



City of Duluth

411 West First Street
Duluth, Minnesota 55802

Meeting Agenda Planning Commission.

Tuesday, September 28, 2021

5:00 PM

To view the meeting, visit <http://www.duluthmn.gov/live-meeting>

PUBLIC COMMENT ON ITEMS NOT ON AGENDA

PUBLIC HEARINGS

[PL 21-144](#) Preliminary Plat at xxx Skyline Drive by Cynthia Crawford

Attachments: [PL 21-144 Final Staff Report with attachments](#)

[PL 21-145](#) Variance from Cluster Requirements at xxx Skyline Parkway by Cynthia Crawford

Attachments: [PL 21-145 Variance Final Report and Attachments](#)

[PL 21-136](#) UDC Text Amendments for Vacation Dwelling Units

Attachments: [PL 21-136 Staff Report and Attachments Rev 9-21-21](#)

NOTICE: The Duluth Planning Commission will be holding its September 28, 2021 Meeting by other electronic means pursuant to Minnesota Statutes Section 13D.021 in response to the COVID-19 emergency. Some members of the Commission will be participating through video conference. Due to the COVID-19 emergency and the closure of City facilities, public comment will not be taken in person. However, members of the public can monitor the meeting and provide public comment on agenda items through WebEx Events. Visit <https://duluthmn.gov/live-meeting> to access the meeting. The public is also encouraged to submit written comment to planning@duluthmn.gov prior to the meeting. Please include "Planning Commission Agenda" in the subject line, and include your name and address and the agenda item you are speaking to. Please note that all public comment is considered Public Data.



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 21-145	Contact	Adam Fulton
Type	Variance – Clustering requirements	Planning Commission Date	September 28, 2021
Deadline for Action	Application Date	August 19, 2021	60 Days October 18, 2021
	Date Extension Letter Mailed	Sept. 2, 2021	120 Days December 17, 2021
Location of Subject	Northwest of intersection of Skyline Parkway and Hwy 2 (PIN 010-2741-01076)		
Applicant	Cynthia and Rick Crawford, owners	Contact	Available, on file
Agent	Northland Consulting Engineers, SAS Landscape Architects, Alta Surveyors	Contact	Available, on file
Legal Description	See attached.		
Site Visit Date	September 9, 2021	Sign Notice Date	September 14, 2021
Neighbor Letter Date	September 2, 2021	Number of Letters Sent	7

Proposal: Applicant is requesting a variance to provide exemption from the clustering requirements of UDC Section 50-33.5 in the RR-1 zoning district.

Recommended Action: Staff recommends approval, subject to the conditions of this report.

	<i>Current Zoning</i>	<i>Existing Land Use</i>	<i>Future Land Use Map Designation</i>
Subject	RR-1	Vacant	Low density neighborhood
North	R-1	Rural residential	Low density neighborhood
South	RR-1	Vacant	Low density neighborhood
East	RR-1	Vacant	Open space
West	R-1	Mobile home park	Open space, Traditional neighborhood

Summary of Code Requirements:

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. 50-33.5 – Specific layout standards: When (i) a tract or parcel of land in the R-C or RR-1 districts, or (ii) a parcel of land in the RR-2 districts with sewer service, is proposed for platting to create five or more residential building lots, those lots shall be clustered as described in this Section in order to retain the open character of the land and reduce the amount of the tract occupied by building sites;

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

Governing Principle #3: Support existing economic base. Supporting Duluth’s existing economic foundation maintains jobs, tax base, and opportunity. Economic activity with specific location requirements may be subject to displacement or site competition with changes in real estate values. This traditional economic activity faces change as a result of global economic patterns, changing markets, new regulation, and aging of extensive infrastructure. Nevertheless, fundamentals remain and the economic contribution, sometimes taken for granted, is significant.

Site History: The site was rezoned in 2017 (PL 17-138) from R-1 to RR-1. Prior to this city-initiated rezoning, the R-1 zoning for the site did not require clustering of housing for the property.

Review and Discussion Items:

Staff finds that:

- 1) The applicant asserts that the use of cluster requirements of the UDC would result in the construction of additional roadway surface, additional clearing of trees and modifications to native vegetation, and additional impacts to wetlands and underlying site hydrology.
- 2) The cluster requirements are established to result in reductions of site impacts, so if the use of those would result in greater site impacts than would be achieved through a non-clustered development, the cluster requirements would impede the reasonable use of the site for development, and would be inconsistent with the policy directives of the comprehensive plan.
- 3) The proposed development is a reasonable use of land consistent with the surrounding built environment. The proposed variance is reasonable in this context.
- 4) The installation of public utilities such as sewer and water, which would more practically allow for clustering on the site, is not feasible due to the long distance the site is located from such utilities, the long term cost of funding potential pumping stations, the practicability of installing such utilities given topography, bedrock, and the potential for greater environmental impacts to wetlands to allow for installation of those utilities.
- 5) The recent city-initiated rezoning created a practical difficulty for the property owners, resulting in alternative UDC regulations that necessitated unexpected modifications to site layout and design.
- 6) The necessity to establish sites for two potential septic systems on each lot constitutes a practical difficulty resulting from other governmental regulations established to protect other environmental attributes (contamination due to failed septic systems). The lot size established in the clustering requirements is not practical to provide for sites for two septic systems given the presence of bedrock and wetlands on the site.
- 7) The underlying surface geology of bedrock and wetlands results in a need for a greater level of mass grading to support clustering. Mass grading of this site, which would be necessary for clustering and would be located at the south end of the site, is undesirable as it could negatively impact the Kingsbury Creek watershed.
- 8) The proposal will not alter the essential character of the neighborhood. The development is consistent with existing character of the area, and conforms to other requirements of the RR-1 zoning district. It provides for a lower level of traffic impacts to Skyline Parkway and its intersection with Highway 2.
- 9) No public, agency, or City comments have been received.
- 10) Per UDC Section 50-37.1. N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year

Staff Recommendation:

Based on the above findings, Staff recommends that Planning Commission grant the variance to provide an exemption to the development from the requirements of UDC Section 50-33.5 related to clustering, with the following conditions:

- 1) The project be limited to, constructed, and maintained based on the site plan submitted with the application, including Planning Files 21-144 and 21-145.
- 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 administration approval shall constitute a variance from the provisions of Chapter 50.

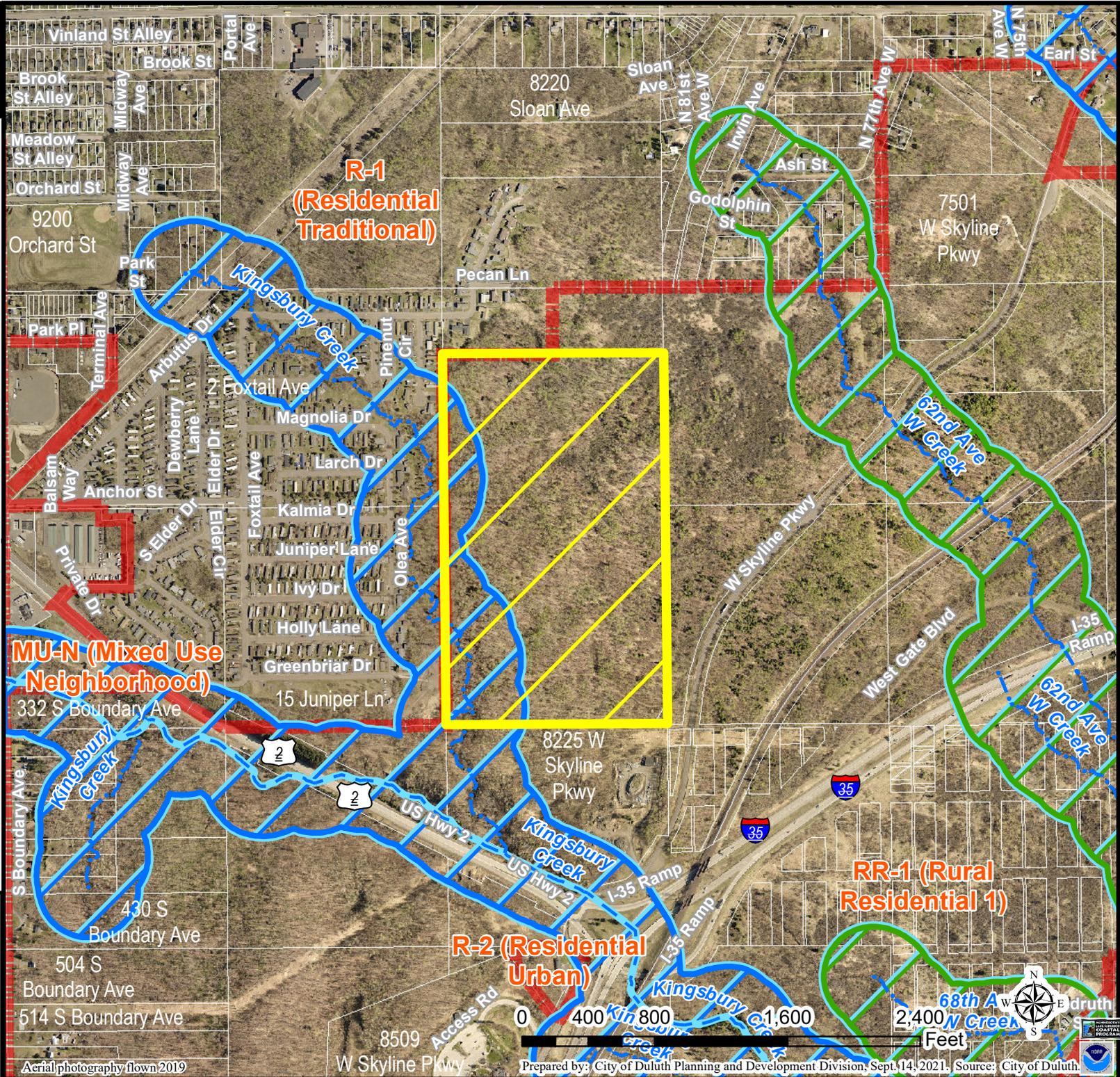


PL21-145
 Variance
 Sugarloaf
 Cynthia Crawford

Legend

- Zoning Boundaries
- Shoreland (UDC)
- Cold Water
- Natural Environment
- General Development
- 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.

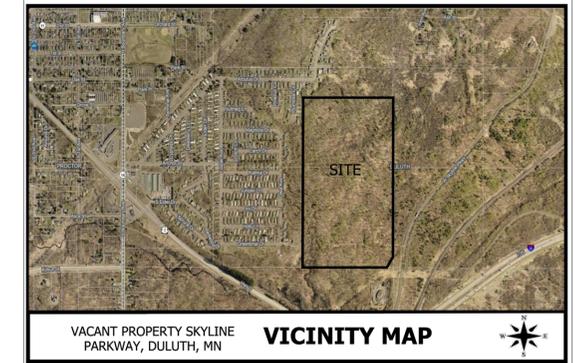


Aerial photography flown 2019

Prepared by: City of Duluth Planning and Development Division, Sept. 14, 2021. Source: City of Duluth

PRELIMINARY PLAT OF SUGARLOAF

LOCATED IN PART OF SEC. 11, TWP. 49 N, RGE. 15W ST. LOUIS COUNTY MINNESOTA



AREA SUMMARY	
TOTAL AREA	68.22 AC
TOTAL LOT AREA	68.22 AC
TOTAL ROAD EASEMENT AREA	4.39 AC
NUMBER OF LOTS	13
NUMBER OF BLOCKS	1
NUMBER OF OUTLOTS	0
LARGEST LOT IN SQ. FEET	288,295 SQ. FEET
SMALLEST LOT IN SQ. FEET	217,657 SQ. FEET

LEGAL DESCRIPTION FOR PRELIMINARY PLAT PURPOSES ONLY
 NW 1/4 of SE 1/4 EXCEPT the Nly 400 feet thereof Section 11 Township 49 North Range 15 West of the Fourth Principal Meridian

AND
 SW 1/4 of SE 1/4 Section 11 Township 49 North Range 15 West of the Fourth Principal Meridian EXCEPT that part described as follows:
 Commencing at the SE corner of said SW 1/4 of SE 1/4; thence North along the Ely line of said SW 1/4 of SE 1/4 a distance of 137 feet, more or less, to a point; thence SW 1/4 in a straight line to a point on the Sly boundary line of said SW 1/4 of SE 1/4 distant 84.85 feet West of the SE corner of said SW 1/4 of SE 1/4; thence Ely along the Sly line of said SW 1/4 of SE 1/4 a distance of 84.85 feet to the SE corner of said SW 1/4 of SE 1/4 which is the point of beginning and ending, as set out in Book 625 of Deeds page 273.

OWNER/DEVELOPER
 RICK & CYNTHIA CRAWFORD
 28 EAST PINE MOUNTAIN RD.
 GRAND MARAIS, MN 55604

CIVIL ENGINEER
 NORTHLAND CONSULTING ENGINEERS L.L.P.
 102 S 21ST AVENUE WEST, SUITE 1
 DULUTH, MN 55806
 PHONE (218) 727-5995
 EMAIL info@nce-duluth.com

SURVEYOR
 ALTA LAND SURVEY COMPANY
 DAVID R. EVANSON, MN STATE REG. NO. 49505
 P.O. BOX 161138
 102 S 21ST AVENUE WEST, SUITE 4
 DULUTH, MN 55816-1138
 PHONE (218) 727-5211
 EMAIL info@altalandsurvey.com
 PRELIMINARY PLAT COMPLETED AUGUST 2, 2021

LEGEND

- BITUMINOUS SURFACE
- PROPOSED ROAD & DRIVEWAY S
- PROPOSED WET LAND FILL AREA
- EXPOSED LEDGE ROCK PER OTHERS
- WET LAND PER OTHERS
- 4,800 Sq. Feet PROPOSED BUILDING PAD
- C/L OF CREEK PER OTHERS
- CREEK BANK PER OTHERS
- TREE/BRUSH LINE PER OTHERS
- PROPOSED SEPTIC LINE
- DITCH/SWALE
- SETBACK LINE
- WET LAND LINE PER OTHERS
- SECTION SUBDIVISION LINE
- RIGHT OF WAY LINE
- PROPOSED EASEMENT LINE
- BOUNDARY LINE AS SURVEYED
- PROPOSED PARCEL LINE
- ALUM CAPPED MONUMENT
- FOUND T-STAKE MONUMENT
- FOUND SANDSTONE MONUMENT
- SET CAPPED REBAR RLS. NO. 49505
- PROPOSED WELL LOCATION

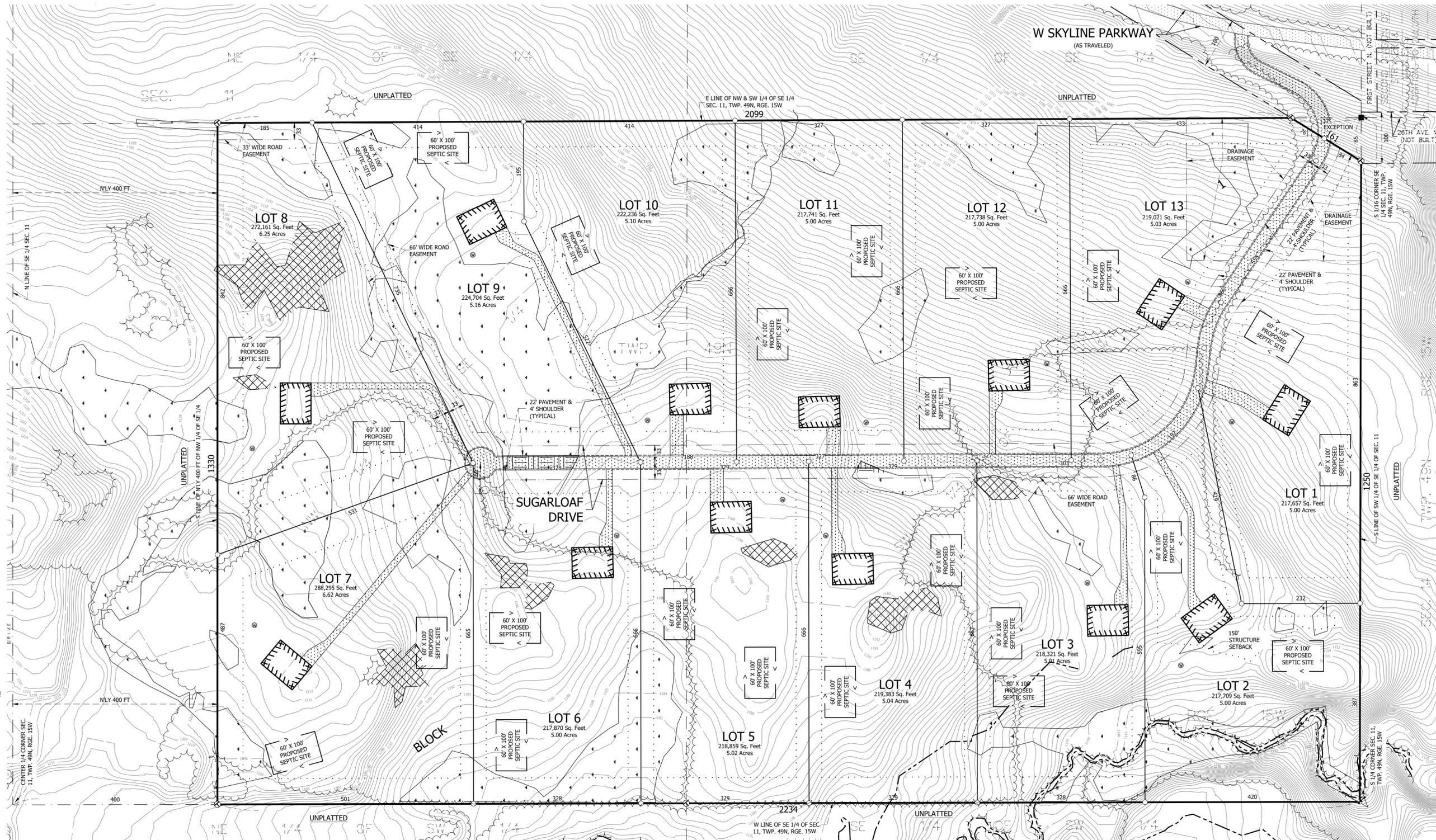
- ### SURVEYOR'S NOTES
- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCLINER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
 - BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
 - NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.
 - CONTOUR DATA SHOWN HEREON WAS DERIVED FROM LIDAR DATA PROVIDED BY THE MINNOR. IT IS RECOMMENDED ON THE GROUND MEASUREMENTS BE INCORPORATED INTO ANY AREA OF PROPOSED DESIGN AND CONSTRUCTION.
 - EXISTING FEATURES SHOWN HEREON, WERE PROVIDED BY OTHERS.

ZONING AND BUILDING SETBACKS PER THE CITY OF DULUTH CURRENTLY ZONED- RR-1 RESIDENTIAL RURAL. SEE TABLE 50-14.3 FOR DISTRICT DIMENSIONAL STANDARDS.

FLOOD ZONE INFORMATION
 BUILDINGS LOCATED WITHIN ZONE C (AREAS MINIMAL FLOODING), PER FIRM FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 270421 0035 C, EFFECTIVE DATE: APRIL 2, 1982.

SITE ADDRESS
 VACANT PROPERTY
 PID NO. 010-2741-01076

ALTA
 LAND SURVEY COMPANY
 PHONE: (218) 727-5211
 WWW.ALTLANDSURVEY.COM





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Variance Application Supplemental Form

In order to submit a complete variance application, please explain how your request meets all of the below variance criteria. This is information that is required by the zoning code and will be shared with the Planning Commission during their review. You may fill out this form, or attach your information in a separate letter. This information will be shared with the Planning Commission in order to help them determine the appropriateness of the variance application and request.

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

City of Duluth UDC Section 50-33.5 - Clustered development in RR-1 when (5) or more lots developed, 50% unsubdivided

1. Please explain how the exceptional narrowness, shallowness or shape of the property, or exceptional topographic or other conditions related to the property, would result in practical difficulties under strict application of the requirements of the UDC:

The owner has a 68 acre parcel of land. By RR-1 standards with 5 acre lots the owner could have 13 lots. The UDC notes that when (5) or more lots are proposed to be subdivided that they shall be "clustered." By creating 2.5 acre lots and leaving the 50% of the lot subdivided, the development of this lot requires significantly more roadway to serve each platted parcel.
This results in additional clearing, wetland impacts and overall impervious surface to create the same number of lots.

2. Please explain how the special circumstances or conditions that create the need for relief is due to circumstances unique to the property, and were NOT created by the property owner or the property owners' predecessors-in-interest:

The owner has a 68 acre parcel of land. By RR-1 standards with 5 acre lots the owner could have 13 lots. The UDC notes that when (5) or more lots are proposed to be subdivided that they shall be "clustered." By creating 2.5 acre lots and leaving the 50% of the lot subdivided, the development of this lot requires significantly more roadway to serve each platted parcel.
This results in additional clearing, wetland impacts and overall impervious surface to create the same number of lots.

3. Please explain the special circumstances or conditions applying to the building or land in question are peculiar to this property or immediately adjoining properties, and do not apply generally to other land or buildings in the vicinity:

These circumstances significantly reduce the developable area of the parcel. By allowing the variance the owner will have less public road impact, 5 acre minimum lot. are written in the UDC and were not created by the owner in any way.

4. Please explain how the application proposes to use the property in a reasonable manner, which would not be permitted by this code except for a variance:

The lots will still meet the minimum standard lot dimensions in RR-1 of 5 acres lots. The single family homes will be constructed in a manner less dense than under the cluster requirement. Lots will be more disconnected creating more spacing for on site sewer treatment systems (septic mounds). Less overall disturbance of the property.

5. Please explain how that if the variance is granted it will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety or public welfare of the inhabitants of the city:

The lot will still meet the minimum standard lot dimensions in RR-1 of 5 acres lots. The single family homes will be constructed in a manner less dense than under the cluster requirement. Traffic volumes will be low and will not impact the low volumes of traffic on Skyline Parkway. Access to freeway nearby. Fire truck turnaround provided at the cul de sac for any life safety traffic through subdivision.

6 Please explain how, if the variance is granted, it will not substantially impair the intent of zoning code and the official zoning map, and will not alter the essential character of the neighborhood:

The lot will still meet the minimum standard lot dimensions in RR-1 of 5 acres lots. The single family homes will be constructed in a manner less dense than under the cluster requirement fitting in with the overall rural feel and open space that RR-1 is meant to maintain.

Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M (E. Unsewered Areas, F. Two Family Dwellings in R-1, G. Parking Regulations, H. Reduce Setbacks, I. MU-C District, J. Airport Overlay, K. Flood Plain Regulations, L. Shorelands, or M. Non-Conforming Buildings)? Yes No

Discuss what subsections are applicable and how this request meets those: _____

Shoreland Zoning will affect multiple lots, 150' structure setback and 75' impervious setback will be met by each lot. Individual homes will be evaluated in detail at the time of building permit review.



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File Number	PL 21-144	Contact	Adam Fulton	
Type	Preliminary Plat	Planning Commission Date		September 28, 2021
Deadline for Action	Application Date	August 19, 2021	60 Days	October 18, 2021
	Date Extension Letter Mailed	Sept. 2, 2021	120 Days	December 17, 2021
Location of Subject	Northwest of intersection of Skyline Parkway and Hwy 2 (PIN 010-2741-01076)			
Applicant	Cynthia and Rick Crawford, owners	Contact	Available, on file	
Agent	Northland Consulting Engineers, SAS Landscape Architects, Alta Surveyors	Contact	Available, on file	
Legal Description	See Attached Map			
Site Visit Date	September 9, 2021	Sign Notice Date		September 14, 2021
Neighbor Letter Date	September 2, 2021	Number of Letters Sent		7

Proposal: Requested is approval of the preliminary plat of SUGARLOAF to provide for subdivision of the referenced 67.71 acre site for development of 13 rural residential lots in the RR-1 district. The proposal includes construction of a new public street.

Staff Recommendation

Approval of the preliminary plat, subject to included conditions and contingent upon approval of the requested variance in PL 21-145.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1	Vacant	Low density neighborhood
North	R-1	Rural residential	Low density neighborhood
South	RR-1	Vacant	Low density neighborhood
East	RR-1	Vacant	Open space
West	R-1	Mobile home park	Open space, Traditional neighborhood

Summary of Code Requirements

The planning commission shall approve the application, or approve it with modifications if it determines that:

- (a) Is consistent with the comprehensive land use plan;
- (b) Is consistent with all applicable requirements of MSA 462.358 and Chapter 505;
- (c) Is consistent with all applicable provisions of this Chapter;
- (d) Is consistent with any approved district plan covering all or part of the area of the preliminary plat;
- (e) Is located in an area with adequate police, fire and emergency facilities available to serve the projected population of the subdivision within the City's established response times, or the applicant has committed to constructing or financing public facilities that will allow police, fire or emergency service providers to meet those response times;
- (f) Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible;

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

Governing Principles

The following Imagine Duluth 2035 Governing Principles should be considered when reviewing the request:

Governing Principle #3: Support existing economic base. Supporting Duluth's existing economic foundation maintains jobs, tax base, and opportunity. Economic activity with specific location requirements may be subject to displacement or site competition with changes in real estate values. This traditional economic activity faces change as a result of global economic patterns, changing markets, new regulation, and aging of extensive infrastructure. Nevertheless, fundamentals remain and the economic contribution, sometimes taken for granted, is significant.

Future Land Use

Low density neighborhood: Single-family housing with urban services. Typified by curvilinear streets, houses with longer dimension parallel to street, and attached garages. Includes a range of house sizes and lot sizes. Non-residential uses are mainly uses such as schools and churches. Parks and open space are located within or adjacent. This land use category was specified in support of residential development of this site. The site is not proposed to have urban services for sewer or water, which will both be provided through private systems.

Site History or Previous Studies

A plat for this site was reviewed and approved between 2006 and 2007. The proposal at that time called for development of 72 units of housing on the site. Because of changes in the housing market, the plat was not filed and the site remained undeveloped.

In 2019, the site was rezoned from R-1, Single Family Residential, to RR-1, Rural Residential. The rezoning change altered the total number of permissible lots, changing the minimum lot size from 4,000 square feet (0.091 acres) to a minimum lot size of five (5) acres.

The concept plan for the site's development has gone through several iterations and has been reviewed by city staff. Comments have been provided related to stormwater management systems, construction of the proposed public street, and other site characteristics, such as its proposed access onto Skyline Parkway.

Review and Discussion Items

- 1) Request. The applicant is seeking Planning Commission approval of a preliminary plat. The proposal is to subdivide 67.71 acres, creating 13 lots of five (5) or more acres each accessed by a public street connected to Skyline Parkway immediately east of US Trunk Highway 2. The proposed design layout for lot sizes and widths for the site conforms to the basic requirements of the RR-1 zoning district.
- 2) Character of Area. This parcel is located immediately south of existing rural residential areas of the city, and east of the Zenith Terrace mobile home park. The site is wooded and undeveloped. Kingsbury Creek flows along the western edge of the site. The site features rock outcrops, wetlands, and is otherwise predominately a mature maple basswood forest. The proposed development is consistent with the lot configuration in the surrounding single family area, which is generally low density and rural in character along Vinland Street and side streets as Vinland Street runs downhill from the city of Proctor toward Getchell Road / Highland Street.
- 3) Site Plan. The site plan includes a depiction of the proposed thirteen lots to be created as part of the preliminary plat of "SUGARLOAF." The preliminary plat appropriately identifies wetlands, proposed driveway locations, and proposed building envelopes for the 13 new houses. The plat also includes two potential locations for septic systems on each lot.
- 4) Site Access. The proposed plat calls for dedication of a 66 foot wide right-of-way. The proposed street would include curb and gutter through the steepest segment, then be constructed as a typical rural segment at the top of the hill where grades are not as steep. Access is via a new street onto Skyline Parkway.
- 5) Pedestrian access. No pedestrian access is proposed. This location is not being developed at a sufficient density to warrant sidewalk or trail. No existing or proposed public trails pass through the site. The nearest accesses to public trails

are below Skyline Parkway, where the Superior Hiking Trail is located, or west toward Proctor, where the proposed Hermantown-Proctor Munger Trail connector is proposed near Spirit Mountain.

- 6) Wetlands. Wetland impacts are anticipated to result as an outcome of this development. A complete wetland delineation is on file. Conditions are included to require modifications to reduce avoidable wetland impacts on the final plat. Those conditions relate to modifications to driveway locations and reconsideration of site layouts on several lots.
- 7) Future connectivity. The proposed terminus of the cul-du-sac will end at the junction of Lots 7, 8, and 9. However, additional right-of-way is to be dedicated on the final plat to provide for access to the northeast, where a future development could potentially connect to the city's existing street grid in this location. At present, there is no access to those streets except across private property. Were that private property developed, the street network could be connected.
- 8) Environmental Review. The proposed project does not trigger any mandatory EAW reviews.
- 9) Natural Features. The site has a dramatic slope to the south and east. The overall elevation change is approximately 125 feet across the site. Kingsbury Creek is located on the southwest corner of the property.
- 10) Water/Sewer/Natural Gas. There are no public utilities serving the site. The electric network will be connected privately. All water, sewer, and non-electric energy utilities will be provided privately.
- 11) Conformance with UDC and State Statute. The preliminary plat is consistent with the comprehensive land use plan designation of this site, which is for low density neighborhood development. A variance is required to validate compliance with the UDC related to inability to cluster homes on the site. The preliminary plat is located in an area of the city with adequate police, fire and emergency facilities available to serve the anticipated housing development proposed for this site. Staff finds that, other than the items addressed above and referenced in the recommendations below, the preliminary plat conforms to the requirements of Sec 50-37.5. and is consistent with all applicable requirements of MSA 462.358 and Chapter 505.
- 12) Development Agreement. A development agreement for the improvement of public streets is required, and shall be reviewed by city staff and approved by the City Council prior to initiating site work for the project.
- 13) Public Comments. No citizen comments have been received to date.
- 14) City Staff Comments. The City Engineering division has reviewed the proposed stormwater management systems and the proposed public street, and provided feedback. No other comments were received from city departments.
- 15) The approval of the Preliminary Plat of SUGARLOAF is contingent on the Planning Commission's approval of the variance request in Planning File PL 21-145. If the variance request is denied, the Preliminary Plat application must also be denied because it is non-compliant with the requirements of the UDC in the absence of the variance.

Staff Recommendation

Based on the above findings, staff recommends that Planning Commission approve the application with the following conditions:

1. The approval is conditional upon the concurrent approval of the variance application in PL 21-145.
2. The final plat shall be drafted with modifications to the following elements depicted on the preliminary plat:
 - a. The proposed driveway serving Lot 9 shall be relocated, either through modification to the lot line between Lot 9 and Lot 10, or through alternate means, to avoid wetland impacts resultant through construction of said driveway.
 - b. Drainage and utility easements shall be provided consistent with UDC requirements for shoreland protections to ensure the preservation of natural vegetation near Kingsbury Creek along Lots 2 and 3. Permanent metallic markers on rigid metal posts shall be placed at the location of shoreland setbacks indicating that all natural vegetation between the permanent markers and the creek is to remain in a natural state.
 - c. Drainage and utility easements shall be established over no less than 90% of the wetlands existing on Lot 9.
 - d. Stormwater ponds are currently depicted on Lots 1 and 13 on the submitted "Stormwater Concept Plan." All stormwater ponds shall be redesigned to be located fully outside wetland areas, including those wetlands on Lot 13.
 - e. Drainage and utility easements shall be provided consistent with UDC requirements for shoreland protections for the drainage way between Lots 10 and 11, which provides for the uplands for creeks referenced in the stormwater plan. Permanent metallic markers on rigid metal posts shall be placed at the location of shoreland setbacks indicating that all natural vegetation between the permanent markers and the creek is to remain in a natural state.
3. Prior to undertaking any site work, the following conditions shall be met:
 - a. The development agreement and final plat shall be recorded;
 - b. All necessary permits shall be obtained;
 - c. Erosion control measures shall be installed and inspected by appropriate city officials;
 - d. Tree removal shall be exempt from this requirement so long as no grubbing, or removal of stumps, takes place during said removal.
4. The applicant shall enter into a development agreement addressing applicable development terms as identified by City staff herein, and as further identified in the review of the Final Plat of SUGARLOAF. The development agreement shall be approved and recorded with the appropriate St. Louis County offices.
5. The development agreement must be recorded prior to the Planning Commission President and Secretary signing the Final Plat.
6. Wetlands shall be fully protected during construction, monitored for impacts due to silt and sediment, and restored if required upon inspection by appropriate city officials.
7. The City Forester must approve the tree replacement plan and shall validate that the construction process does not impact the trees indicated for preservation on the site.

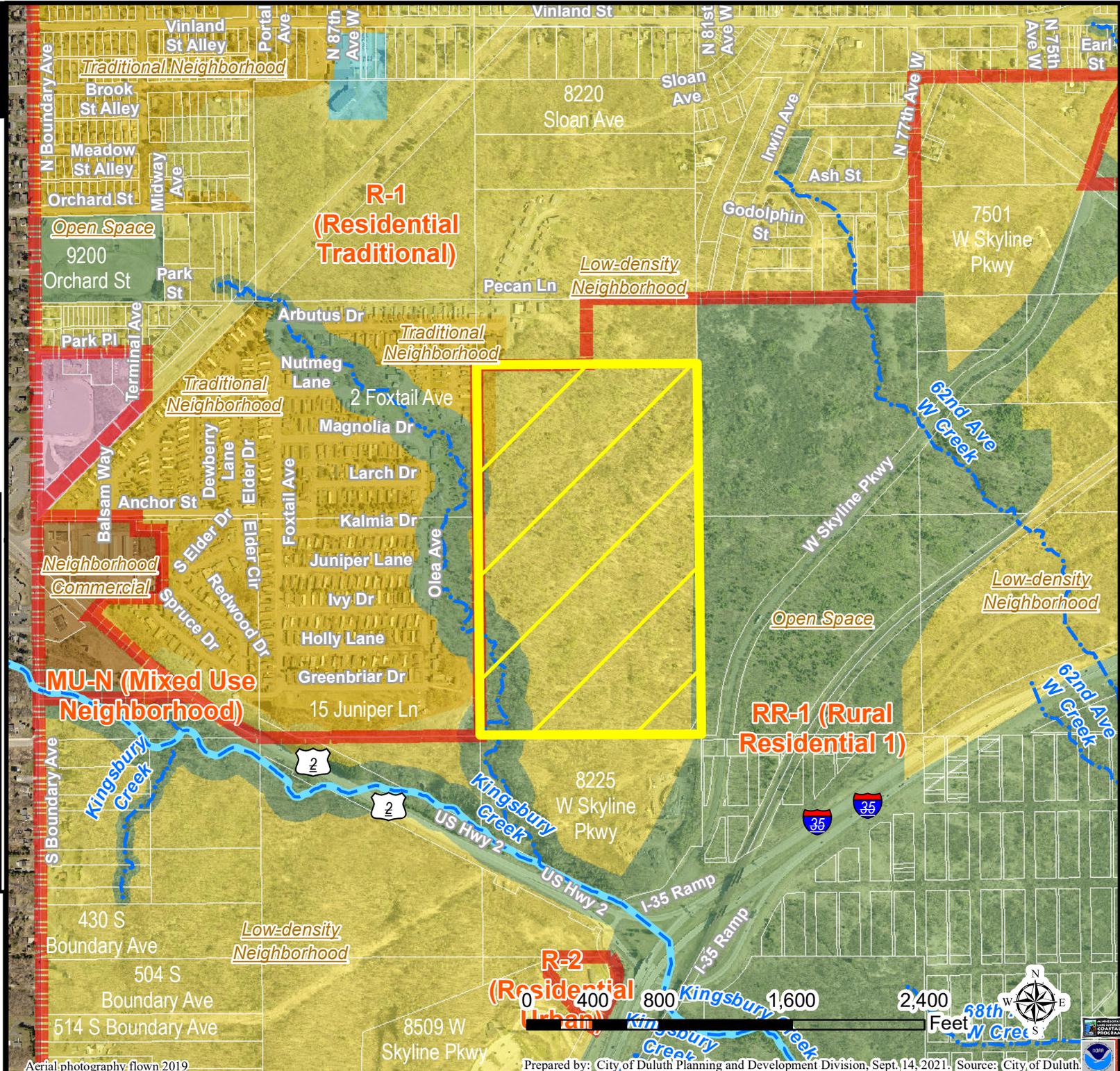


PL21-144
 Preliminary Plat of
 Sugarloaf
 Cynthia Crawford

Legend

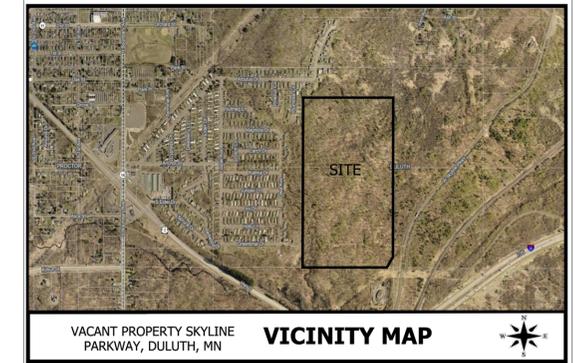
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)
- Open Space
- Open Space/Outside Duluth
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Central Business Secondary
- Central Business Primary
- Large-scale commercial
- 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.



PRELIMINARY PLAT OF SUGARLOAF

LOCATED IN PART OF SEC. 11, TWP. 49 N, RGE. 15W ST. LOUIS COUNTY MINNESOTA



AREA SUMMARY	
TOTAL AREA	68.22 AC
TOTAL LOT AREA	68.22 AC
TOTAL ROAD EASEMENT AREA	4.39 AC
NUMBER OF LOTS	13
NUMBER OF BLOCKS	1
NUMBER OF OUTLOTS	0
LARGEST LOT IN SQ. FEET	288,295 SQ. FEET
SMALLEST LOT IN SQ. FEET	217,657 SQ. FEET

LEGAL DESCRIPTION FOR PRELIMINARY PLAT PURPOSES ONLY
 NW 1/4 of SE 1/4 EXCEPT the Nly 400 feet thereof Section 11 Township 49 North Range 15 West of the Fourth Principal Meridian

AND
 SW 1/4 of SE 1/4 Section 11 Township 49 North Range 15 West of the Fourth Principal Meridian EXCEPT that part described as follows:
 Commencing at the SE corner of said SW 1/4 of SE 1/4; thence North along the Ely line of said SW 1/4 of SE 1/4 a distance of 137 feet, more or less, to a point; thence SW 1/4 in a straight line to a point on the Sly boundary line of said SW 1/4 of SE 1/4 distant 84.85 feet West of the SE corner of said SW 1/4 of SE 1/4; thence Ely along the Sly line of said SW 1/4 of SE 1/4 a distance of 84.85 feet to the SE corner of said SW 1/4 of SE 1/4 which is the point of beginning and ending, as set out in Book 625 of Deeds page 273.

OWNER/DEVELOPER
 RICK & CYNTHIA CRAWFORD
 28 EAST PINE MOUNTAIN RD.
 GRAND MARAIS, MN 55604

CIVIL ENGINEER
 NORTHLAND CONSULTING ENGINEERS L.L.P.
 102 S 21ST AVENUE WEST, SUITE 1
 DULUTH, MN 55806
 PHONE (218) 727-5995
 EMAIL info@nce-duluth.com

SURVEYOR
 ALTA LAND SURVEY COMPANY
 DAVID R. EVANSON, MN STATE REG. NO. 49505
 P.O. BOX 161138
 102 S 21ST AVENUE WEST, SUITE 4
 DULUTH, MN 55816-1138
 PHONE (218) 727-5211
 EMAIL info@altaland.com
 PRELIMINARY PLAT COMPLETED AUGUST 2, 2021

LEGEND

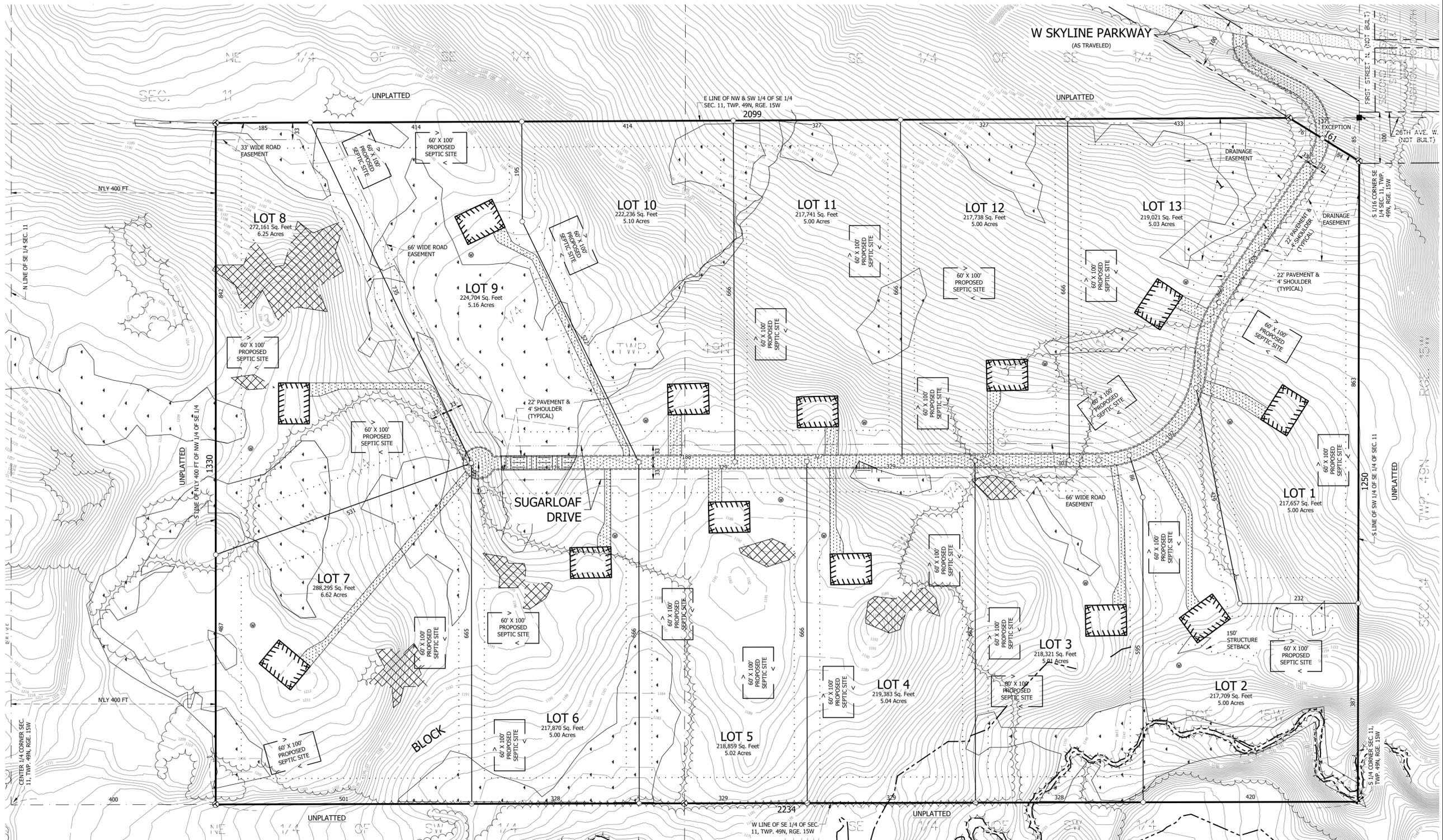
- BITUMINOUS SURFACE
- PROPOSED ROAD & DRIVEWAY S
- PROPOSED WET LAND FILL AREA
- EXPOSED LEDGE ROCK PER OTHERS
- WET LAND PER OTHERS
- 4,800 Sq. Feet PROPOSED BUILDING PAD
- C/L OF CREEK PER OTHERS
- CREEK BANK PER OTHERS
- TREE/BRUSH LINE PER OTHERS
- PROPOSED SEPTIC LINE
- DITCH/SWALE
- SETBACK LINE
- WET LAND LINE PER OTHERS
- SECTION SUBDIVISION LINE
- RIGHT OF WAY LINE
- PROPOSED EASEMENT LINE
- BOUNDARY LINE AS SURVEYED
- PROPOSED PARCEL LINE
- ALUM CAPPED MONUMENT
- FOUND T-STAKE MONUMENT
- FOUND SANDSTONE MONUMENT
- SET CAPPED REBAR RLS. NO. 49505
- PROPOSED WELL LOCATION

- ### SURVEYOR'S NOTES
- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCLINEER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
 - BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
 - NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.
 - CONTOUR DATA SHOWN HEREON WAS DERIVED FROM LIDAR DATA PROVIDED BY THE MINNOR. IT IS RECOMMENDED ON THE GROUND MEASUREMENTS BE INCORPORATED INTO ANY AREA OF PROPOSED DESIGN AND CONSTRUCTION.
 - EXISTING FEATURES SHOWN HEREON, WERE PROVIDED BY OTHERS.

ZONING AND BUILDING SETBACKS PER THE CITY OF DULUTH CURRENTLY ZONED- RR-1 RESIDENTIAL RURAL. SEE TABLE 50-14.3 FOR DISTRICT DIMENSIONAL STANDARDS.

FLOOD ZONE INFORMATION
 BUILDINGS LOCATED WITHIN ZONE C (AREAS MINIMAL FLOODING), PER FIRM FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 270421 0035 C, EFFECTIVE DATE: APRIL 2, 1982.

SITE ADDRESS
 VACANT PROPERTY
 PID NO. 010-2741-01076



PRELIMINARY PLAT OF SUGARLOAF

LOCATED IN PART OF SEC. 11, TWP.49 N, RGE. 15W ST. LOUIS COUNTY MINNESOTA



AREA SUMMARY	
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LARGEST LOT IN SQ. FEET	288,295 SQ. FEET
SMALLEST LOT IN SQ. FEET	217,657 SQ. FEET

PRELIMINARY STORMWATER CONCEPT PLAN



LEGAL DESCRIPTION FOR PRELIMINARY PLAT PURPOSES ONLY
 NW 1/4 OF SE 1/4 EXCEPT THE NLY 400 FEET THEREOF SECTION 11 TOWNSHIP 49
 North Range 15 West of the Fourth Principal Meridian

AND
 SW 1/4 OF SE 1/4 Section 11 Township 49 North Range 15 West of the Fourth
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 PHONE (218) 727-5211
 EMAIL info@altasurvey.com
 PRELIMINARY PLAT COMPLETED AUGUST 2, 2021

LEGEND

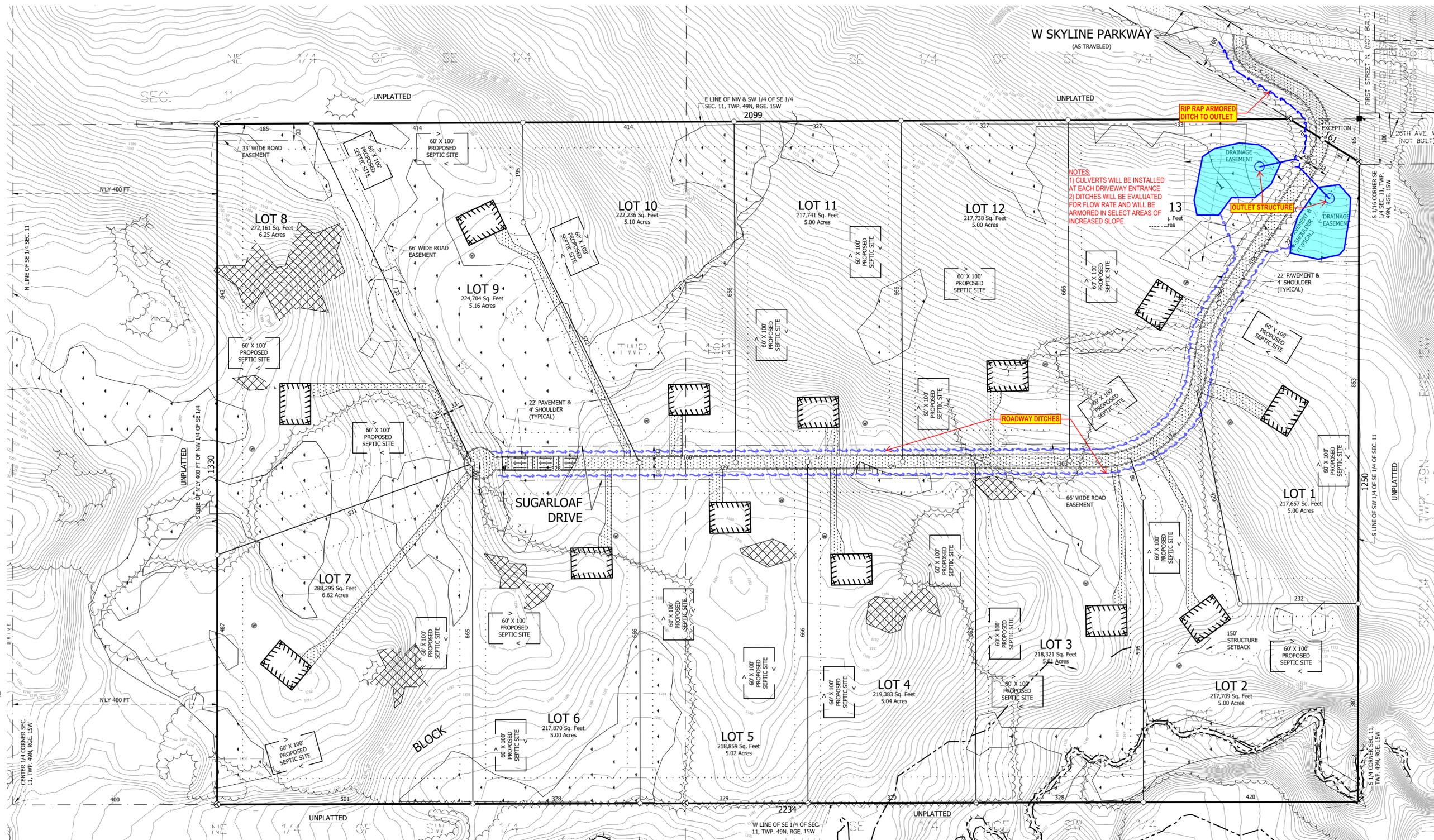
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- PROPOSED ROAD & DRIVEWAY S
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- SURVEYOR'S NOTES**
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SITE ADDRESS
 VACANT PROPERTY
 PID NO. 010-2741-01076



NOTES:
 1) CULVERTS WILL BE INSTALLED AT EACH DRIVEWAY ENTRANCE.
 2) DITCHES WILL BE EVALUATED FOR FLOW RATE AND WILL BE ARMORED IN SELECT AREAS OF INCREASED SLOPE.

Sugarloaf Subdivision Drainage Memo (8/10/21)

Northland Consulting Engineers is assisting a land owner in subdividing their parcel of property along Skyline Parkway. The parcel is currently undeveloped and completely wooded except a gravel access road off of Skyline that extends into the site. The proposed subdivision would create (13) 5+ acres lots accessed by the construction of a 20' roadway. The road will be constructed privately and turned over to the City of Duluth upon as built and final acceptance.

Existing Site Drainage Conditions

The site is 67.71 acres according to St. Louis County Land Explorer. As mentioned above, the site is completely undeveloped and wooded. Kingsbury Creek flows along and across the west edge of the property. Approximately one third of the site drains to the west towards Kingsbury Creek. The eastern two thirds flow to the south and east into a watershed labeled 62nd and 68th Ave. W. Creek. This watershed ultimately enters the St. Louis River emptying into Stryker Bay. The overall site is situated on the hill just above Skyline Parkway. Across the site from north to south the site has 125 feet of elevation change. Currently there are no BMP's on-site treating storm water.

Post-Construction Site Drainage Conditions

The subdivision development proposes (13) lots. Lots will be 5+ acres as required in RR-1 zoning and the expected user is a single-family home development. It is estimated that each home will develop an average of 7,500 square feet of impervious surface between the driveway, home and garage. This results in approximately 97,500 square feet of impervious area outside the public road. The 2,350 linear feet of public road will be 20' wide with 2' gravel shoulders which will generate about 56,400 square feet of impervious area. The roadway will be constructed as a rural section so the roadway will have ditches on both sides to convey road runoff and any runoff from outside the right of way. Special attention will be given to the ditch design to ensure they will stable during an following construction. With significant grades along the roads, ditches may require rip rap armoring to resist erosion.

These ditches will serve as a BMP to convey and treat the first flush of runoff from the road using ditch checks. They then will flow into a filtration basin on either side of the road near the projects entrance. The filtration basin will drain via perforated PVC pipes set below a sand filter layer. The BMP will treat the stormwater for total suspended solids and will be constructed with live storage and an outlet structure to manage the discharge rates per the City of Duluth UDC requirements. It is understood that the site sits above the bluff line and may be required to meet more restrictive peak discharge rate requirements.

The site and stormwater design has been designed to meet the requirements of the City of Duluth UDC and Engineering Guidelines. Prior to the issuance of building permits, an MS4 Statement of Compliance will be issued when the stormwater management plan is approved. The stormwater conveyance and treatment system will be ultimately be constructed in a drainage easement dedicated to the City of Duluth for ownership and maintenance. The Certificate of Occupancy will be issued after the record drawing for the stormwater management BMPs have been issued to the City.



Northland

Consulting Engineers L.L.P.

Structural, Civil and Forensic Engineering

102 South 21st Ave. West, Duluth, MN 55806
(V)218-727-5995, (F)218-727-7779

	Pre-Development		Post-Development	
	Area (SF)	% of Total Site	Area (SF)	% of Total Site
Total Site Area	2,949,448	100%	2,949,448	100%
Impervious Area	0	0%	153,900	5.2%
Pervious Area	2,949,448	100%	2,795,548	94.8%

Narrative Prepared by: Adam Zwak, P.E.



Planning & Development Division
Planning & Economic Development Department

Room 160
411 West First Street
Duluth, Minnesota 55802

 218-730-5580

 planning@duluthmn.gov

Date: September 21, 2021
To: Planning Commission
From: Steven Robertson, Senior Planner
RE: PL 21-136, Public Hearing and discussion on proposed Vacation Dwelling and Cottage Home regulations

Proposed changes to the UDC for vacation dwelling homes are based on updates discussed over the past several months with the Commission and City Council. Based on Planning Commission action, the proposed changes will be brought before the City Council for consideration in October or November. This item will be brought back to the Planning Commission at a special public hearing on September 28, 2021. In addition, there will be a public information meeting on Thursday, September 23, 2021, at 6:00 pm. Comments made at that information meeting will be shared with the commission members in advance of the September 28th special meeting.

The proposed ordinance amendment would update standards for vacation dwelling units, accessory dwelling units, and accessory home shares, create a new type of vacation dwelling unit called “limited”, and update standards related to cottage home parks. The proposed ordinance change would also amended the process for approving interim use permits, with the Planning Commission being the reviewing and approving authority; currently the City Council approves all interim use permits via resolution.

Recommendation:

Staff recommends that the Planning Commission hold a public hearing, discuss the proposed modifications to the UDC and provide further modifications as appropriate, and recommend approval of the UDC updates to the City Council.

The Planning Staff are recommending a change to the UDC related to vacation dwelling units and related housing items. The proposed changes are shaped, in part, by a City Council resolution giving direction on this topic (21-0558R). The major points of this resolution are:

- A. Interim use permits for vacation dwelling units will be subject to approval by the planning commission, subject to appeal to the city council (similar to the current process for Special Use Permits or Variances);
- B. Limiting the total number of bedrooms in any vacation dwelling unit to not exceed four (4) bedrooms;
- C. Strengthening the Improvements to standard conditions for approval to include a dense urban screen or fence to be in place at the time of approval and to be continuously maintained during the permit period between the permitted property and neighboring properties, to require provision for waste removal services; and to prohibit burning of trash;

- D. Increasing the vacation dwelling unit cap to provide for an increase of 10 percent of the net increase in housing units created in the city in the previous year, or no more than ten (10) new vacation dwelling units per year, whichever is less, provided that the total number of vacation dwelling units authorized under Section 50-37.10 E 4 shall not exceed 120 units;
- E. Retaining the exemption for vacation dwelling units located in form districts; and
- F. The planning commission consider the creation of a new, over-the counter annual permit for short-term vacation dwelling units permitting owners to rent their owner-occupied, homestead property as vacation dwelling units for not more than twenty-one (21) days per year, specified in the permit, with no rental period for no more than seven (7) consecutive days, nor less than two (2) consecutive days, subject to meeting all other applicable inspection and building code requirements for a vacation dwelling unit. A vacation dwelling, limited, would be proposed to be a permitted use in the same non-form district zone districts as a vacation dwelling unit was allowed (RR-1, RR-2, R-1, R-2, and MU-N).

Item D above references the maximum number of vacation dwelling units permitted, which is tied to the number of new housing units added to the market in Duluth. For reference, according to the City of Duluth Housing Indicator Report 2020, issued May 2021, 195 new housing units (of all types) were created in 2020, and 45 housing units (of all types) were demolished in 2020, for a net gain of 150 units created. This number can vary greatly from year to year, from -13 and -62 in 2009 and 2011, to 565 and 493 in 2006 and 2019. The average over the last 18 years, from 2003 to 2020, has been a net gain of 155 units per year.

The exemption for new vacation dwelling units within form districts is maintained under this proposed ordinance change. Form districts (F1-F9) occupy only about 1% of Duluth's land area, as opposed to 32% for R-1, 29% for RR-1, 3% for R-2, and 2% for RR-2 at the time Imagine Duluth 2035 was adopted.

What was not included in the resolution are ideas that have been discussed by the Planning Commission in the past:

1. Limiting the number of vacation dwelling units that any individual may have. The council resolution does not address that issue.
2. Increasing the cap immediately to 100 or 120, with an additional annual increase. The council resolution leaves the current cap at 60, excluding a provision for annually increases, and form district vacation rentals.
3. Changing the period of lifespan of the permit (which has typically, but not always, been six years). The council resolution does not address that issue.
4. Minimum distances or setbacks from other existing vacation dwelling units, or maximum number of vacation dwelling units per council district. This was a topic more at previous City Council meetings than Planning Commission meetings.

In addition to changes with vacation dwelling units and associated topics, Planning Commission staff are also suggesting some changes to the current cottage home development standards. The proposed changes should add flexibility and clarity to the standards.

The proposed staff changes generally mirror the items outlined in the council resolution: allow the Planning Commission to have final approval authority for interim uses, limit the number of bedrooms in future vacation units, minor modification to the maximum number of permits issued, strengthen buffering/landscaping, and create a new type of vacation dwelling permit.

General Development, Urban Design Strategy 4 Encourage site design which includes cohesive elements such as pedestrian access, parking, coordinated landscaping, linked open space, and green infrastructure for stormwater management and water quality improvement.

General Development, Zoning Code Updates Strategy 1 Evaluate housing regulations in the UDC to expand opportunities for compact development, including new housing types such as the current trend for “tiny houses.”

50-20.3.U Vacation Dwelling Units

1. Rental Period. The minimum rental period shall not be less than two consecutive nights, nor more than a maximum of 29 consecutive nights. The minimum rental period shall not apply for vacation dwelling units in form districts.
2. Maximum Number of Persons and Bedrooms. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two, which shall not exceed nine. The maximum number of bedrooms that may be rented may not exceed four. Vacation dwelling units licensed before December 1, 2021, are entitled to continue operating, however, the exemption expires upon transfer of any ownership interest in the permitted property.
3. Off Street Parking. 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:
 - 1-2 bedroom unit, one space
 - 3-4 bedroom unit, two spaces
 - 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:
 - 1-2 bedroom unit, one space
 - 3 bedroom unit, two spaces
 - 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. Motorhome/ATV. 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. Other Licenses Required. In addition to the permit issued pursuant to this chapter, 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;
6. Guest Records. 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. Application Materials. The property owner must provide a site plan, drawn to scale, showing parking and driveways, distance from lot line of proposed vacation dwelling to neighboring residential structures, 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. A dense urban screen or fence must be in place prior to the permit being authorized and to be continuously maintained during the permit period between the permitted property and neighboring properties.
8. Vacation Rentals Within Multi Family Structures. 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. Termination. The interim use permit shall terminate upon change in ownership of the property or in six years after the date of issuance, whichever occurs first. Upon permit termination, property owner may apply to renew the existing interim use permit. The permit ~~shall be non-transferable~~ is only valid for the property and applicant or property owner that it was initially issued to and the permit shall not be transferred to a new applicant or property owner, or to a new property or different address.
10. Maximum Number of Vacation Dwelling Units. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units, excepting units within Form Districts (F1-F9). The maximum number permits that may be issued shall increase 10 percent of the net increase in housing units created in the city in the previous year, or no more than ten (10) new vacation dwelling units per year, whichever is less, provided that the total number of vacation dwelling units authorized shall not exceed 120 units.
11. Nuisance Reduction. The vacation dwelling permit holder shall ensure that all requirements for waste removal services and prohibitions on burning of trash is strictly adhered to by occupants of the vacation dwelling. The permit holder must designate in writing a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the city within 10 days of a change in the managing agent or local contact's contact information. The permit holder shall notify by letter all property owners within 100' of the property boundary of the name, address, and phone number of the managing agent or local contact named above and provide the city with a copy of the letter. The permit holder must notify said property owners within 10 days of a change in the managing agent or local contact's contact information.
12. Advertisement. The permit holder must include the permit number on all print, poster or web advertisements.

50-20.3.V Vacation Dwelling Units, Limited

1. Eligible Applicant. Property owners that reside in the owner-occupied homestead property may apply for a temporary vacation dwelling unit in their owner-occupied homesteaded property.
2. Rental Period. The minimum rental period shall not be less than two consecutive nights no more than 7 consecutive nights. The maximum number of rental periods in total may not exceed 21 nights per year. The rental period must be specified in the permit at the time that the permit was applied for, and may not be altered.
3. Other Standards. Temporary Vacation Dwelling Units must adhere to the same standards as Vacation Dwelling Units, 50-23.3.U, in regards to maximum number of persons, off-street parking, motorhome/ATV, guest records, nuisance reductions, advertisement, and application materials.
4. Other Licenses Required. In addition to the permit issued pursuant to this chapter, 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. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual.
5. Maximum Number of Limited Vacation Dwelling Units. There is no maximum to the number of limited vacation dwelling units that may be issued.
6. Termination. The permit shall terminate upon change in ownership of the property or three year from issuance date, whichever occurs first. The permit shall be non-transferable;
7. Principle dwelling. A permit holder may not advertise vacation dwelling unit, limited, in any area exterior to the dwelling unit or any lot without a principle dwelling;

50-20.5.M Accessory vacation dwelling unit.

An accessory vacation dwelling unit may be created within any one-family dwelling, twinhome, duplex, or attached or detached accessory dwelling unit 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 attached 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, nor more than a maximum of 29 consecutive nights. The minimum rental period shall not apply to accessory vacation dwelling units in form districts.
6. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two, which shall not exceed nine. The maximum number of bedrooms that may be rented may not exceed four.
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. Motorhome/ATV. 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. Other Licenses Required. In addition to the permit issued pursuant to this chapter, 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. Guest Records. 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. Application Materials. The property owner must provide a site plan, drawn to scale, showing parking and driveways, distance from lot line of proposed vacation dwelling to neighboring residential structures, 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. A dense urban screen or fence must be in place prior to the permit being authorized and to be continuously maintained during the permit period between the permitted property and neighboring 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 terminate upon change in ownership of the property or in six years, whichever occurs first. Upon permit termination, property owner may reapply for a subsequent interim use permit. The permit is only valid for the property and applicant or property owner that it was initially issued to and the permit shall not be transferred to a new applicant or property owner, or to a different property or address.
14. Termination. The interim use permit shall terminate upon change in ownership of the property or in six years after the date of issuance, whichever occurs first. Upon permit termination, property owner may apply to renew the existing interim use permit. The permit shall be non-transferable is only valid for the property and applicant or property owner that it was initially issued to and the permit shall not be transferred to a new applicant or property owner, or to a new property or different address.
15. Maximum Number of Accessory Vacation Dwelling Units. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units, excepting units within Form Districts (F1-F9). Starting on January 31, 2022, the maximum number permits that may be issued shall increase 10 percent of the net increase in housing units created in the city in the previous year, or no more than ten (10) new vacation dwelling units per year, whichever is less, provided that the total number of vacation dwelling units authorized shall not exceed 120 units.
16. Nuisance Reduction. The accessory vacation dwelling permit holder shall ensure that all requirements for waste removal services and prohibitions on burning of trash is strictly adhered to by occupants of the accessory vacation dwelling. The permit holder must designate in writing a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the city within 10 days of a change in the managing agent or local contact's contact information. The permit holder shall notify by letter all property owners within 100' of the property boundary of the name, address, and phone number of the managing agent or local contact named above and provide the city with a copy of the letter. The permit holder must notify said property owners within 10 days of a change in the managing agent or local contact's contact information.
17. Advertisement. The permit holder must include the permit number on all print, poster or web advertisements.

50-20.5.G Accessory home share

An accessory home share may be created within those districts shown where allowed by Table 50.19.8 provided these standards are met.

1. Eligible Applicant. Property owners that reside in the owner-occupied homestead property may apply for one accessory home share in their owner-occupied homesteaded property.
2. Rental Period. The rental or purchase period shall be for 29 consecutive nights or less;
3. Guests. The maximum number of overnight guests allowed is 4 persons in addition to the owner occupants. The maximum number of bedrooms that may rented may not exceed two. Only one rental listing per night is allowed. Other Licenses Required. In addition to the permit issued pursuant to this chapter, the property owner must obtain all permits from the city of Duluth and state of Minnesota required for guest occupancy on the property;
4. Other Standards. 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, property use rules, taxation, and home share permit violations procedures;
5. Termination. The permit shall terminate upon change in ownership of the property or three year from issuance date, whichever occurs first. Upon permit termination, property owner may apply to renew the permit. The permit shall be non-transferable is only valid for the property and applicant or property owner that it was initially issued to and the permit shall not be transferred to a new applicant or property owner, or to a new property or different address. Upon permit termination, property owner may apply to renew the existing interim use permit. The permit shall be non-transferable;
6. Residency. At least one permanent resident must be generally present on or about the premises at all times that the property is rented;
7. Advertisement. A permit holder may not advertise an accessory home share for an accessory structure that is a storage shed or garage or in any area exterior to the dwelling unit or any lot without a principle dwelling, but may advertise for a legal accessory dwelling unit as provided in Section 8 below. The permit holder must include the permit number on all print, poster or web advertisements.
8. ~~A permit holder may not advertise an accessory home share in any area exterior to the dwelling unit or any lot without a principle dwelling;~~

50-20.1.G Cottage Home Park

In the RR-1, RR-2, R-1, R-2, and MU-N districts, this use is subject to the use-specific standards as set forth below:

1. Development standards. All dwelling units within a cottage home park shall be subject to setback, height, off-street parking, and other regulations appropriate for one-family dwellings in the applicable zone district that the cottage home park is located, except as provided within this section;
2. Minimum lot area and lot frontage. Dwelling units shall meet the minimum lot area and lot frontage requirement for multi-family, townhome, or two family developments of the applicable zone district that the home park is located, whichever is smaller or least;
3. ~~Principal entrance Design Standards.~~ Each dwelling unit shall have a principal entrance ~~facing the front lot line. Exceptions to the requirement of a dwelling unit having a principal entrance facing the front property line may be made by the Land Use Supervisor, but only if the unit has a porch or deck on the front façade and the primary entrance is within 10 feet of the front façade; oriented towards a public street or towards a central community area within a cottage home development.~~ Cottage homes within a cottage home park may not be less than 200 square feet nor more than 800 square feet.
4. Common open space or amenity area. Cottage housing developments shall provide common open space or an amenity area which is centrally located, equally accessible from, and at the disposition of all dwelling units. Common open space shall not be less than 20 percent of the area of the cottage home park, excluding land dedicated for public or private streets or alleys.
5. Connectivity and access. ~~Sidewalks or multi use paths must be provided to ensure pedestrian access from each individual dwelling unit to the front property line or public street.~~ A connectivity plan shall be submitted as part of any Special Use Permit application that shows sidewalks or multi-use paths connecting units to public streets, nearest DTA bus stop, nearest public park, other community amenities and other destinations, and to other units within the cottage home park. The connectivity plan shall encourage a walkable, bikeable cottage home park through the use of complete streets, alleys, sidewalks and trails;
6. Subdivision. Approval of a cottage home park does not negate to the need for subdivision review and approval, where applicable. The Special Use Permit application shall indicate compliance with city subdivision standards, or indicate if it is exempt due to state statute (CIC plat, etc).
7. Utility Connections. A utility plan shall be submitted that shows how utilities will be provided to all units within the cottage home park, including any utility easements required for the provision of utilities. Cottage home parks must provide separate sewer and water services for each dwelling unit as required by the city engineer, ~~except in those areas where City utilities are not available~~ without significant utility extensions.-
8. Access. Either a public or private street is permitted to provide access to units within a Cottage Home Park. A road plan must be submitted with the Special Use Permit application that shows proposed cross section, which must be approved determined by City Engineer and Land Use Supervisor

50-41.4

Dwelling, cottage. A one-family dwelling unit which does not include any accessory dwelling units, and providing basic requirements for living, sleeping, cooking, eating, and sanitation, constructed on compliant footings or foundation, with permanent connections to public sanitary sewer and water, and which is located within a cottage housing development. No recreational vehicle, or structure on a chassis, shall constitute a cottage dwelling. A dwelling, cottage, must contain at least 200 square feet of enclosed space, but may not exceed 800 square feet.

50-36 REVIEWERS AND DECISION-MAKERS.

50-36.1 Council.

The council is the governing body of the city, with all of those powers granted by the state and the City Charter. In the context of this Chapter, the council has the following powers.

- A. To adopt the comprehensive land use plan and to approve all amendments to it pursuant to Section 50-37.2;
- B. To adopt the text, amendments to that text, and interim ordinances related to this Chapter pursuant to Section 50-37.3;
- C. To adopt the official zoning map and all amendments to it pursuant to Section 50-37.3;
- D. To approve the vacation a public street pursuant to Section 50-37.6;
- E. To approve the concurrent use of a public street pursuant to Section 50-37.7;
- F. To approve historic resource designations pursuant to Section 50-37.8;
- ~~G. To approve interim use permits pursuant to Section 50-37.10;~~
- H. To hear appeals of decisions of the planning commission pursuant to Section 50-37.1.O.

50-26.2 Planning commission.

A. Creation.

The planning commission is that body authorized by MSA 462.354 and created by Ordinance 1809. In addition, the council hereby designates the planning commission as the board of adjustment authorized by MSA 462.354 and Section 27 of the City Charter. The planning commission shall have all powers authorized for a planning commission or a board of adjustment under the state law and this City Code. Procedures before the planning commission shall be governed by rules and regulations adopted by the commission. This Section is intended to comply with the provisions of MSA 462.354 as amended, and Section 27 of the City Charter, and shall be interpreted to comply with those provisions wherever possible;

B. Membership and terms.

Except as provided by Ordinance 9985, the planning commission shall consist of nine members, all of whom shall be citizens of the city and none of whom shall be a paid city employee, and all of whom shall be appointed by the mayor and with the consent of the council, and all of whom shall make and file with the city clerk an oath and affirmation as provided in Section 28 of the city Charter. Members shall be appointed for a term of four years, and the terms shall be staggered in accordance with Ordinance 9985. Vacancies shall be filled by appointment for the unexpired term only. Members of the board shall serve without compensation;

C. Meetings and proceedings.

1. All hearings of the planning commission shall be public and shall occur after 5:00 p.m.;
2. The concurring vote of a majority of the members of the commission shall be sufficient to exercise any power granted to the planning commission by this Chapter;
3. The commission may delegate to a committee of the commission or to its secretary specific review and approval activities provided that it provides written criteria to guide the performance of the delegated duties, and the decisions made by the committee or secretary will be considered decisions of the commission;

D. Powers.

Except as otherwise provided in this Chapter or other law, the planning commission shall have the following powers within all zone districts:

1. Appeals.
To hear and decide appeals where an applicant alleges an error in any order, requirement, permit or decision made by the land use supervisor or the building official in the enforcement of any provisions of this Chapter, pursuant to Section 50-37.1.O. In the case of each appeal, the commission shall make written findings of facts and conclusions of law giving the facts upon which it acted and its legal conclusions from such facts;
2. District plans.
To approve, approve with modifications, or deny applications for approval of a district plan in those districts where approval of such a plan is required prior to development, pursuant to Section 50-37.4;
3. Subdivision plats.
To approve, approve with modifications, or deny preliminary and final plats for the subdivision of land pursuant to Section 50-37.5 and in accordance with the state law;
4. Variances.
To approve, approve with modifications or deny applications for variances to the provisions of this Chapter as provided in Section 50-37.9;
5. Special use permits.
To approve, approve with conditions or deny applications for a special use permit pursuant to Section 50-37.10;
6. Planning review for certain districts.
Planning review in the MU-N, MU-C, MU-I and MU-W districts pursuant to Section 50-37.11;
7. Review and recommendation.
To review and comment on any application for which a review role for the commission is shown in Table 50-35-1.

50-36.3 Heritage preservation commission.

E. Creation.

Pursuant to Minnesota Statute 471.193, there is hereby created and established a city of Duluth heritage preservation commission, hereinafter called the "commission." The commission shall have the responsibility of recommending to the city council the adoption of ordinances designating areas, places, building structures, works of art or other objects having special historical, cultural or architectural interest for the community as historical preservation landmarks or districts;

F. Membership and terms.

The commission shall consist of seven voting members, all of whom are to be citizens of the city, five of whom will be appointed by the mayor with the approval of the council; one will be appointed by the county historical society, and one will be appointed by the planning commission. Members shall be persons who have demonstrated an interest in the historical, cultural or architectural development of the city or who own property within a historic preservation district. At least two of the five members appointed by the mayor shall be preservation-related professionals;

Appointments shall be for a term of three years. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. Members shall serve without compensation and shall continue to hold office until their successors have been appointed and confirmed;

G. Powers.

The heritage preservation commission shall have the following powers:

1. Recommendation of historic preservation sites and districts to the city council;
2. Approve, approve with conditions or deny applications for historic construction and demolition permits pursuant to Section 50-37.14;
3. Recommend historic preservation guidelines specific to a landmark or district;
4. Make an annual report to the state historic preservation officer by October 31 of each year;
5. Conduct continuing survey of all areas, places, buildings, structures or similar objects in the city that the commission, on the basis of information available or presented to it, has reason to believe are or will be eligible for designation as historic preservation landmarks or districts;
6. Work for the continuing education of the citizens of the city with respect to the historic and architectural heritage of the city and keep current and public an official list of designated historic preservation landmarks and districts;
7. The commission may retain the services, on a permanent or part-time basis, of technical experts and other persons as may be required to perform the commission's duties;
8. The commission shall have authority to solicit gifts and contributions to be made to the city and to assist in the preparation of applications for grant funds to be made to the city for the purpose of historic preservation;
9. The commission may recommend to the planning commission and council that certain properties eligible for designation as historic preservation landmarks or districts be acquired by gift, by negotiation or other legal means;
10. Upon final designation of a historic preservation landmark or district, adopt historic preservation guidelines specific to the landmark or district. Such guidelines shall detail allowable architectural and/or site modifications, essential features to be retained and any other criteria by which future proposals for modifications shall be judged. The United States secretary of the interior standards for treatment of historic properties shall be among the standards used to create such a program. These guidelines are intended to provide assurance to owners of properties within historic preservation landmarks or districts that any permit review process will be based on clear and objective standards rather than the taste of individual commission members;
11. The commission may nominate a historic preservation landmark or district to the national register of historic places, but only with the consent of the council.

50-36.4 Land use supervisor.

The land use supervisor is that individual responsible for administration of all aspects of this Chapter where specific authority has not been delegated to another city official or employee, and is responsible for exercising those powers to implement adopted plans through the review of applications described in MSA 462.356 subdivision 2 and MSA 462.359. The land use supervisor may delegate specific responsibilities to any individual city employee under the supervisor's management, but shall remain responsible for all decisions made by those employees. Except as otherwise provided in this Chapter or other law, the land use supervisor's authority shall extend to all zone districts. The land use supervisor's authority shall include, but shall not be limited to, the following:

- A. Planning review.
To approve, approve with modifications or deny applications for planning review pursuant to Section 50-37.11;
- B. Temporary and sidewalk use permit.
To approve, approve with modifications or deny applications for approval of a temporary or sidewalk use permit pursuant to Section 50-37.12;
- C. Review and recommendation.
To review and comment on any application for which a review role for the land use supervisor is shown in Table 50-35-1;
- D. Application manual and administrative procedure.
To prepare an applications manual and adopt administrative procedures to implement this Chapter.

50-36.5 Building official.

The building official shall be responsible for ensuring that applications for the following permits and approvals are only issued if the application complies with (a) the provisions of this Chapter, as such provisions may have been modified by any variance approved by the planning commission, and (b) any district plan approved by the planning commission and applicable to the area where the permit or approval is sought. The building official may delegate specific responsibilities to any individual city employee under the official's management, but shall remain responsible for all decisions made by those employees. Except as otherwise provided in this Chapter or other law, the building official's authority shall extend to all zone districts. The building official's authority shall include, but shall not be limited to, the following:

A Zoning permits.

Approve, approve with conditions or deny applications for zoning permits pursuant to Section 50-37.13. Conditions shall only be applied to bring the application into conformity with this Chapter and related administrative regulations. In the administration of the State Building Code on projects where no permit is required under this Chapter, the building official shall, to the extent feasible and practical, utilize the erosion and sediment practice specifications as guidelines for adequate erosion control;

B Airport environs permit.

Serve as the zoning administrator for the Duluth International Airport pursuant to the zoning regulations enacted by the joint airport zoning board and pursuant to MSA 360.063, subd. 3;

C Building permits.

Approve, approve with conditions or deny applications for building permits pursuant to Section 50-37.15. Conditions shall only be applied to bring the application into conformity with this Chapter, the applicable building code(s) and related administrative regulations;

D Certificates of occupancy.

Approve, approve with conditions or deny applications for certificates of occupancy pursuant to Section 50-37.16. Conditions shall only be applied to bring the application into conformity with this Chapter, the applicable building code(s) and related administrative regulations. (Ord. No. 10044, 8-16-2010, § 6.)

50-36.6 Other departments.

Additional departments of the city may be consulted regarding any application under this Chapter, or regarding the potential impacts of the proposed activities or structures covered by an application, at the discretion of the building official, the land use supervisor, the historic preservation commission, the planning commission or council.

Notices to consider variances, amendments, or special uses under shoreland standards will be sent to the DNR commissioner or the commissioner's designated representative at least ten days before public hearings. Notices of hearings to consider proposed plats will include copies of the plats.

A copy of approved amendments and plats, and final decisions granting variances or special uses under shoreland standards will be sent to the DNR commissioner or the commissioner's designated representative within ten days of final action.

50-37.10 Special use or interim use permit.

This Section applies to all applications for those special uses listed for specific zone districts in Table 50-19.8. It also applies to applications for interim uses that will be authorized for only a specified period of time. This Section is intended to comply with the provisions of MSA 462.3595 and 462.3597 as amended, and shall be interpreted to comply with those provisions wherever possible.

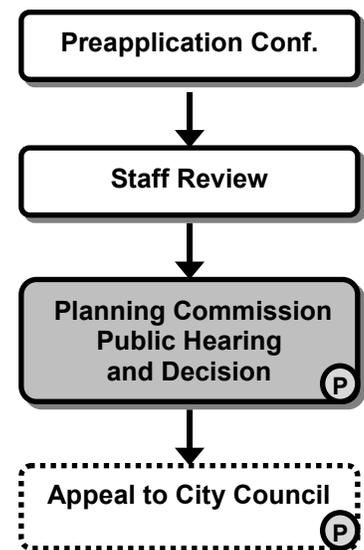
A. Applications.

An application for a special use or interim use shall be filed pursuant to Section 50.37.1.B;

B. Procedure.

1. The planning commission shall review the application, shall conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H. ~~In the case of a special use permit, The~~ planning commission shall make, ~~and in the case of an interim use permit, council shall make,~~ a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The commission ~~or council~~ may impose appropriate conditions and safeguards, including but not limited to financial security pursuant to Section 50-37.2.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 met;
2. If the permit is approved or approved with modifications, all future use of the land and structures erected on the land pursuant to the permit shall comply with its terms and conditions. The city may require that some or all of the documents presented by the applicant in support of the application, including without limitation any site plan, landscape plan, building elevation drawings, or development agreement, be recorded as a city public document prior to the issuance of any building permit. A decision not to require recording of some or all of those documents shall not relieve the applicant or any successors or assigns in title to the property from the duty to comply with all terms and conditions of the permit. Constructing any improvement or beginning any activity authorized by the permit shall constitute the applicant's agreement to conform to all terms and conditions of the permit;
3. The city may approve an application or approve it with modifications, with a condition that if a structure authorized by the permit is not constructed by a specified date, or if an activity authorized by the permit is not begun by a specified date, the permit shall terminate. If that condition is attached, the city shall notify the applicant and the property owner when a permit has lapsed, and that decision may be appealed pursuant to Section 50-37.1.O;
4. The city may approve an application or approve it with modifications, with a condition that abandonment of an activity authorized by a permit longer than a stated period

Special Use Permit



(P) Indicates Public Hearing Required

terminates the permit, and any future reactivation of the use will require the filing and approval of a new permit application;

5. The commission may not approve or approve with modifications, a special use permit valid only for a specific period of time, but must instead recommend to council an interim use permit pursuant to subsection D below for that purpose;
6. Any approved permit shall be comprehensive and not severable. If part of a permit is deemed or ruled to be invalid or unenforceable in any material respect, by a competent authority, or is overturned by a competent authority, the permit shall be void in total, upon determination by the city;

C. Criteria for special use permits.

The planning commission shall approve the application or approve it with modifications if the commission determines that the application meets the following criteria:

1. The application is consistent with the comprehensive land use plan;
2. The application complies with all applicable provisions of this Chapter, including without limitation any use-specific standards applicable to the proposed use, development or redevelopment, and is consistent with any approved district plan for the area;

Without limiting the previous criteria, the commission may deny any application that would result in a random pattern of development with little contiguity to existing or programmed development or would cause anticipated negative fiscal or environmental impacts on the community;

D. Interim use permit.

1. As an alternative to a special use permit, MSA 462.3597 authorizes the city to issue an interim use permit that authorizes a special use to exist until a specified date or until an amendment to this Chapter authorizes or prohibits that use. An applicant may apply for an interim use permit, and the commission may decide to ~~recommend~~ approve an interim use permit even if the application is for a special use permit;
2. An application for an interim use, or a decision to approve an interim use, shall be subject to the same procedures used for special uses, and the commission shall have all the powers described in Section 50-37.10.B.1 above, ~~except that the commission shall forward a recommendation to council for action, and final approval of an interim use shall be by council resolution rather than commission action.~~ The ~~council~~ commission may require financial security pursuant to Section 50-37.1.P to ensure that any improvements related to the interim use will be removed at the end of the interim use period;
3. An application to extend the period of an interim use permit shall be treated as major modifications of the initial permit and shall be processed pursuant to Section 50-37.1.N;

E. Criteria for interim use permits.

In addition to the criteria in subsection C above, the ~~council~~ commission 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 against the maximum number of permits that may be issued;~~
- ~~4. Except for properties within the Higher Education Overlay District as identified in 50-18.5, 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 form districts,~~



Legislation Details (With Text)

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Type: Resolution **Status:** Passed
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On agenda: 7/19/2021 **Final action:** 7/19/2021
Title: RESOLUTION REQUESTING PLANNING COMMISSION REVIEW, EVALUATION, AND HOLD A PUBLIC HEARING FOR UNIFIED DEVELOPMENT CODE (UDC) REGULATIONS RELATED TO VACATION DWELLING UNITS.
Sponsors: Zack Filipovich, Roz Randorf, Terese Tomanek, Janet Kennedy

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
7/19/2021	1	City Council	adopted	

RESOLUTION REQUESTING PLANNING COMMISSION REVIEW, EVALUATION, AND HOLD A PUBLIC HEARING FOR UNIFIED DEVELOPMENT CODE (UDC) REGULATIONS RELATED TO VACATION DWELLING UNITS.

BY COUNCILORS FILIPOVICH, RANDORF, TOMANEK, AND KENNEDY:

WHEREAS, the purpose of the Unified Development Code (“UDC”) is to “protect the public health, safety, and welfare and to implement the goals and objectives of the comprehensive land use plan...” Section 50-2 Duluth City Code; and

WHEREAS, the UDC regulations set parameters for the interim use of vacation dwelling units within certain zoning districts in the city; and

WHEREAS, the concept of internet-based rental of vacation dwelling units remains an emergent land use, the standards for which remain under evaluation for professional city planning and development best practices, causing a need for occasional updates to those regulations; and

WHEREAS, to better understand and evaluate regulations for vacation dwelling units the city council’s planning and economic development committee has facilitated several committee meetings in early 2021 to consider options for potential improvements to those regulations.

THEREFORE, BE IT RESOLVED, the city council requests that the city planning commission undertake updates to UDC Section 50-20.3.U, Use-Specific Standards, Commercial Uses, Vacation Dwelling Units.

BE IT FURTHER RESOLVED, that the planning commission consider the creation of a new, over-the-counter annual permit for short-term vacation dwelling units permitting owners to rent their owner-occupied, homestead property as vacation dwelling units for not more than twenty-one (21) days per year, specified in the permit, with no rental period for no more than seven (7) consecutive days, nor less than two (2) consecutive days, subject to meeting all other applicable inspection and building code requirements for a vacation dwelling unit.

BE IT FURTHER RESOLVED, that the planning commission consider modifying the standards for allowing a vacation dwelling unit use as follows:

1. Interim use permits for vacation dwelling units will be subject to approval by the planning commission, subject to appeal to the city council.
2. Limiting the total number of bedrooms in any vacation dwelling unit to not exceed four (4) bedrooms;

3. Strengthening the Improvements to standard conditions for approval to include a dense urban screen or fence to be in place at the time of approval and to be continuously maintained during the permit period between the permitted property and neighboring properties, to require provision for waste removal services; and to prohibit burning of trash;

4. Increasing the vacation dwelling unit cap to provide for an increase of 10 percent of the net increase in housing units created in the city in the previous year, or no more than ten (10) new vacation dwelling units per year, whichever is less, provided that the total number of vacation dwelling units authorized under Section 50-37.10 E 4 shall not exceed 120 units; and

5. Retaining the exemption for vacation dwelling units located in form districts.

BE IT FURTHER RESOLVED that with the increase in permit fees associated with the increase in vacation dwelling units authorized in No. 4 above be dedicated to support the city housing trust fund.

BE IT FURTHER RESOLVED, the city council requests a report from administration on the status of the foregoing request no later than October 1, 2021, unless an ordinance has been recommended for city council consideration by the city planning commission prior to that date.

STATEMENT OF PURPOSE: The purpose of this resolution is to provide city council direction to the city planning commission associated with potential updates to the city's vacation dwelling unit standards. The potential updates to the regulations to be evaluated by the city planning commission provide for updates to streamline and improve regulations for vacation dwelling units by creating a new category for the use and by establishing new standards that will enhance understanding and reduce the potential for negative impacts and issues between neighboring property owners.