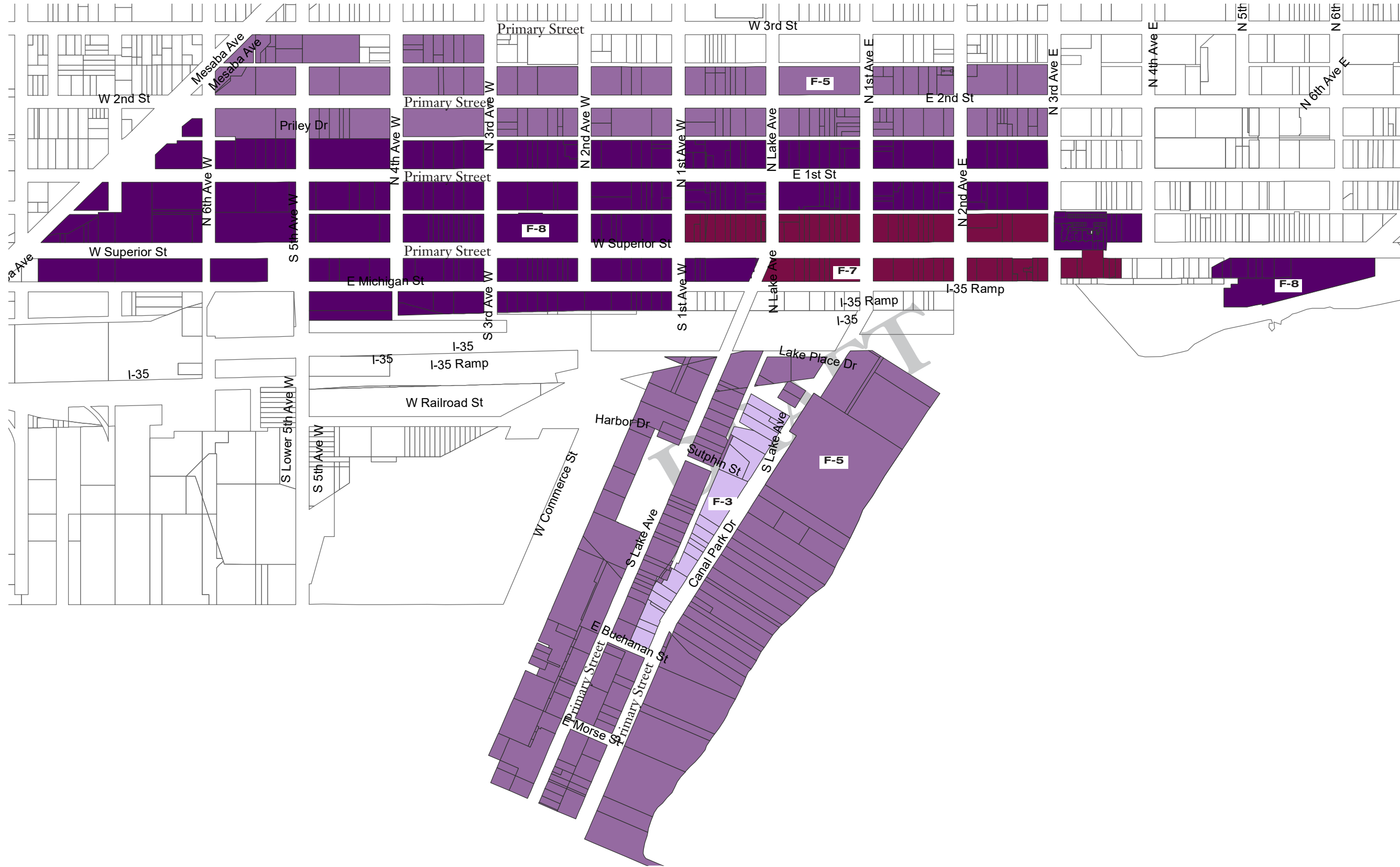
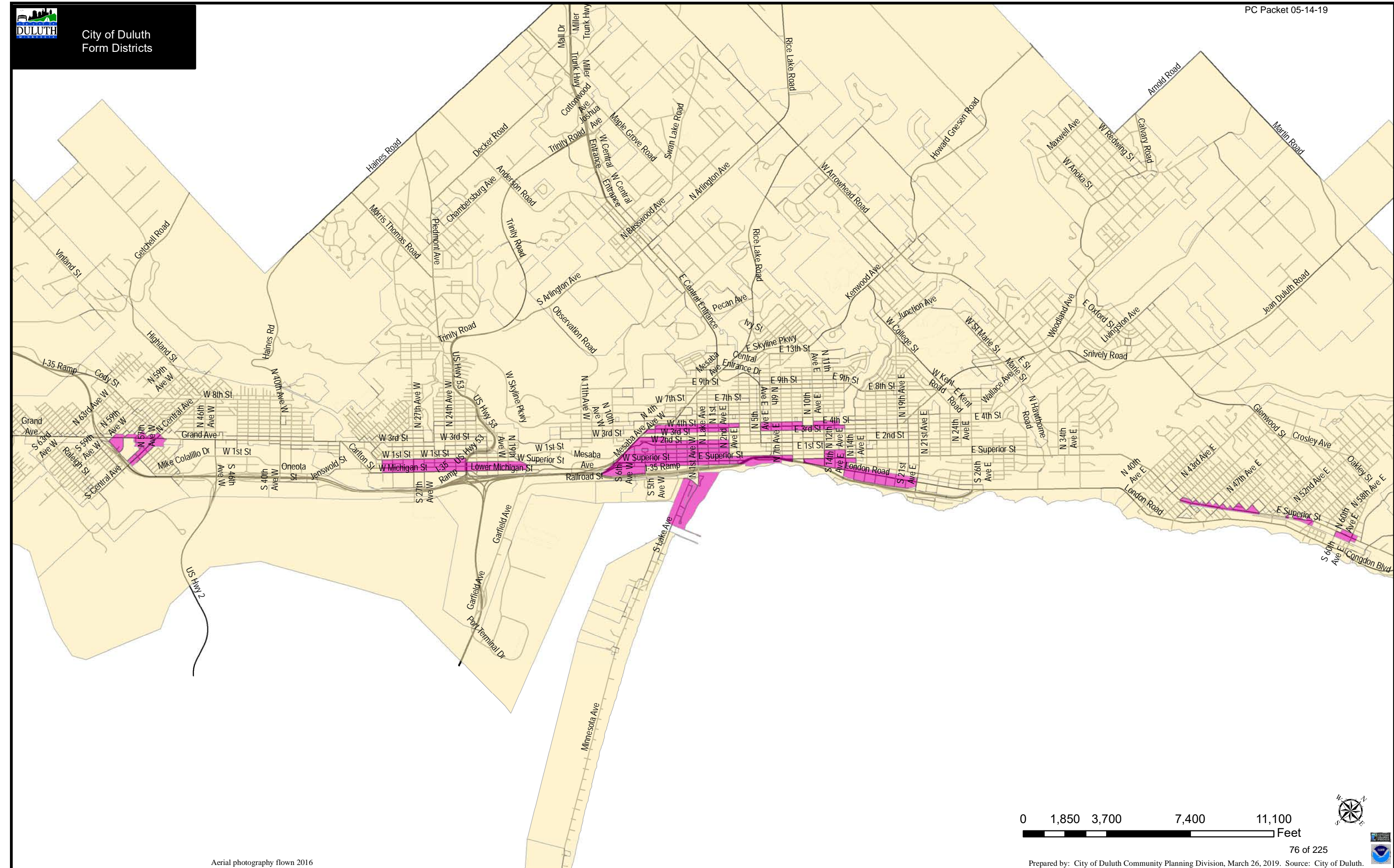


Figure XX: Downtown Sample Regulating Plan.





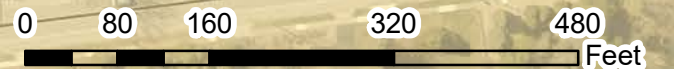
City of Duluth
Form Districts, F-1

N 43rd Ave E

E Superior St

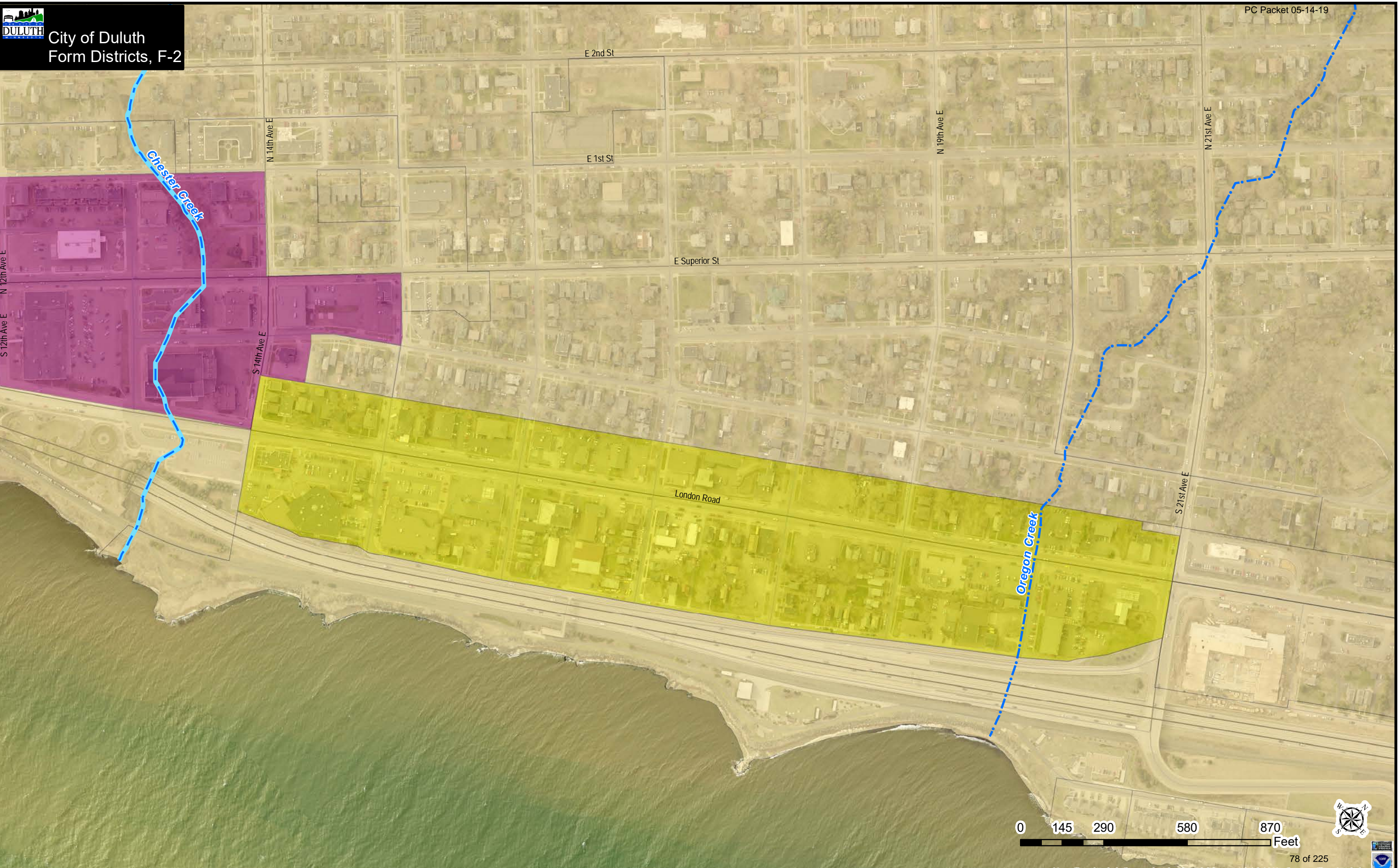
N 47th Ave E

London Road





City of Duluth
Form Districts, F-2



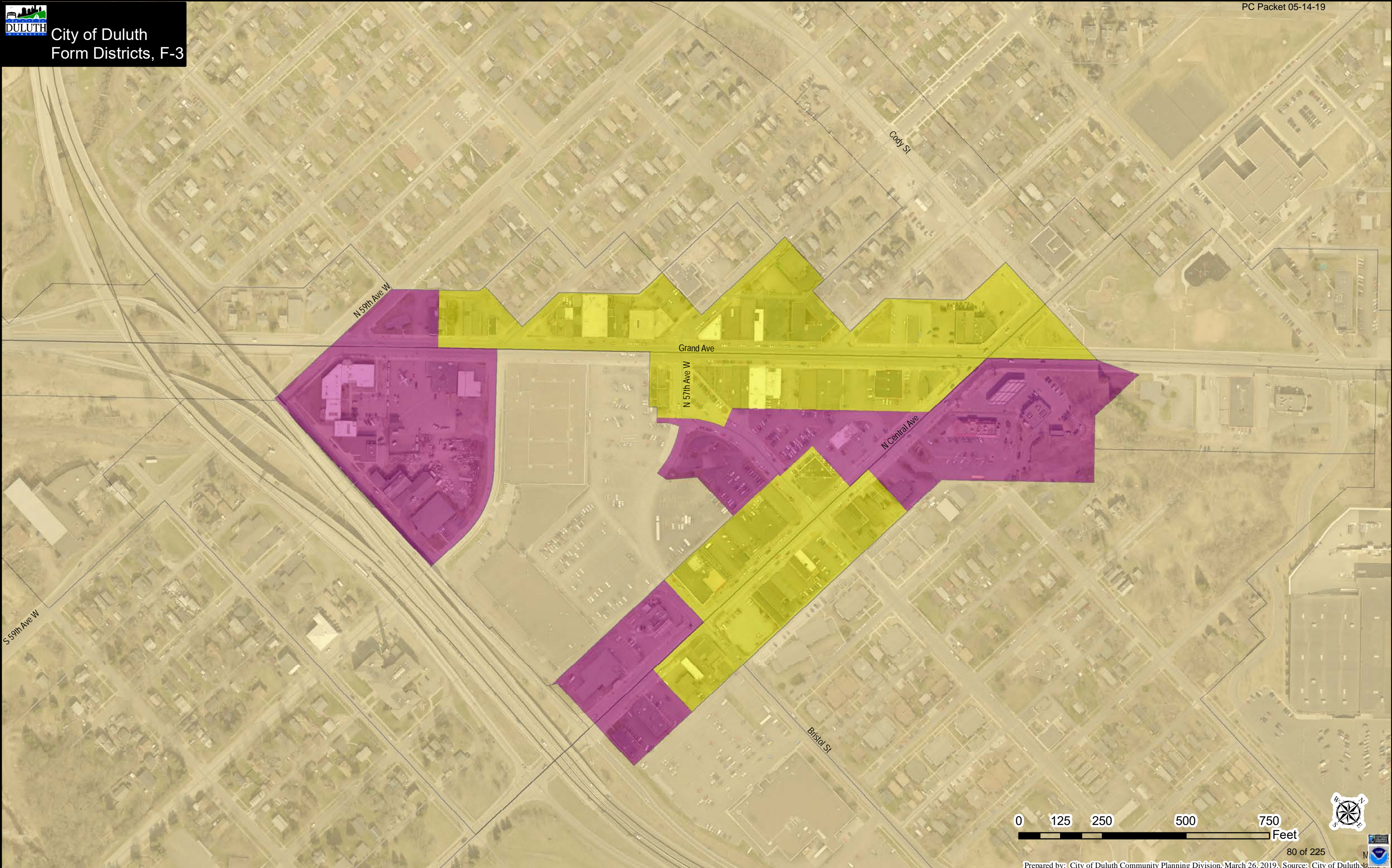


City of Duluth
Form Districts, F-2





City of Duluth
Form Districts, F-3





City of Duluth
Form Districts, F-3

S 4th Ave W

S 3rd Ave W

S 2nd Ave W

S 1st Ave W

S 1st Ave E

E Michigan St

S 2nd Ave E

W Michigan St

I-35 Ramp

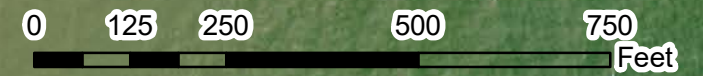
S Lake Ave

Railroad St

S 5th Ave W

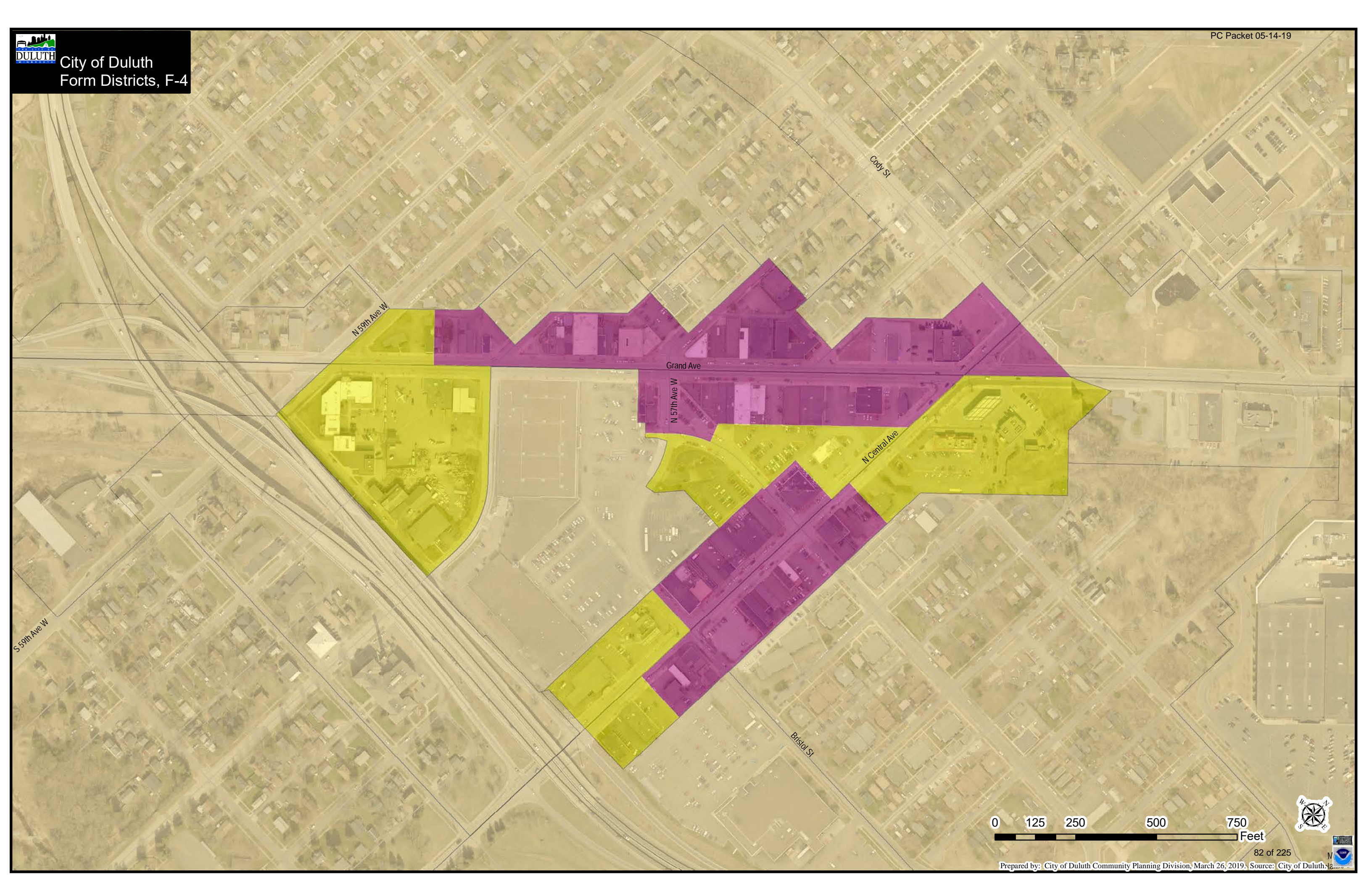
S 5th Ave W

S Lake Ave



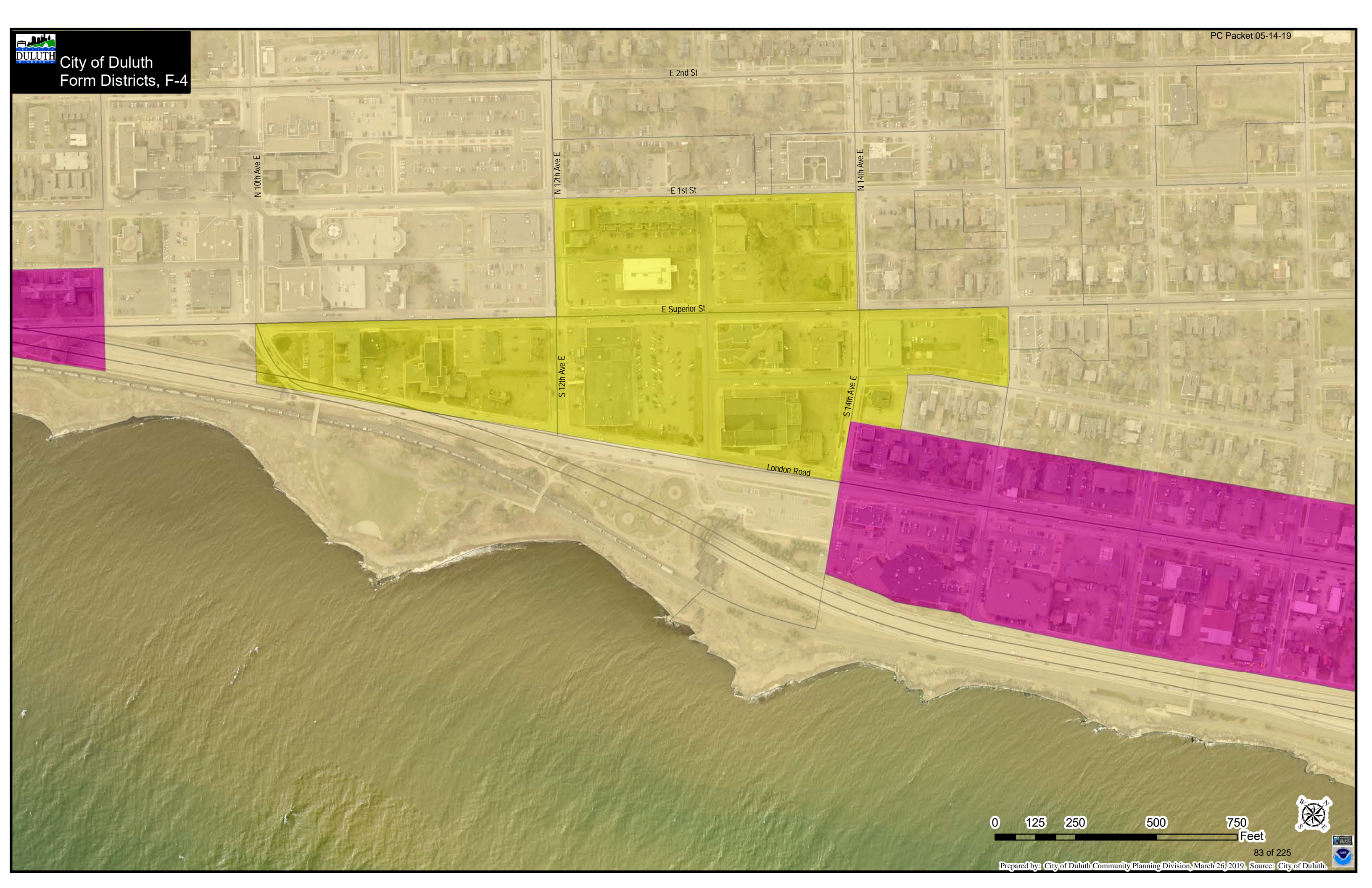


City of Duluth
Form Districts, F-4





City of Duluth
Form Districts, F-4



N 10th Ave E

N 12th Ave E

N 14th Ave E

E 2nd St

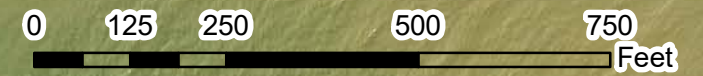
E 1st St

E Superior St

S 12th Ave E

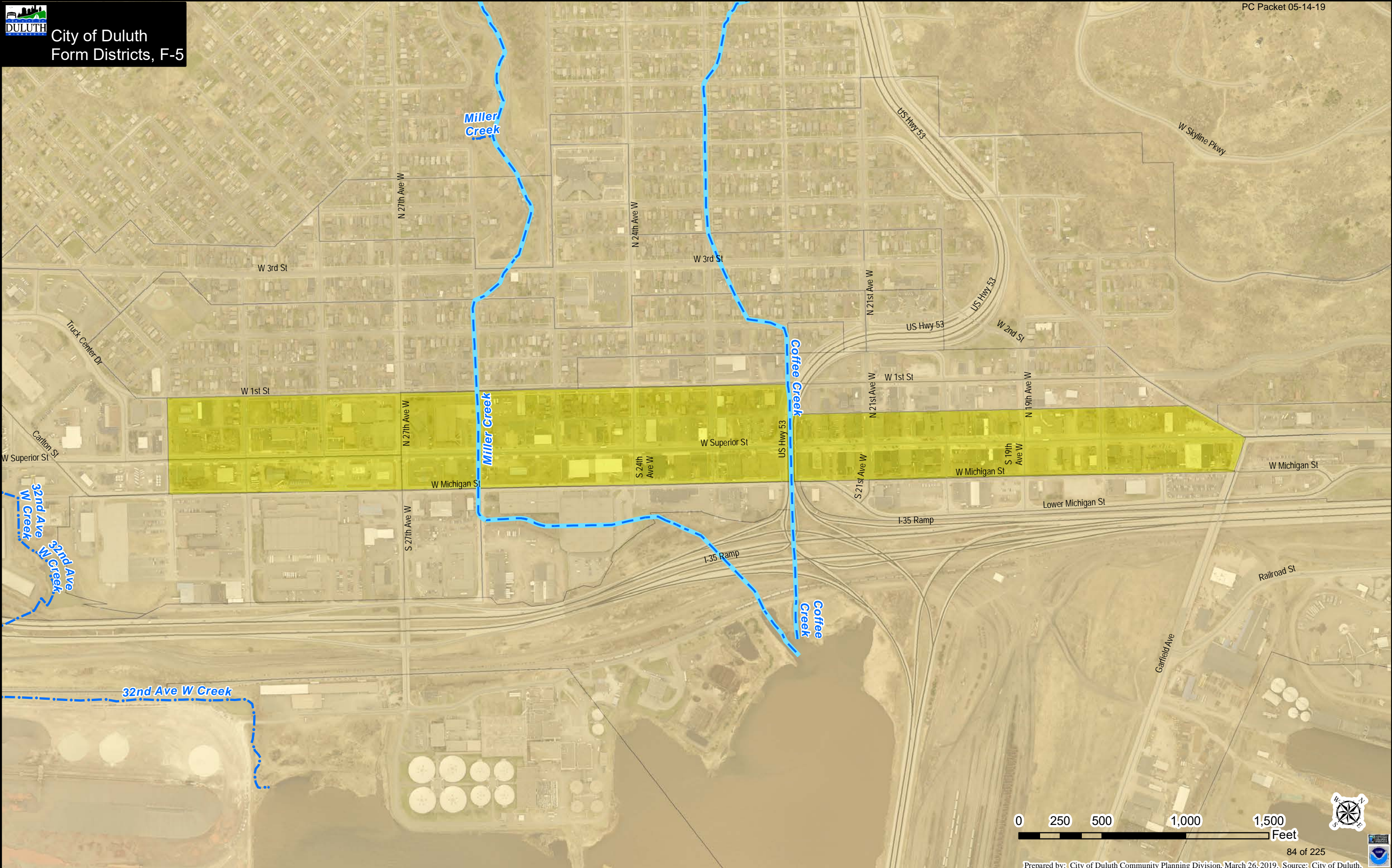
S 14th Ave E

London Road





City of Duluth Form Districts, F-5

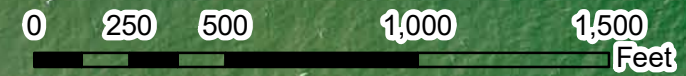
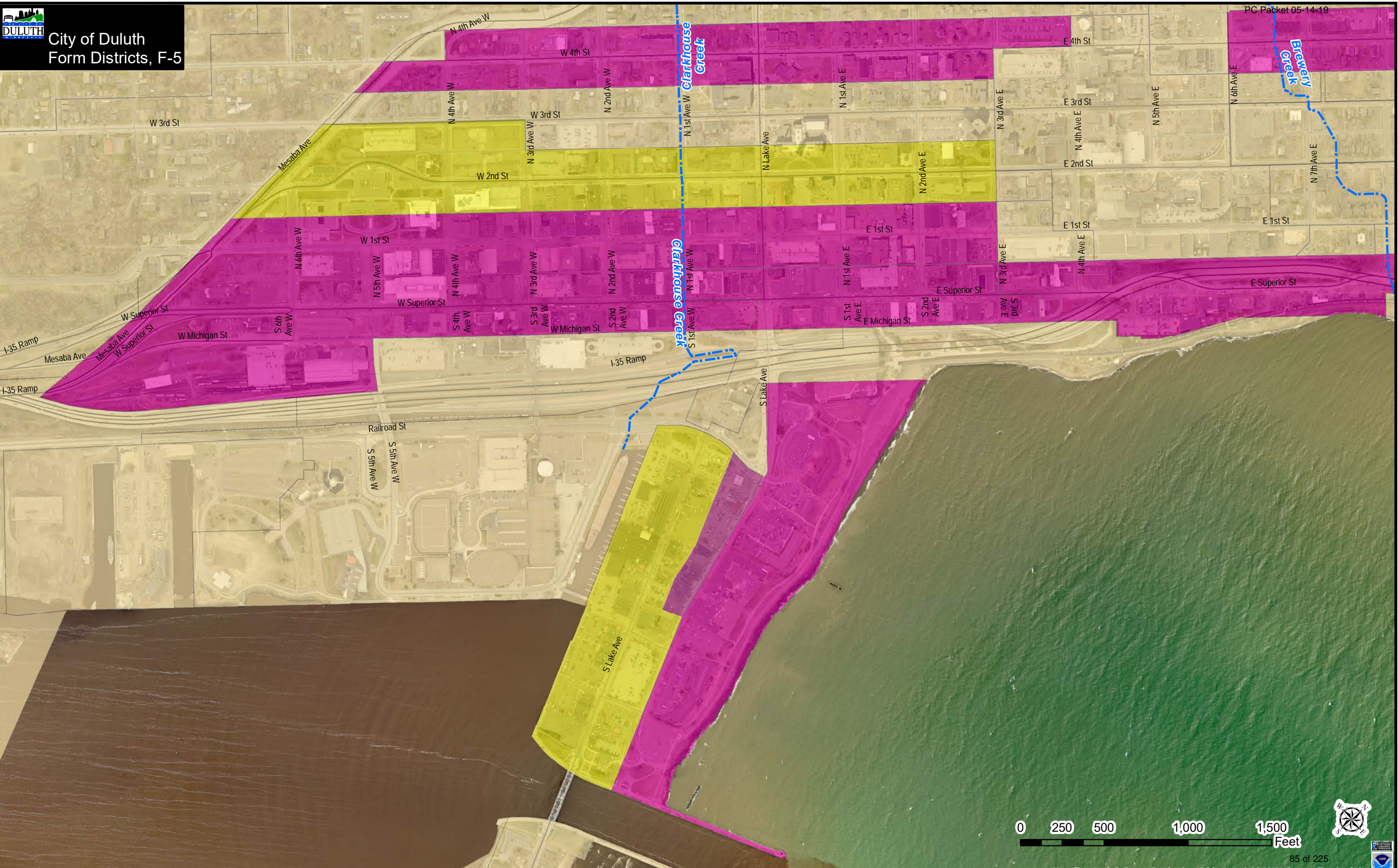


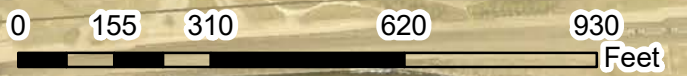
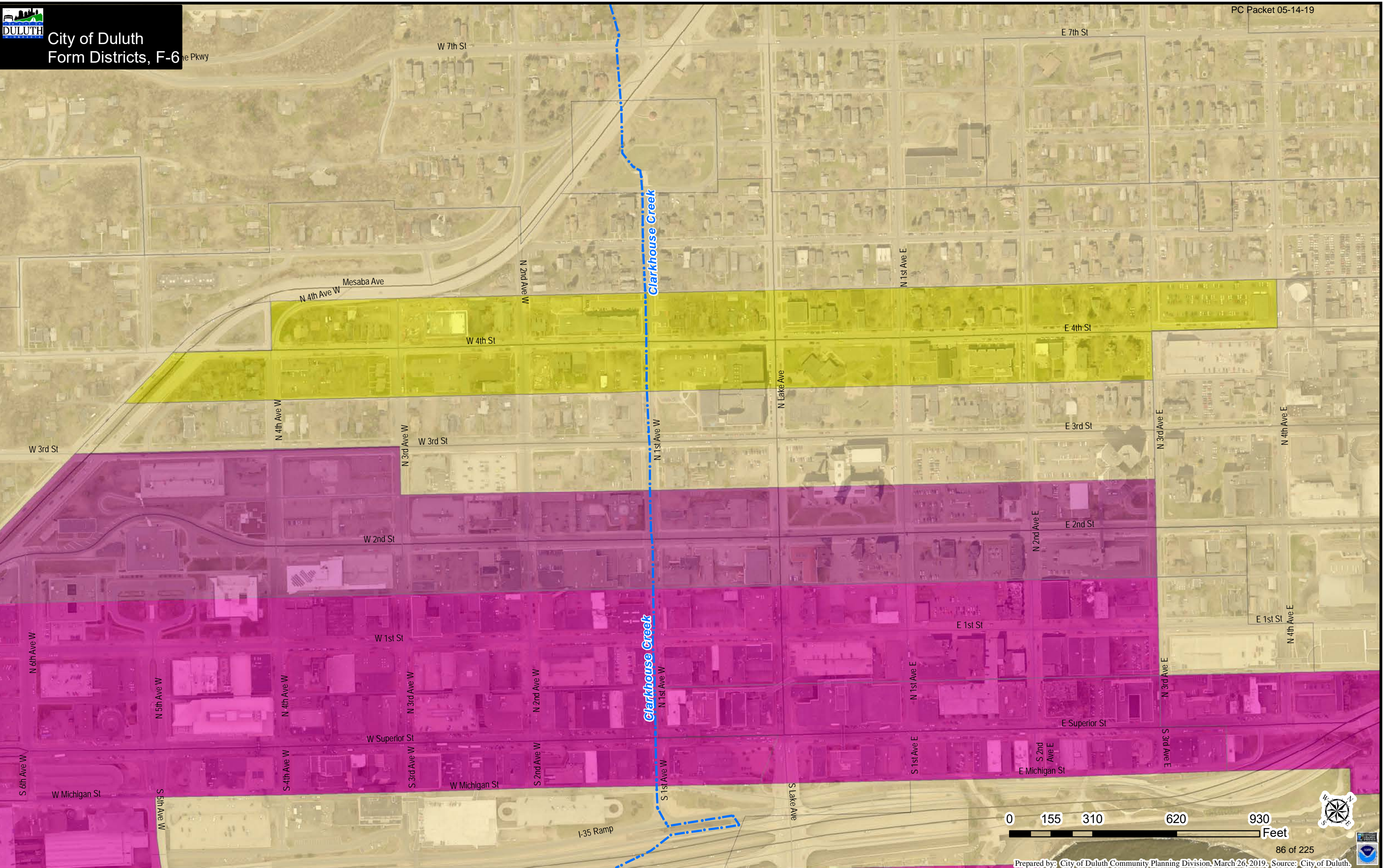
0 250 500 1,000 1,500 Feet



City of Duluth
Form Districts, F-5

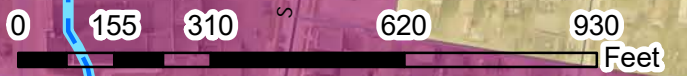
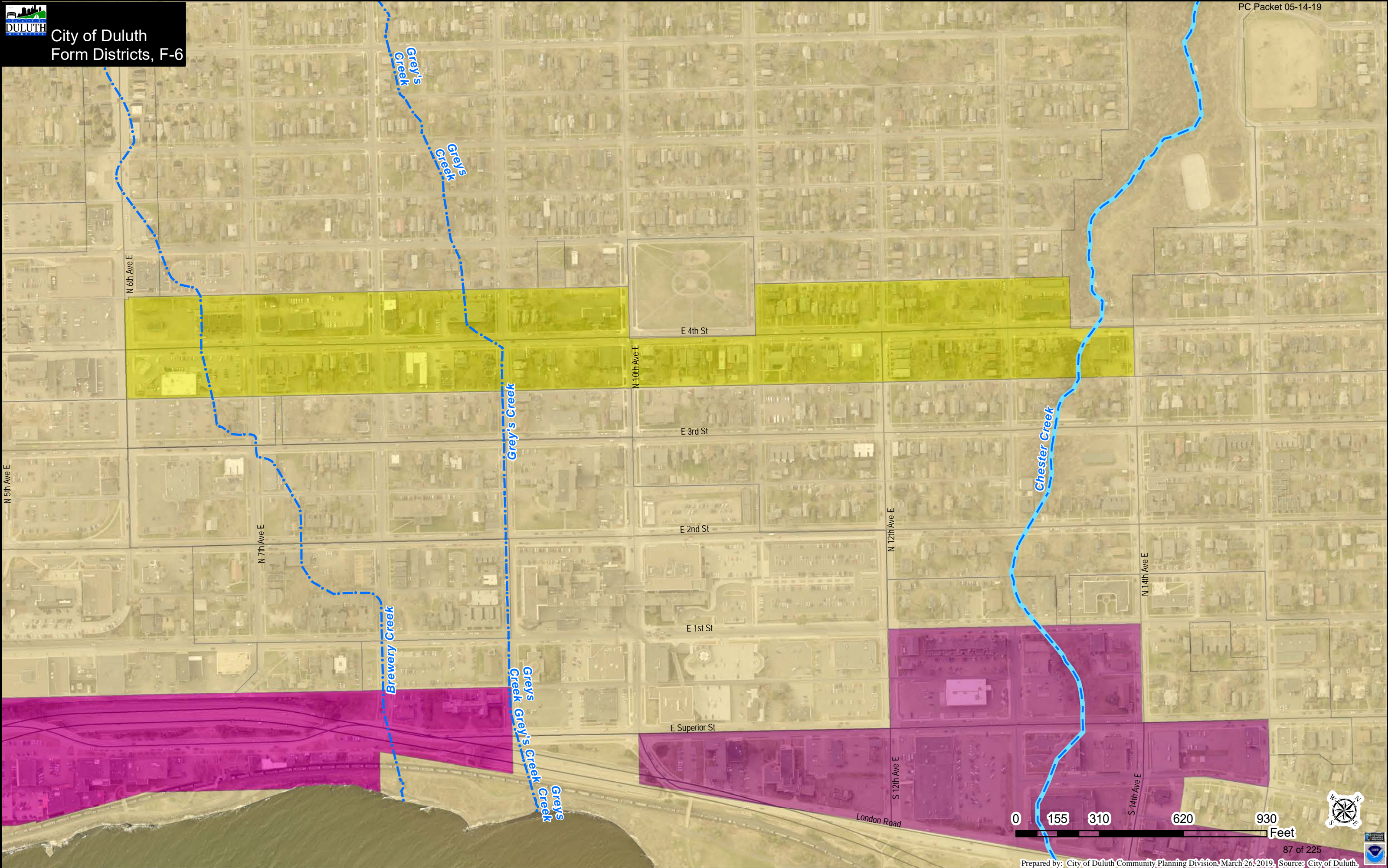
PC Packet 05-14-19





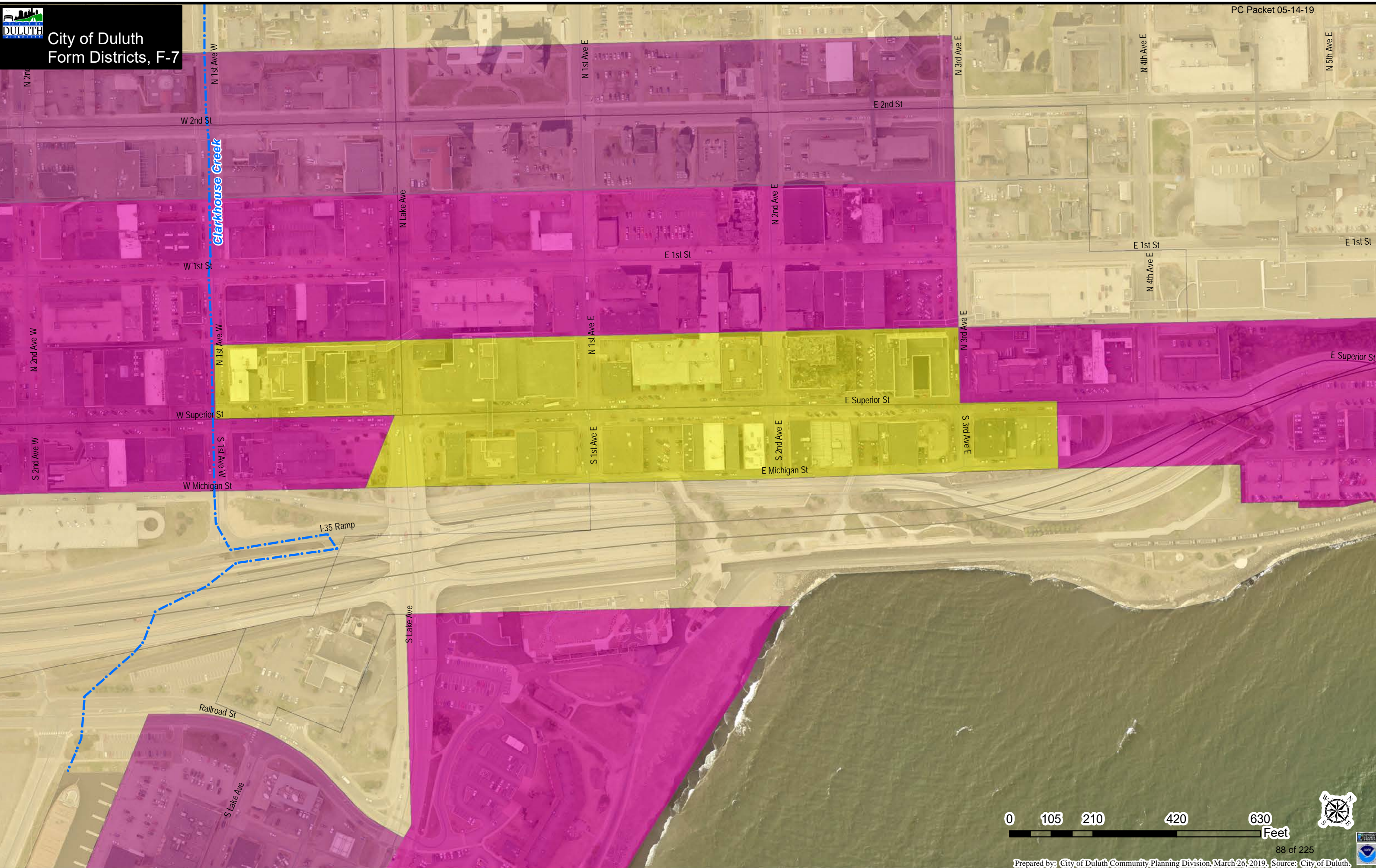


City of Duluth Form Districts, F-6





City of Duluth Form Districts, F-7

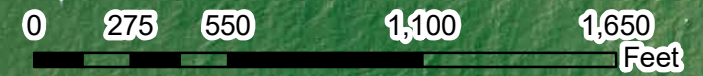
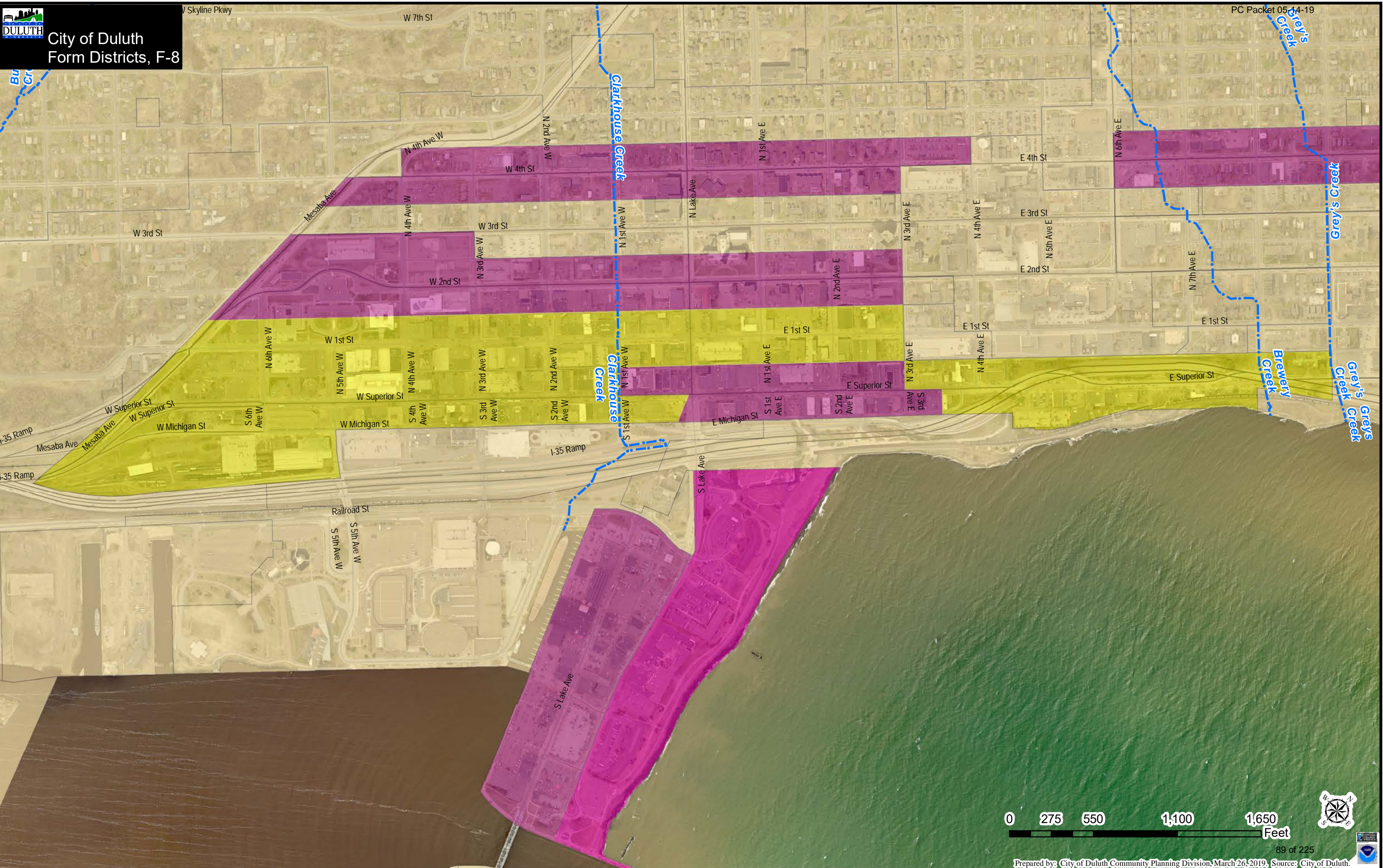




City of Duluth Form Districts, F-8

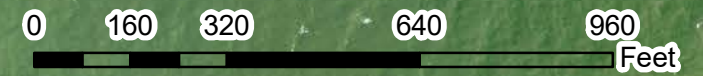
Skyline Pkwy

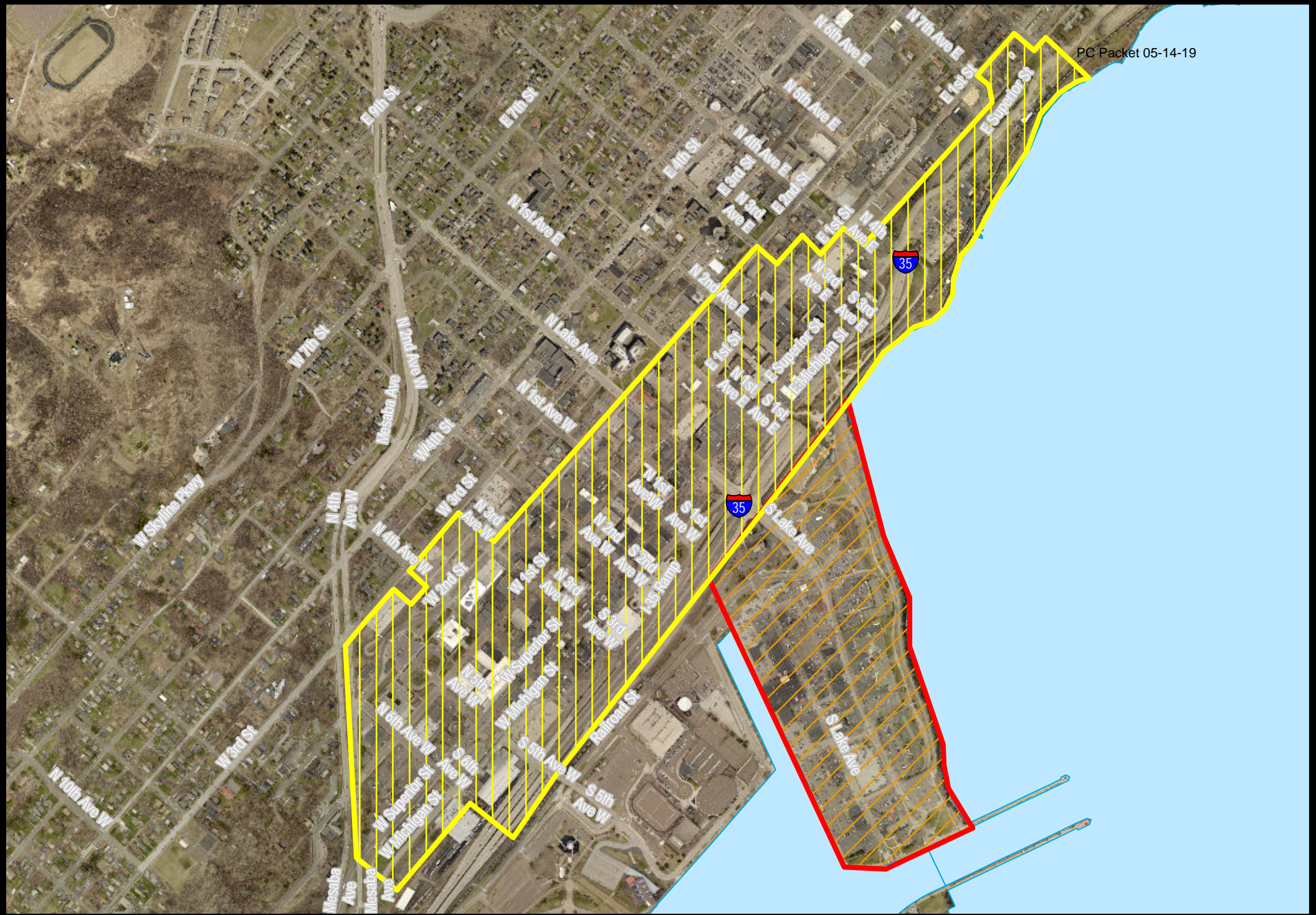
PC Packet 05-14-19





City of Duluth
Form Districts, F-9





Legend

- Downtown - No Requirements
- Canal Park - Special Requirements



Downtown & Canal Park Special Parking Areas

Exhibit 50-24.1-1





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 19-028	Contact	Chris Lee, clee@duluthmn.gov	
Type	Interim Use Permit – Vacation Dwelling Unit	Planning Commission Date	May 14, 2019	
Deadline for Action	Application Date	March 28, 2019	60 Days	May 27, 2019
	Date Extension Letter Mailed	April 24, 2019	120 Days	July 26, 2019
Location of Subject	124 North Hawthorne Road			
Applicant	Theresa Hanson	Contact	duluthhawthornemanor@gmail.com	
Agent		Contact		
Legal Description	See Attached, PID: 010-0690-00020			
Site Visit Date	May 1, 2019	Sign Notice Date	April 30, 2019	
Neighbor Letter Date	May 2, 2019	Number of Letters Sent		

Proposal

This is a renewal for permit PL 13-034. Applicant proposes to use the house with 7 bedrooms each for vacation rentals. Up to 14 people will be allowed to stay in each home. A vacation dwelling unit allows for periods of occupancy of 2 to 29 days, with a minimum stay of 2 nights.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	One-Family Dwelling	Traditional Neighborhood
North	R-1	Single Family Home	Traditional Neighborhood
South	R-1	Single Family Home	Traditional Neighborhood
East	R-1	Park	Traditional Neighborhood
West	R-1	Single Family Home	Traditional Neighborhood

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in an 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 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 of 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 #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

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 124 North Hawthorne Road. The proposed vacation dwelling units contain 7 bedrooms, which would allow for a maximum of 14 guests. This 3,200+ square foot traditional home was constructed in 1914 in an era of large families often with live-in servants. Two of the five bedrooms have additional rooms located adjacent to them, one 13' x 13' and the other 17' x 11', that the applicant has configured as two-bedroom suites. This results in the home comfortably accommodating 14 guests rather than the standard 11. Additionally, the home is sited on a 1.2 acre lot with more than the required off-street parking.
- 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 Robby and Karley Frey to serve as the managing agents.
- 3) The site has room for 8 vehicles to be parked on the driveway and in the garage. There will not be any camper parking, but there will be space for a trailer for renters to utilize.
- 4) The site plan indicates no outdoor amenities on the property other than an attached deck.
- 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) Applicants have 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) 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.



19-028 IUP Renewal
124 N Hawthorne

PC Packet 05-14-19

Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

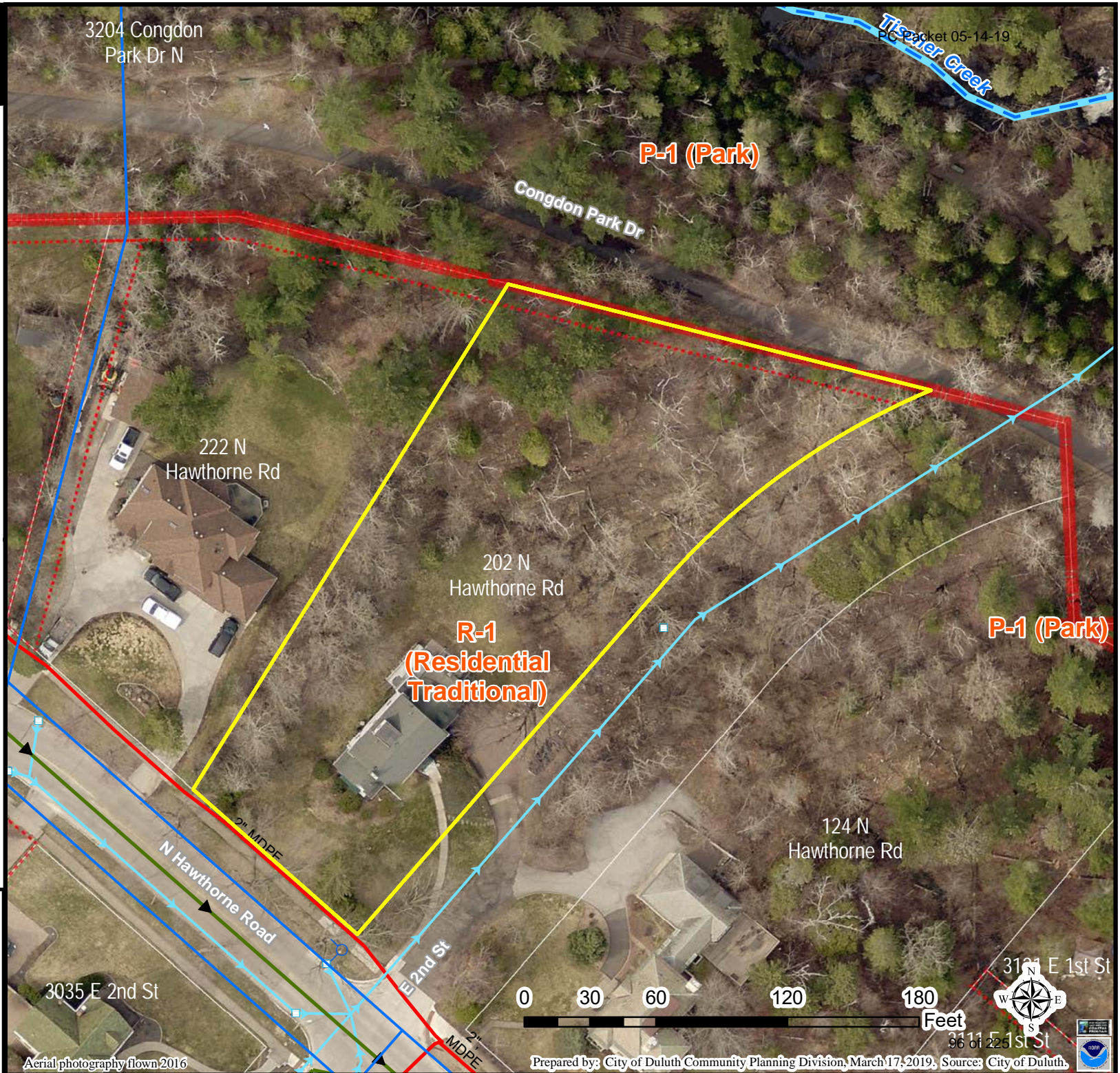
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main

Storm Sewer Mains

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

Easement Type

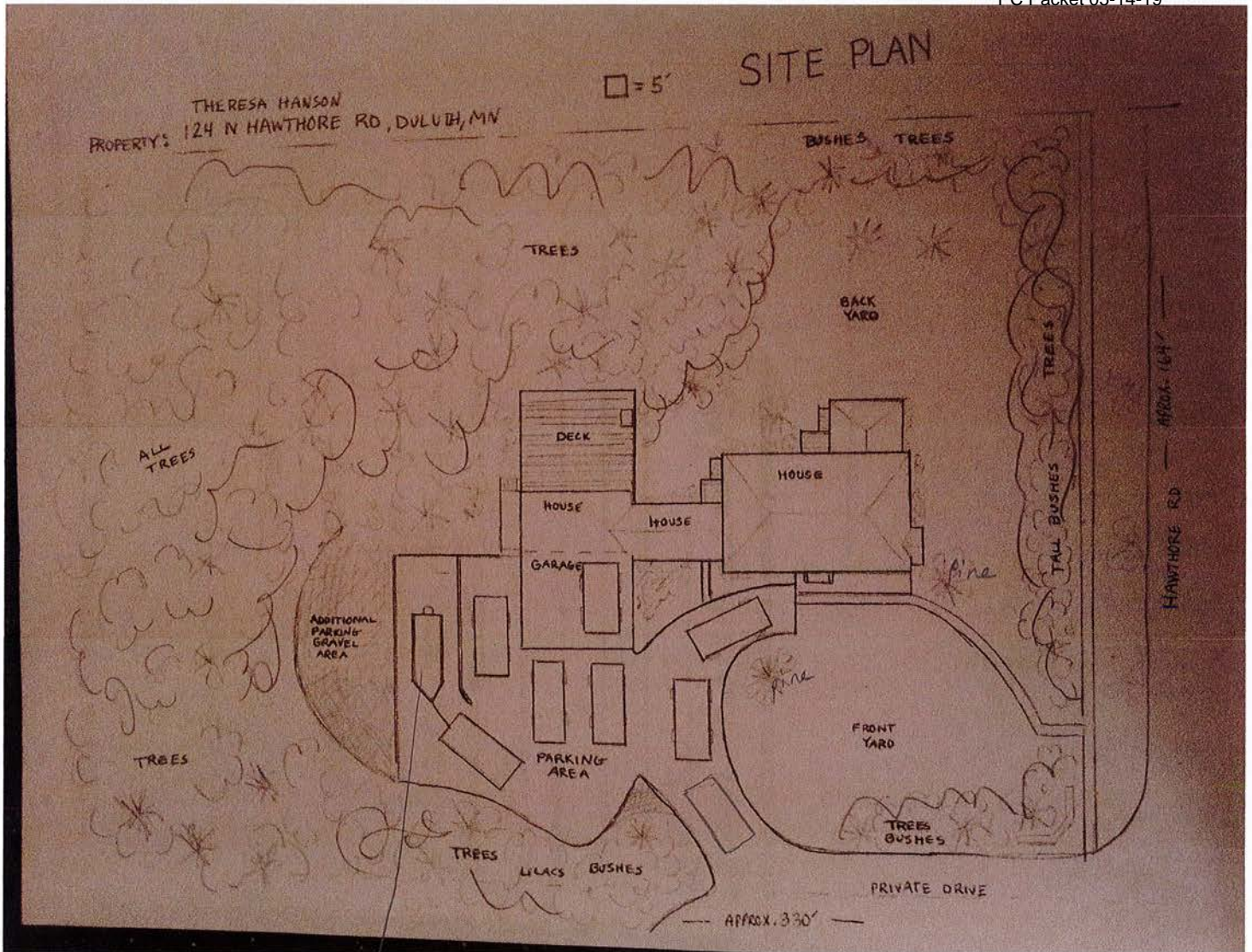
- Utility Easement
- Other Easement
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)



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

Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, March 17, 2019, Source: City of Duluth.



If there is a trailer - this is how I suggest parking.

Lot is 164' x 330'

Pines, maple, cedar, birch, oak trees on lot.

* See original site plan on file - should be this same plan -



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 19-034	Contact	Chris Lee, 720-5304	
Type	Minor Subdivision-RLS	Planning Commission Date	May 14, 2019	
Deadline for Action	Application Date	April 9, 2019	60 Days	June 16, 2019
	Date Extension Letter Mailed	April 24, 2019	120 Days	August 7, 2019
Location of Subject	431 East Skyline Parkway			
Applicant	Ralph M. Raschick	Contact		
Agent		Contact		
Legal Description	See attached			
Site Visit Date	May 2, 2019	Sign Notice Date	April 30, 2019	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal

Applicant is requesting a Minor Subdivision to divide one platted lot into two lots. The current parcel is 12,300 square feet and the division will create a two 6,150 lots.

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

Summary of Code Requirements

50-33.1 General: All subdivision plats and replats, and all registered land surveys, shall create lots, streets and walkways and open spaces consistent with the requirements of the zone district within which the land is located.

50-37.5, D 1. The planning commission shall approve the application if it determines that the application:

- (a) The lot or lots to be subdivided or combined have frontage on an improved public street;
- (b) Each proposed lot meets the minimum zoning requirements of the district that it is in.
- (c) If an existing structure on a lot complies with the requirements of this Chapter, then after the minor subdivision structures on each of the resulting lots will still comply with the requirements of this Chapter; and
- (d) If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any existing nonconformity between the requirements of this Chapter.

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

Governing Principle #1 - Reuse previously developed lands. Directs investment to sites which have the potential to perform at a higher level than their current state.

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

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 current lot is 12,300 square feet and contains a 908 square foot single-family residence built in 1942.

Review and Discussion Items

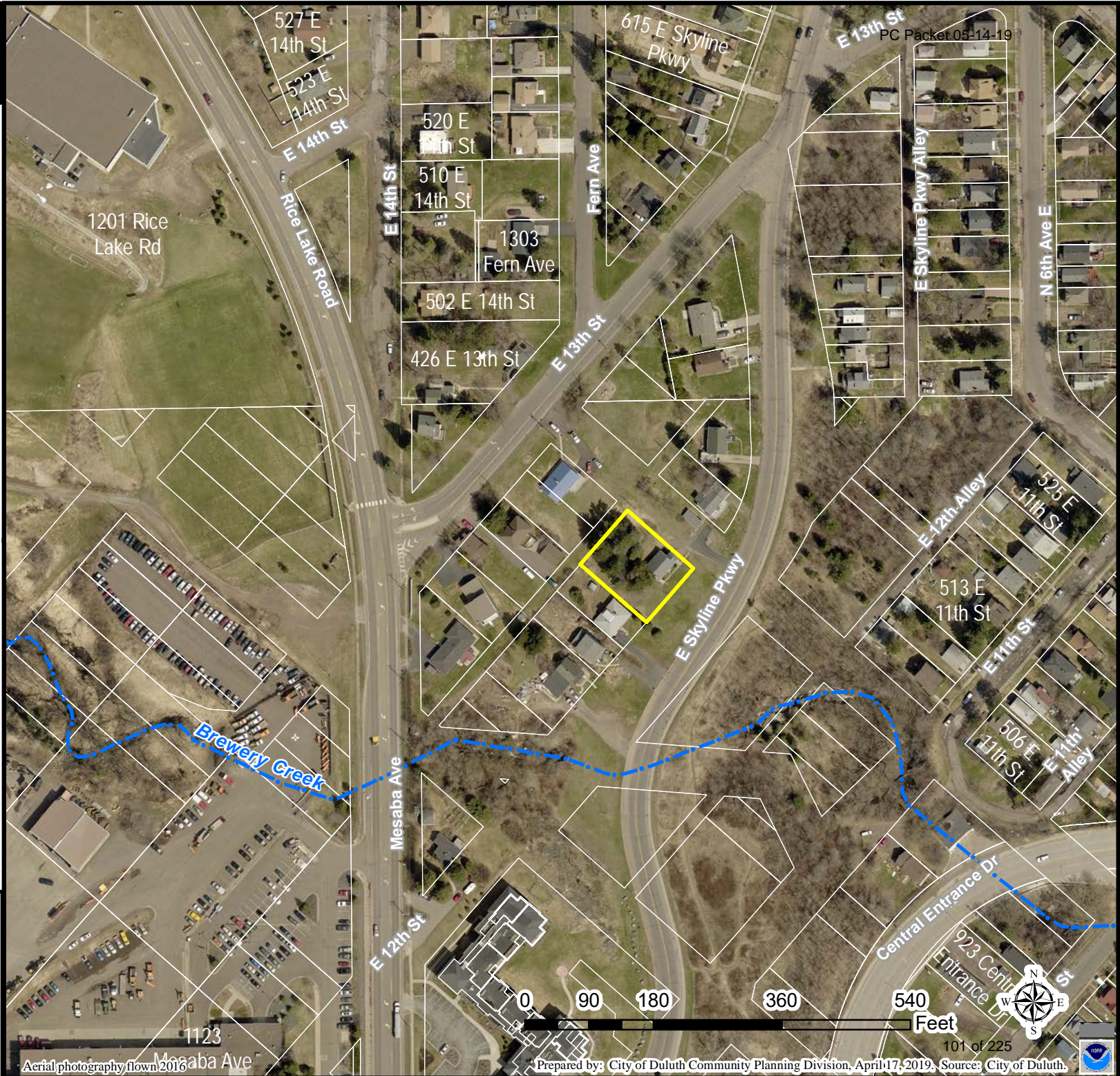
1. Applicant is requesting a Minor Subdivision to divide a single lot into two lots. One lot will contain the existing home and the other will be list for sale for future single family development. The proposed subdivision, if approved, would not make the parcels non-conforming due to lot frontage, lot area, or similar bulk standard.
2. No public, agency, or City comments were received.
3. No existing platted right of way is being proposed to be vacated with this proposal.
4. The attached exhibit demonstrates compliance with Minnesota statutes 462.358 and 505 or 508, as applicable.
5. Approval of this Minor Subdivision signifies that City of Duluth UDC standards are met. St. Louis County may have additional requirements. This subdivision approval lapses if deeds are not recorded with St. Louis County within 180 days. Applicant must provide the City with proof of recording.

Staff Recommendation

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

1. Appropriate deeds be filed with St. Louis County within 180 days. Prior to recording the deed that results from this adjustment, the Planning Division will need to stamp the deed, indication compliance with the local zoning code.
2. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

19-034: Minor Subdivision
431 E Skyline



Legend

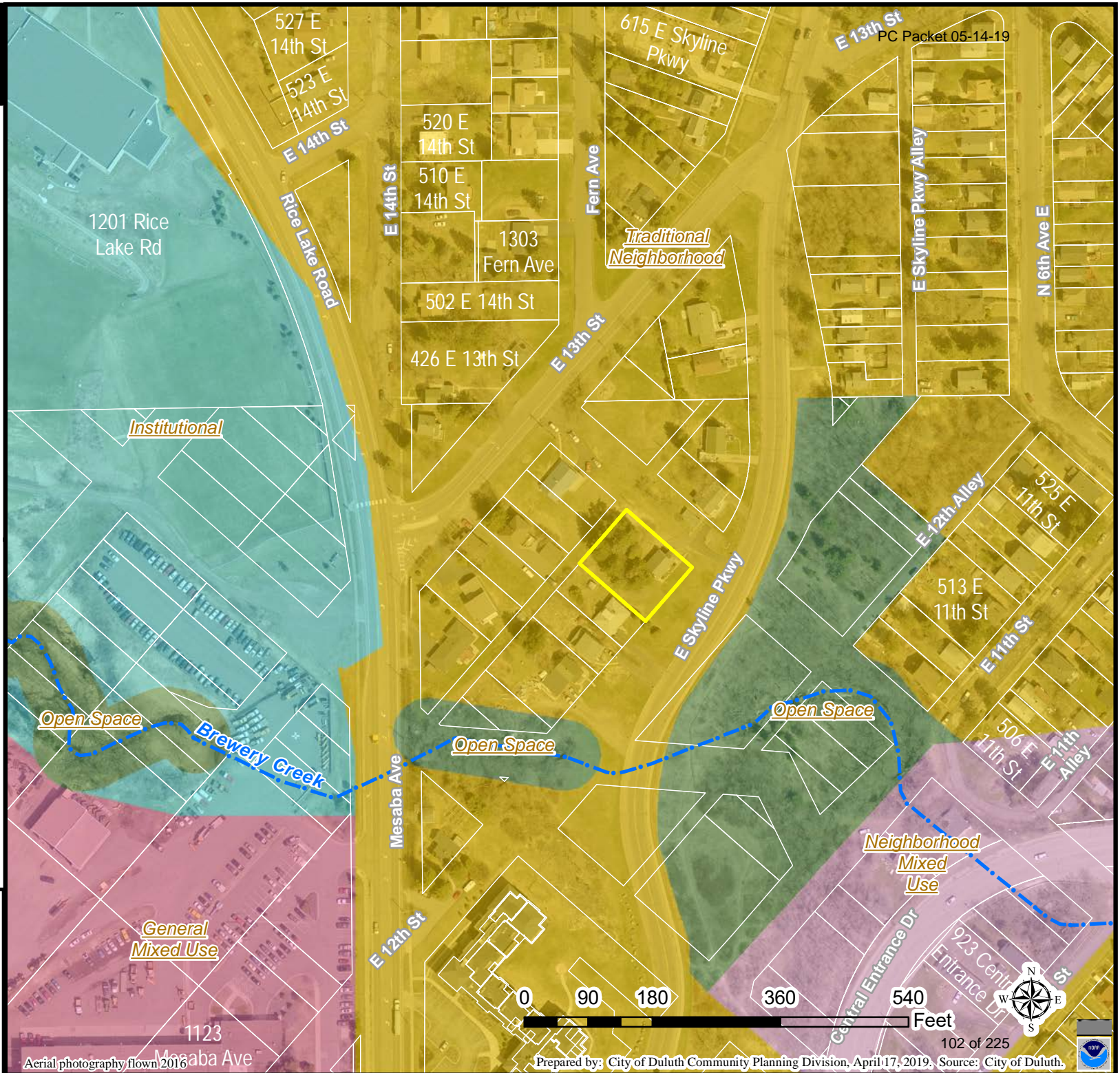
- Trout Stream (GPS)
- - - Other Stream (GPS)

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.

19-034: Minor Subdivision
431 E Skyline

Legend

- 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

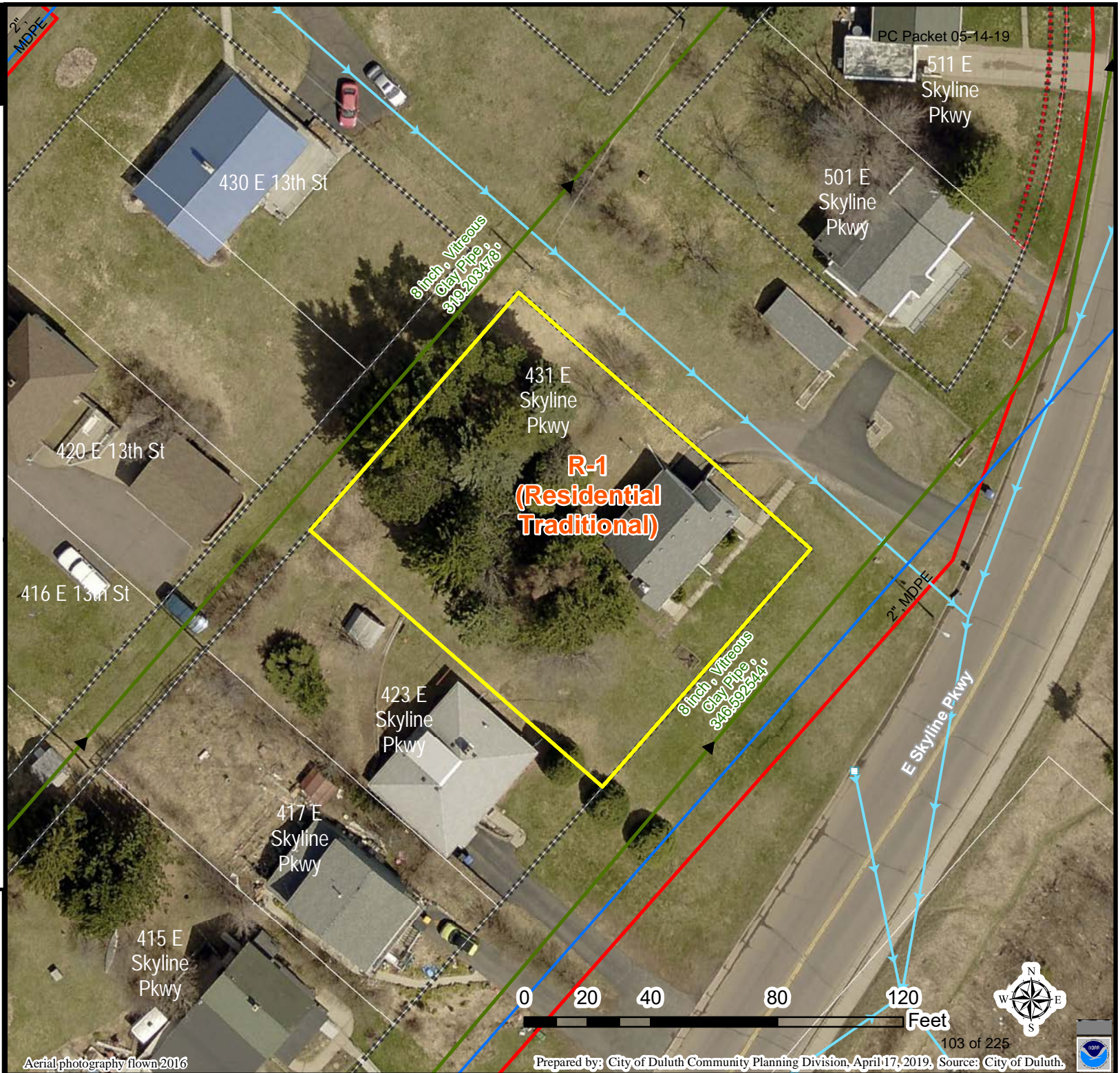


The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used 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.

19-034: Minor Subdivision
431 E Skyline

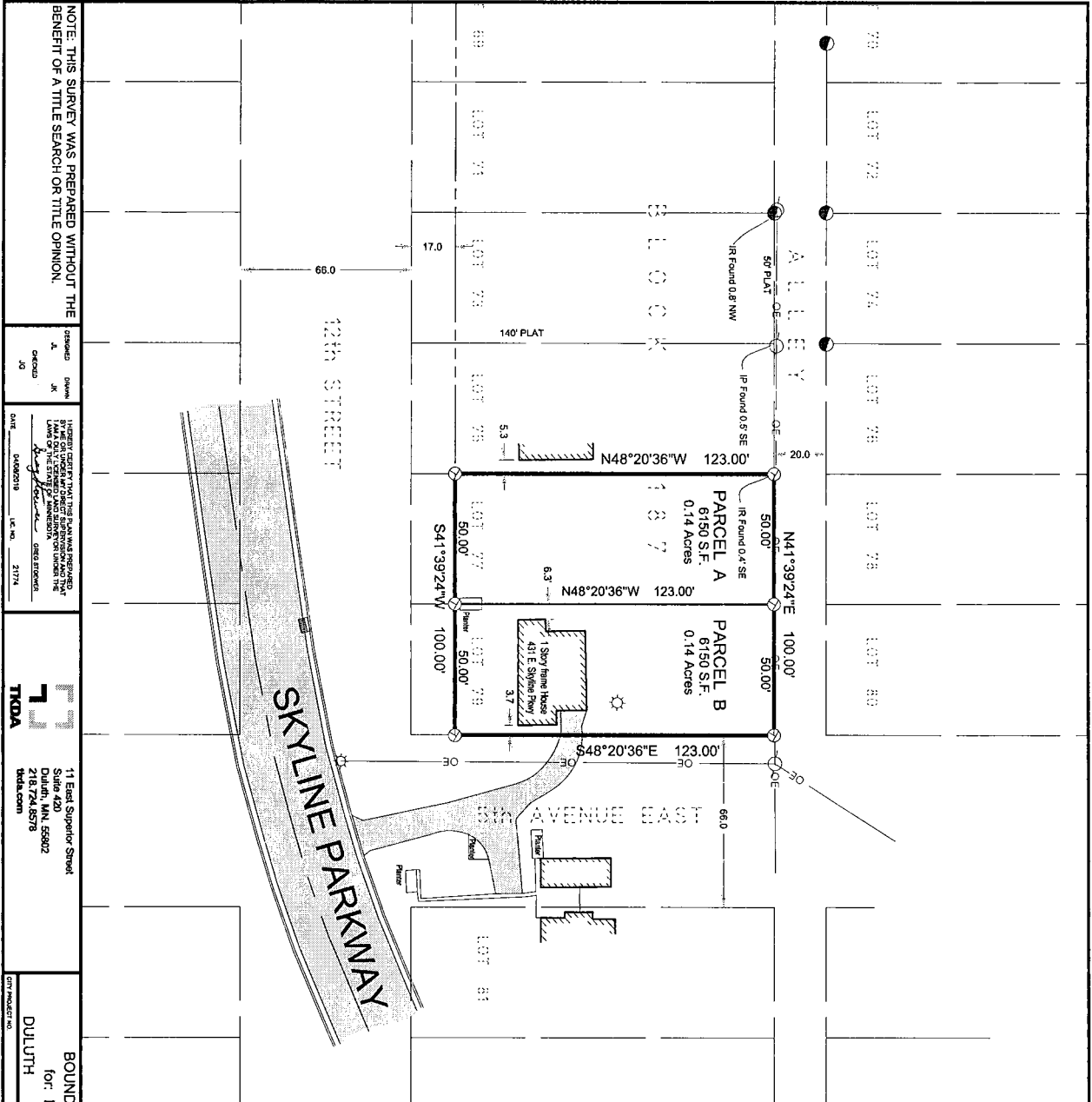
Legend

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



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



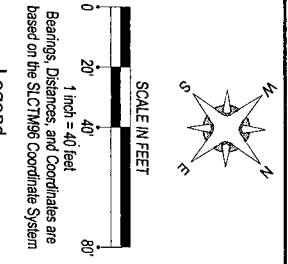


NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH OR TITLE OPINION.

11 East Superior Street
 Duluth, MN 55802
 218.724.8578
 tkda.com

BOUNDARY SURVEY
 for: Mike Raschick
 MINNESOTA

CERTIFICATE OF SURVEY
 15513.353
 SHEET NO. 1



Legend

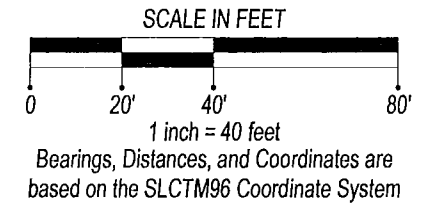
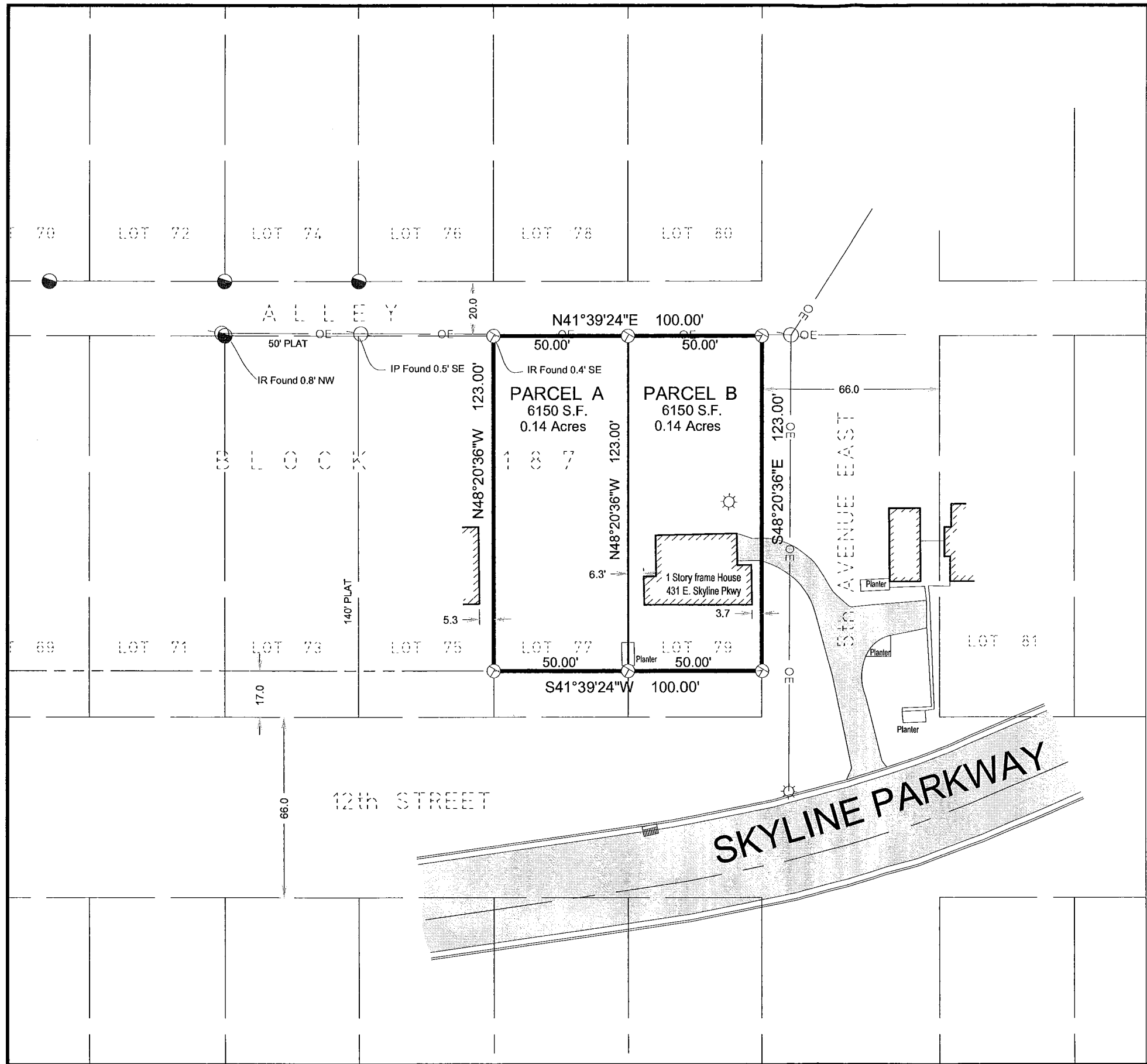
- Property Boundary
- Platted Lot Line
- Right of Way
- Building
- Curb
- Power Pole/OH Electrical Light Pole
- Bituminous
- Concrete
- Found Iron survey Marker - Tee
- Set Iron Survey Marker - Tee
- MN. Lic. No. 21774

Surveyors Notes:
 Iron Rods and Pipes were rejected because of their position and lack of survey history.

Original Legal Description according to the St. Louis County MN Property Details Report:
 Lots 77 and 79, block 187, except the South 17 feet for Boulevard, DULUTH PROPER THIRD DIVISION, St. Louis County, MN.

Proposed Legal Descriptions:
PARCEL A
 Lot 77, Block 187, Except the South 17 feet for right-of-way, DULUTH PROPER THIRD DIVISION, according to the recorded plat thereof, St. Louis County, MN.
PARCEL B
 Lot 79, Block 187, Except the South 17 feet for right-of-way, DULUTH PROPER THIRD DIVISION, according to the recorded plat thereof, St. Louis County, MN.

ENLARGED COPY



Legend

- Property Boundary
 - Platted Lot Line
 - Right of Way
 - Building
 - Curb
 - Power Pole/OH Electric/Light Pole
 - Bituminous
 - Concrete
 - Found Iron survey Marker - Tee
 - Set Iron Survey Marker -Tee
- MN. Lic. No. 21774

Surveyors Notes:

Iron Rods and Pipes were rejected because of their position and lack of survey history.

Original Legal Description according to the St. Louis County MN Property Details Report:

Lots 77 and 79, block 187, except the South 17 feet for Boulevard, DULUTH PROPER THIRD DIVISION, St. Louis County, MN.

Proposed Legal Descriptions:

PARCEL A
Lot 77, Block 187, Except the South 17 feet for right-ofway, DULUTH PROPER THIRD DIVISION, according to the recorded plat thereof, St. Louis County, MN.

PARCEL B
Lot 79, Block 187, Except the South 17 feet for right-ofway, DULUTH PROPER THIRD DIVISION, according to the recorded plat thereof, St. Louis County, MN.

FIELD BOOK: FIELDBOOK
Drawing Name: P:\Hennepin\Town-Official\Projects\TKDA\15513 Land Survey\15513.353 Mike Raschick\01_Producer\01_CAD\01_2\enlarged.dwg
Xref:

NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH OR TITLE OPINION.

DESIGNED JL
DRAWN JK
CHECKED JG

I HEREBY CERTIFY THAT THIS PLAN 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
Greg Stoeber GREG STOEBER
DATE 04/08/2019 LIC. NO. 21774



11 East Superior Street
Suite 420
Duluth, MN. 55802
218.724.8578
tkda.com

BOUNDARY SURVEY
for: Mike Raschick
DULUTH MINNESOTA

CERTIFICATE OF SURVEY

PROJECT NO. 15513.353
RECORD NO. SHEET NO. 1
105 of 225





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 19-037	Contact	Chris Lee, 720-5304	
Type	Minor Subdivision-RLS	Planning Commission Date	May 14, 2019	
Deadline for Action	Application Date	April 9, 2019	60 Days	June 16, 2019
	Date Extension Letter Mailed	April 24, 2019	120 Days	August 7, 2019
Location of Subject	4306 Enterprise Circle			
Applicant	Duluth Seaway Port Authority	Contact		
Agent	Steven Overom	Contact		
Legal Description	See attached			
Site Visit Date	May 2, 2019	Sign Notice Date	April 30, 2019	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal

Applicant is requesting a Minor Subdivision to divide one platted lot into two lots. The current parcel is 2.14 acres and contains a 6,448 square foot structure. The division will create a 1.34 acre lot and a .795 acre lot. The proposed Minor Subdivision will allow for further business investment in the Duluth Seaway Port Authority's industrial development area known as the Airpark.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-B	Commercial	Business Park
North	MU-B	Commercial	Business Park
South	RR-1	Residential	Rural Residential
East	MU-B	Commercial	Business Park
West	MU-B	Commercial	Business Park

Summary of Code Requirements

50-33.1 General: All subdivision plats and replats, and all registered land surveys, shall create lots, streets and walkways and open spaces consistent with the requirements of the zone district within which the land is located.

50-37.5, D 1. The planning commission shall approve the application if it determines that the application:

- (a) The lot or lots to be subdivided or combined have frontage on an improved public street;
- (b) Each proposed lot meets the minimum zoning requirements of the district that it is in.
- (c) If an existing structure on a lot complies with the requirements of this Chapter, then after the minor subdivision structures on each of the resulting lots will still comply with the requirements of this Chapter; and
- (d) If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any existing nonconformity between the requirements of this Chapter.

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

Governing Principle #1 - Reuse previously developed lands. Directs investment to sites which have the potential to perform at a higher level than their current state.

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

Future Land Use – Business Park - Primarily office and light industrial areas developed in a unified manner, with standards for site design and circulation patterns, signage, landscaping, and building design.

The current lot is 12,300 square feet and contains a 6,448 square foot business built in 1995.

Review and Discussion Items

1. Applicant is requesting a Minor Subdivision to divide a single lot into two lots. One lot will contain the existing business and the other will be listed for sale. The proposed subdivision, if approved, would not make the parcels non-conforming due to lot frontage, lot area, or similar bulk standard.
2. No public, agency, or City comments were received.
3. No existing platted right of way is being proposed to be vacated with this proposal.
4. The attached exhibit demonstrates compliance with Minnesota statutes 462.358 and 505 or 508, as applicable.
5. Approval of this Minor Subdivision signifies that City of Duluth UDC standards are met. St. Louis County may have additional requirements. This subdivision approval lapses if deeds are not recorded with St. Louis County within 180 days. Applicant must provide the City with proof of recording.

Staff Recommendation

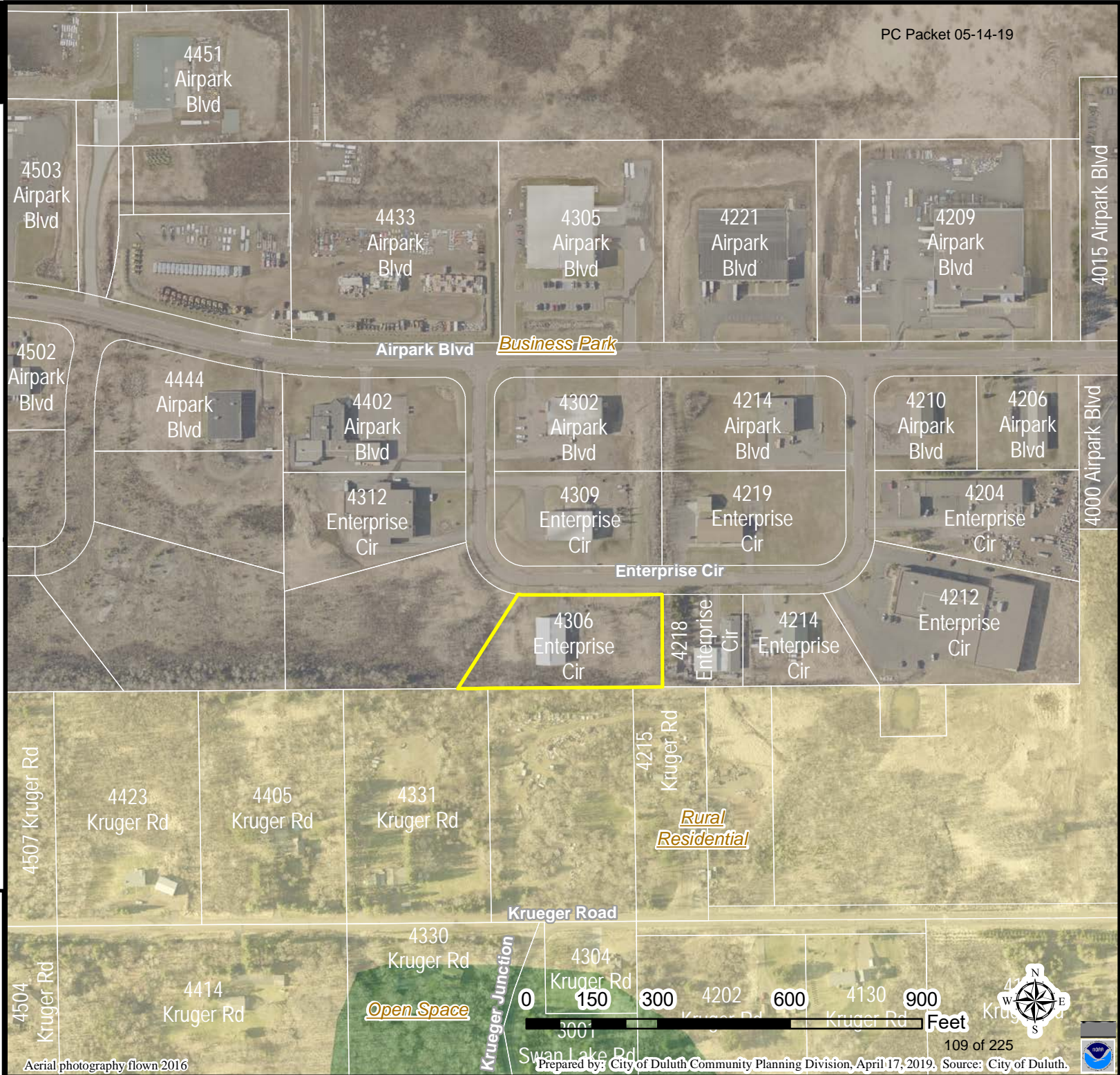
Based on the above findings, Staff recommends that Planning Commission approve the Minor Subdivision subject to the following conditions:

1. Appropriate deeds be filed with St. Louis County within 180 days. Prior to recording the deed that results from this adjustment, the Planning Division will need to stamp the deed, indication compliance with the local zoning code.
2. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

19-037: Minor Subdivision
4306 Enterprise Cir

Legend

- 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



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.

19-037: Minor Subdivision
4306 Enterprise Cir

Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

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

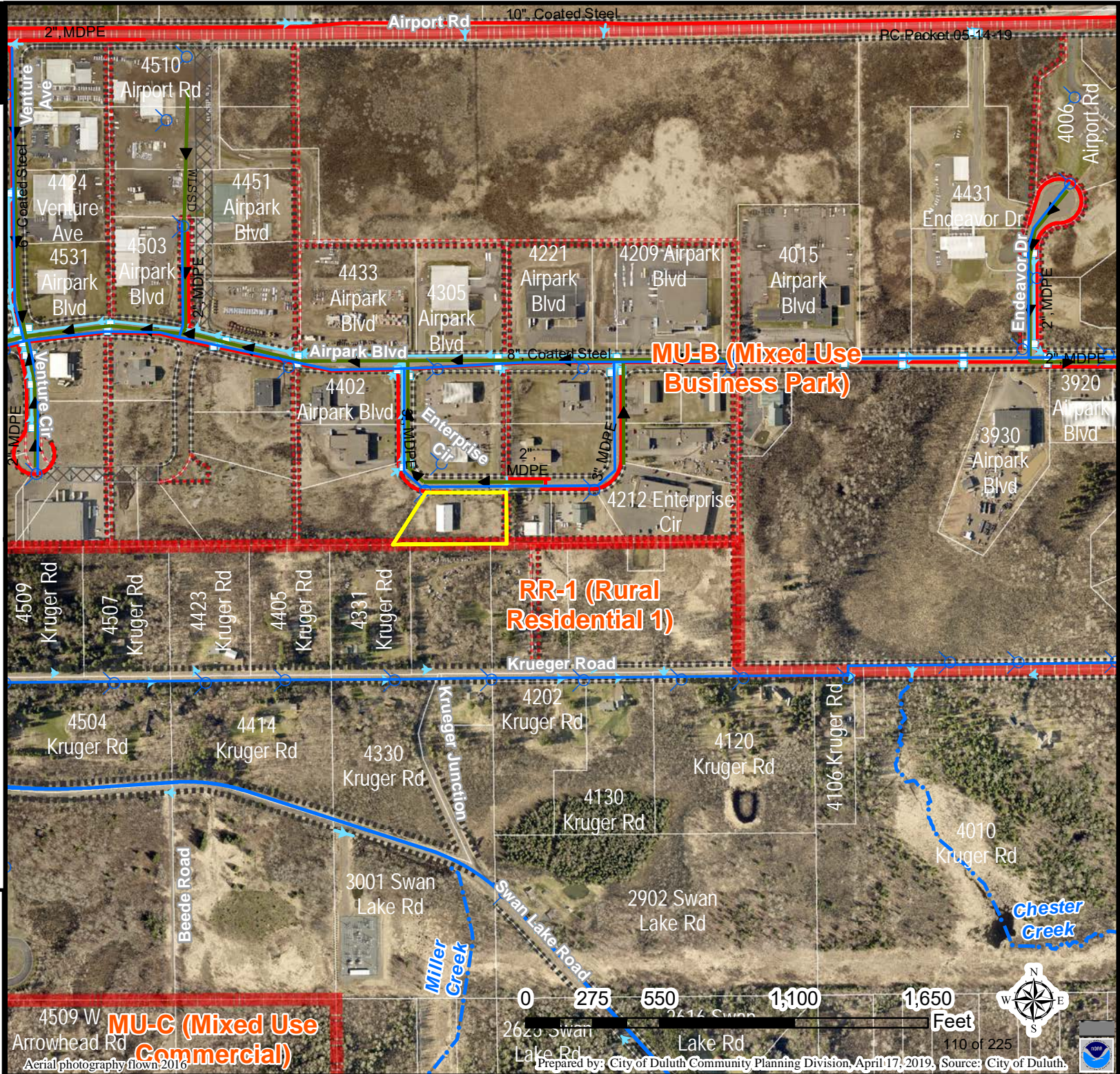
Storm Sewer Mains

- Storage Basin
- Pump Station
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Road or Alley ROW
- Vacated ROW

Easement Type

- Utility Easement
- Other Easement
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)

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.

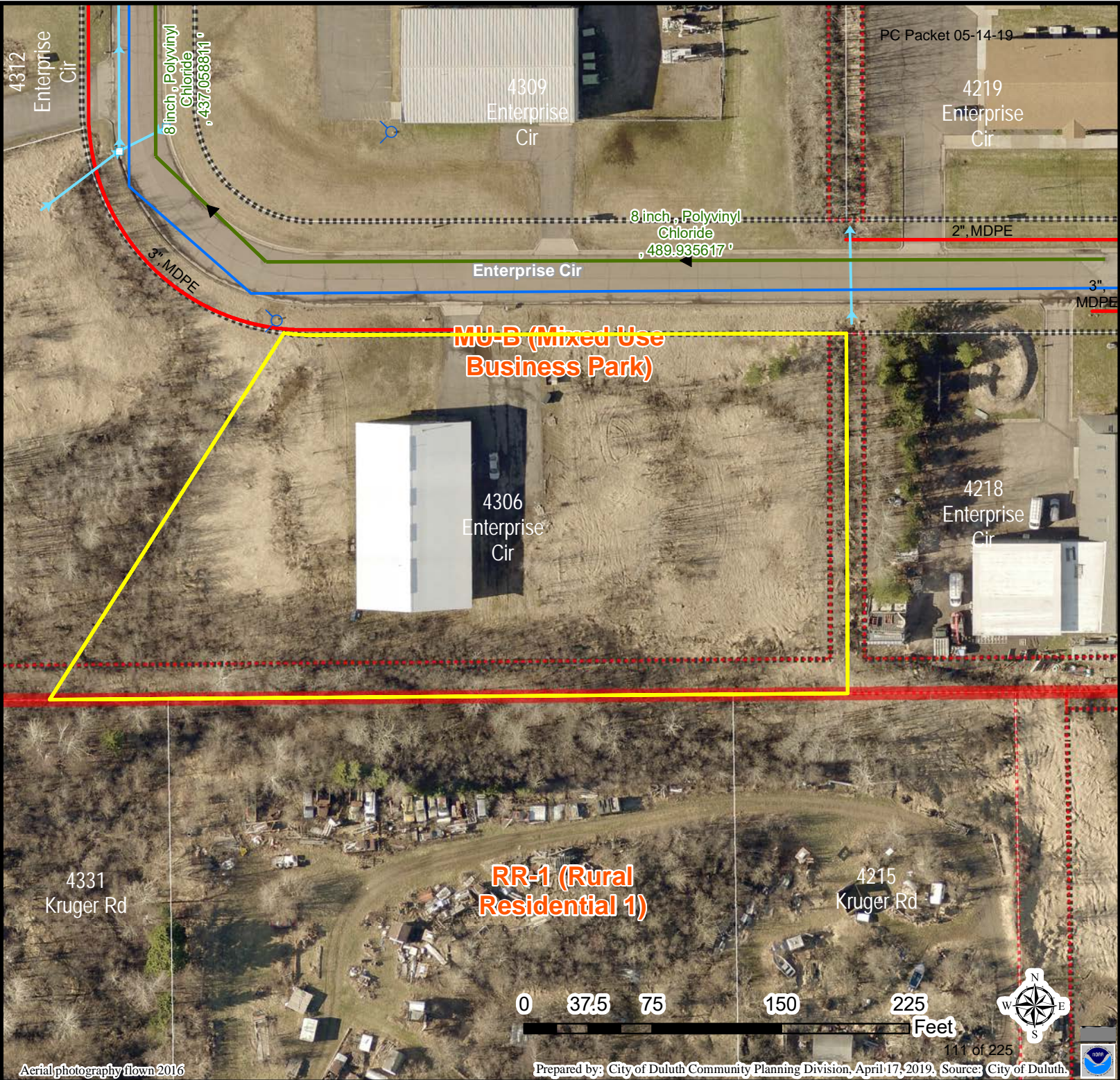


19-037: Minor Subdivision
4306 Enterprise Cir

Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- PS Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Road or Alley ROW
- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)

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.



REARRANGEMENT
OF PART OF

ENTERPRISE CIRCLE

N90°00'00"W 164.32

10' UTILITY
EASEMENT

10' UTILITY
EASEMENT

AIRPARK

**PART OF
LOT 21
BLOCK 4**
AREA = 0.8 ACRES ±

PID # 010 0143 00210

(PID is for all of
Lot 21, Block 4)

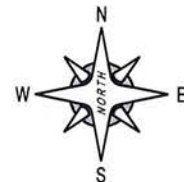
N00°00'00"E 210.27

N00°00'00"E 211.04




20.0' UTILITY
EASEMENT

N89°44'10"E
97.60

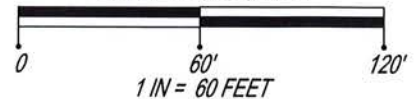
N89°44'22"E
66.72



LEGEND

-  BOUNDARY
-  CENTERLINE
-  PLAT LINE

GRAPHIC SCALE



BEARINGS AND DISTANCES BASED ON PLAT DIMENSIONS
AND PREVIOUS PARCEL EXHIBITS



ENGINEERS • SURVEYORS • PLANNERS

SALO ENGINEERING, INC.

4560 Norway Pines Place • Duluth, Minnesota 55811 • 218/727-8796

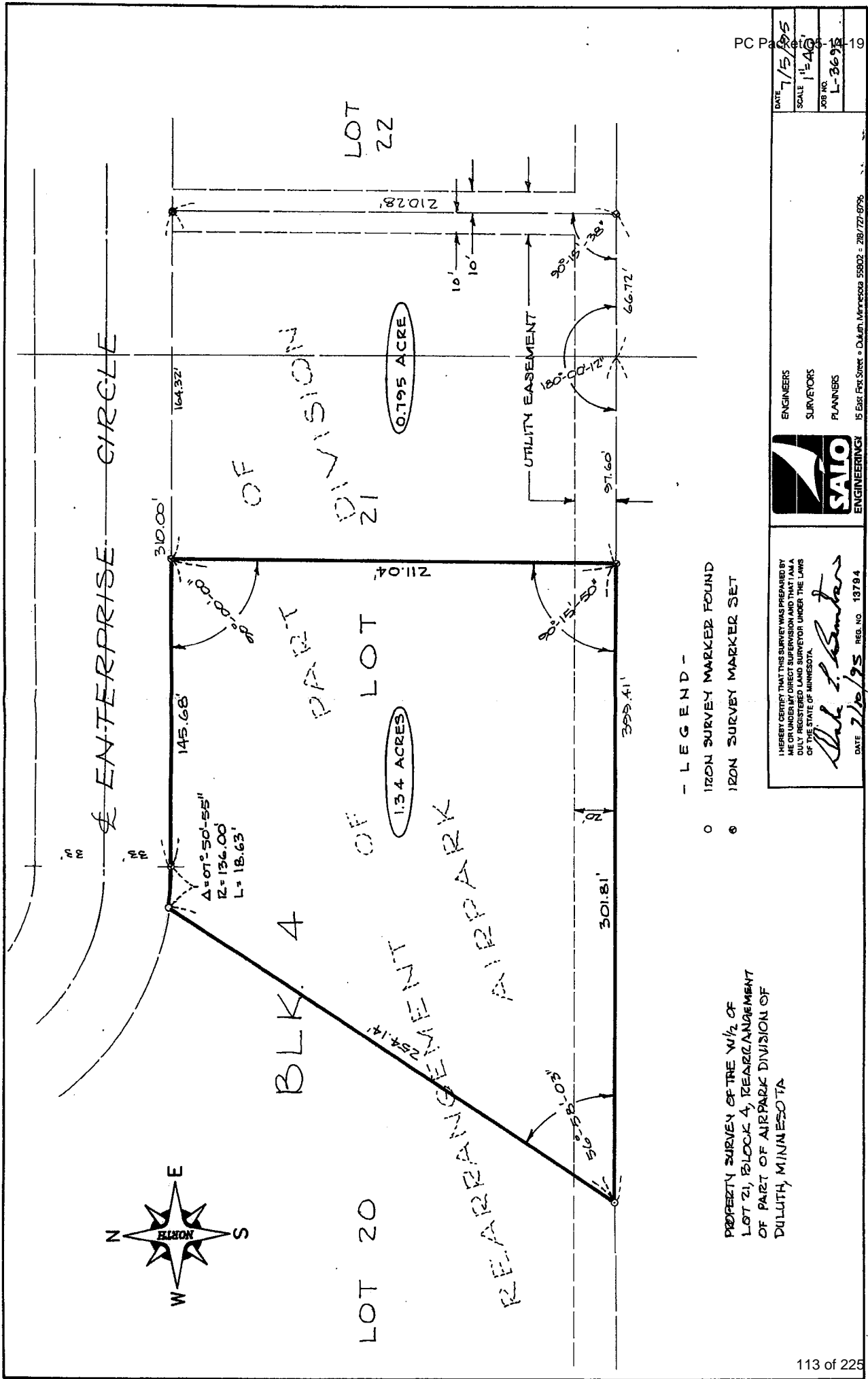
04/10/08

DATE

SD280B

JOB NO.

**PART OF LOT 21, BLOCK 4, REARRANGEMENT OF
AIRPARK DIVISION**



- LEGEND -
- IRON SURVEY MARKER FOUND
 - IRON SURVEY MARKER SET

ONLINE
NorthShoreTitle.com



WRITER'S EMAIL
jswartz@northshoretittle.com

PHONE
218.722.1321

OWNERSHIP AND ENCUMBRANCE REPORT - 190848-NST
April 9, 2019

REPORT PREPARED FOR

OVEROM LAW, PLLC
Aurora Kothe
akothe@overomlaw.com
11 E Superior Street Suite 543
Duluth, MN 55802

EFFECTIVE DATE

April 5, 2019 at 8:00 AM

PROPERTY ADDRESS

4306 Enterprise Circle, Duluth, MN 55811

LEGAL DESCRIPTION

Lot Twenty-one (21), Block Four (4), REARRANGEMENT OF PART OF AIRPARK DIVISION

Torrens Property
Certificate of Title No. 303351
St. Louis County, Minnesota
(NOTE: Certificate of Title includes additional land)

LAST CONVEYANCE OF RECORD (OWNERSHIP)

The records of the Saint Louis Registrar of Titles disclose as grantees by Quit Claim Deed recorded on September 28, 1993, as Document No. 571407:

The Seaway Port Authority of Duluth

OPEN ENCUMBRANCES

UCC Fixture Financing Statement between Plating Specialties, Inc, as debtor, and Norwest Bank Minnesota North, National Association as Secured Party, dated August 24, 1995, recorded Septemer 12, 1995, as Document No. 601877. (NOTE: Fixture Financing Statement covers fixtures on the West One-half of Lot 21)

Continuation of UCC Financing Statement recorded May 18, 2000, as Document No. 683662.

UNSATISFIED TAX LIENS, JUDGMENTS

Name searches for district court judgments in Saint Louis County, , were made for **The Seaway Port Authority of Duluth**, and disclosed the following:

None.

REAL ESTATE TAXES

Real Estate Taxes and installments of special assessments, if any, for the year 2019 in the amount of \$0.00 are Tax Exempt, Property Identification No. 010-0143-00210.

No inquiry has been made as to local assessments against the subject property.

LIMITATION OF LIABILITY

THIS REPORT IS NOT AN ABSTRACT OR OPINION OF TITLE, TITLE INSURANCE COMMITMENT OR TITLE INSURANCE POLICY.

This report is an ownership and encumbrance report which only cites matters appearing in the public records of Saint Louis County, , and assumes no liabilities for the public record information or facts shown in detail herein.

The liability hereunder is specifically limited to the fees paid for the preparation of this report.

ABTRACTOR

Jennifer A. Swartz
North Shore Title, LLC



CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 110 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 19-033	Contact	John Kelley, 730-5326	
Type	Vacation of Pedestrian Easement	Planning Commission Date	May 14, 2019	
Deadline for Action	Application Date	April 4, 2019	60 Days	June 3, 2019
	Date Extension Letter Mailed	April 18, 2019	120 Days	August 2, 2019
Location of Subject	PID # 010-2970-00050			
Applicant	St. Francis of Assisi, Inc.	Contact		
Agent	Jane Marrone	Contact		
Legal Description	See Attached Exhibit			
Site Visit Date	May 2, 2019	Sign Notice Date	April 30, 2019	
Neighbor Letter Date	April 30, 2019	Number of Letters Sent	38	

Proposal

The applicant is requesting to vacate a pedestrian easement on a lot that currently has a portion of the Lakeland Shores Apartments Building located on it. The applicant is offering a replacement pedestrian easement adjacent to the Cambridge Street Alley from North 45th Avenue East.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	Residential Care Facility	Traditional Neighborhood
North	R-2	Residential Care Facility	Traditional Neighborhood
South	R-2	Residential Care Facility	Traditional Neighborhood
East	P-1	Park	Traditional Neighborhood
West	R-1	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.

UCD Sec. 50-37.6.C – The Planning Commission shall review the proposed vacation, and Council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway, or easement proposed for vacation:

- 1) Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles, or pedestrians or the efficient supply of utilities or public services in the city;
- 2) Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
- 3) Is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.

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

Principle #5 - Strengthen neighborhoods: The present city is an historical amalgam of villages and other independent units of government, contributing to the present condition of Duluth being strongly defined by its neighborhoods. This condition should be reinforced through land use, transportation and public service delivery patterns which strengthen neighborhood identity. New institutional expansions, major public infrastructure or large commercial or industrial uses should not divide historic neighborhood patterns.

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). Non-vehicular transportation should be considered an important component of the overall transportation network. Winter maintenance of sidewalks and other public ways is critical to the creation of usable pedestrian systems.

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.

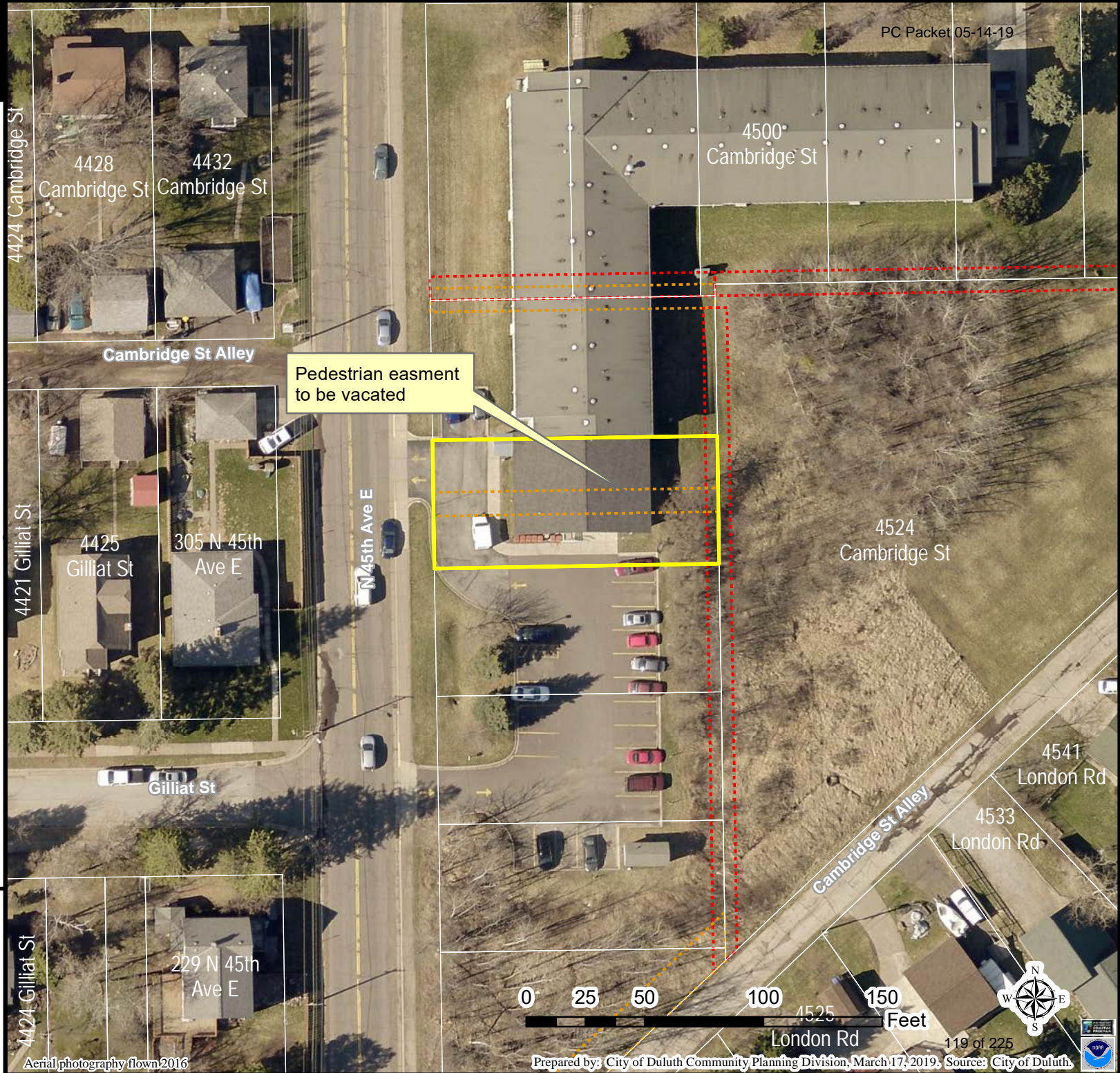
Review and Discussion Items

Staff Finds that:

1. The applicant is requesting to vacate a 10-foot wide pedestrian easement over Lot 5 of Kelso's Rearrangement of Blocks 1 and 2 of Sargent's Rearrangement of Blocks 16, 17, 18 of the London Addition to Duluth Plat as shown in the attached exhibit.
2. The proposed vacation of the pedestrian easement is 10' x 120' and runs through the center portion of Lot 5. The southern section of the Lakeland Shores Apartment building currently occupies this portion of the lot.
3. The proposed vacated pedestrian easement is not needed for public use. The City Engineering office has reviewed the proposed vacation and easement dedication.
4. This easement is not needed to provide access to any public water. Vacating the pedestrian easement will not impact or deny access to other property owners.
5. The applicant is offering to replace the vacated easement with a 15-foot wide pedestrian easement approximately 160 feet in length running along the north side of the Cambridge Street Alley adjacent to North 45th Avenue East.
6. No other public or City comments were received at this time of drafting this report.
7. Vacations of rights of way and easements lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

Staff Recommendation



Based on the above findings, staff recommends that Planning Commission recommend approval of the vacation of the right of way as shown in the attached vacation exhibit.



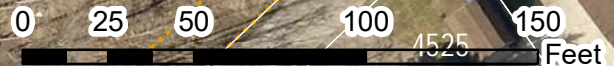
Pedestrian easment to be vacated

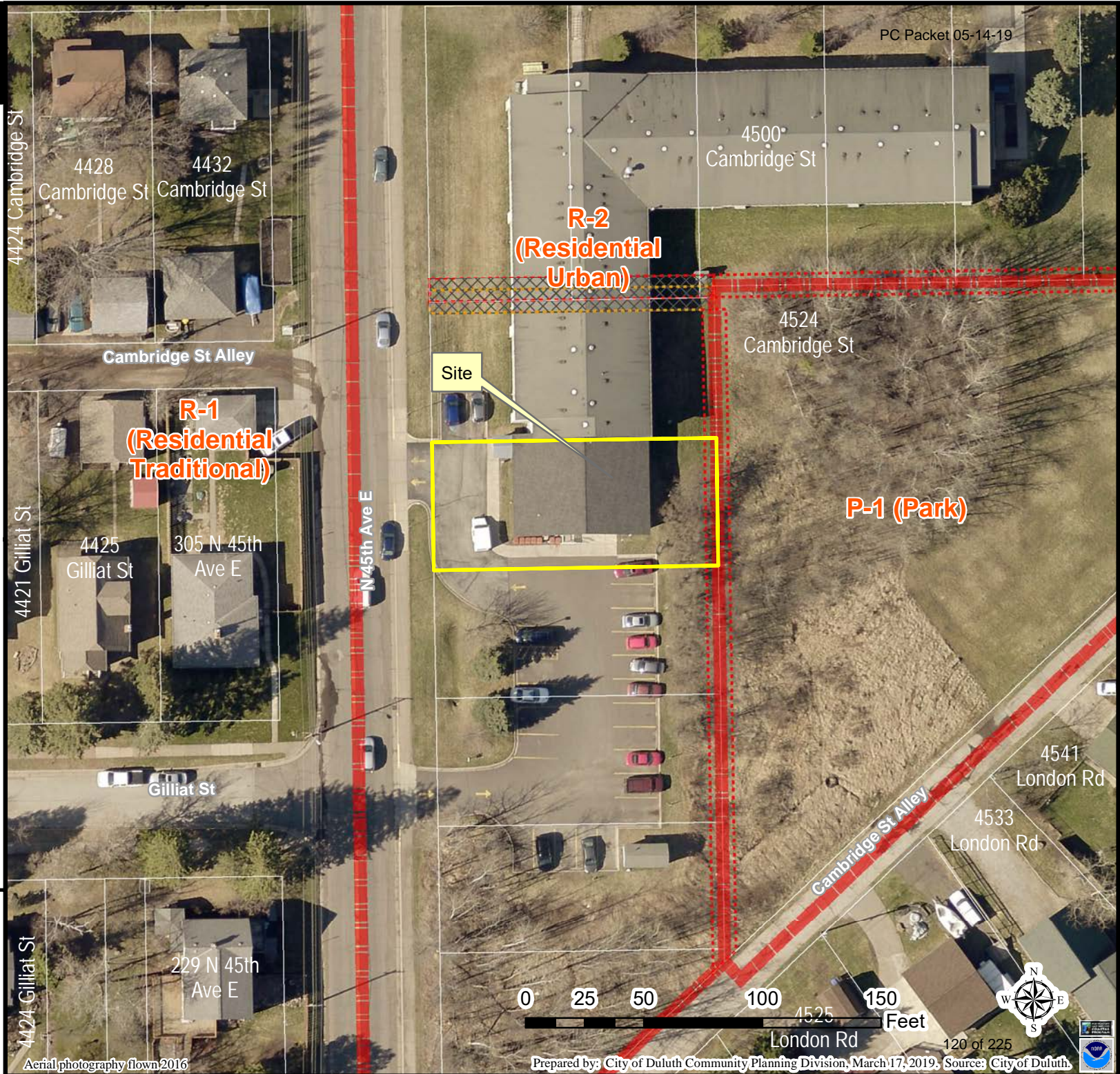
Legend

Easement Type

-  Utility Easement
-  Other Easement

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.

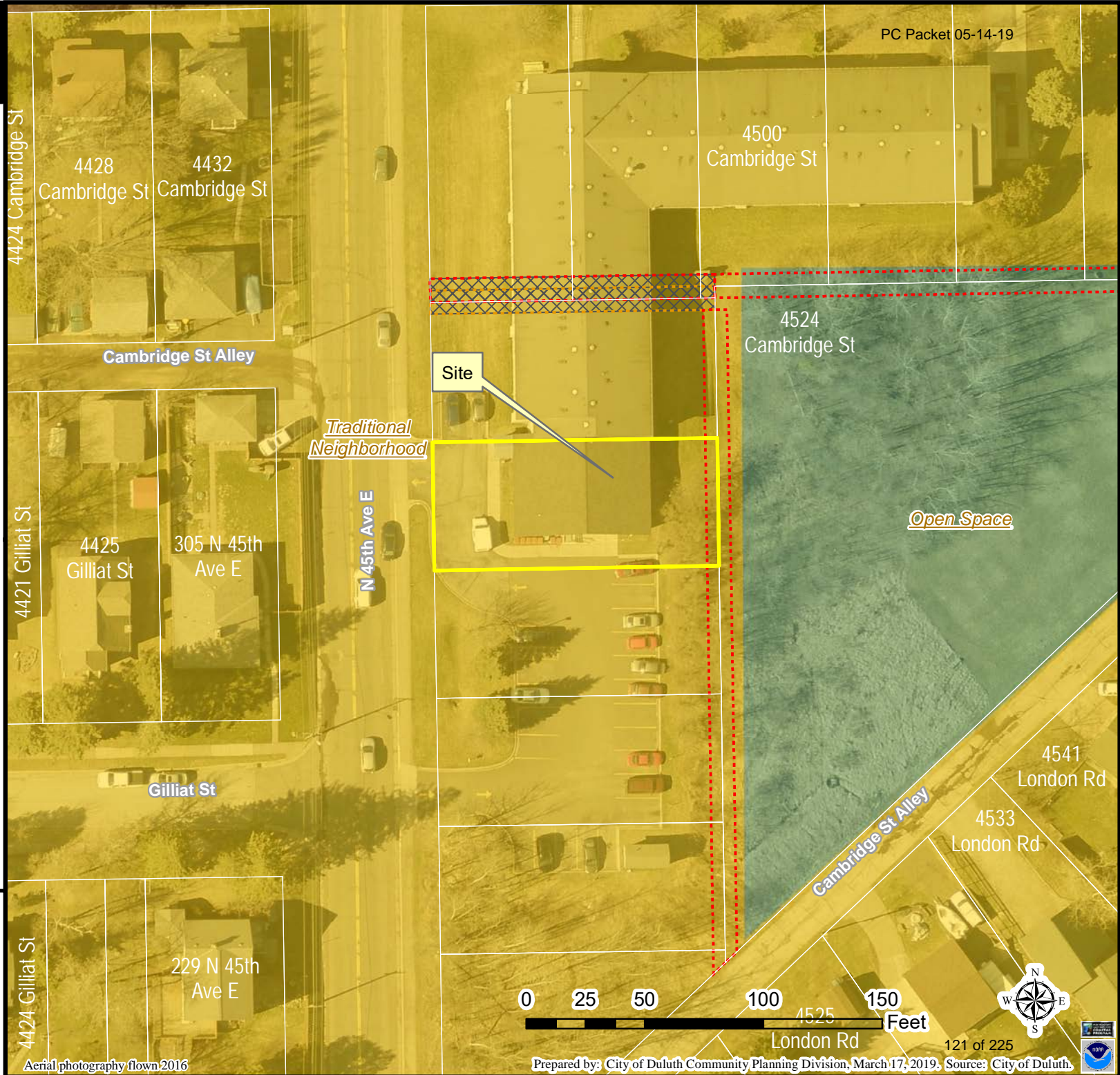




Legend

- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- Zoning Boundaries

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



Legend

- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- 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

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.



EXHIBIT B

City of Duluth / Application for St. Francis of Assisi
4500 Cambridge St., Duluth MN 55804

SKETCH & DESCRIPTION

EASEMENT TO BE VACATED

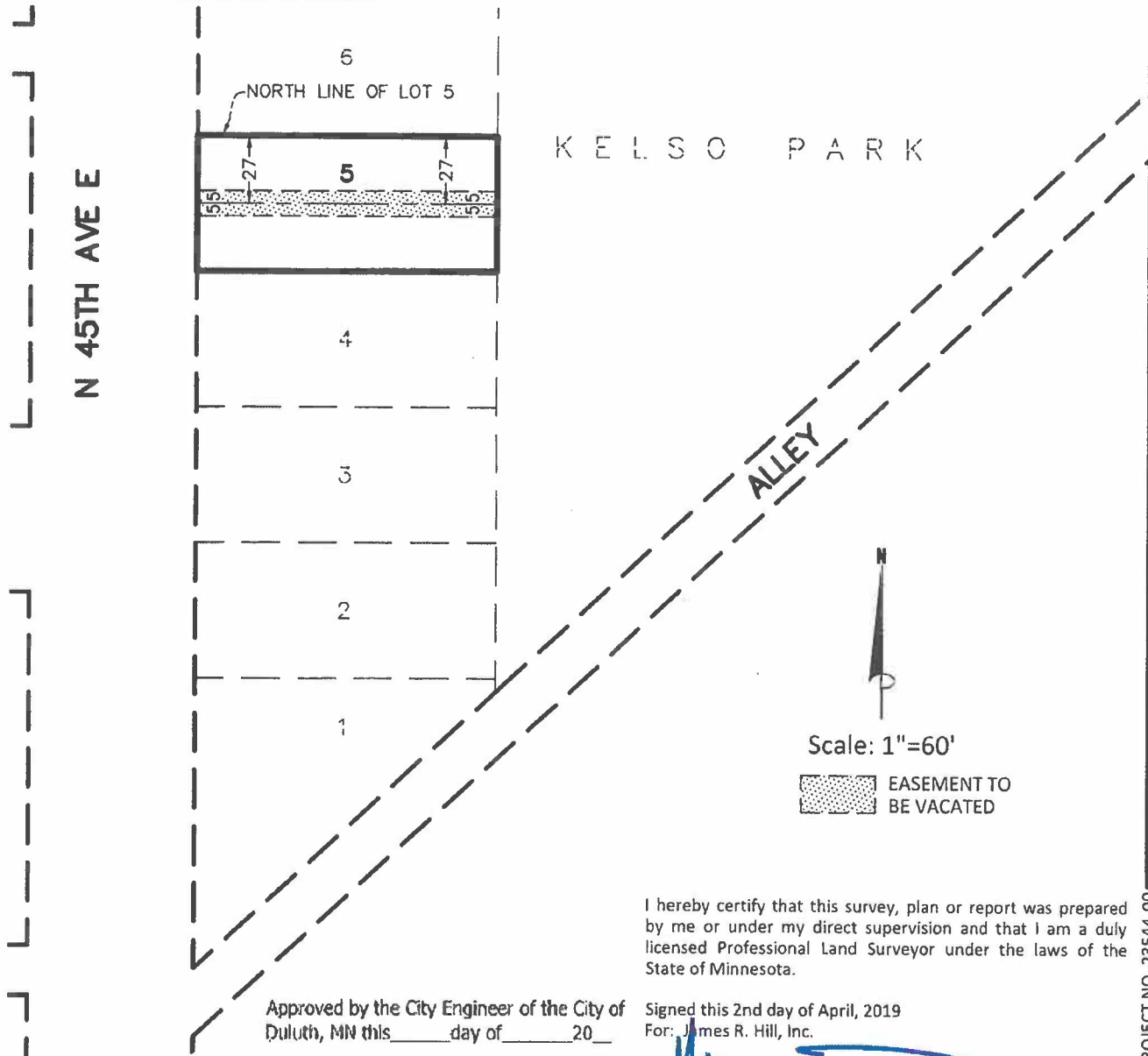
[ATTACHED]

VACATION EXHIBIT

EASEMENT TO BE VACATED

That particular easement for pedestrian ingress and egress, originally granted in Document No. 475683 and accepted in Document No. 475684, Office of the Register of Deeds, St. Louis County, Minnesota, now to be vacated, described as follows:

A ten foot (10') wide strip of land lying Five feet (5') on either side of a line that is Twenty-seven feet (27') Southerly and parallel to the Northerly line of Lot Five (5), KELSO'S REARRANGEMENT OF BLOCKS 1 AND 2 OF SARGENTS REARRANGEMENT OF BLOCKS 16, 17 AND 18 LONDON ADDITION TO DULUTH



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 Professional Land Surveyor under the laws of the State of Minnesota.

Approved by the City Engineer of the City of Duluth, MN this _____ day of _____ 20__

Signed this 2nd day of April, 2019
For: James R. Hill, Inc.

By _____

By: Marcus F. Hill
Marcus F. Hampton, Land Surveyor, MN License No. 47481
James R. Hill, Inc.

EXHIBIT C

City of Duluth / Application for St. Francis of Assisi
4500 Cambridge St., Duluth MN 55804

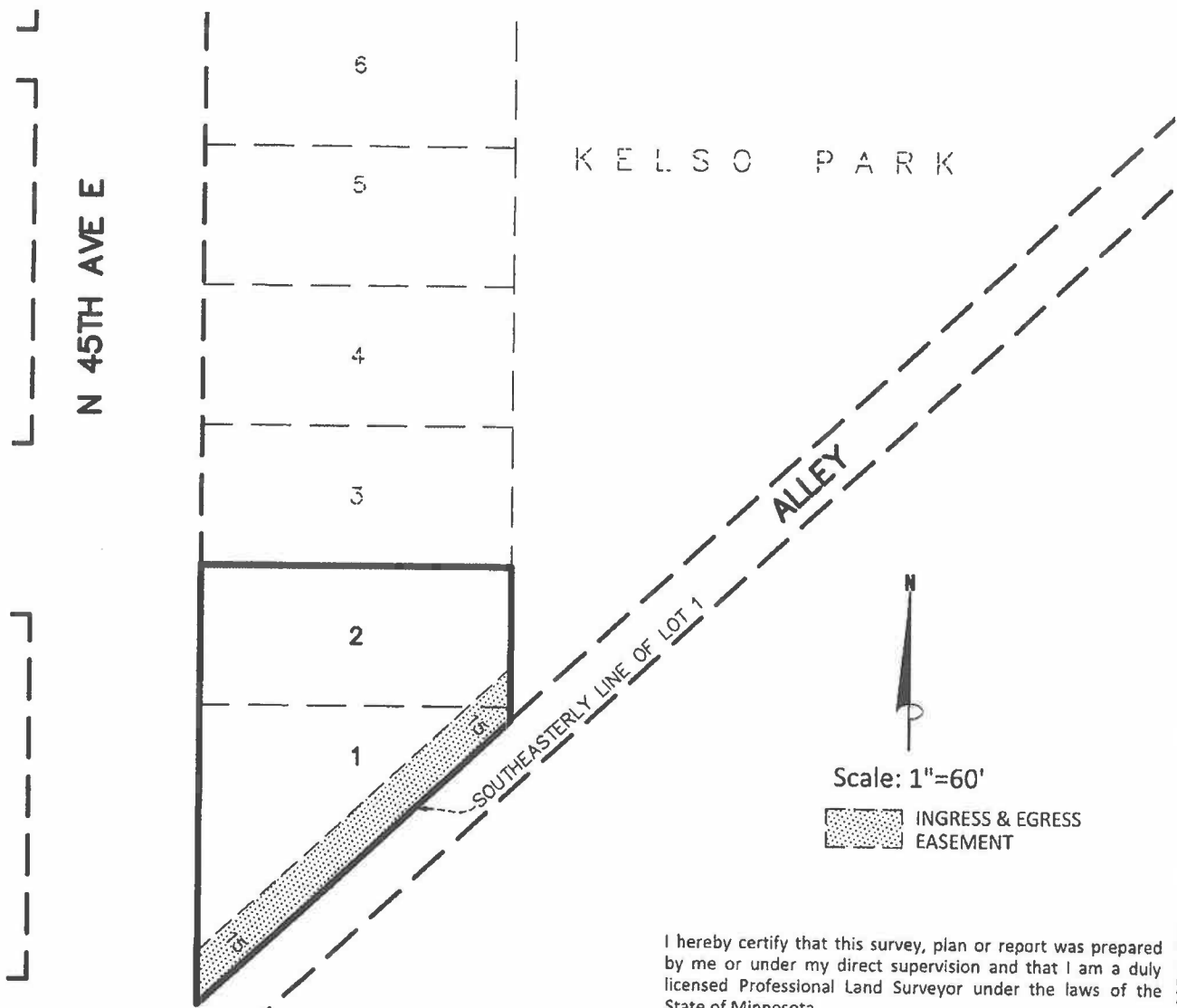
SKETCH & DESCRIPTION

PEDESTRIAN INGRESS AND EGRESS EASEMENT

[ATTACHED]

PEDESTRIAN INGRESS AND EGRESS EASEMENT

An easement for pedestrian ingress and egress over and across that part of Lots 1 and 2, KELSO'S REARRANGEMENT OF BLOCKS 1 AND 2 OF SARGENTS REARRANGEMENT OF BLOCKS 16, 17 AND 18 LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, which lies southeasterly of a line parallel with and 15.00 feet northwesterly of the southeasterly line of said Lot 1, and its northeasterly extension.



Scale: 1"=60'

INGRESS & EGRESS EASEMENT

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 Professional Land Surveyor under the laws of the State of Minnesota.

Approved by the City Engineer of the City of Duluth, MN this _____ day of _____ 20__

Signed this 2nd day of April, 2019 For: James R. Hill, Inc.

By: Marcus F. Hampton
Marcus F. Hampton, Land Surveyor, MN License No. 47481
James R. Hill, Inc.

By: _____

SHEET 1 OF 1

PROJECT NO. 23544-00



CITY OF DULUTH
 Planning and Development Division

411 W 1st St, Rm 110 * Duluth, Minnesota 55802-1197
 Phone: 218/730.5580

File Number	PL 19-031	Contact	Kyle Deming	
Type	Vacation of street with retention of utility easement over part of vacation area	Planning Commission Date	May 14, 2019	
Deadline for Action	Application Date	April 2, 2019	60 Days	June 1, 2019
	Date Extension Letter Mailed	May 2, 2019	120 Days	July 31, 2019
Location of Subject	Oakland Avenue between Gold Street and Maryland Street			
Applicant	City of Duluth, Parks Department	Contact	Jim Shoberg	
Agent		Contact		
Legal Description	See attached			
Site Visit Date	May 2, 2019	Sign Notice Date	May 2, 2019	
Neighbor Letter Date	May 2, 2019	Number of Letters Sent	10	

Proposal

The applicant is requesting the vacation of Oakland Avenue between Gold Street and Maryland Street while retaining a utility easement over a portion of the vacation area. The purpose is to provide contiguous ownership by the University of Minnesota Duluth.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-I/R-2/R-1/R-C	Nature Area and UMD parking	Institutional/Traditional Nbhd./Open Space
North	R-1	Nature Area and Residential	Open Space
South	MU-I/R-2	UMD parking	Institutional/Urban Residential
East	R-2/R-1/R-C	Nature Area	Traditional Nbhd./Open Space
West	MU-I/R-C	UMD housing and Nature Area	Institutional/Open Space

Summary of Code Requirements

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

UCD Sec. 50-37.6.C – The Planning Commission shall review the proposed vacation, and Council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway, or easement proposed for vacation:

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles, or pedestrians or the efficient supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

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

Governing Principle #10 – Take actions that enhance the environment, economic, and social well-being of the community.

History:

PL 14-168 Proposed vacation of Oakland Avenue from Maryland Street to half a block south of Worth Street denied by City Council on February 23, 2014 (Res. 15-0110) because the Council wanted to retain the right of way for possible pedestrian or bicycle purposes related to the construction of the Duluth Traverse and to prevent the creation of a dead end street.

PL 14-166 Vacation of ½ block long section of Worth Street near Bayview Avenue approved by City Council

PL 14-167 Vacation of Bayview Avenue between Worth Street and 1 block north approved by City Council

Review and Discussion Items

Staff finds that:

- 1) The applicant is requesting vacation of a three block long section of Oakland Avenue north of Gold Street and south of Maryland Street. They are also requesting retention of a utility easement over the west 20 feet of the section from Gold Street to Halsey Street alley to cover an existing natural gas distribution line.
- 2) UMD is the owner of land on both sides of the proposed vacation area and has located trails associated with Bagley Nature Area on the north half of the vacation area. On the south half UMD has constructed parking and a driveway into the Oakland Apartments on-campus housing.
- 3) The same section of Oakland Avenue was proposed for vacation in 2014 (PL 14-168) and the City Council denied the vacation to reserve the right of way for the potential construction of the Duluth Traverse mountain bike trail. Additional trail planning has been completed and it has been determined that this right of way is not needed for the Duluth Traverse.
- 4) Aside from the natural gas pipe, there are no public improvements in the proposed vacation area and there are no plans to extend road, trail, or utility improvements in the proposed vacation area. The vacation area is not needed for the efficient supply of utilities or public services in the city, nor for the promotion of public health, safety, or welfare of the citizens of Duluth.
- 5) No additional private development is planned in the area as UMD is the owner of the property on both sides of the vacation area. Additionally, street extensions are not planned as the portion of Oakland Avenue north of Maryland Avenue has previously been vacated and extending a roadway in this area would require dedication of a replacement roadway easement and a bridge over West Branch of Tischer Creek, a trout stream. There is an existing north-south collector street three blocks east (Carver Avenue) that conveys traffic between Saint Marie Street and Arrowhead Road.
- 6) No public or agency comments have been received to date.
- 7) Vacations of rights of way and easements lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

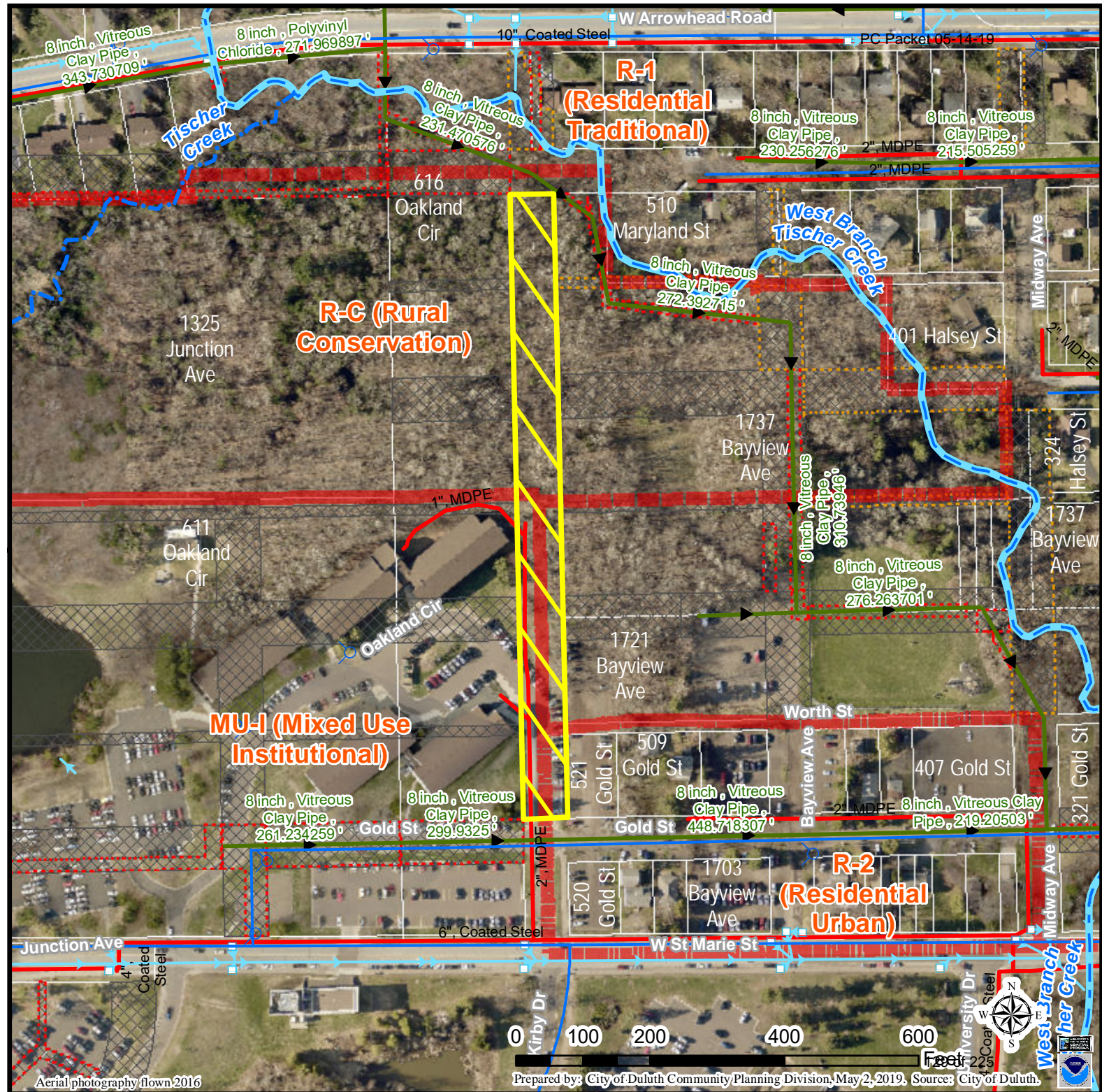
Staff Recommendation

Based on the above findings, staff recommends that Planning Commission recommend approval of the vacation of the street and retention of a utility easement as shown in the attached vacation exhibit, subject to the following condition:

- 1) The vacation and utility easement retention will lapse if the vacation is not recorded in the office of the Saint Louis County Recorder within 90 days of City Council approval of the vacation.



PL 19-031: Vacation of
Oakland Ave.
between Gold St.
and Maryland St.



Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
 - CITY OF DULUTH
 - WLSSD; PRIVATE
 - Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
- Vacated ROW
- Easement Type**
 - Utility Easement
 - Other Easement
 - Zoning Boundaries
 - Trout Stream (GPS)
 - Other Stream (GPS)

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

Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, May 2, 2019. Source: City of Duluth.



PL 19-031: Vacation of
Oakland Ave.
between Gold St.
and Maryland St.

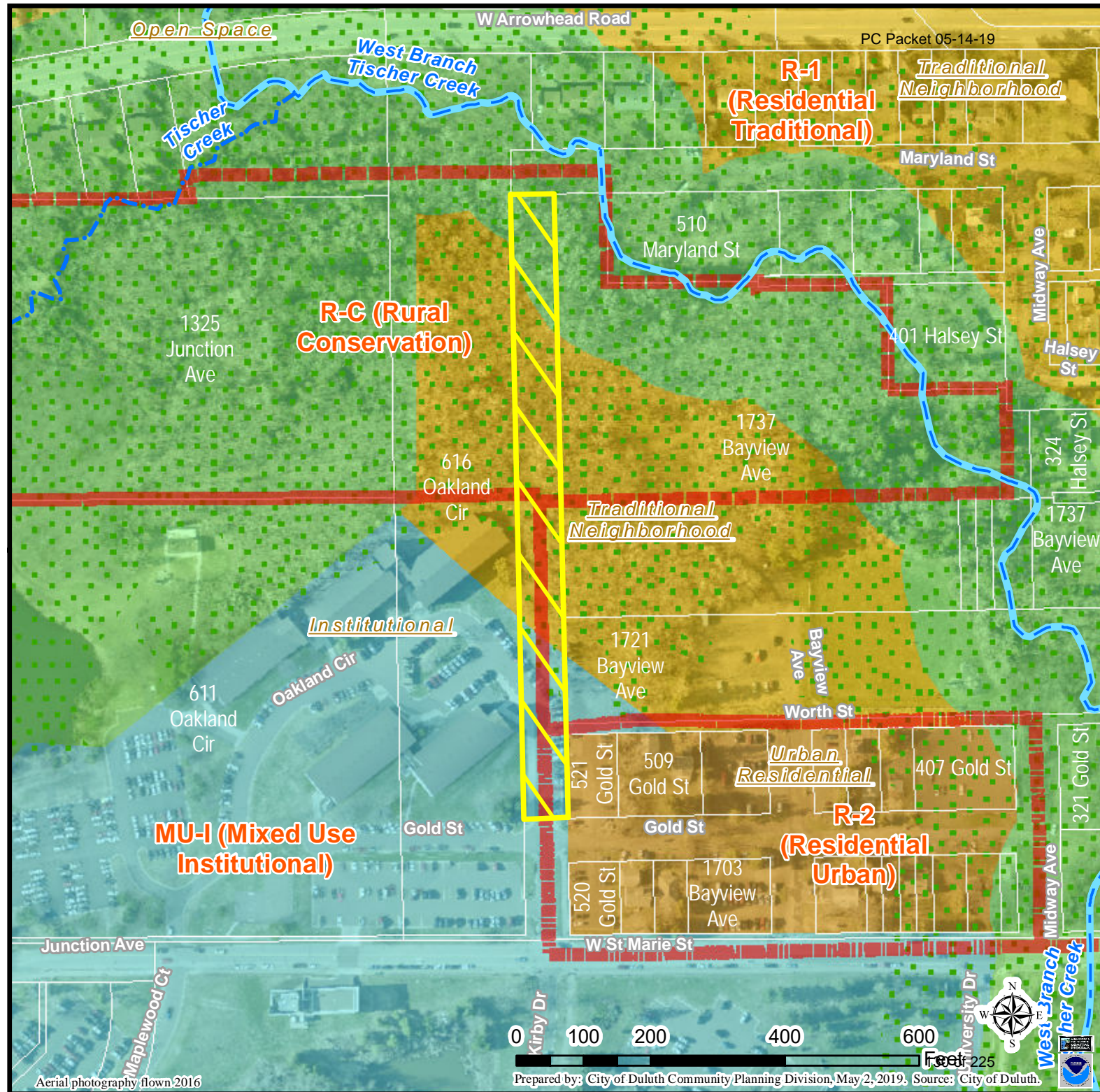
PC Packet 05-14-19

Legend

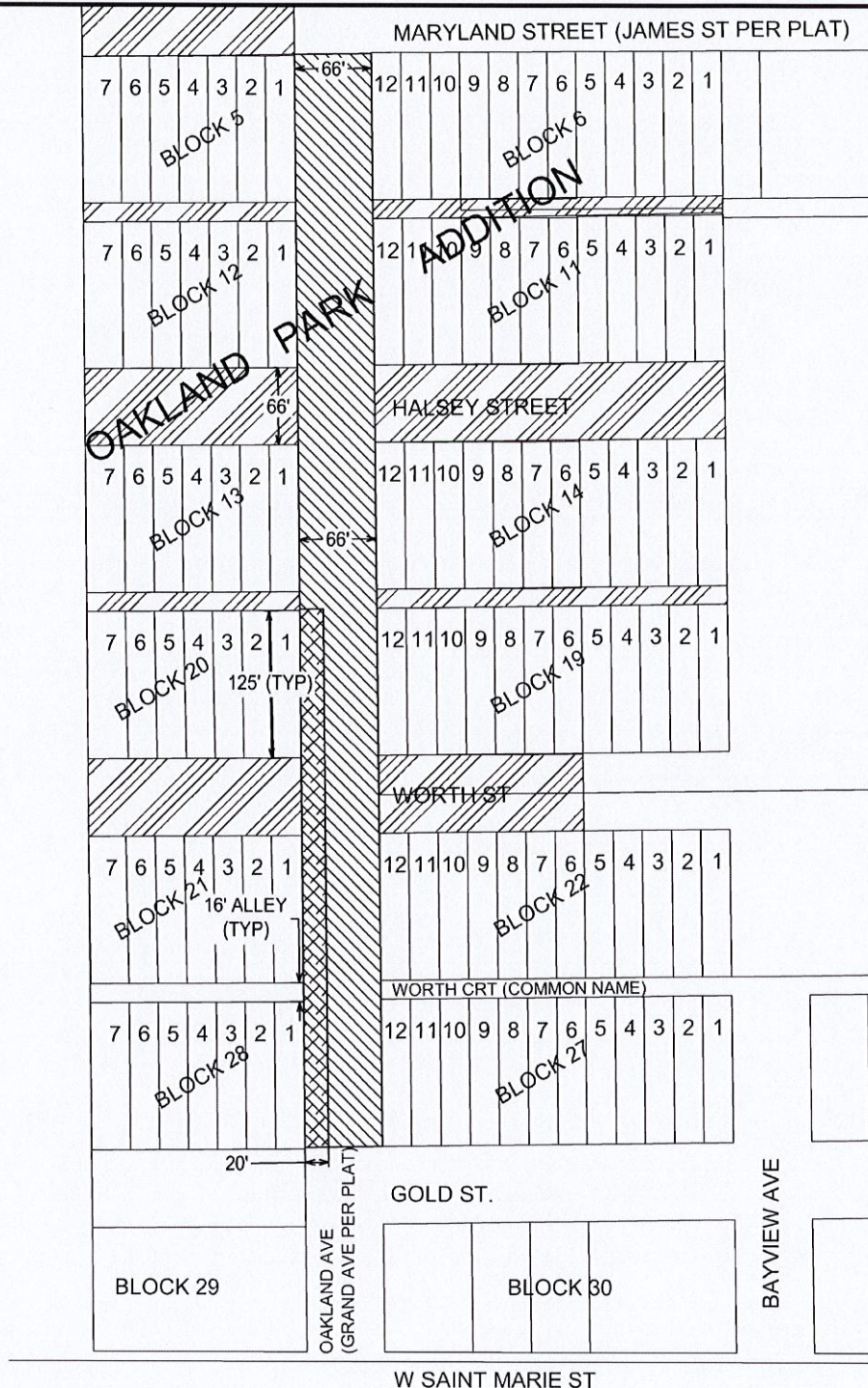
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)

Future Land Use

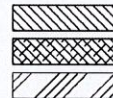
- Open Space
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities
- Sensitive Lands Overlay



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.

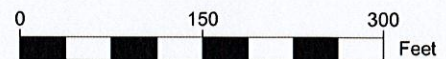


PORTION TO BE VACATED IS SHOWN AS:
 PORTION TO BE VACATED WITH UTILITY EASEMENT RETAINED IS SHOWN AS:
 PREVIOUSLY VACATED RIGHT OF WAY



APPROVED BY THE CITY ENGINEER OF DULUTH, MN

DATE: 4-11-19 BY: [Signature]



BAR IS ONE INCH ON ORIGINAL DRAWING. IF NOT ONE INCH ON THIS DRAWING ADJUST SCALES ACCORDINGLY.



11 E. Superior Street, Suite 420
 Duluth, MN 55802
 218.724.8578
 tkda.com

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 SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.
[Signature]
 GREGORY STOEWER DATE 04/08/2019

OAKLAND PARK ADDITION: OAKLAND AVENUE VACATION
 MARYLAND STREET TO GOLD STREET

15513.349

CITY OF DULUTH

SHEET 1 OF 2

PLOT DATE: Apr 08, 2019 - 11:34am
 FILE NAME: P:\Herrmann\Official\Projects\TKDA\15513.349 UMID DT Trail\04_Production\01_CAD\01_Export\UMID_Vacation Exhibit.dwg

Legal Description of Vacation:

That portion of Oakland Avenue (Grand Avenue per plat) of Oakland Park Addition according to the recorded plat thereof, St. Louis County, Minnesota, which lies between the south line of Maryland Street (James Street per plat) and the extension of the southern line of Block 27 Oakland Park Addition.

AND

Legal Description of Utility Easement to be Retained:

The western most 20 foot strip of said vacated Oakland Avenue (Grand Avenue per plat) which lies between the extension of the northern line of Block 20 and the extension of the southern line of Block 28 Oakland Park Addition is to be retained for utility easement purposes.

PLOT DATE: Apr 08, 2019 - 11:34am
FILE NAME: P:\Herimantown-Office\Projects\TKDA\15513 Land Surveys\15513.349 UMD DT Trail\04_Production\01_CAD\01_Xref\15513.349 UMD Vacation Exhibit.dwg



BAR IS ONE INCH ON ORIGINAL DRAWING. IF NOT ONE INCH ON THIS DRAWING ADJUST SCALES ACCORDINGLY.



11 E. Superior Street, Suite 420
Duluth, MN 55802
218.724.8578
tkda.com

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 SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

Gregory Stoeber
GREGORY STOEWER

DATE 04/08/2019

OAKLAND PARK ADDITION: OAKLAND AVENUE VACATION
MARYLAND STREET TO GOLD STREET

15513.349

CITY OF DULUTH

SHEET 2 OF 2



CITY OF DULUTH
 Planning and Development Division

411 W 1st St, Rm 110 * Duluth, Minnesota 55802-1197
 Phone: 218/730.5580

File Number	PL19-032	Contact	Kyle Deming	
Type	R-P Regulating Plan Amendment	Planning Commission Date	May 14, 2019	
Deadline for Action	Application Date	April 13, 2019	60 Days	June 12, 2019
	Date Extension Letter Mailed	May 2, 2019	120 Days	August 11, 2019
Location of Subject	West side of 53 rd Ave. W. north of Ramsey St.			
Applicant	Talle & Associates, Inc	Contact	Paul Strother, Architect	
Agent		Contact		
Legal Description	See Attached			
Site Visit Date	May 6, 2019	Sign Notice Date	April 29, 2019	
Neighbor Letter Date	May 2, 2019	Number of Letters Sent	33	

Proposal

Applicant is requesting to amend an approved regulating plan to change building types for four parcels to allow construction of an 8-unit structure or 4-unit structure while retaining the existing single-family detached structure. Any amendment to the Regulating Plan that involves changes to land use, density, or height are required to follow the rezoning process and receive approval from City Council.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-P	2 Dwellings	Urban Residential
North	R-P	Dwellings	Urban Residential
South	R-P	8-Unit Dwellings	Urban Residential
East	R-P	High-Rise Apartment Building	Urban Residential
West	R-P	Dwellings and vacant land	Urban Residential

Summary of Code Requirements

UDC Sec. 50-14.07.E: The establishment of an R-P district requires rezoning the property per Section 50-37.3 from a current zone district to R-P and the approval of an R-P plan per Section 50-37.11. that governs the uses, location, density, dimensional standards and character of the proposed project. In accordance with the purpose of the R-P districts are not required to submit a separate subdivision application under Section 50-37.5

UDC Sec. 50-14.7.I: All residential developments approved prior to November 19, 2010, as low-density planned developments pursuant to Sections 50-36.1. through 50-36.3. of the pervious zoning code shall be treated as approved R-P developments, and will be rezoned to the R-P district.

UDC Sec. 50-14.7.J: Applications to amend an existing R-P plan shall follow the process described in Section 50-37.3 if they relate to uses, densities, or height. All other amendments shall follow the process in Section 50-37.11.

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

Future Land Use, Urban Residential: Greatest variety of building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers, and waterfront residential areas. May include student housing areas, live/work units, and limited neighborhood retail. Connected or adjacent to parks and open space.

Governing Principle #6 – Reinforce the place-specific.

The Ramsey Village Plan has had several zoning map amendments to allow additional building types on their parcels including: PL13-119 to allow eight-unit apartment structures at the NE corner of Ramsey Street and North Central Avenue Alley, PL16-087 to allow a mixed use residential and commercial structure at 5103 Ramsey Street, PL 17-058 to allow an eight-unit multi-family near Ramsey and North 53rd and 54th Avenues West, and PL 18-044 to allow a Type VII (8-unit multi-family structure) on the west side of N. 54th Ave. W. near Wadena St.

Review and Discussion Items

1. 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.
2. When the UDC became effective on November 19, 2010, all existing Traditional Neighborhood Design (TND) zone districts were rezoned to the Residential-Planned (R-P) zone districts. Ramsey Village and Harbor Highlands were the two TND districts that were immediately rezoned to R-P. Any proposed change to the R-P Regulating Plan that involves land use, density or height needs to be approved by City Council through the process used for rezoning (including a public hearing in front of the Planning Commission), but minor changes to the R-P Regulating Plan can be approved by the Land Use Supervisor. The applicant is proposing a change in the building type (or use) on their property.
- 3 Applicant seeks to amend the approved plan to allow Type VI (4-plex) and Type VII (8-plex) on the parcels while retaining the existing single-family detached dwelling. The approved regulating plan allows for Type I, II, III, and IV (single family homes, twin homes, and townhomes). This new proposal requests to replace the previously allowed building types with Type I, Type VI and Type VII Buildings.
4. The proposal to change to the allowed building types is not in conflict with the original TND Plan. This amendment will not create material adverse impacts on nearby properties. The applicant has constructed four and eight unit structures of a similar design and appearance in the immediate neighborhood.
5. This amendment is in compliance with the City’s Comprehensive Land Use Plan’s Governing Principles and Policies in addition to the Future Land Use Map.
6. According to City Engineering, stormwater management requirements will need to be reviewed and approved prior to a building permit issuance. No additional public, agency, or City comments were received.

Staff Recommendation

Based on the above findings, staff recommends to Planning Commission that the proposed amendment to change the density and land use of the R-P Regulating Plan be recommended for approval by City Council for the following reasons:

- 1) This proposal is consistent with the Comprehensive Land Use Plan,
- 2) The proposal amendment to the Regulating Plan District is consistent with the future land use category “Urban Residential”
- 3) Material adverse impacts on nearby properties are not anticipated.



PL 19-032:
R-P Regulating Plan
Amendment
Ramsey VI

**F-4 (Mid-Rise
Community Mix)**

428 N
Central
Ave

5319
Wadena St

5307
Wadena St

PG Packet 05-14-19

5215
Wadena St

Wadena St

**R-P
(Residential
Plan)**

425 N
54th
Ave W

430 N 54th
Ave W

429 N 53rd
Ave W

427 N 53rd
Ave W

5220 Wadena St

5212 Wadena St

N 53rd Ave W Alley

5210
Wadena St

424 N 54th Ave W

422 N 54th
Ave W

400 N 53rd
Ave W

421 N 52nd
Ave W

419 N 52nd
Ave W

413 N
54th
Ave W

N 54th Ave W

418 N 54th
Ave W

405 N 53rd
Ave W

411 N 52nd
Ave W

Wadena
St Alley

409 N
54th
Ave W

412 N 54th Ave W

410 N 54th Ave W

408 N 54th Ave W

N 54th Ave W Alley

405 N 53rd
Ave W

5201
Ramsey St

403 N
54th
Ave W

402 N 54th
Ave W

5305 Ramsey St

Ramsey St

5316
Ramsey St

0

40

80

160

240

Feet






Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, May 2, 2019. Source: City of Duluth.



Legend

-  Zoning Boundaries
-  Trout Stream (GPS)
-  Other Stream (GPS)

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.



PL 19-032:
R-P Regulating Plan
Amendment
Ramsey VI

**F-4 (Mid-Rise
Community Mix)**

428 N
Central
Ave

5319
Wadena St

5307
Wadena St

Urban
Residential

PG Packet 05-14-19

5215
Wadena

Wadena St

**R-P
(Residential
Plan)**

425 N
54th
Ave W

430 N 54th
Ave W

429 N 53rd
Ave W

427 N 53rd
Ave W

5220 Wadena St

5212 Wadena St

N 53rd Ave-W Alley
5210
Wadena St

Central
Business
Secondary

424 N 54th Ave W

422 N 54th
Ave W

418 N 54th
Ave W

N 53rd Ave W

421 N 52nd
Ave W

419 N 52nd
Ave W

413 N
54th
Ave W

N 54th Ave W

412 N 54th Ave W

410 N 54th Ave W

408 N 54th Ave W

N 54th Ave-W Alley

405 N 53rd
Ave W

411 N 52nd
Ave W

Wadena
St Alley

409 N
54th
Ave W

403 N
54th
Ave W

402 N 54th
Ave W

5305 Ramsey St

5201
Ramsey St

Ramsey St

5316
Ramsey St

5308
Ramsey St

5302
Ramsey St

160

240

Feet 225

Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, May 2, 2019. Source: City of Duluth.



Legend

- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)

Future Land Use

- Open Space
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities
- Sensitive Lands Overlay

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.

REQUEST FOR A REVISION TO R-P REGULATING PLAN FOR RAMSEY VI

THE SITE OF RAMSEY VI

SITE ADDRESS AND LEGAL

425 N 53rd Ave W, 2 lots vacant land, and 415 N 53rd Ave W,

LEGAL DESCRIPTION

Lots Four through Six (4-6), inclusive, Block Three (3),
WEST DULUTH FIRST DIVISION.

and

Lot Seven 7, Block Three (3),
WEST DULUTH FIRST DIVISION.

and

Lot Seven 8, Block Three (3),
WEST DULUTH FIRST DIVISION.

and

Lots Nine and Ten (9-10), inclusive, Block Three (3),
WEST DULUTH FIRST DIVISION.

DOCUMENTS ATTACHED

SUMMARY OF THE REQUEST FOR AN AMENDMENT TO THE R-P REGULATING PLAN

A narrative summary of the proposal and its request

REGULATING PLAN

Drawing A is a copy of the R-P Regulating Plan. This site is highlighted in bold red. It is within an area permitting Types II and III structures (single family and town homes). The Regulating Plan is silent on parking in non-contiguous parcels.

URBAN STANDARDS.

Drawing B defines the structures by Type. **Drawing C** and **Drawing D** are copies of R-P Regulating Plan (TND criteria) for the Type VII and VI Buildings respectively.

RAMSEY VILLAGE OVERVIEW

Drawing E is an aerial overview of Ramsey Village, north of Ramsey Street. Ramsey I, II and III completed in 1994, 2003 and 2011 are south of Ramsey Street, including Ramsey Village office at 54th Avenue and Ramsey Street. Ramsey IV, completed in 2015, is the three Fourplex units on the west side of 54th Avenue as approved in an Amendment to the R-P Regulating Plan. The Ramsey V sites previously receiving an amendment to the R-P Regulating Plan are highlighted in yellow dash and are currently under construction. Ramsey VI is indicated in a solid yellow

THE REVISED RAMSEY VI PROPOSAL

Drawing F depicts a proposed Site Plan for the project.

SUMMARY OF THE RAMSEY VI PROPOSAL AND MAP AMENDMENT REQUEST

OVERVIEW OF RAMSEY VILLAGE

Ramsey VI is a proposal for the latest phase of Ramsey Village, a Traditional Neighborhood Design revitalization project in West Duluth. It is bounded by North Central Avenue, Bristol Street, Mike Colalillo Drive and Wadena Street. It uses scattered site infill buildings designed with traditional scale and architectural elements to replace existing homes that have served their useful life and are no longer feasible to repair or renovate. The new buildings are designed to provide worker housing, maintain density and integrate with the historic texture and character of the community.

Ramsey I, II and III are Fourplex and Eightplex buildings built south of Ramsey Street during the 1990s through 2012. Ramsey IV was the first project north of Ramsey. It consists of three Fourplex units on a former funeral home site and was completed in 2015. Ramsey V is a fourplex and Two Eightplexes currently under construction. R-P Regulating Plan Amendments were granted to permit the Fourplex and Eightplex buildings north of Ramsey Street.

SUMMARY RAMSEY VI

Recently, an additional property has become available to allow for a contiguous site large enough for development. The Ramsey VI proposal contemplates:

1. An Eightplex adjacent to Ramsey V Eightplex, midblock on the west side of N 53rd Ave W and directly across the street from the high-rise Ramsey Manor Apartments.
2. The possibility of a future fourplex north of the proposed Eightplex.
3. Parking for tenants within the district on noncontiguous parcels held under the ownership of Ramsey Village. Parking will be at the rear of vacant lots too small to redevelop. They will use alley access, be paved, drained to the alley, with any lighting conforming to Duluth Zoning criteria and be maintained with the same maintenance program of Ramsey Village.

Development in this neighborhood is governed by an R-P District Regulating Plan (a Traditional Neighborhood Design (TND) zoning overlay). The current Regulating Plan stipulates the placement of Single and Two Family (Types II and III) (and Single Family and Townhouse (Types I and IV) at a small portion at the north) on the Ramsey VI parcels. The Regulating Plan is silent on parking on non-contiguous lots. The Eightplex and future Fourplex, and the offsite parking proposed in the Ramsey VI proposal will require a change to the R-P Regulating Plan allowing Types VI and VII and offsite parking. This proposal makes feasible the construction of workforce housing consistent with the renewal of Ramsey Village to date and meets the intent and spirit of the Regulating Plan.

CONCLUSION

The intent of the Regulating Plan is to provide a fabric of traditional scale, traditional elements and character similar to the original character of the neighborhood. The Ramsey VI is a proposal that will support the intent of the Regulating Plan. It does so by incorporating the successful building types of Ramsey Village. It requires only small changes to the Regulating Plan that still allow the purpose of the Regulating Plan to remain. Ramsey VI will be a benefit to Ramsey Village and to the community at large.

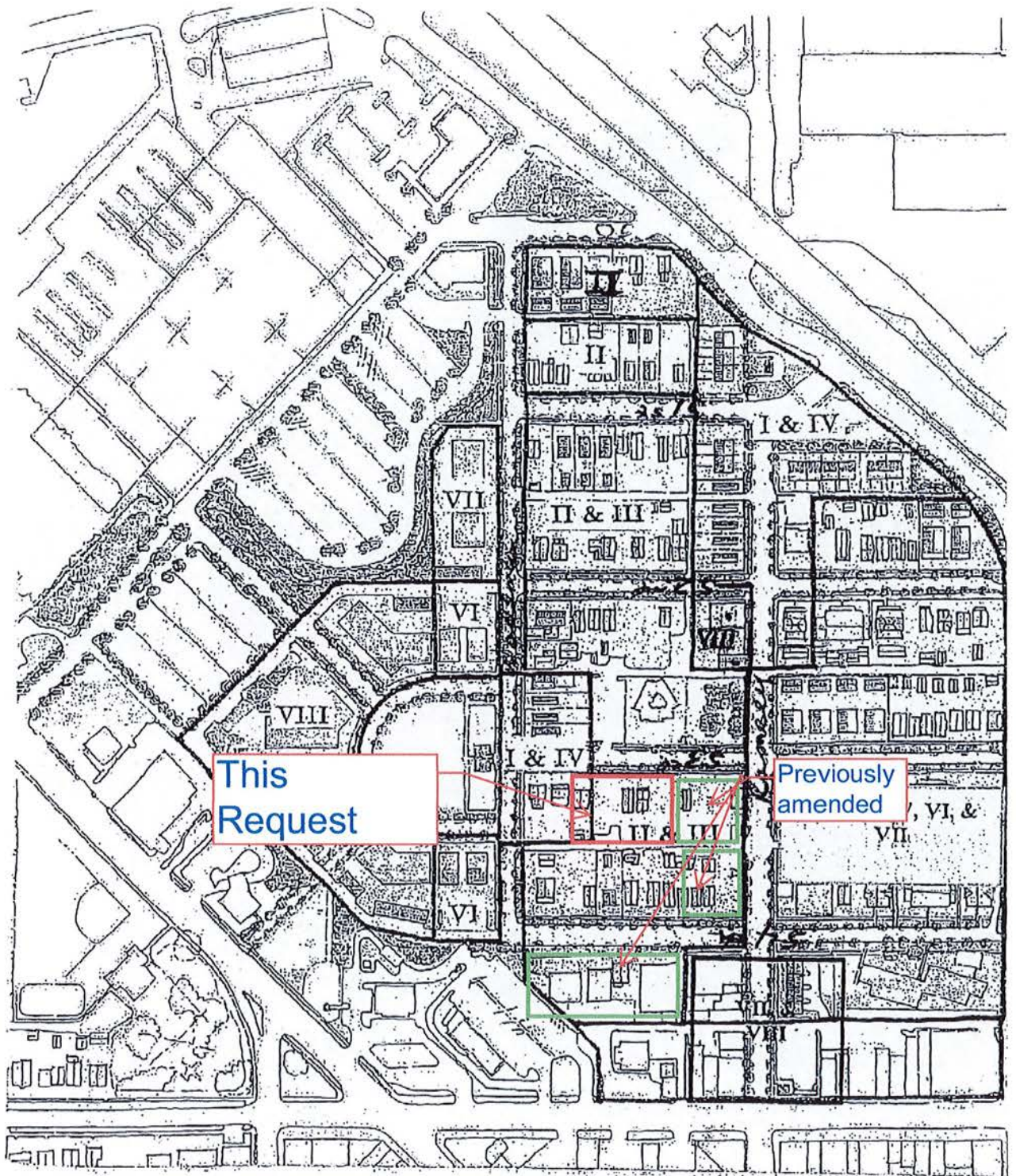
COUNCIL COPY

To City Council _____

Pub. Doc. No. _____

Referred to _____

Regulating Plan



This Request

Previously amended

Urban Standards

Urban Standards will guide the use, placement, height, bulk, and massing for private development of blocks and parcels. The standards will also physically determine build-to and/or setback criteria, encroachments, location of parking and any specific site features related to building types (e.g., outdoor courtyards, plazas, etc.).

The standards are prepared for a range of building types including mixed-use buildings, small and large apartments/condominiums, attached townhouses, accessory units, commercial buildings and other types as needed. The architectural massing and proportion of each building type are illustrated.

Lot size. The minimum allowable front property line width for a buildable lot shall be thirty (30) feet with the minimum total square footage of a buildable lot being 3000 square feet.

Accessory Units. All accessory units shall be located adjacent to and accessible by an alley with a minimum section of twenty (20) feet.

*5' near city standard
where
silent*

- Type I Village House
- Type II Detached Single Family House
- Type III Twin House
- Type IV Townhouse
- Type V Accessory Unit above two-car garage
- Type VI Four Unit Apartment
- Type VII Eight Unit Apartment
- Type VIII Mixed Use Building with residential & commercial/retail
- Type IX Parking Building

*(Note: no allowance
for eave/overhang
into setbacks)*

Drawing B

Type I Village House

Use and Height

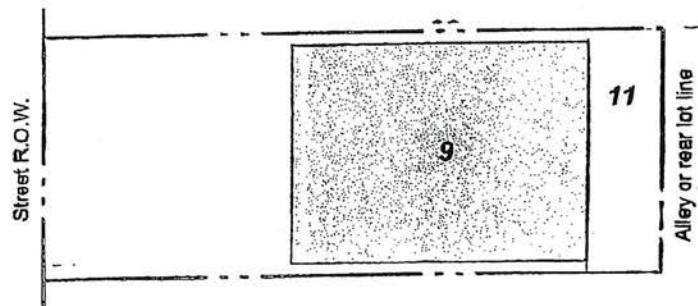
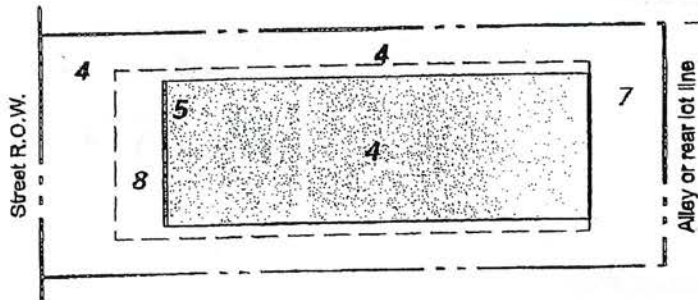
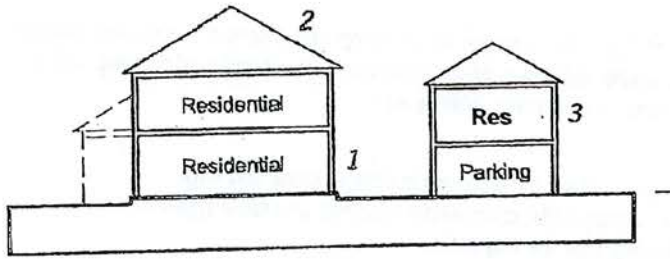
1. Uses of building shall be as shown here.
2. Maximum building height shall be 2 stories. Building height shall be measured by the number of structural floors from the street elevation. The building shall have a first floor elevation between 18" and 36" above front elevation grade level. Each building's first story shall not exceed 12 feet in height and the second floor shall not exceed 10 feet in height, measured from floor to ceiling.
3. A residential use of not more than 720 square feet shall be permitted as an accessory unit above a detached garage. Occupancy of an accessory unit shall not require on-site parking. Access to accessory unit will always be made via interior stairwell.

Placement & Projections

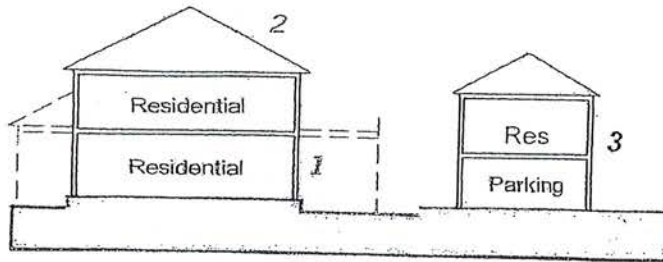
4. Buildings shall be set within lots relative to the property lines as shown here.
Minimum frontyard setback - ten (10) feet.
Minimum sideyard setback - five (5) feet.
Aggregate sideyard setback - ten (10) feet
Corner sideyard setback - nine (9) feet
5. Building street facades shall extend along the lot width as designated here.
6. Attached garages shall adhere to the side yard setback of the principal building.
7. Masonry garden walls, wrought iron fencing shall be built or hedges shall be planted along the property lines to define the street's edge.
8. Balconies, stoops, open porches, bay windows, covered walkways and raised door yards are permitted within the shaded areas as shown here. Maximum depth of any projection shall be no more than 12' feet from the building wall. Covered walkways between the principal building and garages are permitted.

Garage & Parking

9. A minimum of one (1) parking garage shall be provided within the shaded area shown here. Additional parking may be provided in attached or detached garages, or on paved concrete parking pads.
10. Private parking spaces shall be no less than 10 feet by 17 feet with access to a paved lane.
11. Trash areas shall be enclosed with fencing and located within the shaded areas as shown here.
12. All parking shall be in conformance with Article III of Chapter 50 of the Duluth City Code.



Type VII 8-Unit Apartment



Use and Height

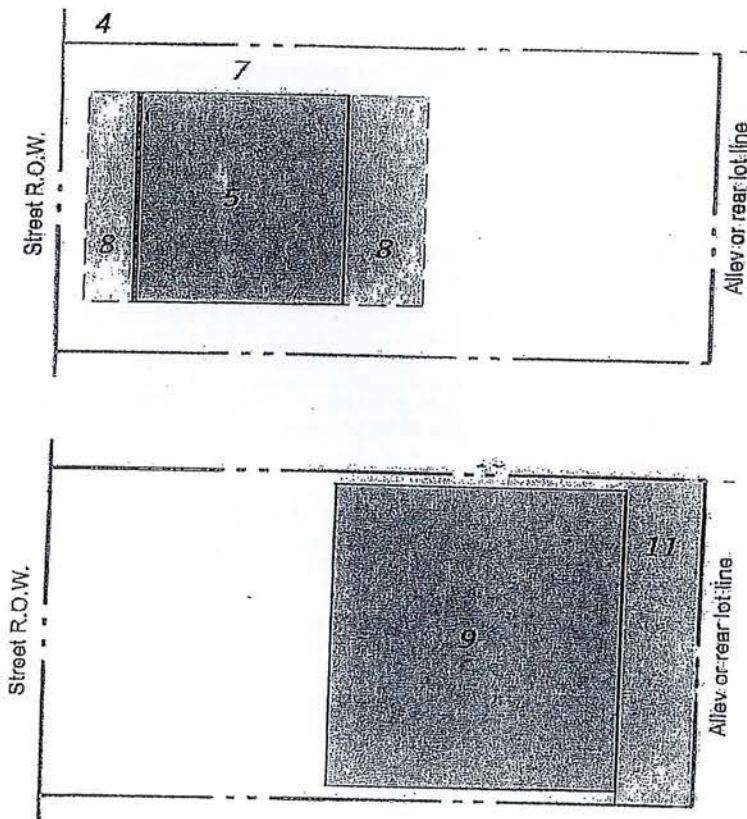
1. Uses of building shall be as shown here.
2. Maximum building height should be 2 stories. Building height shall be measured by the number of structural floors from the street elevation. The building shall have a first floor elevation between 6" and 36" above front elevation grade level. Each building's first story should not exceed 12 feet in height and the second floor should not exceed 10 feet in height, measured from floor to ceiling.
3. A residential use of not more than 720 square feet shall be permitted as an accessory unit above a detached garage. Occupancy of an accessory unit should not require on-site parking. Access to accessory unit will always be made via interior stairwell.

Placement & Projections

4. Buildings shall be set within lots relative to the property lines as shown here. Minimum frontyard setback - ten (10) feet. Minimum sideyard setback - five (5) feet. Corner sideyard setback - nine (9) feet
5. Building street facades shall extend along the lot width as designated here.
6. Attached garages shall adhere to the side yard setback of the principal building.
7. Masonry garden walls, wrought iron fencing shall be built or hedges shall be planted along the property lines to define the street's edge.
8. Balconies, stoops, open porches, bay windows, covered walkways and raised door yards are permitted within the shaded areas as shown here. Maximum depth of any projection shall be no more than 12' feet from the principal wall. Covered walkways between the principal building and garages are permitted.

Garage & Parking

9. A minimum of one (1) parking garage shall be provided within the shaded area shown here. Additional parking may be provided in attached or detached garages, or on paved concrete parking pads.
10. Private parking spaces shall be no less than 10 feet by 17 feet with access to a paved lane.
11. Trash areas shall be enclosed with fencing and located within the shaded areas as shown here.
12. All parking shall be in conformance with Article III of Chapter 50 of the Duluth City Code.



Drawing C

Type VI 4-Unit Apartment

Use and Height

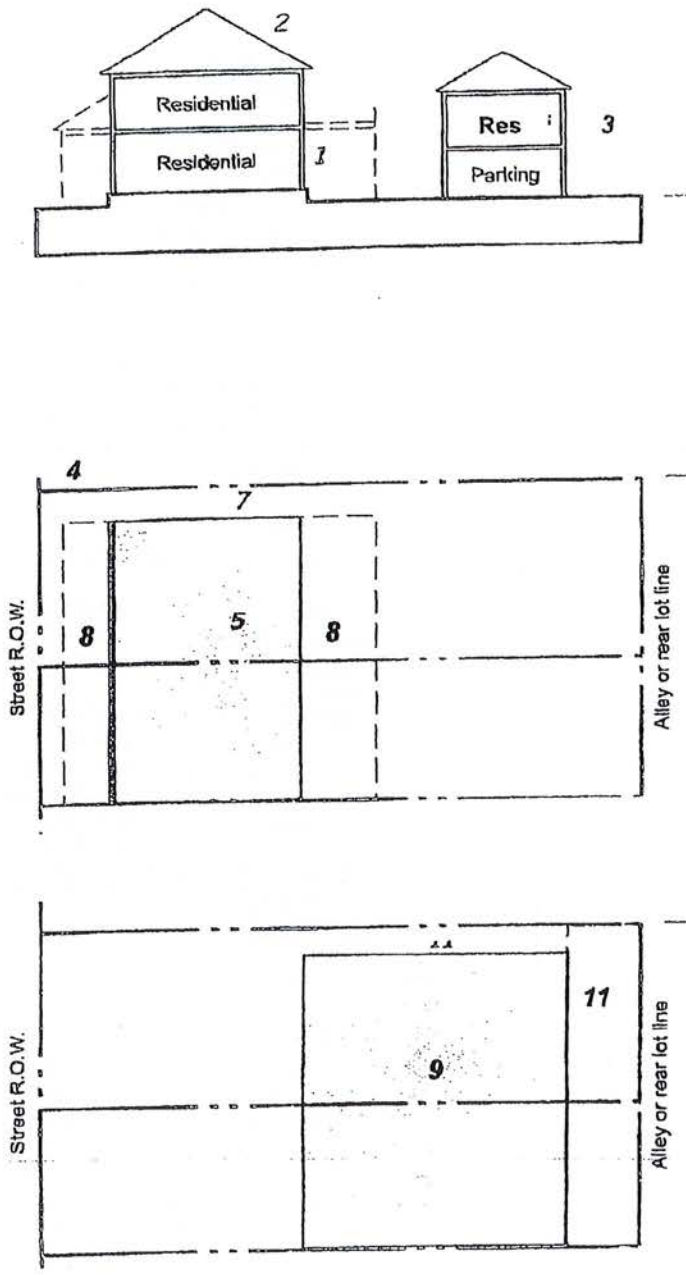
1. Uses of building shall be as shown here.
2. Maximum building height shall be 2 stories. Building height shall be measured by the number of structural floors from the street elevation. The building should have a first floor elevation between 18" and 36" above front elevation grade level. Each building's first story shall not exceed 12 feet in height and the second floor should not exceed 10 feet in height, measured from floor to ceiling.
3. A residential use of not more than 720 square feet shall be permitted as an accessory unit above a detached garage. Occupancy of an accessory unit should not require on-site parking. Access to accessory unit will always be made via interior stairwell.

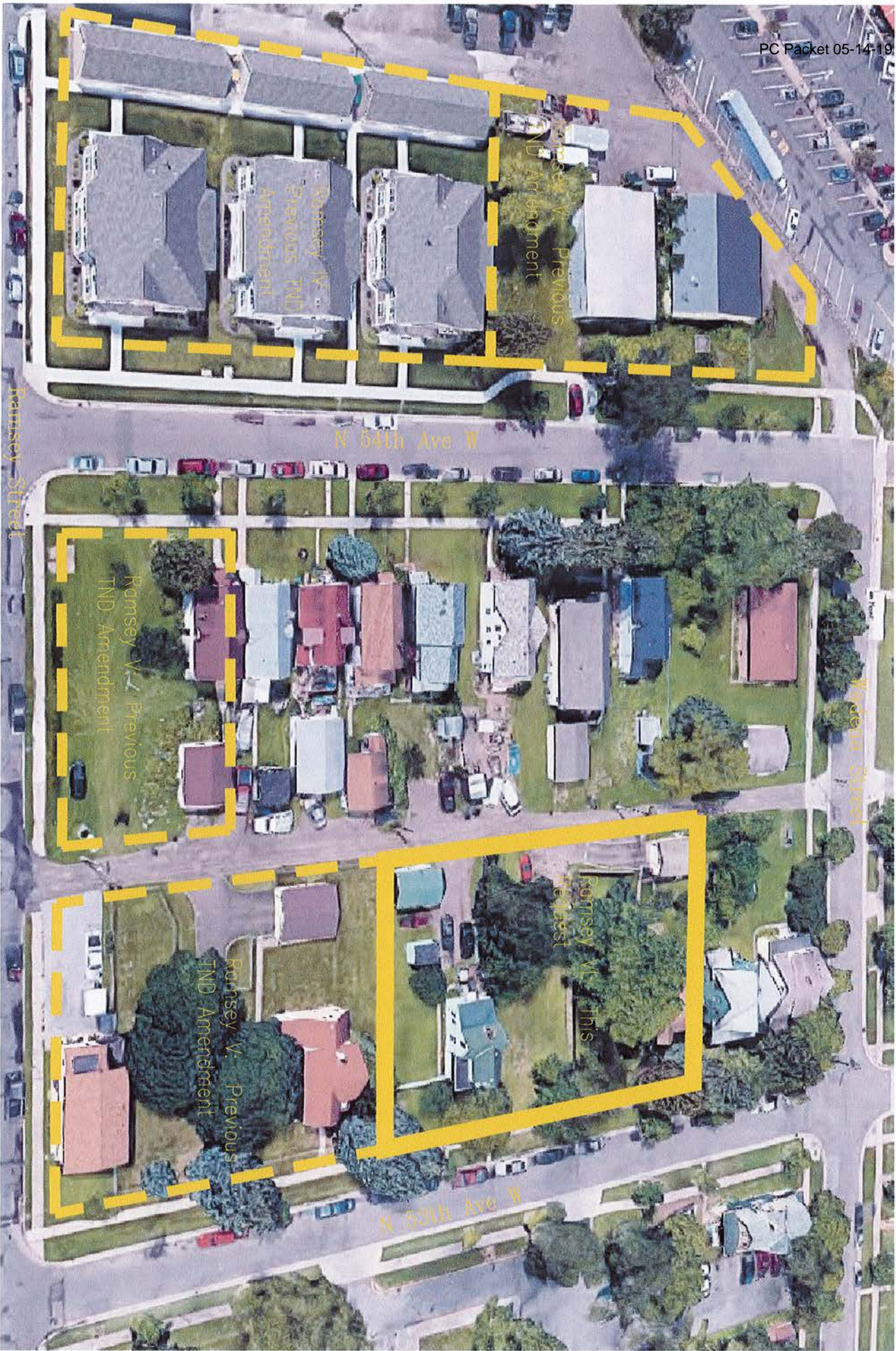
Placement & Projections

4. Buildings shall be set within lots relative to the property lines as shown here.
5. Building street facades shall extend along the lot width as designated here.
6. Attached garages shall adhere to the side yard setback of the principal building.
7. Masonry garden walls, wrought iron fencing shall be built or hedges shall be planted along the property lines to define the street's edge.
8. Balconies, stoops, open porches, bay windows, covered walkways and raised door yards are permitted within the shaded areas as shown here. Maximum depth of any projection shall be no more than 12' feet from the building wall. Covered walkways between the principal building and garages are permitted.

Garage & Parking

9. A minimum of one (1) parking garage shall be provided within the shaded area shown here. Additional parking may be provided in attached or detached garages; or on paved concrete parking pads.
10. Private parking spaces shall be no less than 10 feet by 17 feet with access to a paved lane.
11. Trash areas shall be enclosed with fencing and located within the shaded areas as shown here.
12. All parking shall be in conformance with Article III of Chapter 50 of the Duluth City Code.





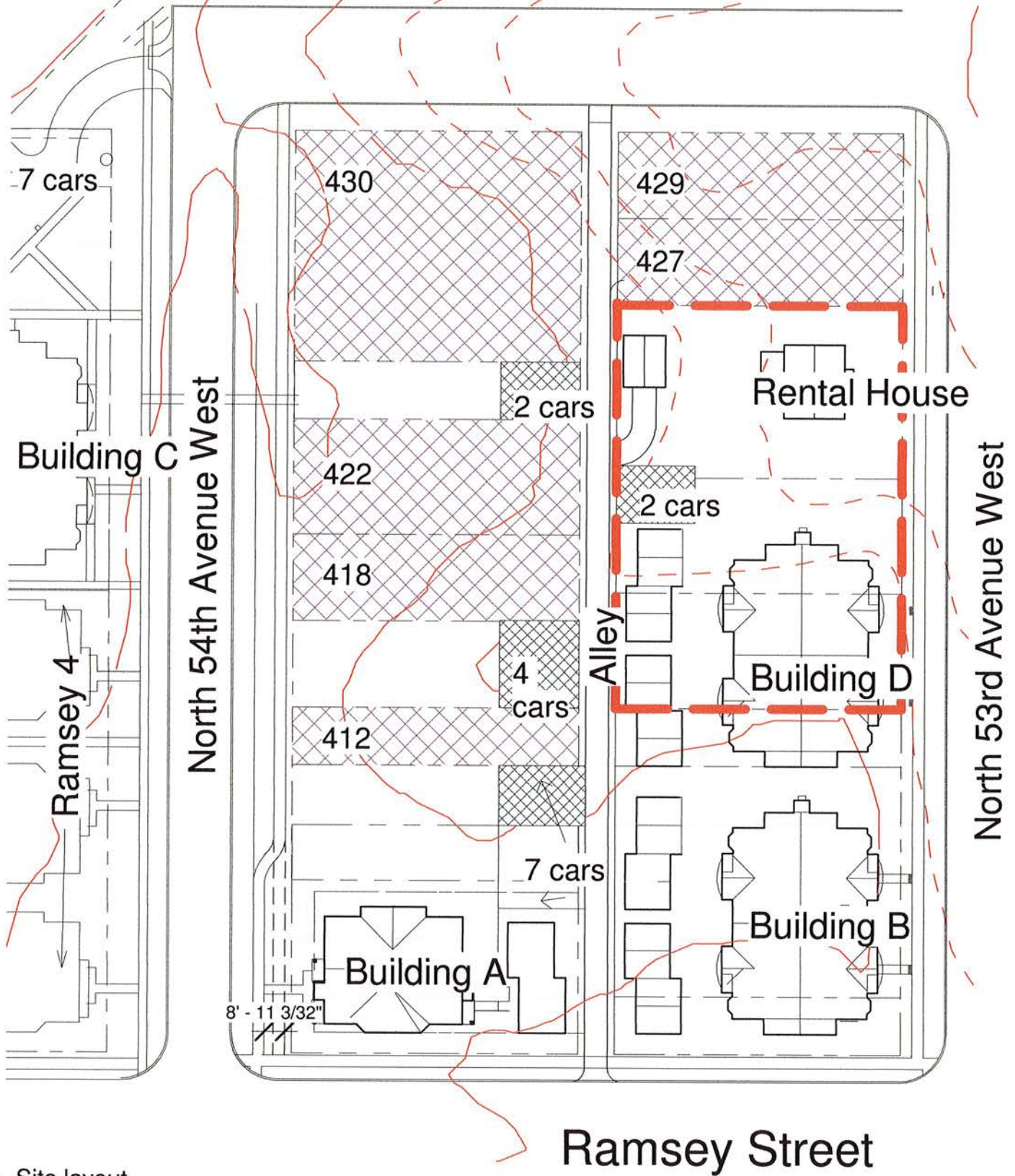
Ramsey VI
Ramsey Village, Duluth, MN

Location Plan



Paul Strother
ARCHITECTS





1 Site layout
1" = 60'-0"

F

Ramsey VI
Map Amendment Exhibit

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

Paul Strother

PAUL STROTHER ARCHITECT
7615 INWOOD ROAD
COLOGNE, MN 55522
612.247.8338
PSTROTHER@GMAIL.COM

Paul Strother
ARCHITECT





6

Ramsey VI
Street View

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

Paul Strother
DATE: 05/15/2019
 PROJ: 18-01424
 SHEET: 146 of 225

Paul Strother
ARCHITECT

7675 INWOOD ROAD
COLOGNE, MN 55302
PBSTROTHER@GMAIL.COM





CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 110 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580

File Number	PL 19-042	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Vacate skywalk, plaza, rededicate plaza	Planning Commission Date	May 14, 2019	
Deadline for Action	Application Date	April 11, 2019	60 Days	June 10, 2019
	Date Extension Letter Mailed	May 2, 2019	120 Days	August 9, 2019
Location of Subject	Minnesota Power Building (30 W. Superior St.) and Lake Superior Plaza (both sides of Lake Ave.) on the south side of Superior St.			
Applicant	Minnesota Power	Contact	Patrick Mullen	
Agent	Minnesota Power	Contact	Violet Struss	
Legal Description	See Attached			
Site Visit Date	May 3, 2019	Sign Notice Date	May 1, 2019	
Neighbor Letter Date	May 2, 2019	Number of Letters Sent	60	

Proposal

In order to improve building security at Minnesota Power's headquarters, proposed is:

- Vacation of the skywalk through first and second floors of their building after dedicating a replacement easement and providing for the construction of a stairway from the south end of the skywalk bridge over Superior St.
- Vacation of existing public plaza agreements for Lake Superior Plaza to be replaced with updated agreements that allow public access, but reduce the size of Lake Superior Plaza to provide a security buffer between the Plaza and the Minnesota Power Building.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	Downtown Mix (F-8) / (F-7)	7-story office building/plaza/parking	Central Business Primary/Open Space
North	Downtown Shopping (F-7)	2-6 story office/retail buildings	Central Business Primary
South	MU-C	I-35 and frontage road	Central Business Primary
East	Downtown Shopping (F-7)	2-5 story office/retail/clinic buildings	Central Business Primary
West	Downtown Mix (F-8)	2-story office/retail buildings	Central Business Primary

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 50-37.6C. The Planning Commission shall review the proposed vacation, and the Council shall approve the proposed vacation, or approve it with modifications, if it determines that the street, highway or easement proposed for vacation:

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

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

Governing Principle #6 – Reinforce the place-specific,
 Principle #7 - Create and maintain connectivity,
 Principle #8 - Encourage mix of activities, uses and densities,
 Principle #9 – Support private actions that contribute to the public realm,
 Principle #10 - Take actions that enhance the environment, economic, and social well-being of the community,
 Principle #12 - Create efficiencies in delivery of public services,
 Principle #13 – Develop a healthy community

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

History:

1977 Pedestrian Passageway Easement granted to City from Minnesota Power for skywalks through the building
 1977 Deeds to Lake Superior Plaza conveyed from City to Lake Superior Plaza Company
 1978 Minnesota Power Building addition constructed (7 stories, 94,304 sq. ft.) to the east of an existing building at the corner of 1st Ave. W. and Superior St.
 1989 Deed conveyed from City to Minnesota Power while retaining a “perpetual easement for public pedestrian passageway purposes” inside the Minnesota Power Building

Review and Discussion Items

- 1) Minnesota Power has expressed concern in the vacation petition that having “public pedestrian passageways (the skywalk) inside and immediately adjacent to the Minnesota Power building poses a significant concern for the physical security of our region’s critical energy infrastructure.”
- 2) The applicant is proposing to:
 - Vacate the existing skywalk on the first and second floors within their building after dedicating a replacement easement providing for the construction of a stairway from the south end of the skywalk bridge over Superior St. to Superior St.
 - Vacate existing public plaza agreements for Lake Superior Plaza and replace with updated agreements that allow public access, but reduce the size of Lake Superior Plaza to provide a security buffer between the Plaza and the Minnesota Power Building.
- 3) In 1978 Minnesota Power completed a significant remodel to an existing building at 1st Ave. W. and Superior St. while constructing a large building addition to provide headquarters office space for the region’s public electric utility. The project included retail (Scandinavian Design) and restaurant (Jolly Fisher) space on part of the Superior St. level. Linking the uses in the Minnesota Power building with underground parking and other downtown buildings is a public skywalk on the First Floor (Superior St. level) and 2nd Floor, accessed via elevator from the rest of the skywalk system.
- 4) Agreements between the City and Minnesota Power were established in 1977 and 1989 governing the skywalk and public plazas adjacent to both sides of Lake Avenue that are the subject of this vacation petition.
- 5) The applicant’s proposal is to dedicate replacement “public pedestrian passageway and plaza” easements over the plazas on the east and west sides of Lake Avenue as shown on the attached exhibit. These easements will provide the same level of public access to the plazas as the current agreements. However, to address safety and security concerns near their building, Minnesota Power is proposing to reduce the size of the west plaza by 30-40 feet near the building. In this space they would be able to better control access to their main entrance as well as place bollards and landscaping elements to prevent vehicular access near the building.

- 6) Reducing the plaza by 30-40 feet represents a reduction of about 20% of the total plaza area, with the remaining plaza area being approximately 1/3 acre. The remaining plaza is still large enough to host community events and general plaza functions. With the standard for vacating public easements being “uselessness,” the Planning Commission must provide a recommendation as to whether the area near the building is needed for plaza purposes. Although the public occasionally uses this space, it is not critical to the functioning of the plaza and could be found useless.
- 7) When considering the vacation of the skywalk through the building on the First and Second Floors the Planning Commission must provide a recommendation as to whether or not those passageways are needed for public access to important services and facilities. At the time of construction, the skywalk provided public access to commercial uses in the building as well as public parking below the building and adjacent plaza. However, those commercial uses have ceased with the Jolly Fisher restaurant closing (27 years ago) and other commercial spaces having since been converted to office space for use by Minnesota Power itself. The use of the underground parking by the general public has diminished significantly, as well, with Minnesota Power reporting that the general public rarely uses the 16 parking spaces they hold open at competitive hourly rates. Minnesota Power employees use the remaining approximately 100 spaces. The supply of skywalk-accessible public parking in the area has increased with the construction of the 650-vehicle Technology Village ramp in 2000. Therefore, it may be recommended that the skywalks through the building are not needed for the public access to commercial spaces and parking.
- 8) The Minnesota Power building is an important destination on the skywalk system and it is in the public’s interest to maintain a skywalk connection to it as well as providing a crossing to the south side of Superior St. To accomplish this Minnesota Power will provide a skywalk entrance to their building for employees and guests at the south end of the skywalk bridge. They will also construct a stairway within their building from the skywalk bridge to Superior St. and dedicate a public easement over it.
- 9) None of the skywalk or plaza areas proposed for vacation are needed to provide public recreational access to water.
- 10) The skywalks proposed for vacation will not otherwise be needed to promote the public health, safety, or welfare of the citizens of Duluth because the commercial and parking functions originally established in the Minnesota Power building and under the adjacent plazas have been eliminated or diminished to extremely low usage. A replacement public stairway will provide needed skywalk access and replacement plaza easements will preserve the public’s current level of health, safety, or welfare.
- 11) No new citizen comments have been received on this project.
- 12) Vacation resolutions lapse if not recorded within the timeframe stated in the recommendation below.

Staff Recommendation

Based on the above findings, staff recommends that Planning Commission recommend approval of the proposed Vacation of skywalks and public plazas with the following conditions:

1. The vacation of the public plaza shall not be final until replacement plaza easement agreements in a form approved by the Land Use Supervisor are recorded in the office of the St. Louis County Recorder, such recording to occur immediately following the recording of the vacation.
2. The vacation of the skywalks shall not be final until the completion of construction of a replacement stairway and skywalk access to Superior Street and recording in the office of the St. Louis County Recorder of a replacement Skywalk Easement Agreement in a form approved by the Land Use Supervisor, said recording to occur immediately following recording of the vacation.
3. The plaza vacations must be recorded within 90 days of final approval by City Council or such approval will lapse. The Skywalk vacation must be recorded within 90 days of completion of construction of the replacement Skywalk stairway and Skywalk access to Superior Street or such approval will lapse.

Minnesota Power Petition to Vacate Easement

The Property

Lots 14 and 16, Block 4, Central Division of Duluth.

All of Lots 6, 8, 10 and 12, together with that part of Lot 4 westerly of a line parallel with the boundary line between Lot 4 and Lot 6 and distant in an easterly direction 50 feet therefrom, all in Block 4 of Central Division of Duluth.

Together with certain portions of Lake Avenue vacated by the City of Duluth and described as follows: Commencing at the southeasterly corner of Lot 4, Block 4, Central Division of Duluth, then northerly along the northeast line of said Lot 4 a distance of 17.00 feet to the point of beginning; thence deflect 66°46'00" to the southeast property line of said Lot a distance of 6.10 feet, thence deflect 90°00'00" to the left and proceeding northwesterly a distance of 14.20 feet, thence deflect 156°46'00" to the left and proceeding in a southerly direction along the northeast line of said Lot 4 a distance of 15.45 feet to the point of beginning;

and

Commencing at the southeasterly corner of Lot 4, Block 4, Central Division of Duluth, then northerly along the northeast line of said Lot 4 a distance of 52.00 feet to the point of beginning; thence deflect 66°46'00" to the right and proceeding northeasterly parallel to the southeast property line of said Lot a distance of 6.10 feet, thence deflect 90°00'00" to the left and proceeding northwesterly a distance of 14.20 feet, thence deflect 156°46'00" to the left and proceeding in a southerly direction along the northeast line of said Lot 4 a distance of 15.45 feet to the point of beginning.

Together with the southerly six inches of the right-of-way of Superior Street lying between the westerly property line of Lot 12, Block 4, Central Division of Duluth, and the easterly property line of Lot 4, Block 4, Central Division of Duluth at its intersection with the right-of-way of Superior Street.

AND

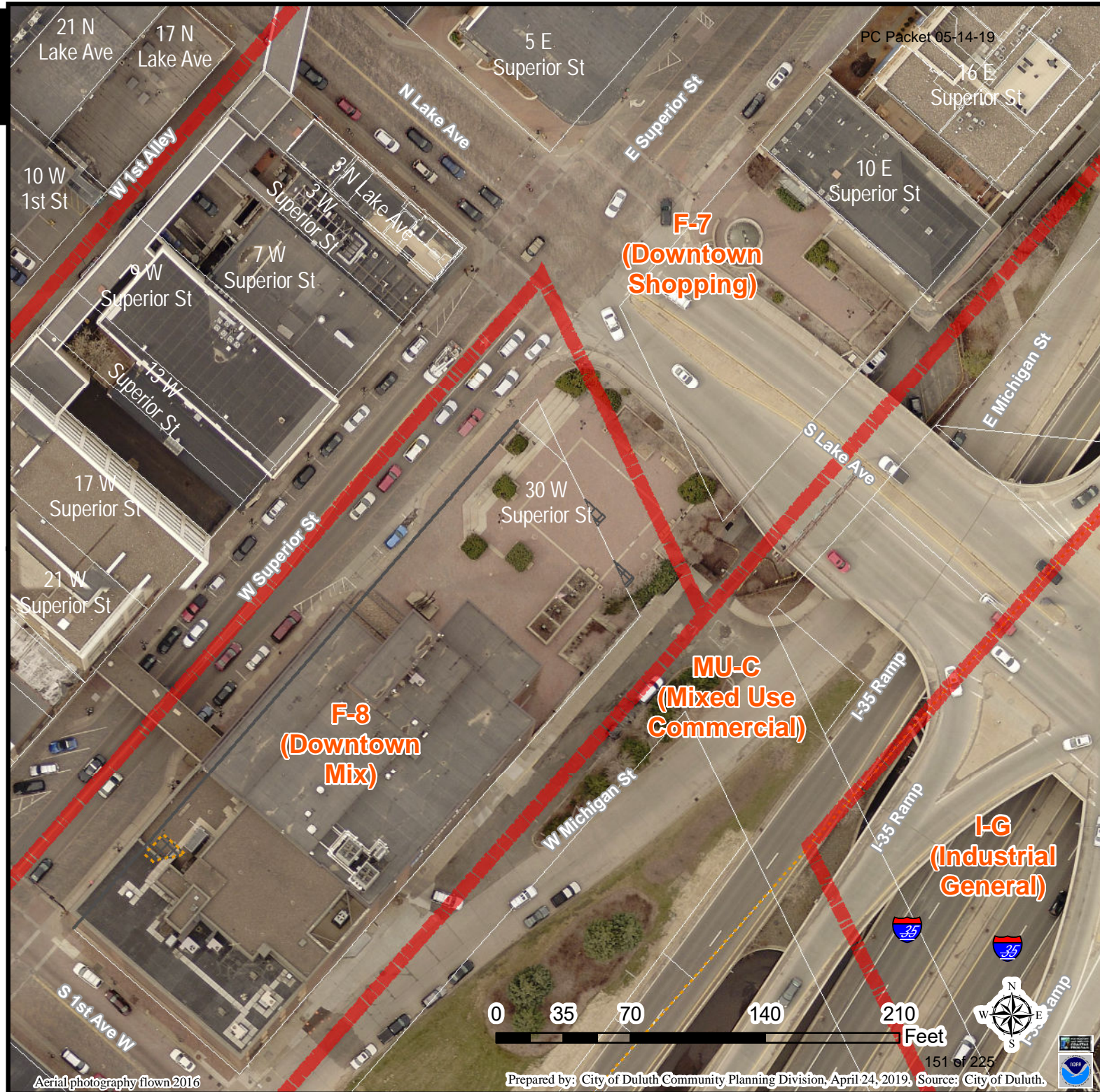
Lot A, Lot 2 and the westerly half of Lot 4, all in Block 3 Central Division of Duluth; and

That part of Lake Avenue and Superior Street in the City of Duluth, described as follows: Beginning at the most northerly corner of the westerly half of Lot 4, Block 3, Central Division of Duluth; thence run northwesterly along the northwesterly extension of the northeasterly line of said westerly half of Lot 4, to its intersection with a line run parallel with and distant 12 feet northwesterly of the southeasterly line of Superior Street; thence run southwest on said 12 foot parallel line to its intersection with the northwesterly extension of the northeasterly line of Lot 4, Block 4, Central Division of Duluth; thence run southeasterly on the northwesterly extension of the northeasterly line of said Lot 4 and on the northeasterly line of said Lot 4 to the most easterly corner of said Lot 4, thence run northeasterly to the most southerly corner of Block 3, Central Division of Duluth; thence run northwesterly, northerly and northeasterly along the southwest, westerly and northwesterly lines of said Block 3 to the point of beginning.



**PL 19-042 Minnesota Power
Vacate Skyway and Plaza
Easements and Dedicate
Replacement Easements**

PC Packet 05-14-19



Legend

- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- Zoning Boundaries

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

Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, April 24, 2019, Source: City of Duluth.

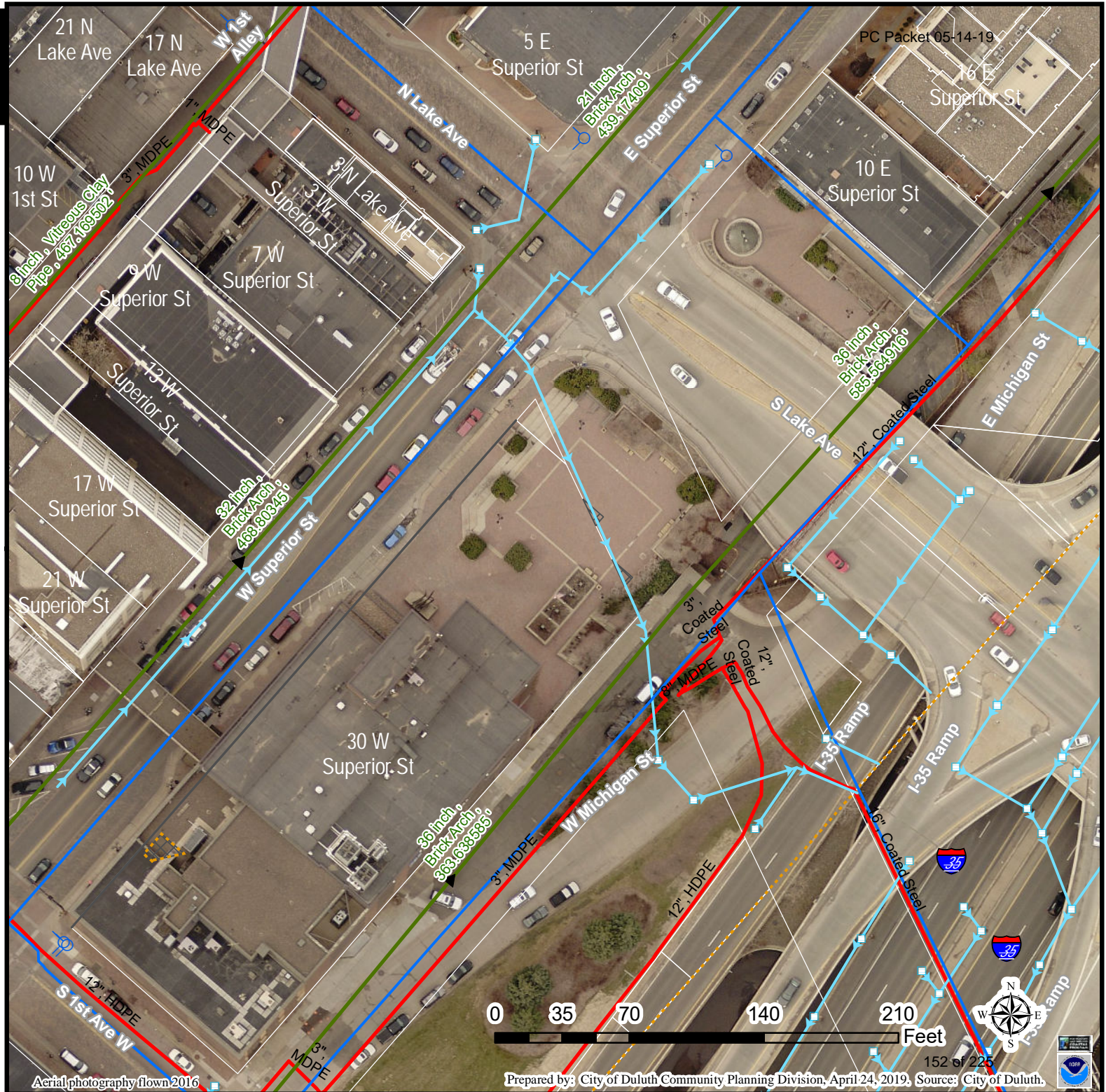


**PL 19-042 Minnesota Power
Vacate Skyway and Plaza
Easements and Dedicate
Replacement Easements**

Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement

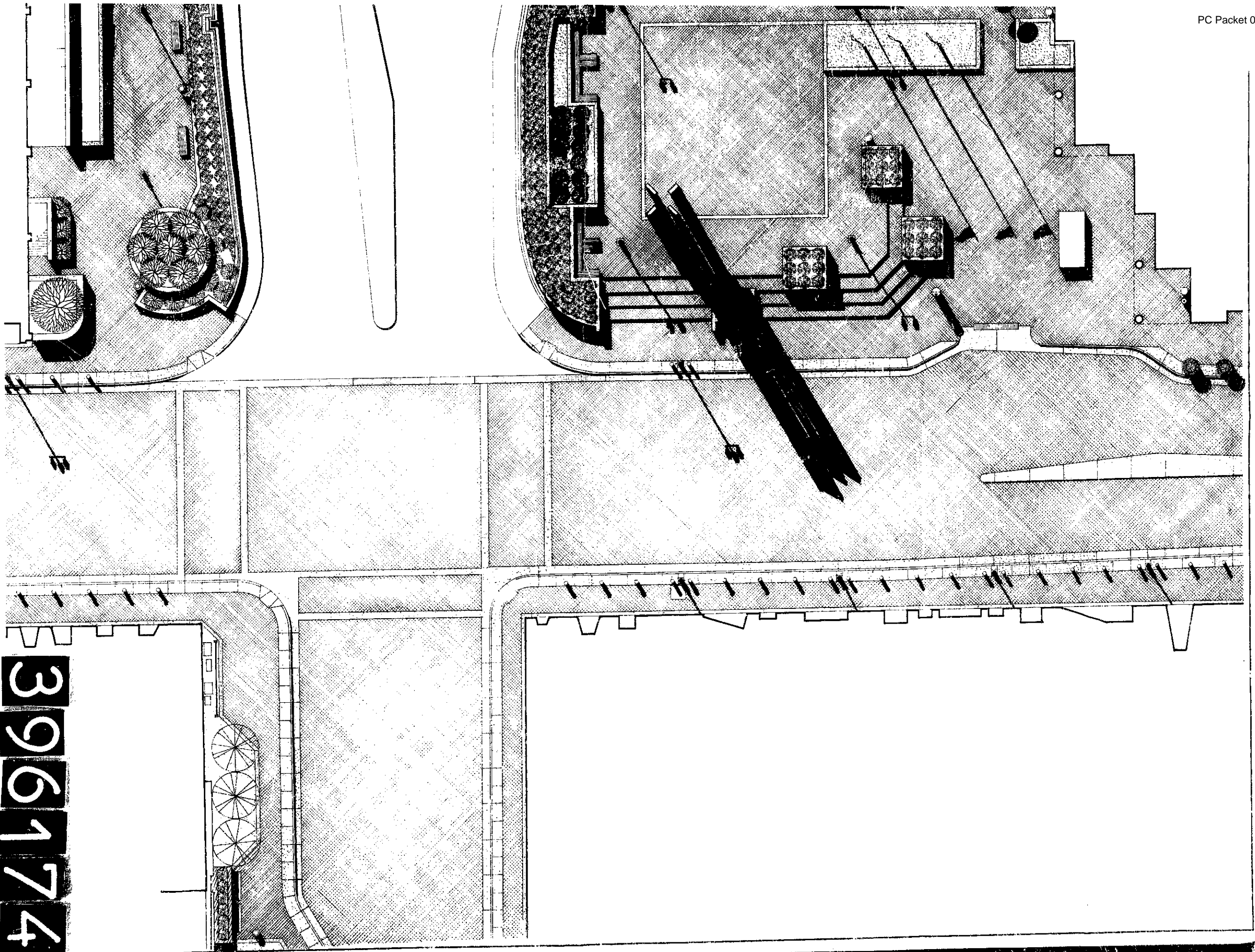
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used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



Aerial photography flown 2016







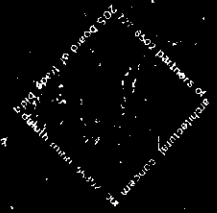
254121

PARTNERS OF ARCHITECTURAL CONCERN, INC.

5/14/19

396174

24X LAKE SUPERIOR PLAZA
 DULUTH, MINNESOTA



EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Minnesota Power a division of ALLETE, Inc., a Minnesota corporation (“Grantor”), for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant to City of Duluth, Minnesota a Minnesota municipal corporation, (“Grantee”) an easement for public pedestrian passageway ingress to and egress from the City of Duluth skywalk system, subject to the terms and conditions contained herein, (the “Easement”) across the following described land situated in St. Louis County, Minnesota:

The easement area conveyed by this document is as described on Exhibit A, attached hereto and made a part hereof.

Subject to the terms of this Easement, Grantor grants to Grantee the right, privilege and easement to the easement area for public pedestrian passageway ingress to and egress from the City of Duluth skywalk system.

It is agreed and understood by the parties hereto that this Easement is not to be construed as being granted to the exclusion of the Grantor, its successors or assigns. In the event that Grantee, its successors or permitted assigns no longer use this Easement solely for public pedestrian passageway ingress to and egress from the City of Duluth skywalk system purposes this Easement shall terminate.

Grantee agrees to assume all risks of, and indemnify and hold harmless, and at the Grantee’s expense, defend the Grantor from and against any claim, loss, cost, legal actions, liability or expense (including without limitation, attorneys’ fees and costs of appeals) on account of personal injury to or death of any person whomsoever, including but not limited to employees of the Grantor, or damage to or destruction of property to whomsoever belonging, including but not limited to property of the Grantor, that arises out of or results from or is related to, partly or wholly, directly or indirectly, the Grantee’s exercise of the rights herein granted. Notwithstanding the foregoing, nothing herein contained is to be construed as an indemnification by Grantee against the sole negligence of the Grantor, its officers, employees or agents.

Grantee also agrees to comply strictly with all applicable federal, state, county and municipal laws, rules, ordinances and regulations relating to all activities contemplated under this Easement. Such strict compliance shall include, but is not limited to, laws, rules, ordinances and regulations governing fire and prevention of fire, stream diversion and pollution, public health, permitting and licensing. Grantee hereby assumes, at its sole cost and expense, all obligations imposed upon Grantor by virtue of Grantee’s exercise of its rights under this Easement.

The Easement hereby granted shall extend to and bind the successors and assigns of the parties hereto and shall run with the land. Notwithstanding the foregoing, Grantee shall not assign, in whole or

in part, its rights or obligations under this Easement without the prior written consent of Grantor, which consent shall be within Grantor's sole discretion.

IN TESTIMONY WHEREOF, the parties hereto have executed this Easement as of this _____ day of _____, 2019.

GRANTOR
Minnesota Power
a division of ALLETE, Inc.

By: _____

Its: _____

GRANTEE
CITY OF DULUTH:

By: _____
Its Mayor

Attest: _____
Its City Clerk
Date Attested: _____, 2019

Countersigned:

By: _____
Its Auditor

Approved as to form:

By: _____
Its City Attorney

[Acknowledgement on the following page]

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____ of Minnesota Power, a division of ALLETE, Inc., a Minnesota corporation.

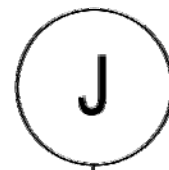
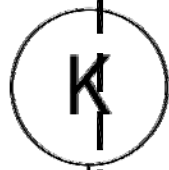
Notarial Stamp or Seal

Notary Public

This instrument was drafted by:
Minnesota Power, a division of ALLETE, Inc.
30 West Superior Street
Duluth, MN 55802

SUPERIOR STREET

EXISTING
DTA BUS
STOP



CU
VESTIBULE
146
146 SF

CU BREAK
149
145 SF

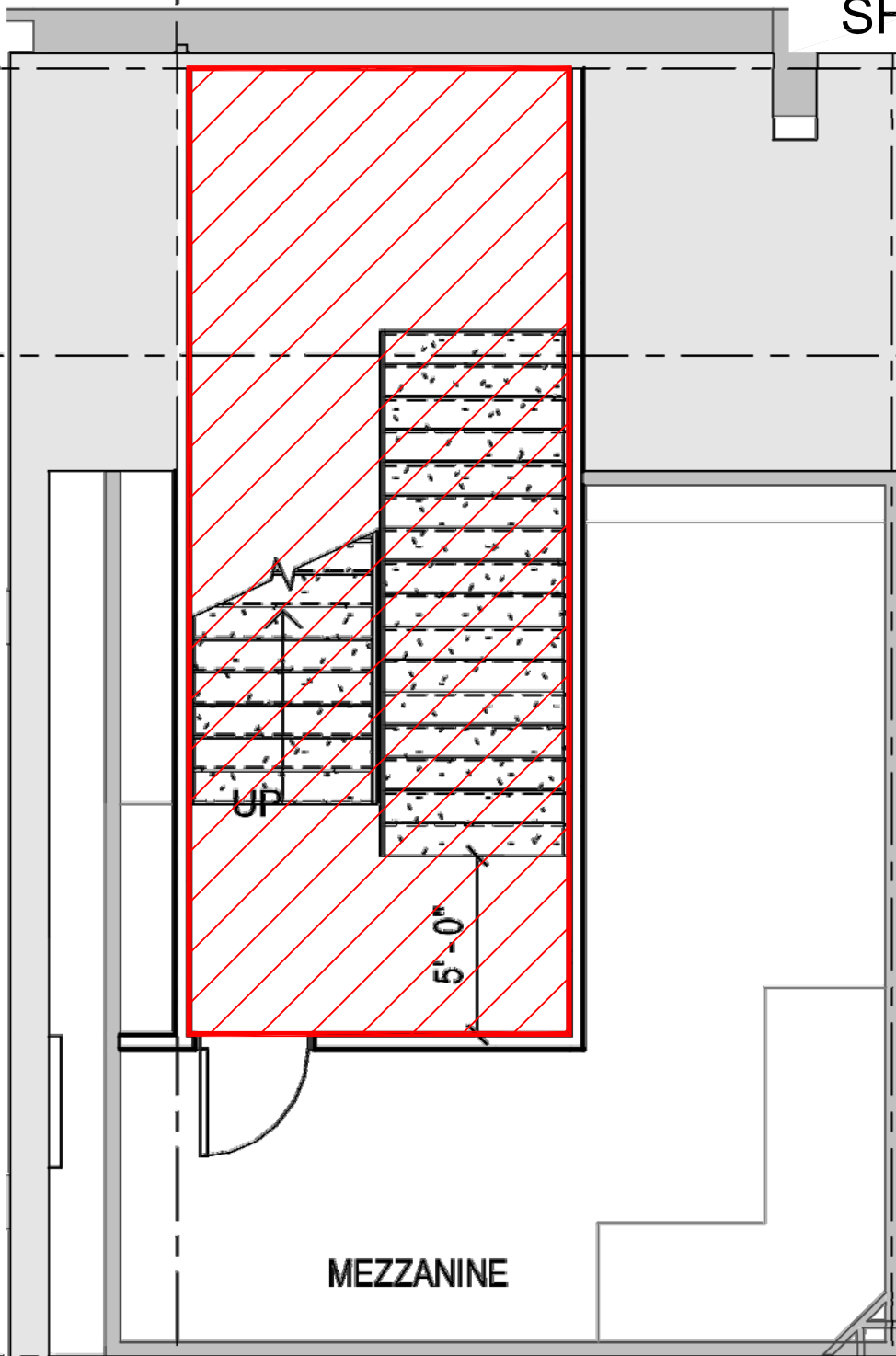
CU COMM
148
81 SF

8' - 0 7/16"

PRELIMINARY FIRST FLOOR OF
GENERAL OFFICE BUILDING

CONFERENCE
147
323 SF

13' - 5 1/4"



PRELIMINARY MEZZANINE
LEVEL OF GENERAL OFFICE
BUILDING

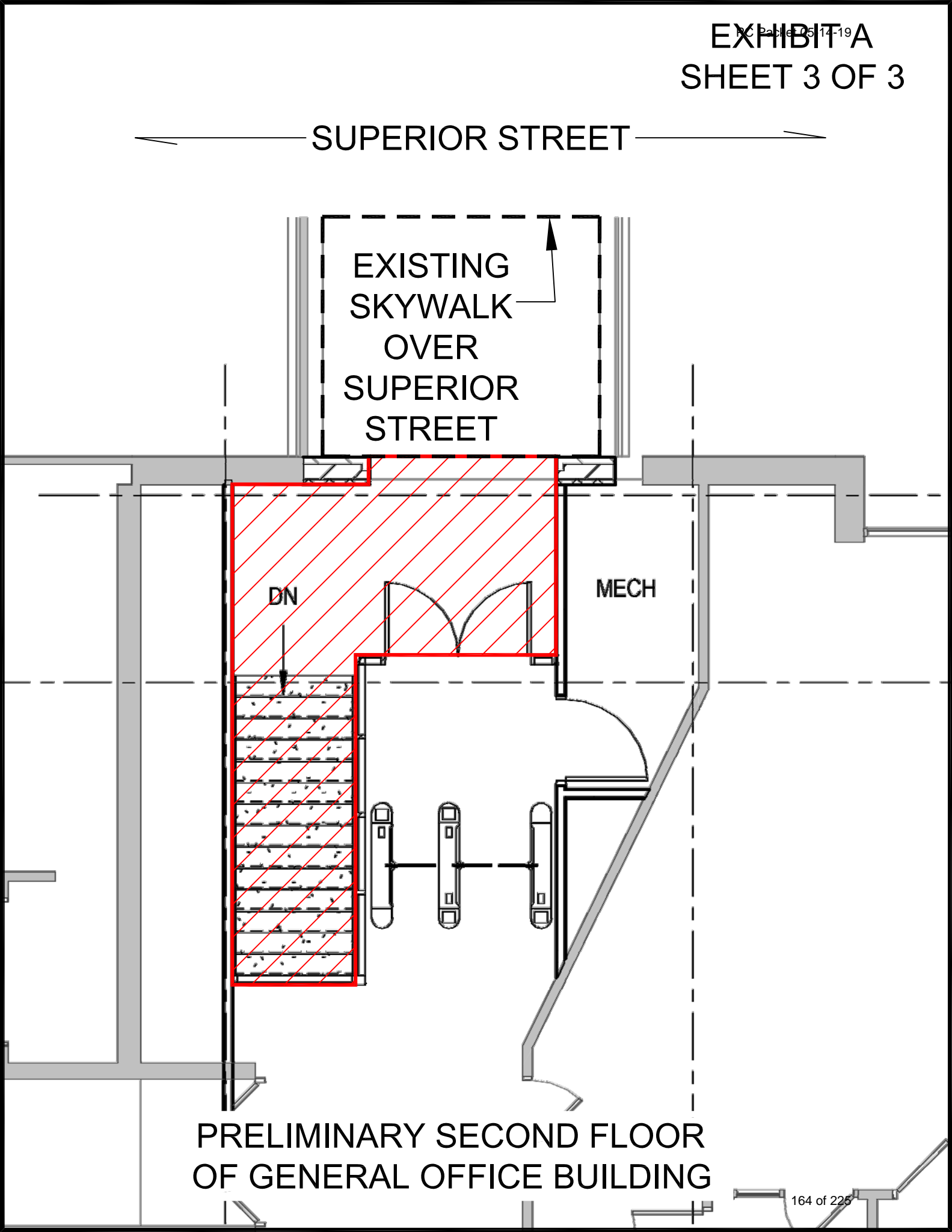
← SUPERIOR STREET →

EXISTING
SKYWALK
OVER
SUPERIOR
STREET

DN

MECH

PRELIMINARY SECOND FLOOR
OF GENERAL OFFICE BUILDING



EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Minnesota Power a division of ALLETE, Inc., a Minnesota corporation (“Grantor”), for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant to City of Duluth, Minnesota a Minnesota municipal corporation, (“Grantee”) an easement for public pedestrian passageway and plaza purposes,¹ subject to the terms and conditions contained herein, (the “Easement”) across the following described land situated in St. Louis County, Minnesota:

The easement area conveyed by this document is at and above the Superior Street elevation on the property as described on Exhibit A, attached hereto and made a part hereof.

Subject to the terms of this Easement, Grantor grants to Grantee the right, privilege and easement to the easement area for public pedestrian passageway and plaza purposes. In furtherance of such purpose, Grantee and Grantor shall such rights and obligations as contained in that certain Amended and Restated Lake Avenue Plaza Development Agreement with an Effective Date of June 1, 2019.

It is agreed and understood by the parties hereto that this Easement is not to be construed as being granted to the exclusion of the Grantor, its successors or assigns. In the event that Grantee, its successors or permitted assigns no longer use this Easement solely for public pedestrian passageway and plaza purposes this Easement shall terminate.

Grantee agrees to assume all risks of, and indemnify and hold harmless, and at the Grantee’s expense, defend the Grantor from and against any claim, loss, cost, legal actions, liability or expense (including without limitation, attorneys’ fees and costs of appeals) on account of personal injury to or death of any person whomsoever, including but not limited to employees of the Grantor, or damage to or destruction of property to whomsoever belonging, including but not limited to property of the Grantor, that arises out of or results from or is related to, partly or wholly, directly or indirectly, the Grantee’s exercise of the rights herein granted. Notwithstanding the foregoing, nothing herein contained is to be construed as an indemnification by Grantee against the sole negligence of the Grantor, its officers, employees or agents.

Grantee also agrees to comply strictly with all applicable federal, state, county and municipal laws, rules, ordinances and regulations relating to all activities contemplated under this Easement. Such strict compliance shall include, but is not limited to, laws, rules, ordinances and regulations governing fire and prevention of fire, stream diversion and pollution, public health, permitting and licensing.

¹ Original description of the Plaza easement (passageway purposes in 1977 deeds; plaza purposes in 1989 deed); would like to clarify.

Grantee hereby assumes, at its sole cost and expense, all obligations imposed upon Grantor by virtue of Grantee's exercise of its rights under this Easement.

The Easement hereby granted shall extend to and bind the successors and assigns of the parties hereto and shall run with the land. Notwithstanding the foregoing, Grantee shall not assign, in whole or in part, its rights or obligations under this Easement without the prior written consent of Grantor, which consent shall be within Grantor's sole discretion.

IN TESTIMONY WHEREOF, the parties hereto have executed this Easement as of this _____ day of _____, 2018.

GRANTOR
Minnesota Power
a division of ALLETE, Inc.

By: _____

Its: _____

GRANTEE
CITY OF DULUTH:

By: _____
Its Mayor

Attest: _____
Its City Clerk
Date Attested: _____, 2019

Countersigned:

By: _____
Its Auditor

Approved as to form:

By: _____
Its City Attorney

[Acknowledgement on the following page]

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____ of Minnesota Power, a division of ALLETE, Inc., a Minnesota corporation.

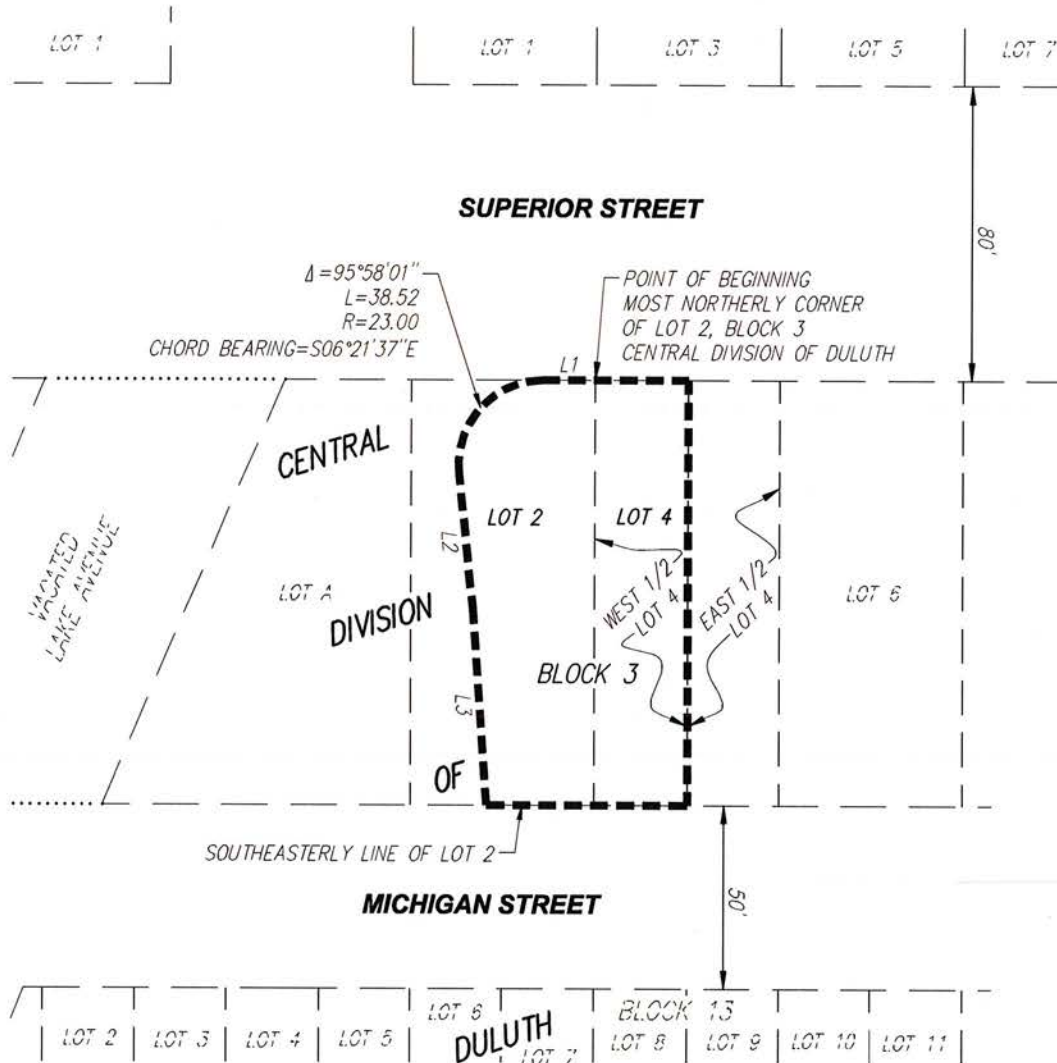
Notarial Stamp or Seal

Notary Public

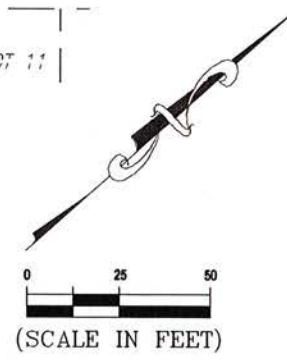
This instrument was drafted by:
Minnesota Power, a division of ALLETE, Inc.
30 West Superior Street
Duluth, MN 55802

EXHIBIT A

EASEMENT FOR PUBLIC PEDESTRIAN PLAZA PURPOSES



LINE TABLE		
LINE	BEARING	LENGTH
L1	S41°37'41"W	14.16
L2	S54°20'38"E	36.41
L3	S52°32'54"E	53.60



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

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

Print Name: Paul A. Vogel License # 44075

Signature: *Paul A. Vogel* Date: 04/11/2019

DATE PREPARED: 04/11/19

PROJ NO: 160479

FILE: 160479vEXHIB

SHEET 1 of 2 SHEETS



**PERFORMANCE
 DRIVEN DESIGN.**
 LHBcorp.com

21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.8448

FILE: ..160479\600 Drawings\Survey\160479vEXHIBIT-EAST.dwg

EXHIBIT A

EASEMENT FOR PUBLIC PEDESTRIAN PLAZA PURPOSES

DESCRIPTION:

THE WEST ONE-HALF (W 1/2) OF LOT 4, BLOCK 3, CENTRAL DIVISION OF DULUTH.

TOGETHER WITH

THAT PART OF LOT 2, BLOCK 3, CENTRAL DIVISION OF DULUTH LYING EASTERLY OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 2, BLOCK 3, CENTRAL DIVISION OF DULUTH; THENCE SOUTH 41 DEGREES 37 MINUTES 41 SECONDS WEST, A DISTANCE OF 14.16 FEET; THENCE SOUTHEASTERLY A DISTANCE OF 38.52 FEET ALONG A TANGENTIAL CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 23.00 FEET AND A CENTRAL ANGLE OF 95 DEGREES 58 MINUTES 01 SECONDS; THENCE SOUTH 54 DEGREES 20 MINUTES 38 SECONDS EAST, A DISTANCE OF 36.41 FEET; THENCE SOUTH 52 DEGREES 32 MINUTES 54 SECONDS EAST, A DISTANCE OF 53.60 FEET TO THE SOUTHEASTERLY LINE OF SAID LOT 2 AND SAID LINE THERE TERMINATING.

CONTAINING 6,660 SQUARE FEET, MORE OR LESS.

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: 04/11/2019

DATE PREPARED: 04/11/19

PROJ NO: 160479

FILE: 160479vEXHIB

SHEET 2 of 2 SHEETS



**PERFORMANCE
DRIVEN DESIGN.**
LHBcorp.com

21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.8448

EASEMENT

KNOW ALL MEN BY THESE PRESENTS, that Minnesota Power a division of ALLETE, Inc., a Minnesota corporation (“Grantor”), for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, does hereby grant to City of Duluth, Minnesota a Minnesota municipal corporation, (“Grantee”) an easement for public pedestrian passageway and plaza purposes,¹ subject to the terms and conditions contained herein, (the “Easement”) across the following described land situated in St. Louis County, Minnesota:

The easement area conveyed by this document is at and above the Superior Street elevation on the property as described on Exhibit A, attached hereto and made a part hereof.

Subject to the terms of this Easement, Grantor grants to Grantee the right, privilege and easement to the easement area for public pedestrian passageway and plaza purposes. In furtherance of such purpose, Grantee and Grantor shall such rights and obligations as contained in that certain Amended and Restated Lake Avenue Plaza Development Agreement with an Effective Date of June 1, 2019.

It is agreed and understood by the parties hereto that this Easement is not to be construed as being granted to the exclusion of the Grantor, its successors or assigns. In the event that Grantee, its successors or permitted assigns no longer use this Easement solely for public pedestrian passageway and plaza purposes this Easement shall terminate.

Grantee agrees to assume all risks of, and indemnify and hold harmless, and at the Grantee's expense, defend the Grantor from and against any claim, loss, cost, legal actions, liability or expense (including without limitation, attorneys' fees and costs of appeals) on account of personal injury to or death of any person whomsoever, including but not limited to employees of the Grantor, or damage to or destruction of property to whomsoever belonging, including but not limited to property of the Grantor, that arises out of or results from or is related to, partly or wholly, directly or indirectly, the Grantee's exercise of the rights herein granted. Notwithstanding the foregoing, nothing herein contained is to be construed as an indemnification by Grantee against the sole negligence of the Grantor, its officers, employees or agents.

Grantee also agrees to comply strictly with all applicable federal, state, county and municipal laws, rules, ordinances and regulations relating to all activities contemplated under this Easement. Such strict compliance shall include, but is not limited to, laws, rules, ordinances and regulations governing fire and prevention of fire, stream diversion and pollution, public health, permitting and licensing.

¹ Original description of the Plaza easement (passageway purposes in 1977 deeds; plaza purposes in 1989 deed); would like to clarify.

Grantee hereby assumes, at its sole cost and expense, all obligations imposed upon Grantor by virtue of Grantee's exercise of its rights under this Easement.

The Easement hereby granted shall extend to and bind the successors and assigns of the parties hereto and shall run with the land. Notwithstanding the foregoing, Grantee shall not assign, in whole or in part, its rights or obligations under this Easement without the prior written consent of Grantor, which consent shall be within Grantor's sole discretion.

IN TESTIMONY WHEREOF, the parties hereto have executed this Easement as of this _____ day of _____, 2018.

GRANTOR
Minnesota Power
a division of ALLETE, Inc.

By: _____

Its: _____

GRANTEE
CITY OF DULUTH:

By: _____
Its Mayor

Attest: _____
Its City Clerk
Date Attested: _____, 2019

Countersigned:

By: _____
Its Auditor

Approved as to form:

By: _____
Its City Attorney

[Acknowledgement on the following page]

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this ____ day of _____, 2019, by _____ of Minnesota Power, a division of ALLETE, Inc., a Minnesota corporation.

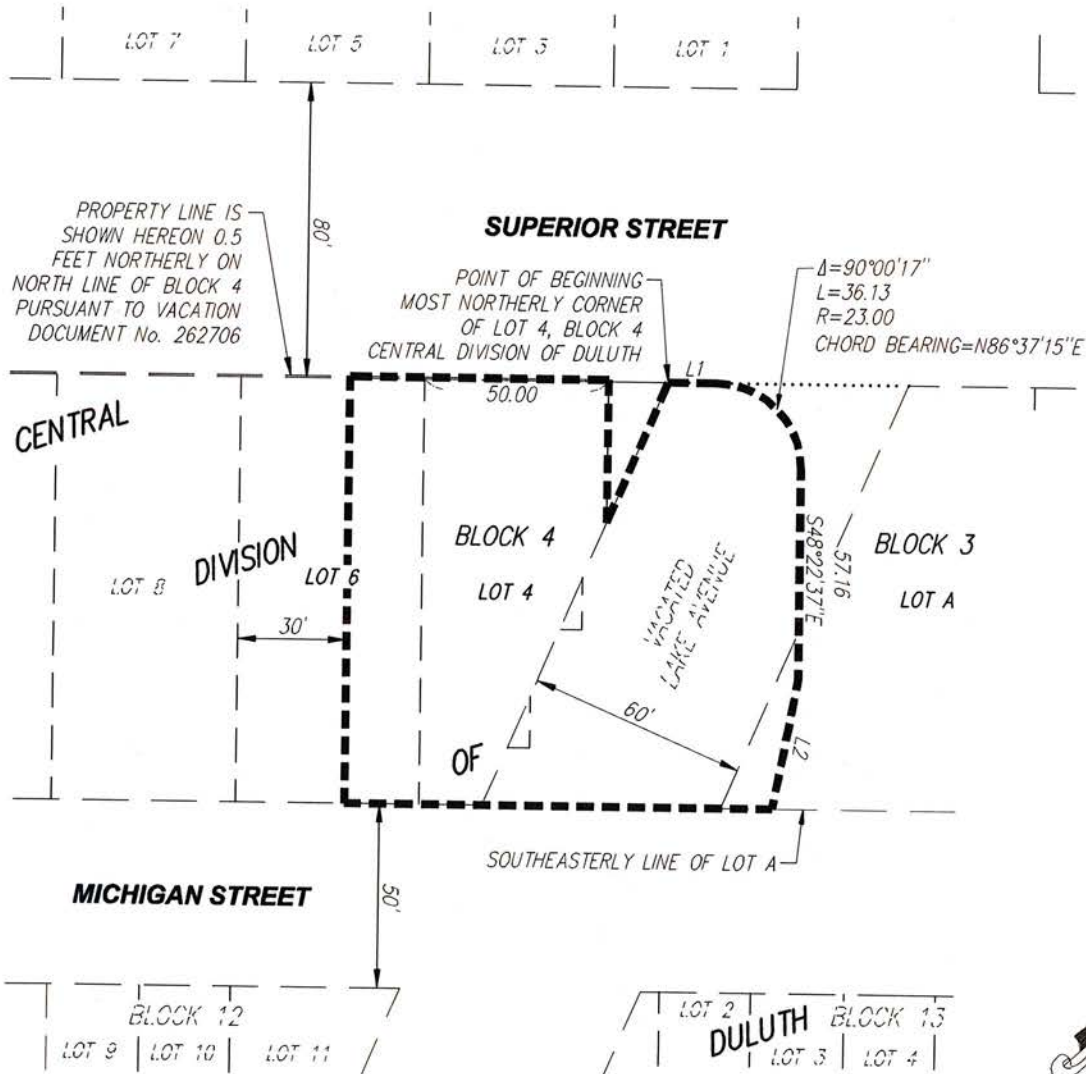
Notarial Stamp or Seal

Notary Public

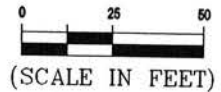
This instrument was drafted by:
Minnesota Power, a division of ALLETE, Inc.
30 West Superior Street
Duluth, MN 55802

EXHIBIT A

EASEMENT FOR PUBLIC PEDESTRIAN PLAZA PURPOSES



LINE TABLE		
LINE	BEARING	LENGTH
L1	S41°37'06\"W	13.53
L2	S37°34'36\"E	35.52



Basis of Bearing is Grid North,
St. Louis County Transverse
Mercator 98 Coordinate System.

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

Print Name: Paul A. Vogel License # 44075

Signature: *Paul A. Vogel* Date: 04/11/2019

DATE PREPARED: 04/11/19

PROJ NO: 160479

FILE: 160479vEXHIB

SHEET 1 of 2 SHEETS



**PERFORMANCE
DRIVEN DESIGN.**
LHBcorp.com

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

FILE: ..160479\600 Drawings\Survey\160479vEXHIBIT-WEST.dwg

EXHIBIT A

EASEMENT FOR PUBLIC PEDESTRIAN PLAZA PURPOSES

DESCRIPTION :

LOT 6, BLOCK 4, CENTRAL DIVISION OF DULUTH, EXCEPT THE WESTERLY 30.00 FEET THERE FROM.

TOGETHER WITH

LOT 4, BLOCK 4 OF CENTRAL DIVISION OF DULUTH, LYING WESTERLY OF A LINE DRAWN PARALLEL WITH THE BOUNDARY LINE BETWEEN SAID LOT 4 AND LOT 6 AND DISTANT IN A EASTERLY DIRECTION 50.00 FEET THERE FROM.

TOGETHER WITH

THAT PART OF VACATED LAKE AVENUE AND LOT A, BLOCK 3, CENTRAL DIVISION OF DULUTH LYING WESTERLY OF THE FOLLOWING DESCRIBED LINE: BEGINNING AT THE MOST NORTHERLY CORNER OF LOT 4, BLOCK 4, CENTRAL DIVISION OF DULUTH; THENCE SOUTH 41 DEGREES 37 MINUTES 06 SECONDS WEST, A DISTANCE OF 13.53 FEET; THENCE EASTERLY A DISTANCE OF 36.13 FEET ALONG A TANGENTIAL CURVE CONCAVE TO THE SOUTHEAST, HAVING A RADIUS OF 23.00 FEET AND A CENTRAL ANGLE OF 90 DEGREES 00 MINUTES 17 SECONDS; THENCE SOUTH 48 DEGREES 22 MINUTES 37 SECONDS EAST, A DISTANCE OF 57.16 FEET; THENCE SOUTH 37 DEGREES 34 MINUTES 36 SECONDS EAST, A DISTANCE OF 35.52 FEET TO THE SOUTHEASTERLY LINE OF SAID LOT A AND SAID LINE THERE TERMINATING.

CONTAINING 13,650 SQUARE FEET, MORE OR LESS.

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: 04/11/2019

DATE PREPARED: 04/11/19

PROJ NO: 160479

FILE: 160479vEXHIB

SHEET 2 of 2 SHEETS



**PERFORMANCE
DRIVEN DESIGN.**
LHBcorp.com

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

FILE: ..\160479\600 Drawings\Survey\160479vEXHIBIT-WEST.dwg



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 110 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 19-029	Contact	Chris Lee, clee@duluthmn.gov	
Type	Variance from Shoreland Setbacks	Planning Commission Date	May 14, 2019	
Deadline for Action	Application Date	March 29, 2019	60 Days	May 28, 2019
	Date Extension Letter Mailed	April 24, 2019	120 Days	July 27, 2019
Location of Subject	443 North 85 th Ave West			
Applicant	Claudia Anderson	Contact		
Agent	Tom DeMarais, Northland Consulting	Contact	tomd@nce-duluth.com	
Legal Description	PID 010-4432-00010			
Site Visit Date	May 3, 2019	Sign Notice Date	April 30, 2019	
Neighbor Letter Date	May 1, 2019	Number of Letters Sent	21	

Proposal

The applicant is requesting a variance from UDC requirements which mandate a 150' structure setback for construction in proximity to a tributary of Knowlton Creek, a designated cold water river. The applicant proposes to construct a new 72' by 40' single family home on the site. They are requesting to reduce the setback from 150' to approximately 89'.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Vacant	Low-density Neighborhood / Preservation
North	R-1	Single-Family Residential	Low-density Neighborhood
South	R-1	Single-Family Residential	Low-density Neighborhood / Preservation
East	R-1	Single-Family Residential	Traditional Neighborhood
West	R-1	Park/Open Space	Preservation

Summary of Code Requirements

Sec. 50-18.1.D-1 – Minimum Shoreland Area Standards: for Coldwater Rivers, maintain a minimum structure setback of 150 feet.

Sec. 50-37-9.B – Variance Procedures: “The Planning Commission shall... make a decision on the application based on the criteria in subsections 50-37.9.C – 50.37.9.M...”

Sec. 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 exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) that the landowner is 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.

Sec. 50-37.9.L – Standards for Variances in Shorelands: “No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment. Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas.”

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

Future Land Use – Open Space - High natural resource or scenic value, with substantial restrictions and development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: city parks and recreation areas, primary viewsheds, shorelands of the lake and streams, wetlands and floodplains, and high-value habitat.

Review and Discussion Items

Staff finds that:

- 1) Applicant is seeking a shoreland setback variance to construct a new 72' x 40' single family home. The proposed home would be entirely within the 150-foot structure setback for Knowlton Creek tributary, a designated cold water river.
- 2) The parcel and the proposed house are both located entirely within the 150-foot structure setback for Knowlton Creek, an usual condition unique to the property. The closest corner of the house is approximately 89' from the creek. Because the parcel is completely within the 150-foot structure setback, it would be impossible for the owners to build any addition whatsoever without requesting a shoreland variance or a front yard setback variance, which constitutes a practical difficulty to the UDC standards for shoreland setbacks.
- 3) Proposed mitigation. The applicant has provided a landscaping/mitigation plan describing existing landscaping and additional landscaping that they will provide including rain gardens, pollinator gardens, trees, and shrubs/bushes. The applicant is proposing to retain existing trees on the site. Staff finds that the proposed mitigation meets the requirements of the UDC, and is acceptable and appropriate.
- 4) Certain other homes in the neighborhood also have some overlap with the 150-foot shoreland structure setback. The applicant has provided a plan showing their intent to build the home as far as possible from the creek. The proposed use of the property is reasonable and consistent with the neighborhood's development pattern.
- 5) The proposed single family complies with the site's current zoning designation and future land use. The proposed house would not be larger than other houses currently found in the neighborhood; as such, the essential character of the neighborhood would be unchanged.
- 6) The construction will not impair light or air to neighbors, increase congestion in the neighborhood, create fire danger, or otherwise imperil public safety.
- 7) The proposed structure will be located outside any floodplain areas.
- 8) To date, no public, agency, or City comment has been received.
- 9) Per UDC Section 50-37.1.N, approved variances shall lapse if the project or activity authorized by the permit or variance is not begun within one year of the permit date.

Staff Recommendation

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

- 1) The project be limited to, constructed, and maintained according to the site map and landscaping/mitigation plan submitted with the application;
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of UDC Chapter 50.



Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

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

Storage Basin

- Storage Basin

Pump Station

- Pump Station

Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin

Road or Alley ROW

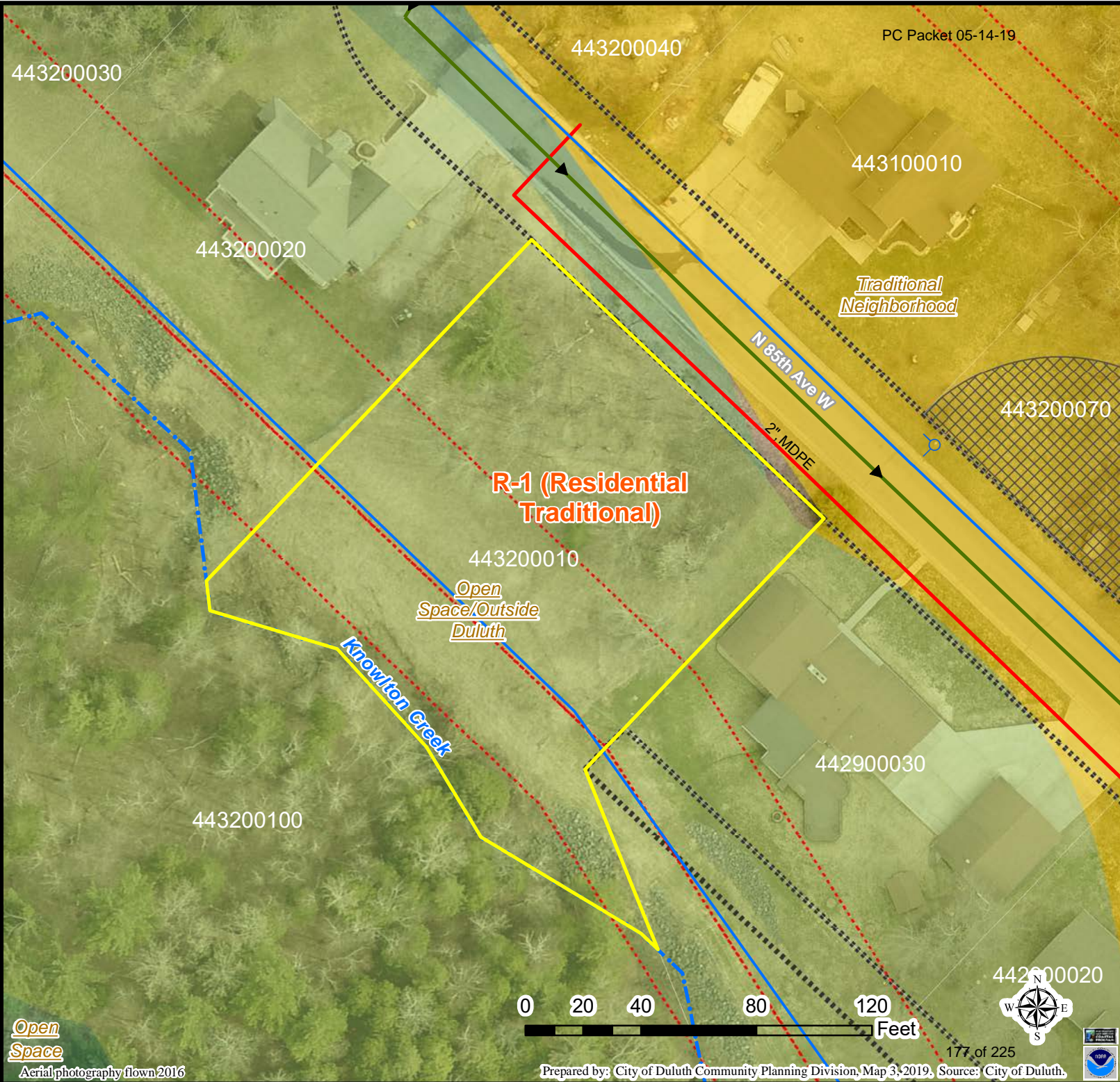
- Road or Alley ROW
- Vacated ROW

Easement Type

- Utility Easement
- Other Easement
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)

Zoning

- 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



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.

Open Space
Aerial photography flown 2016



19-029 Variance
N 85th Ave W

PC Packet 05-14-19

Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

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

Storage Basin

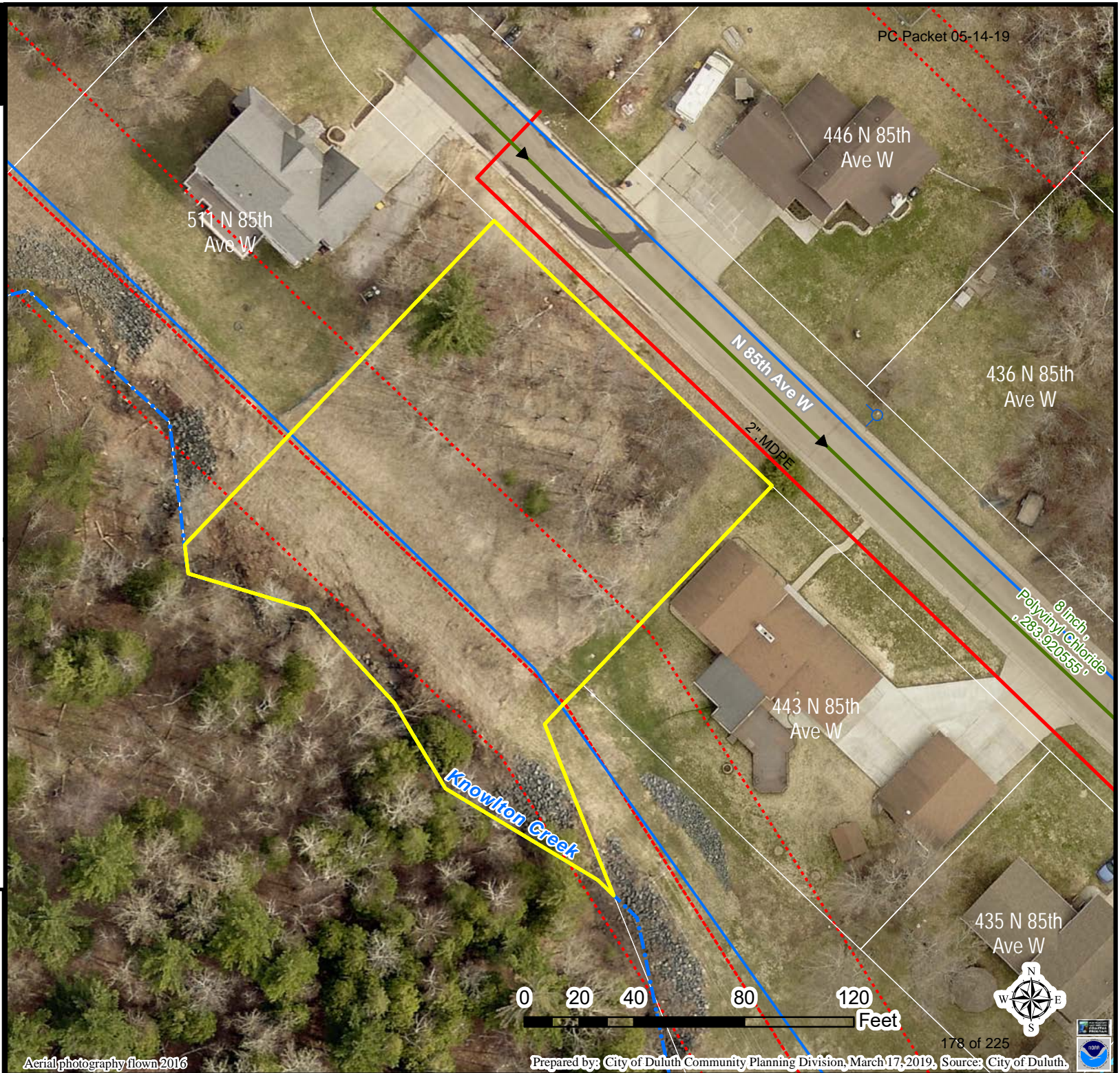
Pump Station

Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin

Easement Type

- Utility Easement
- Other Easement
- Trout Stream (GPS)
- Other Stream (GPS)



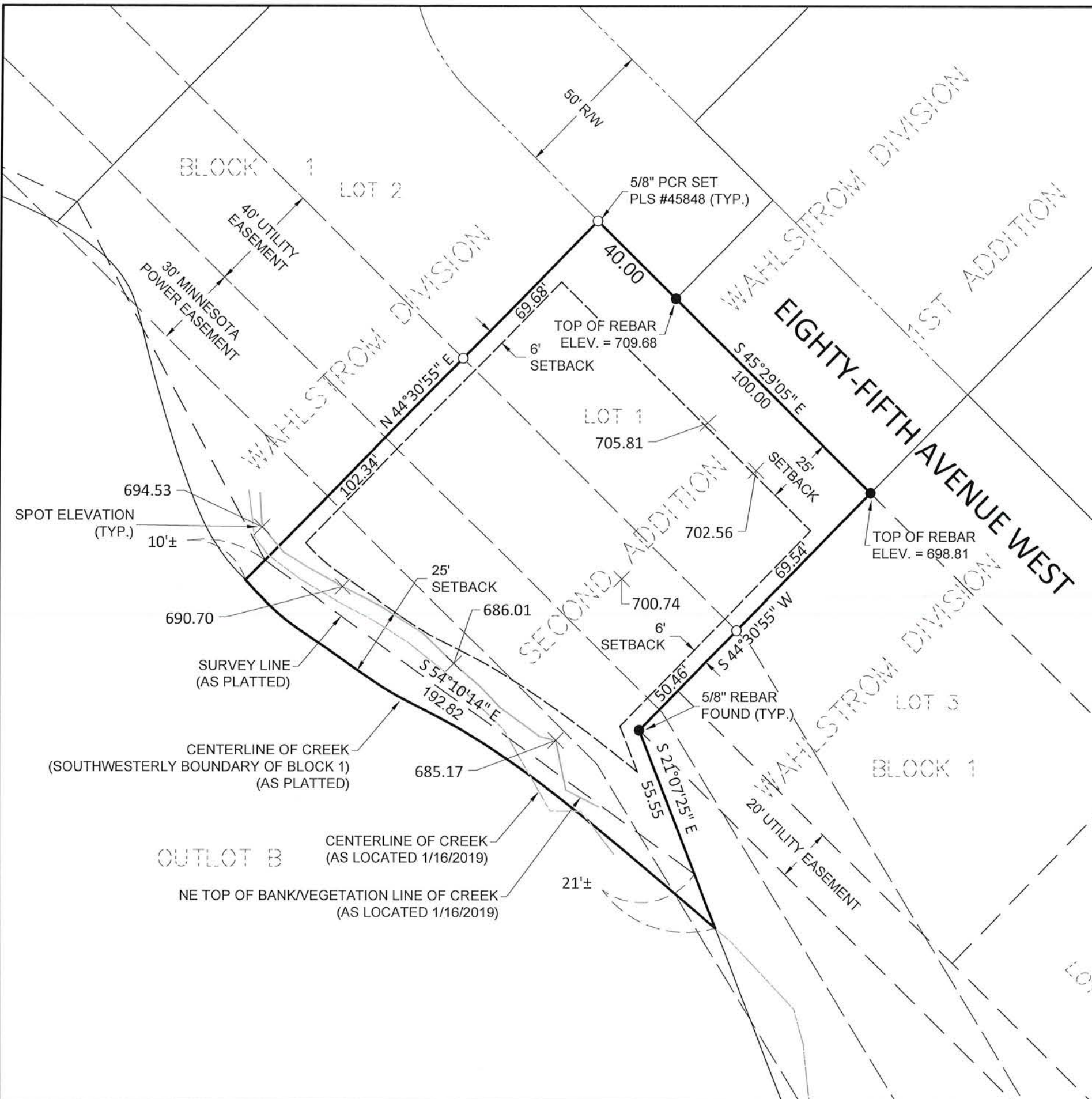
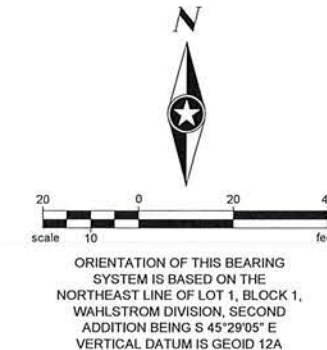
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used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

Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, March 17, 2019, Source: City of Duluth.



CERTIFICATE OF SURVEY



LEGAL LAND DESCRIPTION

(CERTIFICATE OF TITLE NO. 291674)

LOT 1, BLOCK 1, WAHLSTROM DIVISION, SECOND ADDITION, according to the recorded plat thereof, St. Louis County, Minnesota.

SURVEYOR'S NOTES:

PROPERTY IS ZONED R-1 (RESIDENTIAL TRADITIONAL) WITH SETBACKS AS SHOWN PER CITY OF DULUTH UNIFIED DEVELOPMENT CHAPTER (UDC).

SPOT ELEVATIONS ARE REPORTED AS SHOWN, AND REPRESENT THE ELEVATION OF THE POINT MEASURED WHICH MAY OR MAY NOT BE REPRESENTATIVE OF GROUND LEVEL.

STREAM LOCATION APPEARS TO HAVE BEEN ALTERED BY OTHERS SINCE WAHLSTROM DIVISION, SECOND ADDITION WAS RECORDED. DNR STREAM BUFFERS, IF APPLICABLE, WERE NOT RESEARCHED OR PLOTTED AS PART OF THIS SURVEY.

Save: 3/29/2019 9:44 AM darsen Plot: 3/29/2019 9:46 AM S:\E\A\ANDKE\149269\survey\92-CAD\15-dwg\ANDKE_149269 Certificate of Survey.dwg

DRAWN BY:	KLA				
SURVEYED BY:	KLA				
CHECKED BY:	CAL				
SURVEY TEAM	NO.	BY	DATE	REVISIONS	

I HEREBY CERTIFY THAT THIS PLAN 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

Chris A. Larsen
CHRIS A. LARSEN, L.S.
Date: 3/29/2019 Lic. No. 45848

SEH
PHONE: 218.279.3000
418 W SUPERIOR ST
STE 200
DULUTH, MN 55802-1512
www.sehinc.com

DULUTH,
MINNESOTA

CERTIFICATE OF SURVEY
KEITH ANDERSON

FILE NO. 1
179 of 225
1

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.

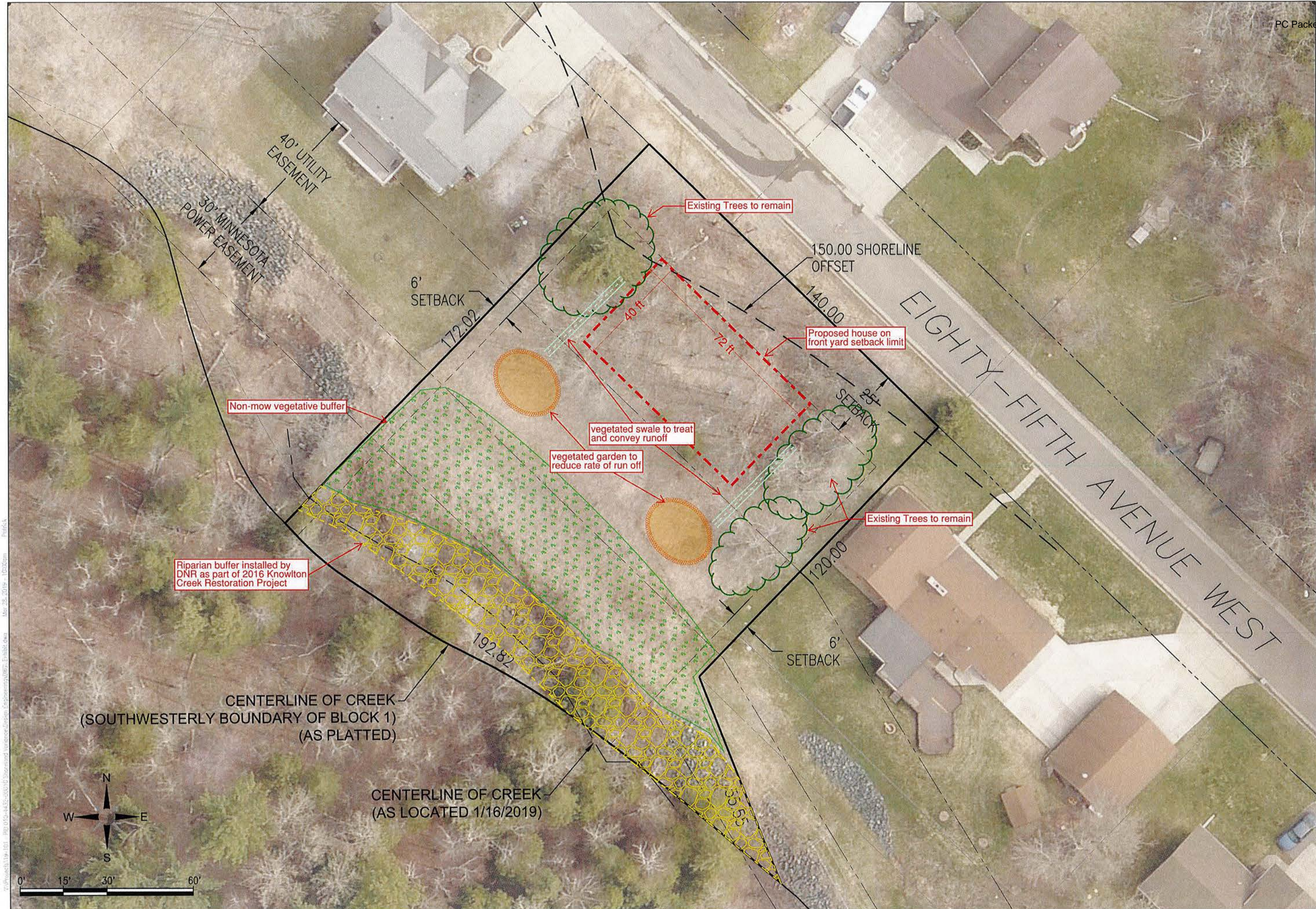
Tom
 Engineer: Thomas P. DesMarais Lic. No: 40926
 03/27/19

SHORELINE VARIANCE
 PID-010-4432-00010
MITIGATION PLAN

PROJ: 19-101
 CHK: TPD
 DWN: PMR
 DATE: 03/27/19

Sheet Title
EXHIBIT

Sheet Number
1



T:\Projects\19-101 PID 010-4432-00010 Shoreland Variance\Drawings\Engineering\DWG\EXHIBIT.dwg
 Date: 03/27/19 10:20:00am
 P:\Projects\19-101 PID 010-4432-00010 Shoreland Variance\Drawings\Engineering\DWG\EXHIBIT.dwg
 Date: 03/27/19 10:20:00am

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.

Tom 03/27/19
 Engineer: Thomas P. DesMarais Lic. No. 40926

SHORELINE VARIANCE
 PID-010-4432-00010
Essential Character of Neighborhood

PROJ: 19-101
 CHK: TPD
 DWN: PMR
 DATE: 03/27/19

Sheet Title
EXHIBIT

Sheet Number
2



Rear house line extended showing matching essential character of neighborhood

Front house line extended showing matching essential character of neighborhood





CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 110 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 19-035	Contact	Chris Lee, clee@duluthmn.gov	
Type	Variance from Corner Side Yard Setbacks	Planning Commission Date	May 14, 2019	
Deadline for Action	Application Date	April 9, 2019	60 Days	June 8, 2019
	Date Extension Letter Mailed	April 20, 2019	120 Days	August 7, 2019
Location of Subject	5419 London Road			
Applicant	Philmor Properties	Contact		
Agent		Contact		
Legal Description	PID 010-2830-00370			
Site Visit Date	May 3, 2019	Sign Notice Date	April 30, 2019	
Neighbor Letter Date	May 1, 2019	Number of Letters Sent	44	

Proposal

The applicant is requesting a variance from the corner side yard setbacks to construct a 24'x24' garage on the rear of the property. There is currently a garage on the site that is located on the property lines that will be removed and replaced with this proposed structure, which will be in greater compliance with the UDC. The proposed garage will be 5' from the corner side yard setbacks, reducing the setbacks by 15' from 20' to 5' for a detached accessory structure.

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

Summary of Code Requirements

Sec. 50-15.2 – Residential Traditional District Dimensional Standards: minimum depth of side yard for detached accessory structures: 20' from property line; minimum depth for rear yard: 5' from rear lot line

Sec. 50-37.9.B – Variance Procedures: “The Planning Commission shall... make a decision on the application based on the criteria in subsections 50-37.9.C – 50-37.9.M...”

Sec. 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 exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) that the landowner is 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.

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

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

Governing Principle #10 – Take actions that enhance the environment, economic, and social well-being of the community.

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, neighborhood extensions, and new traditional neighborhood areas.

The property currently contains a 2,050 square foot single-family residence and a 360 square foot garage. The house was built in 1916.

Review and Discussion Items

Staff finds that:

- 1) The applicant proposes to construct a 24' x 24' two-car garage in the rear of the lot. This garage will be located 5' from the rear property line and 5' from the front side yard property line perpendicular to 55th Avenue East. The lot currently contains a single family home and garage. The proposed garage will be in greater compliance with the UDC than the existing garage, which will be razed.
- 2) This parcel is 140' x 50' and contains roughly 7,000 square feet. The setbacks for a detached accessory structure are 20' from front and front side yard lot lines, 3' from side yard lot lines, and 5' from rear lot lines.
- 3) This structure is proposed to be 5' from the front side yard property line. This is reducing the setback 15'. This will replace the existing garage that is at or over the property lines.
- 4) Granting the variance will not alter the essential character of the area. A garage has been on this location for a number of years, and other properties in the neighborhood have similar sized garages. This variance would not result in reductions of light and air to surrounding properties. No additional traffic would be generated and threats to public safety would not increase. Property values in the area would not be affected by the granting of the variance.
- 5) The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Traditional Neighborhood.
- 6) No additional landscaping is recommended as mitigation for the reduced setback per Sec. 50-37.9. H.
- 7) No letters were received concerning this proposed variance.
- 8) Per UDC Section 50-37.1.N, approved variances shall lapse if the project or activity authorized by the permit or variance is not begun within one year of the permit date.

Staff Recommendation

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

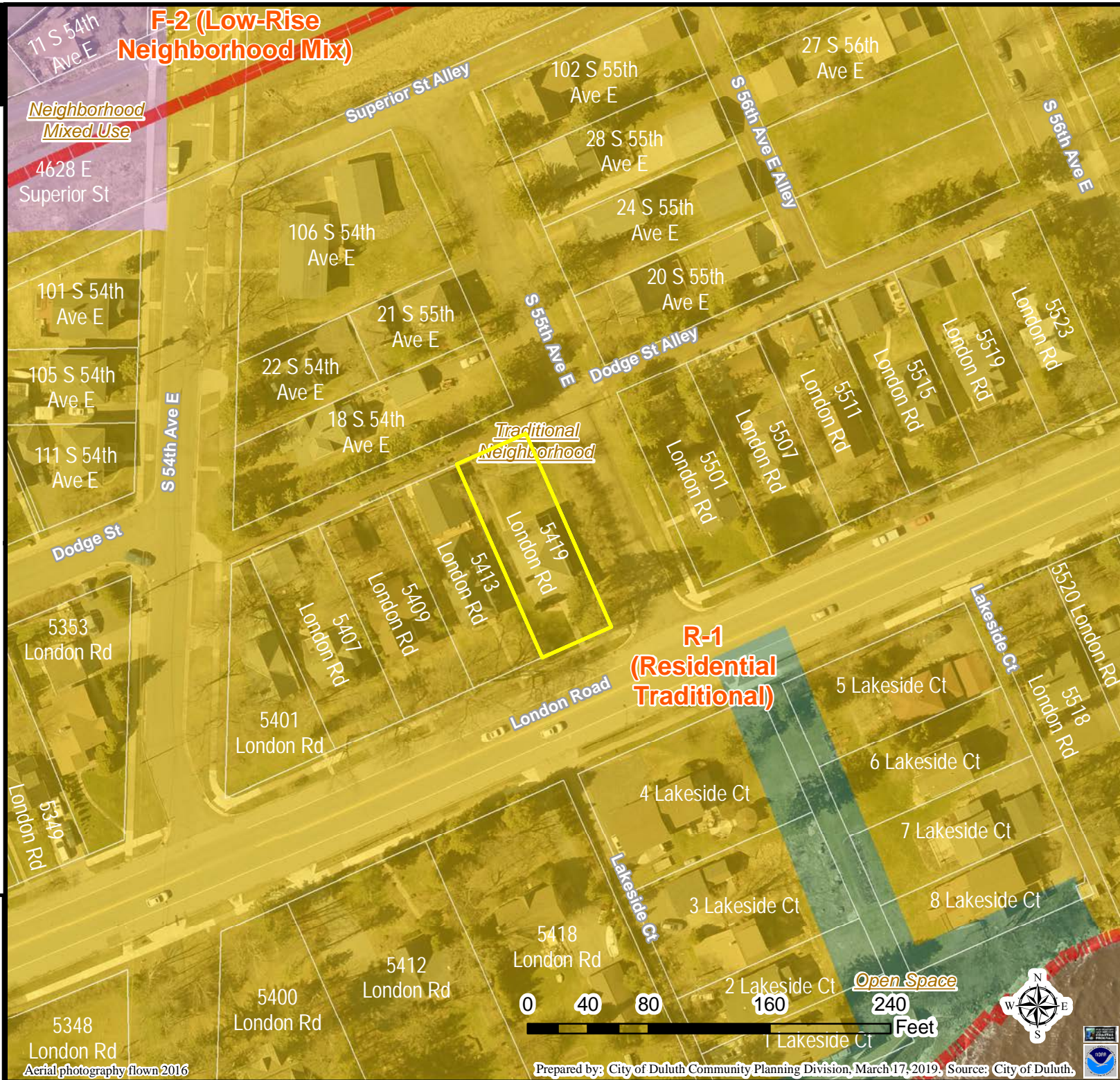
- 1) The project be limited to, constructed, and maintained according to the site plan submitted on April 9, 2019;
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of UDC Chapter 50.



19-035: Variance
5419 London Road

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



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

Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, March 17, 2019. Source: City of Duluth.



19-035: Variance
5419 London Road

Legend

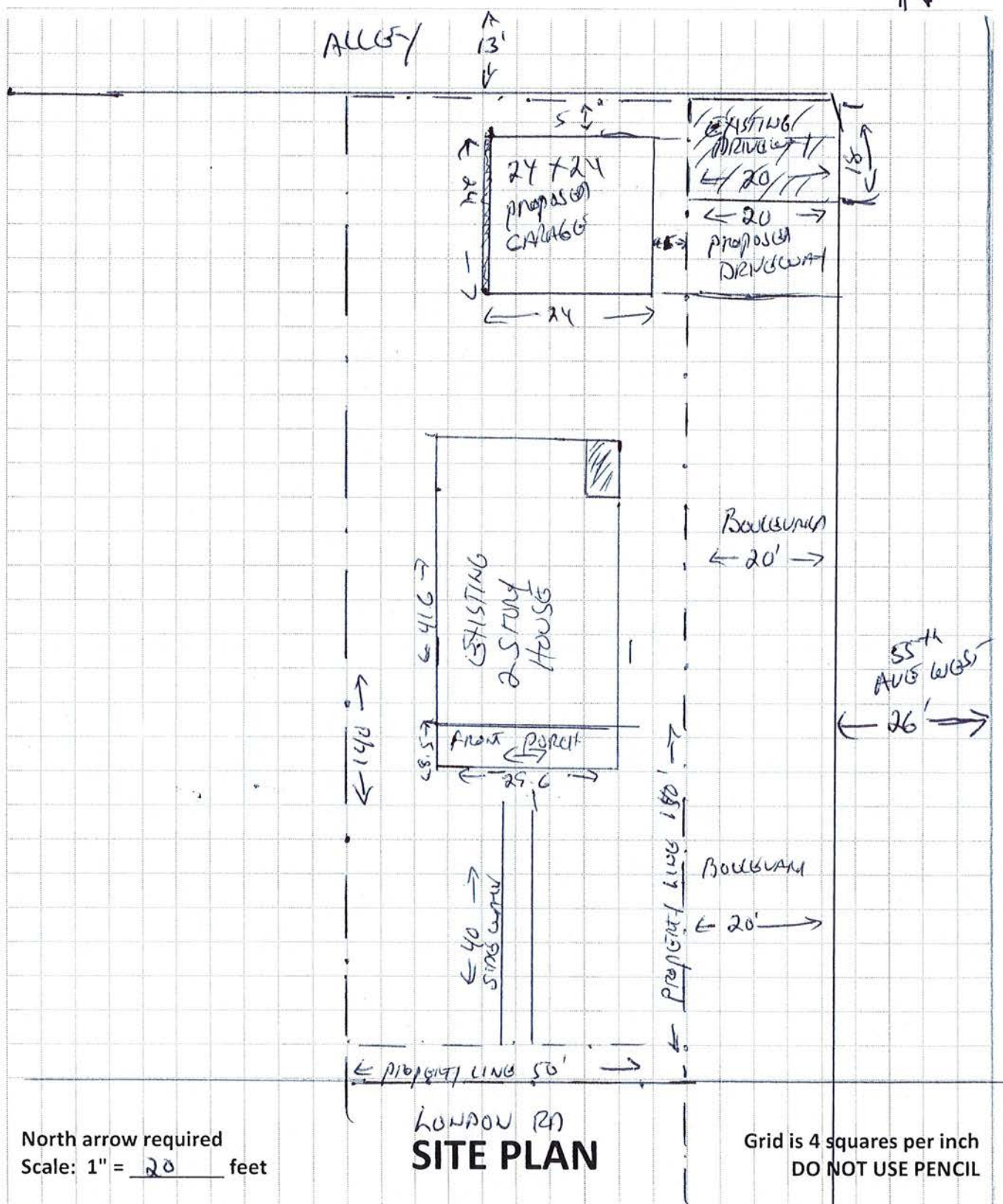
- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLS&D; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Road or Alley ROW
- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- Trout Stream (GPS)
- Other Stream (GPS)



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

Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, March 17, 2019. Source: City of Duluth



North arrow required
 Scale: 1" = 20 feet

LONDON RD
SITE PLAN

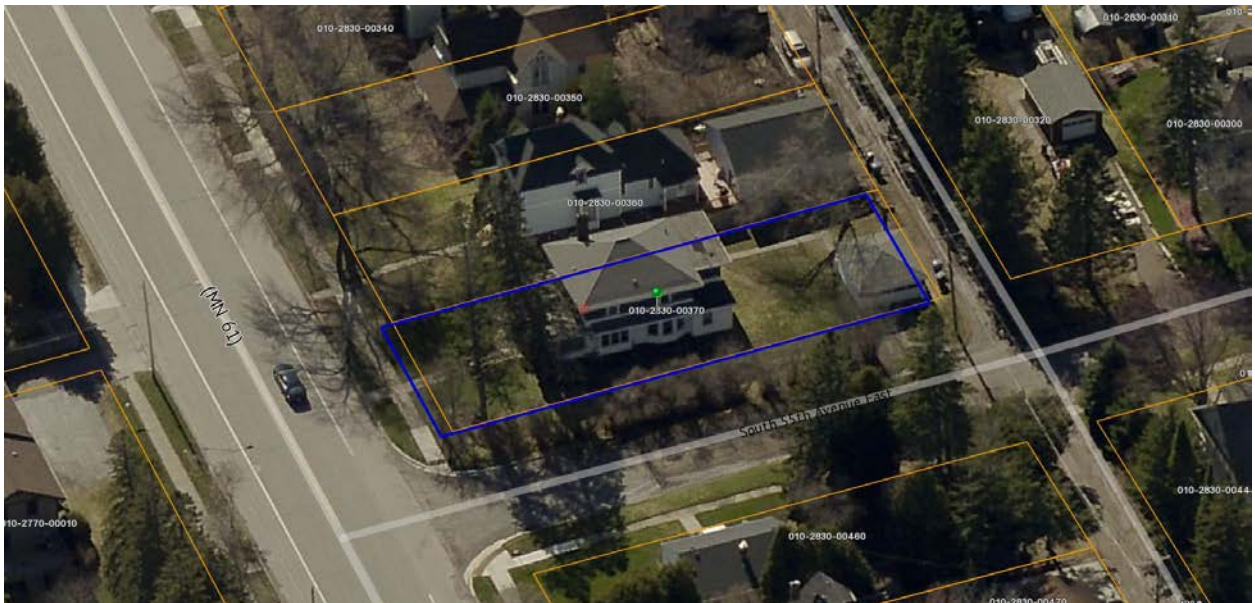
Grid is 4 squares per inch
 DO NOT USE PENCIL

Site Address 5419 LONDON RD NW OLYMPIA WA 98512

Owner's Name PHILMOR PROPERTIES LLC

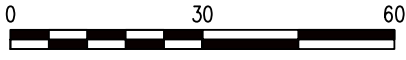
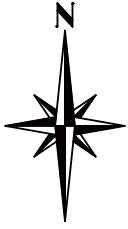
This site plan is an accurate and complete representation of the footprint(s) of all existing and proposed structure(s) and their location(s) on the subject property

Applicant's Signature [Signature] Date 04/09/2019



Center Line Rails
S66°30'00"W

Scenic Railroad
Rail Authority



SCALE IN FEET

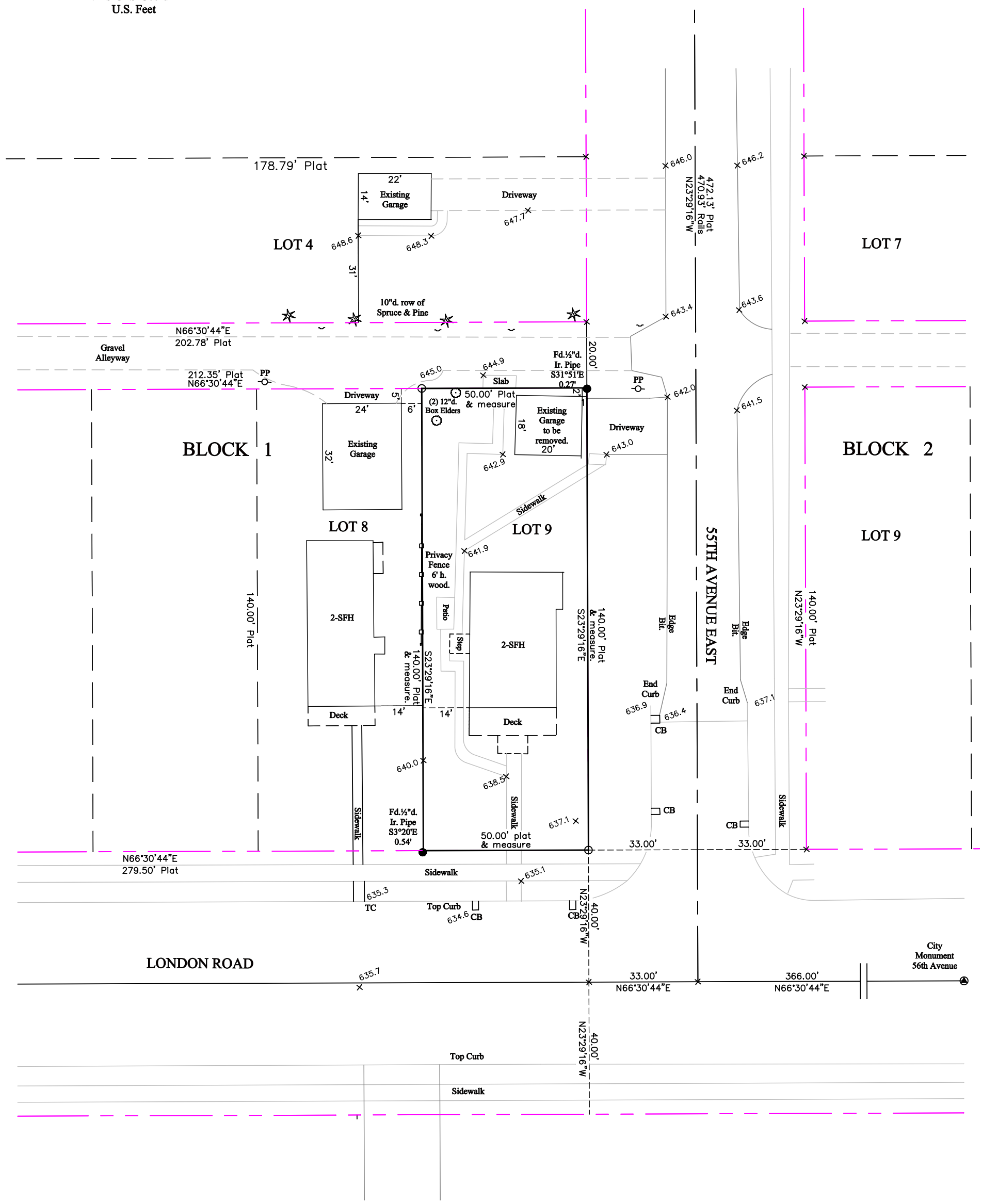
St. Louis County Coordinate
SLCTM96(mod) NAD83
VRS GPS-Geoid11
U.S. Feet

Certificate of Survey

Boundary and Site Survey for Lot 9, Block 1 in the plat of LESTER PARK 1ST DIVISION City of Duluth, St. Louis County, Minnesota

LEGEND

- ⊙ City Monument Box
Iron Pin in Concrete.
- Found 1/2"d. Iron Pipe
Lot monument in place.
- Set Lot corner monument
5/8"d. x 30" long Rebar
with RLS Cap No. 24587.
- ~ Steel Fence Post along Alley.
- × Computed Survey Position.



Boundary and Site Survey for Parcel No. 010-2830-00370
 Property Address: 5419 London Road
 Lot 9, Block 1, LESTER PARK 1ST DIVISION
 PHILMOR LLC
 2252 Lismore 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 Land Surveyor UNDER THE
 LAWS OF THE STATE OF Minnesota

NAME: Anthony Lueck

SIGNATURE: Anthony Lueck

DATE: 5/1/2019 Print 5/6/2019 LIC. No: 24587

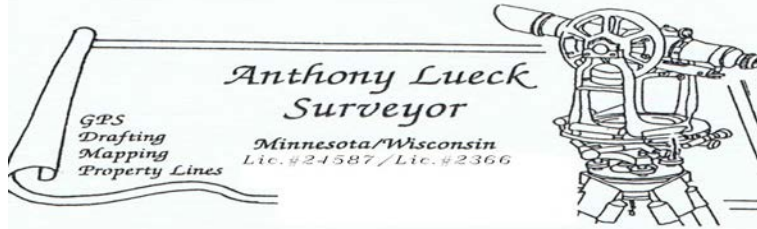
NORTH COUNTRY
 LAND SURVEYOR, INC.

Anthony Lueck
 Surveyor

GPS
 Drafting
 Mapping
 Property Lines

Minnesota/Wisconsin
 MN LIC. 24587 / WI LIC. 3388
 BUS. TELE. 218-348-8037
 anthonylueck@northc.com

6098 Ryan Road
 Duluth, MN 55804



**North Country Land Surveyor, Inc.
Agreement for Services-Contract**

Land Surveyor: Anthony Lueck
6098 Ryan Road
Duluth, MN 55804
218-348-8037
anthonylueck@northlc.com

Client: PHILMOR LLC
2252 Lismore Road
Duluth, MN 55804
p.218-349-8881 e.349-2280
vetterrunner69@yahoo.com emore4@msn.com

Project No. 2019P013

Date: 5/1/2019

Project Name: Boundary and Site Survey for Lot 9, Block 1 in the plat LESTER PARK 1ST DIVISION
City of Duluth, St. Louis County, Minnesota.

Scope of Services:

1) Research existing property and corner records for field survey and property map. 2) Locate or set property corner pins per the plat of LESTER PARK 1ST DIVISION. 3) Site survey of property for main buildings, structures, roads, sidewalk, etc. for property map. 4) Draft and print Certificate of Survey map for boundary and site survey of existing property for client. 5) File a copy of survey map with the St. Louis County Surveyor office per ordinance. 6) Property map to be used in conjunction for building variance request with the City of Duluth.

Rate: Land Surveyor (non-field) rate; \$50 per hour. Field crew rate; \$75 per hour. RTK GPS rate; \$85 per hour.

Fee Arrangement: Hourly, Not to Exceed \$800.

Special conditions: SERVICES TO BE PROVIDED AS STATED ABOVE. UNFORESEEN BOUNDARY PROBLEMS OR CONFLICTS IN SURVEY WORK WILL BE PRESENTED TO THE CLIENT WHILE PROCEEDING WITH WORK SHOULD THEY ARISE. CHANGES IN THE SCOPE OF SERVICES WILL RESULT IN A CHANGE TO THE AGREEMENT OF SERVICES AND THE FEE ARRANGEMENT.

OFFERED BY:

North Country Land Surveyor, Inc.
Anthony Lueck, Land Surveyor

Anthony Lueck 5/1/2019
(Signature) (Date)

ACCEPTED BY (CLIENT):

PHILMOR LLC
Patrick Phillips, client
(Print Client Name)

(Signature) (Date)

Please sign both copies; return one copy, and keep one for your records.



CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 110 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 19-036	Contact	Chris Lee, clee@duluthmn.gov	
Type	Variance from Shoreland Setbacks	Planning Commission Date	May 14, 2019	
Deadline for Action	Application Date	April 9, 2019	60 Days	June 8, 2019
	Date Extension Letter Mailed	April 24, 2019	120 Days	August 7, 2019
Location of Subject	435 Toledo St			
Applicant	Kelly Kairos	Contact		
Agent		Contact		
Legal Description	PID 010-4432-00010			
Site Visit Date	May 3, 2019	Sign Notice Date	April 30, 2019	
Neighbor Letter Date	May 1, 2019	Number of Letters Sent	21	

Proposal

The applicant is requesting a variance from UDC requirements which mandate a 150' structure setback for construction in proximity to the East Branch of Chester Creek, a designated cold water river. The applicant is proposing to construct a new 24' by 18' addition to their single family house and construct a new 22' x 24' garage on the site. They are requesting to reduce the setback from 150' to approximately 95' and 75'.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Single-Family Residential	Open Space
North	R-1	Vacant	Open Space
South	R-1	Vacant	Open Space
East	R-1	Single-Family Residential	Open Space
West	R-1	Vacant	Open Space

Summary of Code Requirements

Sec. 50-18.1.D-1 – Minimum Shoreland Area Standards: for Coldwater Rivers, maintain a minimum structure setback of 150 feet.

Sec. 50-37-9.B – Variance Procedures: “The Planning Commission shall... make a decision on the application based on the criteria in subsections 50-37.9.C – 50.37.9.M...”

Sec. 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 exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) that the landowner is 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.

Sec. 50-37.9.L – Standards for Variances in Shorelands: “No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment. Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas.”

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

Future Land Use – Open Space - High natural resource or scenic value, with substantial restrictions and development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: city parks and recreation areas, primary viewsheds, shorelands of the lake and streams, wetlands and floodplains, and high-value habitat.

The current house was built in 1920. It contains 1,001 square feet, 3 bedrooms, and 1 bathroom. A garage was previously on the site, built in 1924, but was torn down by previous owners due to disrepair.

Review and Discussion Items

Staff finds that:

- 1) Applicant is seeking a shoreland setback variance to construct a 24' x 18' addition to the west side of their single family home. They are also proposing to construct a 22' x 24' garage to the east of the home. The proposed addition and garage would be entirely within the 150-foot structure setback for the East Branch of Chester Creek, a designated cold water river. The proposal would allow for use of the property in a reasonable manner consistent with the general intent of the Comprehensive Plan and the UDC.
- 2) The parcel and the existing house are both located entirely within the 150-foot structure setback for the East Branch Chester Creek. The closest corner of the addition will be approximately 95' from the creek. The closest part of the new garage will be within 75' of the creek. Because the parcel is completely within the 150-foot structure setback, it would be impossible for the owners to build any addition whatsoever without requesting a shoreland variance, which constitutes a practical difficulty not created by the property owners. The house as it currently sits is approximately 100' from the creek.
- 3) Variances to shoreland setbacks require mitigation. The applicant has provided a landscaping/mitigation plan describing existing landscaping and additional landscaping that they will provide including rain gardens, pollinator gardens, trees, and shrubs/bushes. The applicant is proposing to retain existing trees on the site.
- 4) Certain other homes in the neighborhood also have some overlap with the 150-foot shoreland structure setback. The proposed variance will allow for use of the property in a manner consistent with the neighborhood character.
- 5) The current single family home complies with the site's current zoning designation. The proposed addition and garage would not be sized beyond the range currently found in the neighborhood; as such, the essential character of the neighborhood would be unchanged.
- 6) The addition would not impair light or air to neighbors, increase congestion in the neighborhood, create fire danger, or otherwise imperil public safety.
- 7) To date, no public, agency, or City comment has been received.
- 8) Per UDC Section 50-37.1.N, approved variances shall lapse if the project or activity authorized by the permit or variance is not begun within one year of the permit date.

Staff Recommendation

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

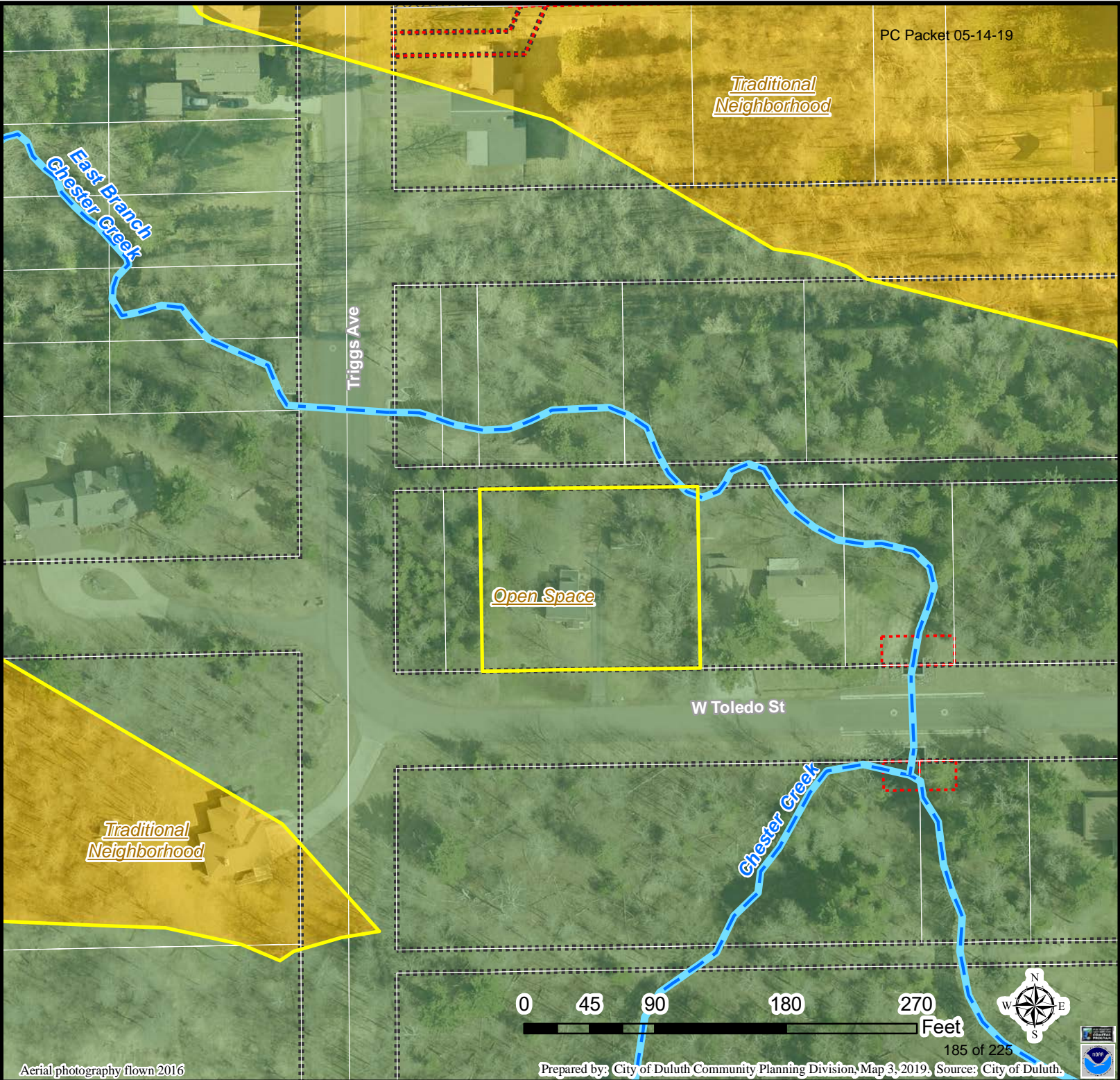
- 1) The project be limited to, constructed, and maintained according to the site map and landscaping/mitigation plan submitted with the application;
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of UDC Chapter 50.



Legend

- ▬▬▬ Road or Alley ROW
- ☒ Vacated ROW
- Easement Type**
- ▬▬▬ Utility Easement
- ▬▬▬ Other Easement
- ▬▬▬ 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

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.





19-036 Variance
435 W Toledo St

Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

Storm Sewer Mains

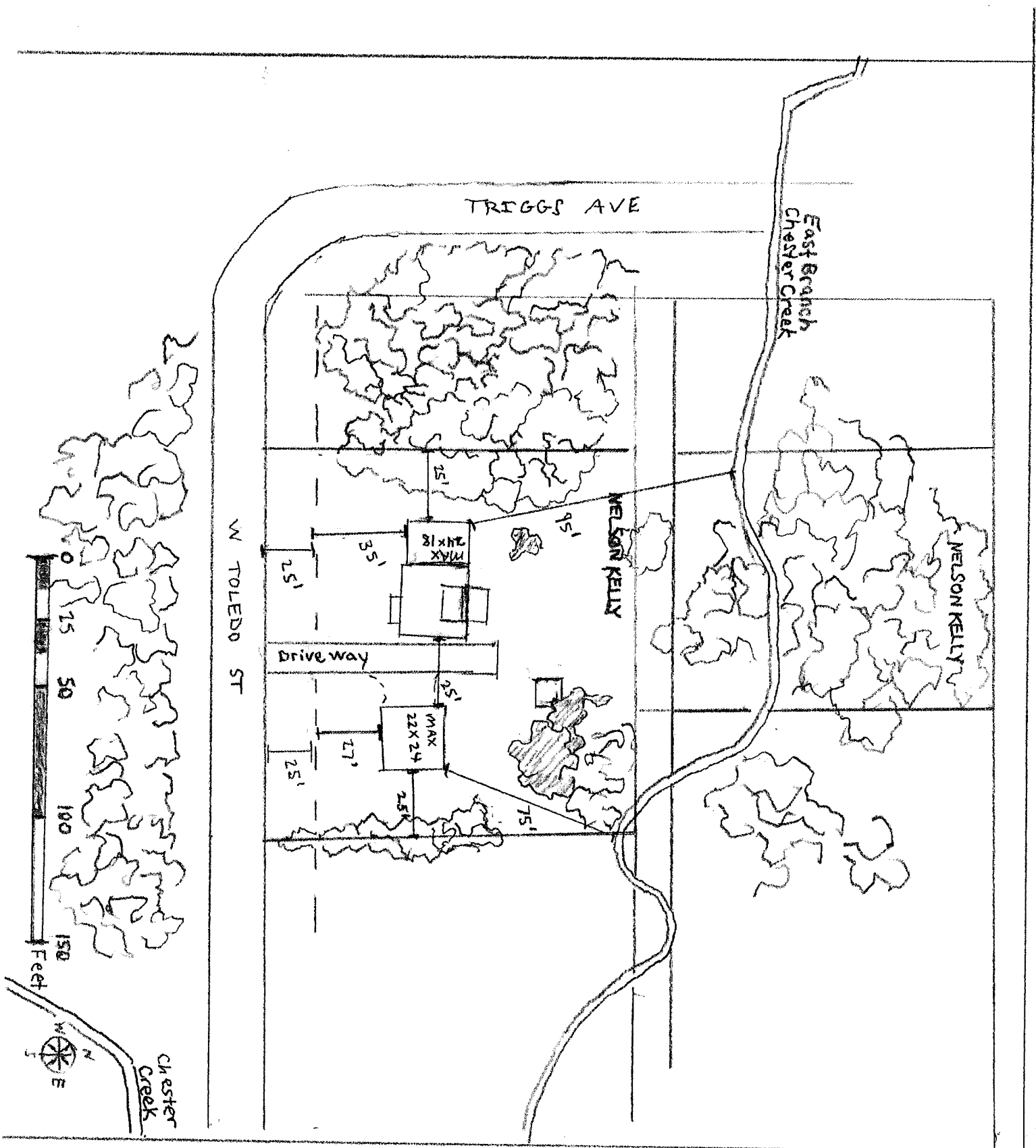
- Storm Sewer Pipe
- Storm Sewer Catch Basin

Easement Type

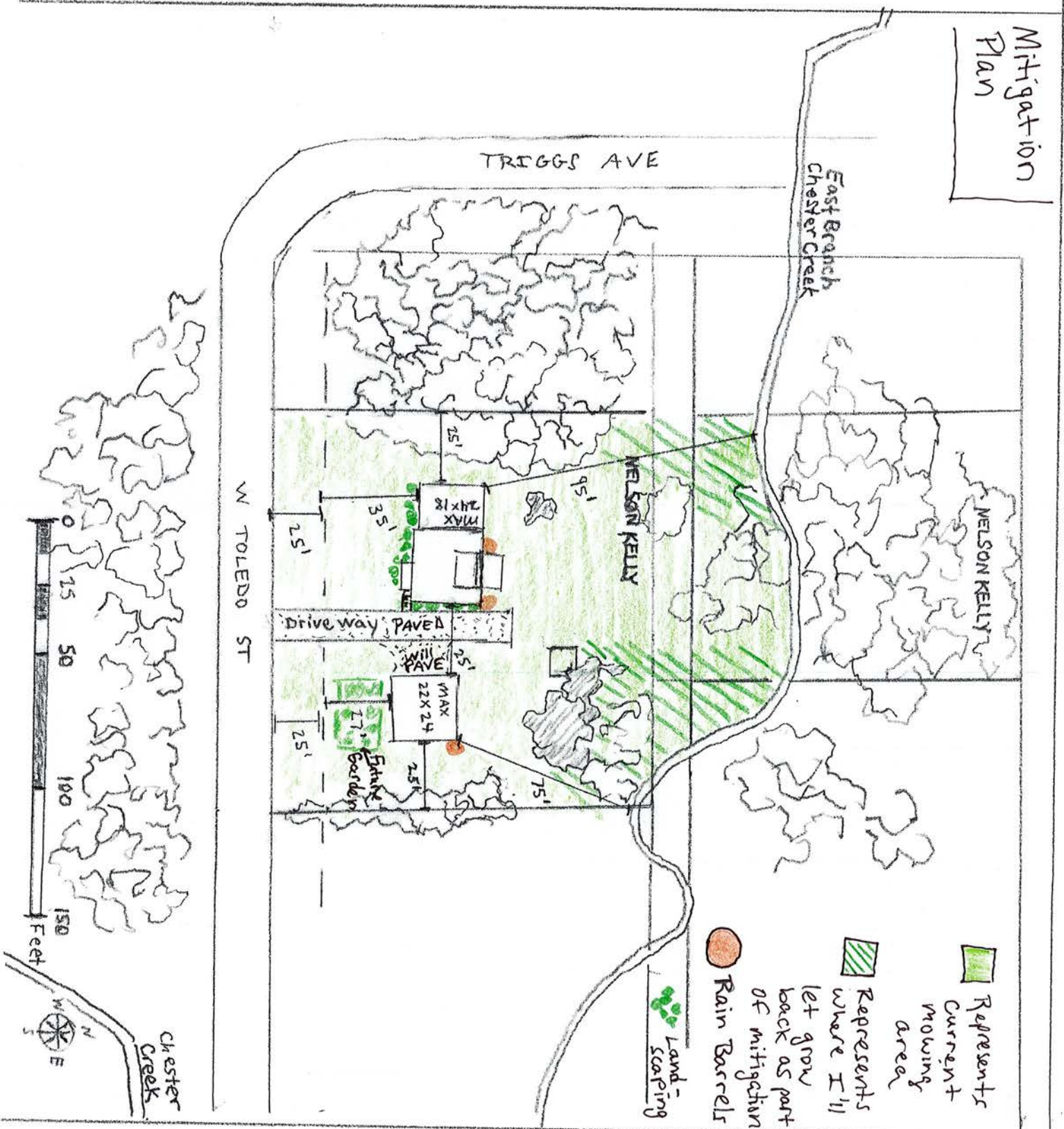
- Utility Easement
- Other Easement
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)



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.



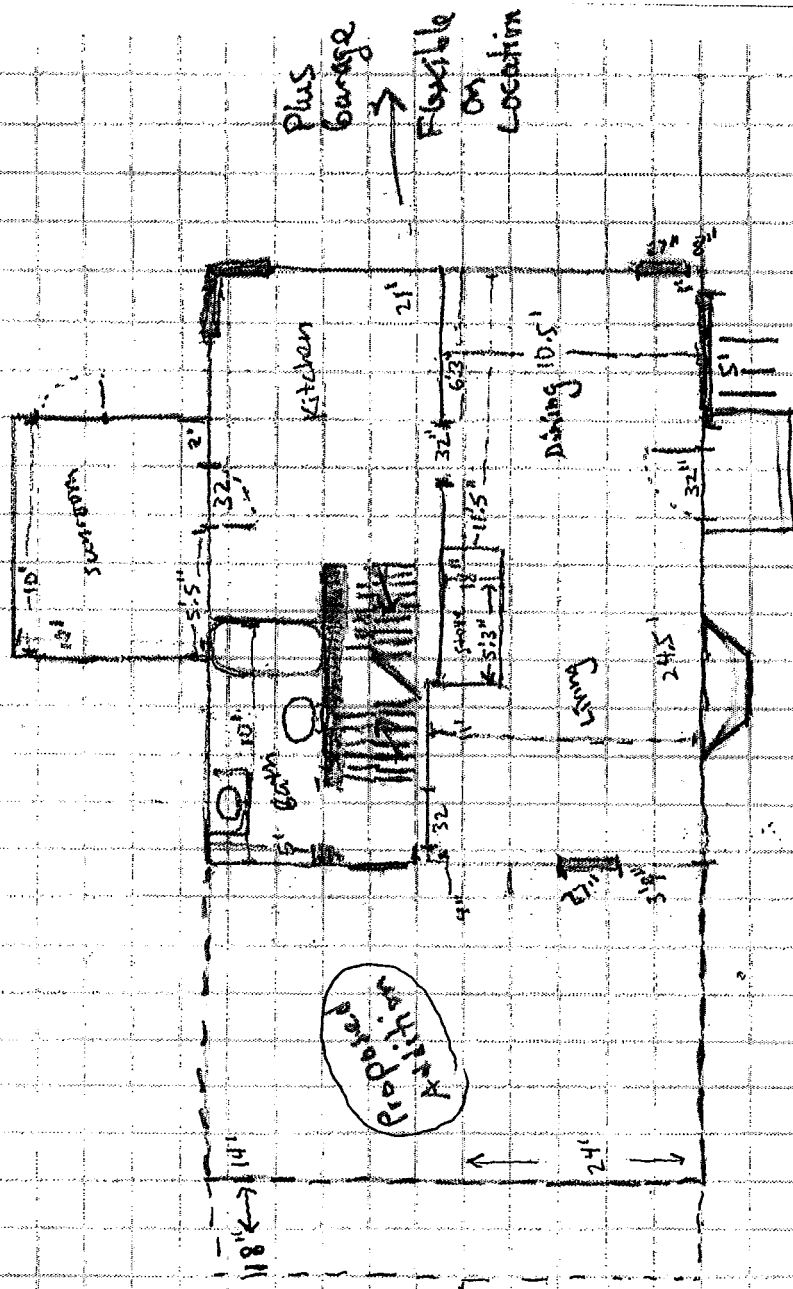
Mitigation Plan



Kelly Nelson

415 W Toledo St.

21' interior
x
24.5' interior







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 19-038	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Interim Use Permit – Vacation Dwelling Unit	Planning Commission Date	March 14, 2019	
Deadline for Action	Application Date	April 10, 2019	60 Days	June 9, 2019
	Date Extension Letter Mailed	April 18, 2019	120 Days	August 8, 2018
Location of Subject	1235 Minnesota Avenue			
Applicant	Lake View Land Co., LLC	Contact		
Agent	Heirloom Property Management	Contact		
Legal Description	See Attached, PID: 010-4390-01940			
Site Visit Date	May 2, 2019	Sign Notice Date	April 30, 2019	
Neighbor Letter Date	April 30, 2019	Number of Letters Sent	19	

Proposal

Applicant proposes use of the principle dwelling with two bedrooms as a vacation rental property. A vacation dwelling unit allows for periods of occupancy of 2 to 29 days, with a minimum stay of 2 nights.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood/Recreation
West	MU-W	US Coast Guard	Transportation & Utilities

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in an R-2 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 #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.

Current History: The previous owner of the property was approved for an Interim Use Permit to operate a Vacation Dwelling Unit and an Accessory Vacation Dwelling Unit in 2016 (PL 16-049, 16-050).

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) The applicant's property is located at the "S Curve" (South Lake Avenue and Minnesota Avenue) on Park Point. The lot has two units, a principle dwelling unit and an accessory dwelling unit. The principle dwelling unit has two bedrooms, which would allow for a maximum of 5 people.
- 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's agent will serve as the managing agent.
- 3) Parking for the house is located on a parcel behind 1235 Minnesota Avenue. Allete, Inc. owns the parcel that the applicant is contracting with for parking. The previous permit holder was approved for offsite parking with the requirement that a parking agreement is in place with Allete and a copy of the lease is provided to the City annually.
- 4) The applicant has provided a site plan showing existing buffering/screening between adjacent properties. The north and south sides of the property have a combination of building, fencing and shrubs for existing screening. The southwest corner of the rear yard is screened with an existing fence and trees to buffer the area from the adjacent property for guests outdoor recreation use. The site plan indicates that there is a wooden deck off the back of the house. The site plan shows existing screening/buffering on the west side of the property.
- 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 applied for the City of Duluth Tourism Tax license, the Minnesota Department of Health Lodging License, and have a Tax ID number. Applicant will need an operational permit with the City's fire prevention

office and also will need to apply for 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 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.
- 3) The applicant must provide a written disclosure to all guests, in writing, stating that quiet hours shall be observed between the hours of 10 p.m. and 8 a.m.
- 4) The applicant must disclose to all guests, in writing, the location of the nearest legal access to the Lake Superior beach.



Accessory Dwelling Unit

Site

Dwelling Unit

Guest parking

Legend

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

Zoning Boundaries

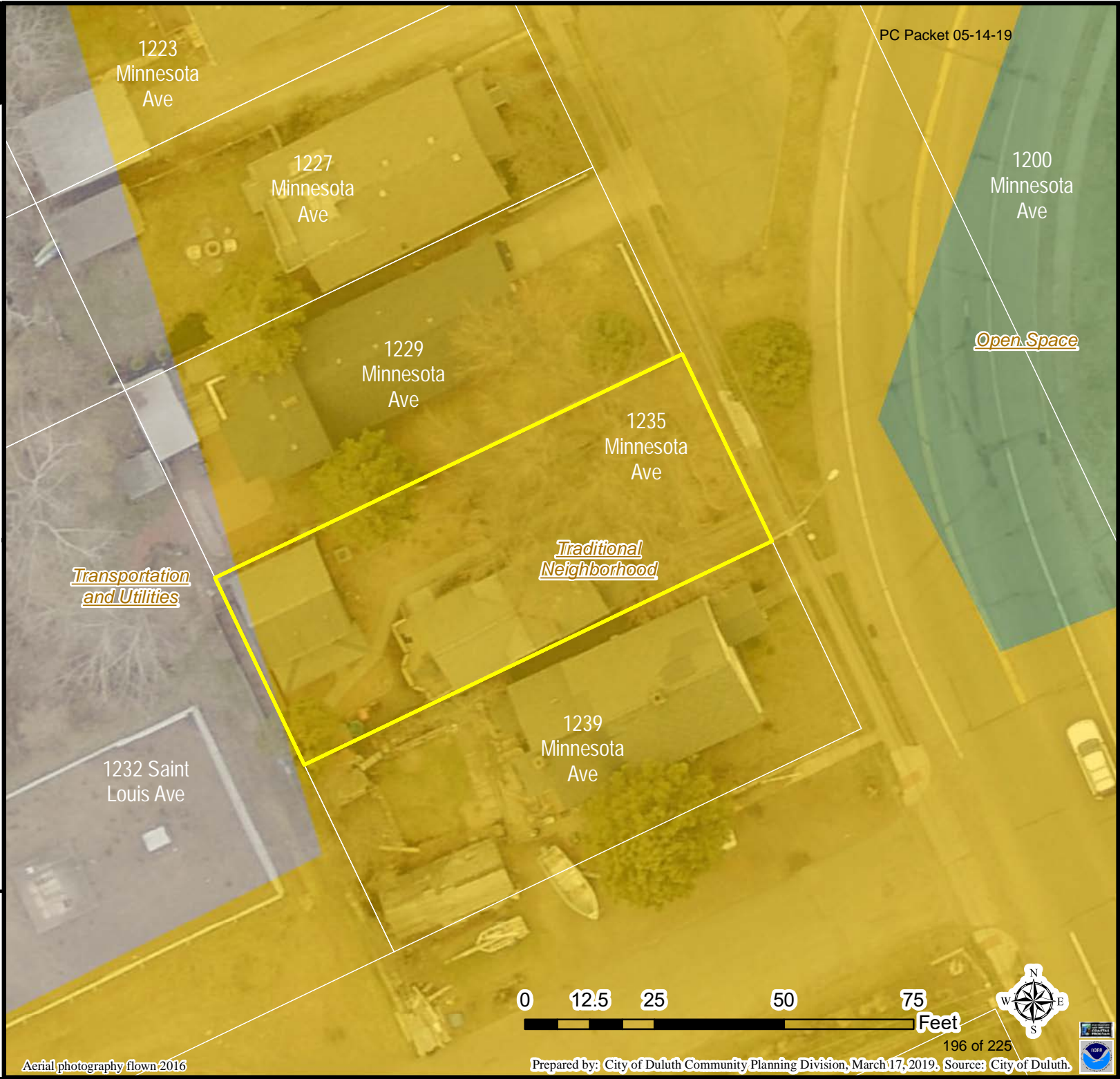


The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used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



PL 19-038 & 39
Interim Use Permit
Vacation Dwelling Unit

PC Packet 05-14-19



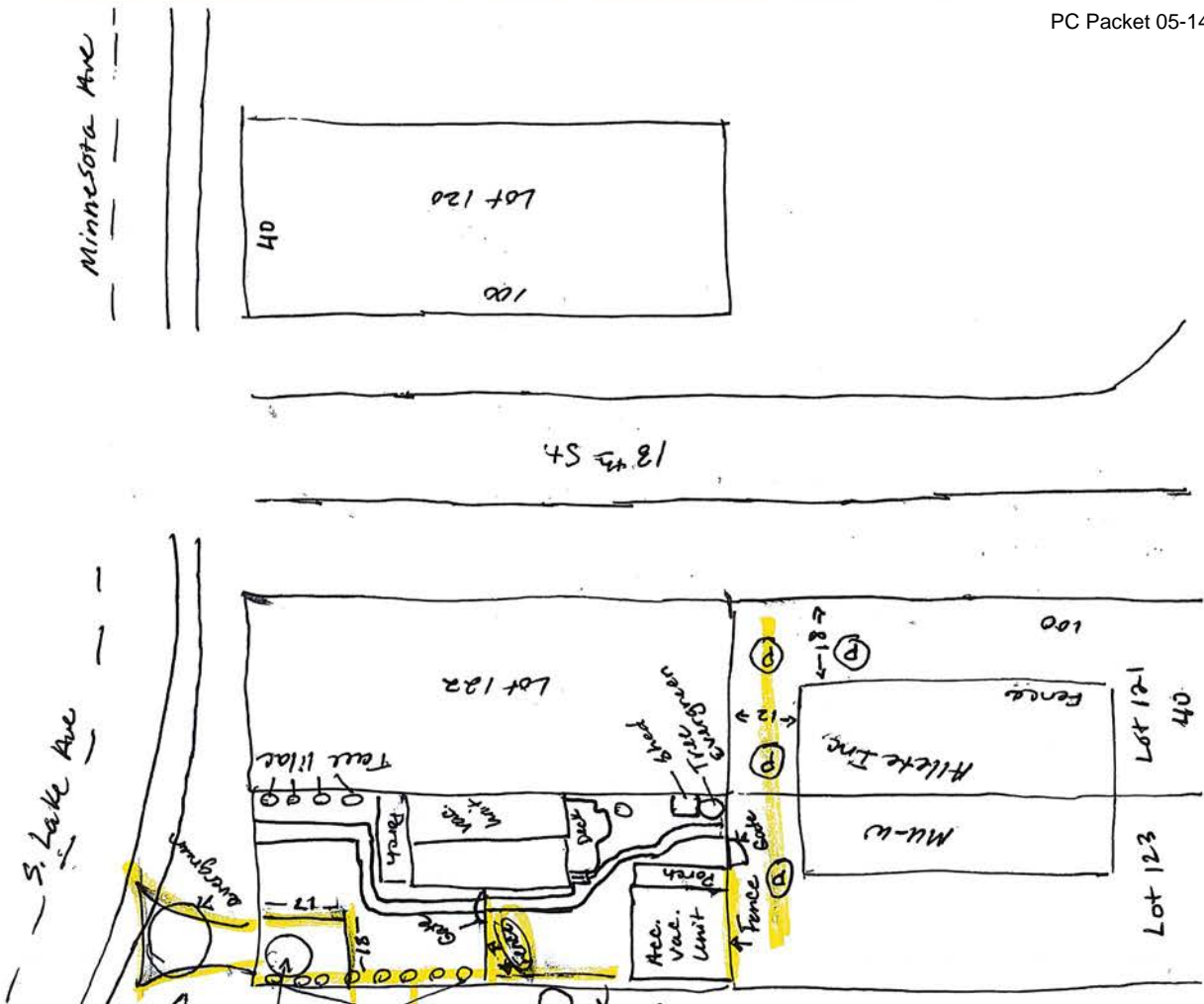
Legend

- 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

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

Aerial photography flown 2016





Minnesota Ave

- Parking:**
- 20 x 25 curb: upon per city code
 - 15m: pour 3
 - Construct 2 side x side parking spots @ a minimum of 9 x 17 each (highlighted)

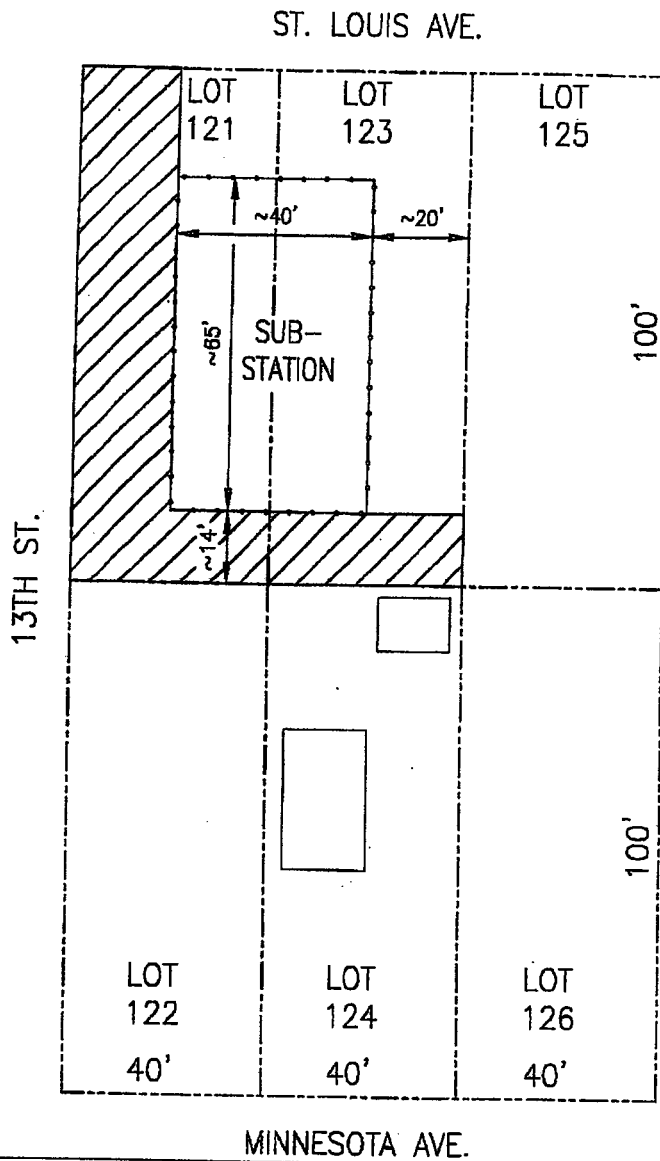
* May choose to utilize license by Milk Inc for personal use

* Evergreen: Maple removed for parking pad / curbs (highlighted)

- * Both units covered porch constructed w/ wood
- * Deck is wood

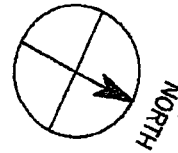
(P) = parking minimum 12' x 18' minimum

CADD DRAWING - FOR REPRODUCTION ONLY



SUBSTATION SITE
LOCATED IN UPPER
DULUTH IN GOVT.
LOT 1, SEC.35
T.50N. - R.14W.

LOTS SHOWN ARE
40' x 100'



REFERENCE DWG:
MN POWER MD+15846

ImageSite:



DR.	CHK.
APPROVED	
DATE	6/2/16

SUBSTATION (RETIRED)
PARK POINT - DULUTH, MN
LOCATION PLAN

SH. 1	REV. 0
APPENDIX A	

Robert Fierek
312 Harbor Point Circle
Duluth, MN 55802

Duluth Planning Commission
411 West First street
Room 110
Duluth, MN 55802



Re: Interim Use Permit PL19-038 and PL 19-039

Dear Commission,

I am against granting a conditional use permit to the property owned by Lakeview Land Company, LLC located at 1235 Minnesota Avenue, Duluth MN 55802; on Park Point. This is and has been a residential neighborhood for many years. Granting a conditional use permit changes the face of this neighborhood from what has traditionally been a residential neighborhood occupied by an owner to an income producing property with potentially many short term tenants. I am sympathetic to the needs of Lakeview Land Company, LLC, but granting this type of permit sets a precedent for Park Point to become a short term rental area rather than the family neighborhood it has been in the past.

There are more appropriate areas in the city for this type of growth that do not have the potential impact of said property. I would prefer that the area remain or revert to the family neighborhood that it has traditionally been, rather than being used as a short term rental that benefits Lakeview Land at the expense of the neighborhood. Short term rentals will bring additional “in a hurry” and “in and out” faceless traffic and many short term tenants to the neighborhood. My preference is that the place be used as a home for someone and not a short term rental.

As such, it is my feeling and request that an Interim Use Permit be denied. If such a permit is granted, how long until everyone turns their homes into short term rentals and the neighborhood changes?

Respectfully,

Robert Wm Fierek



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 19-039	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Interim Use Permit – Accessory Vacation Dwelling Unit	Planning Commission Date	March 14, 2019	
Deadline for Action	Application Date	April 10, 2019	60 Days	June 9, 2019
	Date Extension Letter Mailed	April 18, 2019	120 Days	August 8, 2018
Location of Subject	1235 Minnesota Avenue			
Applicant	Lake View Land Co., LLC	Contact		
Agent	Heirloom Property Management	Contact		
Legal Description	See Attached, PID: 010-4390-01940			
Site Visit Date	May 2, 2019	Sign Notice Date	April 30, 2019	
Neighbor Letter Date	April 30, 2019	Number of Letters Sent	19	

Proposal

The applicants would like to use their accessory dwelling unit as a vacation rental property. An accessory vacation dwelling unit allows for periods of occupancy of 2 to 29 days, with a minimum of 2 nights.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood/Recreation
West	MU-W	US Coast Guard	Transportation & Utilities

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in an R-2 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 #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.

Current History: The previous owner of the property was approved for a Vacation Dwelling Unit and an Accessory Vacation Dwelling Unit in 2016 (PL 16-049, 16-050).

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) Applicants are applying for an Interim Use Permit for an accessory vacation dwelling unit in an existing accessory dwelling unit located at 1235 Minnesota Avenue. The accessory dwelling unit has one bedroom, which would allow for a maximum of 3 guests.
- 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 will serve as the managing agent.
- 3) Parking for the house is located on a parcel behind 1235 Minnesota Avenue. Allete, Inc. owns the parcel that the applicant is contracting with for parking. The previous permit holder was approved for offsite parking with the requirement that a parking agreement is in place with Allete and a copy of the lease is provided to the City annually.
- 4) The applicant has provided a site plan showing existing buffering/screening between adjacent properties. The north and south sides of the property have a combination of building, fencing and shrubs for existing screening. The southwest corner of the rear yard is screened with an existing fence and trees to buffer the area from the adjacent property for guests outdoor recreation use. The site plan indicates that there is a wooden deck off the back of the house.
- 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 applied for the City of Duluth Tourism Tax license, the Minnesota Department of Health Lodging License, and have a Tax ID number. Applicant will need an operational permit with the City's fire prevention

office and also need to apply for 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 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.
- 3) 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.
- 4) The applicant must provide a written disclosure to all guests, in writing, stating that quiet hours shall be observed between the hours of 10 p.m. and 8 a.m.
- 5) The applicant must disclose to all guests, in writing, the location of the nearest legal access to the Lake Superior beach.



Accessory Dwelling Unit

Site

Dwelling Unit

Guest parking

Legend

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

Zoning Boundaries

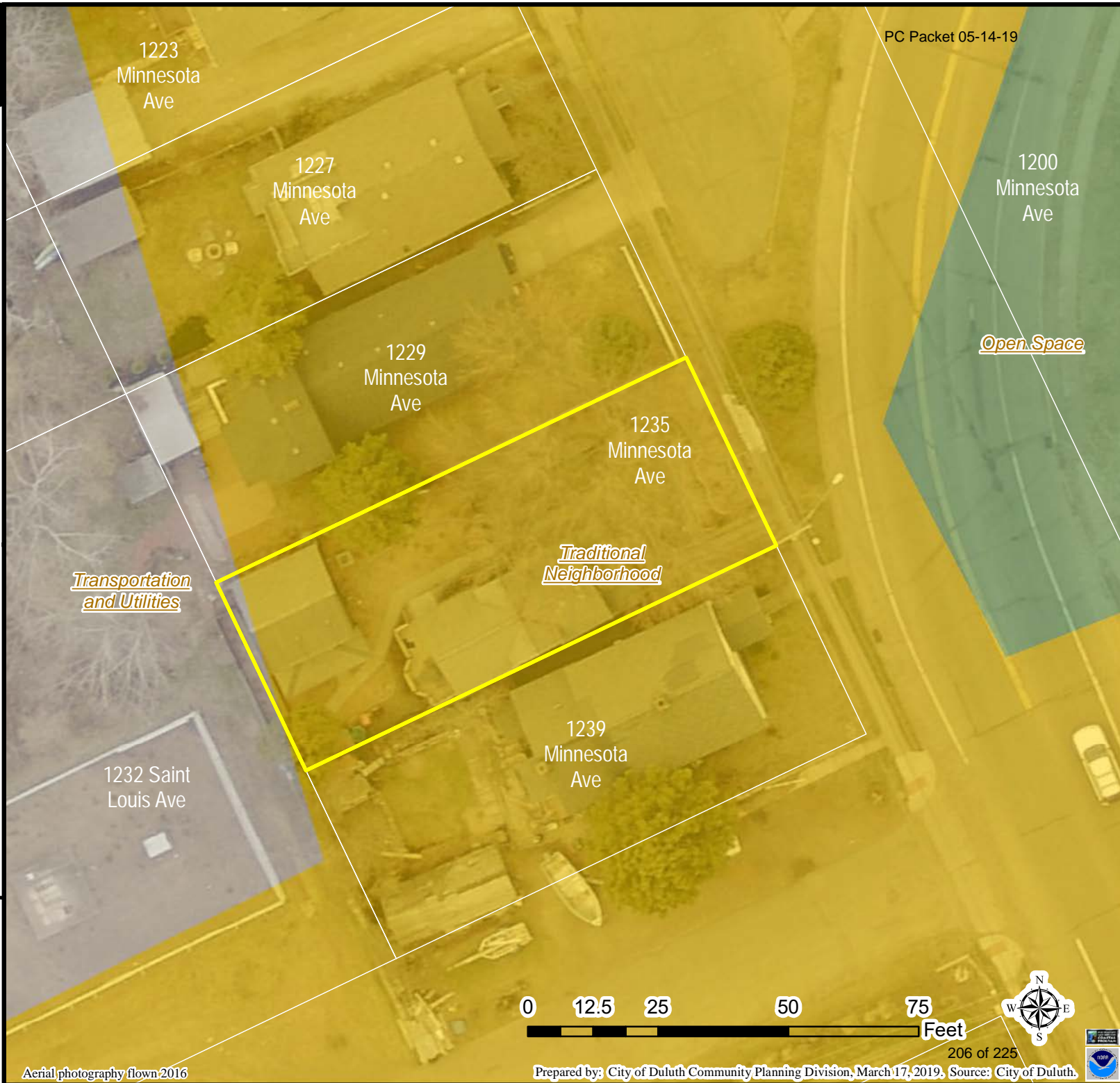


The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used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



PL 19-038 & 39
Interim Use Permit
Vacation Dwelling Unit

PC Packet 05-14-19



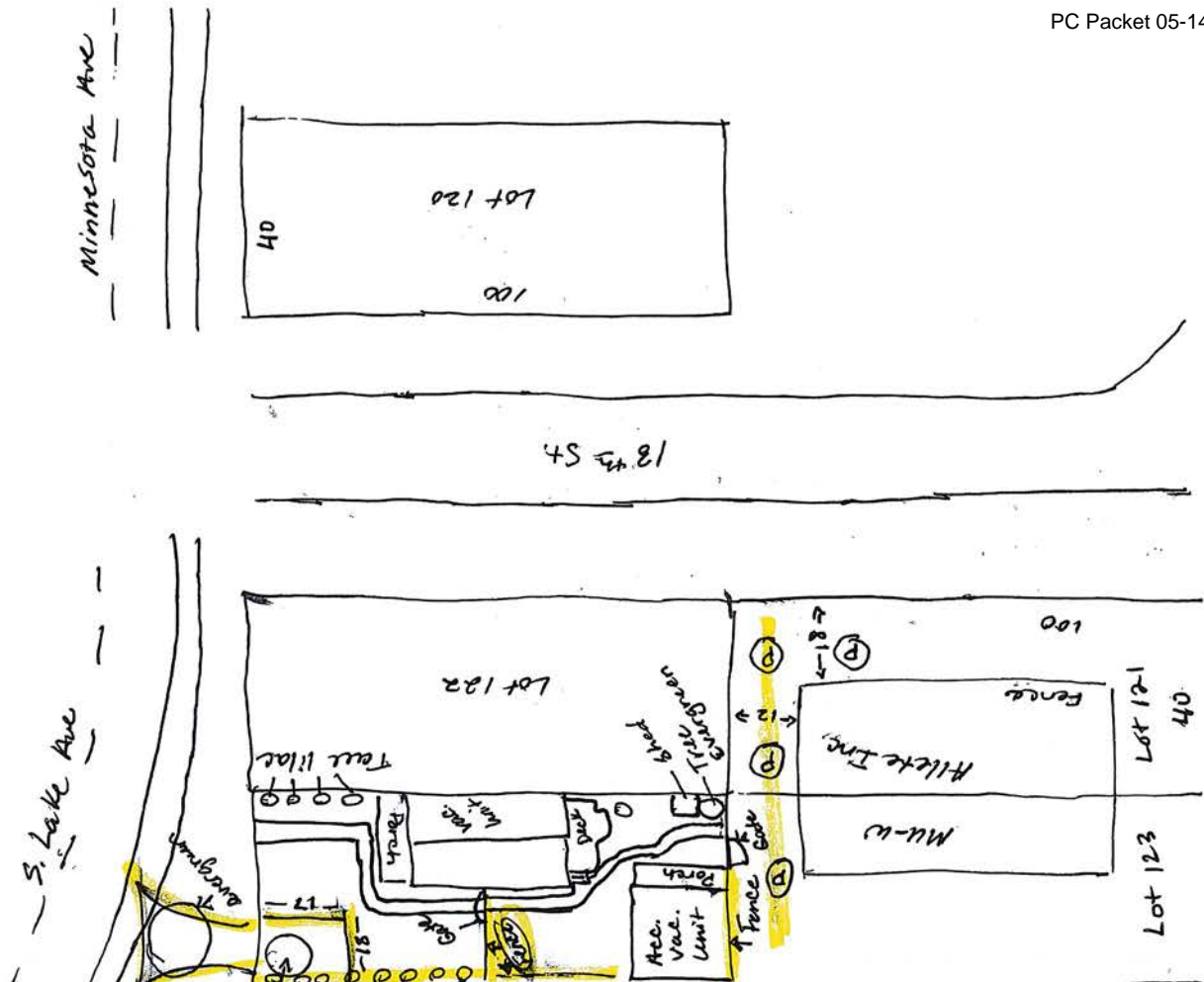
Legend

- 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

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

Aerial photography flown 2016





Minnesota Ave

S. Lake Ave

Minnesota Ave

Parking:

- 20 x 25 curb: open per city code
- 15m: pour 3
- Construct 2 side x side parking spots @ a minimum of 9 x 17 each (highlighted)

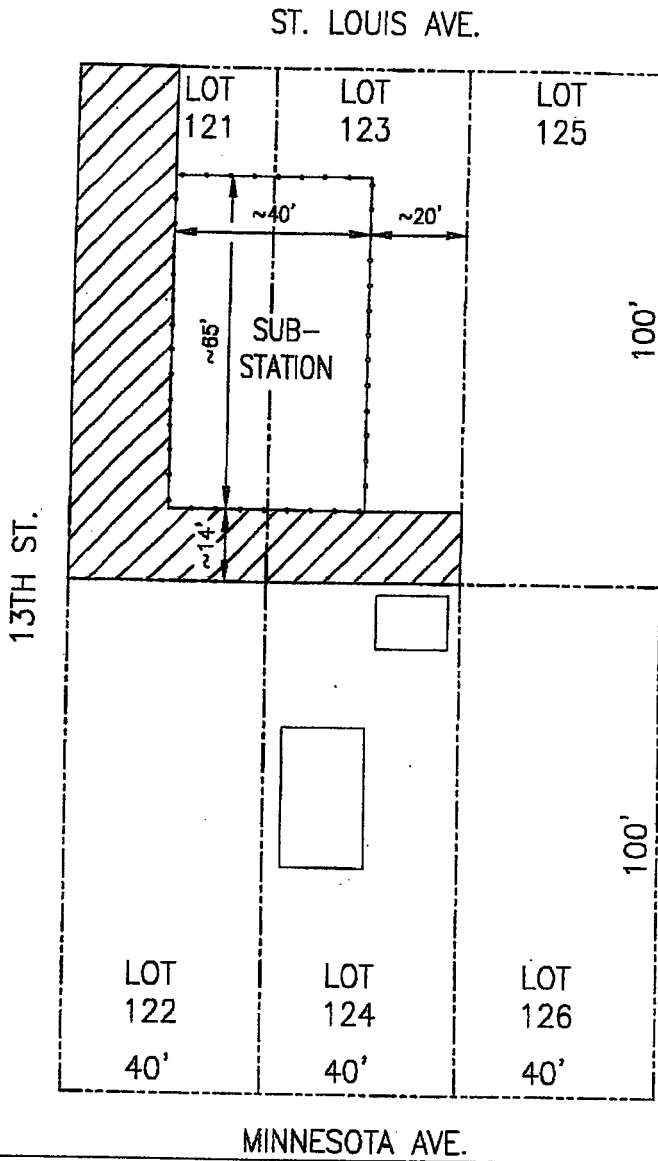
* May choose to utilize license by Milk Truck for personal use

* Evergreen: Maple removed for parking pad / curbs (highlighted)

- * Both units covered porch constructed w/ wood
- * Deck is wood

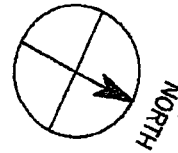
(P) = parking minimum 12' x 18' minimum

CADD DRAWING - FOR REPRODUCTION ONLY



SUBSTATION SITE
LOCATED IN UPPER
DULUTH IN GOVT.
LOT 1, SEC.35
T.50N. - R.14W.

LOTS SHOWN ARE
40' x 100'



REFERENCE DWG:
MN POWER MD+15846

ImageSite:



DR.	CHK.
APPROVED	
DATE	6/2/16

SUBSTATION (RETIRED)
PARK POINT - DULUTH, MN
LOCATION PLAN

SH. 1	REV. 0
APPENDIX A	



PLANNING & ECONOMIC DEVELOPMENT

Planning & Development Division
City Hall – 411 W 1st Street – Room 110
Duluth, Minnesota 55802
218-730-5580 / planning@duluthmn.gov

To: Planning Commission
From: Adam Fulton, Deputy Director
Date: May 6, 2019
RE: PL 19-024, Appeal of Land Use Supervisor determination
10013 W. Skyline Parkway

Ed and Candance Barbo (the “Barbos”) have proposed construction of a new house at 10013 W. Skyline Parkway. The property has no frontage on a public street. Barbos applied for a variance to the requirements of the UDC, which requires 250 feet of frontage in the RR-1 district (PL 18-086). The Planning Commission denied the variance. Barbos appealed the Planning Commission decision to the City Council, which reversed the decision in Resolution 18-0649R.

Barbos inquired of the City regarding UDC requirements for new construction and were advised that any driveway serving a new house must be paved based on the requirements of UDC Table 50-24.4, which states: “All residential district parking areas [must be] surfaced in a dust free, hard surface material such as concrete or bituminous, or pervious paving materials...” Barbos requested an interpretation of this requirement by the Land Use Supervisor, proposing use of materials meeting MnDOT specification 3138.2C of at least 6” in thickness. This material is essentially compacted gravel and reclaimed asphalt. Staff concurred with the proposal and a Land Use Supervisor determination was issued to Barbos on March 11, 2019, as attached.

Lori and Mychal Franklin have appealed the Land Use Supervisor determination consistent with the appeal process outlined in Section 50-37.1.O. The Franklin’s appeal letter is attached for review. The Barbo’s driveway is located over an easement that crosses the Franklin’s property. The proposed paving would be an improvement to the existing driveway, and would realign the driveway fully onto the easement.

The Staff determination that the proposed driveway surface material was the equivalent to a paved surface was based on a review of other driveways in this area of the city, an evaluation of the MnDOT material specifications, and information about total vehicle trips per day to the proposed house.

The appeal process includes a verbal report from staff, an explanation of the purpose of the appeal by the appellant, and a public hearing.

Recommended Action

Staff recommends a verbal motion to affirm the Land Use Supervisor determination, based on the findings of this memo.

Should the Planning Commission wish to reverse the Land Use Supervisor determination, the verbal motion to reverse should include findings of fact to support that conclusion.

LEDIN, OLSON & COCKERHAM, S.C.

PC Packet 05-14-19

STEVEN J. LEDIN
STEPHEN J. OLSON*
KARRY A. JOHNSON
NATHAN M. COCKERHAM
LUCAS A. WYSHNYTZKY*
MICHAEL J. KARSTENS
*Also admitted in Minnesota

ATTORNEYS AT LAW
1109 TOWER AVENUE
SUPERIOR, WISCONSIN 54880

TELEPHONE
(715) 394-4471

FAX
(715) 394-3889

RETIRED PARTNER:
FORREST O. MAKI

IN MEMORIAM:
STEPHEN R. BICK (1951 - 2014)

March 14, 2019

Mr. Keith Hamre
Director-Duluth Planning Commission
City Hall - 411 West 1st Street, Room 110
Duluth, MN 55802

**Appeal Pursuant to Duluth City
Ordinance 50-37-0**

***RE: Mychal and Lori Franklin
Our File No: 22480***

Dear Mr. Hamre:

Please be advised that this office represents Mychal and Lori Franklin.

The Franklins are neighbors of a Mr. Edward Barbo, who has a driveway easement across my client's property.

Mr. Barbo is in the process of trying to finalize a building permit and one of the conditions on the building permit is that a driveway be constructed to Mr. Barbo's property. As mentioned above, this proposed driveway will pass through my clients' property as Mr. Barbo does have an easement.

Recently, Mr. Barbo made a request that the driveway easement be constructed with reclaimed, compacted asphalt and gravel.

Mr. Adam Fulton, manager of Community Planning reviewed this request and made a determination that the above referenced materials would be acceptable for construction of the driveway.

As this driveway sits on the Franklin's property, and Mr. Barbo has an easement, the Franklins have requested that this driveway be black-topped pursuant to Section 50.24.7 Table 50-24.4.

The Franklins are respectfully requesting an appeal to the Planning Commission of Mr. Fulton's decision. We will await the date and time for this matter to be heard. Thank you.

March 14, 2019

Page 2

Sincerely,

Stephen J. Olson

SJO:cm

cc: Mr. Adam Fulton afulton@duluthmn.gov
Mr. and Mrs. Mychal Franklin
Mr. Robert Asleson, Assistant City Attorney
Ms. Wendy Rannenberg, Manager-Construction Services
Ms. Cindy Voight, City Engineer

Email: solson@superiorwilawvers.com


PLANNING & ECONOMIC DEVELOPMENT

Community Planning Division
 City Hall – 411 W 1st Street – Room 110
 Duluth, Minnesota 55802
 218-730-5580 / planning@duluthmn.gov

March 11, 2019

VIA EMAIL AND USPS

Edward Barbo, Jr., and Candace Barbo
 4202 N. 100th Ave. W.
 Duluth, MN 55810

RE: Land Use Supervisor approval of zoning component, driveway
 Building Permit for 10013 W. Skyline Parkway (Planning File PL 18-086)

Mr. and Ms. Barbo:

I write in relation to your application for building permit for a single family house for your property at 10013 W. Skyline Parkway (the "Property"). In my letter of January 13, 2019, I provided requirements for evaluation of the easement you use for access to your site. That letter is attached for reference.

As we have previously discussed, the Council acted to reverse the Planning Commission's denial of your application in Resolution 18-0649R, approved by the City Council on September 10, 2018. I am enclosing a copy of this resolution for your reference.

You have provided an exhibit that depicts a 16' wide driveway, to be located fully within your legal easement, containing a drainage system to convey water from the driveway to the public right-of-way in 100th Avenue West ("Exhibit A"). Exhibit A describes a driveway surface of reclaimed, compacted asphalt and of gravel. Driveways are governed by Section 50-24.7, "Parking lot design standards," and more specifically by Table 50-24.4, which states: "All residential district parking areas [must be] surfaced in a dust free, hard surface material such as concrete or bituminous, or pervious paving materials, except for rear yards which may be surfaced in aggregate materials, compressed aggregates or similar surfaces." This requirement has been construed to require paving of all residential driveways.

You have verbally requested that the driveway surface which is not concrete or bituminous material, be accepted as an approved, conforming driveway surface. I have evaluated the circumstances and site conditions of the Property and hereby determine, in my capacity as Land Use Supervisor, that the driveway constructed in accordance with MnDOT specification 2211 with materials meeting MnDOT specification 3138.2C of at least 6" in thickness after compaction will constitute an acceptable impervious driveway surface consistent with the requirements of the UDC Section 50-24-4. You or your contractor can review MnDOT specifications at the MnDOT website, www.dot.state.mn.us.



PLANNING & ECONOMIC DEVELOPMENT

Community Planning Division
 City Hall – 411 W 1st Street – Room 110
 Duluth, Minnesota 55802
 218-730-5580 / planning@duluthmn.gov

In the design and construction of the driveway, you are cautioned that, while property owners are entitled to dispose of surface water from their property as they see fit, they are not allowed to do so in a manner that causes injury or damage to adjacent property owners or to the public. In this regard, city engineering staff continues to be very concerned with surface water from your property causing damage to City property, in particular to Gogebic Street and to 100th Avenue West. Please consult carefully with your design engineers to make sure that no such damage results from this or any other work on your property.

It is our understanding that the existing driveway is not located within the confines of easements that you possess. It will be necessary for you to relocate your driveway as necessary to fall within the boundaries of the easements that you hold (the "Relocation"). This is an acceptable resolution to satisfy the requirement for access. You have previously indicated agreement with the Relocation.

You have indicated a desire to obtain zoning approval for the building permit prior to the Relocation. Zoning approval in advance of the Relocation will require written permission of adjacent owners on whose property the current driveway is located, and may require a financial guarantee in favor of the City until completion of the Relocation. Please inform me in writing if you intend to seek this option.

Please feel free to reach out any time with questions.

Regards,

Adam Fulton, AICP
 Manager, Community Planning
 City of Duluth
afulton@duluthmn.gov
 (218) 730-5325

Enclosure: Exhibit A, driveway easement
 January 13, 2019 Letter – Fulton to Barbo regarding driveway
 Duluth City Council Resolution 18-0649R

CC: File – PL 18-086
 Keith Hamre, Director
 Wendy Rannenberg, Manager, Construction Services
 Cindy Voigt, City Engineer
 Robert Asleson, Assistant City Attorney
 Todd McFadden
 Mychal and Lori Franklin

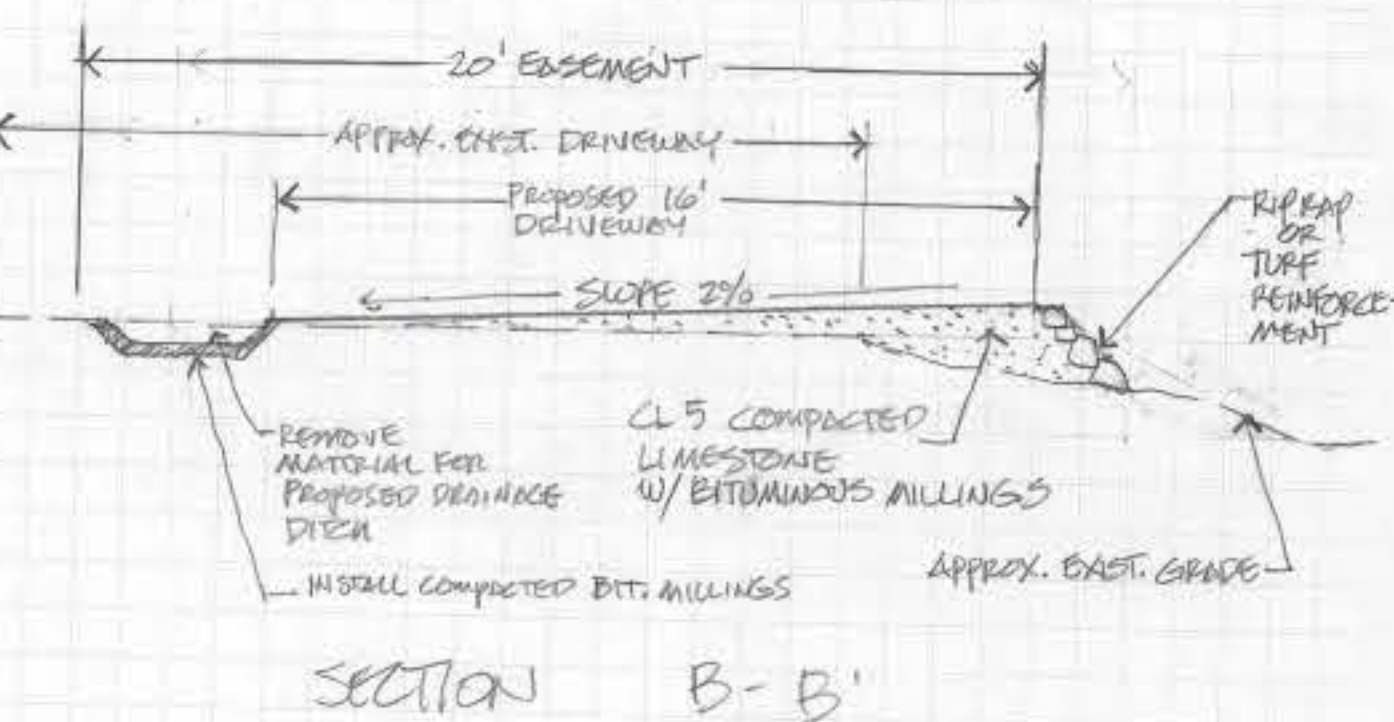
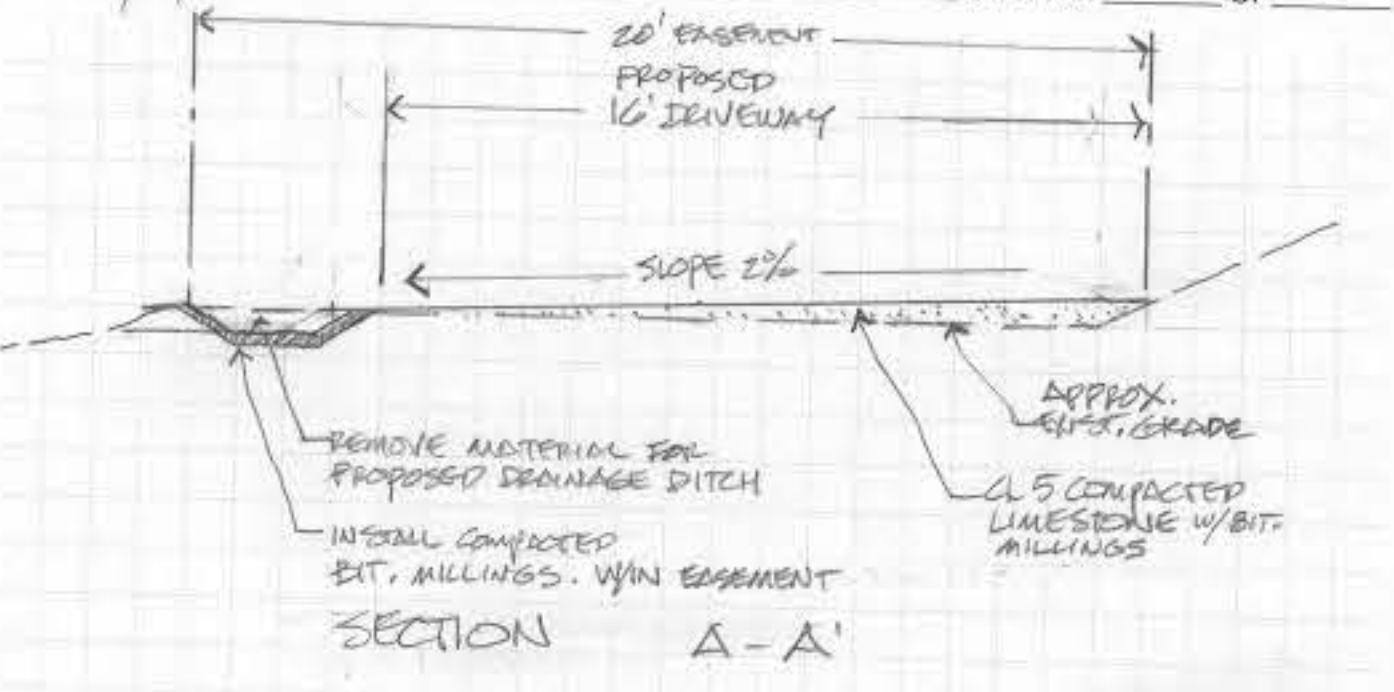
Driveway Exhibit

Prepared for: Ed Barbo



PERFORMANCE DRIVEN DESIGN.
LHBcorp.com

PROJECT **BARBO RESID. DRIVEWAY** PROJECT # **180966**
DATE **1/21/19** BY **MSA** SHEET NO. **1** OF **1**



21 West Superior Street, Suite 500 701 Washington Avenue North, Suite 200 200 Third Avenue Northeast, Suite 100 63 East Second Street, Suite 150	Duluth, MN 55802 Minneapolis, MN 55401 Cambridge, MN 55008 Superior, WI 54880	218.227.8446 612.338.2029 763.689.4042 715.392.2902
---	--	--



COPYRIGHT 2019 BY LHB, INC. ALL RIGHTS RESERVED.

DATE PREPARED: 06/01/19	<p>PERFORMANCE DRIVEN DESIGN. LHBcorp.com</p>
PROJECT: xxxxx	
FILE: 180966-Ch1	
SHEET 1 of 1 SHEETS	

21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.227.8446
 701 Washington Ave. N., Ste. 200 | Minneapolis, MN 55401 | 612.338.2029
 200 Third Ave. NE, Ste. 100 | Cambridge, MN 55008 | 763.689.4042
 63 East Second St., Ste. 150 | Superior, WI 54880 | 715.392.2902



PLANNING & ECONOMIC DEVELOPMENT

Community Planning Division
City Hall – 411 W 1st Street – Room 110
Duluth, Minnesota 55802
218-730-5580 / planning@duluthmn.gov

January 13, 2019

Edward Barbo, Jr., and Candace Barbo
4202 N. 100th Ave. W.
Duluth, MN 55810

RE: Land Use Supervisor approval of zoning component, Building Permit for 10013 W. Skyline Parkway
Planning File PL 18-086

Mr. and Ms. Barbo:

I write in relation to your application for building permit for a single family house for your property at 10013 W. Skyline Parkway (the "Property"). I will briefly outline my understanding of the site's recent history, and the requirements for zoning approval to proceed with building permit issuance. Please note that the vast majority of building permit elements will be reviewed, and the permit will be issued by, the City's Construction Services division.

The Property has no frontage on a public street. In the RR-1 district, 250 feet of frontage on a public street is required. You applied for a zoning variance to reduce the required frontage on a public from 250 feet to 0 feet. The application was denied at the Planning Commission meeting on July 10, 2018. You subsequently appealed the Planning Commission's action to the City Council, and the City Council reversed the decision of the Planning Commission, granting the variance.

The City Council's action did not include additional conditions for approval, so your application for Building Permit is reviewed by the Land Use Supervisor for consistency with Chapter 50 of the City Code, the Unified Development Code. That review has been underway. I am seeking to clarify two issues: the private easement you use to access the Property, and the design requirements for your driveway. I am providing this information in writing to further clarify the requirements we discussed during an in-person meeting we held at City Hall on Thursday, January 11, 2019, which was also attended by your neighbors Todd McFadden and Mychal and Lori Franklin.

Easement

Though the City Council approved of construction at the Property with no frontage on a public street, you still must provide for legal access to the Property in order to proceed with construction. You have provided a boundary survey depicting easements across adjacent private properties to allow for access to the Property. I required that the survey also depict the physical surface of the existing driveway in comparison to the recorded legal easements. The survey indicates that the physical surface of the existing driveway does not align with the legal easements.



PLANNING & ECONOMIC DEVELOPMENT

Community Planning Division
City Hall – 411 W 1st Street – Room 110
Duluth, Minnesota 55802
218-730-5580 / planning@duluthmn.gov

You have indicated that you intend to relocate the physical surface of the driveway into the legal easement location. This is an acceptable resolution to satisfy the requirement for access.

Driveway

The UDC requires that the driveway to the Property, when constructing a new single family dwelling, be paved. You have requested the ability to utilize an alternate paved surface that is not of asphalt or concrete. In order to consider this request, please submit your plan for the driveway to my attention, in writing, with sufficient detail for me to understand how the proposed driveway surface will satisfy the requirements of the UDC.

Your neighbors have noted, and you have concurred, that there has been erosion on the driveway accessing the Property in the past. For this reason, I suggest you address drainage issues when considering the alternate design for the driveway.

In an email dated January 9, 2019, the City's Fire Marshal has indicated that a driveway surface must be a minimum of 16 feet in width. The City Engineer will review your application for a driveway only in the context of the location where the driveway meets the public street.

Thank you for your patience in this process. As we discussed at our meeting of January 10, 2019, I request that future in-person meetings be scheduled in advance by calling the Community Planning office at 730-5580. I further request that any communications about this project related to the driveway or zoning approvals be solely directed to me or to Keith Hamre in our office. Building Permit questions should be directed to Wendy Rannenberg or her designee.

Please feel free to reach out any time with questions.

Regards,

Adam Fulton, AICP
Manager, Community Planning
City of Duluth
afulton@duluthmn.gov
(218) 730-5325

CC: Keith Hamre, Director
Wendy Rannenberg, Manager, Construction Services
Todd McFadden
Mychal and Lori Franklin

variance; and

(d) The city council heard the appeal to the denial of the variance at its August 27, 2018 meeting.

RESOLVED FURTHER, that the decision of the planning commission to deny the application for the variance is reversed on the following grounds:

1. That because of the exceptional topography of the property, the topography of platted Gogebic Street, the only platted road access to the property, and its proximity to the Magney-Snively DNAP, the strict application of the requirements of the UDC would result in practical difficulties to the property owner.

2. The conditions referenced in Paragraph 1 above are due to circumstances unique to the property and were not created by the property owners or their predecessors.

3. The property owners' proposed use of the property is a reasonable use of the property, albeit not permitted under the UDC.

4. That the relief requested may be granted without substantially impairing the intent of the UDC as it affects the subject property and surrounding properties.

STATEMENT OF PURPOSE: The purpose of this resolution is to amend resolution no. 18-0612 approved by the council on August 28, 2018, to memorialize the reasons put forth at that meeting for approving the subject variance.

From: Todd McFadden
Sent: Thursday, April 25, 2019 11:03 AM
To: Adam Fulton
Cc: Keith Hamre ; Wendy Rannenbergl ; Cindy Voigt ; Robert E. Asleson ; Todd McFadden
Subject: Concerns about the Barbo project and the impact on 100th ave W

Adam,

I am writing to express my concerns about the drainage ditch along the easement relating to the Ed Barbo project. After reviewing the drainage ditch proposals, I am very concerned about future damage to the front of my property and damage to 100th ave W. As you can see in the attached pictures and video, there is already damage occurring, so my concerns are not a hypothetical concern, they are a real and factual concern.

The current ditch proposals do not include a water diversion plan from the top of the easement, it only shows a water diversion plan for the lower part of the easement. Adding a water diversion plan that would encompass the entire easement, which is how it should be laid out, will only dump more water down 100th Ave W, creating even more damage. The City street crew is challenged to keep 100th Ave W in good driving conditions under normal circumstances, so diverting ANY additional water down 100th ave W will cause the City street crew additional time, energy and money! Again, not a hypothetical, but a current reality! This is not an easy repair as there is bedrock protruding onto 100th Ave W, and this is the reason that 100th Ave W is not physically located where it is shown on paper.

The attached picture also shows that the easement and the physical street are not currently aligned. The highlighted stake/flag and orange cone are the actual easement. There will need to be significant dirt work to get the two aligned, which would also impact the front of my property and the two culverts that I own. I do not intend to incur any expense if the water diversion plan causes me to move my two culverts or repair any damage to the front of my property. I do ask that you take this into consideration as you look to approve any plans.

I do ask that the following be considered:

- The drainage plan be laid out to align with the entire easement, not just the bottom portion of the easement as it is now.
- The drainage plan be laid out to avoid dumping additional water down 100th Ave W. Can the water be diverted down Gogebic St?
- The surface of the entire easement be required to be paved. This will eliminate any sediment running of the easement, into the ditch causing further erosion problems on my property and on 100th Ave W
- The ditch be constructed by a licensed, certified and qualified Contractor. Based on activity on the easement the last 12 years I have lived on 100th Ave W, this will ensure the project is completed correctly, in a timely manner, completed to plan and will be sustainable. The current surface on the easement is not sustainable and is causing erosion issues!
- The City have some sort of oversight to see that the ditch is being constructed specifically to an engineered and approved plan. The "ask" is that there be some oversight during the construction project, not after the project is completed.

Please let me know if you have any questions.

Thank you for your time and attention to this sensitive matter.

Todd Mc Fadden







PLANNING & ECONOMIC DEVELOPMENT

Planning and Development Division
City Hall – 411 W 1st Street – Room 110
Duluth, Minnesota 55802
218-730-5580 / planning@duluthmn.gov

Date: May 6, 2019

To: Planning Commission

From: Kyle Deming, Planner II

RE: PL 19-058 Hartley Duluth Natural Area provisional designation extension

The Duluth City Council approved the provisional designation of Hartley as a Duluth Natural Area on September 24, 2018. To make the designation permanent, according to Section 2-155(a) a management plan and program protections need to be enacted within one year or the Planning Commission may extend the deadline. According to the attached memo, additional time is being requested to complete the designation.

Recommended Action

Approve the extension to February 28, 2020.

Memorandum

To: President Kennedy and Members of the Duluth Planning Commission

From: Diane Desotelle, Natural Resources Coordinator

CC: Jim Filby Williams, Jessica Peterson, Lisa Lluokkala

Date: April 29, 2019

Re: Request to extend the Final Nomination of the Hartley Natural Area to February 2020.

The Hartley Natural Area was preliminarily nominated by the City Council on September 24, 2018. By ordinance this gives the nomination one year to develop a management plan and place the parcels under permanent protection in accordance with the Duluth Natural Areas Program Ordinance (Chapter 2, Article XXIX, Sec. 2-152).

This is a request to extend the deadline from Sept 24, 2019 to February 28, 2020. We are now fully funded to not only complete a management plan, but to gather plant survey data that will help prioritize management areas. This work will be completed by October 2019, however, we want to make sure a technical team and the newly formed Natural Resource Commission have time to advise on drafts to help make it a useful tool for implementation. We are planning to have the public process completed by Dec 31, 2019, but may need a couple extra months depending on feedback from the commissions and council.

Thank you for this consideration.

April 24, 2019

TO: Duluth City Councilors and Commissioners

RE: May 1, 2019 Mud Lake – US Steel Workshop; 5:30; Morgan Park Community Center

FROM: Friends of Western Duluth Parks and Trails (FWDPT)

Questions regarding the future land use in and near the US Steel and Mud Lake, including the City's Lake Superior and Mississippi Railway right-of-way.

To help Duluth communities contribute to and understand public policies regarding land use in and near US Steel and Mud Lake, the FWDPT asks that you have the city administration answer the following questions during this Information Workshop. The goal is to have city administrators and their resource experts explain to the you and the public the public benefits gained and lost by removing the Mud Lake Causeway. It is only with complete, consistent, and public information can we build consensus on how public lands in Duluth are developed, used, and managed.

The FWDPT fully supports the environmental clean-up and restoration of Mud Lake, the expansion of recreational opportunities and riverfront access of Rail-with-Trail, and the preservation of the unique cultural resource of the Lake Superior and Mississippi Railway, especially the Mud Lake Causeway. We believe these goals are mutually achievable and sustainable. **It is important to note that the clean-up of Mud Lake and the extension of the Western Waterfront Trail can happen whether or not the causeway is removed.** We believe that more public benefits will be gained by conserving the causeway than by removing it as advocated by the Mayor.

1. How does removing the causeway improve the economic, social, and environmental health of nearby communities and neighborhoods more than leaving it in place?
2. What do the results of the causeway borings show about the structural condition of the causeway?
3. Does removal of the causeway violate any terms and conditions of preserving the LSMR corridor, including the causeway, for transportation use?
4. Who would pay to remove the causeway?
5. How might local historic designation impact the future use of Mud Lake and US Steel sites, including the rail right-of-way?
6. How would removing the causeway change the economic impacts of the train and other tourism assets in the area?
7. How have the environmental benefits of increased water flow through Mud Lake after the causeway is removed been predicted and tested?
8. Since the Western Waterfront Trail can be extended regardless of whether or not the causeway is removed, what are the extra benefits expected from its removal?
9. Since the Western Waterfront Trail will provide free access to the river for able people in every alternative, what are the extra benefits of eliminating the fee-for-access of the train as an option to access the river for other, less able, people?
10. Since using the causeway to build rail-with-trail from Riverside to Boy Scout Landing yields the most public benefits, why is the Mayor determined to remove the causeway?
11. How has the city determined that the environmental benefits of increased water flow to Mud Lake cannot be achieved by improving water flow through the existing causeway?