



City of Duluth

Meeting Agenda

Planning Commission.

Council Chambers

Tuesday, February 14, 2023

5:00 PM

Council Chambers

CALL TO ORDER AND ROLL CALL

APPROVAL OF PLANNING COMMISSION MINUTES

[PL 23-0110](#) Minutes 1/10/23

Attachments: [1-10-2023 PC Minutes \(not approved yet\)](#)

PUBLIC COMMENT ON ITEMS NOT ON AGENDA

CONSENT AGENDA

[PL 22-176](#) Vacation of Right of Way at 3525 Martin Road by Sean and Lindsey Fraser

Attachments: [PL 22-176 Staff report and attachments](#)

[PL 23-001](#) Interim Use Permit Renewal at 1822 Melrose Avenue by Ben Wheeler

Attachments: [PL 23-001 Staff report and attachments](#)

[PL 23-002](#) Vacation of Alley Near 19xx N 19th 1/2 Avenue W by Christopher McKenzie

Attachments: [PL 23-002 Staff report and attachments](#)

[PL 23-004](#) Variance to Allow An Accessory Structure in the Front Yard at 30 S 42nd Avenue E by Jack Shapiro

Attachments: [PL23-004 Staff Report - final with attachments](#)

[PL 23-006](#) Form District: Interim Use Permit at 722 E Superior St Unit 1 by Force 1 LLC

Attachments: [PL 23-006 Staff Report and Attachments](#)

[PL 23-007](#) Form District: Interim Use Permit at 722 E Superior St Unit 2 by Force 1 LLC

Attachments: [PL23-007 Staff Report and Attachments](#)

[PL 23-008](#) Form District: Interim Use Permit at 722 E Superior St Unit 3 by Force 1 LLC

Attachments: [PL23-008 Staff report and attachments](#)

[PL 23-014](#) Form District: Interim Use Permit for a Vacation Dwelling Unit at 418 S 19th Ave E by Jason Kleiman

Attachments: [PL 23-014 Staff report and attachments](#)

PUBLIC HEARINGS

[PL 22-218](#) Interim Use Permit for a Vacation Dwelling Unit at 727 W 2nd Street by Justin Voegele

Attachments: [PL22-218 Staff Report and Attachments](#)

[PL 22-232](#) Final Plat at 2221 N Arlington Avenue by John Hansen

Attachments: [PL22-232 Staff Report and attachments](#)

[PL 23-003](#) UDC Text Amendments to Off-Street Parking Requirements by City of Duluth

Attachments: [PL 23-003 Staff Memo and Attachments Redacted](#)

COMMUNICATIONS

Land Use Supervisor Report

Historic Preservation Commission Report

Joint Airport Zoning Board Report

Duluth Midway Joint Powers Zoning Board Report

City of Duluth Planning Commission

**January 10, 2023 – City Hall Council Chambers
Meeting Minutes**

Call to Order

President Margie Nelson called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, January 10th, 2023 in the Duluth city hall council chambers.

Roll Call

Attendance:

Members Present: Jason Crawford, Gary Eckenberg, Jason Hollinday, Samuel Lobby, Margie Nelson, and Danielle Rhodes

Members Absent: Michael Schraepfer, and Andrea Wedul

Staff Present: Adam Fulton, Steven Robertson, Jenn Moses, Kyle Deming, and Cindy Stafford

Approval of Planning Commission Minutes -

Planning Commission Meeting – December 13th, 2022

MOTION/Second: Rhodes/Hollinday approved

VOTE: (6-0)

Public Comment on Items Not on Agenda

Other Item

PL 23-D1 – Draft UDC Text Amendment: Changes to Parking Regulations –

Staff: Jenn Moses gave an overview. Tonight there will be an optional public comment period to gather more information. There will also be a formal public hearing at the next planning commission meeting. Changes include overflow parking area, parking minimums and maximums. Vacation Dwelling unit parking will not be changing.

Public: Joe Kleiman – 1934 London Rd – addressed the commission. He is a commercial developer. He is against rules for mandating public charging stations for electric vehicles. He stated the market will determine necessity.

Shawna Mullen – 1527 E 6th St – addressed the commission. She is pleased to see parking changes and applauds staff efforts. She is against allowing variances for parking maximums. She would like to see more specific rules for E.V. (electric vehicle) charging stations to include level two requirements. She is in favor of bike parking. She thinks parking maximums should be given to all categories.

Steven Sola – 3033 Minnesota Ave – addressed the commission. He is the owner of the South Pier Hotel, and a VRBO rental. He noted their hotel parking lot is full the majority of the time. He noted the proposed 40-unit housing development in a different area would need zero parking. He said it might work in other areas, but not on Park Point.

Mike Casey – 415 S 88th Ave W – addressed the commission. He is in favor of shedding parking requirements. He is excited to see bike parking standards. He stated variances bother him, and in some cases are substantiated.

Consent Agenda

PL 22-221 Vacation of Right of Way at 5910 Fremont Street by FAM Enterprises

PL 22-222 Interim Use Permit for a Vacation Dwelling Unit at 325 S Lake Avenue #1316 by SCOBAR, LLC

PL 22-223 Interim Use Permit for a Vacation Dwelling Unit at 9 E 4th Street – Unit A by BJ's Land Co

PL 22-228 Minor Subdivision at 920 Swan Lake Road by Alvin Berg

PL 22-230 Variance from Front Yard Setback at 110 W Redwing Street by Many Rivers Montessori

PL 22-229 Minor Subdivision to Divide One Existing Lot into Four Lots at 2011 W 2nd Street and 2015 W 3rd Street (Midtown Manor) by Duluth HRA

PL 22-225 Variance from Shoreland Setbacks at 2101 Trinity Road by Lake Superior College

Public: No speakers.

MOTION/Second: Lobby/Crawford approved as per staff recommendations

VOTE: (6-0)

Public Hearings

PL 22-203 Special Use Permit for Seasonal Camp or Cabin in the RR-2 District at Congdon Boulevard by Outbound Lodges, LLC

Staff: Kyle Deming introduced the applicant's proposal for a special use permit for a seasonal camp with six cabins, a pavilion, driveways and storm water management areas and open space on a 3.4-acre site. He also advised the commission of comments forwarded after the staff report was posted. The applicant will seek approval of the wetland delineation in Spring. The applicant will comply with fire code requirements for an access road at least 20 feet wide that is improved with at least compacted gravel surfacing. The applicant is proposing to minimize tree removal as part of the project. Staff recommends approval with the conditions listed in the staff report.

Applicant: Joan and Clinton Little addressed the commission. They live across the street, and their goal is to retire and manage the cabins. They welcomed questions. There were none.

Public: Nelson Thomas – 9426 Congdon Blvd. – addressed the commission. He owns the property across the road. He has no objections, and feels the proposed use could possibly enhance the area. He is in favor of the special use permit.

MOTION/Second: Lobby/Eckenberg approved as per staff recommendations

VOTE: (6-0)

PL 22-215 UDC Map Amendment to Rezone Property Adjacent to Elizabeth Street from R-1 to R-2 by Anthony Smith

Staff: Jenn Moses introduced the applicant's proposal to rezone approximately .7 acres from Residential-Traditional (R-1) to Residential-Urban (R-2). Property owned by the applicant

includes three parcels adjacent to the Mt. Royal commercial area they are proposing for future development. One parcel, separated from the other two by platted Elizabeth Street, is currently zoned R-2. The applicant proposes to rezone a small triangular parcel and a portion of a second parcel to R-2 to allow for future development of a dermatology clinic. The applicant intends to submit a future application to vacate Elizabeth Street to create one developable parcel. In addition to the street vacation, the applicant intends to apply for a Special Use Permit in the future. Although not a required part of the map amendment process, the applicant held a neighborhood meeting, in which 9 neighbors attended. The applicant made changes to the concept plan based on this meeting. Staff recommends approval with the conditions listed in the staff report.

Commissioners: Danielle Rhodes asked if there was rezoning that would not require a special use permit. Moses noted, commercial zoning, but feels that R-2 is a good transition. A special use permit provides a greater level of scrutiny on how the property will be used. A commercial zoned parcel would not be as restrictive.

Applicant: Ryan Arola and Wes Stabs addressed the commission and welcomed questions.

Public: Mark Kaufman – 1515 Wallace Ave – addressed the commission. He asked the commissioners to either deny the item, or postpone their decision. He is concerned about increased vehicle noise and water run-off. He stated tax revenues are important, but there are other areas in Duluth that would be a better fit. He feels more research is needed. Colin Reichhoff – 2803 E 8th St – addressed the commission. His property abuts the proposed development. He feels betrayed by the Bluestone development and the city. He is opposed to the rezoning. Karen Schuder – 2713 E 8th St – addressed the commission. She is a 20-year resident and feels the proposal contradicts the Duluth Comprehensive Plans #1, and #2. Trees are important to her. She noted the Bluestone Development was supposed to replant trees and have not. She urges the commissioners not to change the zoning. Cynthia and Mark Poirier – 2818 E 8th St – addressed the commission. They thanked they applicant for making revisions, but are against the rezoning at this time. They noted adverse impacts including losing their tree buffer. Julie Reichhoff – 2803 E 8th St – addressed the commission. She noted the scale of the future dermatology clinic. 27,000 square feet and 3-stories. This is not a necessity in their neighborhood.

Applicant: Arola noted the applicant is a lifelong resident and wants to raise his family here. Smith wants to be a good neighbor and wants to repair the trust that a different development (Bluestone) may have tarnished.

Commissioners: Gary Eckenberg asked about the proposed property ownership. Arola stated Smith's family owns the land, and Smith will be securing it for himself. Jason Crawford asked if the applicant could address stormwater issues. Arola stated they are in the initial stages, but their goal is to keep the neighborhood informed. Sam Lobby asked about potential bedrock blasting. Arola stated they will hopefully find a path to avoid it. They are taking the process step by step. Rhodes feels the R-2 zoning fits the area, and noted the applicant will still need to apply for a vacation and a special use permit. Eckenberg noted the neighbors' not trusting of the previous Bluestone development. How does the city feel? Deputy Director Adam Fulton stated the Bluestone development went through different iterations and included lots of blasting. This proposal is significantly different. This is a private owner who has land entitlement. Eckenberg noted the current Twin Ports Dermatology office and the difficult parking there. Does this development fall under the newly proposed parking rules? Per Fulton, parking is not under consideration on this item. Fulton noted the willingness of the applicant to listen to the neighbors, and will want to get parking right. He noted financing will require parking. The planning commission can more closely scrutinize during the special use permit

application phase. Commissioner Crawford noted he is a commercial banker, and thinks the banking role for required parking spaces is minimal. Rhodes want to clarify to the commission attendees that tonight they are just looking at the rezoning. Eckenberg struggles with the rezoning. He understands that the rezoning starts the overall process, and he expresses his compassion to the neighbors, but feels locked in his role as a commissioner to approve the rezoning.

MOTION/Second: Rhodes/Crawford approved as per staff recommendations

VOTE: (6-0)

Communications

Deputy Director Fulton noted there is a proposed local landmark up for historic designation. Steven Robertson gave an overview. The address is 230 East 4th Street. The HPC recommended approval of the designation at their meeting yesterday, due to the building's unique history and characteristics. The planning commission needs to weigh-in with their decision on the historic designation. By making it a landmark, it helps preserve the building. Once designated, a preservation plan is required within one year.

MOTION/Second: Holliday/Lobby approved PL 22-224 historic designation of 230 East 4th Street

VOTE: (6-0)

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview. There is progress on Lot D, and they are dealing with contamination issues. Another item is the evaluation of interstate 35 and the downtown area to modify the freeway and road system. FEMA's new flood plain maps will be released soon. He noted the upcoming annual meeting and welcomed dialog.

Heritage Preservation Commission – Gary Eckenberg gave an update. He thanked the planning commission for fast-tracking the historic designation. The applicant wants to work closely with the city to guide them in future restoration.

Joint Airport Zoning Board – No update.

Duluth Midway Joint Powers Zoning Board – No update.

Adjournment

Meeting adjourned at 6:34 p.m.

Respectfully,

Adam Fulton – Deputy Director
Planning & Economic Development



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 22-176	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Vacation of Platted Right of Way	Planning Commission Date	February 14, 2023	
Deadline for Action	Application Date	January 23, 2023	60 Days	March 24, 2023
	Date Extension Letter Mailed	February 2, 2023	120 Days	May 23, 2023
Location of Subject	Platted and unimproved right of way of Evergreen Road between Martin Road and Jean Duluth Road of the Morley Heights/Parkview neighborhood.			
Applicant	Sean and Lindsey Fraser	Contact		
Agent		Contact		
Legal Description	See Attached			
Site Visit Date	February 3, 2023	Sign Notice Date	January 31, 2023	
Neighbor Letter Date	January 19, 2023	Number of Letters Sent	12	

Proposal

The applicant is requesting to vacate the unimproved 50-foot wide platted right of way for Evergreen Road between Martin Road and Jean Duluth Road in the recorded plat of Rearrangement of Outlot E and F of Greysolon Farms, First Division Duluth, located in the Morley Heights/Parkview neighborhood.

Staff is recommending approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Unimproved right of way	Rural Residential
North	R-1	Vacant land	Rural Residential
South	R-1	Residential	Rural Residential
East	R-1	Residential	Open Space
West	R-1	Martin Road	Rural Residential

Summary of Code Requirements:

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

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

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

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

Governing Principle #5 - Promote reinvestment in neighborhoods. The vacation will allow for the applicant and adjacent property owners to acquire additional land.

Future Land Use – Rural Residential: Areas of single -family lots of at least five acres. Limits the extension of municipal utilities for new development. Includes existing rural density areas with lots as small as an acre now served by municipal utilities but not planned for further subdivision.

Review and Discussion Items:

Staff finds that:

1. The applicant is requesting to vacate an unimproved portion of the platted street for Evergreen Road between Martin Road and Jean Duluth Road in the Morley Heights/Parkview neighborhood, as shown on the attached exhibit.
2. The proposed vacation will help create larger lots for the applicant and adjacent property owners that abut the right of way.
3. There are no utilities located with within the right of way.
4. The street and alley right of ways will not be needed by the City for the promotion of public health, safety, or welfare of the citizens of Duluth since City Engineering does not expect to need it in the future.
5. The City has determined that the rights of way are not needed for street or pedestrian use. Vacating the right of way will not impact or deny access to other property owners.
6. Applicant will be required to amend the exhibit to align the proposed vacation with right of way of Jean Duluth Road; once Engineering signs the approved exhibit the application will be considered complete and will be forwarded to council for approval.
7. Other than City Engineering, no other public or City comments have been received at the time of drafting this report.
8. Vacations of rights of way and easements lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

Staff Recommendation:

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

- 1.) The vacation must be recorded within 90 days of final approval by City Council or such approval will lapse.
- 2.) Applicant to submit a revised exhibit incorporating all requested revisions for review and approval, and for signature by the City Engineer prior to recording.
- 3.) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 22-176
ROW Vacation
Site Map

Legend

- ▬▬▬ Road or Alley ROW
- ⊠ Vacated ROW
- Easement Type**
- ▨ Utility Easement
- ▨ Other Easement
- ⊕ Zoning Boundaries

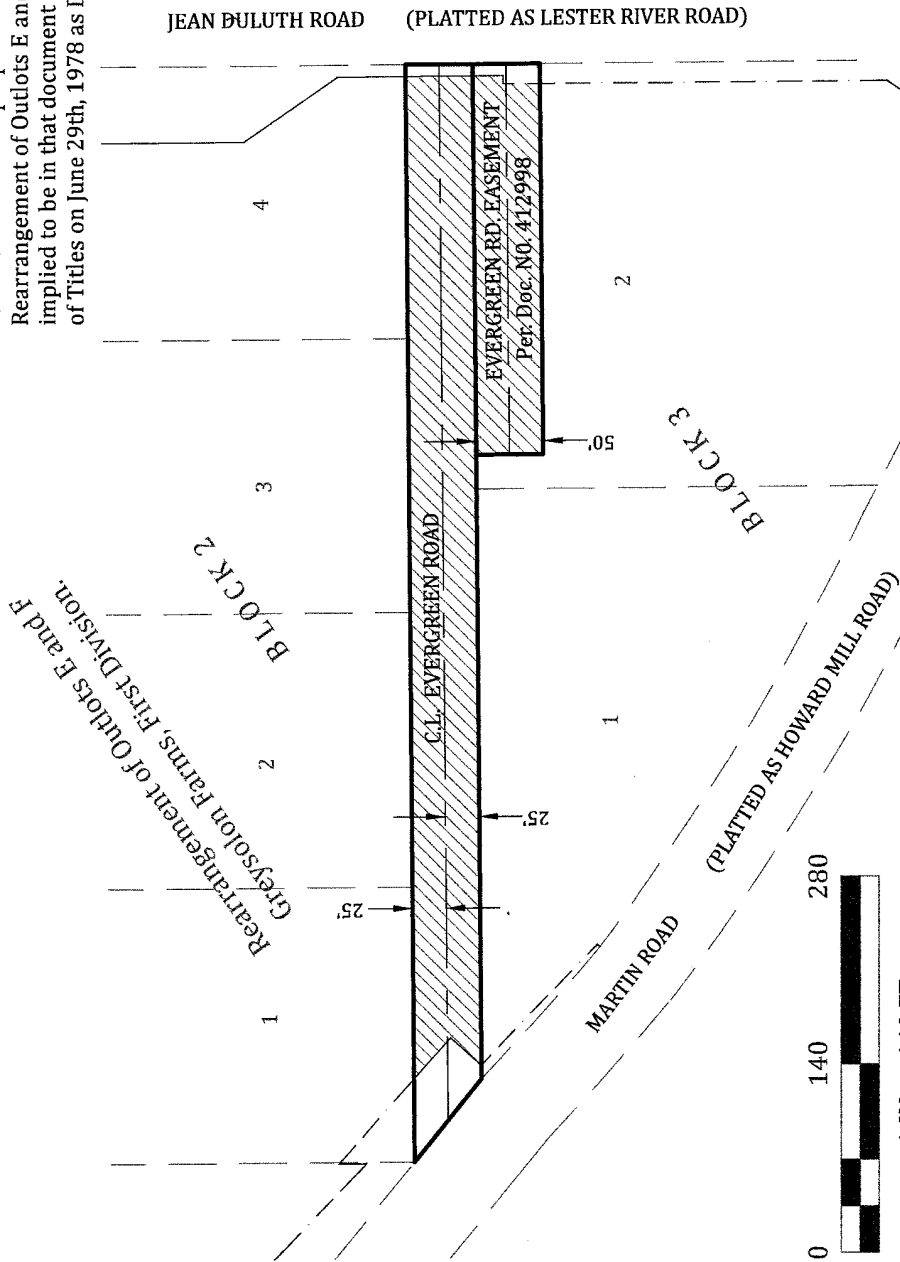
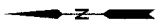


The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used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

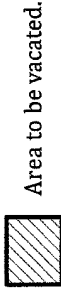
VACATION EXHIBIT

Vacation Description:

That part of Evergreen Road, as shown within the plat of Rearrangement of Outlots E and F, Greysolon Farms, First Division, St. Louis County, Minnesota; lying to the east of Martin Rd. (Howard Mill Road per plat) Right of Way and to the west of Jean Duluth Rd. (Lester River Road per plat) Right of Way per St. Louis County Hwy. Right of Way Plat No. 10 registered with the St. Louis County Registrar of Titles on December 11th, 1985 as Document No. 472592, and to the west of a permanent Hwy. Right of Way easement along Jean Duluth Rd. per Easement registered with the St. Louis County Registrar of Titles on September 11th, 2002 as Document No. 730394. Together with vacation of an easement for street purposes in the North 50 feet of the East 291 feet of Lot 2, Block 3, Rearrangement of Outlots E and F, Greysolon Farms, First Division, that was created or implied to be in that document recorded in the office of the St. Louis County Registrar of Titles on June 29th, 1978 as Document No. 412998.



LEGEND



Area to be vacated.

--- Right of Way per St. Louis County Hwy. Right of Way Plat No. 10

--- Right of Way per Easement Document No. 730394

I hereby certify that this vacation exhibit has been checked and approved this _____ day of _____

Signature: _____ City Engineer

Printed Name: _____

Date: _____

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

James T. Nelson
James T. Nelson
Date: Feb. 3rd, 2023.
License No.: 49578

SurveyScience Land Surveying, LLC
Duluth, Minnesota
(218) 428 - 4327



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 23-001	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Interim Use Permit– Vacation Dwelling Unit	Planning Commission Date	February 14, 2023	
Deadline for Action	Application Date	January 3, 2023	60 Days	March 4, 2023
	Date Extension Letter Mailed	January 18, 2023	120 Days	May 3, 2023
Location of Subject	1822 Melrose Avenue			
Applicant	Benjamin Wheeler	Contact		
Agent	Adam McCauley	Contact		
Legal Description	010-0320-00020			
Site Visit Date	February 2, 2023	Sign Notice Date	January 29, 2023	
Neighbor Letter Date	January 19, 2023	Number of Letters Sent	53	

Proposal

Applicant is proposing a renewal interim use permit (original application was PL 17-020) for a vacation dwelling unit. The permit would allow for a 3-bedroom house with a maximum of 7 occupants.

Staff is recommending Planning Commission recommend approval.

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

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A vacation dwelling unit is an Interim Use in the R-1 zone district.

UDC Section 50-20.3. Use-Specific Standards. Lists all standards specific to vacation dwelling units.

UDC Sec. 50-37.10.E . . . the 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; 2. The applicant agrees to sign a development agreement with the city.



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

Governing Principle #8 - Encourage mix of activities, uses, and densities. A short-term rental allows property owners to generate income and provides a service for tourists.

Econ. Dev. Policy #3 - Build on Existing Economic Strengths & Competitive Advantages

S9: Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth. The proposed IUP in this location will enhance the level of activity in the downtown, and increase opportunities for additional commerce.

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

Current History: The subject property, 1822 Melrose Avenue, had an approved interim use permit in 2017, which expires in 2023.

Review and Discussion Items:

- 1) Applicant's property is located at 1822 Melrose Avenue. The proposed vacation dwelling unit contains 3 bedrooms, which would allow for a maximum of 7 guests.
- 2) Applicant is proposing a renewal interim use permit (original application was PL 17-020) for a vacation dwelling unit. The property is under the same ownership and there are no changes to the occupancy number and no exterior amenities have been added.
- 3) The applicant is proposing 3 off-street parking spaces provided in front of and adjacent to the existing garage on the east side of the house with access from Melrose Avenue.
- 4) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed Adam McCauley to serve as the managing agent.
- 5) The property owner to the north and south of the applicant's lot have provided letters waiving the requirement for a dense urban screen.
- 6) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 7) Applicant will apply for all relevant permits and licenses and these are contingent upon approval of the Interim Use Permit for a Vacation Dwelling Unit.
- 8) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 9) One comment was received from a citizen in support of the use as a vacation dwelling unit and is attached. No other public City, or agency comments were received.



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Staff Recommendation:

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

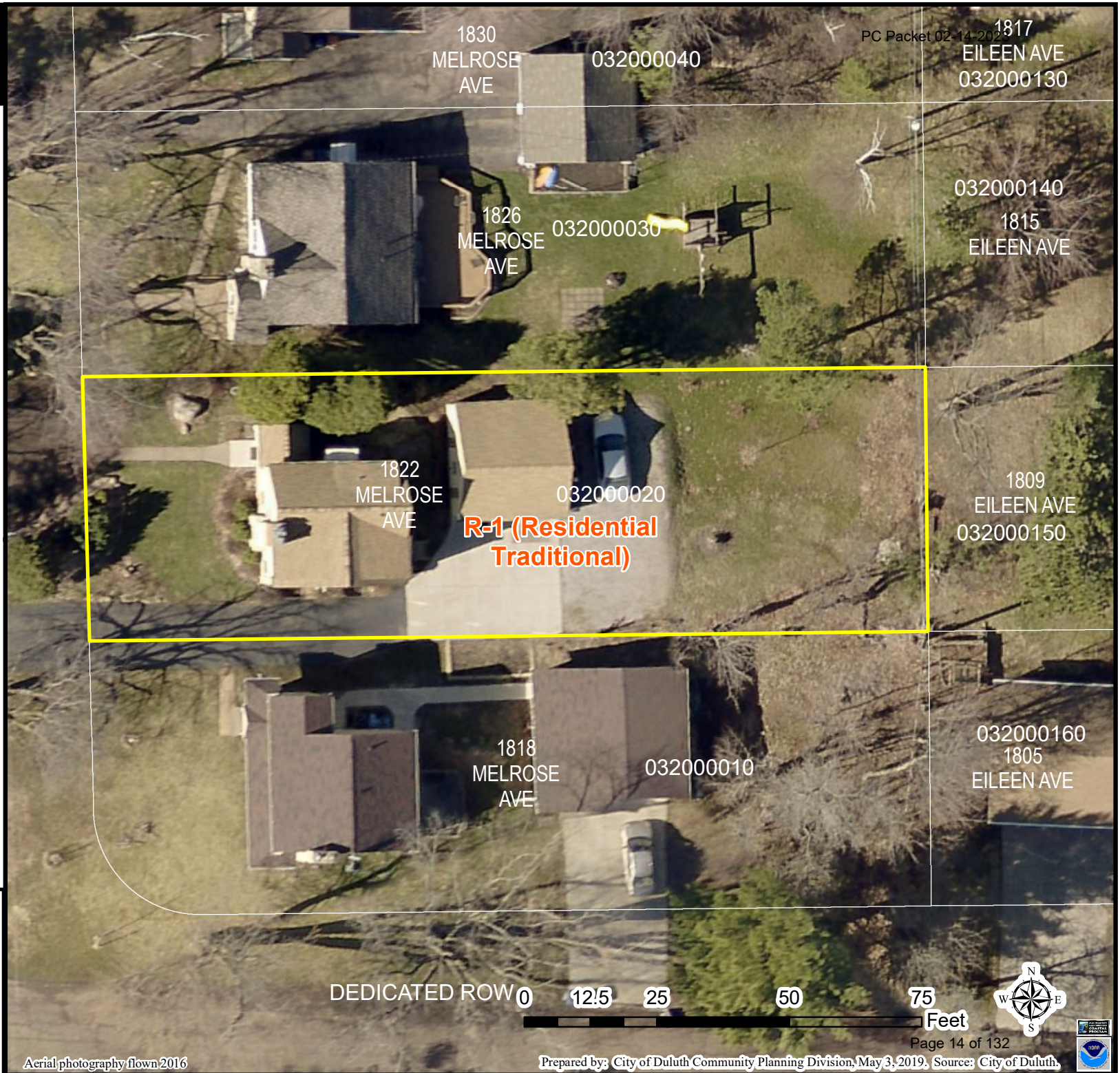
- 1) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50



PL 23-001
Interim Use Permit
1822 Melrose Avenue

PC Packet 02-14-2022

Legend
Zoning Boundaries



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



Aerial photography flown 2016

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Prepared by: City of Duluth Community Planning Division, May 3, 2019, Source: City of Duluth.

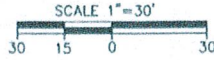


SURVEY FOR: BENJAMIN WHEELER
 PO BOX 341
 MILLTOWN, WI 54858

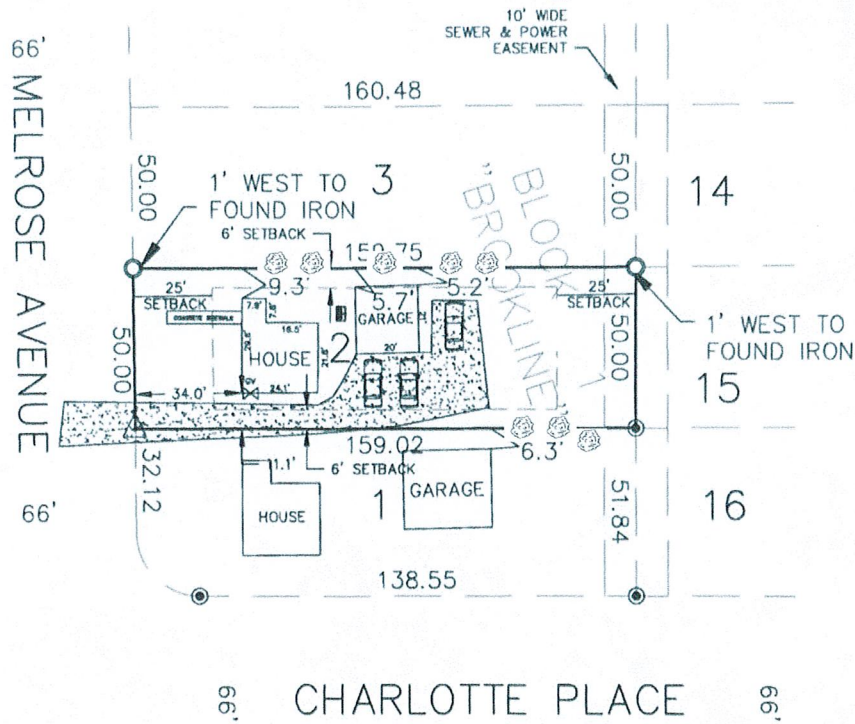
STRAIGHTLINE SURVEYING, INC.
 P.O. Box 303, 500 Fels Blvd
 Duluth, MN 55817
 Telephone: (218)-425-4811
 Fax: (218)-425-4811
 E-Mail: benjamin@straightlinesurveying.com

SURVEY OF: LOT 2, BLOCK 1, OF THE PLAT
 OF "BROOKLINE" LOCATED IN
 SECTION 11, TOWNSHIP 50,
 RANGE 14, CITY OF DULUTH, ST
 LOUIS COUNTY, MINNESOTA.

ADDRESS: 1822 MELROSE AVENUE
 ZONE DISTRICT: R-1
 LOT AREA: 7969 SF



- DENOTES FOUND IRON MONUMENT
- DENOTES 1/2" IRON REBAR MONUMENT SET AND CAPPED "ANDERSON 45498"
- △ DENOTES "MAG" NAIL SET
- ▨ DENOTES PLOWED AREA OF DRIVEWAY
- ⊗ DENOTES GAS METER
- ⊙ DENOTES TREES
- DENOTES PROPOSED GRILL LOCATION
- DENOTES PROPOSED PARKING AREA



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

Benjamin H. Anderson 45498 01-26-2017 2017-018 ST LOUIS 5 P.14
 Benjamin H. Anderson License No. Date Job No. Book No.

From: James Fox

Date: Wed, Feb 8, 2023 at 2:08 PM

Subject: Waiver request

To who it may concern,

I James Richard Fox and My wife Kristin Kai Fox home owners of 1826 Melrose Avenue, Duluth, MN 55803 waive the the dense urban screen requirement for 1822 Melrose Avenue.

Thank you,

James R. Fox

On Wed, Feb 8, 2023 at 7:56 PM Natalie White

Hi Ben,

I'm sending this in response to your question about fence at your house at 1822 Melrose Ave. As the adjacent homeowner at 1818 Melrose, I support waiving the fence requirements for your vacation dwelling permit. Given the size of our lots and layout, I don't think it's necessary or would provide any significant benefit.

Let me know if you need more info/details.

Natalie White

1818 Melrose

From: Natalie White

Sent: Saturday, February 4, 2023 2:04 PM

To: planning <planning@DuluthMN.gov>

Subject: Comments for PL 23-001 at 1822 Melrose

Good afternoon,

I would like to provide a comment for the Planning Commission regarding the renewal of the Vacation Dwelling Unit at 1822 Melrose Ave. I am a homeowner adjacent at 1818 Melrose. I have found Ben and Deanna responsive and helpful if we have any communication about their house. Guests have been respectful of the neighborhood, and I support the continuation of their permit.

Thank you,

Natalie White



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 23-002	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Vacation of Alley Right of Way	Planning Commission Date	February 14, 2023	
Deadline for Action	Application Date	January 6, 2023	60 Days	March 7, 2023
	Date Extension Letter Mailed	January 18, 2023	120 Days	May 6, 2023
Location of Subject	A portion of a 15-foot-wide platted alley right of way between West 5 th Street and West 6 th Street and 19 th Avenue West and 19 1/2 Avenue West.			
Applicant	Christopher McKenzie & Sandra Thornton	Contact		
Agent		Contact		
Legal Description	See Attached			
Site Visit Date	February 2, 2023	Sign Notice Date	January 29, 2023	
Neighbor Letter Date	January 19, 2023	Number of Letters Sent	14	

Proposal

The applicant is requesting to vacate a portion of a 15-foot wide platted alley north of West 5th Street in the Duluth Proper Second Division, between 19th Avenue West and 19 1/2 Avenue West located in the Lincoln Park neighborhood.

Staff is recommending approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Vacant/Undeveloped	Traditional Neighborhood
North	R-1	Vacant/Undeveloped	Traditional Neighborhood
South	R-2	Residential	Traditional Neighborhood
East	R-1	Vacant/Undeveloped	Traditional Neighborhood
West	R-1	Vacant/Undeveloped	Traditional Neighborhood

Summary of Code Requirements:

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

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

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles, or pedestrians or the efficient supply of utilities or public services in the city;

2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.

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

Governing Principle #5 - Promote reinvestment in neighborhoods.

The vacation will allow for existing vacant parcels to be reconfigured for a single-family dwelling.

Future Land Use - Traditional Neighborhood - Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home businesses.

Review and Discussion Items:

Staff finds that:

1. The applicant is requesting to vacate a portion of a 15-foot wide platted alley north of West 5th Street and in Duluth Proper Second Division, between 19th Avenue West and 19 1/2 Avenue West, located in the Lincoln Park neighborhood as shown on the attached exhibit.
2. The proposed vacation will allow existing vacant parcels adjacent to the alley to be used for a proposed single-family dwelling.
3. The alley was platted in the Duluth Proper Second Division but never utilized for its intended purpose.
4. The alley will not be needed by the City for the promotion of public health, safety, or welfare of the citizens of Duluth since the alley is currently unimproved and City Engineering does not expect to need it in the future.
5. The City has determined that this portion of the alley is not needed for street or pedestrian use. Vacating the right of way will not impact or deny access to other property owners.
6. The City Engineering office has reviewed the proposed vacation and has indicated that a utility easement shall be retained over the entire portion of alley to be vacated.
7. Other than City Engineering, no other public or City comments have been received at the time of drafting this report.
8. Vacations of rights of way and easements lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

Staff Recommendation:

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

- 1.) The vacation must be recorded within 90 days of final approval by City Council or such approval will lapse.



PL 23-002
Vacation of Alley
Site Map

PC Packet 02-14-2023

Legend

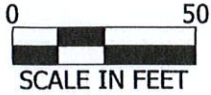
- Road or Alley ROW
- Zoning Boundaries

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



Aerial photography flown 2016

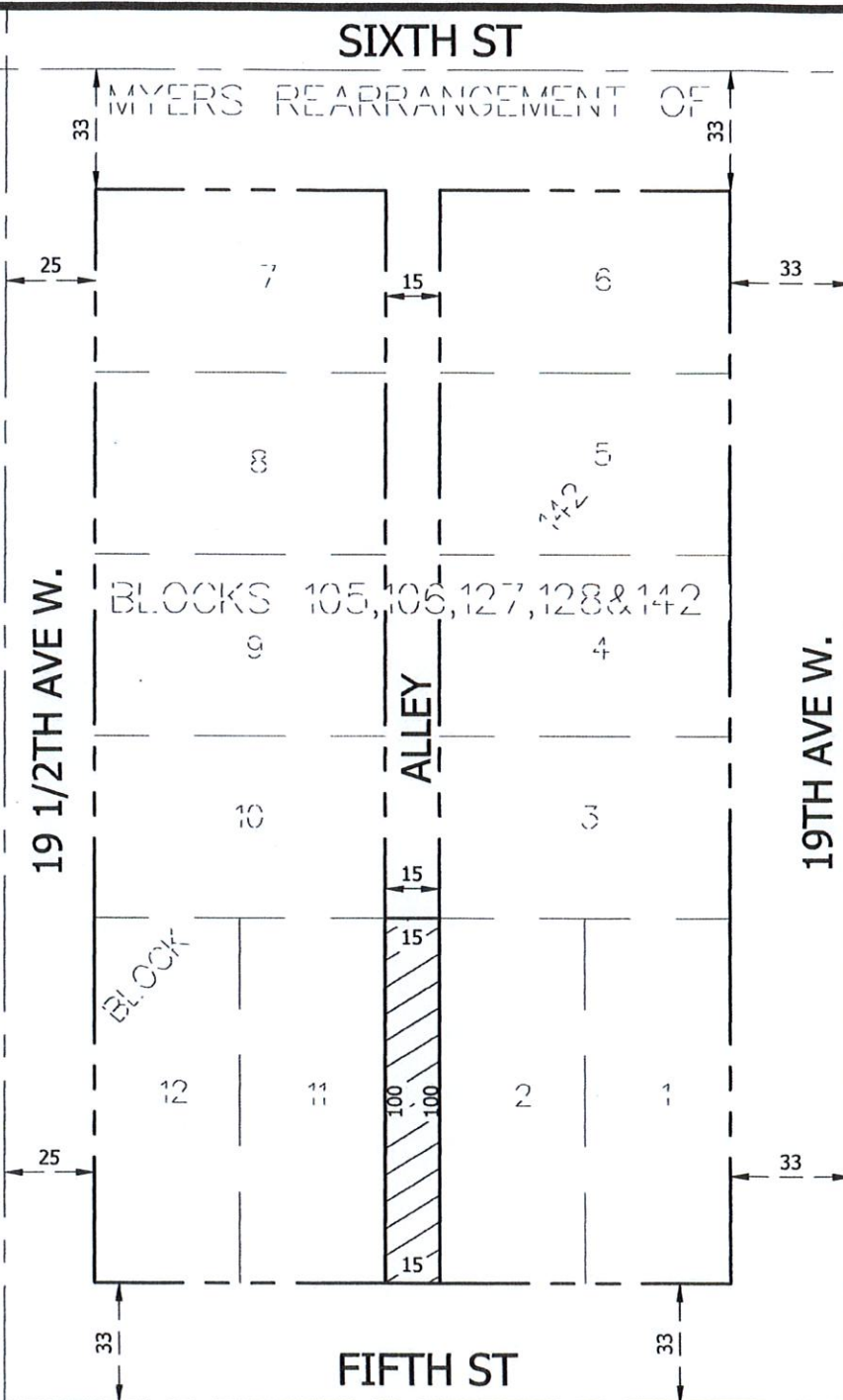
Prepared by: City of Duluth Community Planning Division, May 3, 2019. Source: City of Duluth.



LEGAL DESCRIPTION OF RIGHT OF WAY VACATION WITH RETAINED UTILITY EASEMENT

All that part of the 15-foot-wide platted Alley lying adjacent to and abutting Lot 2 and Lot 11, Block 142, MYERS REARRANGEMENT OF BLOCKS 105, 106, 127, 128 & 142, IN DULUTH PROPER SECOND DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

Said right of way vacation contains 1,500 square feet or 0.03 acres.



LEGEND

- RIGHT OF WAY VACATION AREA WITH RETAINED UTILITY EASEMENT
- CENTER LINE
- RIGHT OF WAY LINE
- EXISTING PLAT LINE

DULUTH PROPER SECOND DIVISION

Approved by the City Engineer of the City of Duluth, MN this 24 day of JAN 2023

SURVEYOR'S NOTES
1. THIS IS NOT A BOUNDARY SURVEY.

By

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

David R. Evanson
MN License #49505
DATE: 12-19-2022

VACATION EXHIBIT

CLIENT: SANDRA THORNTON
ADDRESS: 19XX N 19TH 1/2 AVE WEST
DULUTH, MN 55806
DATE: 12-19-2022

REVISIONS:
JOB NO: 22-323 SHEET 1 OF 1

ALTA
LAND SURVEY COMPANY
PHONE: 218-727-5211
LICENSED IN MN & WI
WWW.ALTLANDSURVEYDULUTH.COM



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 23-004	Contact	Kyle Deming	
Type	Variance – building placement	Planning Commission Date	February 14, 2023	
Deadline for Action	Application Date	January 10, 2023	60 Days	March 11, 2023
	Date Extension Letter Mailed	January 20, 2023	120 Days	May 10, 2023
Location of Subject	30 S. 42 nd Ave E. (Lakeside-Lester Park)			
Applicant	Jack Shapiro	Contact	on file	
Agent		Contact		
Legal Description	Wly 75 feet of Dock Reservation, except part taken for street, London Addition (010-3070-02640)			
Site Visit Date	January 31, 2023	Sign Notice Date	January 31, 2023	
Neighbor Letter Date	January 20, 2023	Number of Letters Sent	16	

Proposal

A variance to allow placement of a 24-ft. by 28-ft. detached garage in the area between the front of the home and Quebec Ave.

Recommended Action: Approve with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	N/A	Lake Superior	N/A
East	R-1	Residential	Traditional Neighborhood
West	R-1	Residential	Traditional Neighborhood

Summary of Code Requirements

Table 50-21-1: Exceptions and Encroachments – No accessory structure may be located (a) between a street and any façade of a primary building facing that street.

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. 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 Comprehensive Plan.

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

- #1 Reuse previously developed lands. The project would allow construction of a garage to accompany an existing dwelling.
- #5 Promote reinvestment in neighborhoods. The project would result in enhancing the value of an existing dwelling utilizing existing infrastructure.

Comprehensive Plan Future Land Use – Traditional Neighborhood - Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Includes many of Duluth's older neighborhoods, infill projects, neighborhood extensions, and new traditional neighborhood areas.

UDC Purpose (Sec. 50-2):

- (h) To enhance property values and the general appearance and natural beauty of the city;
- (k) To promote, preserve, and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development in wetlands, shorelands and floodplains.
- The project would locate all vehicle driving surfaces on the north side of the dwelling away from Lake Superior.

UDC Zone District Purpose – Residential-Traditional (R-1) - Established to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots. This district is intended to be used primarily in established neighborhoods.

History:

1. 1941 – Existing 1,083 sq. ft., 2-bedroom home constructed with no garage.

Review and Discussion Items

Staff finds that:

1. The lot is 75 feet wide by approximately 315 feet deep due to an undulating Lake Superior shoreline (see property boundary survey). The sanitary sewer service exits the rear (lake side) of the house and runs west to the property boundary and then heads northerly into the City main near the corner of Quebec Ave. and 42nd Ave. E. The water and gas services connect at the northwest corner of the house (see property boundary survey). The property is sloped toward the lake declining 18 feet from the street to the top of the bluff where it drops 17 feet to the Lake Superior shore.
2. The proposed detached accessory structure (garage) has overall dimensions of 24 ft. east-west (parallel to Quebec Ave.) by 28 ft. north-south. The garage is located at 6 feet from the east lot line, which results in 24 feet of the home's 42 feet of width being "blocked" by the garage. This garage is a reasonable use and scale for a residential property due to the need to store two vehicles as well as yard and recreational equipment sheltered from Duluth's sometimes harsh weather.
3. The home is sited 100-175 feet from Lake Superior, 6 feet from the east lot line, 105 feet from the north (Quebec Ave.) lot line, and 27 feet from the west (42nd Ave. E.) lot line. Since this is a corner lot, the side yard setback from the west property line is 15 feet, leaving an area of only 12 feet in width where the garage could be located in front of the home while complying with UDC requirements. The site plan shows the gas service being located in this area. A twelve-foot-wide garage would not provide the intended vehicle storage space.
4. The proposal is consistent with the Comprehensive Plan principles and UDC purpose by limiting impervious surfaces to the parts of the site furthest from Lake Superior and having a minimal driveway length. The proposed garage is sited to be sensitive to the aesthetics of the site when viewed from Quebec Ave. (see site plan) such that the home will still be highly visible when approaching the property from 42nd Ave. E. The applicant is proposing to reuse a previously developed site.
5. The need for a variance is caused by site constraints unique to this site and not caused by the applicant, including shallow subsurface soil conditions and the location of sanitary sewer service. The applicant's 1/19/2023 email (attached) provides professional judgement advising against locating a driveway along the west side of the home, which would be necessary if the garage was located in compliance with the UDC. The corner side yard setback and the presence of the home's gas service in the front yard prevents the garage from being located northeast of the home.

6. Granting the variance will not alter the essential character of the area because the neighbor to the east has a similarly sized garage sited adjacent to the applicant's proposed garage. The neighbor across Quebec Ave. has an approximately 16-foot by 16-foot garage across the street from the proposed garage. Additionally, placement of the garage in this area will be least impactful to views of the applicant's home and Lake Superior when viewed from the home across Quebec Ave.
7. The variance, if granted, will not impair an adequate supply of light or air or add to fire danger because the garage is proposed to exceed the building code's requirement of 5 feet setback from property lines.
8. Granting the variance is not expected to unreasonably diminish established property values in the area because the proposed garage is scaled and sited such that the view from the street to the dwelling is only minimally impacted. The proposed garage is not expected to impact the values of property on the upper side of Quebec Ave. due to the distance and home's elevation approximately 15 feet above grade of the proposed garage.
9. Granting the variance is not expected to increase congestion on public streets or impair the health, safety, or public welfare of inhabitants of the city due to factors identified above.
10. One comment from City Parks asking for consideration of the beach access trail running down the centerline of the platted, but unbuilt, 42nd Ave. E. adjacent to the subject property (see black dashed line on the GIS map attached). No other comments from citizens, City staff, or any other entity were received regarding the application.
11. 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, with the following conditions:

- 1) The project be limited to, a 24-foot by 28-foot, one-story garage to be located at 6 feet to the east property line and 25 feet to the north property line as shown on the site plan.
- 2) The driveway not extend south of the south wall of the garage.
- 3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 23-004
 Variance
 30 S. 42nd Ave. E.
 Jack Shapiro

PC Packet 02-14-2023



Legend

- Parks
- Trails**
- Hiking
- Multi-Use - Paved
- Municipal Boundary

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PL 23-004
 Variance
 30 S. 42nd Ave. E.
 Jack Shapiro

PC Packet 02-14-2023

Future Land Use



Legend

Future Land Use

- Open Space
- Traditional Neighborhood
- Urban Residential
- Parks

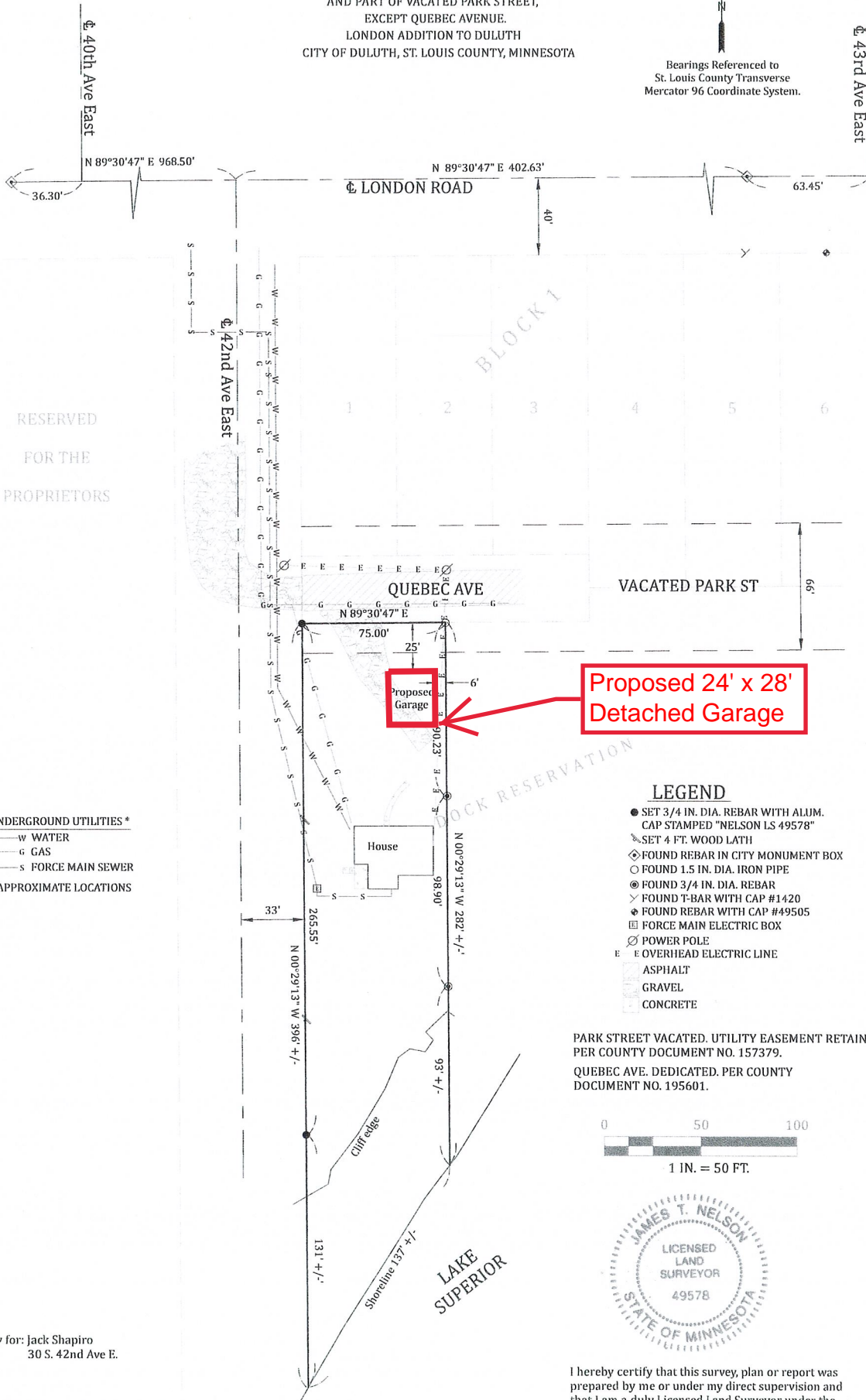
Trails

- Hiking
- Multi-Use - Paved
- Municipal Boundary

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CERTIFICATE OF SURVEY
THE WEST 75 FT. OF DOCK RESERVATION
AND PART OF VACATED PARK STREET,
EXCEPT QUEBEC AVENUE.
LONDON ADDITION TO DULUTH
CITY OF DULUTH, ST. LOUIS COUNTY, MINNESOTA

Bearings Referenced to
St. Louis County Transverse
Mercator 96 Coordinate System.



RESERVED
FOR THE
PROPRIETORS

BLOCK 1

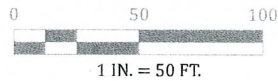
Proposed 24' x 28'
Detached Garage

UNDERGROUND UTILITIES *
w — w WATER
g — g GAS
s — s FORCE MAIN SEWER
* APPROXIMATE LOCATIONS

LEGEND

- SET 3/4 IN. DIA. REBAR WITH ALUM. CAP STAMPED "NELSON LS 49578"
- ▨ SET 4 FT. WOOD LATH
- ⊠ FOUND REBAR IN CITY MONUMENT BOX
- FOUND 1.5 IN. DIA. IRON PIPE
- ⊙ FOUND 3/4 IN. DIA. REBAR
- ⋈ FOUND T-BAR WITH CAP #1420
- ⬢ FOUND REBAR WITH CAP #49505
- ⊞ FORCE MAIN ELECTRIC BOX
- ⊕ POWER POLE
- OVERHEAD ELECTRIC LINE
- ASPHALT
- ▨ GRAVEL
- ▨ CONCRETE

PARK STREET VACATED. UTILITY EASEMENT RETAINED.
PER COUNTY DOCUMENT NO. 157379.
QUEBEC AVE. DEDICATED. PER COUNTY
DOCUMENT NO. 195601.



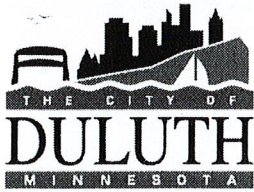
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

James T. Nelson
James T. Nelson

Date: 12/27/2022
License Number: 49578

Survey for: Jack Shapiro
30 S. 42nd Ave E.

SurveyScience Land Surveying, LLC
Duluth, Minnesota
(218) 428-4327



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

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"):

~~Chapter 50 Article IV, Section 50-23.3 Exceptions and Encroachments, and Table 50-21.1 Exceptions and Encroachments, Accessory Structures, a. relief from required front yard setback for an accessory structure in the R-1 zone and Shoreland Overlay District.~~

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 subject property is a unique parcel among the other 14 parcels between 41st and 43rd Avenues east on the south (or Lake side) of London Road. Eleven (11) of the 14 parcels are developed, and nine (9) have London Road frontage and property access. South 42nd Ave east dead ends at the applicants north property line, but the platted ROW continues to the Lake. The roadway turns 90 degrees east and becomes Quebec Ave to the east line of parcel 010-3070-02655. The applicant's property is a corner lot.~~

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 subject parcel is a corner lot with dedicated, but unimproved public right of way on the north and west sides of the lot. The UDC R-1 Zoning permits accessory structures with a 15-foot side yard setback and a 25 foot rear yard setback. However, Section 51-23.3 and Table 50.21.1.a-e. states; No Accessory Structure may be located between a street and facade of a primary building facing that street, or closer than 10 feet of a principle structure on any adjacent parcel, or closer than 5' to a rear property line, or closer than 3 feet to any side lot line.~~

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:

~~The 10 properties east, west, and north of 30 South 42nd Ave east, are an interesting mix of lot sizes and shapes all intended or working to preserve shoreland characteristics and existing views of Lake Superior. Of the 9 parcels between 41st Ave East and 43rd Ave East that front on London Road, 6 have shoreline frontage and unobstructed views of the lake. The corner lot on the west side of 42nd does not have shoreland frontage but the unimproved right-of way and undeveloped westerly side of the applicants lot provides an unobstructed view corridor and lake shore access for this property. On the south side of Quebec Ave, there are five (5) parcels, two (2) are developed and three (3) are vacant. The two (2) most easterly parcels are owned by properties that front on London Road. The second lot on the southside of Quebec Ave has two Accessory structures both of which are located in front of the facade of the primary structure and have minimal side and rear yard setbacks. These two accessory buildings obstruct the easterly view corridor of parcel 010-2960-00800.~~

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 applicant has a practical difficulty using the west side of the lot for a 24' by 28' detached garage. At one time the property had a septic system. When the sanitary sewer was extended to the lot, the septic tank location became a wet well and pump housing, with a six inch force main pumping up gradient to the public sewer in 42nd Ave E. Building over the pressurized sewer pipe is not an option. The owner believes the optimum location for the new garage is the northeast corner of the property with a 6 foot side yard setback, and a 25' foot rear yard setback. The owner also has a practical difficulty with the topography on the west side of the lot, the land slopes sharply to the lake shore, and also slopes west to the undeveloped platted street right-of way, which also contains an intermittent drainage way.

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 variance if granted would allow the applicant reasonable use of a unique R-1 property in the London Road/North Shore/I-35 Corridor and Lake Superior Shoreland Zone. The proposed 24' by 28' garage would impact/disturb less than 1,500 square feet of grassed area and off street parking area. The project will cause a spike in traffic on Quebec and 42nd Avenues during construction. The location will minimally impact 2 adjacent properties, one with temporary construction noise and one with minimal intrusion into existing view corridors. The structure will meet all current building codes and not present a fire danger to any existing occupied dwellings. The project will comply with all shoreland zone requirements for erosion control and stormwater containment and routing. When complete the project will not adversely impact the value of the adjacent properties or impact the health safety or public welfare of the City.

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 requested variance is for a one half acre, corner lot, in the R-1 Zone, with 75 feet of frontage, on a public street, in a shoreland overlay zone, to allow an accessory structure. The proposed accessory structure will not be visible to other residential development facing London Road, and it will not be visible from the shoreline. The applicants plan has a minimal impact on two adjacent properties, and no impacts on 11 properties with in 500 feet of the site. The project protects Lake water quality and shoreland character. The plight of the owner is strict interpretation regarding the applicability of 51-23.3, which only results in more practical difficulties for the owner and unnecessarily increases the cost of the project.

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: _____

The proposed project meets the specific criteria of Subsection H. Variance to Reduce Setbacks, and Subsection L. Standards for Variances in Shorelands. A landscaping plan for the area between the proposed garage and the right-of -way for Quebec Ave is not required and existing vegetation will remain. The project will not compromise Section 50-18 1.D or result in Adverse Consequences to the environment. Subsection C. Variance Criteria: 1. The location, size and slope of the applicant's land creates unique circumstances warranting a variance. 2. The plight of the owner is due to circumstances unique to the property and are not created by the applicant/owner. 3. The special circumstances and conditions applying to this property are peculiar to the site and do not generally apply to other land and buildings in the vicinity. 4. The owner proposes to use the property in a reasonable manner not permitted by the code, 5. Relief will not impair an adequate supply of light and air to adjacent property or unreasonably increase congestion on public streets, or the danger of fire or imperil public safety, or unreasonably diminish or impair established property values within surrounding areas. or in any other

JACK E. SHAPIRO VARIANCE APPLICATION

ADDITIONAL PAGE TO VARIANCE APPLICATION SUPPLEMENTAL FORM, PAGE 2, ITEM IS UNNUMBERED FOLLOWING #6 OF THE FORM.

DOES THE VARIANCE REQUEST NEED TO MEET ANY OF THE SPECIFIC CRITERIA IN UDC SECTION 50-39.9, SUBSECTIONS D THROUGH M. etc.

SUBSECTION C. GENERAL VARIANCE CRITERIA: CONTINUED FROM THE BOTTOM OF PAGE 2.

respect impair the health, safety or public welfare of the inhabitants of the city.

6. The relief may be granted without substantially impairing the intent of this Chapter and the official zoning map, and will not alter the essential character of the locality.
7. Relief does not allow any type of sign that is not allowed in the zone district where the property is located pursuant to Section 50-27.
8. The relief complies with any additional limitations or criteria applicable to that variance in Subsections D through M.
9. Economic considerations alone do not constitute a practical difficulty.

Kyle Deming

From: Jack Shapiro <>
Sent: Thursday, January 19, 2023 4:58 PM
To: Kyle Deming
Subject: Variance Request – 30 S 42nd Avenue East, Duluth, MN

Dear Mr. Deming,

The following is some supplemental information pertaining to the above captioned matter that I thought may give you additional insight.

It is my understanding the forced main sewer line extending from the holding tank (wet well and pump housing) on the west side of the dwelling is shallow in nature due to the subsurface soil conditions. The aforementioned was related to me by the contractor who installed the sewer line.

Duane Peterson, Superior Construction said although it is possible to install a driveway above such conditions, it is highly inadvisable due to potential recurring winter frost problems. Bill Bergstrom from City Engineering preferred the term “Not ideal” and concurred with a location that would not incur such potential problems.

Feel free to contact me if you need any additional information or have any more questions or concerns.

Sincerely,

Jack

Jack Shapiro



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 23-006	Contact	Chris Lee, cleee@duluthmn.gov	
Type	Interim Use Permit– Vacation Dwelling Unit	Planning Commission Date	February 14, 2022	
Deadline for Action	Application Date	January 17, 2023	60 Days	March 18, 2023
	Date Extension Letter Mailed	January 27, 2023	120 Days	May 17, 2023
Location of Subject	722 E Superior Street, Unit 1			
Applicant	Force 1 LLC	Contact	Jesse Carlson	
Agent		Contact		
Legal Description	010-3820-00510			
Site Visit Date	February 1, 2023	Sign Notice Date	January 31, 2023	
Neighbor Letter Date	January 19, 2023	Number of Letters Sent	12	

Proposal

Applicant is proposing an interim use permit for a vacation dwelling unit. The permit would allow for a 1-bedroom unit with a maximum of 3 occupants. This property is located in a form district (F-8) and is not subject to the city-wide cap on permits.

Staff is recommending Planning Commission recommend approval.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-8	Mixed Use Building	Tourism/Entertainment District
North	F-8	Open Space/Freeway	Tourism/Entertainment District
South	F-8	Lake walk, Lake	Open Space
East	F-8	Mixed Use	Tourism/Entertainment District
West	F-8	Mixed Use	Tourism/Entertainment District

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A vacation dwelling unit is an Interim Use in the F-8 zone district.

UDC Section 50-20.3. Use-Specific Standards. Lists all standards specific to vacation dwelling units.

UDC Sec. 50-37.10.E . . . the 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; 2. The applicant agrees to sign a development agreement with the city.



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

Governing Principle #8 - Encourage mix of activities, uses, and densities. A short-term rental allows property owners to generate income and provides a service for tourists.

Econ. Dev. Policy #3 - Build on Existing Economic Strengths & Competitive Advantages

S9: Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth. The proposed IUP in this location will enhance the level of activity in the downtown, and increase opportunities for additional commerce.

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Review and Discussion Items:

- 1) Applicant's property is located at 722 E Superior Street, Unit 1. The proposed vacation dwelling unit contains 1 bedroom, which would allow for a maximum of 3 guests.
- 2) Parking is not required for interim use permits located in form districts. The applicant is proposing one off-street parking space.
- 3) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicants have listed Jesse Carlson to serve as the managing agent.
- 4) The applicant has indicated there are no outdoor amenities.
- 5) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 6) Applicant will apply for all relevant permits and licenses required of the Interim Use Permit for a Vacation Dwelling Unit.
- 7) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
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Planning & Development Division
Planning & Economic Development Department

Room 160
411 West First Street
Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

Staff Recommendation:

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

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The permit shall lapse if no activity is taken within one year of approval.
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PL23-006-008
IUP for Vacation Rentals
722 E Superior St

PC Packet 02-14-2023



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Aerial photography flown 2021

Prepared by: City of Duluth Planning & Economic Development, January 10, 2023, Source: City of Duluth

Vacation Dwelling Unit Worksheet

1. The minimum rental period shall be not less than two consecutive nights (does not apply to Form districts). **What will be your minimum rental period?** 3 nights

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two. You may rent no more than four bedrooms.

How many legal bedrooms are in the dwelling?	What will be your maximum occupancy?
<u>1</u>	<u>4</u>

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

- a. 1-2 bedroom unit, 1 space
- b. 3 bedroom unit, 2 spaces
- c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
- d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
- e. Form districts are not required to provide parking spaces.

How many off-street parking spaces will your unit provide? 1

4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street. **Will you allow motorhome or trailer parking? If so, where?** No

5. The property owner must 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.

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

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

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

keep your guest record (log book, excel spreadsheet, etc):

Online booking engine

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

Please provide the name and contact information for your local contact:

Jesse Carlson 218-213-6648

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

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

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

Through online booking engine and property management software

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

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



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 23-007	Contact	Chris Lee, cleee@duluthmn.gov	
Type	Interim Use Permit– Vacation Dwelling Unit	Planning Commission Date	February 14, 2022	
Deadline for Action	Application Date	January 17, 2023	60 Days	March 18, 2023
	Date Extension Letter Mailed	January 27, 2023	120 Days	May 17, 2023
Location of Subject	722 E Superior Street, Unit 2			
Applicant	Force 1 LLC	Contact	Jesse Carlson	
Agent		Contact		
Legal Description	010-3820-00510			
Site Visit Date	February 1, 2023	Sign Notice Date	January 31, 2023	
Neighbor Letter Date	January 19, 2023	Number of Letters Sent	12	

Proposal

Applicant is proposing an interim use permit for a vacation dwelling unit. The permit would allow for a 1-bedroom unit with a maximum of 3 occupants. This property is located in a form district (F-8) and is not subject to the city-wide cap on permits.

Staff is recommending Planning Commission recommend approval.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-8	Mixed Use Building	Tourism/Entertainment District
North	F-8	Open Space/Freeway	Tourism/Entertainment District
South	F-8	Lake walk, Lake	Open Space
East	F-8	Mixed Use	Tourism/Entertainment District
West	F-8	Mixed Use	Tourism/Entertainment District

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A vacation dwelling unit is an Interim Use in the F-8 zone district.

UDC Section 50-20.3. Use-Specific Standards. Lists all standards specific to vacation dwelling units.

UDC Sec. 50-37.10.E . . . the 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; 2. The applicant agrees to sign a development agreement with the city.



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

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Staff Recommendation:

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

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
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PL23-006-008
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I HEREBY CERTIFY THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

SIGNATURE: *Ryan J. Arola*
 RYAN J. AROLA
 DATE: 8/12/2022 LICENSE NO. 52478

INTERIOR REMODEL/CHANGE OF OCC.

ISSUE DATE
 08/12/2022

PROJECT NO.
 2243

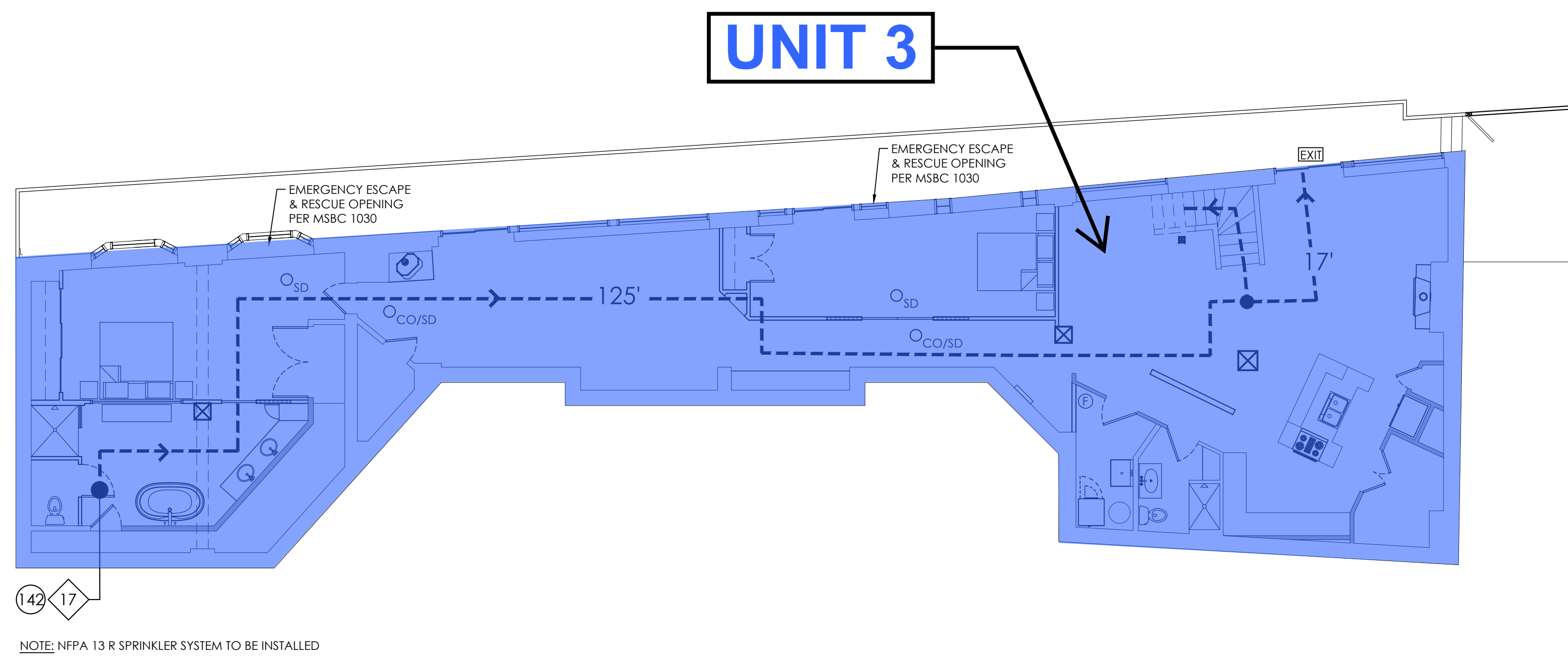
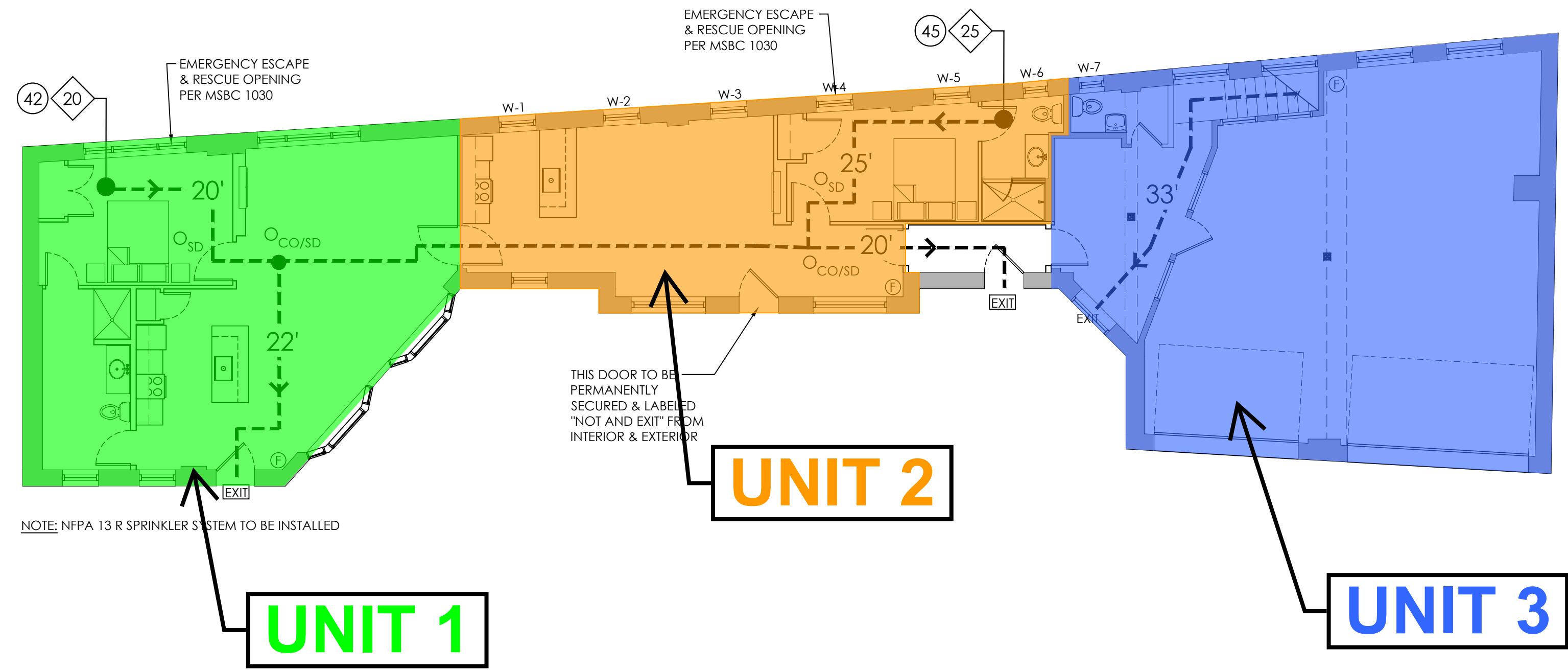
REVISIONS

SHEET NO.
A1.1

Check One Box

___	Accessory Home Share - \$268
___	Accessory Vacation Dwelling Unit, Limited - \$268
___	Appeal to Planning Com. - \$440
___	Concurrent Use of Streets - \$855
___	District Plan - \$1,227
___	EAW or EIS - \$3,064, plus any applicable professional fees
___	Historic Construction/Demolition - \$63
___	Resource Designation - \$111
___	Interim Use Permit \$1,717
___	Planning Review - \$1,146
___	Sidewalk Use Permit
___	New Permit - \$125
___	Renewal Permit - \$75
___	Special Use Permit, General - \$1,723
___	Special Use Permit, Wireless Telecommunications*
___	Modifying or Co-locating - \$3,064
___	New Facility or Tower - \$6,133
___	Escrow Deposit - \$10,426
___	Subdivision Plat Approval or Amendment:
___	Concept Plan - \$200
___	Preliminary Plat - \$1,221
___	Final Plat - \$920
___	Minor Subdivision - \$458
___	Plat Amendment or Boundary Line Adjustment - \$307
___	Registered Land Survey - \$920
___	Temporary Use Permit - \$313
___	UDC Zoning Map Amendment/Rezoning
___	General - \$979
___	MU-P or R-P - \$2,766
___	Vacation of Street or Utility Easement - \$971
___	Variance - \$917
___	Wetland, De Minimus, Delineation, or No Loss - \$244
___	Exemption - \$283
___	Replacement Plan - \$913
___	Zoning Verification Letter - \$103

- LIFE SAFETY LEGEND**
- ◇ EXIT ACCESS TRAVEL DISTANCE (SHORTEST DISTANCE)
 - COMMON PATH OF EGRESS TRAVEL
 - COMMON PATH OF EGRESS TERMINATION POINT
 - 19'→ PATH OF TRAVEL WITH DIRECTION AND DISTANCE
 - ⊗ EXIT SIGNS
 - MANEUVERING CLEARANCE
 - ⊕ FIRE EXTINGUISHER
 - 30 MIN FIRE-RESISTIVE RATED CONSTRUCTION
 - 1 HOUR FIRE-RESISTIVE RATED CONSTRUCTION
 - 2 HOUR FIRE-RESISTIVE RATED CONSTRUCTION
 - ⌒ FIRE RATED DOOR / FRAME ASSEMBLY (NUMBER INDICATES RATING IN MINUTES)
 - ⚡ EMERGENCY LIGHT
 - ⊙ CO/SD CO/SMOKE DETECTORS



LIFE SAFETY PLANS
 1/8"=1'-0"

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218-730-5580



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File Number	PL 23-007	Contact	Chris Lee, clee@duluthmn.gov	
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Deadline for Action	Application Date	January 17, 2023	60 Days	March 18, 2023
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Location of Subject	722 E Superior Street, Unit 2			
Applicant	Force 1 LLC	Contact	Jesse Carlson	
Agent		Contact		
Legal Description	010-3820-00510			
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722 E Superior St

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Aerial photography flown 2021

Prepared by: City of Duluth Planning & Economic Development, January 10, 2023, Source: City of Duluth

I HEREBY CERTIFY THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.
 SIGNATURE: *Ryan J. Arola*
 RYAN J. AROLA
 DATE: 8/12/2022 LICENSE NO. 52478

INTERIOR REMODEL/CHANGE OF OCC.

ISSUE DATE
 08/12/2022

PROJECT NO.
 2243

REVISIONS

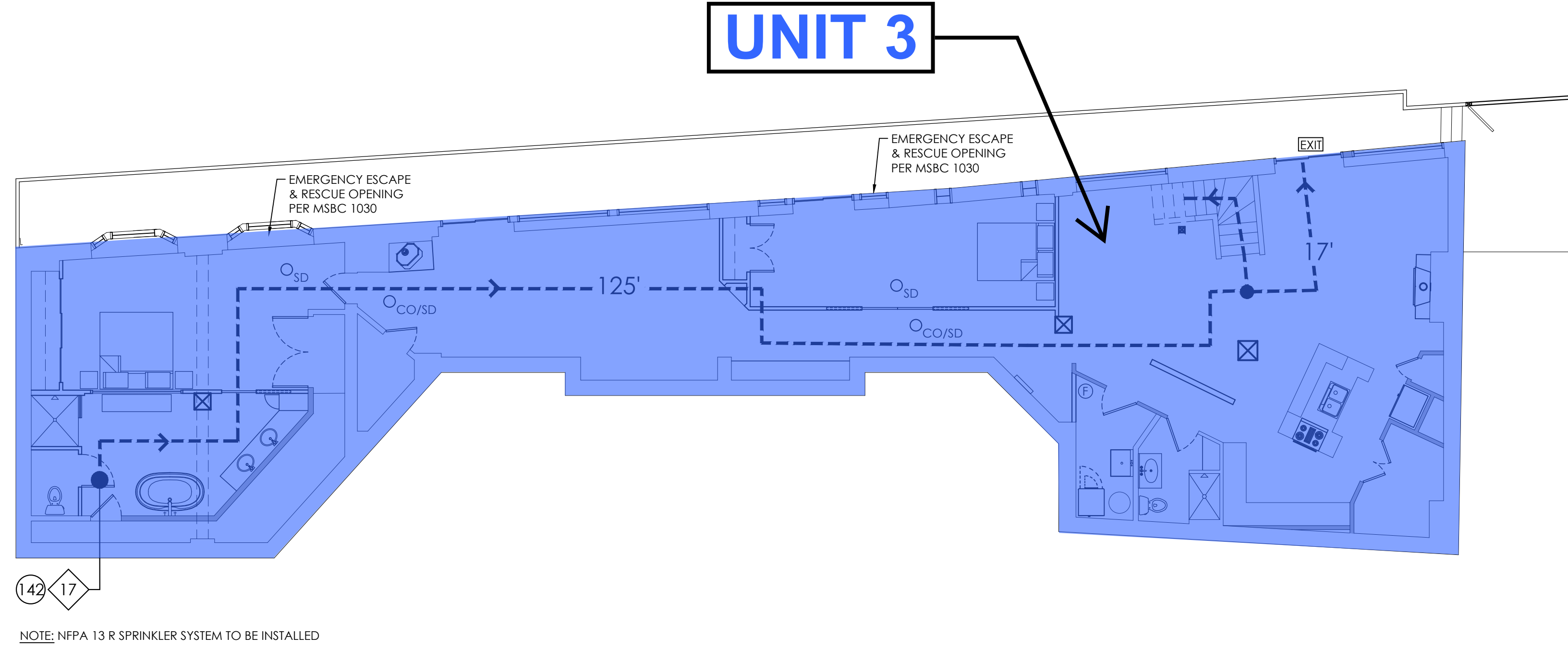
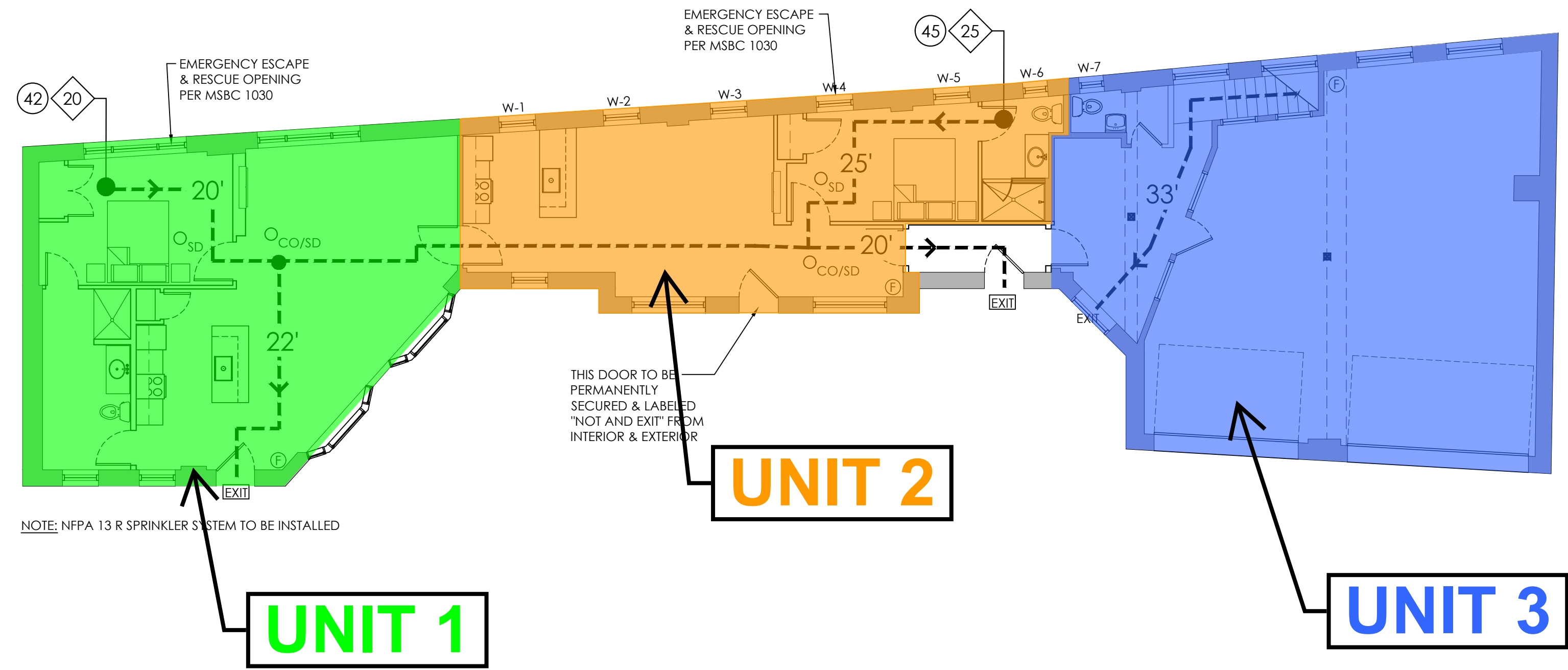
SHEET NO.
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Check One Box

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LIFE SAFETY LEGEND

- EXIT ACCESS TRAVEL DISTANCE (SHORTEST DISTANCE)
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1 LIFE SAFETY PLANS
 1/8"=1'-0"

Vacation Dwelling Unit Worksheet

1. The minimum rental period shall be not less than two consecutive nights (does not apply to Form districts). **What will be your minimum rental period?** 3 nights

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two. You may rent no more than four bedrooms.

How many legal bedrooms are in the dwelling?

2

What will be your maximum occupancy?

6

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

- a. 1-2 bedroom unit, 1 space
- b. 3 bedroom unit, 2 spaces
- c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
- d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
- e. Form districts are not required to provide parking spaces.

How many off-street parking spaces will your unit provide? 1

4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street. **Will you allow motorhome or trailer parking? If so, where?** No

5. The property owner must 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.

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

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

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

keep your guest record (log book, excel spreadsheet, etc):

Online booking engine

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

Please provide the name and contact information for your local contact:

Jesse Carlson 218-213-6648

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

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

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

Through online booking engine and property management software

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

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



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 23-014	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Interim Use Permit – Vacation Dwelling	Planning Commission Date	February 14, 2023	
Deadline for Action	Application Date	January 13, 2023	60 Days	March 14, 2023
	Date Extension Letter Mailed	January 18, 2023	120 Days	May 13, 2023
Location of Subject	418 South 19th Avenue East			
Applicant	Jason Kleiman	Contact		
Agent		Contact		
Legal Description	PID # 010-1460-00700			
Site Visit Date	February 2, 2023	Sign Notice Date	January 29, 2023	
Neighbor Letter Date	January 19, 2023	Number of Letters Sent	28	

Proposal

Applicant proposes to use a two-bedroom home as a vacation dwelling unit. Up to 5 people will be allowed to stay in the home.

The applicant was not on the vacation dwelling unit eligibility list; this is a property in the form district that is exempt from the eligibility list. Vacation dwelling units located in a Form District are exempt from minimum night stays and parking, and there is no cap on number of permits issued.

Recommended Action: Staff recommends that Planning Commission approve with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-2	Residential	Neighborhood Mixed Use
North	F-2	Commercial	Neighborhood Mixed Use
South	F-2	Residential	Neighborhood Mixed Use
East	F-2	Commercial	Neighborhood Mixed Use
West	F-2	Residential	Neighborhood Mixed Use

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-6 zone district.

UDC Section 50-20.3. Use-Specific Standards. Lists all standards specific to vacation dwelling units.

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

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the



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requested use in that location; 2. The applicant agrees to sign a development agreement with the city. 3. There is a city-wide cap on 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.

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

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

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

Applicant is proposing to provide another type of lodging product for visitors to the City of Duluth and surrounding area.

Future Land Use – Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets.

History: 418 South 19th Avenue East- The 800 square foot building was built in 1921.

Review and Discussion Items:

- 1) Applicant's property is located at 418 South 19th Avenue East. The proposed vacation dwelling unit is a two-bedroom house. The unit would allow for a maximum of 5 guests.
- 2) Vacation dwelling units located in Form districts are exempt from number of interim use permits issued, minimum night stays and parking requirements.
- 3) The applicant has noted that there will be two off street parking spaces provided.
- 4) The applicant has noted that parking for a camper or trailer will be provided in the existing driveway.
- 5) The site does not have any outdoor amenities in the rear yard area. The applicant will need to provide a dense urban screen of vegetation or fencing along the south property line or the requirement for a dense urban screen or fence may be waived if the adjoining property owner does not want it on or near their shared property line, and indicates this with a signed letter. The applicant does plan on providing screening on the existing covered exterior patio in the front of the house from the property to the south.
- 6) Permit holders must designate a managing agent or local contact who resides within 25 miles of the city and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the city. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed themselves to serve as the managing agent, which meets the criteria.



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

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

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

10) The permit will expire 6 years from the approval date. The permit will lapse if no activity takes place within 1 year of approval.

Staff Recommendation:

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

- 1) The applicant will need to provide a dense urban screen of vegetation or fencing along the south property line and/or the requirement for a dense urban screen or fence may be waived if the adjoining property owner does not want it on or near their shared property line, and indicates this with a signed letter. Prior to the permit being authorized, the fence or dense vegetative screen must be in place, and it must be continuously maintained during the entire permit period.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.



PL 23-014
Interim Use Permit
Site Map

PC Packet 02-14-2023

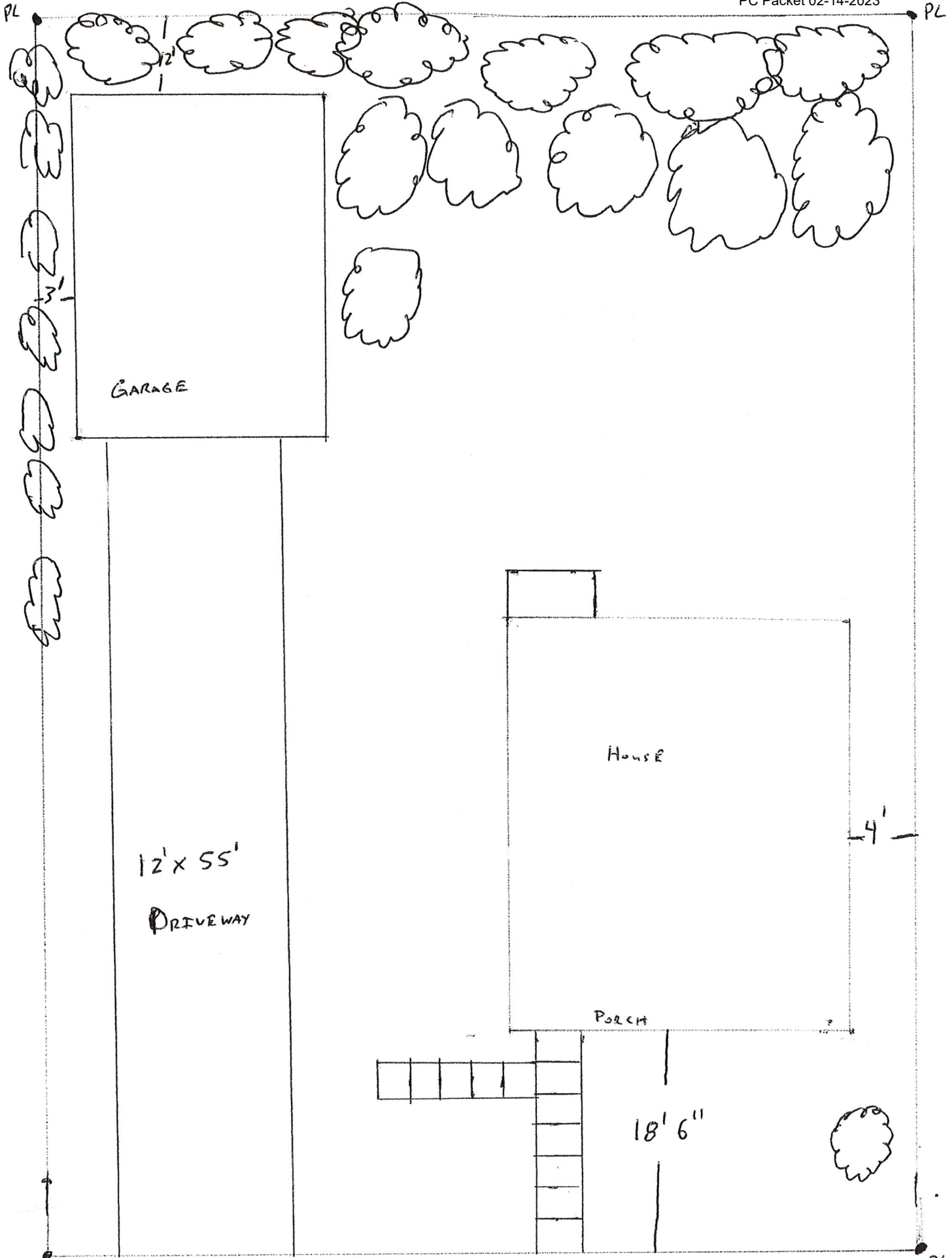
Legend

- Road or Alley ROW
- Zoning Boundaries



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423 S 19TH AVE E
 146000425
 Aerial photography flown 2016



GARAGE

12' x 55'

DRIVEWAY

HOUSE

PORCH

18' 6"

4'



Planning & Development Division
Planning & Economic Development Department

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218-730-5580



planning@duluthmn.gov

File Number	PL 22-218	Contact	Chris Lee	
Type	Interim Use Permit– Vacation Dwelling Unit	Planning Commission Date	February 14, 2022	
Deadline for Action	Application Date	December 16, 2022	60 Days	March 11, 2023 (extended)
	Date Extension Letter Mailed	December 21, 2022	120 Days	May 10, 2023 (extended)
Location of Subject	727 W 2 nd St			
Applicant	Justin and Alyssa Voegele	Contact		
Agent	Claire Musech	Contact		
Legal Description	010-1240-00393			
Site Visit Date	February 1, 2023	Sign Notice Date	January 31, 2023	
Neighbor Letter Date	December 20, 2022	Number of Letters Sent	35	

Proposal

Applicant is proposing an interim use permit for a vacation dwelling unit. The permit would allow for a 2-bedroom house with a maximum of 5 occupants. This is a new permit with the property being on the eligibility list.

Staff is recommending Planning Commission recommend approval.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	Residential	Traditional Neighborhood
North	R-2	Residential	Traditional Neighborhood
South	R-2	Residential	Traditional Neighborhood
East	R-2	Residential	Traditional Neighborhood
West	R-2	Residential	Traditional Neighborhood

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A vacation dwelling unit is an Interim Use in the R-2 zone district.


UDC Section 50-20.3. Use-Specific Standards. Lists all standards specific to vacation dwelling units.

UDC Sec. 50-37.10.E . . . the 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; 2. The applicant agrees to sign a development agreement with the city.



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

Governing Principle #8 - Encourage mix of activities, uses, and densities. A short-term rental allows property owners to generate income and provides a service for tourists.

Econ. Dev. Policy #3 - Build on Existing Economic Strengths & Competitive Advantages

S9: Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth. The proposed IUP in this location will enhance the level of activity in the downtown, and increase opportunities for additional commerce.

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

Current History: The subject property is a 1,640 square foot single family home constructed in 1895.

Review and Discussion Items:

- 1) Applicant's property is located at 727 West 2nd Street. The proposed vacation dwelling unit contains 2 bedrooms, which would allow for a maximum of 5 guests.
- 2) The applicant is proposing 2 off-street parking spaces on a parcel adjacent to the subject property. The applicant has submitted a Lease Agreement valid for 6 years for the required parking.
- 3) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicants have listed Claire Musech at Superior Shores Cleaning to serve as the managing agent.
- 4) The applicant has screening in the front yard for any amenities. There is no rear yard to screening.
- 5) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 7) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 8) There was one comment received with concern to the proliferation of short term rentals in the neighborhood. No other public City, or agency comments were received.



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Staff Recommendation:

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

- 1) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.
- 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

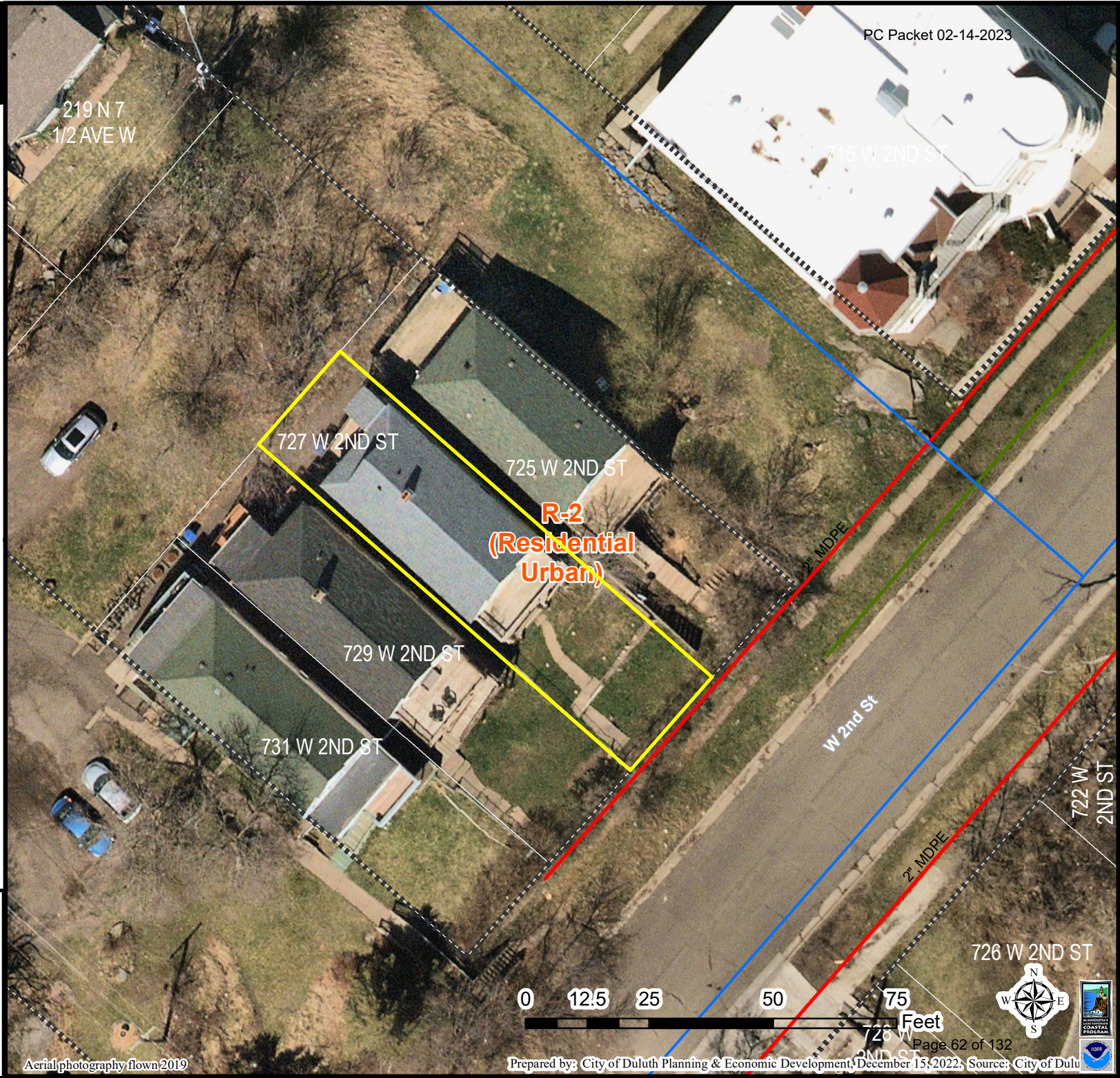


PL22-218
IUP for Vacation Rental
727 W 2nd Street

PC Packet 02-14-2023

Legend

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

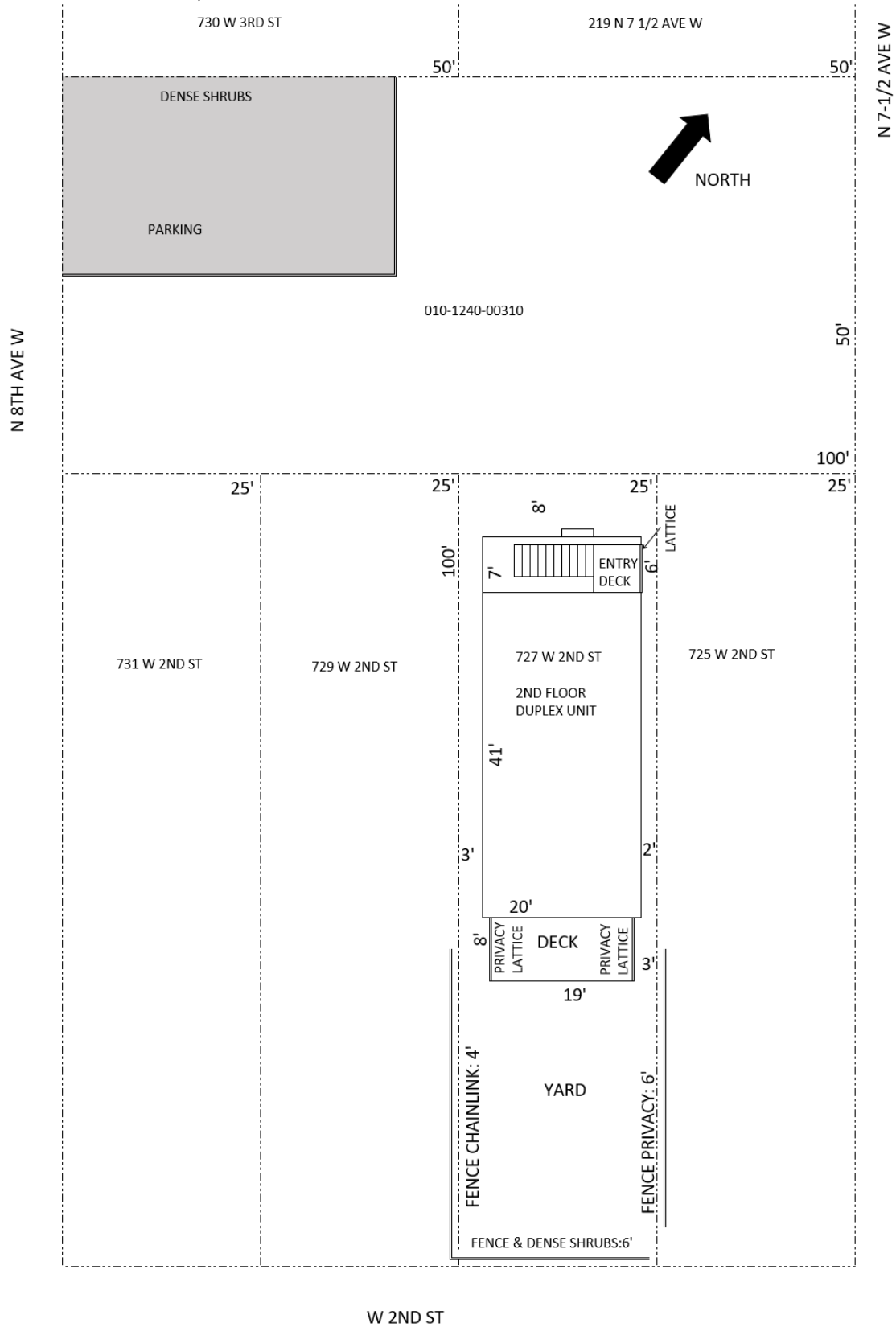


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Aerial photography flown 2019

Prepared by: City of Duluth Planning & Economic Development, December 15, 2022; Source: City of Duluth

727 W 2ND STREET, DULUTH SITE MAP



Vacation Dwelling Unit Worksheet

1. The minimum rental period shall be not less than two consecutive nights (does not apply to Form districts). **What will be your minimum rental period?** TWO nights

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two. You may rent no more than four bedrooms.

How many legal bedrooms are in the dwelling?
 2

What will be your maximum occupancy?
 5

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

- a. 1-2 bedroom unit, 1 space
- b. 3 bedroom unit, 2 spaces
- c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
- d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
- e. Form districts are not required to provide parking spaces.

How many off-street parking spaces will your unit provide? 1

4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street. **Will you allow motorhome or trailer parking? If so, where?** NO

5. The property owner must 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.

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

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

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

keep your guest record (log book, excel spreadsheet, etc):

EXCEL SPREADSHEET SAVED TO A GOOGLE DRIVE

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

Please provide the name and contact information for your local contact:

CLAIRE MUSECH: 218.721.6459; CLAIRE@SUPERIORSHORESCLEANING.COM; 821 N 4TH AVE E DULUTH

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

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

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

WILL BE LISTED ON THE VACATION RENTAL LISTING SITE, EMAILED, AND KEPT IN A BINDER ON SITE

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

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

Dear Chris Lee/Planning Division,

We received the notice about the request for a vacation dwelling permit at 727 W 2nd St.

Our home is adjacent to three homes that are used as vacation homes for out of town owners, one of which is used as a vacation rental. These properties are empty most of the time. This use of housing has hollowed out this part of the neighborhood. There is very little activity here. It is a bit depressing to live in an urban neighborhood with empty houses. I would much prefer neighbors who actually live here and contribute to the community. I don't wish to have short term visitors not invested in the city.

In addition, I think using the house at 727 W 2nd St as a vacation rental removes yet another home from an affordable neighborhood in a city lacking housing. I think city planning should incentivize that type of investment in neighborhoods, that is, make it harder to turn a home into a vacation rental than to develop residential housing.

Sincerely,

Judith Johnson

635 W 3rd St



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 22-232	Contact	Chris Lee	
Type	Final Plat	Planning Commission Date	February 14, 2023	
Deadline for Action	Application Date	December 22, 2022	60 Days	February 20, 2023
	Date Extension Letter Mailed	January 10, 2023	120 Days	April 21, 2023
Location of Subject	SE ¼ of NE ¼ of NE ¼, Section 17, Township 50, Range 14 City of Duluth (Duluth Heights)			
Applicant	John Hansen	Contact		
Agent		Contact		
Legal Description	See attached			
Site Visit Date	September 2, 2022	Sign Notice Date	N/A	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal

Create a new plat for 8.97 acres of currently unplatted land with an existing structure on it. Platting this parcel will establish two buildable lots. Lot 1 will contain the existing principle and accessory structures; Lot 2 will remain vacant.

Staff recommends approval, with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	Residential	Urban Residential
North	MU-N	Residential	Neighborhood Mixed use
South	R-1/MU-N	Residential	Traditional Neighborhood
East	R-1	Government Building	Neighborhood Mixed use
West	R-1	Undeveloped	Traditional Neighborhood

Summary of Code Requirements

The planning commission shall approve the application, or approve it with modifications if it determines that the application meets the following criteria (Section 50-37.5.H.3):

- (a) Is consistent with all applicable requirements of MSA 462.358 and Chapter 505;
- (b) Is consistent with the terms and provisions of the preliminary plat approval for the property;
- (c) Demonstrates that all required improvements have been installed or that (a) the applicant has signed a development agreement committing to construct those improvements within 2 years after approval of the final plat and (b) adequate security for the construction of the required improvements has been posted with the City pursuant to Section 50-37.1.P.

Once approved, the applicant shall file the plat in the office of the County Recorder within two years or the approval will lapse per Section 50-37.5.H.4.

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

Governing Principle #5 – Promote reinvestment in neighborhoods. The project is sited adjacent to existing transportation and utility infrastructure.

Governing Principle #12- Create efficiencies in delivery of public services. This project will require minimal extension of utility infrastructure while utilizing existing transportation, public safety, and other City services. This allows the City to serve more residents on existing infrastructure which reduces the overall cost to all of the City's landowners.

Zoning-Residential-Urban (R-2): Multi-family apartments and townhouses, in an urban setting as well as single-family detached dwellings, duplexes and group living accommodations. Intended primarily for locations closer to commercial and mixed-use activity centers, and may serve as a transition between lower-density residential areas and more intense commercial and mixed use neighborhoods.

Future Land Use: Urban Residential: Greatest variety of residential building types, medium to high densities. Applicable to infill areas close to activity centers. Connected or adjacent to parks and open space. Overall residential density of 8 units/acre and up. Design standards ensure pedestrian orientation and mix of housing.

Related files:

PL 22-198 Wetland Delineation

History:

The current structure was built in 1925 and is currently used as a residential care facility. The building contains 8,600 square feet with 3 stories. A 2,400 square foot accessory structure (garage) was built in 1990.

Related files:

PL 22-199 Preliminary Plat. Approved by Planning Commission on 12/13/22.

Review and Discussion Items**Staff finds:**

- 1) The applicant is proposing to create a new plat for 8.97 acres of currently unplatted land with an existing structure on it. Platting this parcel will establish two buildable lots. Lot 1 will contain the existing principle and accessory structures; Lot 2 will remain vacant.
- 2) Lot 1 (3.18 acres), zoned R-2 (Residential-Urban), is proposed to retain the residential care facility and accessory building, which is a permitted use in R-2. The existing building would continue to maintain access to Arlington Avenue via a private access easement, and the sewer connection would remain in a private utility easement.
- 3) Lot 2 (5.79 acres), zoned R-2 (Residential-Urban), is proposed to be developed in the future.
- 4) The Planning Commission's approval of the Preliminary Plat was conditioned on these items:
 - a) That private utility and street easements be shown and correct on the final plat for all lots. However, as these easements are between private properties and are not easements dedicated to the public, keeping them separate from the plat is appropriate.
- 5) The wetland delineation has been approved by the Technical Evaluation Panel. There were .18 acres of wetlands delineated on the site. There are no anticipated impacts to these small pockets of wetlands.
- 6) The tree inventory has been reviewed by the City Forester with no comments. There are no anticipated impacts or tree removal at this time.
- 7) Staff finds that, other than the items addressed above, the final plat conforms to the requirements of Sec 50-37.5. and is consistent with all applicable requirements of MSA 462.358 and Chapter 505.
- 8) No City, citizen or other agency comments have been received at any point regarding this application.

Staff Recommendation

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

1. The final plat must be recorded in the office of the County Recorder as provided in MSA 505.4 and that such recording be completed within 2 years of the approval of the plat.
2. No building permits or development will be permitted to take place on either parcel until proof is provided to the City that the easements are recorded.
3. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission review; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



Legend

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



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ARLINGTON HEIGHTS

LOCATED IN PART OF SOUTHEAST QUARTER OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 17, TOWNSHIP 50 NORTH, RANGE 14 WEST OF THE FOURTH PRINCIPAL MERIDIAN

ST. LOUIS COUNTY MINNESOTA

KNOW ALL PERSONS BY THESE PRESENTS: That John E. Hansen and Anne E. Hansen, husband and wife under the laws of Minnesota, owner of the following described property:

SE 1/4 of NE 1/4 of NE 1/4, Section 17, Township 50 North, Range 14 West of the Fourth Principal Meridian, according to the U.S. Government Survey thereof. (ABSTRACT PROPERTY)

Has caused the same to be surveyed and platted as ARLINGTON HEIGHTS and does hereby dedicate to the public for public use the public way(s) and/or the drainage and utility easement(s) as created by this plat.

In witness whereof, John E. Hansen and Anne E. Hansen, husband and wife, have hereunto set their hands this ____ day of _____, 2023.

By: _____
John E. Hansen
By: _____
Anne E. Hansen

STATE OF MINNESOTA
COUNTY OF _____
The foregoing instrument was acknowledged before me this ____ day of _____, 2023 by John E. Hansen and Anne E. Hansen, husband and wife.

Notary Public for the State of Minnesota
My Commission Expires _____

I, David R. Evanson, do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all water boundaries and wet lands, as defined in Minnesota Statutes, Section 505.01, Subd. 3, as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.
Dated this ____ day of _____, 2023.

David R. Evanson, Licensed Land Surveyor
Minnesota License Number 49505

STATE OF MINNESOTA
COUNTY OF ST. LOUIS
The foregoing Surveyor's Certificate was acknowledged before me this ____ day of _____, 2023 by David R. Evanson, Minnesota License Number 49505.

Notary Public, St. Louis County, Minnesota
My Commission Expires _____

CITY OF DULUTH PLANNING COMMISSION
Approved by the Planning Commission of the City of Duluth, St. Louis County, Minnesota, at a regular meeting thereof, on the ____ day of _____, 2023.

President, Duluth City Planning Commission
Executive Secretary, Duluth City Planning Commission

ST. LOUIS COUNTY SURVEYOR
I hereby certify that in accordance with Minnesota Statutes, Section 505.021, Subd. 11, this plat has been reviewed and approved this ____ day of _____, 2023.

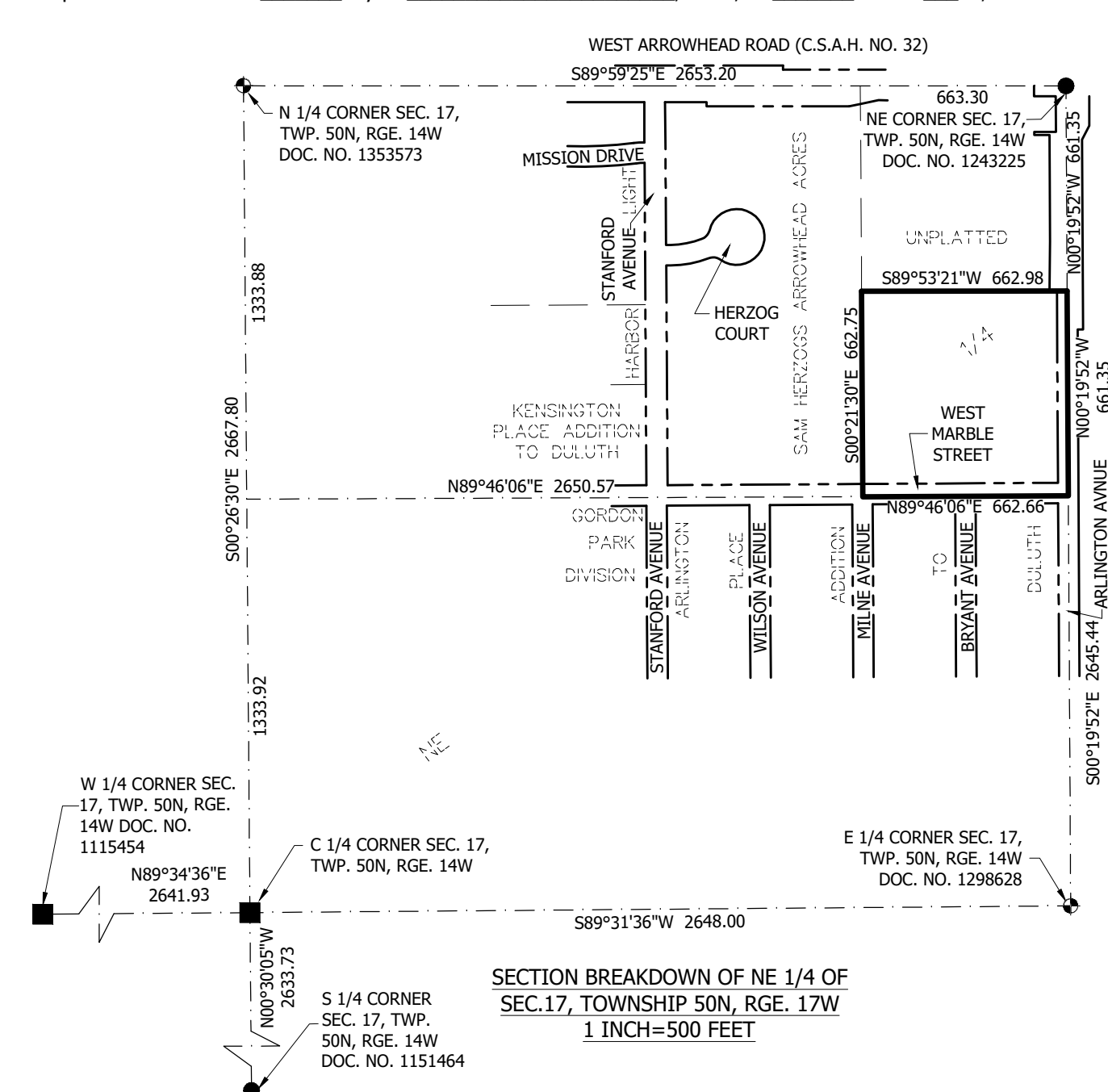
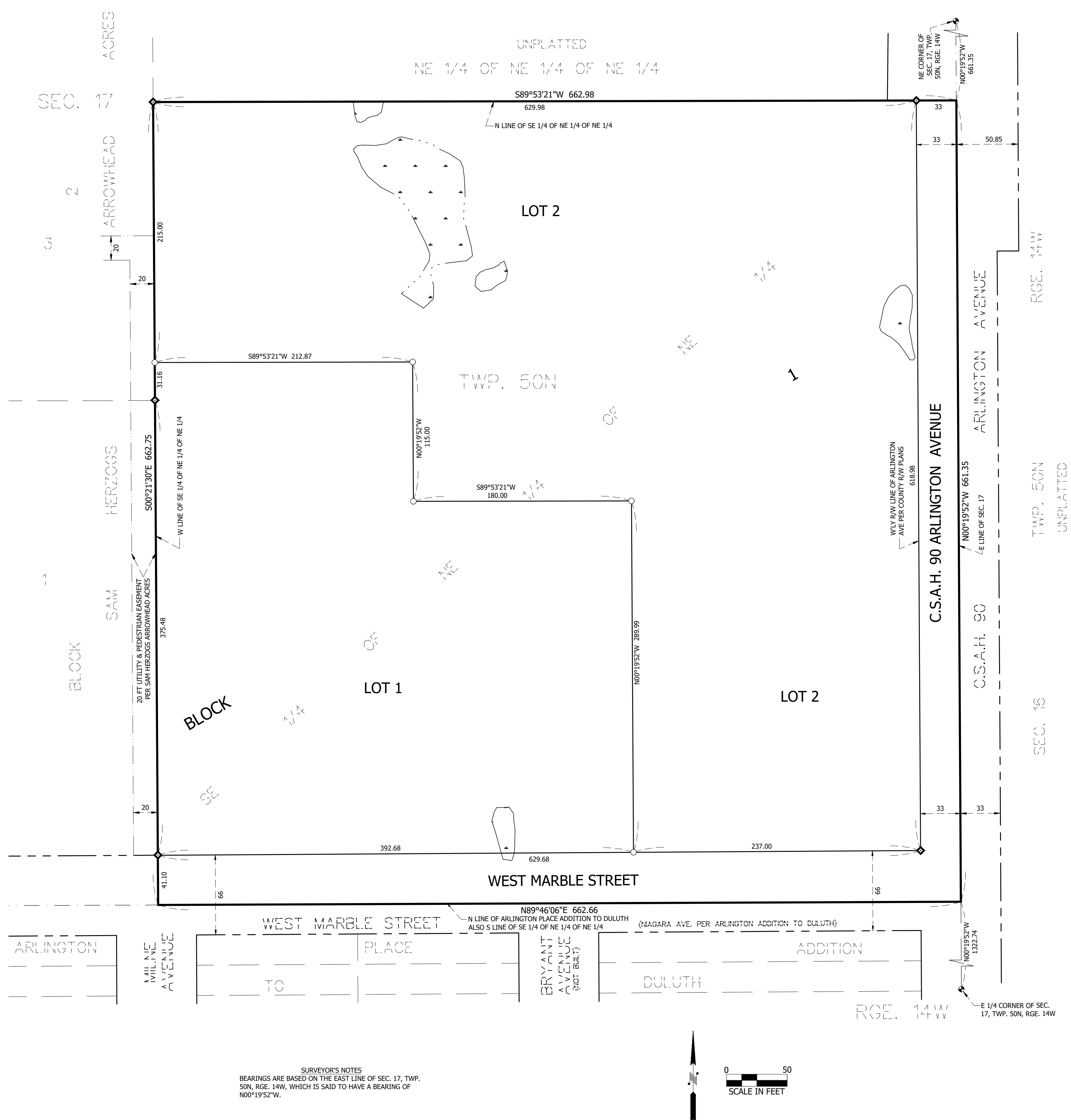
Nick C. Stewart
County Surveyor
Deputy

ST. LOUIS COUNTY AUDITOR
Pursuant to Minnesota Statutes, Section 505.021, Subd. 9, and to Minnesota Statutes, Section 272.12, taxes payable in the year 2023 on the land hereinbefore described have been paid; there are no delinquent taxes and transfer entered this ____ day of _____, 2023.

Nancy Nilsen
County Auditor
Deputy

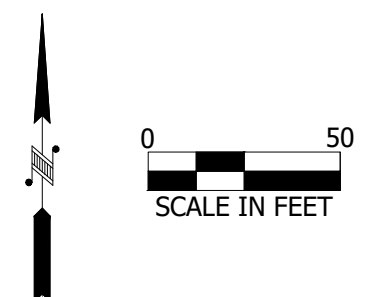
ST. LOUIS COUNTY RECORDER
I hereby certify that this plat of ARLINGTON HEIGHTS was filed in this office of the County Recorder for public record on this ____ day of _____, 2023, at ____ o'clock ____ M., as Document No. _____.

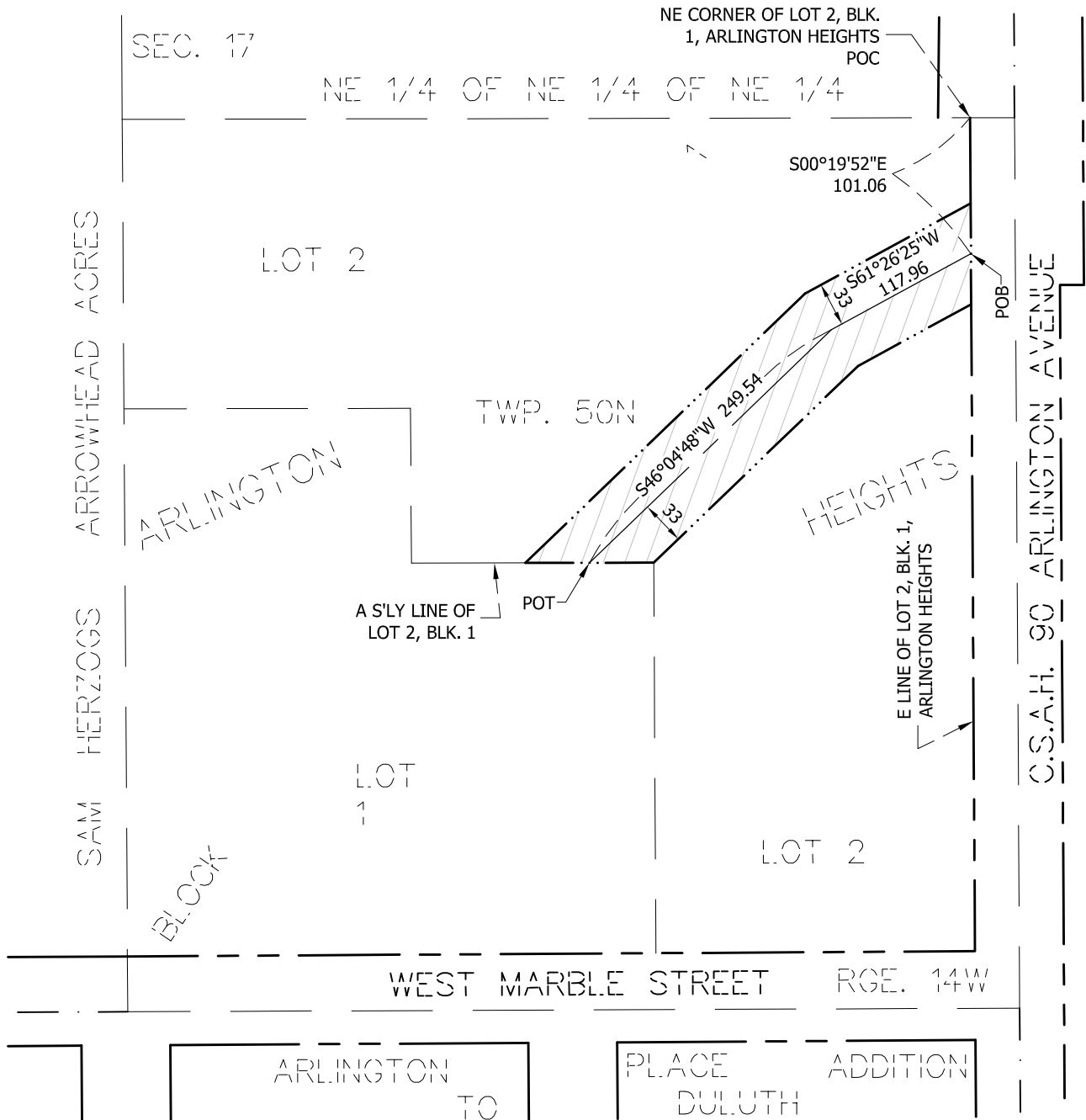
Wendy Levitt
County Recorder
Deputy



- LEGEND**
- WET LANDS PER OTHERS
 - WET LAND LINE PER OTHERS
 - SECTION SUBDIVISION LINE
 - RIGHT OF WAY LINE
 - EXISTING EASEMENT LINE
 - BOUNDARY LINE AS SURVEYED
 - EXISTING PLAT LINE
 - LOT LINE
 - ALUMINUM CAPPED MONUMENT
 - FOUND SANDSTONE MONUMENT
 - FOUND REBAR
 - FOUND CAPPED REBAR RLS. NO. 49505
 - SET CAPPED REBAR RLS. NO. 49505

SURVEYOR'S NOTES
BEARINGS ARE BASED ON THE EAST LINE OF SEC. 17, TWP. 50N, RGE. 14W, WHICH IS SAID TO HAVE A BEARING OF N00°19'52"W.





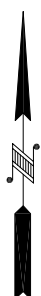
LEGAL DESCRIPTION FOR INGRESS & EGRESS EASEMENT

A 66 foot wide easement for ingress & egress purposes lying over, under and across that part of Lot 2, Block 1, ARLINGTON HEIGHTS, according to the recorded plat thereof, St. Louis County, Minnesota the centerline of easement is described as follows:

Commencing at the Northeast corner of said Lot 2; thence on an assumed bearing of South 00 degrees 19 minutes 52 seconds East, along the East line of said Lot 2 for a distance of 101.06 feet to the point of beginning of the easement herein described; thence South 61 degrees 26 minutes 25 seconds West 117.96 feet; thence South 46 degrees 04 minutes 48 seconds West 249.54 feet to a Southerly line of said Lot 2 and there terminating.

The Sidelines of said easement shall be prolonged or shortened to terminate on said East line of Lot 2, Block 1 and said Southerly line of Lot 2, Block 1.

Said ingress & egress easement contains 24,255 Sq. Feet or 0.56 Acres.



SURVEYOR'S NOTES

1. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
2. THIS IS NOT A BOUNDARY SURVEY.

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

By _____

LEGEND

- PROPOSED INGRESS & EGRESS EASEMENT
- POC-POINT OF COMMENCEMENT
- POB-POINT OF BEGINNING
- POT-POINT OF TERMINATION
- SECTION SUBDIVISION LINE
- CENTER LINE
- RIGHT OF WAY LINE
- PROPOSED EASEMENT LINE
- EXISTING PLAT LINE

EASEMENT EXHIBIT

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

David R. Evanson
 David R. Evanson
 MN License #49505

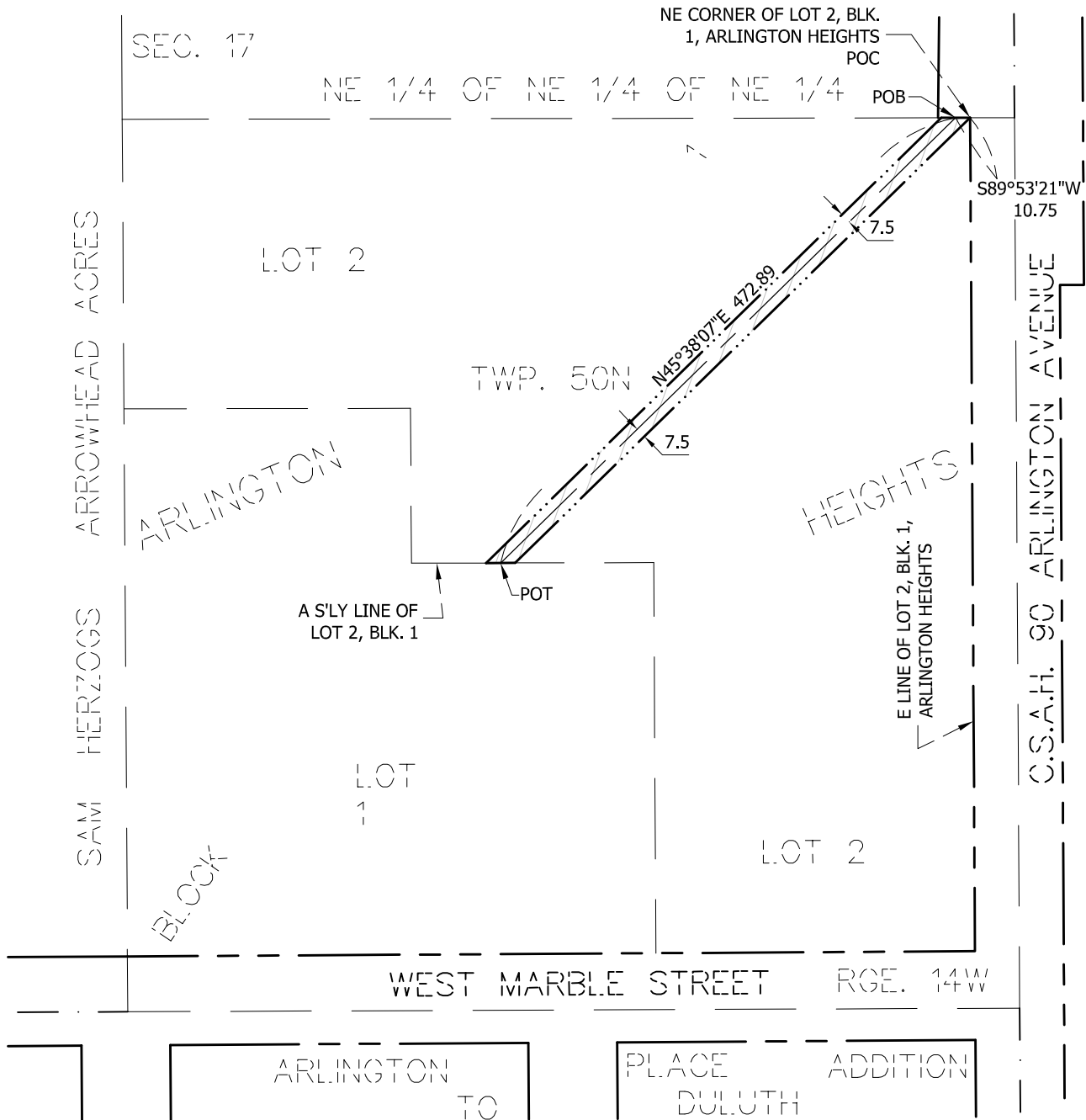
DATE:12-20-2022

CLIENT:JOHN HANSEN
 ADDRESS:2221 N ARLINGTON AVE,
 DULUTH, MN 55811
 DATE:12-20-2022

REVISIONS:

JOB NO:22-264 SHEET 1 OF 1

ALTA
 LAND SURVEY COMPANY
 PHONE: 218-727-5211
 LICENSED IN MN & WI
 WWW.ALTLANDSURVEYDULUTH.COM



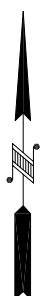
LEGAL DESCRIPTION FOR SEWER EASEMENT

A 15 foot wide easement for sewer purposes lying over, under and across that part of Lot 2, Block 1, ARLINGTON HEIGHTS, according to the recorded plat thereof, St. Louis County, Minnesota the centerline of easement is described as follows:

Commencing at the Northeast corner of said Lot 2; thence on an assumed bearing of South 89 degrees 53 minutes 21 seconds West, along the North line of said Lot 2 for a distance of 10.75 feet to the point of beginning of the easement herein described; thence South 45 degrees 38 minutes 07 seconds West 472.89 feet to a Southerly line of said Lot 2 and there terminating.

The Sidelines of said easement shall be prolonged or shortened to terminate on said North line of Lot 2, Block 1 and said Southerly line of Lot 2, Block 1.

Said sewer easement contains 24,255 Sq. Feet or 0.56 Acres.



SURVEYOR'S NOTES

- BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
- THIS IS NOT A BOUNDARY SURVEY.

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

By _____

LEGEND

- PROPOSED SEWER EASEMENT
- POC-POINT OF COMMENCEMENT
- POB-POINT OF BEGINNING
- POT-POINT OF TERMINATION
- SECTION SUBDIVISION LINE
- CENTER LINE
- RIGHT OF WAY LINE
- PROPOSED EASEMENT LINE
- EXISTING PLAT LINE

EASEMENT EXHIBIT

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

David R. Evanson
 David R. Evanson
 MN License #49505

DATE:12-20-2022

CLIENT:JOHN HANSEN

ADDRESS:2221 N ARLINGTON AVE,
 DULUTH, MN 55811

DATE:12-20-2022

REVISIONS:

JOB NO:22-264




SHEET 1 OF 1

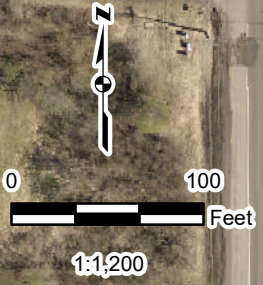


PHONE: 218-727-5211
 LICENSED IN MN & WI
 WWW.ALTLANDSURVEYDULUTH.COM



MSP:Office-Duluth, MN | Source: C:\Users\trishan@GEI\OneDrive\GIS\Projects\010-27110-04200\Mapas\McCarthy_01d.mxd | 10/13/2022 8:00:15 AM, NAD 1983 UTM Zone 18N

	Delineation Boundary
	Hardwood Swamp
	Fresh (wet) Meadow




PARCEL 010-27110-04200
 DULUTH, MINNESOTA
 PREPARED FOR
 JOHN HANSEN

FIGURE 04



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

 218-730-5580

 planning@duluthmn.gov

MEMORANDUM

DATE: February 7, 2023

TO: Planning Commission

FROM: Jenn Reed Moses, Senior Planner

SUBJECT: Proposed UDC Changes to Parking Regulations (PL 23-003)

Staff is proposing changes to Section 50 of the City of Duluth Legislative Code, the Unified Development Chapter (UDC). These changes impact Section 50-18.5, Higher Education Overlay; 50-19, Permitted Use Table; 50-20, Use-Specific Standards; 50-24, Parking and Loading; and 50-41, Definitions.

City staff have reviewed the zoning regulations pertaining to off-street parking, reviewed best practices in planning in Minnesota and other places in the country, as well as current development patterns and needs in Duluth, and find the following:

- Innovation in technology and changing trends demonstrate that modes like automatic vehicles will impact needs for off-street parking at destinations. In addition, there is an increased need for bike parking and EV charging stations.
- Parking needs can be accommodated in myriad ways, as demonstrated in the downtown and Canal Park areas, which have been exempt from parking minimums, and form districts, which have flexibility in parking minimums. These areas also demonstrate that the absence of parking minimums does not result in an overall loss of parking available.
- Construction costs have increased drastically in recent years; the cost of providing parking lots and parking structures is significant, causing parking regulations to become a deterrent to development.
- Developers often have thresholds for parking from lenders, or conduct their own market assessments to determine needed parking. As vehicles have become a pervasive form of transportation, market demand increasingly drives the parking needs of any development.
- It is increasingly difficult to identify minimum numbers of off-street parking spaces that should be included in zoning regulations, as land uses become increasingly varied. Businesses and developers report changes in service delivery and customer mix that indicate there is no standard that fits every restaurant, retail store, or housing development (using restaurants as an example, this category includes everything from a drive-through coffee hut to a pizza restaurant that is delivery/pick-up only and a full-service sit-down restaurant).

Based on conversations with Planning Commission and community members, Staff are proposing a series of changes to update parking regulations in zoning, including:

- Removal of off-street parking requirements in the remaining areas of the city. Those that choose to provide parking will still need to meet requirements related to parking space and drive aisle dimensions, parking location, stormwater requirements, and landscaping.

- A new land use category, overflow parking area, to allow flexibility where demand warrants. This overflow parking area would be allowed via an Interim Use Permit, which could be renewed annually.
- Requirements for bicycle parking, including short-term, employee, and resident bicycle parking.
- Requirements for certain overnight uses (multi-family and hotel/motel) to either provide EV charging stations or be EV ready.

These changes are shown in the attached pages. These modifications were developed through several months of discussion at Planning Commission meetings, a Planning Commission Brown Bag on November 7, 2022, and a meeting on January 10, 2023, which included public comment on a draft of these changes. A press release on January 9, 2023, elicited widespread media coverage, and a legal notice was posted in the Duluth News Tribune on January 28, 2023, February 4, 2023, and February 11, 2023. Copies of all comments received are attached.

Staff recommends that Planning Commission recommend approval of these changes. An ordinance with these changes will then go to City Council, and will require two readings before a vote.

Proposed UDC Code Changes – Parking

50-18.5 Higher Education Overlay (HE-O).

A Purpose.

The purpose of this Section 50-18.5 is to minimize the impacts of potential student use on adjacent residential neighborhoods and to encourage the development of pedestrian friendly neighborhood destinations near the UMD [University of Minnesota-Duluth] and St. Scholastica campuses;

B Applicability.

This Section applies to land within the HE-O, shown in Exhibit 50-18.5-1, that (a) is zoned R-2 or MU-N; and (b) includes new development or redevelopment where the value of the redevelopment exceeds 75 percent of the market value of the land and buildings, as indicated by tax assessor's records; except for:

1. One-family or two-family dwellings;
2. Any residential development where all of the dwelling units are restricted by development agreement or covenant for occupancy by those aged 50 and over or for occupancy by those individuals and households protected by the federal Fair Housing Act amendments of 1988.

A planning review by the planning commission, pursuant to the procedures in Article 5, shall be required unless exempt in the above applicability standards;

C Development standards.

1. General.

- (a) Vehicle ingress and egress shall be located in a manner that avoids or minimizes impacts to residents in adjacent R-1 districts and that reduces the potential for pedestrian-vehicular conflicts;
- (b) Primary buildings shall adhere to a build-to zone of five feet to 20 feet along primary streets. This requirement shall supersede building setbacks in Section 50-14.6 and 50-15.2. Alternatively, if the land use supervisor determines that site conditions such as existing buildings or topography make this unfeasible, pedestrian walkways can be used to connect people from public sidewalks along primary streets to businesses and residences. These walkways shall:
 - Include pedestrian-scaled lighting;
 - Be raised or otherwise designed to encourage run-off and limit ponding during wet weather;
 - Be visually recognizable to both pedestrians and motorists;
 - Include trees and other landscaping along the length of the walkway; this landscaping can also be used to meet parking lot landscaping requirements in Section 50-25.4;
 - Be at least five feet wide;
 - Include well-marked crossings where the walkway intersects with private vehicle drives;
- (c) Unless lighting meets exception criteria in Section 50-31.1.B, the maximum height of any light pole is 20 feet;

2. Residential.

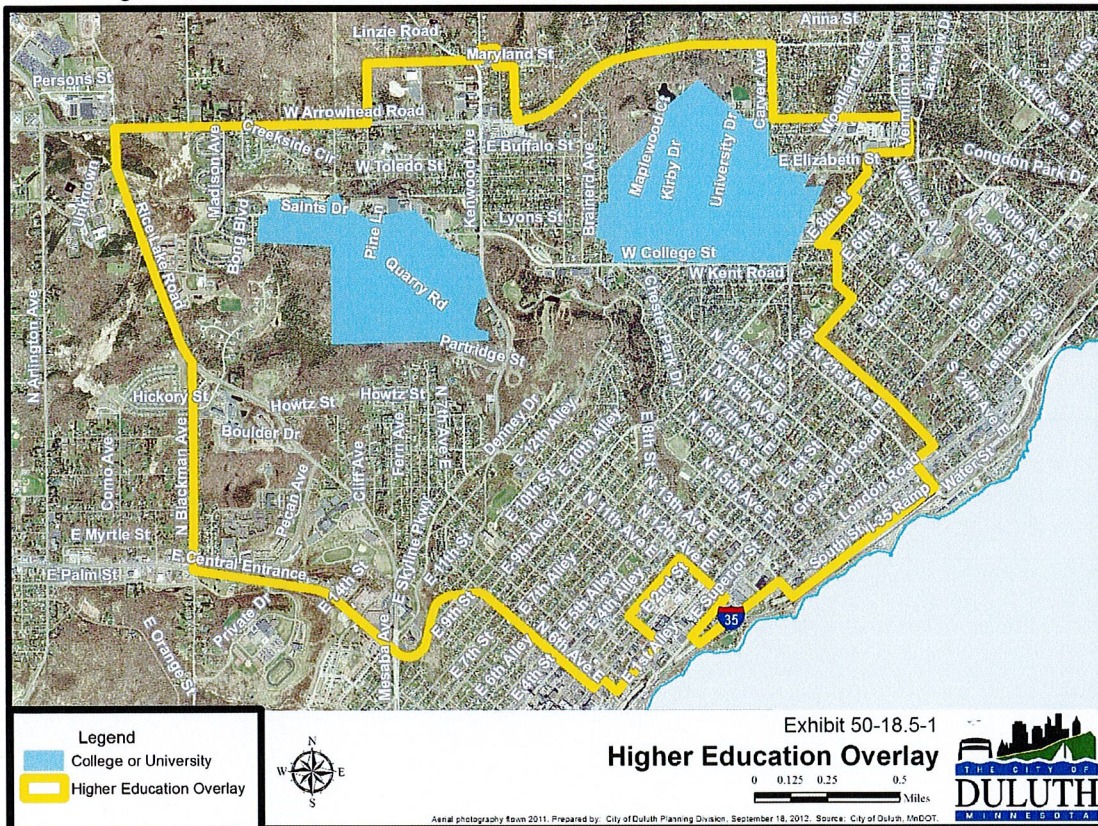
- (a) Required resident parking spaces shall be provided at the ratio of 0.7 space per bedroom, with a minimum of one space per dwelling unit;
- (b) Visitor parking spaces shall be provided at the rate of 15 percent of required resident parking spaces;
- (c) At least one bicycle or motorized scooter parking space per five parking spaces shall be provided, which shall not be located in any required yard or between the principal dwelling and the street;
- (d) A development that provides an enhanced shelter with space dedicated solely for bicycle or motorized scooter parking shall be granted a reduction in the off-street parking requirement of five percent if the shelter complies with the following standards:
 - The enhanced shelter shall not be located in any required yard setback;
 - The enhanced shelter shall not be located between the principal building and a public street;
 - The enhanced shelter shall be enclosed on at least three sides and covered to adequately protect bicycles from the elements;
 - The enhanced shelter shall utilize primary exterior materials that match the primary exterior materials of the principal structure;
- (e) If the development or redevelopment is determined to have mitigated the impacts of potential student use in the adjacent residential neighborhood, the development or redevelopment may adjust the parking requirements as provided in either Section 50-24.3.A or 50-24.3.B if eligible, but may not utilize both adjustments;

- (f) No residential balcony, patio, or deck shall be located on any side of the property facing and within 200 feet of an R-1 district;
- 3. Commercial.
 - (a) Commercial development shall be concentrated on major roads, not on streets intended primarily for neighborhood traffic;

D Primary streets.

The following streets are designated as primary streets in the Higher Education Overlay District:

1. Woodland Avenue;
2. St. Marie Street;
3. Arrowhead Road;
4. College Street;
5. Kenwood Avenue, north of College Street;
6. Fourth Street;
7. London Road;
8. Superior Street;
9. Ninth Street, between Sixth Avenue East and 15th Avenue East; and
10. Eighth Street, between 15th Avenue East and Woodland Avenue.



(Added by Ord. No. 10192, 12-17-2012, § 8; Ord. No. 10286, 3-10-2014, § 5)

50-19.8 Permitted use table.

TABLE 50-19.8: USE TABLE, REVISED DEC 2022

P: Permitted Use I: Interim Use U: Permitted Only in Upper Stories (Form Dist.) 1, 2, 3, as per table 50-19.1	Residential						Mixed Use						Form						Special		Use Specific Standards				
	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9		I-G	I-W	P-1	AP
Retail Sales																									
Adult bookstore																						P			
Building materials sales							S ¹		P																
Garden material sales	S						P ¹			P ³					P										
Grocery store, small (less than 15,000 sq. ft.)							S ²	P ³			P ¹				P										
Grocery store, large (15,000 sq. ft. or more)											P ¹														
Retail store not listed, small (less than 15,000 sq. ft.)							S ²	P ³			P ¹				P										
Retail store not listed, large (15,000 sq. ft. or more)											P ¹				P										
Vehicle Related																									
Automobile and light vehicle, service							S ²	P ¹		P					P										
Automobile and light vehicle, repair								P ¹		P ¹															
Automobile and light vehicle sales, rental, or storage								P ¹		P															
Automobile and light vehicle impound lot								S ¹		P ¹															
Car wash (primary use)								P ¹		P ¹															
Filling station (small)								S ²	P ³						P										
Filling station (large)															P										
Parking lot (primary use)								S							P										
Parking structure															S										
Overflow Parking Area	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	
Truck or heavy vehicle sales, rental, repair or storage										P															

50-20.1 Residential Uses

D. Accessory dwelling unit.

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

1. Only one accessory dwelling unit may be created per lot;
2. No variances shall be granted for an accessory dwelling unit;
3. Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit;
4. ~~One off-street parking space shall be provided in addition to off-street parking that is required for the primary dwelling;~~
5. Accessory dwelling units shall contain no more than 800 square feet of total floor space and shall be consistent in character and design with the primary dwelling. An accessory dwelling unit shall not exceed the total floor area square footage of the principal structure;
6. If a separate outside entrance is necessary for an accessory dwelling unit located within the primary dwelling, that entrance must be located either on the rear or side of the building;
7. An accessory dwelling unit shall not be considered a principal one-family dwelling. An accessory dwelling must be located on the same tax parcel as the principal one or two-family dwelling;
8. An accessory dwelling unit shall not exceed the height of the principal residential structure or 20 feet, whichever is greater.

50-20.3 Commercial uses.

I. Daycare facility, small and large, and preschools.

1. For all new uses after May 1, 2019, ~~as part of the requirement to provide off-street parking in 50-24.2, the use must provide off-street parking spaces for pick-up and drop-off determined by the Land Use Supervisor to be sufficient to provide for the safe pick-up and drop-off of users of the facility based on the maximum licensed capacity of the facility, the configuration of the facility, the types and intensity of other uses adjacent to the facility, the intensity of traffic adjacent to the facility and other factors determined to be relevant to the safe pick-up and drop-off of users of the facility. The determination of the Land Use Supervisor may be appealed to the Commission. Pick-up and drop-off areas must be clearly signed as for pick-up and drop-off only, and shall not conflict with safe on-site pedestrian and vehicular movements. This specific standard does not apply to uses with the Downtown and Canal Park Special Parking Areas in 50-24.~~
2. In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20 percent of the lot or parcel area;
3. In the MU-B district, uses shall provide a fenced outdoor exercise area. Outdoor exercise areas must be separated from improved public streets, drive lanes, and loading areas by at least 20 feet;
4. In the MU-B district, the application may be denied by the Land Use Supervisor if he or she determines that the size, nature, character or intensity of the use of property in the immediate vicinity of the applicant's property would pose an unreasonable risk to the health, safety or welfare of users of the applicant's facility; the decision of the Land Use Supervisor may be appealed to the Commission;

N. Overflow Parking Area

1. Interim use permits for Overflow Parking Areas may be granted for a period of 1 year. If the applicant has documented an ongoing parking need, with a parking study documenting the location, use, and adequacy of existing parking in the surrounding area, the Interim use permit may be approved for up to 5 years.

2. If located in a neighborhood or district that demonstrates a need for additional off-street parking, the Overflow Parking Area shall be public parking (either free or paid), or shared with other nearby uses. Applicant shall include information about parking demand in the application for the Interim use permit, as well as a plan for how the parking will be shared and/or open to the public.
3. Overflow Parking Areas, being temporary in nature, are not required to meet the paving requirements of Section 50-24. or the landscaping requirements of Section 50-25.4; however, if paving is provided, all requirements of Sections 50-24 and 50-25 must be met, if applicable.
4. Applicant must work with City Engineering on a stormwater and erosion plan that adequately meets stormwater requirements for the duration of the anticipated use of the parking area, and shall provide the approved plan as part of the application; applicant is responsible for ongoing maintenance of stormwater and erosion infrastructure and is expected to provide proof of such maintenance upon request during the course of the Interim use permit.
5. Prior to establishment of the parking area, applicant shall provide financial security, in the amount necessary to reestablish the area to natural vegetation once the overflow parking area is terminated. This security shall be held without interest until the parking area is discontinued and applicant or property owner has provided proof that the area has either been reestablished to natural vegetation or been developed with an approved use on the property.
6. The interim use permit shall terminate upon change in ownership of the property and is not transferable.

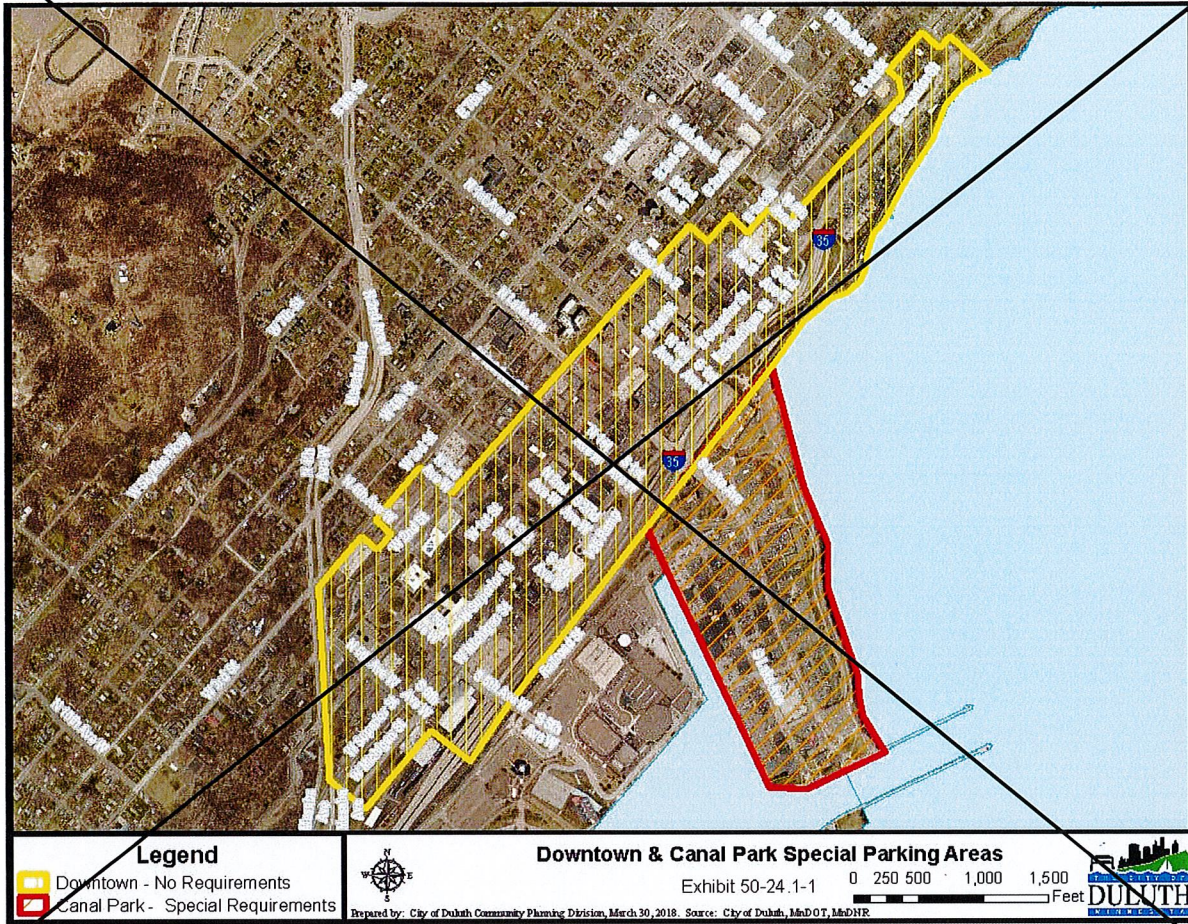
50-24 PARKING AND LOADING.

50-24.1 Applicability.

The standards of this Section 50-24 shall apply to all development and redevelopment, except that:

1. ~~Development and redevelopment in any of the form districts shall only be required to provide that amount of parking that can be accommodated on the development parcel while allowing the principal building to meet all of the building form standards in Section 50-22;~~
2. ~~No off-street parking shall be required for any non-residential use on a lot smaller than 10,000 square feet in any mixed-use district or special-purpose district;~~
3. ~~No off-street parking shall be required for any building with less than 10,000 square feet of gross floor area and with a non-residential primary use in any mixed-use district or special-purpose district;~~
4. ~~No off-street parking shall be required within the boundaries of the Downtown area shown in Exhibit 50-24.1-1;~~
5. ~~No off-street parking shall be required for any use except (1) hotels or motel, and (2) residential developments with more than ten units, within the boundaries of the Canal Park area shown in Exhibit 50-24.1-1;~~
6. ~~Development and redevelopment that is exempt from being required to provide off-street parking but does provide parking, must follow all the provisions of this Section.~~

(Ord. No. 10044, 8 16 2010, § 6; Ord. No. 10096, 7 18 2011, § 26.)



50-24.2 Required Maximum parking spaces.

In all districts there shall be provided, at the time any building or structure is erected, except as provided in Section 50-24.5, *Calculation of parking spaces*, the number of off-street parking spaces shown in Table 50-24-1. All development and redevelopment after [insert effective date] shall adhere to a maximum amount of off-street parking as stated in the table below unless an exemption from or variation of this requirement is provided in another section of this Chapter. Any use not listed is exempt from maximum parking requirements.

Off-street parking spaces that existed on November 18, 2010, and that were composed of hard-surfaced, dust-free material such as concrete, bituminous, or pervious paving materials may continue even if they exceed the maximum parking limit. (Ord. No. 10042, 8-16-2010, § 4; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 29; Ord. No. 10153, 5-14-2012, § 4.)

Table 50-24-1: Maximum Off-Street Parking Spaces Required	
Use	Maximum Requirement* (May Be Adjusted to 30% Less or 50% More)
RESIDENTIAL USES	
Dwelling, one-family	4 <u>2.5</u> spaces per dwelling unit
Dwelling, two-family	
Dwelling, townhouse	
Dwelling, live-work	
Co-housing facility	
Manufactured home park	
Dwelling, multi-family	1-25 <u>2.5</u> spaces per dwelling unit
Assisted living facility (elderly)	1 space per 3 habitable units
Residential care facility	1 space per 6-3 residential care beds, but not less than 2 spaces
Sober house	1 space per 6-3 single occupancy beds, but not less than 2 spaces
Rooming house	4 <u>2</u> spaces per habitable unit
PUBLIC, INSTITUTIONAL AND CIVIC USES	
Bus or rail transit station	No requirement
Business, art, or vocational school	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
Cemetery or mausoleum	No requirement
Club or lodge (private)	2-5 <u>4</u> spaces per 1,000 sq. ft. of floor area
Government building or public safety facility	As determined by land use supervisor based on anticipated use and neighborhood impacts
Hospital	2 spaces per 1,000 sq. ft. As determined by approved MU-I Plan

Table 50-24-1: Maximum Off-Street Parking Spaces Required	
Use	Maximum Requirement* (May Be Adjusted to 30% Less or 50% More)
Medical or dental clinic	4-6 spaces per 1,000 sq. ft. of gross floor area
Museum, library or art gallery	1 space per 1,000 sq. ft. of gross floor area
Nursing home	1-2 spaces per 6 beds
Park, playground or forest reserve	No requirement
Religious assembly	1 space per 4-2 seats or per 100 sq. ft. in main auditorium, whichever is greater
School, elementary	1 parking space for each 10 seats in the auditorium or main assembly room or 1 space for each classroom, whichever is greater
School, middle	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
School, high	5 parking spaces for each classroom or 1.5 parking spaces per 1,000 square feet, whichever is greater
University or college	2 spaces per 1,000 sq. ft. of office, research and library area plus 1 space per 125 sq. ft. of auditorium space.
Other community facility or institutional support uses not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
COMMERCIAL USES	
Adult bookstore	2.5-4 spaces per 1,000 sq. ft. of gross floor area
Adult entertainment establishment	5-7 spaces per 1,000 sq. ft. of gross floor area
Agriculture	No requirement
Automobile and light vehicle repair and service	2-3 spaces per 1,000 sq. ft. of gross floor area
Automobile and light vehicle sales, rental or storage	2-3 spaces per 1,000 sq. ft. of gross floor area
Bank	3.5-5 spaces per 1,000 sq. ft. of gross floor area
Bed and breakfast	1 space for manager plus 1-1.5 spaces per habitable unit
Building material sales	4-1.5 spaces per 1,000 sq. ft. of gross floor area
Business park support activities	2-3 spaces per 1,000 sq. ft. of gross floor area
Convention and event center	1 space per 4-2.5 seats or per 100 sq. ft. in main auditorium and event spaces, whichever is greater
Daycare facility	4-1.5 spaces per 5 persons care capacity
Data center	1 space per 1,000 sq. ft. of gross floor area
Filling station	4-6 spaces per 1,000 sq. ft. gross floor area plus 1 per service stall
Funeral home or crematorium	1-2 spaces per 50-100 square feet of floor space in slumber rooms, parlors or individual funeral service rooms

Table 50-24-1: Maximum Off-Street Parking Spaces Required

Use	Maximum Requirement* (May Be Adjusted to 30% Less or 50% More)
Garden material sales	4 <u>1.5</u> spaces per 1,000 sq. ft. of gross floor area
Grocery store	3 <u>5</u> space per 1,000 sq. ft. of gross floor area
Golf course	2.5 <u>4</u> spaces per 1,000 square feet of clubhouse area
Hotel or motel	2-1 spaces per 3 guest rooms plus 1 per 200-150 sq. ft. of gross floor area in all accessory uses including restaurants and meeting rooms
Indoor entertainment facility	2.5 <u>4</u> spaces per 1,000 sq. ft. of gross floor area.
Kennel	4-1.5 spaces per 1,000 sq. ft. of gross floor area
Marina or yacht club	2.5 <u>4</u> spaces per 1,000 sq. ft. of clubhouse area, plus 1 per 10 boat slips
Mini-storage facility	1 space per 20 <u>15</u> storage units
Office	2.5 <u>4</u> spaces per 1,000 sq. ft. of gross floor area
Parking lot or parking structure (primary use)	No requirement
Personal service or repair	2.5 <u>4</u> spaces per 1,000 sq. ft. of gross floor area
Preschool	1.5 spaces per 5 persons care capacity
Restaurant	6.5 <u>10</u> spaces per 1,000 sq. ft. of gross floor area
Retail store	3-4.5 spaces per 1,000 sq. ft. of gross floor area
Riding stable	No requirement
Seasonal camp or cabin	1 space for every two beds, or 2 for each cabin or sleeping unit, whichever is greater
Theater	1 space per 6 <u>4</u> seats or 2 per 400 <u>150</u> sq. ft. in main auditorium, whichever is greater
Tourist or trailer camp	2-1 spaces per 3 sleeping rooms, suites, or trailer
Truck or heavy vehicle sales, rental, repair or storage	4-1.5 spaces per 1,000 sq. ft. of gross floor area
Vacation dwelling unit	1 space for 1-2 bedrooms, 2 spaces for 3-4 bedrooms, 3 spaces for 5+ bedrooms As indicated in Section 50-20.3
Veterinarian or animal hospital	2.5 <u>4</u> spaces per 1,000 sq. ft. of gross floor area
Other commercial use not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
INDUSTRIAL USES	
Airport and related facilities	As determined by airport management
<ul style="list-style-type: none"> • Electric power or heat generation plant • Electric power transmission line • Junk and salvage services • Major utility or wireless communication tower 	No requirement

Table 50-24-1: Maximum Off-Street Parking Spaces Required

Use	Maximum Requirement* (May Be Adjusted to 30% Less or 50% More)
<ul style="list-style-type: none"> • Radio or television broadcasting tower • Railroad or shipyard and related facilities • Solar or geothermal power facility (primary use) • Truck freight or transfer terminal • Water or sewer works • Wind power facility (primary use) • Bulk storage not listed 	
<ul style="list-style-type: none"> • Contractor's shop and storage yard • Dry cleaning or laundry plant • Recycling collection point (primary use) • Solid waste disposal or processing facility 	4-1.5 spaces per 1,000 sq. ft. of gross floor area
<ul style="list-style-type: none"> • Manufacturing, light manufacturing, heavy manufacturing, hazardous or special • Storage warehouse • Water-dependent manufacturing, light or heavy • Wholesaling 	4-1.5 spaces per 1,000 sq. ft. of gross floor area
Research laboratory	As determined by land use supervisor based on anticipated use and neighborhood impacts
Other industrial uses not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
ACCESSORY USES	
Accessory bed and breakfast	1 space for primary use dwelling; plus 1.5 space per habitable unit
Accessory caretaker quarters	1 space
All other accessory uses	No requirement
TEMPORARY USES	
Temporary real estate sales office	23 spaces
All other temporary uses	No requirement

*The parking space requirement may be modified by Section 50-18.5 (Higher Education Overlay District), Section 50-24.3 (Adjustment to required off-street parking) and Section 50-24.4 (Maximum parking spaces), and Section 50-37.1.L (Administrative Adjustments).

(Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 27; Ord. No. 10286, 3-10-2014, § 10; Ord. No. 10340, 11-24-2014, § 1; Ord. No. 10458, 7-11-2016, § 2; Ord 10746, 5-10-2021, § 5)

50-27.1 Adjustment to required off-street parking.

The minimum parking requirements listed in Section 50-24.2 above shall be adjusted as follows:

A. Proximity to transit.

1. The minimum number of off-street parking spaces required for any development or redevelopment lands may be reduced by 30 percent if they are located within 1/4 mile of existing Duluth Transit Authority routes in operation for one year, or they may be reduced by 20 percent if

located within 1/2 mile of any Duluth Transit Authority transit center, as indicated by a "T" on Exhibit 50-24.3-1;

2. If an existing transit route or center is eliminated or changed in location, any development approved in conformance with this Section 50-24.3 shall not be deemed nonconforming in terms of required parking.

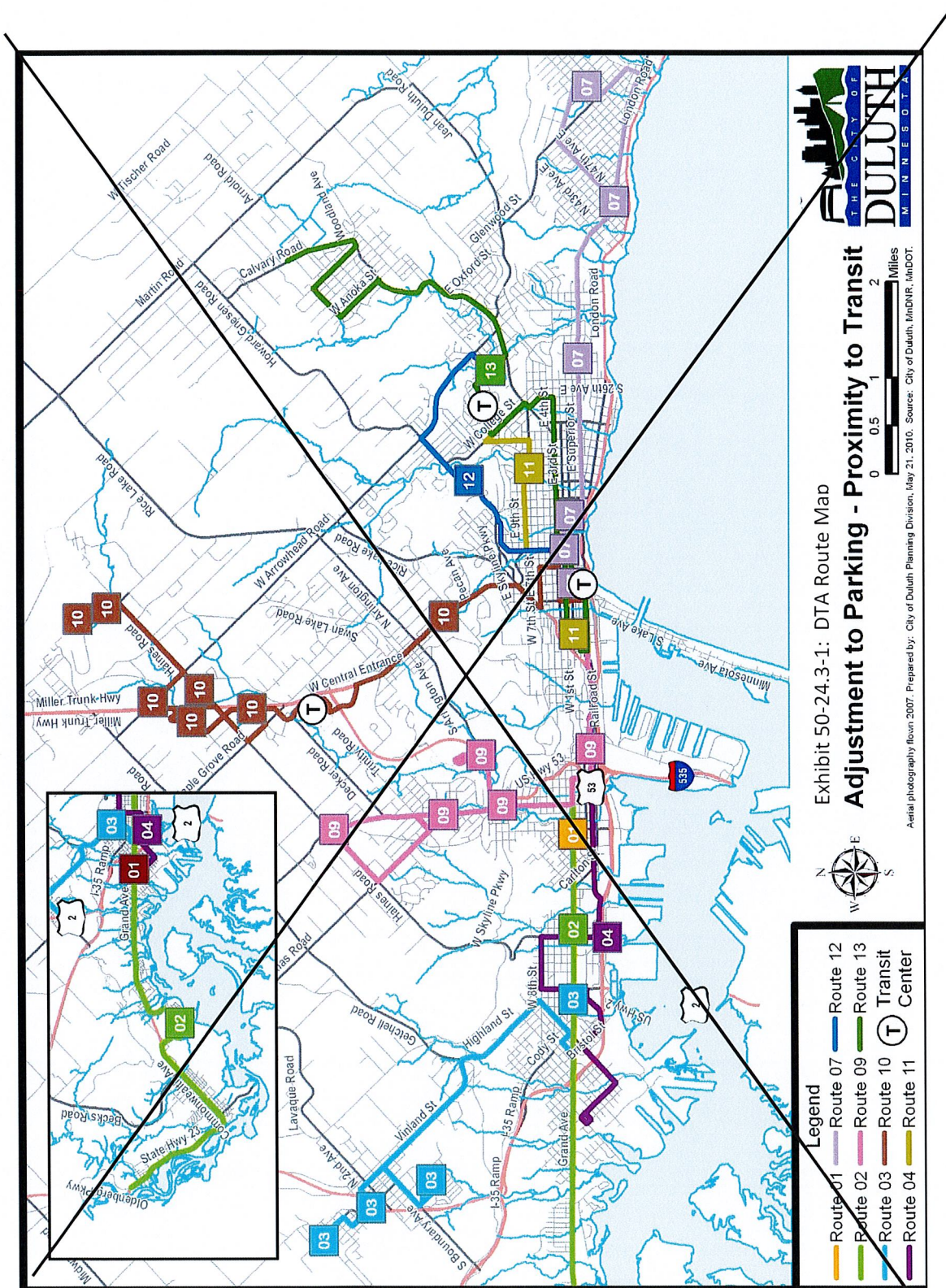


Exhibit 50-24.3-1: DTA Route Map
Adjustment to Parking - Proximity to Transit



- Legend**
- Route 01
 - Route 02
 - Route 03
 - Route 04
 - Route 07
 - Route 09
 - Route 10
 - Route 11
 - Route 12
 - Route 13
 - Transit Center

Aerial photography flown 2007. Prepared by: City of Duluth Planning Division, May 21, 2010. Source: City of Duluth, MnDNR, MnDOT.

B Sharing of parking spaces.

1. General.

Where two land uses listed in separate use categories in Table 50-19.8 share a parking lot or structure, the total off-site parking required for those uses may be reduced by the factors shown in Table 50-24-2. Total off-street parking required shall be the sum of the two parking requirements for the two uses divided by the factors in Table 50-24-2. If uses in three or more categories of Table 50-19.8 share a parking lot or structure, the land use supervisor shall determine the parking reduction based on the relative sizes of the various uses and the reduction factors listed in Table 50-24-2;

Table 50-24-2: Shared Parking Reduction Factors					
Add the two parking requirements and divide by these factors					
Property Use	Multi-family Residential	Public, Institutional, or Civic	Food, Beverage, Indoor, Entertainment, or Lodging	Retail	Other Commercial
Public, institutional or civic	1.1	1.0			
Food, beverage, indoor, entertainment or lodging	1.1	1.2	1.0		
Retail	1.2	1.3	1.3	1.0	
Other commercial	1.3	1.5	1.7	1.2	1.0

2. Additional sharing permitted for certain uses.

As an alternative to those reduction factors listed in Table 50-24-2, (a) up to 50 percent of the parking spaces required for food, beverage and indoor entertainment uses, and up to 100 percent of parking spaces required for religious assembly uses and elementary, middle, high school, university or college auditoriums may be used jointly by (b) any non-residential use not normally open, used or operated during the same hours as those listed in (a), or any non-residential use that has excess parking capacity based on the minimum off-street parking for that use. A written agreement assuring the continued availability of the parking spaces for the uses they serve shall be required on a form approved by the city and shall be filed with the application for a building permit. (Ord. No. 10042, 8-16-2010, § 3; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 28.)

50-27.2 Maximum parking limits.

No more than 150 percent of the minimum required number off-street parking spaces, excluding the adjustments allowed in 50-24.3, shall be provided. This limit does not apply to the following uses: one-family, two-family, townhouse and live-work dwellings. Accessory parking shall be subject to parking maximums shown in Table XX.X. Off-street parking spaces that existed on November 18, 2010, and that were composed of hard-surfaced, dust-free material such as concrete, bituminous, or pervious paving materials may continue even if they exceed the maximum parking limit. (Ord. No. 10042, 8-16-2010, § 4; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 29; Ord. No. 10153, 5-14-2012, § 4.)

50-24.3 Calculation of parking spaces.

The following rules shall apply to calculation of the number of required parking spaces:

- A. Floor area shall mean the gross floor area of the specific use;
- B. Requirements for a fraction of a parking space shall be ignored;
- C. The parking space requirement for a use not specifically listed in Table 50-24-1 shall be the same as for the most similar use listed in that table, as determined by the land use supervisor;
- D. Whenever a building or use is enlarged to the extent of 25 percent or more in floor area or in the site area used, the building or use shall be required to (a) retain any on-site parking existing prior to the expansion, and if that is not sufficient to comply with the parking required for the use as expanded, then (b) to comply with the requirements in Table 50-24-1 for the expansion area;
- E. Required off-street parking for one-, two-family, townhouse, multi-family, and live-work dwellings may be located in a garage or carport. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10509, 6-12-2017, §1)

50-24.4 Location of parking spaces.**F. ~~On site location and exceptions.~~**

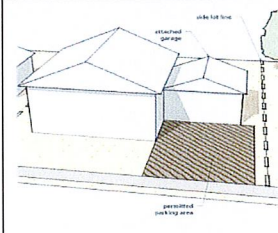
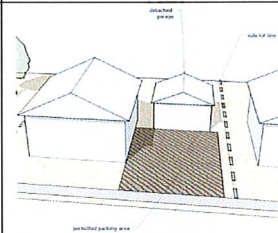
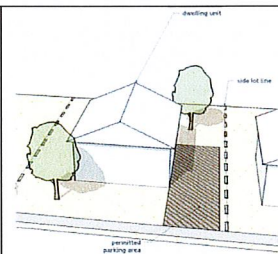
- ~~1. All required parking spaces shall be located on the same lot with the principal building or the primary use served; except as provided in subsection 2 below;~~
- ~~2. If an increase in the number of parking spaces is required by a change or enlargement of any use the increased parking requirement may be satisfied by utilizing:

 - (a) Primary use parking lots or parking structures located and maintained up to 500 feet from the lot containing the change or enlargement, or
 - (b) Accessory parking lots that existed on November 18, 2010, were composed of hard-surfaced, dust free material such as concrete, bituminous, or pervious paving materials, and that are located and maintained up to 500 feet from the lot containing the change or enlargement;~~
- ~~3. Where required parking spaces are not provided on site, a written agreement assuring the continued availability of the parking spaces for the uses they serve shall be required on a form approved by the city and shall be filed with the application for a building permit;~~
- ~~4. Parking located in a public street right of way pursuant to a concurrent use permit or other public grant shall not be used to satisfy off-street parking required by Chapter 50.~~

G. Parking location within the site.

Parking spaces for all motorized vehicles and trailers shall only be provided on those portions of the lot indicated in Table 50-24-3. (Ord. No. 10509, 6-12-17, §2)

Table 50-24-3: Permitted Parking Areas	
Type of Lot	Permitted Parking Area
Residential Districts	
Non-corner lot with non-residential use	The rear yard and one side yard
Non-corner lot with residential use and no garage	The rear yard, and the area between one side lot line and the nearest side wall of the dwelling unit and its extension to the improved street abutting the front yard (see diagram to the right).
Non-corner lot with residential use and detached garage	The rear yard, and the area between the closest side lot line to the side wall of the dwelling unit nearest to the garage, and its extension to the improved street abutting the front yard (see diagram to the right).
Non-corner lot with residential use and attached garage	The rear yard, and the area between the closest side lot line to the common wall separating the dwelling unit and garage, and its extension to the improved street abutting the front yard (see diagram to the right).
Corner lot with residential use or non-residential use	The rear yard and one side yard
Mixed Use and Special Purpose Districts	
All mixed use and special purpose districts	Buildings or projects constructed after November 19, 2010, shall locate no more than 50 percent of off-street accessory parking within the front yard, except as provided in Section 50-24.6.C or unless modified as part of an approved MU-I District Plan.
Form districts	Parking only permitted on those portions of the lot permitted for the building type being constructed pursuant to secs. 50-16 and 50-22.



H. Optional pedestrian walkways within parking areas.

For parking areas within mixed use and special purpose districts identified in Table 50-24.3, buildings or projects may locate up to 60 percent of off-street accessory parking within the front yard if a pedestrian walkway is provided. The pedestrian walkway shall:

- Include pedestrian-scaled lighting;
- Be raised or otherwise designed to encourage run-off and limit ponding during wet weather;
- Be visually recognizable to both pedestrians and motorists;
- Include trees and other landscaping along the length of the walkway, this landscaping can also be used to meet parking lot landscaping requirements in Section 50-25.4;
- Be at least eight feet wide; and
- Include well-marked crossings where the walkway intersects with private vehicle drives. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 30; Ord. No. 10153, 5-14-2012, § 5; Ord. No. 10286, 3-10-2014, § 11; Ord No. 10509, 6-12-2017, § 2; Ord. No. 10769, 9-27-2021, § 2)

50-24.5 Parking lot design standards.

I. General standards.

The design of off-street parking spaces, drive aisles, and driveways shall meet the standards shown in Table 50-24-4;

Table 50-24-4: Parking Design Standards		
Parking Space Size*		
Size of Car	Minimum Size of Parking Space	
Small	8.5 ft. x 15 ft.	
Standard	9 ft. x 17 ft.	
Aisle Widths		
Angle of Parking	Minimum Width of Aisle	
	One-Way	Two-Way
Parallel/no parking	11 ft.	21 ft.
30 degree	11 ft.	21 ft.
45 degree	13 ft.	23 ft.
60 degree	18 ft.	24 ft.
75 degree	20 ft.	24 ft.
90 degree	20 ft.	24 ft.
Permitted Percentage of Small Car Spaces		
(Applies to lots with more than 5 spaces)		
Size of Parking Lot	Maximum Percentage of Small Cars	
6 to 100 spaces	40%	
100 to 149 spaces	45%	
150 or more spaces	50%	

Table 50-24-4: Parking Design Standards

Required Surface Treatment/Paving	
Zone District	Requirement
All residential district parking areas	Surfaced in a dust free, hard surface material such as concrete or bituminous, or pervious paving materials, except for rear yards which may be surfaced in aggregate materials, compressed aggregates or similar surfaces.
All mixed use and special purpose districts	All parking areas and vehicle display lots, including on- and off-road vehicles, trailers, and all terrain vehicles, shall be surfaced in a dust free, hard surface material such as concrete or bituminous. Pervious paving material shall be approved by the city engineer.

*The area set aside for a parking space may encroach beyond the face of a curb a maximum of 1.5 ft., provided that (a) it does not include trees, posts, or other obstructions that would prevent a vehicle from fully utilizing the space, and (b) it is not included in required open space, landscape area requirements, or required pedestrian walkways.

J. Parking lot and driveway entrances.

All parking lot and driveway entrances must conform to the design specification regulations of the city engineer;

K. Snow storage areas.

A portion of each surface parking area shall be designated for snow storage. The areas required to meet the minimum parking requirements of this Section 50-24 shall not be used for snow storage. Snow storage areas may be landscaped if the vegetation is selected and installed so as not to be harmed by snow storage. Snow storage areas shall not count towards those landscape areas required by Section 50-25 unless it they are integrated with a side or rear buffer required by Section 50-25;

L. Parking lot walkways.

Each surface parking area that (a) serves a multi-family residential, commercial, public, institutional, civic, or mixed use, and (b) contains 50 or more parking spaces, and (c) contains any parking spaces located more than 300 feet from the front façade of the building shall contain at least one pedestrian walkway from allowing pedestrians to pass from the row of parking furthest from the primary building façade to the primary building entrance or a sidewalk allowing the pedestrian to reach the primary building entrance without crossing additional driving spaces or aisles. The required walkway must be at least five feet wide, shall not be located within a driving aisle, and shall be located in a landscaped island running perpendicular to the primary building façade if possible. If located in a landscaped island, the minimum width of the island shall be increased by five feet to accommodate the walkway without reducing the amount of landscaped area. If any parking space in the parking aisle located furthest from the primary structure is more than 200 feet from the walkway, additional similar walkways shall be required within 200 feet of those spaces. If there is a public sidewalk along the street frontage located within 50 feet of any required walkway, the walkway shall connect to that sidewalk;

M. Tandem or in-line parking.

Tandem or in-line parking, or other similar arrangements that involve the placement of two or more parking spaces in a row directly behind one another so that one parking space is blocking access for other parking spaces, is not allowed for off street parking spaces required by Chapter 50, but is allowed to meet off street parking required in Chapter 29A. This provision does not apply to required off street parking spaces within enclosed structures, such as garages or parking structures. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10286, 3-10-2014, § 12; Ord. No. 10340, 11-24-2014, § 2; Ord. No. 10509, 6-12-2017, §3)

50-24.6 Required loading space.

Unless otherwise provided in this Chapter, all construction of new buildings or expansions of existing buildings shall provide off street loading space shown in Table 50-24-5 below.

Table 50-24-5: Off-Street Loading Space Standards	
Type of Use or Facility	Off-Street Loading Requirement
Office, hotel or motel	1 space for 20,000 sq.ft. of gross floor area
Personal service and repair not otherwise listed; building material sales; garden material sales; retail store not listed (large); automobile and light vehicle repair and service, automobile and light vehicle sales, rental, or storage; truck or heavy vehicle sales, rental, repair, or storage; wholesaling.	1 space for 20,000-50,000 sq.ft. of gross floor area; and 2 spaces for more than 50,000 sq.ft. gross floor area
Manufacturing	1 space for 25,000 to 50,000 sq.ft. of gross floor area; 2 spaces for more than 50,000 sq.ft. of gross floor area.

(Ord. No. 10044, 8-16-2010, § 6.)

50-24.6 Bicycle parking.

With the exception of single-family and two-family dwelling units, any new development, building expansions of more than 50% of the building’s square footage, or renovations that exceed 50% of the building’s value shall provide bicycle parking.

1. Short-term and employee bicycle parking (non-residential uses). Provide permanently anchored bicycle racks, which provide two points of contact with the frame at least 6-inches apart horizontally, within 50 feet of the building entrance. Racks shall accommodate parking for two bicycles plus 5 percent of motorized vehicle parking spaces on the site, and shall be located entirely on the property and not within the right of way. This requirement may be waived if the Land Use Supervisor and City Engineer determine there is no acceptable space for bicycle parking on the site.
2. Resident parking (residential uses). Secure bicycle parking shall be provided at a rate of 1 bicycle for every 5 dwelling units. Parking shall be convenient from the street and shall meet one or more of the following conditions: a) covered, lockable enclosures with permanently anchored racks for bicycles; b) lockable bicycle rooms with racks; or c) lockable bicycle lockers. This requirement may be waived if the Land Use Supervisor and City Engineer determine there is no acceptable space for bicycle parking on the site.

50-24.7 Electric vehicle charging stations.

1. In any new parking lot that is accessory to either a multi-family or hotel or motel use, electric vehicle (EV) charging stations shall be provided as follows: parking lots with 10 or more parking spaces must have EV charging stations or be EV ready for a minimum of 10% of the parking spaces. Charging stations must include Level 2 or higher chargers; if spaces are EV ready, the

- wiring must support Level 2 chargers. If the EV charging stations are connected to solar or other renewable energy source, only 5% of the parking spaces are required to provide EV charging.
2. If the parking capacity of an existing parking lot with 20 or more spaces, that is also accessory to either a multi-family or hotel or motel use, is increased by 30% or more, EV charging stations shall be provided as noted in 50-24.7.1 above.
 3. EV ready spaces shall include a cabinet, box or enclosure connected to a conduit linking parking spaces with 208/240V or higher voltage AC electrical service suitable for the number of charging stations.

Article 6.

"Overflow parking area." A parking lot that provides extra parking for a site or neighborhood, intended for areas where there is a need for parking over the allowed maximum, or a need for stand-alone parking to address parking in a neighborhood or district, over and above existing primary use parking lots in the area



Moving business forward. ▶

January 10, 2023

City of Duluth Planning Commission
 Care of Adam Fulton
 411 West First Street, Room 160
 Duluth, MN 55802

Members of the City of Duluth Planning Commission,

On behalf of the Duluth Area Chamber of Commerce, we write in strong support of PL 23-D1, Draft UDC Text Amendment: Changes to Parking Regulations.

We have heard from several Chamber members/local developers who are in favor of these changes and believe these updates help foster additional development in the City of Duluth.

We appreciate your service to our community, consideration of this important topic, and hope there continues to be updates to the Unified Development Chapter (UDC) to help encourage and support development and growth.

Please feel free to contact us if you have any questions, concerns and/or if there are other ways we can work together to continue to support our members, our business community and our community at large. Again, thank you for your service and consideration.

Respectfully,

Matt Baumgartner, President
 Duluth Area Chamber of Commerce
mbaumgartner@duluthchamber.com

Daniel Fanning, Vice President
 Duluth Area Chamber of Commerce
dfanning@duluthchamber.com



Duluth Transit Authority

2402 West Michigan Street • Duluth, Minnesota 55806-1988 • 218/722-4426 • Fax 218/722-4428
 www.duluthtransit.com • general e-mail: dta@duluthtransit.com

1/10/2023

City of Duluth Planning Commission
 411 W 1st St
 Duluth, MN 55802

Subject: Proposed UDC Code Changes - Parking

Dear Commissioners and City Officials:

As the Duluth Planning Commission considers the changes to the parking requirements in the UDC, we would like to express the Duluth Transit Authority's strong support of the proposed changes. It is great to see the City of Duluth looking at ways to reform outdated and complicated parking regulations, just as many other cities around the country have been doing and have had positive outcomes. We would also encourage exploring revisions to rental and multifamily requirements as they related to parking.

Parking requirements have been shown to cause many unintended consequences that have shifted our cities away from their historically walkable built environments to those that make it a requirement to own a car to move around a city. Over-prescribing parking can lead to underutilized property, lower tax revenues, increased development costs, safety concerns, blight, environmental issues, and other negative outcomes. Allowing developers to allocate the parking they feel is necessary, while setting maximums, will certainly improve our community in many ways. Potentially freeing up land availability for further development and densities will make our community more fiscally resilient. Urban population density also impacts the DTA's federal funding allocations.

The DTA offers fixed-route mass transit and on-demand paratransit to the vast majority of the City of Duluth and has strong ridership compared to similar-sized cities. We have seen this community embrace alternative modes of transportation for generations. Reforming parking minimums does not take away someone's choice to drive a personal automobile. It does however make other modes more viable and attractive. Parking minimums have hindered growth in our community and have undermined the investments that this community and state have made in mass transit options. The proposed changes are a commonsense approach to letting the market determine its needs while making our community more affordable and livable.

Thank you for your consideration.

Sincerely,

Christopher Belden
 Director of Planning
 Duluth Transit Authority



Mindy Granley
Sustainability Officer

218-730-5334

mgranley@duluthmn.gov

Room 422
411 West First Street
Duluth, Minnesota 55802

January 10, 2023

To: Jenn Moses, Planning and Economic Development

Re: PL 23-D1 Draft UDC Text Amendment: Changes to Parking Regulations

I am writing to support the proposed UDC code changes related to Parking that support the City of Duluth Climate Action Work Plan including:

Objective 3.7: Reduce per-person, single-occupancy driving citywide

- Review city code and policy to remove barriers and enable more opportunities for biking, walking, transit, and low emissions vehicles
- Enhance and institutionalize complete streets policy to include user experience and green infrastructure, prioritize connectivity for vulnerable communities
- Gather early input on street projects to increase bike, walk, and wheelchair access along highly-used routes
- Collaborate with DTA to expand first-mile and last-mile mobility options for transit
- Eliminate minimum parking requirements for new development
- Revise policies and regulations to promote an increase of EV charging infrastructure.

I fully support the new Requirement 50-24.6 on bicycle parking.

I also support Requirement 50.24.7 for EV charging stations. This would help expand charging options and promote adoption of low-emission vehicles. Note:

- The Minnesota Public Utilities Commission (Docket No. E999/CI-17-879) found that “barriers to increased EV adoption in Minnesota include but are not limited to: (a) inadequate supply of and access to charging infrastructure, and (b) lack of consumer awareness of EV benefits and charging options.”
- Most EV charging will happen at work or home, but many people live in multi-family housing or buildings which are unequipped for charging.
- Helping to increase access to EV charging is supportive of overall EV adoption.
- With clean car rules recommended for adoption by an Administrative Law Judge on May 7, 2021, access to EVs is set to expand in Minnesota.

On the renewable energy requirement for 50-24.6: many locations will not have feasible options, due to building shading or the installation/structural costs of installing solar in parking lots. However, our local electric utility is moving towards 80% carbon-free power by 2030, and analysis shows that emission reduction from EVs come from efficiency and pollution reduction equipment and do not solely rely on renewable energy availability. Note that the lifecycle emissions of EVs being lower even without 100% renewable energy. (source: https://afdc.energy.gov/vehicles/electric_emissions.html)

Thank you for your leadership,

Mindy Granley, Sustainability Officer

www.duluthmn.gov

The City of Duluth is an Equal Opportunity Employer.



Parking Services

Ground Floor
411 West First Street
Duluth, Minnesota 55802



218-730-5470



ParkingTickets
@duluthmn.gov

Recommendations Regarding Potential Elimination of Off-Street Parking Requirements for New Developments

January 9, 2023

The following are potential/likely outcomes of removal of off-street parking requirements for new commercial and/or housing development projects. All are related to the resultant increased parking pressure on the surrounding community, particularly in residential areas, and assume that less onsite parking would be created on the project site. Historically, projects on the perimeter of residential areas that do not include enough onsite parking to serve their needs result in a large increase in on-street parking, both legal and illegal.

1. Resident requests for Residential Permit Parking Zones. These types of zones are not generally applicable or effective in these situations, as they tend to simply push parking to the next block, and then the next block, etc. Rather, these zones are intended to serve much larger areas, such as those surrounding larger local educational institutions. Also, setting such a precedent would be problematic, as it would be difficult to evenly apply such zones throughout the city without effectively undermining the concept of on-street public parking. Finally, establishment of such zones in relation to a development with a residential component would be counterproductive, as residents of the new building would also qualify for zone permits.
2. Reports of illegal parking, particularly items such as parking too close to driveways, blocking driveways, parking on boulevards, and parking in marked accessible parking stalls.
3. Perception of blight – the increased number of parked cars usually causes area residents to feel that the value of their homes has decreased.
4. Increased public safety concerns associated with the increased parking and traffic congestion.
5. Generally increased tensions between the building owners/management and the area residents.

Due to the negative impacts on public safety and the quality of life for the residents and other stakeholders in the area of a new commercial of mixed-use development, the City's Parking Services Division does not recommend the elimination or reduction of onsite parking requirements for new development projects.

Mark Bauer | Duluth Police Department
Parking Services Manager



www.duluthmn.gov

The City of Duluth is an Equal Opportunity Employer.

Jennifer Moses

From: Cindy Stafford
Sent: Tuesday, January 10, 2023 5:00 PM
To: Adam Fulton; Jennifer Moses
Subject: FW: Parking Plan Comment

From: planning
Sent: Tuesday, January 10, 2023 4:59 PM
To: Noah Hobbs <nhobbs@DuluthMN.gov>
Subject: RE: Parking Plan Comment

Thank you for your email. It will be shared with the planning commission.

Cindy Stafford

From: Noah Hobbs <nhobbs@DuluthMN.gov>
Sent: Tuesday, January 10, 2023 4:47 PM
To: planning <planning@DuluthMN.gov>
Subject: Parking Plan Comment

Esteemed Planning Commissioners,

I want to thank you for the amount of time you took to look at revisiting our planning regulations in the UDC. I've reviewed the proposed changes and I think it's a well-thought-out proposal to incentivize development, promote multimodal transportation, and prioritize the productive use of land over concrete to house a car for 8 hours a day. I believe that this is the direction we want to move in as a city. You have my full support in passing the proposal as presented.

Thank you for your service!

Noah Hobbs

Duluth City Councilor At-Large

nhobbs@duluthmn.gov



Jennifer Moses

From: planning
Sent: Tuesday, January 10, 2023 11:16 AM
To: Jennifer Moses
Subject: FW: Parking Minimum and Maximums

From: Andrea Crouse <andrea@zeitgeistarts.com>
Sent: Tuesday, January 10, 2023 11:00 AM
To: planning <planning@DuluthMN.gov>
Subject: Parking Minimum and Maximums

Hello Planning Commissioners,

I am writing today to encourage you to support the code revision to eliminate parking minimums, instate parking maximums, and improve bike parking requirements in City Codes.

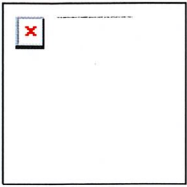
The work I do to support active living and health equity with a focus on Duluth's Hillside neighborhood has put me in contact with thousands of residents to talk about their needs and vision for a healthier, more connected community. And I'll tell you, in our conversations, not a single time have we heard residents express a need for more parking. Now I'm not saying this isn't an issue, but it's clearly not a pressing or priority issue. In fact, what we hear from residents is the need for investing in our community to address the housing crisis, create green space and areas for public gatherings, develop space for new, locally owned businesses, and create safe and walkable communities. There is a wealth of data that identifies the increased value walkable/bikeable communities have to the bottom line of business. For folks who continue to struggle to find quality, affordable housing, a requirement to invest in additional built infrastructure for cars, especially parked cars, demonstrates a priority for cars over people and specifically prioritizes the needs of those with personal vehicles over those who don't have vehicles.

While cars can provide important access to jobs, medical appointments, school, and other needs, they are not required for this if we build communities that are safe, walkable, and have thriving public transportation options. Not only is this good for the economy, for physical health, but it's good for sustainability and CO2 emissions.

Over a 1/3 of the households in the Hillside don't own personal vehicles. This means folks want to invest in transportation networks that de-center personal vehicles and support safe walking, biking, and public transportation options. To that end, I'm grateful to see that in addition to removing parking minimum requirements, improving bike parking is a priority in this proposed code change.

Thank you for your service to the community and your thoughtful consideration of how we build the future Duluth which supports the personal and economic health and connectivity we need in the future!

Respectfully,
 Andrea B. Crouse



Andrea B. Crouse (They/Them or She/Her)
Community Development Manager, [Zeitgeist](#)
andrea@zeitgeistarts.com
218.590.1139
[Donate to support Zeitgeist's work](#)

Jennifer Moses

From: Steven Robertson
Sent: Tuesday, January 31, 2023 4:14 PM
To: Jennifer Moses; Adam Fulton
Subject: My Comment on UDC Min Parking Changes

Thank you for the opportunity to comment on the zoning code proposal! My understanding is that the proposed UDC change to eliminate minimum off-street parking requirements throughout the entire city is based on the desire to reduce impervious surfaces (particularly parking lots), and the desire to decrease development costs by eliminating the need to provide costly off-street parking spaces which may not be fully utilized, and the desire to promote other means of transportation (walking, biking, bussing) rather than the car/truck/SUV.

I wanted to share comments related to the building code, but I also I wanted to share some general comments. If it is not inappropriate, please include my comment with the other written comments from city staff and citizens that have been received on this matter.

ADA, State Building Code, and Off-Street Parking

The Americans with Disabilities Act (ADA) was signed into law in 1990, with the intent to increase access and opportunities for people living with disabilities. The ADA is a federal regulation, and violations of the ADA requirements are generally settled through lawsuits.

The Minnesota State Building Code (SBC) is a compilation of various state rule chapters that regulate different parts of building construction. Although compiled as separate rule chapters, the compilation itself is identified as the Minnesota State Building Code. The purpose of the Minnesota State Building Code is to provide minimum standards to safeguard life and limb, health, property, and public welfare by regulating and controlling the design, construction, quality of materials, use and occupancy of all structures covered by the code. The MN Accessibility Code is Chapter 1341 of Minnesota Rule, and one of the chapters of the Minnesota State Building Code.

When new buildings are constructed or existing buildings are altered or their use of change, the Construction Services and Inspections Office administers the State Building Code, including the Accessibility Code. Sometimes people confuse ADA with the Mn Accessibility Code. The ADA is enforced through private actions and litigation; it is not administered by the Construction Services and Inspections Office.

Section 1106 of the Mn Accessibility Code states that where parking is provided, accessible parking spaces shall be provided. For example, for a parking lot of 76 to 100 spaces, a minimum of four accessible spaces is required. However, if no parking is provided by a future housing or commercial development, the Mn Accessibility Code can not require the provision of an accessible parking space as a condition of building permit review and approval. There is no requirement to provide accessible parking on site, unless some minimum number of off-street parking spaces is required by the zoning code.

Ongoing Planning Studies

There are several ongoing planning studies/projects, one a housing study (analysis of residential market potential), and another being a green infrastructure code audit. The results of both planning efforts may provide information relevant to the issue of off-street parking and parking lots. If this proposal is delayed several months city staff can more easily incorporate recommendations from both these ongoing planning efforts. In particular, the green infrastructure and code audit will most likely have recommendations (based on previous work they have done) that impact standards for additional parking lot landscaping and a reduction in the number of restaurant and retail drive through lanes. There is also a parking utilization study being conducted in portions of the Lincoln Park Neighborhood at the end of this February; the results of that study could be evaluated before making permanent changes to the parking requirements.

In addition, the city conducts an annual housing indicator report, the last one was for 2021 which had 4,164 units surveyed. This housing indicator report is an incredibly useful tool for understanding the rental market and costs for renters. It would be interesting to see if the 2022 housing study survey could be amended to ask about off-street parking provisions. Then it could be determined, after adjusting for age of the housing stock and other variables, if there is clear Duluth based evidence that rental properties that do not provide off-street parking have lower rents than rental properties that do provide parking. If true, this would lend real world Duluth evidence to support the parking proposal.

Off-Street Parking Fees and Rentals

Chapter 29A of the City Code (Housing, Property Maintenance and Rental Code) has several references Chapter 50 (UDC). There is a requirement that single family homes used as rental property pay an additional fee for not providing off-street parking spaces. There may be a conflict between striking the requirement for off-street parking for new single or multifamily rentals in the zoning code but then still requiring existing single family rentals to pay the off-street parking fee.

UDC questions/details

Several code questions; these may have already been addressed by staff:

Current language does not allow tandem parking, proposed rules are striking that provision, allowing tandem parking. Is that the intent? Tandem parking are spaces that are typically 2 or 3 vehicles deep that in which only the rear most parking space has access to the drive aisle.

Current language does not allow private parking spaces in the public right of way without a concurrent use permit, proposed rules are striking that provision, presumably allowing private parking spaces on the public right of way. Is that the intent? This may conflict with City Engineering standards and specifications.

Current language does not allow required parking spaces to be located off-site; in other words required off-street parking must be located on the same parcel as the use/business/development generating the need for parking. The proposed rules are striking that provision. Understanding that "required parking" is being eliminated, would new optional off-site off-street parking spaces for new development be considered accessory parking spaces or primary use parking lots? To be more specific, would a new retail store in a MU-C district be allowed to create an off-site parking lot in an adjacent R-2 zone district as an accessory parking lot by right or as primary use parking lot or overflow parking lot with a special use permit?

Current language exempts single family homes from the maximum number off-street parking spaces, the proposed rules are striking that provision, establishing that the maximum number of off-street parking spaces that a single-family home may have is 2.5 parking spaces. Is that the intent? Many homes constructed since the 1970s will likely exceed this maximum, creating many new legal non-conformities.

Proposed language is striking the requirement for additional off-street parking for developments within the higher education overlay. The current standard in the overlay is .7 parking spaces per bedroom, with requirements for additional visitor parking, instead of 1 space per dwelling unit in the rest of the city. The 2012 public input asking for higher off-street parking standards in neighborhoods near the colleges was a primary driver of the higher education overlay, with the build to zones and restrictions on balconies less critical. I suggest eliminating this overlay zone entirely if the additional off-street parking restrictions are stricken, as the primary purpose for the overlay would now be eliminated.

Proposed language for overflow parking requires that a demonstrated need for neighborhood parking must be established first, but doesn't list the criteria for establishing need. There is no requirement for screening of headlights from nearby residential properties, and no requirement that the overflow parking lot be accessible from an accessible sidewalk.

If there is no longer any required minimum off-street parking in the UDC, can the Planning Commission require off-street parking as a condition of approval on future Special or Interim Use Permit?

Redevelopment Strategy and Shared Vision

In the context of economic development, the city is sometimes asked to partner with developers to provide assistance to find or create off-street parking spaces for new developments or redevelopments. Assistance includes tools such as Tax Increment Financing or Tax Abatement, or seeking bonding dollars from the state legislature to fund new parking ramps, or privatizing or leasing existing public parking spaces to developments. Will eliminating the zoning code's role in mandating off-street parking spaces create inconsistency with the economic development strategy to provide public city financial support for off-street parking for new developments?

City engineering manages public right of way and has standards on access management (driveways and curb cuts). City Planning has standards for new development and redevelopment, including guidelines for off-street parking. City Parking Services manages on-street parking, including provision of accessible parking spaces and loading zones, and residential parking permits (typically near schools are other areas high demand for on-street parking). There are several city departments that have a leading role in the "transportation" arena. And there are competing strategic values in play with this proposal (the strategy to eliminate parking requirements for new development to reduce impervious surface vs the strategy to use public subsidies to provide public or public/private off-street parking spaces for new private development). The "complete streets" policy notwithstanding, there are a lot of friction points over what is the best use of public street/right of way use, and no unifying vision or direction. For example, during the Superior Street reconstruction planning phase, there was a lot of discussion over maintaining abundant on-street parking spaces (critical for adjacent businesses) vs more pedestrian amenities or bike lanes to make the area attractive and safe for tourists and visitors. This proposed ordinance change could be a spring board to have a wider discussion about how the community can weigh these competing values into one framework or policy.

Current Bus and Pedestrian Infrastructure

The City of Duluth does not have the same breadth and quality of pedestrian infrastructure that some of the urban areas of the twin cities have. Duluth has several large areas that are rural, semi-rural, and suburban, that lack sidewalks and ADA complaint pedestrian ramps at crosswalks. In addition, the DTA currently has approximately 1,500 designated bus stops throughout Duluth. Approximately 50% of these bus stops and bus routes (from 33 routes to 15 routes) will be eliminated as part of the stream-lining of DTA's Better Bus Blueprint, a bold initiative to improve the transit service by reducing travel times and upgrading the bus experience. The Better Bus Blueprint will absolutely be a major improvement in quality and efficiencies of the transit service, but it will reduce access in some areas of the city. In addition, the city is wrestling with the process of ensuring that sidewalks and pedestrian ramps are shoveled. So even when there is a bus stop and a bus shelter, getting to it may be problematic to people with access or mobility limitations. The reality is that in many areas of Duluth the personal vehicle is still the safest and most effective means of transportation, and there is still a need for requiring developments in some areas of Duluth to provide off-street parking.

Stakeholder input

In the past, when there was a major ordinance change that could potentially have wide community impact, city staff have held additional optional public information meetings. I am suggesting it might be useful and appreciate to make an effort to have one or more public information meetings, and/or presentations to stakeholder groups that expressed an interest in parking issues in the past (such as our various business/community organizations). In addition, input from either the Parking Commission or the Commission on Disabilities may provide useful feedback on this proposal, and would further a culture of diversity, equity, and inclusion.

Thank you

Thank you for the opportunity to comment. I apologize for the length of the email, but I wanted to highlight several items, particularly the issue with the Mn State Building Code and the chapter on accessibility. It should be understood that the city can not use the state building code to compel the provision of off-street parking spaces.

Steven Robertson, CSI Manager

Jennifer Moses

From: planning
Sent: Tuesday, January 10, 2023 11:15 AM
To: Jennifer Moses
Subject: FW: Eliminate parking minimums

From: Dave Zbaracki <[REDACTED]>
Sent: Tuesday, January 10, 2023 10:09 AM
To: planning <planning@DuluthMN.gov>
Subject: Eliminate parking minimums

Dear Planning Commission,

I fully support the proposal to eliminate parking minimums. It is long past time that our city does something to live up to the progressive values that it espouses. Cars as default transportation is suburban planning, not urban planning. We need better, less costly, and more sustainable infrastructure. This proposal does not wave a magic wand, but goes a long way to fixing our problems.

-Dave Zbaracki

Jennifer Moses

From: planning
Sent: Tuesday, January 10, 2023 5:00 PM
To: Jocelyn Heid
Cc: Jennifer Moses; Adam Fulton
Subject: RE: Proposed Parking Code Changes

Hello =

Thank you for your comment. It will be shared with the planning commission.

Cindy Stafford

From: Jocelyn Heid <[REDACTED]>
Sent: Tuesday, January 10, 2023 4:49 PM
To: planning <planning@DuluthMN.gov>
Subject: Proposed Parking Code Changes

I urge you to approve the proposed parking code changes. These changes will move Duluth forward to a better, more efficient use of public resources.

I apologize for sending th email of support so late in the day.

Thank you,
Jocelyn Heid
3028 E Superior St, Duluth, MN 55812
[REDACTED]

Jennifer Moses

From: JOSEPH KLEIMAN <[REDACTED]>
Sent: Wednesday, January 11, 2023 9:32 AM
To: Adam Fulton
Cc: Jennifer Moses
Subject: Re: Proposed parking changes

Adam,

One other thought, will the electrical code require a separate electrical service for the charging station? Would it be required to be separated of the electrical entrance that serves the building? Again, adding expense could very well have little or no demand. Sorry to bother you but just another thought of mandating the need can cause many unwanted expenses. Thank you.

Joe Kleiman

From: Adam Fulton <afulton@DuluthMN.gov>
Sent: Tuesday, January 10, 2023 5:16 PM
To: JOSEPH KLEIMAN <kleimanrealty@msn.com>
Subject: RE: Proposed parking changes

Joe,

Thanks for being here tonight and providing these comments. We'll add to the file and consider impacts on this one.

Thanks,

ADam

From: JOSEPH KLEIMAN <[REDACTED]>
Sent: Tuesday, January 10, 2023 2:16 PM
To: Adam Fulton <afulton@DuluthMN.gov>
Subject: Proposed parking changes

Adam,

The need to provide EV charging stations for new commercial development, isn't that something that the market will decide? Mandating the expense for something that might arise years in the future would seem to be a burden for developers, property owners. If there is a need I am the first to make the installation but to force the move just adds additional expense whether or not there is a need. Not a fan. Thanks.

Joe Kleiman
 [REDACTED]

Jennifer Moses

From: JOSEPH KLEIMAN <[REDACTED]>
Sent: Wednesday, January 11, 2023 9:01 AM
To: Adam Fulton
Cc: Jennifer Moses
Subject: Re: Proposed parking changes

Adam,

As an additional follow-up to last night's comments, I would like to know how many electric vehicles are currently registered in the State of Minnesota, this would be important to know. The latest information I had was that less than 1% of vehicles registered in the State of Minnesota were EV's. Is that enough EV's to mandate the expense of providing charging stations on all new commercial developments? I recently completed the new Orthodontic office on Central Entrance, three employees on site, I don't see how that type of business should have a mandatory need for a charging station. Is the planning department suggesting that Orthodontic office needs to provide patients with capacity to charge there EV's? If so, who will pay for the electricity, will there be a cap on what a property owner might charge to use the charging station? For those developers who provide first class developments which include many amenities, providing charging stations would be voluntarily provided should the market dictate the need. Should the planning department feel the need to adjust maximum and minimum parking requirements I understand but don't feel an EV charging station is something the planning department needs to get involved in. Additionally, regarding on-street parking for residential use I think the City of Duluth better take a closer look at policy in place for snow emergencies and snow removal. Currently parking on the street is very difficult and lanes of traffic have narrowed significantly. I see a statement that the City of Duluth will not be removing snow due to the fact that they have no money to complete the task. Lessening the requirement for off-street parking will certainly add to the problem. Thank you for your consideration on this matter.

Joe Kleiman
 [REDACTED]

From: Adam Fulton <afulton@DuluthMN.gov>
Sent: Tuesday, January 10, 2023 5:16 PM
To: JOSEPH KLEIMAN <kleimanrealty@msn.com>
Subject: RE: Proposed parking changes

Joe,

Thanks for being here tonight and providing these comments. We'll add to the file and consider impacts on this one.

Thanks,

ADam

From: JOSEPH KLEIMAN <[REDACTED]>
Sent: Tuesday, January 10, 2023 2:16 PM

To: Adam Fulton <afulton@DuluthMN.gov>

Subject: Proposed parking changes

Adam,

The need to provide EV charging stations for new commercial development, isn't that something that the market will decide? Mandating the expense for something that might arise years in the future would seem to be a burden for developers, property owners. If there is a need I am the first to make the installation but to force the move just adds additional expense whether or not there is a need. Not a fan. Thanks.

Joe Kleiman

~~XXXXXXXXXX~~

Jennifer Moses

From: planning
Sent: Tuesday, January 10, 2023 4:31 PM
To: Dave & Dina
Cc: Adam Fulton; Jennifer Moses
Subject: RE: Duluth Parking Code update

Hello -

We are in receipt of your comment. It will be shared with the planning commission members.

Thanks, Cindy

-----Original Message-----

From: Dave & Dina <[REDACTED]>
Sent: Tuesday, January 10, 2023 4:21 PM
To: planning <planning@DuluthMN.gov>
Subject: Duluth Parking Code update

Commissioners,

I'm writing to voice my support for the proposed changes to the Parking Code. Changes like these that will provide more flexibility and sensibility in how housing is developed and will incentivize alternative modes of transportation (buses, bikes, EVs) instead of just gasoline powered cars and trucks are definitely signs of a community that is forward thinking and actively working to provide smart solutions, rather than simply defaulting to antiquated codes. I urge you to support these proposed changes.

Sincerely,

Dave Pagel
801 Woodland Ave.

Jennifer Moses

From: planning
Sent: Tuesday, January 10, 2023 4:15 PM
To: Rebecca Bischoff
Cc: Jennifer Moses; Adam Fulton
Subject: RE: Parking Code Changes

Hello Rebecca –

Thank you for your comment. It will be shared with the planning commission members.

Cindy



Cindy Stafford City of Duluth
Planning & Economic Development
413 W. 1st St. Room 160, Duluth, MN 55802
cstafford@duluthmn.gov Phone (218) 733-5161

From: Rebecca Bischoff <rebecca.bischoff@windlog.com>
Sent: Tuesday, January 10, 2023 3:28 PM
To: planning <planning@duluthmn.gov>
Subject: Parking Code Changes

Hi Planning Commission,

I am in favor of the proposed parking code changes that incentives multi-modal transportation.

Thanks,

Rebecca Bischoff
Lincoln Park Resident

Jennifer Moses

From: planning
Sent: Wednesday, January 11, 2023 7:05 AM
To: Adam Fulton
Cc: Jennifer Moses
Subject: RE: Concerns About Proposed Parking Changes

Copying Jenn for her to file.

Thanks, Cindy



Cindy Stafford - City of Duluth
Planning & Economic Development
 411 W. 1st St. Room 100, Duluth, MN 55802
cstafford@duluthmn.gov Phone (218) 723-5161

From: Adam Fulton <afulton@DuluthMN.gov>
Sent: Tuesday, January 10, 2023 5:18 PM
To: planning <planning@DuluthMN.gov>
Subject: FW: Concerns About Proposed Parking Changes

Please retain for file

From: Branden Robinson [REDACTED]
Sent: Tuesday, January 10, 2023 2:01 PM
To: Adam Fulton <afulton@DuluthMN.gov>
Subject: Concerns About Proposed Parking Changes

Hi Adam,

I'm writing with concerns about the proposed changes to the UDC, to remove minimum parking requirements and impose more restrictive maximum parking requirements across the City.

We see this as an exceptionally burdensome change for many businesses and the broader community.

- The City has recently implemented parking policies to lessen the burden on neighborhood residential parking and snow removal efforts, both of which will be thwarted by these new proposed standards.
- There are many businesses where ample parking is, and will always be, a critical part of the business model.
- We rely nearly 100% on vehicular travel for our guests. Guests do not use public transit, and rely on personal vehicles to access and explore the area.
- The freedom of vehicular travel is paramount to the guest experience, due to the variety of attractions and natural attributes that define our unique geographical location. Guests travel to the North Shore, state parks, Iron Range, etc., all areas that cannot be effectively serviced by public transit and are nearly impossible to access by bicycle.

- Guests who visit Duluth carry a lot of luggage and gear for team events and various outdoor activities, underscoring the importance of reliance on personal vehicles.
- Changing these ordinances will not change consumer behavior. They will only create excess future challenges for businesses and residents.
- The proposed maximum parking limits for hotels and motels do not account for the true parking demand, comprised of guest vehicles and vehicles of staff who live outside of effective public transportation corridors.
- The maximum allowable parking under this new model would not meet our parking demand, nor would it meet that of other, larger properties.
- These new standards would push an extreme burden onto surrounding neighborhoods to handle the parking demand created by businesses,
- Businesses would have the added burden of patrolling private lots from vehicles visiting neighboring businesses.

We are strongly opposed to the proposed changes, and look for your guidance to create a model that will address the ongoing needs of this community.

Respectfully Submitted,

Branden H. Robinson

General Manager
South Pier Inn
701 S. Lake Ave.
Duluth, MN 55802
P: (218) 786-9007 x. 801
F: (218) 786-9015



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Jennifer Moses

From: Adam Fulton
Sent: Tuesday, January 24, 2023 11:10 AM
To: Jennifer Moses
Subject: FW: Parking

FYI

Adam Fulton | Deputy Director, Planning & Economic Development | he/him/his | **City of Duluth** | 411 West First Street, Duluth, MN 55802 | 218-730-5325 | afulton@duluthmn.gov

From: Barbara Montee <~~barbara.montee@cityofduluth.com~~>
Sent: Tuesday, January 24, 2023 10:59 AM
To: Council <Council@duluthmn.gov>
Subject: Parking

I am emailing to bring attention to the parking mandate for rental houses. I am happy that you are looking at parking mandates and I am hoping you will be willing to review the rental lease fine for not providing parking and add that to the changes that are being proposed.

I am the President of the Duluth Landlord Association, and have been for more than a decade. This is my brief and quickly written synopsis of the history of the parking requirement- it goes back to the 300 foot mandate that the city council passed at one time. The neighborhood by UMD was upset to say goodbye to their old neighbors where they had raised kids and played together. Many of the houses turned into rentals and started housing students, and the fallout was the mandate for limited rentals and the 300 ft rule. The mortgage crisis brought that to a halt and then some properties were hardshipped by not being allowed to become a rental because 100+ years ago they were built with no off street parking and ~50 years ago, the city turned these streets into mini-highways and eliminated the street parking so more driving autos could get where they wanted to go, more quickly. Also, the ambulance route on E 6th Ave was hard hit by the now street parking and most of those houses have front yard parking, which was another big issue we could discuss and change for the better. In order to allow "parking hardshipped" properties, we accepted the license "fine" of \$100 per property for not providing off street parking per bedroom. It was one way to get past old issues. Now might be the time to get past this parking fine issue. I am happy to receive your phone call (218-393-9236 Barb) to better discuss this, as it is a lot of past ordinance changes that pre-date most of you. Essentially, Duluth had a period of time when we passed ordinances for the privileged few with autos, and now I am happy the council is looking to change that to a better bike/ pedestrian friendly community. Let me know how I can help. I do have some pull with some landlords and I understand we are approaching 50% rental in Duluth.

Thanks for all you do!

--

Barbara Montee

Jennifer Moses

From: planning
Sent: Thursday, January 26, 2023 7:39 AM
To: Jennifer Moses
Subject: FW: E 2nd Street Parking Issues

From: Andrea Habedank <ahabedank@essentia.com>
Sent: Thursday, January 26, 2023 1:35 AM
To: Gary Anderson <ganderson@DuluthMN.gov>; Azrin Awal <aawal@DuluthMN.gov>; Arik Forsman <aforsman@DuluthMN.gov>; Noah Hobbs <nhobbs@DuluthMN.gov>; Janet Kennedy <jkennedy@DuluthMN.gov>; Mike Mayou <mmayou@DuluthMN.gov>; Roz Randorf <rrandorf@DuluthMN.gov>; Terese Tomanek <ttomanek@DuluthMN.gov>; Hannah Alstead <halstead@DuluthMN.gov>; planning <planning@DuluthMN.gov>
Subject: Re: E 2nd Street Parking Issues

Good evening,

I am a tenant at 316 E 2nd St and wanted to add my thoughts on how the current parking situation affects me personally. I am on my second year living in the building and have loved calling it home. However, the current parking situation has made things very difficult for me and many others.

I work nights as a 911 dispatcher for St. Louis County. Currently, one of the most stressful parts of my job ends up being trying to find a place to put my car when I go home afterwards. There are still cones blocking off part of our road as well as a "Road Closed" sign farther down. This ends up resulting in large snow piles blocking the limited parking we do have at the building, as it's unable to be plowed normally. Some roads, such as 4th Ave E, remain completely closed. Until a month ago, Essentia was allowing us to park in their ramp outside of business hours due to the construction. As a night shift worker, I'd end up needing to park in Essentia's for a few hours overnight (due to lack of street parking), then set an alarm to wake up in the middle of my "night" to move my car once ramp access was no longer allowed. At that time, I would have to hope that another tenant or contractor had recently left, so that I could park again and go back to bed. Although less convenient than being able to leave my car in one place, this option was incredibly valuable to me as it at least gave me a way to be able to get home and go to sleep. Now that the Essentia ramp is also unavailable, I have had an even more difficult time being able to get home. I often leave work in the morning, extremely exhausted and ready for bed, only to find any available parking spots taken by Vision Northland contractors/other employees and nowhere left for me to park within several blocks of my apartment. As you know, a lot of Downtown has meters, so there are not a lot of other options for those of us who live in the area as it currently stands.

I tried contacting the Sheraton ramp about parking there, but was told that there was a waitlist of approximately 40 people and that this would be unlikely to clear in the near future. Even if this was not the case, they state that they would not be able to honor the discounted parking rate our landlord had previously mentioned. I have loved living Downtown and want to continue doing so, but at the moment I am afraid that I might have to find a new home due to being unable to park. All I want is to be able to go home and sleep after work, and I would be very appreciative of any help or ideas that would make this possible.

Thank you,

Andrea Habedank

On Wed, Jan 25, 2023 at 10:51 AM Friday Properties <[REDACTED]> wrote:

I just wanted to give you all an email I just sent out to the city council and the Duluth Planning Commission. Feel free to write to any of them as well to express your thoughts :)

Bridget

----- Forwarded message -----

From: **Friday Properties** <[REDACTED]>

Date: Wed, Jan 25, 2023 at 10:50 AM

Subject: Fwd: E 2nd Street Parking Issues

To: <ganderson@duluthmn.gov>, <aawal@duluthmn.gov>, <aforsman@duluthmn.gov>, <nhobbs@duluthmn.gov>, <jkennedy@duluthmn.gov>, <mmayou@duluthmn.gov>, <rrandorf@duluthmn.gov>, <tomanek@duluthmn.gov>, <halstead@duluthmn.gov>, <planning@duluthmn.gov>

We own a 22 unit residential building (316 E 2nd Street) with no parking and a single office building (320 E 2nd Street) with 6 parking spots in the alley. I would like to take a few minutes of your time to address some parking issues that have not gotten any better over the past 10 years for our tenants.

We are on the western edge of the Vision Northland project. The original hospital plan was to have a jumbo ramp the size of a city block. That was then "downsized" and was going to only be built on 1/2 the city block instead. NOW, we have heard the new ramp will be EVEN smaller due to rising costs. I find it hard to believe this is happening "coincidentally" at the same time that the City is deciding to get rid of minimum parking spaces.. does this also include the hospital system and their ramps? (including the city owned ramps that are attached to all medical buildings?) To only add a very small, very downsized ramp for a hospital is not in the best interest of anyone. Where will our tenants park when they are still competing with patients, vendors and employees? The issue just isn't for our tenants. It is the entire area. Businesses, churches, & other residents are all dealing with this issue.

Many years ago, when the city decided to put parking meters up all around our building, we fought for our tenants. They weren't going to have anywhere to park because of the meters down 3rd and 4th ave e. The city gave our tenants a deal in the 1st street/sheraton ramp. It was 50% off the public rate when they showed their lease. Many of our tenants used it.

Since the essentia construction has started, it has been a nightmare for our tenants. Contractors, employees, etc have been parking in our alley areas, and also not to mention all of the road closures, and blocking of the parking areas in front of our buildings They have not been able to have city plowing regularly since the contractors are continually moving cones and trying to block off more areas for their trucks to enter. We worked very hard with city employees (Ms Voight) to get the city to ensure the contractors at Essentia at least let them use the 3 spots in front of our building since 4th has been closed. (it isn't guaranteed spots, usually the employees, patients, contractors take them)

Essentia had been very gracious for about the past year giving our tenants use of free overnight and weekend parking in their green ramp. They decided at the end of December to end that favor. They said there was enough road parking again. Roads are still closed, spots are still missing. We had at least 5 tenants call to

find out the sheraton ramp is on a waitlist for parking and they were told they will not be given the 50% off as the new company has taken over the parking ramp management from the city.

I am asking to help with this parking issue. Some of my thoughts --- Can we get tenant-only parking on streets (just like by schools)? Can we utilize the sheraton ramp at night just like they did at Essentia? Could residents have special parking passes to park at the meters? I am just trying to think outside of the box to get some ideas moving.

I am at a loss for my tenants and want them to be able to enjoy living in the downtown area. Many of them work for both hospital system or in the downtown area. They are a vibrant part of the neighborhood and extremely good people - the kind we want to KEEP in the area.

Thank you for your time.

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Bridget Friday
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January 16, 2023

Katrina Kessler
Commissioner
Minnesota Pollution Control Agency
520 Lafayette Road N
St. Paul, MN 55155-4194

Dear Commissioner Kessler,

This letter pertains to a hotel development scheduled to be built on wetlands in Duluth, Minnesota. This is a time-sensitive matter, as construction is currently slated for Spring of 2023. Reference file #PL22-143 on plats 010-2710-04594 and 010-2710-04575.

Please consider this notice as a cease-and-desist order in regards to the construction of a Marriott located on wetlands ≤ 500 feet from Miller Creek at Sundby Road and Page Street in Duluth, MN, per changes to a ruling defining the scope of waters protected under the Clean Water Act signed by EPA Administrator Michael S. Regan on December 29, 2022 and the Assistant Secretary of the Army (Civil Works), Michael L. Connor, on December 28, 2022.

Moreover, the Environmental Protection Agency and U.S. Army Corp of Engineers have halted implementation of the Navigable Waters Protection Rule (NWPR) nationwide and are interpreting "Waters of the United States" consistent with the pre-2015 regulatory regime until the final rule is published in the *Federal Register*.

I am requesting that Miller Creek, a tributary of the St. Louis River (a Federally protected interstate water), and its adjacent wetlands be evaluated under the new protections to interstate waters of the Clean Water Act as "Waters of the United States".

Any and all permits that may have been obtained by the developer, Kinseth Hotel Corporation, on behalf of Marriott are longer valid, as the Navigable Waters Protection Rule (NWPR) has been vacated and remanded. (Reference **Permitting**, pgs. 10-11).

I sincerely hope you look into this at your earliest. Thank you for your time and attention to this urgent matter. Supporting arguments included.

Kind Regards,



Becca Mulenburg

Cc: Minnesota – Governor, Attorney General, Senator
Duluth – MPCA, USACE, Mayor, Planning Commission, City Council

Supporting documents:

DEPARTMENT OF DEFENSE

Department of the Army, Corps of Engineers

33 CFR Part 328

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 120

[EPA-HQ-OW-2021-0602; FRL-6027.4-01-OW]

RIN 2040-AG19

Revised Definition of “Waters of the United States”

AGENCY: Department of the Army, Corps of Engineers, Department of Defense; and Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) and the Department of the Army (“the agencies”) are finalizing a rule defining the scope of waters protected under the Clean Water Act. In developing this rule, the agencies considered the text of the relevant provisions of the Clean Water Act and the statute as a whole, the scientific record, relevant Supreme Court case law, and the agencies’ experience and technical expertise after more than 45 years of implementing the longstanding pre-2015 regulations defining “waters of the United States.” This final rule advances the objective of the Clean Water Act and ensures critical protections for the nation’s vital water resources, which support public health, environmental protection, agricultural activity, and economic growth across the United States.¹

¹ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pgs. 1-2.

St. Louis River as a “paragraph (a)(1) waters”, a federally protected interstate water

In this rule, consistent with the general framework of the 1986 regulations, the agencies interpret the term “waters of the United States” to include:

- traditional navigable waters, the territorial seas, and interstate waters (“paragraph (a)(1) waters”);²

The agencies interpret interstate waters under this rule to mean “all rivers, lakes, and other waters that flow across, or form a part of, State boundaries” based on precursor water protection statutes and practice.³

The St. Louis River borders Minnesota and Wisconsin, and is a “paragraph (a)(1) water”, specifically an interstate water.

Miller Creek as a tributary to the St. Louis River

“Waters of the United States” include

- tributaries to traditional navigable waters, the territorial seas, interstate waters, or paragraph (a)(2) impoundments when the tributaries meet either the relatively permanent standard or the significant nexus standard (“jurisdictional tributaries”);⁴

Wetlands adjacent to Miller Creek

“Waters of the United States” include

- wetlands adjacent to paragraph (a)(1) waters, wetlands adjacent to and with a continuous surface connection to relatively permanent paragraph (a)(2)

² EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pg. 8.

³ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pg. 248.

⁴ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pg. 8.

impoundments, wetlands adjacent to tributaries that meet the relatively permanent standard, and wetlands adjacent to paragraph (a)(2) impoundments or jurisdictional tributaries when the wetlands meet the significant nexus standard (“jurisdictional adjacent wetlands”); and

- intrastate lakes and ponds, streams, or wetlands not identified in paragraphs (a)(1) through (4) that meet either the relatively permanent standard or the significant nexus standard (“paragraph (a)(5) waters”).⁵

Wetlands of Miller Creek and the significant nexus standard

...the text and focus of the rule’s significant nexus standard are derived from and designed to advance the text of the first sentence in the statute setting forth the Act’s sole statutory objective: “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters.”⁶

Congress was focused on water quality when it enacted the Clean Water Act and established the Act’s objective, and the significant nexus standard is derived from the objective of the Act to protect the water quality of the paragraph (a)(1) waters.⁷

...where a wetland is adjacent to a covered water that is *not* a traditional navigable

⁵ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pgs. 8-9.

⁶ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pg. 113.

⁷ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pg. 114.

water, the territorial seas, or an interstate water, such as a tributary, this rule requires an additional showing for that adjacent wetland to be covered: the wetland must satisfy either the relatively permanent standard or the significant nexus standard. . . . the adjacent wetland must have a continuous surface connection to a relatively permanent, standing or continuously flowing water connected to a paragraph (a)(1) water *or* must either alone or in combination with similarly situated waters significantly affect the chemical, physical, or biological integrity of a paragraph (a)(1) water.⁸

. . . wetlands that are not flooded by adjacent waters may still tend to drain into those waters. In such circumstances, the Corps has concluded that wetlands may serve to filter and purify water draining into adjacent bodies of water, see 33 CFR § 320.4(b)(2)(vii) (1985), and to slow the flow of surface runoff into lakes, rivers, and streams, and thus prevent flooding and erosion, see §§ 320.4(b)(2)(iv) and (v). In addition, adjacent wetlands may ‘serve significant natural biological functions, including food chain production, general habitat, and nesting, spawning, rearing and resting sites for aquatic . . . species.’” 447 U.S at 134-35.⁹

Comments

The wetlands scheduled to be destroyed by the hotel development are approximately 500 feet away from Miller Creek, a tributary of the St. Louis River, a federally protected (a)(1) “Waters of the United States.” Miller Creek, in all likelihood, is jurisdictional as a tributary to the St. Louis River, and so may be its wetlands under application of the significant nexus

⁸ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pg. 10.

⁹ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pg. 414.

standard.

Note that wetlands can be jurisdictional even if they don't directly abut a jurisdictional water, have an unbroken surface or shallow subsurface connection to jurisdictional waters, have physical features separating them from the jurisdictional waters such as human-made features (Sundby Road), and don't need to be continuously present in the surface or shallow subsurface connection.¹⁰

“The Court concluded that “the Corps’ ecological judgment about the relationship between waters and their adjacent wetlands provides an adequate basis for a legal judgment that adjacent wetlands may be defined as waters under the Act.”¹¹

Wetlands provide several purposes such as drainage, filtering, purifying, slowing surface runoff, preventing flooding and erosion, and providing food chain production and healthy stream biota, all contingent to the health of Miller Creek, an impaired trout stream currently subjected to high sediment runoff, salt from winter roads and parking lot clearing, and E. coli bacteria contamination from people and animals. Since this large hotel development is proposed to be 4-stories with 118 parking stalls *upstream* from Miller Creek (again, ≤ 500 feet away), how could its construction *not* significantly affect Miller Creek and its wetlands? Building in this location would be contrary to the central framework and protections afforded by the Clean Water Act.

([T]he Corps has concluded that wetlands adjacent to lakes, rivers, streams, and other bodies of water may function as integral parts of the aquatic environment even when the moisture creating the wetlands does not find its source in the

¹⁰ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pg. 309.

¹¹ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pg. 90.

adjacent bodies of water. . . . [W]e therefore conclude that a definition of ‘waters of the United States’ encompassing all wetlands adjacent to other bodies of water over which the Corps has jurisdiction is a permissible interpretation of the Act.’).¹²

Reasonably Close – Defined

Wetlands can be jurisdictional if they are reasonably close to the proximity of a jurisdictional water. While this rule does not explicitly identify regional factors that influence what is “reasonably close” for purposes of adjacency, the agencies recognize there may be site-specific factors (*e.g.*, topography) that influence what is “reasonably close.” This rule does not establish specific distance limitations for adjacency, which helps ensure that site-specific and regional factors can be considered when a wetland is being evaluated...¹³

In addition, the longstanding regulation properly defines the term “adjacent” for purposes of the Clean Water Act because it is based on the concept of both reasonable proximity and scientific connections.¹⁴

Comments

Wetlands directly impacted by the hotel development could easily be considered

¹² EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pgs. 418-419.

¹³ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pg. 322.

¹⁴ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pg. 419.

reasonably close to Miller Creek since those wetlands are ≤ 500 ft. from Miller Creek, closer when the distance to Miller Creek's shore land is considered.

Intrastate waters. *Below has been included in this argument because until the Revised Definition of "Waters of the United States" is promulgated, the pre-2015 regulations commonly referred to as "the 1986 regulations" have been returned for usage.¹⁵ Miller Creek, whether or not a jurisdictional tributary to the St. Louis River, may be considered an intrastate river, and would fall within the scope of waters protected under the Clean Water Act, "waters of the United States" and is therefore jurisdictional.*

The 1986 regulations define "waters of the United States" as follows (33 CFR 328.3 (2014)):

(a) The term "waters of the United States" means:

1. All waters which are currently used, were used in the past, or may be susceptible to use in interstate or foreign commerce, including all waters which are subject to the ebb and flow of the tide;
2. All interstate waters including interstate wetlands;
3. All other waters such as intrastate lakes, rivers, streams (including intermittent streams), mudflats, sandflats, wetlands, sloughs, prairie potholes, wet meadows, playa lakes, or natural ponds, the use, degradation, or destruction of which would or could affect interstate or foreign commerce including any such waters:
 - i. Which are or could be used by interstate or foreign travelers for recreational or

¹⁵ EPA, 40 CFR Part 120, Revised Definition of "Waters of the United States", pg. 7.

other purposes; or

ii. From which fish or shellfish are or could be taken and sold in interstate or foreign commerce; or

iii. Which are used or could be used for industrial purposes by industries in interstate commerce;

4. All impoundments of waters otherwise defined as waters of the United States under this definition;

5. Tributaries of waters identified in paragraphs (a)(1) through (4) of this section;

6. The territorial seas; and

7. Wetlands adjacent to waters (other than waters that are themselves wetlands) identified in paragraphs (a)(1) through (6) of this section.¹⁶

Final Conclusion and Summary

Advancing the Objective of the Clean Water Act

This rule is grounded in the Clean Water Act’s objective “to restore and maintain the chemical, physical, and biological integrity of the Nation’s waters,” 33 U.S.C. 1251(a). This rule advances the Clean Water Act’s objective by defining “waters of the United States” to include waters that significantly affect the chemical, physical, or biological integrity of traditional navigable waters, the territorial seas, and interstate waters; and waters that meet the relatively permanent standard. The limitations in the definition ensure that the agencies will not assert jurisdiction where the effect on traditional navigable waters, the

¹⁶ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pg. 31-32.

territorial seas, and interstate waters—*i.e.*, the paragraph (a)(1) waters—is not significant. This rule is informed by the best available science on the functions provided by upstream waters, including wetlands, to restore and maintain the integrity of paragraph (a)(1) waters because the rule recognizes that upstream waters can have significant effects on such waters and enables the agencies to make science-informed decisions about such effects. This rule thus defines “waters of the United States” to include the familiar types of waters in the 1986 regulations—traditional navigable waters, interstate waters, impoundments, tributaries, the territorial seas, adjacent wetlands, and waters that do not fall within the other categories—while adding, where appropriate, a requirement that waters also meet either the significant nexus standard or the relatively permanent standard.¹⁷

Miller Creek in Duluth, Minnesota, is a tributary of the St. Louis River, a paragraph (a)(1) interstate water that is Federally protected under the definition “Waters of the United States” in conjunction with the Clean Water Act. Miller Creek’s wetlands are positioned to be destroyed; however both Miller Creek and its wetlands may have federal protections under the Revised Definition of “Waters of the United States” when promulgated or the 1986 regulations due to the vacation of the 2020 “Navigable Waters Protection Rule” (NWPR).

The Revised Definition of “Waters of the United States” best accomplishes the agencies’ goals to promulgate a rule that advances the objective

¹⁷ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pgs. 66-67.

of the Clean Water Act, is consistent with Supreme Court decisions, is informed by the best available science, and promptly and durably restores vital protections to the nation's waters. The agencies have reconsidered the policies, interpretations, and conclusions of the 2020 NWPR. Although the 2020 NWPR has been vacated, it is the text currently in the Code of Federal Regulations. For the reasons articulated in this preamble, the agencies are changing their approach from that of the 2020 NWPR to interpreting the scope of "waters of the United States."¹⁸

Hotel construction set to begin in the Spring of 2023 at Sundby Road and Page Street in Duluth, Minnesota, on plats 010-2710-04594 and 010-2710-04575 (PL22-143), would ostensibly violate the Clean Water Act. This environmentally-sensitive area includes wetlands and an impaired trout stream, Miller Creek, which is a tributary to the Federally protected interstate water, the St. Louis River. Neither are to be overlooked when examining their protections under the jurisdiction of all applicable environmental and regulatory statutes including the Clean Water Act.

Permitting

Any and all permits that may have been obtained by Kinseth Hotel Corporation on behalf of Marriott are no longer valid, as NWPR has been vacated and remanded per below.

The Environmental Protection Agency and U.S. Army Corps of Engineers ("the agencies") are in receipt of the U.S. District Court for the District of

¹⁸ EPA, 40 CFR Part 120, Revised Definition of "Waters of the United States", pg. 184.

Arizona's August 30, 2021, order vacating and remanding the Navigable Waters Protection Rule (NWPR) in the case of *Pascua Yaqui Tribe v. U.S. Environmental Protection Agency*. In light of this order, the agencies have halted implementation of the NWPR nationwide and are interpreting "waters of the United States" consistent with the pre-2015 regulatory regime.¹⁹

As the agencies' actions are governed by the regulatory definition at the time of the action, permit decisions made prior to the court's decision that relied on a NWPR AJD will not be reconsidered in response to the NWPR vacatur. Permit decisions may be modified, suspended, or revoked per 33 C.F.R. § 325.7 where the regulatory criteria are met. The Corps will not rely on a NWPR AJD in making a new permit decision. The Corps will make new permit decisions pursuant to the currently applicable regulatory regime (i.e., the pre-2015 regulatory regime). Therefore, for any currently pending permit action that relies on a NWPR AJD, or for any future permit application received that intends to rely on a NWPR AJD for purposes of permit processing, the Corps will discuss with the applicant, as detailed in RGL 16-01, whether the applicant would like to receive a new AJD completed under the pre-2015 regulatory regime to continue their permit processing or whether the applicant would like to proceed in reliance on a preliminary JD or no JD whatsoever.²⁰

¹⁹ <https://www.epa.gov/wotus/about-waters-united-states>. Accessed 15 Jan, 2023.

²⁰ <https://www.epa.gov/wotus/current-implementation-waters-united-states>. Accessed 15 Jan, 2023.

Any and all pursuits of construction at Sundby Road and Page St, including the current, planned development by Kinseth Hotel Corporation on behalf of Marriott must cease-and-desist.

Authority

“The authority for this action is the Federal Water Pollution Control Act, 33 U.S.C. 1251 *et seq.*, including sections 301, 304, 311, 401, 402, 404, and 501.”²¹

²¹ EPA, 40 CFR Part 120, Revised Definition of “Waters of the United States”, pg. 15.