



Purchasing Division
Finance Department
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411 West First Street
Duluth, Minnesota 55802

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purchasing@duluthmn.gov

Addendum 1
Solicitation 22-AA02
Environmental Assessment Brighton Beach

This addendum serves to notify all bidders of the following changes to the solicitation documents:

1. This project will be funded in part with Federal Emergency Management Agency (FEMA) funds. Successful proposer must have an active SAM.gov registration with no exclusions.
2. Attached supplemental provisions shall apply.

Questions asked are answered below in bold and italics.

3. Confirm the consultant will be working directly for the City of Duluth and not reporting to or coordinating directly with FEMA. **Yes, correct.**
4. Will the environmental assessment (EA) format/content be modeled after the City of Duluth's typical Environmental Assessment Worksheet (EAW) or the FEMA Region 5 EAs (<https://www.fema.gov/emergency-managers/practitioners/environmental-historic/region/5>)? Or is a different format preferred? **FEMA Region 5 EA**
5. Is more detailed information available regarding any target schedule dates (start date, EA publish date, start of construction, etc.)? **We would like the process to start mid-February, and concluded by early or mid-July (six months). We are intending to bid the project this fall, and construct in 2023.**
6. Are the roadway alignment and design plans detailed in the 2019 revised mini-master plan considered final or will additional design work (i.e., consideration of alternatives) be required? **The mini master plan had a suggestion for the road location. It shows where we believe it will now go, based on what we know for wetlands, drainage, trees, entrance and exits, etc. The 2019 Mini Master is a schematic representation. The EA project area should include all the area from trail to Hwy 61 and Scenic 61 of which City provided the Exhibit map of that area.**
7. Is it anticipated that any additional wetland/waterbody, habitat, or cultural/archaeological surveys will be necessary or is the 2020-2021 supplemental information from the trail extension project anticipated to be sufficient for preparation of the EA? Can we get copies of the 2020-2021 supplemental information/materials?

Yes, it is expected that additional wetland, endangered species, etc. review would be necessary, and that the consultant would resolve it. Any relevant project information can and will be shared.

8. Who will be responsible for the section 106 consultation with the State Historic Preservation Office/Tribal Historic Preservation Officers (e.g., City of Duluth, consultant, FEMA)? Is it anticipated that any tribal concerns would need to be addressed? ***The consultant would be expected to do 106 and tribal consultations, but much of that similar work was done as part of the Brighton Beach project and can be reused and/or be of assistance.***
9. How many public comment meetings are planned for the project? Will the City of Duluth conduct all public outreach and schedule the comment meeting(s)? (Assumes consultant will attend the meeting(s) and assist with tracking and responding to comments but City of Duluth will arrange the sessions and pay any venue fees/expenses.) ***A minimum of one public engagement opportunity is required. If city staff wish to have more, they can staff it themselves without requiring consultant staff time. It is more than likely that public input meetings would be virtual.***
10. Assumes scope of work is for preparation of the EA and supporting documents/appendices only. Is it anticipated that the consultant will also assist with the preparation and submittal of required permits? If yes, which permits? ***The city would like assistance from the consultant in applying for all permits required for the project, with city review and participation.***
11. We do not see the attachments that were shown during the pre-bid meeting on the purchasing website. Can you please tell us how to access these documents? ***See attachments A Delegation Letter, B Proposed Alignment, C 2019 Mini Master Plan, D Historic Information, and E Project memo.***
12. Do bidders need to be on the Plan Holders List (through Bid Express)? ***Bidders do not need to be on a planholder's list, but can request to be added to one by going to <https://www.duluthmn.gov/purchasing/bids-request-for-proposals/> and click the link to be added to a planholder's list. This solicitation is not being bid through Bid Express.***
13. Can City provide the 2019 Mini-Master Plan to facilitate proposal preparation? ***See Attachment C 2019 Mini Master Plan.***
14. Can City provide supplemental information from related 2020-21 trail extension project to facilitate proposal preparation? ***See attachments A Delegation Letter, B Proposed Alignment, C 2019 Mini Master Plan, D Historic Information, and E Project memo.***
15. Will FEMA require a scoping process at project initiation? Is this expected to be

facilitated by mailing? ***A scoping process is not expected at this time, but staff will verify.***

16. Is the City able to provide the NEPA guidelines received from FEMA? ***The city will provide any documents or comments received from FEMA staff.***
17. Can the City explain at what points in the project they anticipate the public meetings occurring? ***Prior to completion of the final version of the EA, so comments submitted can be reviewed and incorporated in the EA. The comment period should be at least 15 days, with a public information meeting happening just before or at the start of the 15-day comment period.***
18. Can the City specifically state what studies were previously completed that will be available to support this EA? ***See attachments A, B, C, D, and E.***
19. What level of support is the consultant expected to provide for FEMA's Section 106 and Section 7 coordination obligations? ***The consultant is expected to address all required 106 and Section 7 coordination obligations that are appropriate during an EA process. Note that attachment D Historic Information contains work completed in 2019 and 2020 related to historic review and endangered species.***
20. What is the spatial extent of the additional field surveys that may be needed? (how many acres)? ***The City has complete survey of area in the EA Exhibit and would provide this to consultant. No additional field survey is needed.***
21. Please describe in further detail the level of permitting support needed. ***The city would like assistance from the consultant in applying for all permits required by to the project, with city review and participation. City staff would be the final applicant and would approve and sign permit applications.***
22. Please confirm whether additional wildlife study needs to be completed for the EA. ***Please see attachment D Historic Information contains work completed in 2019 and 2020 related to historic review and endangered species. This information would need to be updated to reflect current conditions for the new 2022 EA, but little real-world change is expected to have happened since 2019.***
23. What level of engineering/design has been completed for the road realignment to date (including any hydrologic and hydraulic studies)? Preliminary design (line and grade, no more than 30%) is usually adequate to support the NEPA analysis but would need 90 to 100 percent design to support permitting (Section 404/401, Stormwater Pollution Prevention Plan, etc.). Any additional information pertaining to the level of engineering/design completed would be extremely helpful. ***Preliminary design should be completed by the City by January 31, 2022.***

Please acknowledge receipt of this Addendum by including a copy of it with your proposal. The pages included will not count toward any page limitation, if any, identified in the RFP.

Posted: **January 21, 2022**

City of Duluth
Supplementary Provisions – State & Federal Funding
22-AA02 RFP Environmental Assessment Brighton Beach

1. Disbursements

- a. No money under this Contract shall be disbursed by the City to any Contractor unless the Contractor is in compliance with the Federal Agency requirements with regard to accounting and fiscal matters to the extent they are applicable.
- b. Unearned payments under this Contract may be suspended or terminated upon the Contractor's refusal to accept any additional conditions that may be imposed by the Federal Agency at any time; or if the grant, if applicable, to the City under which this Contract is made is suspended or terminated.

2. Subcontracting Requirements

- a. The Contractor shall include in any subcontract the clauses set forth in these City of Duluth Supplementary Provisions in their entirety and shall also include a clause requiring the subcontractors to include these clauses in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.
- b. The Contractor shall not subcontract any part of the work covered by this Contract or permit subcontracted work to be further subcontracted without the City's prior written approval of the subcontractors. The City will not approve any subcontractor for work covered by this Contract who is at the time ineligible under the provisions of any applicable regulations issued by a Federal Agency or the Secretary of Labor, United States Department of Labor, to receive an award of such subcontract.

3. Breach of Contract.

The City may, subject to the Force Majeure provisions below and in addition to its other rights under the Contract, declare the Contractor in breach of the Contract by written notice thereof to the Contractor, and terminate the Contract in whole or in part, in accordance with Section 4, Termination, for reasons including but not limited to any of the following:

- a. Failure to begin the Work within the time specified in the Contract;
- b. Failure to perform the Work with sufficient labor, equipment, or material to insure the completion of the specified Work in accordance with the Contract terms;
- c. Unsatisfactory performance of the Work;
- d. Failure or refusal to remove material, or remove and replace any Work rejected as defective or unsatisfactory;
- e. Discontinuance of the Work without approval;
- f. Failure to resume the Work, which has been discontinued, within a reasonable time after notice to do so;
- g. Insolvency or bankruptcy;
- h. Failure to protect, to repair, or to make good any damage or injury to property;
- i. Breach of any provision of the Contract;
- j. Misrepresentations made in the Contractor's bid/proposal; or
- k. Failure to comply with applicable industry standards, customs, and practice.

4. Termination

If the Contractor is in breach of the Contract, the City, by written notice to the Contractor, may terminate the Contractor's right to proceed with the Work. Upon such termination, the City may take over the Work and prosecute the same to completion, by contract or otherwise, and the Contractor and its sureties shall be liable to the City for any additional cost incurred by the City in its completion of the Work and they shall also be liable to the City for liquidated damages for any delay in the completion of the Work as provided below. If the Contractor's right to proceed is terminated, the City may take possession of and utilize in completing the Work such materials, tools, equipment, and plant as may be on the site of the Work and necessary therefore.

City shall have the right to terminate this contract immediately without other cause in the event that all or a portion of the funds that the City intends to use to fund its obligations under the contract have their source with the State or Federal government or any agency thereof and said source reduces or eliminates their obligation to provide some or all of the funds previously committed by it to fund City's payment obligations under the Contract. The City

agrees that termination hereunder will not relieve the City of its obligation to pay Contractor for Work satisfactorily performed and reasonable costs incurred prior to the effective date.

Notwithstanding anything herein to the contrary, the City may terminate this Contract at any time upon written notice given by the City (for any reason, including the convenience of the City) to the Contractor at least thirty (30) days prior to the effective date of the termination of this Contract. The City agrees that termination hereunder will not relieve the City of its obligation to pay Contractor for Work satisfactorily performed and reasonable costs incurred prior to the effective date of the termination provided that Contractor has not committed a breach of this Contract. Nothing contained in this section shall prevent either party from pursuing or collecting any damages to which it may be entitled by law.

5. Force Majeure.

The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the Work due to any acts of the Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, National Defense, or any other national emergency; any acts of the City; causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, acts of another Contractor in their performance of some other contract with the City, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones, and other extreme weather conditions; nor to any delay of any Subcontractor occasioned by any of the causes specified above. The Contractor shall promptly notify the City in writing within ten (10) days of the delay. Upon receipt of such notification, the City shall ascertain the facts and the cause of the delay. If, upon the basis of facts and the terms of the Contract, the delay is properly excusable, the City shall extend the time for completing the Work for a period of time commensurate with the period of excusable delay.

6. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms.

Per 2 CFR 200.321, prime contractor must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms (collectively referred to as socioeconomic firms) are used when possible. The affirmative steps must include:

- a. Placing qualified socioeconomic firms on solicitation lists;
- b. Assuring that socioeconomic firms are solicited whenever they are potential sources;
- c. Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by socioeconomic firms;
- d. Establishing delivery schedules, where the requirements permit, which encourage participation by socioeconomic firms; and
- e. Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

7. Clean Air Act and Federal Water Pollution Control Act

Contractor shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401–7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251–1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Contractor agrees to include this provision in any subcontract exceeding \$150,000 that is financed in whole or in part with Federal funds.

8. Energy Standards.

Contractor shall comply with all mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

9. Suspension and Debarment.

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945. The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered

transaction it enters into.

10. Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). *The attached certification form is required for all federal contracts over \$100,000.*

Contractors must certify that that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352.

11. Procurement of Recovered Materials

In the performance of this contract, the Contractor shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. This shall include making maximum use of products containing recovered materials as designated by the Environmental Protection Agency (EPA) unless (i) the materials cannot be acquired competitively and within the timeframe required by the contract performance schedule; (ii) the materials designated by the EPA do not meet contract performance requirements; or (iii) the materials cannot be acquired for a reasonable price. Information about this requirement, along with the list of EPA- designated items, is available at the EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

12. Telecommunications and Video Surveillance Services or Equipment

In the performance of this contract, Contractor/Supplier shall comply with Public Law 115-232, Section 889, which prohibits the procurement or use of covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system. As described in Public Law 115-232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, use of video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities) is prohibited.

In addition, telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country is prohibited.

13. Domestic Preferences for Procurements

As appropriate and to the extent consistent with law, Contractor shall, to the greatest extent practicable under a Federal award, supply and/or use goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). For purposes of this section, "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

Contractors shall include the preceding language in all subcontracts.

14. Changes. To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

15. Access to Records. The following access to records requirements apply to this contract:

- a. The contractor agrees to provide The City of Duluth, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

- b. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
 - c. The contractor agrees to provide the FEMA Administrator or his/her authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.”
16. DHS Seal, Logo, and Flags. The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval.
17. Compliance with Federal Law, Regulations, and Executive Orders. This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply will all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.
18. No Obligation by Federal Government. The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
19. Program Fraud and False or Fraudulent Statements or Related Acts. The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this contract.



Saint Louis County

Public Works Department • Richard H. Hansen Transportation and Public Works Complex
4787 Midway Road, Duluth, MN 55811 • Phone: (218) 625-3830 • www.stlouiscountymn.gov

James T. Foldesi, P.E.
Public Works Director/
Highway Engineer

To: Mao Yang
MNDOT, State Aid Division, Assistant Operations Engineer

From: James T. Foldesi, P.E.
Public Works Director/Highway Engineer

Date: October 12, 2021

RE: Delegation of State Park Road Account Project Management Authority to the City of Duluth by
St. Louis County for Project No. SAP 69-600-050, Brighton Beach Road

St. Louis County is requesting that the project management authority for Project No. SAP 69-600-050, Brighton Beach Road, be delegated to the City of Duluth. It is our understanding that project correspondence from Mn/DOT and the SPRA funding will go directly to the city upon approval of delegation.

The City of Duluth will reconstruct approximately 3250 LF of the Brighton Beach (KitchiGammi Park) lake access road that also serves the lake-focused park that is an outdoor recreation hub. The road construction will relocate a severely degraded roadway above the wave impact line. The existing park entrance on the SW will be relocated further north along Highway 61 with a safer entrance design. The road will be converted to a one-way with traffic exiting the park on the NE end onto the Scenic North Shore Drive (Condon Blvd) to eliminate traffic entering onto Highway 61 from the park. Parallel parking will be placed on one side of the road as well as curb and gutter to separate the park users from the road. Parking will only be in locations that do not affect wetland and sensitive areas. Moving the entrances and road eliminates conflict with the shared-use path recently reconstructed in 2021, as well as the road and shared-use path crossings that occur now throughout the park. The road will be designed with 11-foot minimum width driving lanes with 2-foot minimum shoulders per State Aid Standards. Severe storm damage that has occurred about every 10 years, but has impacted the road four times since October 2017, is a driving factor for relocation above the wave impact line.

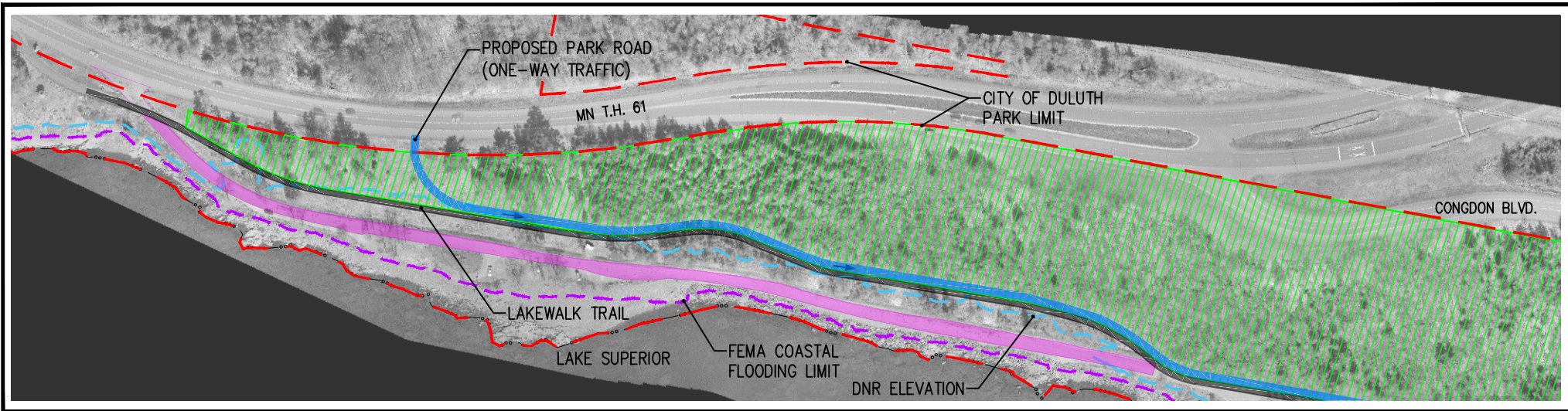
The City of Duluth plans on letting the project in 2022, with most of the road construction taking place in the fall of 2022 and summer of 2023.

The City of Duluth is a city of the first class, receives federal and state transportation grants on a regular basis and is organizationally very capable of directly receiving and administering SPRA funds.

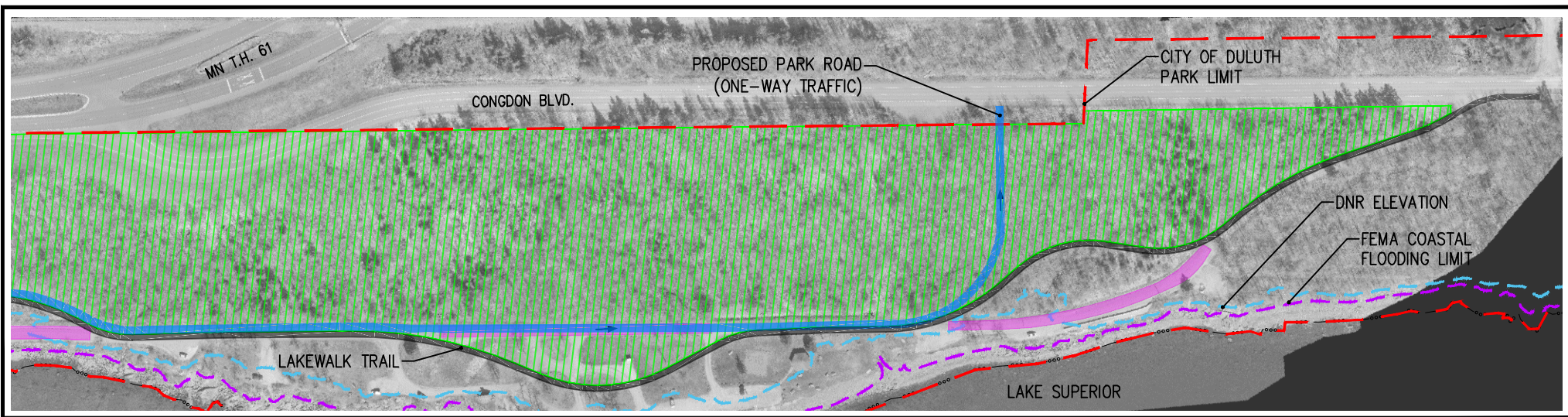
The City of Duluth is performing all aspects of project delivery on this project, including design, permitting, R/W acquisition, project letting and administration, construction engineering and closeout. In short, it would create additional administrative hurdles and complications if the county were to let and administer this project on a planned City of Duluth street, especially with the amount of coordination required.

We look forward to your concurrence of delegation to the City of Duluth and thank you for your consideration. Please call me at 218-625-3840 with any questions or concerns.

Cc: Krysten Foster-Saatela- DSAE- MNDOT D1
Cindy Voigt - City Engineer - Duluth
Cari Pedersen - Chief Engineer of Transportation - Duluth
David Sobania -Administrative Engineer - MN/DNR
Matt Hemmila - Deputy PW Director Engineering – SLC
Project File



MAP SCALE 1" = 250'



PROPOSED PARK ROAD - (KITCHI GAMI PARK)

- PROPOSED PARK ROAD
- LAKEWALK TRAIL
- INPLACE BITUMINOUS PAVEMENT
- EAW PERMIT AREA

LEGEND

- PARK BOUNDARY
- DNR ELEVATION (10' ABOVE OHWL 603.1)
- FEMA COASTAL FLOODING LIMIT
- TRAFFIC FLOW ARROW

BRIGHTON BEACH (KITCHI GAMMI PARK)

Revised 2019 Mini-Master Plan

Duluth, Minnesota

August 19, 2019



Duluth Parks
& Recreation

ACKNOWLEDGEMENTS

Mayor

Emily Larson

City Council Members

Gary Anderson

Joel Sipress

Em Westerlund

Renee Van Nett

Jay Fosle

Zach Filipovich

Arik Forsman

Noah Hobbs

Barb Russ

Parks & Recreation Commission

Amanda Crosby

Jill Joyce

Tjaard Breeuwer

Dudley Edmondson

Dennis Isernhagen

Britt Rohrbaugh

Erik Torch

David Demmer

Jennifer Peterson

Frank Jewell—St. Louis County Board Liaison

David Kirby—ISD 709 School Board Liaison

Joshua Gorham—ISD 709 School Board Liaison Alt.

Em Westerlund—City Council Liaison

For More Information Contact

Lisa Luukkala

Stewardship Assistant Manager

Parks and Recreation—City of Duluth

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01. BACKGROUND & HISTORY



>>Photo Credit: Lake Superior at Brighton Beach, Parks Staff

History as Recreation Destination

The City of Duluth's first tourism camp was created at Brighton Beach in 1922. The lakeshore areas unofficially became known as Kitchi Gammi Park in 1926. Hugely successful as a Tourism Camp, Brighton Beach originally offered tent sites and water and toilet facilities for guests; eventually hosting a total of 20 cabins. The Tourism Camp operated until the late 1950s, with the majority of the land becoming the site of the Environmental Protection Agency's current Mid-Continent Ecology Division building.



>>Photo Credit: 1926 cabins at Brighton Beach, Zenithcity.com

Brighton Beach today

Present user counts during mid-summer reflect an average use of 400 bicyclists, 975 pedestrians and 278 vehicles daily. Users visit to access Lake Superior or the park amenities, which include: a pavilion, historical fireplace building, picnic tables, grills, benches and wide and smooth beaches for launchings canoes, kayaks and paddleboards. Popular activities at Brighton Beach include:

outdoor yoga, worship, public meetings, weddings, family reunions, school field trips, recreational instruction, dog walking and more. Attendance for special events is nearly 3,000 persons annually. In 2012, the City of Duluth conducted a mini-master planning process for the park, resulting in a number of infrastructure and design recommendations.

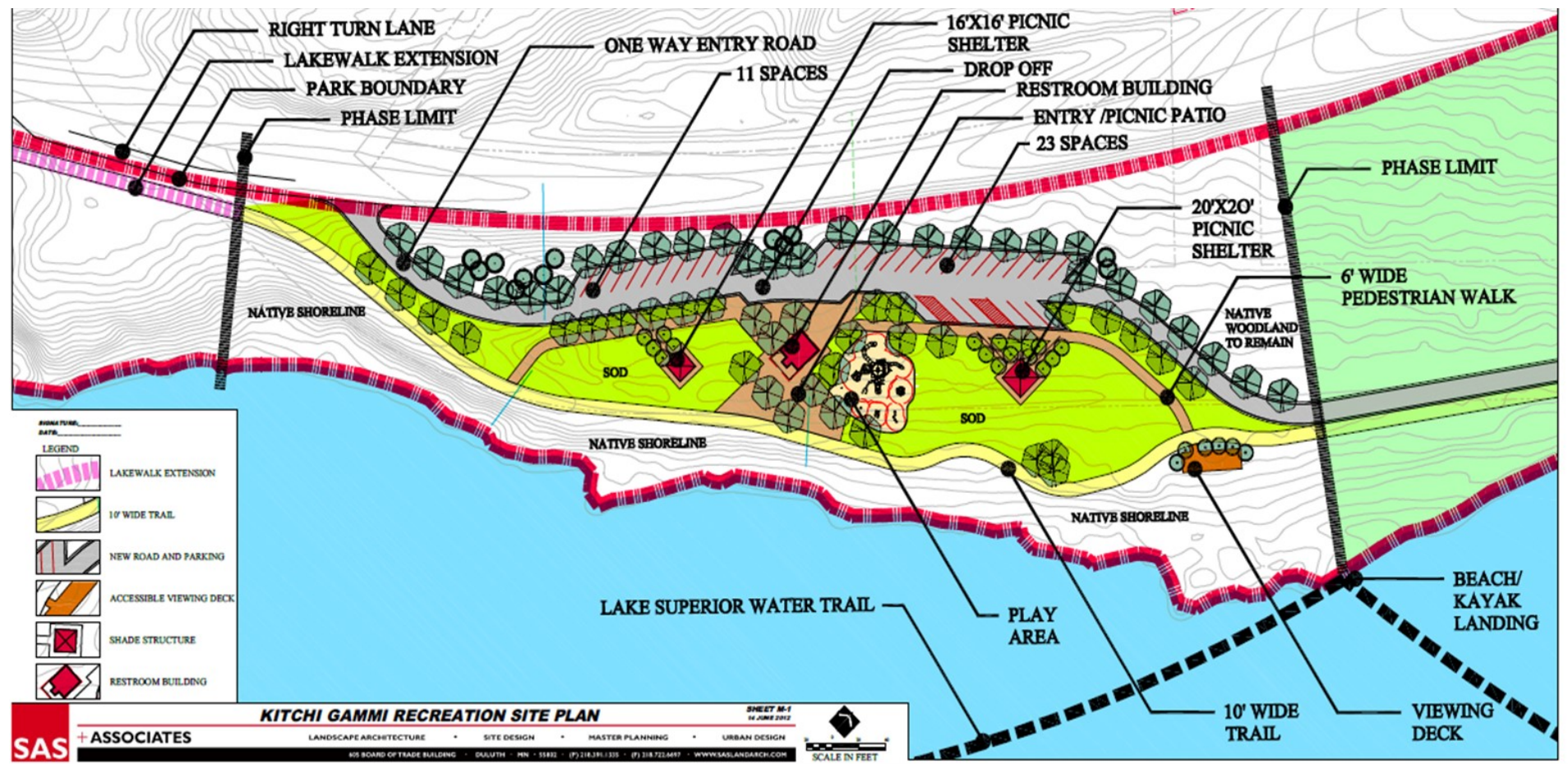
Brighton Beach Planning Limits



>>Image Credit: Project Limits, Duluth Engineering Staff

2012 Mini-Master Plan

The 2012 Brighton Beach (Kitchi Gammi Park) Mini-Master Plan provided a series of recommendations for the reconfiguration of the roadway and formalized parking areas. The recommendation calls for a 10 foot wide trail running adjacent to the rock shoreline edge, next to the road. The Plan also suggested placement of permanent restrooms. Planning efforts acknowledged the site’s erosion issues and recognized the location as a Lake Superior Water Trail kayak/canoe launch “trailhead”.



>>Image Credit: 2012 Mini-Master Plan Recommendations, SAS Associates

2015 Federal Transportation Alternatives Grant

In 2015, the City was awarded a Federal Transportation Alternatives (TAP) grant to support the final segment of the Lakewalk to be built in 2020. Currently, the motor vehicle lane is the only route within the boundaries of the park. The road serves conflicting modes of transportation; including motorists, bicyclists, in-line skaters, and pedestrians — all trying to access Lake Superior. The absence of designated pathways for park users creates a free-for-all mix of vehicles, pedestrians and bicyclists. In addition to conflicting modes of transportation, a network of informal parking areas and social trails exacerbates this dangerous mix of users and creates unstable, inaccessible routes to the lakeshore while further eroding the banks.

The 2012 Mini-Master Plan called for reconfiguration of the road, trail and parking areas and provided recommendations for green space improvements. Since 2017, significant shoreline erosion at Brighton Beach has necessitated the study of the road and trail location and its placement further from the shoreline. Determining the final trail alignment is necessary as the project must progress to design in winter 2019 for construction in 2020 in compliance with the TAP grant.



>>Photo Credit: Road erosion, Park Staff



>>Photo Credit: Informal Parking, Park Staff

2017/2018 Storm Damage



>>Photo Credit: 2017 and 2018 Storm Damage, Park Staff

Historical Erosion



1983



>>Photo Credit: 1983 Archive Photos, Park Staff

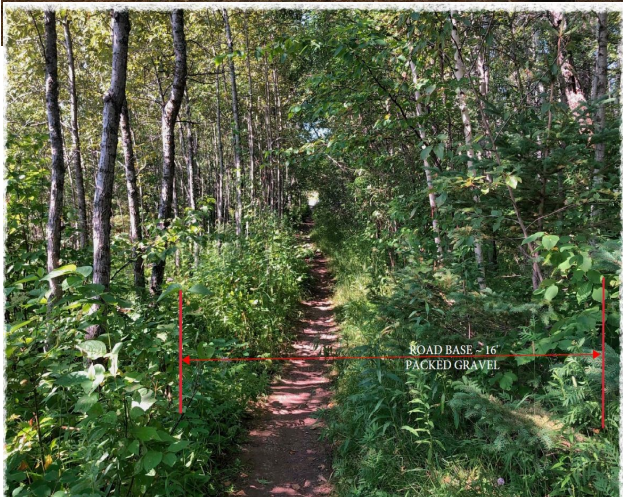


2001



>>Photo Credit: 2001 Archive Photos, Park Staff

Current Conditions



Project Scope

Revisions to the 2012 Mini-Master Plan will address the following goals:

1. Reduce City infrastructure within the DNR 10 ft. wave zone of the shoreline.
2. Increase circulation safety for all parks users – vehicular, bicycle, and pedestrian.
3. Increase shoreline resiliency by formalizing trails, access points and parking areas to minimize shoreline erosion.
4. Provide high quality experience for recreational access to the lake and adjacent green space.

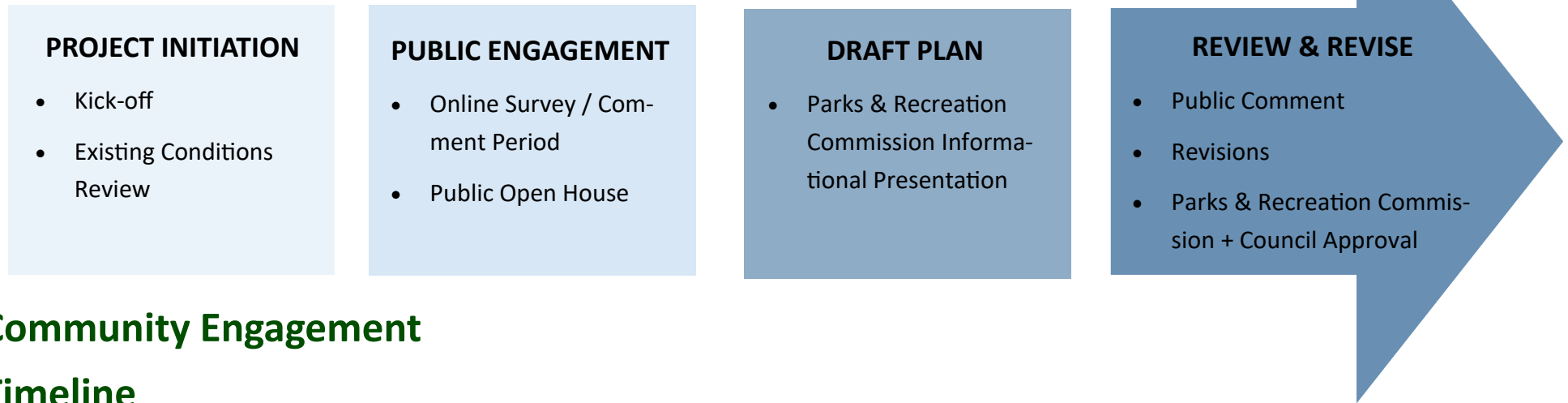


>>Photo Credit: 2006 Brighton Beach, Parks Staff

02. PLANNING PROCESS



>>Photo Credit: Lake Superior at Brighton Beach, Parks Staff



Community Engagement Timeline

City Interdepartmental Staff Meeting

Representatives from City Engineering, Parks & Recreation, Property Facilities Management and Community Planning began meeting in December 2017 to address failing infrastructure and determine future action.

Existing Conditions Review

Condition assessments were compiled from disaster storm reporting and staff field visits. Most data was compiled over the summer/fall of 2018 and spring of 2019.

Online Survey/Comment Period

24 survey responses received between May 28—June 7, 2019. 7 additional written comments received.

Public Open House

Hosted by City Staff at Brighton Beach, 25 community members attended this meeting on June 3, 2019 from 5 to 7 p.m.

Parks & Recreation Commission Informational Presentation

Draft plan presented to Parks and Recreation Commissioners on June 12, 2019.

Public Comment

Open during planning process through email, phone and website comment form. Draft plan posted for comment from June 13 to 26, 2019.

Plan Revisions: June 27—July 9, 2019

Parks & Recreation Commission Approval

Final plan presented to Commissioners on July 10, 2019

Council Approval- August 19, 2019.

Open House & Public Survey

Open House

25 Attendees

June 3, 2019

Online Survey

24 Respondents

May 28 to June 7, 2019



>>Photo Credit: Public Open House June 3, 2019; Parks Staff

Duluth Parks & Recreation

Help us improve Brighton Beach!

How do you typically get to Brighton Beach?

WALK	BUS
DRIVE	TAXI/ RIDESHARE
BIKE	BOAT
OTHER	

What is your favorite season to visit Brighton Beach?

SPRING	SUMMER
FALL	WINTER

What is your favorite thing to do at Brighton Beach?

WALK ✓✓✓
 Observe fun beach ✓
 Throw rocks into the water ✓✓✓
 Wade (kids) ✓✓✓
 Listen to the waves crash on the shore ✓✓✓
 Watch waves crash ✓✓

Meet friends/sit by lake ✓
 WALK every day! ✓
 Walk on trails-spring flowers ✓
 Picnic ✓✓✓
 Enjoy ice forms ✓✓✓

Sit by the lake, pick rocks w/ my kids ✓
 come down on stormy days ✓✓
 launch my canoe or kayak ✓

Duluth Parks & Recreation

Help us improve Brighton Beach!

How could we make Brighton Beach even better?

Permanent Restrooms ✓
 Minimal ✓
 KAYAK/CANOE launch area ✓
 Another Pavillion ✓
 More (and well beyond lake) wave action → not just 10' or 20' ✓
 Paths to Lake/Beach - More accessible ✓
 Separate walking from cars! ✓✓
 Speed limits & CCTV to monitor crime/speeding ✓
 1 way traffic ✓✓
 more disposal bins for dog waste & signs about picking it up ✓
 One entrance with roundabout Caldesa ✓
 Restore Shoreland after moving Road away from lake ✓
 Turn into a pedestrian park & parking @ entrance ✓
 Native Play for Kiddos - 3 oaks ??
 Diagonal parking

How old are you?

Under 15	15-18	19-29	30-43	44-64	65+
----------	-------	-------	-------	-------	-----

What is your zip code?

55803
 55803
 55804 ✓✓✓
 55804 ✓
 55804 ✓✓✓✓✓

Open House & Public Survey Findings

“Brighton Beach is a true Duluth treasure!”

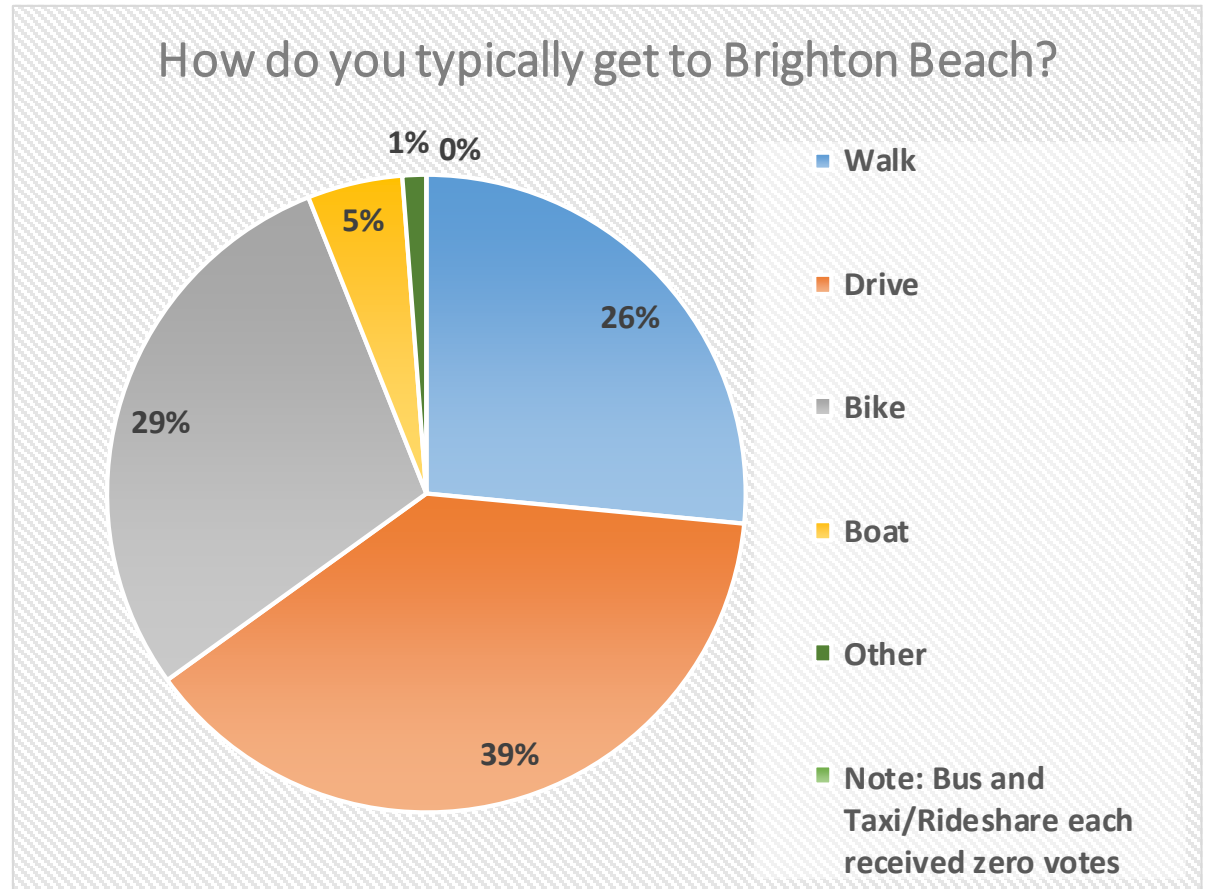
- online survey respondent

Top 5 Activities

1. Walk
2. Observe from beach / observe waves / observe storms
3. Sit by lake
4. Beachcomb / throw rocks into the water
5. Enjoy ice formations

Top 3 Suggestions

1. Separate walking areas from driving areas
2. Permanent restroom facilities
3. One-way traffic



Detailed feedback summary available in Appendix A.

Strategic Alignment

Open Space



Open Space Mission

Duluth will strive for a sustainable open space system that enriches the lives of all Duluthians. These open spaces will reflect the community's ecological, historical, cultural, and recreational values, and will contribute to its resilience to natural disasters.

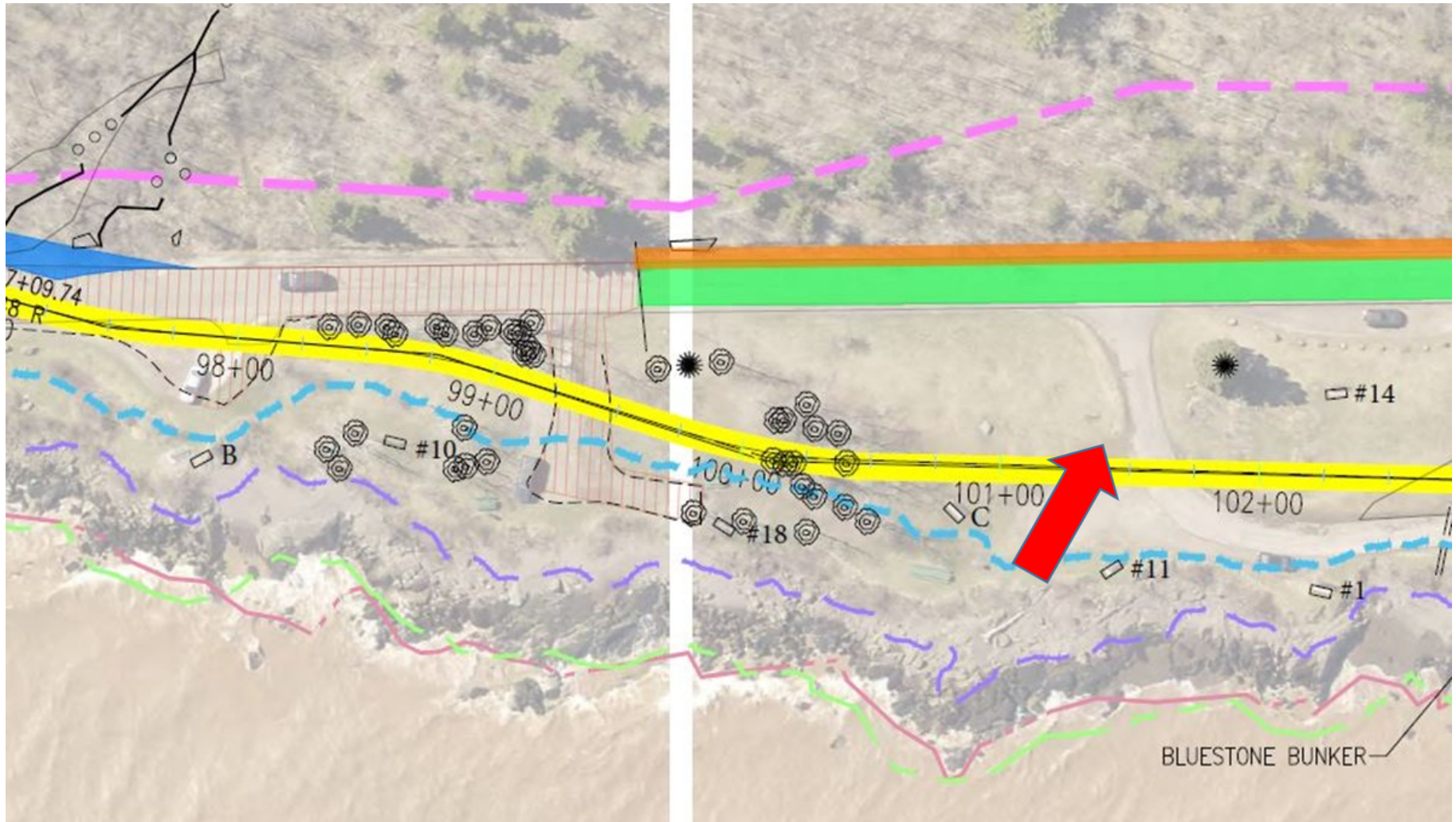


Open Space Policy #1 – Improve Duluth's resiliency to flooding and natural disasters

Open Space Policy #3 – Remove barriers to accessing parks and open space

Memorial Bench Inventory

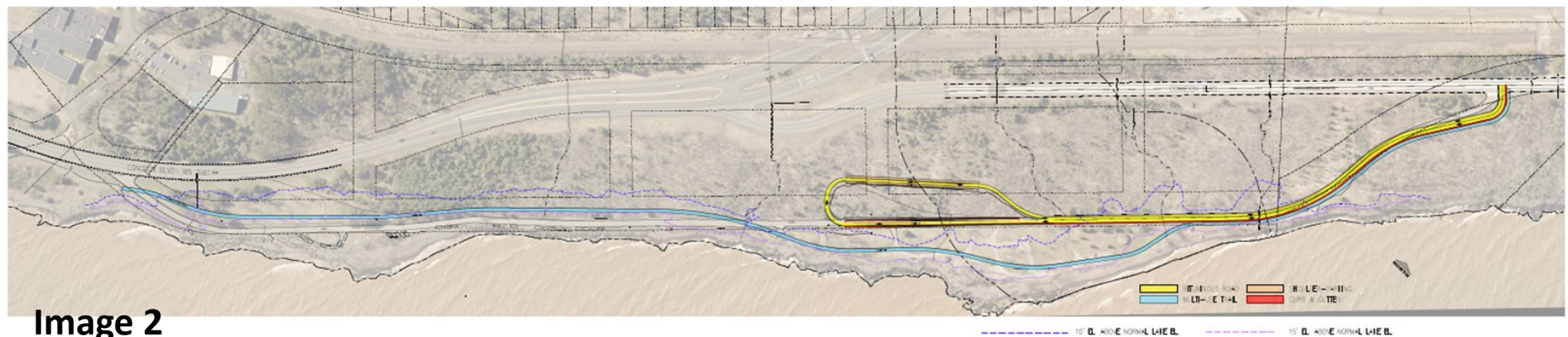
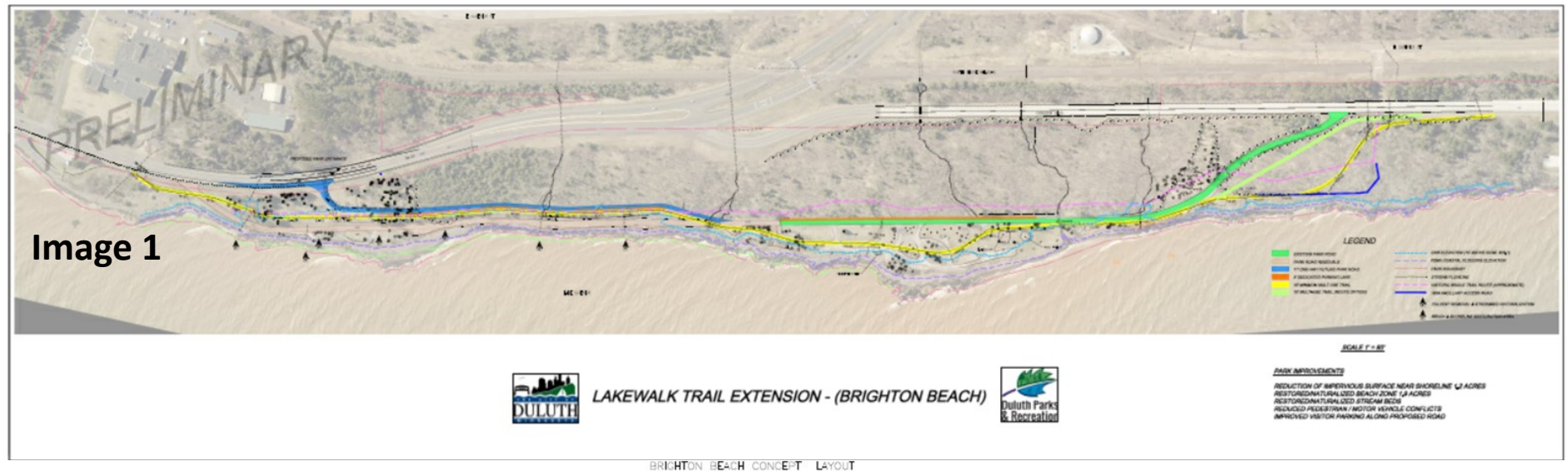
City Staff inventoried the number and locations of existing memorial benches in the project location as part of the planning process. The proposed Mini-Master Plan revision will accommodate retention of these benches, though relocation may be necessary to accommodate new design recommendations.



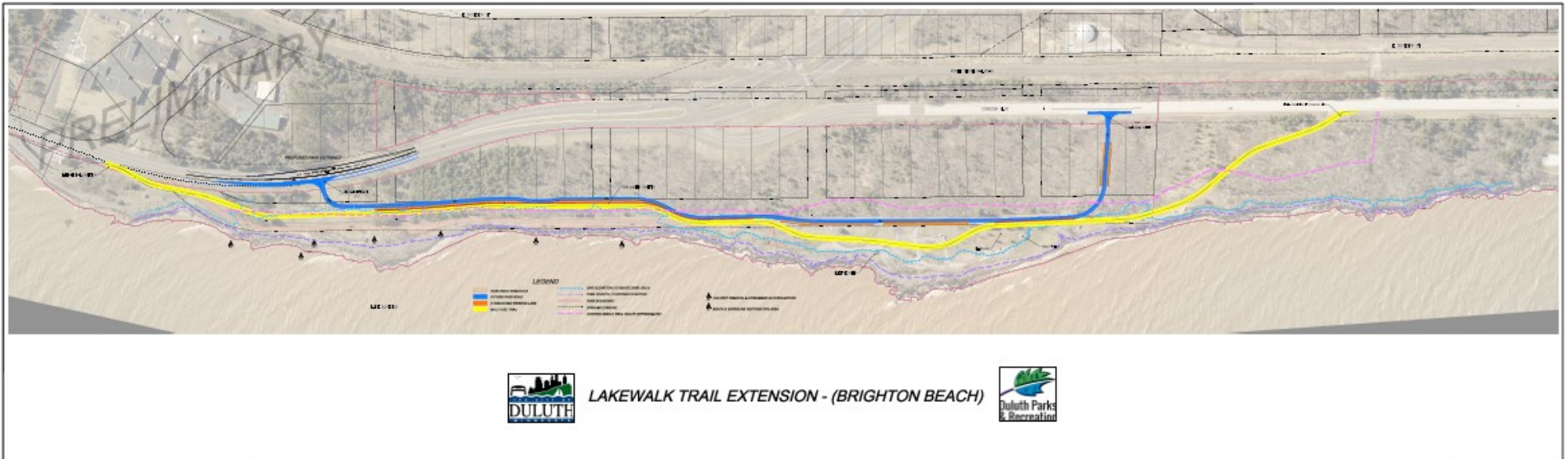
>>Image Credit: Memorial Bench Locations ; Parks Staff

Design Alternatives

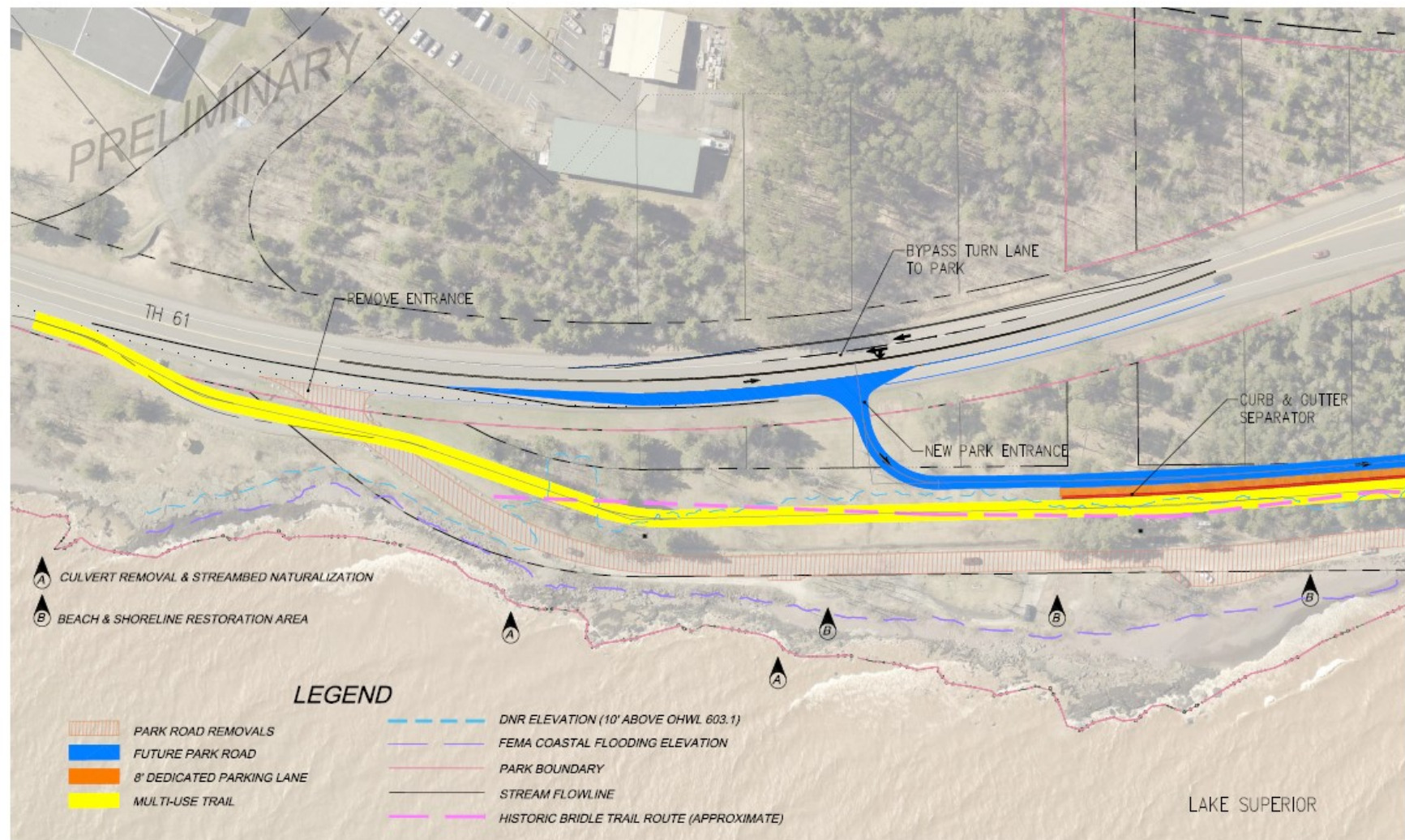
Alternative design options were studied during the planning process and shared at the public open house (image 1 below). This option included a tight to shoreline condition at the north-west corner, which would have been costly based on failing banks and the desire for community retention of as much of the Lester School Forest as possible. Full closure of the western entrance of the park was also studied (image 2 below), but later dismissed because of the failing bank at the northwest corner as well as community input to keep a through road condition.



03. PROPOSED LAYOUT



Road & Trail Alignment

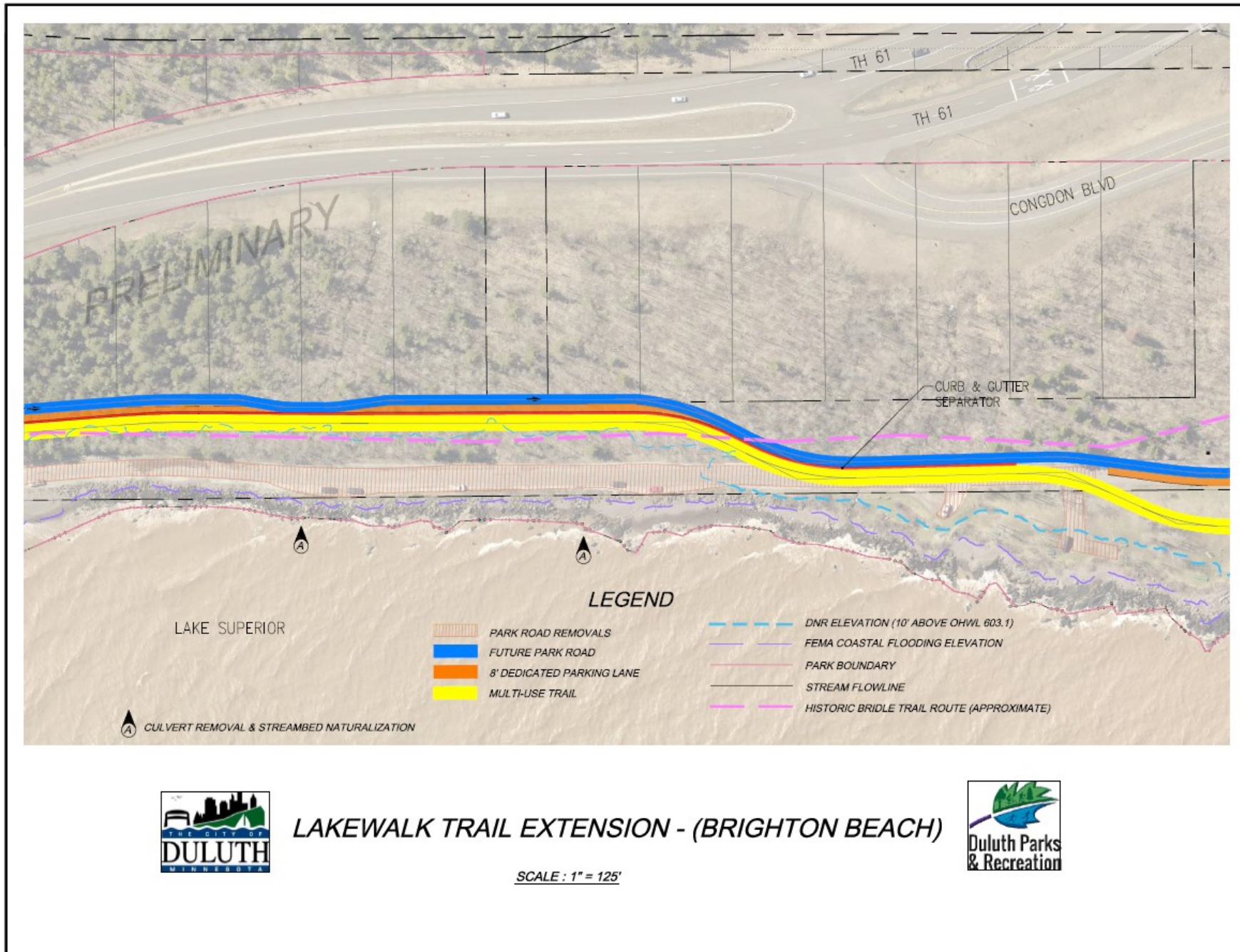


LAKEWALK TRAIL EXTENSION - (BRIGHTON BEACH)

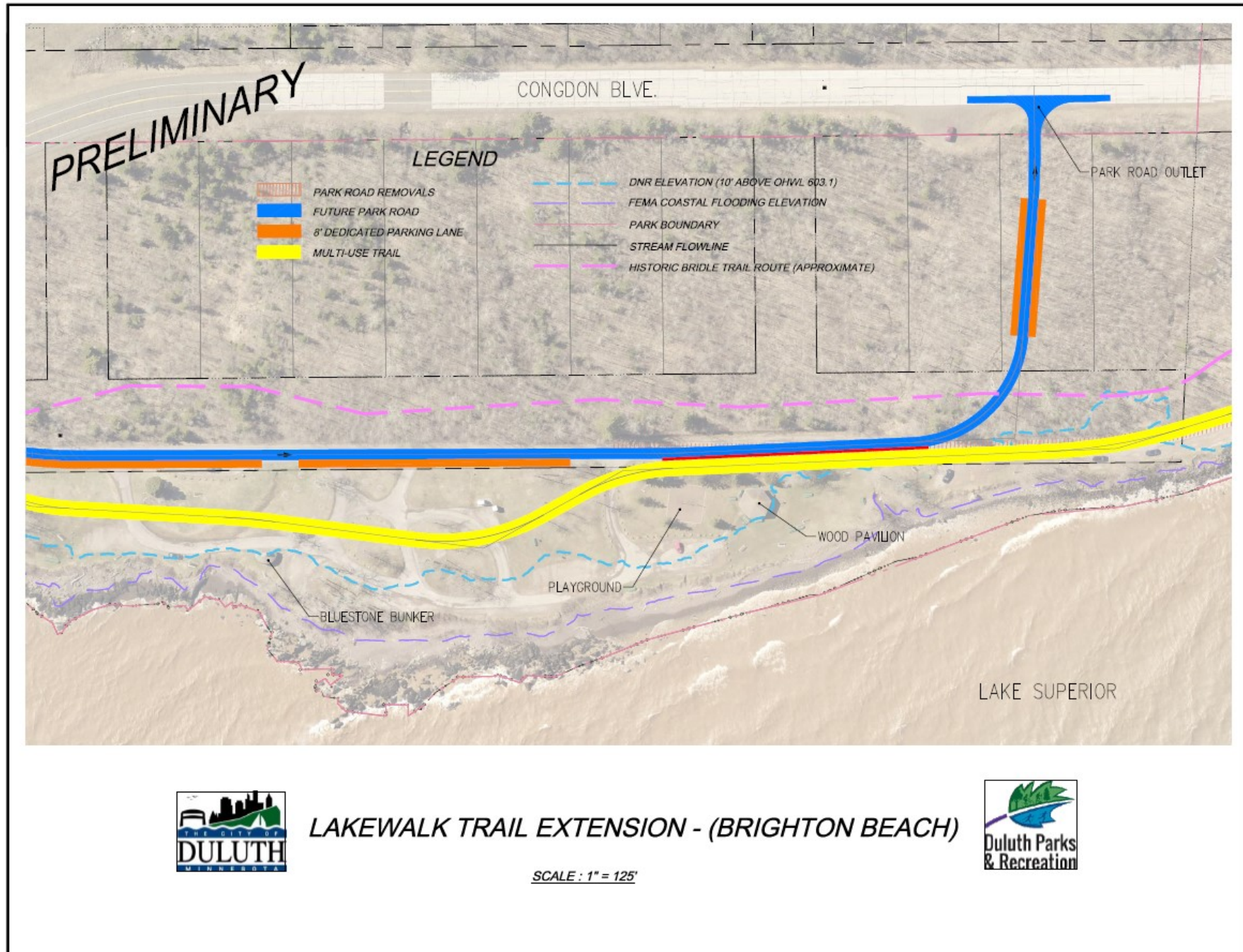
SCALE : 1" = 125'



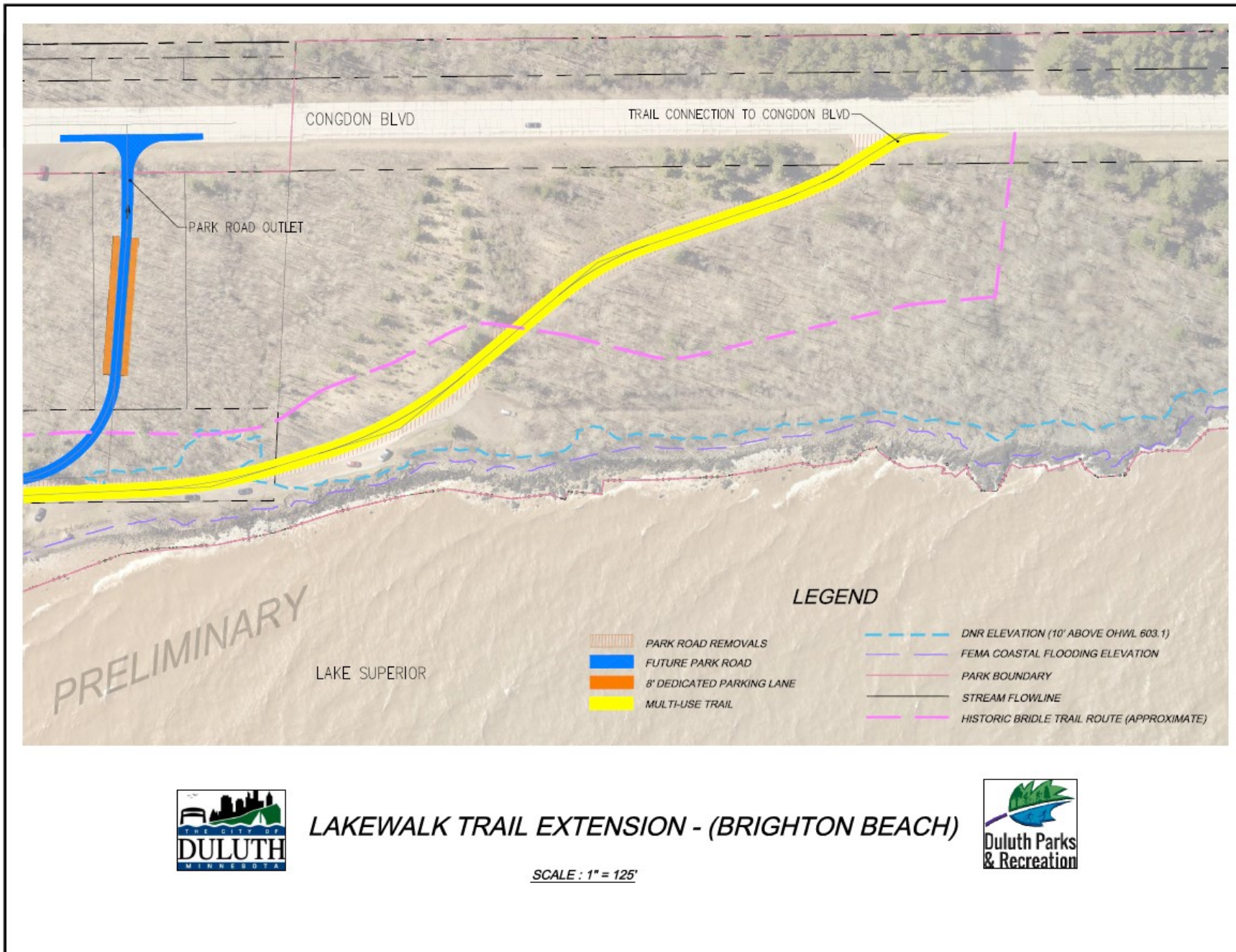
Road & Trail Alignment Cont.



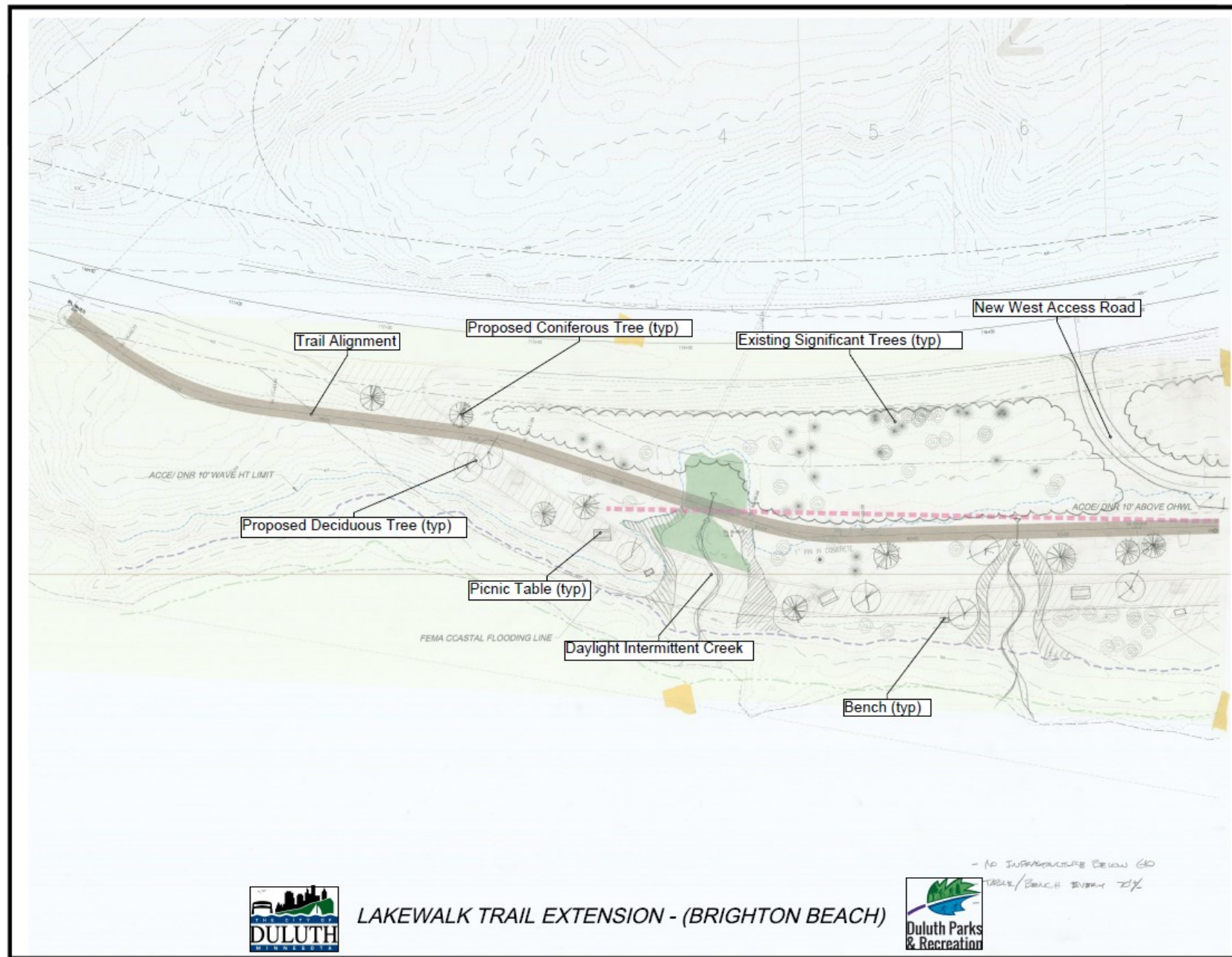
Road & Trail Alignment Cont.



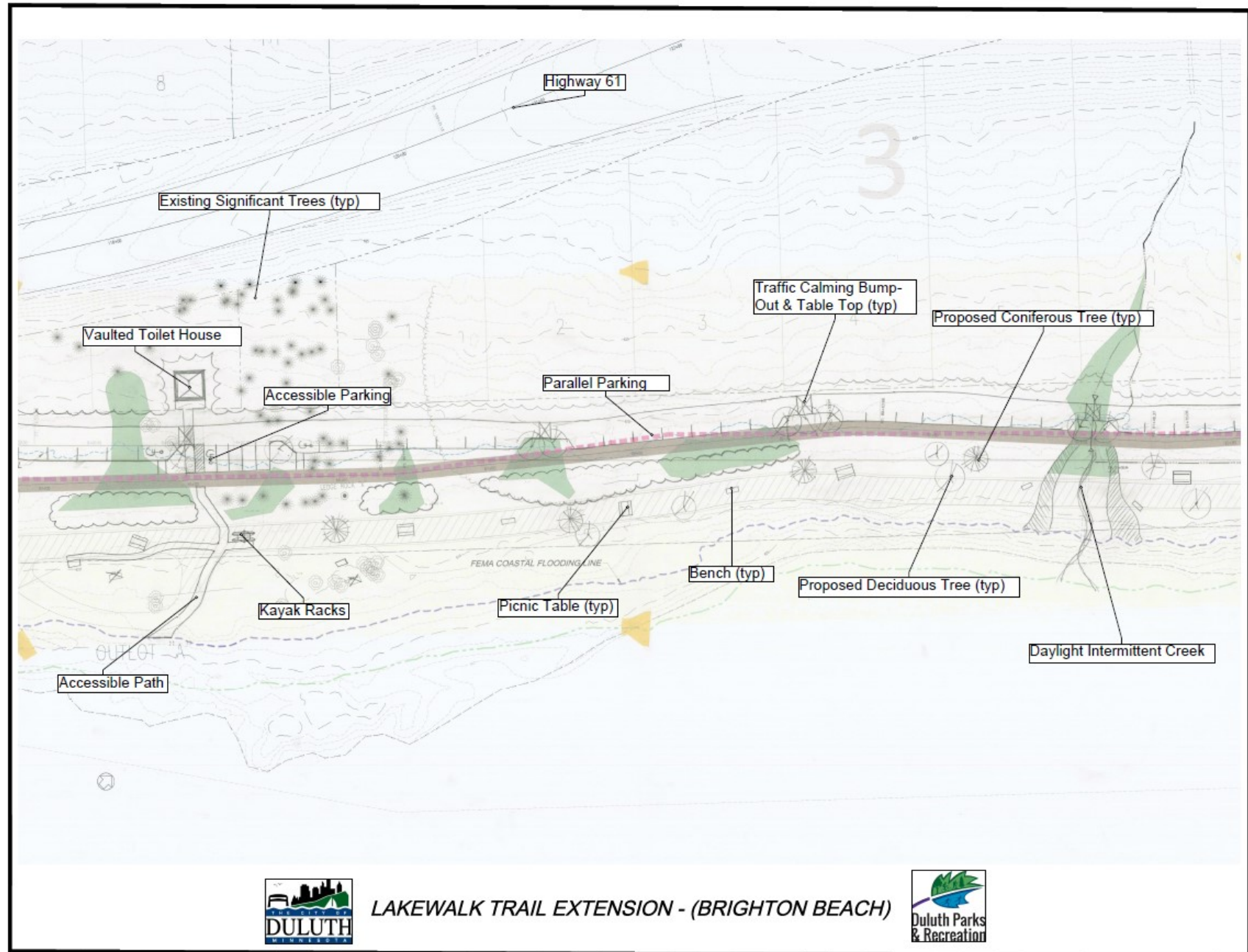
Road & Trail Alignment Cont.



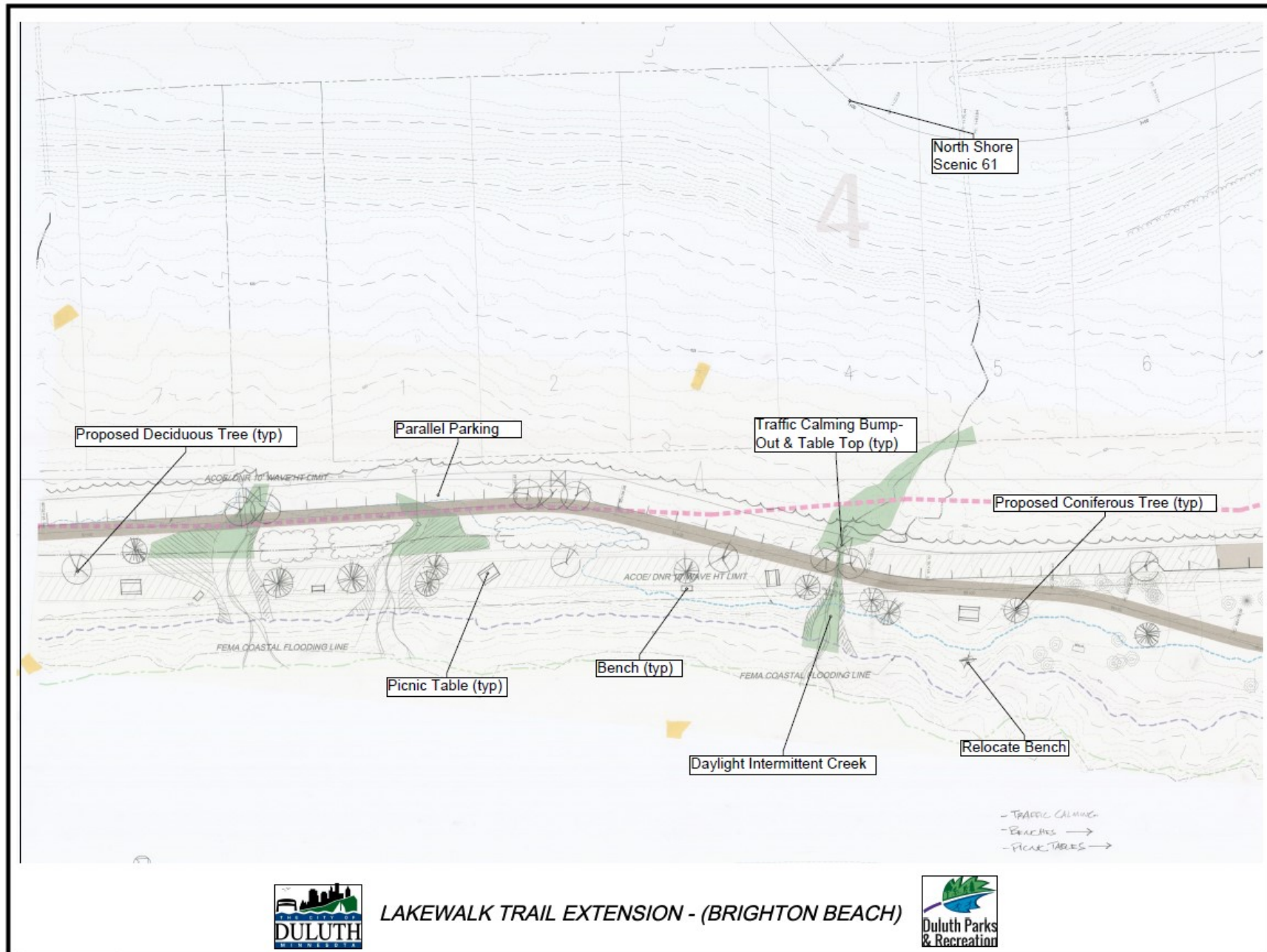
Green Space Improvements



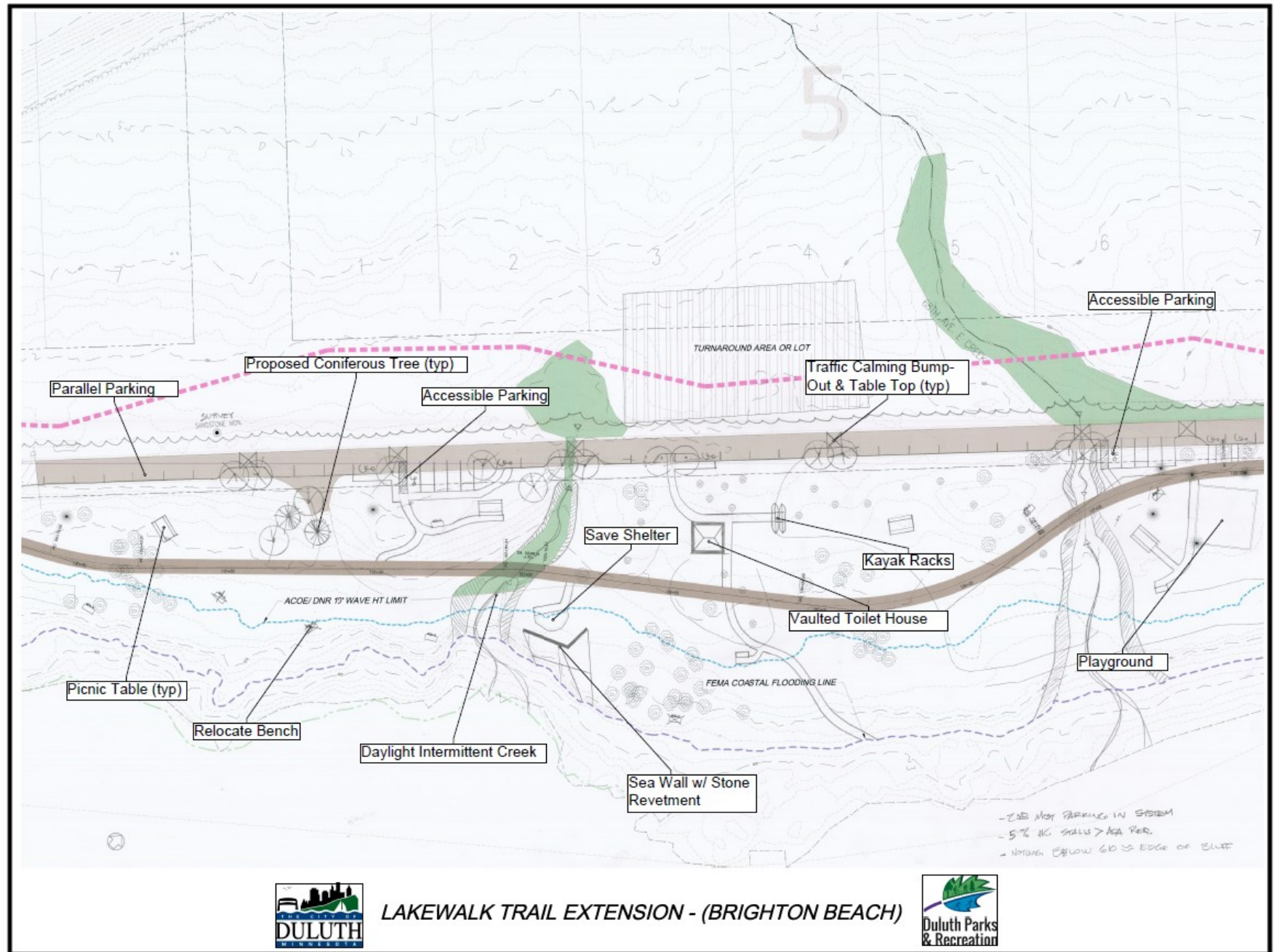
Green Space Improvements Cont.



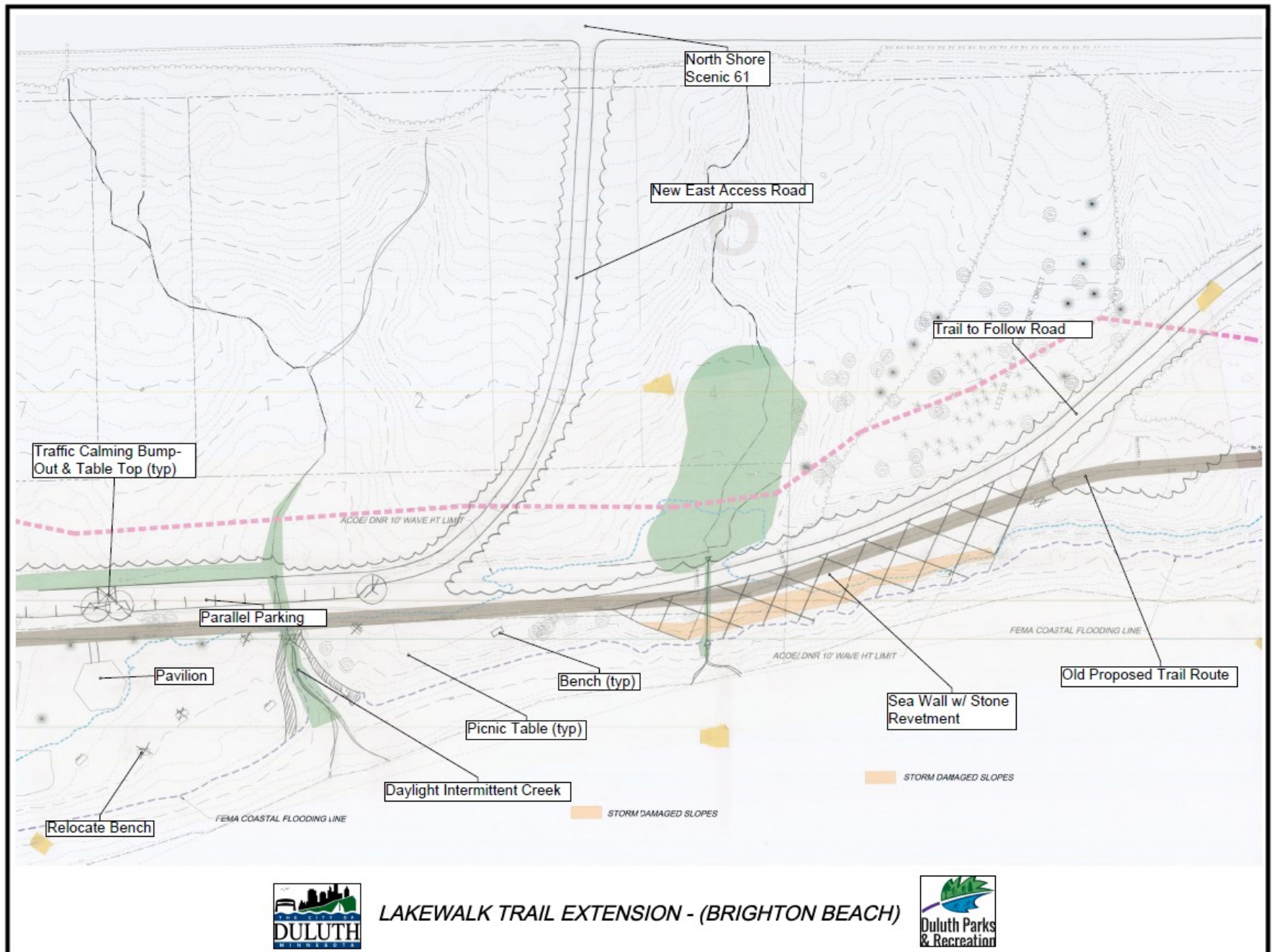
Green Space Improvements Cont.



Green Space Improvements Cont.



Green Space Improvements Cont.



04. COST ESTIMATES



>>Photo Credit: Current Entrance Sign, Parks Staff

Probable Cost Estimates

Item Details	Estimated Total Cost
First 1440' x28' NEW ROAD	\$645,000
1260' x28' = 400SY RECLAIM ROAD	\$382,900
LAST 500' x28' NEW ROAD	\$239,500
Old Road Removal	\$515,350
Storm Shelter Revetment	\$75,000
Park amenities — playscape, picnic tables, grills	126,500
Signage and wayfinding	\$50,000
Restoration—Sod, seed, trees shrubs, top soil	\$218,041
Lakewalk Extension Trail (.82 miles)	\$678,550
Construction Total	\$2,930,841
Design/Engineering/Construction Admin 10%	\$293,084
Construction Contingency	\$293,084
Total Project Cost	\$3,517,009



>>Photo Credit: Storm Damage Shoreline, Parks Staff

05. NEXT STEPS & UPCOMING PROJECTS



>>Photo Credit: Shoreline at Brighton Beach Winter 2006, Parks Staff

Next Steps

Parks & Recreation Commission Approval

Final plan presented to Parks and Recreation Commission for approval on July 10, 2019.

City Council Approval-

Final plan presented to City Council for approval on August 19, 2019.

Full Design—Trail Project

City Staff will begin full design of the trail project beginning in September 2019, with estimated completion in November 2019.

State Water Access Grant

City Staff will apply for a State Water Access Grant to support road construction and realignment in November 2019.

Trail Project Bid

Construction will be competitively bid in winter 2020.

Trail Project Construction

Trail construction anticipated to begin summer/fall 2020.



>>Photo Credit: Brighton Beach Gazebo, Parks Staff

06. ANNUAL MAINTENANCE



>>Photo Credit: Brighton Beach Gazebo, Parks Staff

Annual Maintenance Estimates

Item Details	Estimated Total Cost	Responsible Party
General Upkeep: Mowing, maps/signage/wayfinding updates, seeding eroded areas as necessary, trash removal and recovery from illegal acts vandalism/dumping	\$5,500	Parks Maintenance
Road maintenance and snow removal	n/a	Streets Maintenance
Maintenance of restroom facilities: cleaning, repairs	\$2,500	Parks Maintenance
Lakewalk Trail: Snow removal, trail repair, tree trimming	\$2,000	Parks Maintenance
Total Parks Maintenance Cost	\$10,000	



>>Photo Credit: Trash left at Brighton Beach, Parks Staff

07. APPENDIX A



>>Photo Credit: Rocky beach at Brighton, Parks Staff

Brighton Beach feedback summary: online survey, public meeting, comment form, and emails

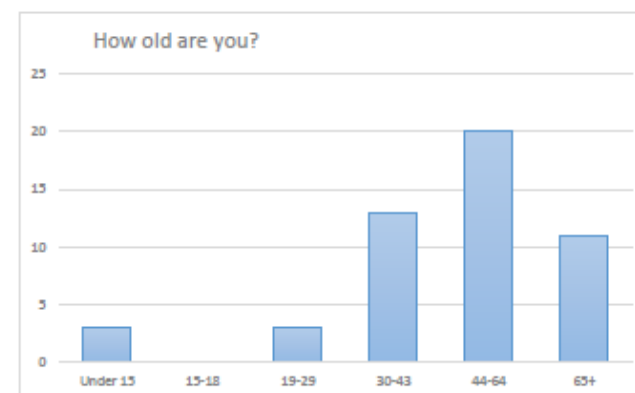
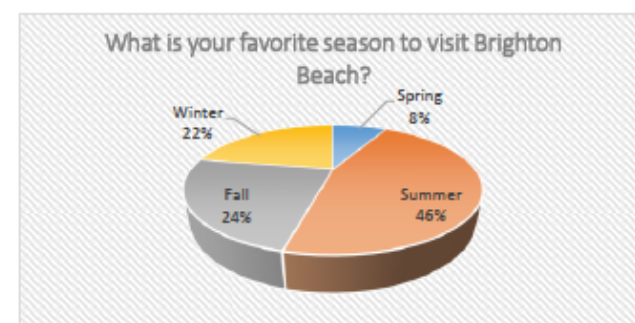
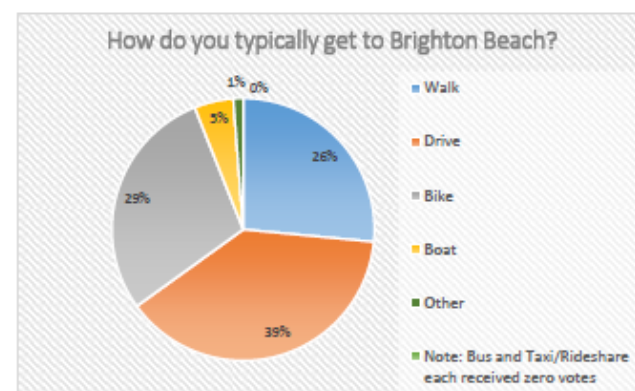
"How do you typically get to Brighton Beach?"	Total Responses	% Response
Walk	22	26.5060241
Drive	32	38.55421687
Bike	24	28.91566265
Boat	4	4.819277108
Other	1	1.204819277
Note: Bus and Taxi/Rideshare each received zero votes	0	0
Bus	0	0
Taxi/Rideshare	0	0

"What is your favorite season to visit Brighton Beach?"	Total Responses	% Response
Spring	5	7.936507937
Summer	29	46.03174603
Fall	15	23.80952381
Winter	14	22.22222222

"How old are you?"	Total Responses	% Response
Under 15	3	6
15-18	0	0
19-29	3	6
30-43	13	26
44-64	20	40
65+	11	22

"What is your zip code?"	Total Responses	% Response
55803	3	7.142857143
55804	33	78.57142857
55806	1	2.380952381
55807	1	2.380952381
55812	2	4.761904762
55616 (data consolidator's note: Two Harbors)	1	2.380952381
55733 (data consolidator's note: Esko area)	1	2.380952381

"What is your favorite thing to do at Brighton Beach?"	Total Responses
Walk	17
Observe from beach / observe waves / observe storms	15
Sit by lake	11
Beachcomb / throw rocks into the water	9
Enjoy the ice formations	7
Listen to the waves	6
Picnic	4
Wade or swim in the water	3
See the spring flowers	2
Run	2
Bike	2
Visit the art show	2
Meet friends	1
Launch canoe or kayak	1
Play on the beach	1
Photography	1
Drive through	1
Play on playground	1
Yoga by the lake	1



"How could we make Brighton Beach even better?"		Total Responses
Permanent restroom facilities	7	theme: facility suggestions
Another picnic pavilion	2	
Canoe / kayak launch area	2	
More trash and dog waste disposal (& dog waste reminder signage)	3	
More picnic tables and grills	3	
Changing tables in restrooms	1	
Water fountain	1	
Bike racks	1	
Put in a dog park	1	
Improve playground	1	
Nature play for kids	1	
Separate walking areas from driving areas	12	theme: design suggestions
One-way traffic	7	
Move road away from lake and restore shoreland	5	
More parking	4	
Turn into a pedestrian park w/parking on either end	4	
Diagonal parking	3	
Improve accessibility of paths to lake/beach	2	
Widen road and designate a bike lane	2	
Improve road surface	2	
Include pull-off viewing areas (don't need to leave car)	1	
Parking time limit	1	
One entrance with roundabout and cul-de-sac	1	
Speed limits and CCTV to monitor crime/speeding	1	
Slower traffic	1	
Speed bumps	1	
Dedicate a bike/walking path that connects the Lakewalk to Congdon Blvd	1	
Move E end of road to the W of the forest and keep road away from eroding area	1	
No change / minimal change	3	theme: general
Keep green spaces	2	
Leash law / dog poop pick-up	2	
Keep the planted forest	1	
Cut the grass	1	

Online survey: "Do you have any other comments?"

We live in Lakeside and have loved family outings at Brighton Beach by bike and car for 20 years. Sad to see how the road has been so hard to keep up. Would like to see a more permanent solution to keeping it safe and nice for tourists as well as local visitors for years to come.

For the past 20 years I have walked Brighton beach about three times a week, regardless of weather. Each time I walk I notice how many people drive there to gaze out over the water and sky. I would like to see those that aren't very mobile to be able to continue to sit in their cars and enjoy the beauty. .it brings so many people peace.,thank you for your efforts.

Please never use the word "resiliency" ever again

Brighton Beach is a true Duluth treasure!

Attention to graffiti--I was SO mad when someone painted that rock (on the right side of the road on the turn before you continue up the road to the eastern entrance) bright green--I was hoping the city would sandblast it, or turn it over so it didn't show.

Brighton Beach just needs to be safer for pedestrians and bikers while also allowing for people to drive thru. Designated paths and speed bumps might help

Could vehicle traffic be eliminated altogether with parking areas off Scenic 61 and wide paved accessible trails leading to the lakeshore?

This is a great area for family fun. Thank you for keeping it great

Thank you for asking!

The lake has been eroding the road for years; removing would reduce, significantly, costs of continual repair.

keep the redesign simple, so as not to interfere with the natural beauty of the shoreline

Looking forward to the improvements!

Email: General comments

Brighton Beach Suggestions: I have a few and will list them in no particular order. You have probably heard it a million times so I will not suggest parking, even though it is very important. 1. Splash pad for kiddos 2. Dog friendly grounds (trashies, maybe a fence, water filling stations) 3. An ice rink set up 4. Disc golf baskets 5. A small fish cleaning facility because so many people ice fish out of it. 6. A community garden 7. Landscaping with flowers to attract bees 8. Prevention against invasive plant species 9. Areas for picnic tables

Brighton Beach Feedback: Please leave the natural beauty of this park. Fix the road first. Widening if capable would be wonderful but I don't see a need for bike paths if it takes away from the beauty of the natural park. An added, simple, play area for kids would be wonderful but comes after the core need of a better roadway.

I would love to see Brighton beach road a lot more wide with a bike/run/walk lane

Ideas for brighten beach. First off the road needs to be wide enough for two vehicles to safely pass each other, a sidewalk and bike lane would be nice if only old highway 61 had a bike lane. Also redoing the parking lots and more grassy areas that are nice and groomed. Update the playground. Last thing but I see people having fires there all the time and I myself love to have beach fires so maybe some outside fire pits for fires on the beach? Tourists would really love all this just saying! Thanks

The current draft provides ample parallel parking spaces, but no pull off areas where people can turn in, park, and look out over the lake through their front windshield. I live within walking distance and have walked Brighton Beach year round for the last 20 years and each time I do I see people pulled into a turn off, gazing out at the lake. Many never leave their car, often due to inclement weather or the inability to navigate the shoreline on foot, but nevertheless, they are able to take in the magnificence of Lake Superior in all her changing moods. Please don't deprive those people of that opportunity. Construct full on viewing sites. It would be a travesty if the existing spots were all taken way and not replaced with viable options.

Re: Brighton Beach Is a breakwall / breakwater structure feasible in order to prevent that specific area of the road from continual corrosion? Continuous repair after storms and the broken down road asphalt mixing into Lake Superior both seem like issues that need to be mitigated. A restroom because I've seen the portable toilets tipped over many times there. The chemicals used in portable toilets are not inert. Portable toilets waft downwind the smell of proprietary (secret) fragrance compounds like a glade plugin installed in our natural spaces. Biocides are built into the portable toilet liquid so wafting biocides in our wild spaces should also be mitigated. My ideas clearly depend upon budget. Thank you for your consideration.

April 16, 2020

Renee Hutter Barnes
Cultural Resources Unit
Office of Environmental Stewardship
MN Dept of Transportation, MS 620
395 John Ireland Blvd
St. Paul, MN 55155-1899

RE: SP 118-090-024; Lakewalk Trail Extension
Duluth, St. Louis County
SHPO Number: 2020-0917

Dear Ms. Hutter Barnes:

Thank you for initiating consultation on the above referenced project. Information received in our office on March 18, 2020 has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and implementing federal regulations at 36 CFR 800, and per the terms of the Amended Programmatic Agreement (PA) executed among the Federal Highway Administration, the U.S. Army Corps of Engineers, the Advisory County on Historic Preservation, and the Minnesota State Historic Preservation Office.

Define Undertaking and Area of Potential Effects

As indicated in your March 18, 2020 letter, the City of Duluth is proposing to use FHWA funding to construct an extension (4400 linear feet) of the Lakewalk Trail from the intersection of TH 61/Congdon Boulevard and Brighton Beach Road, through Brighton Beach/Kitchi Gammi Park, to the eastern intersection of Congdon Boulevard and Brighton Beach Road. The proposed undertaking includes the construction of a 10 ft wide pedestrian/bike trail, replacement or extension of existing culverts, and some minor grading for drainage. As part of a revised 2019 "Mini Master Plan" for Brighton Beach/Kitchi Gammi Park, the City is also considering a new vehicular entrance to the park from the south, a new parking area, the removal of a portion of Brighton Beach Boulevard, construction of a new pedestrian loop trail off the Lakeview Trail extension, construction of new picnic shelters, construction of a new restroom building, play area, viewing deck, and beach/kayak landing, and shoreline stabilization. While these future improvements are not part of this federal undertaking, we understand that your agency has factored them into your assessment of effect for this project.

We have completed our review of the documentation provided in regards to your agency's determination of the area of potential effect (APE) for the Federal undertaking. We agree that this APE determination is generally appropriate to take into account the potential direct and indirect effects of the proposed undertaking as we currently understand it. As the project's scope of work is further defined, or if it is significantly altered from the current scope, additional consultation with our office may be necessary in order to revise the current APE.

MINNESOTA STATE HISTORIC PRESERVATION OFFICE

50 Sherburne Avenue ■ Administration Building 203 ■ Saint Paul, Minnesota 55155 ■ 651-201-3287 mn.gov/admin/shpo ■ mnshpo@state.mn.us

AN EQUAL OPPORTUNITY AND SERVICE PROVIDER

Identification of Historic Properties

Archaeological Resources

We have reviewed the Phase I archaeological survey report that was included with your March 18th submittal titled *Kitchi Gammi Park Trail, Phase I Archaeological Reconnaissance Survey, St. Louis County, Minnesota* (December 2019) as prepared by Merjent, Inc. No archaeological resources were identified within the Project APE as a result of the field investigations, and we concur with your agency's determination that no further archaeological work is warranted for the project as it is currently defined.

Architecture/History Properties

Your agency has identified six (6) previously recorded Architecture/History properties that are located within the APE for this project: **Brighton Beach Tourist Camp** (SL-DUL-2328), **Brighton Beach Fireplace/Shelter** (SL-DUL-3132), **Brighton Beach Gazebo** (SL-DUL-3125), **Trunk Highway 61** (XX-ROD-006), **Congdon North Shore Boulevard Segment of Skyline Parkway** (SL-XXX-001), and the **Skyline Parkway Historic District**.

Brighton Beach Park/Kitchi Gammi Park

Brighton Beach Park/Kitchi Gammi Park was initially created in 1922. The park has undergone numerous modifications including boundary changes since its creation. The Brighton Beach Tourist Camp was initially identified as being located near the lakeshore in Brighton Beach Park, however, further research has shown that it was actually located on the other side of TH 61/Congdon Boulevard. The Brighton Beach Tourist Camp was established in the early 1920s and consisted of tent spaces around a central pavilion. By the late 1920s, a shower and toilet building were installed. In 1930 and 1931, the City of Duluth built nine (9) cabins in the tourist camp. In 1938 the National Youth Administration built 9 additional cabins in the tourist camp. All the cabins were removed in 1963 and the National Quality Laboratory, now an Environmental Protection Agency (EPA) research facility, was built on the site of the tourist camp and the parcel is no longer within the park boundaries.

In addition to the elimination of two parcels from the park boundaries and the loss of the tourist camp, a lot of the features and other amenities within the lakeshore portion of the park have changed over time. The park shows an ever-evolving circulation system of informal pull-offs and paved and unpaved trails and the configurations as seen today, were not fully in-place until sometime in the 1950s. The western entrance to Brighton Beach Boulevard off TH 61/Congdon Boulevard was realigned in the late 1960s and the gabbro stones that line it and other portions of Brighton Beach Boulevard were installed at that time. A gazebo was erected sometime after 1972 and modern playground equipment and a pavilion were added in the 1980s.

Brighton Beach Park/Kitchi Gammi Park is associated with tourism and city planning and has significance in these areas under National Register Criterion A from its inception in 1922 through 1963, when substantial changes were made to the park and its use, especially with the elimination of the tourist camp amenities. There is no indication that there was any intentional landscape design for the park and there does not appear to be significance for its design under Criterion C. While the park does have significance under Criterion A for tourism and city planning, it does not retain sufficient integrity to convey its association with the time period of 1922-1963 due to the removal of key elements, such as the tourist camp, the eastern portion of the park, and the numerous changes in the lakeshore side off Brighton Beach Boulevard and along TH 61/Congdon Boulevard. These changes have diminished the park's ability to convey an early to mid-twentieth century park in regards to design, material, workmanship, feeling, and association. Therefore, we concur with your agency's determination that Brighton Beach Park/Kitchi Gammi Park is **not individually eligible** for listing in the National Register of Historic Places (NRHP).

Trunk Highway 61 and Congdon North Shore Boulevard Segment of Skyline Parkway

Although only a small portion of Trunk Highway 61 and Congdon North Shore Boulevard are located within the project APE, an understanding of the significance and integrity of these roadways, as well as the associated Brighton Beach Park/Kitchi Gammi Park, is necessary in order to assess the project's effects on these properties.

The Congdon North Shore Boulevard Segment of Skyline Parkway is 12.8 miles long and stretches from South 61 Street East to the St. Louis County border. The **Skyline Parkway Historic District** as a whole is potentially eligible for listing in the NRHP. Although this property has not undergone a formal Phase II evaluation, we agree to treat this property as eligible for listing in the NRHP for the purposes of this review. Congdon Boulevard was built in the early 1920s as an 18-foot- wide concrete-surface road with no shoulders and was built as part of the Skyline Parkway system. In the 1930s it was incorporated in the state's trunk highway system and reclassified as Trunk Highway 61. The original roadway was expanded in 1951-1952 to 24 feet with bituminous overlay and gravel shoulders. These shoulders were later paved in 1988. In the late 1950s and early 1960s the Minnesota Highway Department built an expressway between Duluth and the Two Harbors, which became the new Trunk Highway 61. This resulted in a modification to the original road alignment to incorporate the expansion into a four-lane expressway. Trunk Highway 61 in this location was determined not eligible in 2017 under the context of Trunk Highways (1921-1954). The roadway was determined to lack integrity from the 1921-1954 period of the Trunk Highway development. The Trunk Highway 61 expressway was determined eligible for the NRHP, but it is located outside the APE for this undertaking.

The old highway north and east of the new expressway interchange was again called Congdon Boulevard and repaved. According to your letter, during the 1951-1952 roadway project, sixteen (16) small pull-off waysides off TH 61/Congdon Boulevard were constructed between Duluth and Knife River and five (5) of these waysides are located within the current boundaries of Kitchi Gammi Park and the APE for this project.

The stretch of Congdon North Shore Boulevard from 61 Street East to Lakewood Boulevard (north of the project area) has poor integrity. The road was widened and surfaced with a different material in 1951-1952, after the proposed period of significance for Skyline Parkway (1891-1940). The roadway was also altered to incorporate the expressway interchange and had paved shoulders installed, all of which changed the material, design, workmanship, feeling and association of the road. In the same way the roadway does not have the integrity to convey its association with its time as a trunk highway from the early to mid-twentieth century, it also has compromised integrity to convey its associated with the Skyline Parkway's period of significance (ending in 1940) when it was an 18 foot wide concrete road with no shoulders. Therefore, due to the lack of integrity for Congdon North Shore Boulevard, and the Brighton Beach/Kitchi Gammi Park as detailed above, we concur with your agency's determination that Congdon North Shore Boulevard and the Brighton Beach/Kitchi Gammi Park are **non-contributing** elements to Skyline Parkway Historic District.

Brighton Beach Fireplace/Shelter

Because the Congdon North Shore Boulevard Segment of Skyline Parkway and the Brighton Beach /Kitchi Gammi Park/Tourist Camp do not retain sufficient integrity from the end of the period of significance for the Skyline Parkway (1940), we concur with your agency's determination that the Brighton Beach Fireplace/Shelter is also a **non-contributing** element to the Skyline Parkway Historic District.

This property was also evaluated under the registration requirements for social and recreational facility within the National Register Multiple Property Documentation Form for Federal Relief Construction in Minnesota, 1933-1943. We concur with your agency's determination that, due to lack of significance, the Brighton Beach Fireplace/Shelter is **not individually eligible** for listing in the NRHP.

Brighton Beach Gazebo

Because the Congdon North Shore Boulevard Segment of Skyline Parkway and the Brighton Beach /Kitchi Gammi Park/Tourist Camp do not retain sufficient integrity from the end of the period of significance for the Skyline Parkway (1940), we concur with your determination that the Brighton Beach Gazebo is also a **non-contributing** element to the Skyline Parkway Historic District. We also agree that this property does not have exceptional significance on its own to warrant further investigation/evaluation for individual eligibility. The property is less than 50 years old and was installed sometime after 1972.

We look forward to receiving the updated/new inventory forms for the above properties.

Assessment of Effect

Based on information that is available to us at this time, we concur with your agency's finding that the project, as currently proposed, will have **no adverse effect** on the Skyline Parkway Historic District. The Congdon North Shore Boulevard Segment of the Skyline Parkway and associated Brighton Beach Park/Kitchi Gammi Park, including the Brighton Beach Fireplace/Shelter and Brighton Beach Gazebo, are non-contributing elements to the larger potentially eligible Skyline Parkway Historic District.

Consulting Parties

We understand that your agency has consulted with Native American tribes who may have an ancestral interest in this area of the state, as well as the Office of the State Archaeologist and the Minnesota Indian Affairs Council and have had no response from these parties. You also reference the City of Duluth's public outreach on the Mini Master Plan for Brighton Beach/Kitchi Gammi Park which included an online survey and public comment period, an open house in June 2019, another public comment period on the preferred plan, and the Park and Recreation Commission's public hearing and final adoption of the plan in August 2019. Your letter indicates that the plan was non-controversial and was supported by the community and that the biggest concern was over the potential closing of the park if the erosion and associated road damage was not addressed. Although none of the properties are designated as local landmarks, we assume, as per Stipulation 3.A.iii of the General PA that your agency has consulted with the City of Duluth's Heritage Preservation Commission (HPC) regarding the proposed undertaking and that the HPC expressed no concerns regarding identification of historic properties and assessment of effects. If, subsequent to this review, the City of Duluth or your agency receive any concerns or disagreement with agency efforts to identify historic properties and/or the assessment of adverse effect, your agency will need to reopen consultation with our office.

Implementation of the undertaking in accordance with this finding, as documented, fulfills your agency's responsibilities under Section 106. If the project is not constructed as proposed, including, but not limited to, a situation where design changes to the currently proposed project diverts substantially from what was presented at the time of this review, then your agency will need to reopen Section 106 consultation with our office pursuant to 36 CFR 800.5(d)(1).

Please feel free to contact me at (651) 201-3290 or sarah.beimers@state.mn.us if you have any questions regarding our review of this project.

Sincerely,



Sarah J. Beimers
Environmental Review Program Manager

APPENDIX D

MnDOT OES Threatened & Endangered Species Letter and MNDNR Natural
Heritage and Non-Game Research Program Letter

October 17, 2019

U.S. Fish and Wildlife Service
Ecological Services Field Office
4101 American Boulevard East
Bloomington, MN 55425

S.P. 118-090-024

Duluth, St. Louis County, Minnesota

Notification of Determination – May affect, not likely to adversely affect – Northern long-eared bat (*Myotis septentrionalis*)

No Effect Determination – Canada lynx (*Lynx canadensis*) and designated Critical Habitat

No Effect Determination – Gray wolf (*Canis lupus*)

No Effect Determination – Piping plover (*Charadrius melodus*)

No Effect Determination – Rufa red knot (*Calidris canutus rufa*)

Project Description: This project proposes to construct an approximately 4400' extension to the Lakewalk trail in Duluth, Minnesota from TH 61/Brighton Beach Road through Brighton Beach to Congdon Boulevard. Associated activities include replacing, upgrading, or extending multiple existing culverts and drainage features along the proposed extension, as well as some minor grading for drainage. Less than one acre of tree removal is proposed, with removal to occur during the winter (November 1 – March 31, inclusive). No bridge work is proposed.



Action Area identified for the proposed project.

Conservation Measures:

Required Avoidance and Minimization Measures (AMMs) - Northern long-eared bat:

- **General AMM 1:** Ensure all operators, employees, and contractors working in areas of known or presumed bat habitat are aware of all FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable AMMs. *Notify contractor(s) during the pre-construction meeting. Bat sightings (including sick, injured, and/or dead bats) on the project must be reported to OES wildlife ecologist (651-366-3605).*
- **Tree Removal AMM 2:** Restrict all tree clearing activities to when NLEB are not likely to be present. *Winter tree clearing required – tree clearing allowed November 1 to March 31, inclusive.*
- **Tree Removal AMM 3:** Tree removal must be limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits).
- **Tree Removal AMM 4:** Tree removal must not remove documented NLEB roosts, or trees within 0.25 miles of roosts; or documented foraging habitat any time of the year.

Additional Conservation Measures:

- If used, erosion control blanket should be limited to 'bio-netting' or 'natural netting' types, and specifically not products containing plastic mesh netting or other plastic components. These are Category 3N or 4N in the 2016 & 2018 MnDOT Standards Specifications for Construction. Be aware that hydro-mulch products may contain small plastic fibers to aid in its matrix strength. These loose fibers could potentially re-suspend and make their way into Public Waters impacting protected aquatic species (e.g., mussels, fishes).
- Revegetation of disturbed soils must follow D1 Vegetation Establishment Recommendations (<http://www.dot.state.mn.us/environment/erosion/vegetation.html>), and use native mixes in areas that are not proposed for mowed turf grass. Include mowing and weed spraying as indicated in the District Vegetation Establishment Recommendations. For additional information, visit: <http://www.dot.state.mn.us/environment/erosion/vegetation.html>.

Species List for the Project Action Area

A list of federally threatened, endangered, proposed and candidate species, and designated and proposed critical habitat that overlaps with the action area, was requested via the Information for Planning and Consultation (IPaC) web application maintained by the U.S. Fish and Wildlife Service (requested October 2019). Based on this list, the project is within the range of the following:

Species	Status	Habitat
Northern long-eared bat <i>Myotis septentrionalis</i>	Threatened	Hibernates in caves and mines - swarming in surrounding wooded areas in autumn. Roosts and forages in upland forests during spring and summer.
Canada lynx <i>Lynx canadensis</i>	Threatened & Critical Habitat	Northern forest
Gray wolf <i>Canis lupus</i>	Threatened	Northern forest
Piping plover <i>Charadrius melodus</i>	Endangered	Sandy beaches, islands
Rufa red knot <i>Calidris canutus rufa</i>	Threatened	Coastal areas along Lake Superior

MnDOT consults the Minnesota Department of Natural Resources Natural Heritage Information System (Copyright 2019 State of Minnesota, Department of Natural Resources), and other resources as available, to determine if proposed projects may affect listed species.

Endangered Species Act – Section 7 Consultation

Section 7 of Endangered Species Act of 1973, as amended (Act), requires each Federal agency to review any action that it funds, authorizes or carries out to determine whether it may affect threatened, endangered, proposed species or listed critical habitat. Federal agencies (or their designated representatives) must consult with the U.S. Fish and Wildlife Service (Service) if any such effects may occur as a result of their actions. Consultation with the Service is not necessary if the proposed action will not directly or indirectly affect listed species or critical habitat. If a federal agency finds that an action will have no effect on listed species or critical habitat, it should maintain a written record of that finding that includes the supporting rationale.

Notice of Determination

Northern long-eared bat – May affect, not likely to adversely affect

No documented NLEB hibernacula and/or roost trees are documented within the project Action Area (https://files.dnr.state.mn.us/eco/ereview/minnesota_nleb_township_list_and_map.pdf).

This project review relies on the USFWS Programmatic Biological Opinion for FHWA, FRA, FTA Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C 1531 et seq.). The review was completed using the U.S. Fish and Wildlife Service's Information for Planning and Consultation (IPaC) system (Consultation Code: 03E19000-2020-I-0014). The U.S. Fish and Wildlife Service's concurrence verification letter is attached (Attachment 1).

No Effect Determinations

No Effect Determination – Canada lynx (*Lynx canadensis*) and designated Critical Habitat

No Effect Determination – Gray wolf (*Canis lupus*)

No Effect Determination – Piping plover (*Charadrius melodus*)

No Effect Determination – Rufa red knot (*Calidris canutus rufa*)

Canada lynx and designated Critical Habitat – *No effect determination.*

Tree clearing is limited to less than one acre immediately adjacent to existing roads. Suitable habitat is not anticipated to be impacted by the proposed project. Critical Habitat is not expected to be destroyed or adversely modified. **Therefore, MnDOT on behalf of the FHWA has made a determination of no effect for this species.**

Gray wolf – *No effect determination.*

No documented occurrences for this species exist within the Action Area. Tree clearing is limited to less than one acre immediately adjacent to existing roads. Suitable habitat is not anticipated to be impacted by the proposed project. **Therefore, MnDOT on behalf of the FHWA has made a determination of no effect for this species.**

Piping plover and rufa red knot – *No effect determination.*

No documented occurrences for this species exist within the Action Area. Suitable habitat is not anticipated to be impacted by the proposed project. **Therefore, MnDOT on behalf of the FHWA has made a determination of no effect for this species.**

Please contact me if there are questions or concerns.

Thank you,



Digitally signed by Christopher E Smith

Date: 2019.10.17 16:52:33 -05'00'

Christopher E. Smith, M.Sc., C.W.B.®

Wildlife Ecologist | Protected Species Program Coordinator

Minnesota Department of Transportation

Office of Environmental Stewardship

395 John Ireland Blvd., M.S. 620

St. Paul, Minnesota 55155

O: 651-366-3605

April 27, 2020

Patrick Loomis
Duluth Project Engineer
411 W. 1st Street, Room 240
Duluth, MN 55802

SUBJECT: SP 118-090-024, MN Proj. STPF-TA 6920(085)
Brighton Beach Trail Construction
Project Memorandum Approval

Dear Mr. Loomis:

Your determination that this project is a Categorical Exclusion, in accordance with the 23 CFR 771.117 (c)(23i), is approved by the FHWA in accordance with the MnDOT-FHWA Programmatic Categorical Exclusion Approval Agreement (dated 7/11/17). Location and Design are hereby approved in accordance with the provisions of the FHWA-Minnesota Stewardship Plan. A copy of the approved Project Memorandum is enclosed.

Submit construction plans, Engineer's estimate, Right-of-Way Certificate #1A, Utility Relocation Certificate, Request for Lab Services form, and copies of any required permits to your District State Aid Engineer when completed.

If you have any questions, please do not hesitate to contact me at 651-366-3819, or by e-mail at sulmaan.khan@state.mn.us

Sincerely,

Sulmaan Khan  Digitally signed by Sulmaan Khan
Date: 2020.04.27 12:23:47 -05'00'

Sulmaan Khan, PE
Project Development Engineer

Enclosure

cc: Todd Campbell * - Acting DSAE
John Minor * - District 1 State Aid
Jeff Madill * - District 1 State Aid
Margi Coyle * - DNR
Andy Hubley * - ARDC
File

* Electronic Copy



MINNESOTA TRANSPORTATION PLAN REQUEST FOR ENVIRONMENTAL APPROVAL

((c)(23) SA 1 Form)

State Project Number(s): 118-090-024		Minn. Project No(s): STPF-TA 6920(085)	
Route: Brighton Beach Trail		STIP Year / Sequence #: 2020 / 23	
Roadway Functional Classification: Trail		Urban (>5,000) or Rural: Rural	
County: St. Louis		City: Duluth	
Project Termini: Brighton Beach Boulevard to Congdon Boulevard			
(c)(23)	<div style="display: flex; align-items: flex-start;"><div style="margin-right: 10px;"><input checked="" type="checkbox"/> <input type="checkbox"/></div><div><p>Federally-funded projects: Enter project cost \$761,585 and Federal funds \$375,000</p><p>(i) That receive less than \$5,500,515.05 of Federal funds; or</p><p>(ii) With a total estimated cost of not more than \$33,003,090.30 and Federal funds comprising less than 15 percent of the total estimated project cost.</p><p>Based on the project funding information provided above, the project may be categorically excluded from any further NEPA approvals by the FHWA as long as there are no unusual circumstances under 23 CFR 771.117(b).</p></div></div>		
Project Description: (Provide a full project description which allows determination of potential environmental impacts. Attach a project location map.) Multi-use, non-motorized trail construction			
ITS Components, Work on MnDOT Right of Way, and Thresholds that trigger FHWA consultation: <div style="margin-top: 5px;"><input type="checkbox"/> There is an ITS component to this project. If checked, the ITS Guide checklist should be attached or submitted with the plan.</div> <div style="margin-top: 5px;"><input type="checkbox"/> There is work on MnDOT right of way. If checked, MnDOT Environmental Investigations Unit (EIU) should be consulted.</div> <div style="margin-top: 5px;"><input type="checkbox"/> One or more of the thresholds of Attachment B which have been exceeded. If checked, SALT will consult with FHWA to determine if additional environmental studies will be required to support use of (c)(23).</div>			
(1) Independent Utility and Logical Termini <div style="margin-top: 5px;"><input checked="" type="checkbox"/> The project complies with NEPA requirements related to connected actions and segmentation (i.e. the project must have independent utility, connect logical termini when applicable, be usable and be a reasonable expenditure even if no additional transportation improvements in the area are made and not restrict further consideration of alternatives for other reasonably foreseeable transportation improvements). (FHWA Final Rule, "Background," <i>Federal Register</i> Vol. 79, No. 8, January 13, 2014.)</div>			
(2) Categorical Exclusions Defined (23 CFR 771.117[a]). <div style="margin-top: 5px;">FHWA regulation 23 CFR 771.117(a) defines categorical exclusions as actions which:<ul style="list-style-type: none">• do not induce significant impacts to planned growth or land use for the area;• do not require the relocation of significant numbers of people;• do not have a significant impact on any natural, cultural, recreational, historic or other resources;• do not involve significant air, noise, or water quality impacts;• do not have significant impacts on travel patterns; or• do not otherwise, either individually or cumulatively, have any significant environmental impacts.<div style="margin-top: 5px;"><input checked="" type="checkbox"/> Checking this box certifies that project meets the above definition for a Categorical Exclusion.</div></div>			

SALT PM Checklist for FHWA-MnDOT PCE Agreement

State Project Number(s): 118-090-024		Minn. Project No(s): STPF-TA 6920(085)	
(3) Exceptions to Categorical Exclusions/Unusual Circumstances (23 CFR 771.117[b]). FHWA regulation 23 CFR 771.117(b) provides that any action which normally would be classified as a CE but could involve <i>unusual circumstances</i> requires the Department to conduct appropriate environmental studies to determine if the CE classification is proper. Unusual circumstances include actions that involve: <ul style="list-style-type: none"> Significant environmental impacts; Substantial controversy on environmental grounds; Significant impact on properties protected by section 4(f) of the DOT Act or section 106 of the National Historic Preservation Act; or Inconsistencies with any Federal, State, or local law, requirement or administrative determination relating to the environmental aspects of the action. <p>All of the above unusual circumstances have been considered in conjunction with this project. (Please select one.)</p> <p><input checked="" type="checkbox"/> Checking this box certifies that none of the above conditions apply and that the project qualifies for a Categorical Exclusion.</p> <p><input type="checkbox"/> Checking this box certifies that unusual circumstances are involved. However, the appropriate studies/analysis have been completed, and it has been determined that the CE classification is still appropriate.</p>			
List of Local Authority Environmental Commitments / Permits:			
1. Avoidance and minimization measures for Northern long eared bats 2. Conservation measures for erosion control blankets and revegetation of disturbed soils 3. Minimization measures for disturbance of rare species as mentioned in MnDNR NHIS letter 4. Wetland impacts minimization measures as mentioned in Wetland Assessment & Two Part Finding 5. NPDES Permit			
List of Design Exceptions:			
1. None 2.			
Prepared by (Name / Title): Sulmaan Khan / Project Development Engineer			
Signature: Sulmaan Khan <small>Digitally signed by Sulmaan Khan Date: 2020.04.27 12:25:18 -05'00'</small> Date: 4/27/2020			
APPROVAL REQUEST FOR Mn/DOT ADMINISTRATION Sulmaan Khan <small>Digitally signed by Sulmaan Khan Date: 2020.04.27 12:26:16 -05'00'</small>		APPROVED FOR FEDERAL HIGHWAY PROGRAMMATIC AGREEMENT	
for DIVISION DIRECTOR, STATE AID FOR LOCAL TRANSPORTATION		DATE 4/27/20 ENGINEERING & OPERATIONS ENGINEER:	
		EFFECTIVE DATE 7/11/2017	

SALT PM Checklist for FHWA-MnDOT PCE Agreement

(5) Does the project meet Attachment “B” criteria? Complete all the following sections. If it is determine that the project meets all the criteria, MnDOT is then authorized under the current PCE Agreement to carry out signature action on behalf of FHWA for CE’s listed in 23 CFR 771.117(c) or (d).

Section 4(f) Transportation Act (23 CFR 774)

- ☐ The project does not use Section 4(f) lands or properties; or
- ☒ The project is an independent bikeway/walkway covered by the FHWA Section 4(f) Statement and Determination for Independent Bikeways or Walkways (Negative Declaration statement) dated May 23, 1977; and/or
- ☐ The project meets temporary occupancy conditions that do not constitute a Section 4(f) use per 23 CFR 774.13(d).

Section 6(f) – Properties Acquired with Land and Water Conservation Fund (LAWCON) grants

- ☒ The project requires no acquisition of real property interest subject to Section 6(f) or encumbered by similar public-use funding that restricts conversion to other uses.

Historical/Archeological

- ☐ The provisions of the National Historic Preservation Act have been satisfied by a Section 106 finding of *no properties*; **or**
- For NRHP-listed or eligible properties other than historic bridges, the provisions of the National Historic Preservation Act have been satisfied by a Section 106 finding of:
☐ No Effect; or ☒ No Adverse Effect per the current PA; **and**
 - For NRHP-listed or eligible historic bridges, the provisions of the National Historic Preservation Act have been satisfied by a Section 106 finding of:
☐ No Effect per the current PA; **and**
☐ No Section 106 Agreement (i.e. Memorandum of Agreement or Programmatic Agreement) or known post-NEPA plan review by CRU and the MnHPO or a Tribal Historic Preservation Office (THPO) is deemed appropriate by MnDOT and FHWA.

Threatened and Endangered Species - Federal (Section 7 Determinations)

- ☐ The provisions of the Endangered Species Act (ESA) have been satisfied by a Section 7 determination of *no effect* to threatened or endangered species or critical habitat; or
- The provisions of the ESA have been satisfied by a Section 7 determination, per written correspondence with the USFWS, of:
- ☒ May affect, not likely to adversely affect threatened or endangered species or critical habitat; or
- ☐ May affect but will not cause prohibited take of the Northern Long-eared Bat (NLEB); or
- ☐ The provisions of the ESA have been satisfied by a Section 7 determination of no jeopardy for any species proposed for listing under the ESA.

Right of Way

- ☒ The project does not require any new right of way, permanent easement, or temporary easement; or
- ☐ The project is _____ miles long and requires _____ acres of permanent right-of-way, _____ acres of permanent easement and _____ acres of temporary easement (which is defined to be minor amounts of new right of way, permanent easement or temporary easement),
- in accordance with the following:
- up to 5 acres per linear mile (absolute, not average), but total permanent not more than 25 acres plus total temporary not more than 40 acres, or
 - up to 10 acres (permanent plus temporary) for spot improvements (such as bridge replacement); and
- ☐ The project requires no relocations of residences or businesses; and
- ☐ Change in direct access to property is minor; and
- ☐ Property acquisition or change in access to property required for the project will not affect the use of the property.

Highway Access Change

- ☒ The project does not add or remove a ramp on an existing expressway or freeway interchange; **and**
- ☒ The project does not add an interchange to an expressway or freeway.

SALT PM Checklist for FHWA-MnDOT PCE Agreement

Pedestrian/Bicycle Access Change
<input checked="" type="checkbox"/> The project does not permanently remove existing pedestrian, bicycle, or transit facilities; <u>and</u> <input checked="" type="checkbox"/> The project does not permanently impede safe and reasonable access to existing pedestrian or bicycle facilities.
Traffic Disruption
<input checked="" type="checkbox"/> The project does not involve construction of temporary access or closure of an existing road, bridge or ramp; <u>or</u> <ul style="list-style-type: none"> • The project does involve construction of temporary access or closure of an existing road, bridge or ramp, but the following conditions are met: <i>For projects <u>outside of the boundaries</u> of a metropolitan planning organization (MPO):</i> <div style="margin-left: 20px;"> <input type="checkbox"/> Temporary access would not last for more than one construction season; <u>and</u> <input type="checkbox"/> Road, bridge or ramp closure will not result in a detour that would last for more than one construction season; <u>or</u> <input type="checkbox"/> Increase (one-way, out-of-direction) travel distance greater than 5 miles in an urban or 25 miles in a rural area. <i>For projects <u>within the boundaries</u> of an MPO, the project:</i> <div style="margin-left: 20px;"> <input type="checkbox"/> Would not require a full traffic management plan (TMP) per the Minnesota Work Zone Safety and Mobility Policy (or subsequent replacement policy); <u>or</u> <input type="checkbox"/> the required full TMP will maintain the number of pre-project through lanes during a.m. and p.m. weekday peak periods for the duration of the project. </div> </div>
Contamination Hazards
<input checked="" type="checkbox"/> The project does not have a high risk of causing direct or indirect impacts to human health or sensitive environmental resources due to encountering contamination or hazardous materials..
Farmland
<input type="checkbox"/> The Farmland Protection Policy Act (FPPA) does not apply; <u>or</u> <input checked="" type="checkbox"/> The project will not involve acquisition of farmland; <u>or</u> <input type="checkbox"/> Form AD-1006 or Form NRCS-CPA-106 has been completed and provided to NRCS
Section 404 of the Clean Water Act
<input checked="" type="checkbox"/> The project does not involve placement of fill into Waters of the U.S.; <u>or</u> <input type="checkbox"/> The project is anticipated to be covered by a USACE Section 404 Nationwide or Regional General Permit; <u>and</u> <input type="checkbox"/> The project is anticipated to have no more than 10 acres of permanent wetland impacts.
Floodplains
<input checked="" type="checkbox"/> The project does not encroach into a floodplain; <u>or</u> <input type="checkbox"/> Floodplain encroachment will not have a significant impact, as defined in 23 CFR 650.105 and E.O. 11988; <u>and</u> <input type="checkbox"/> Documented by a Floodplain Assessment including Hydraulic Analysis and Risk Assessment.
Wetlands
<input type="checkbox"/> The project does not impact or encroach into wetlands; <u>or</u> <ul style="list-style-type: none"> • Wetland encroachment(s) are all of the following: <div style="margin-left: 20px;"> <input checked="" type="checkbox"/> Not greater than 10 acres of permanent impacts; <u>and</u> <input checked="" type="checkbox"/> Not significant as documented by a 2-Part Wetland Finding demonstrating (1) no practical avoidance and (2) all measures to minimize harm are incorporated when avoidance is not practical. </div>
Coast Guard Permit
<input checked="" type="checkbox"/> The project does not require a Coast Guard bridge permit.
Sole Source Aquifer (SSA) (Mille Lacs Aquifer)
<input checked="" type="checkbox"/> No portion of the project is located in Crow Wing, Aitkin, Mille Lacs, or Morrison Counties; <u>or</u> <input type="checkbox"/> Portions of the project are within Crow Wing, Aitkin, Mille Lacs, or Morrison Counties but the entire project is located outside of the SSA project review areas designated by the USEPA for any MN SSA; <u>or</u> <input type="checkbox"/> The project in part or in whole is within the project review area designated by the USEPA for a MN SSA, but does not require a detailed groundwater impact assessment to be submitted to USEPA for review.

SALT PM Checklist for FHWA-MnDOT PCE Agreement

Wild and Scenic River(s) (Currently only applies to the St. Croix River – no other rivers are currently pursuing designation)
<input checked="" type="checkbox"/> The project does not require construction in, across, or adjacent to the boundaries a river designated as a component of, or proposed for inclusion in, the National System of Wild and Scenic Rivers..
Noise
<input checked="" type="checkbox"/> The project is not a Type 1 noise project as defined by 23 CFR 772 (e.g. construction of a highway on a new location which significantly changes either the horizontal or vertical alignment or changes the number of through-traffic lanes). In Minnesota, if a project is not a Type I noise project, then it is a Type III project.
Air Quality
<input checked="" type="checkbox"/> The project conforms to the state implementation plan; <u>and</u> <input checked="" type="checkbox"/> The project does not add significant capacity to urban highways with design year average daily traffic of 140,000 or more (i.e. does not need a quantitative mobile source air toxics [MSAT] analysis).
Tribal
<input checked="" type="checkbox"/> The project's anticipated construction limits will be entirely outside the federally-recognized reservation boundaries and any exterior trust lands of a Federally-recognized tribe; <u>or</u> <ul style="list-style-type: none"> • The project is located, in part or as a whole, within federally-recognized reservation boundaries or exterior trust lands, and <ul style="list-style-type: none"> <input type="checkbox"/> Will not involve temporary or permanent work (including any ground disturbing activities) outside of the transportation facility's existing right-of-way or easement boundaries; <u>and</u> <input type="checkbox"/> Neither the tribe, MnDOT, nor the project proposer has expressed a desire for a more direct sovereign-nation-to-Federal-government relationship; <u>and</u> <input type="checkbox"/> Consultation with the tribe has not identified any tribal interests within the anticipated construction limits.
International
<input checked="" type="checkbox"/> The project is not an international project.
Controversial
<input checked="" type="checkbox"/> The project is not anticipated to be controversial.

**STATE OF MINNESOTA
DEPARTMENT OF TRANSPORTATION
and
City of Duluth**

PROJECT MEMORANDUM

**SP 118-090-024
MN Project No. STPF-TA 6920(085).**

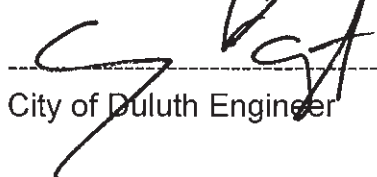
ROUTE NAME: Brighton Beach Trail

FROM: Brighton Beach Boulevard (formerly Congdon Boulevard)

TO: Congdon Boulevard (Scenic 61)

PROPOSED IMPROVEMENT: The proposed project will construct approximately 4680 LF of 10 ft. wide bituminous multi-use non-motorized trail.

Recommended:

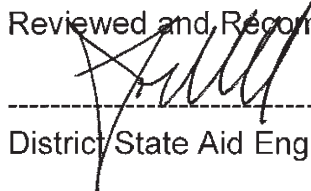


City of Duluth Engineer

3-17-20

Date

Reviewed and Recommended:



District State Aid Engineer


4/21/2020

Date

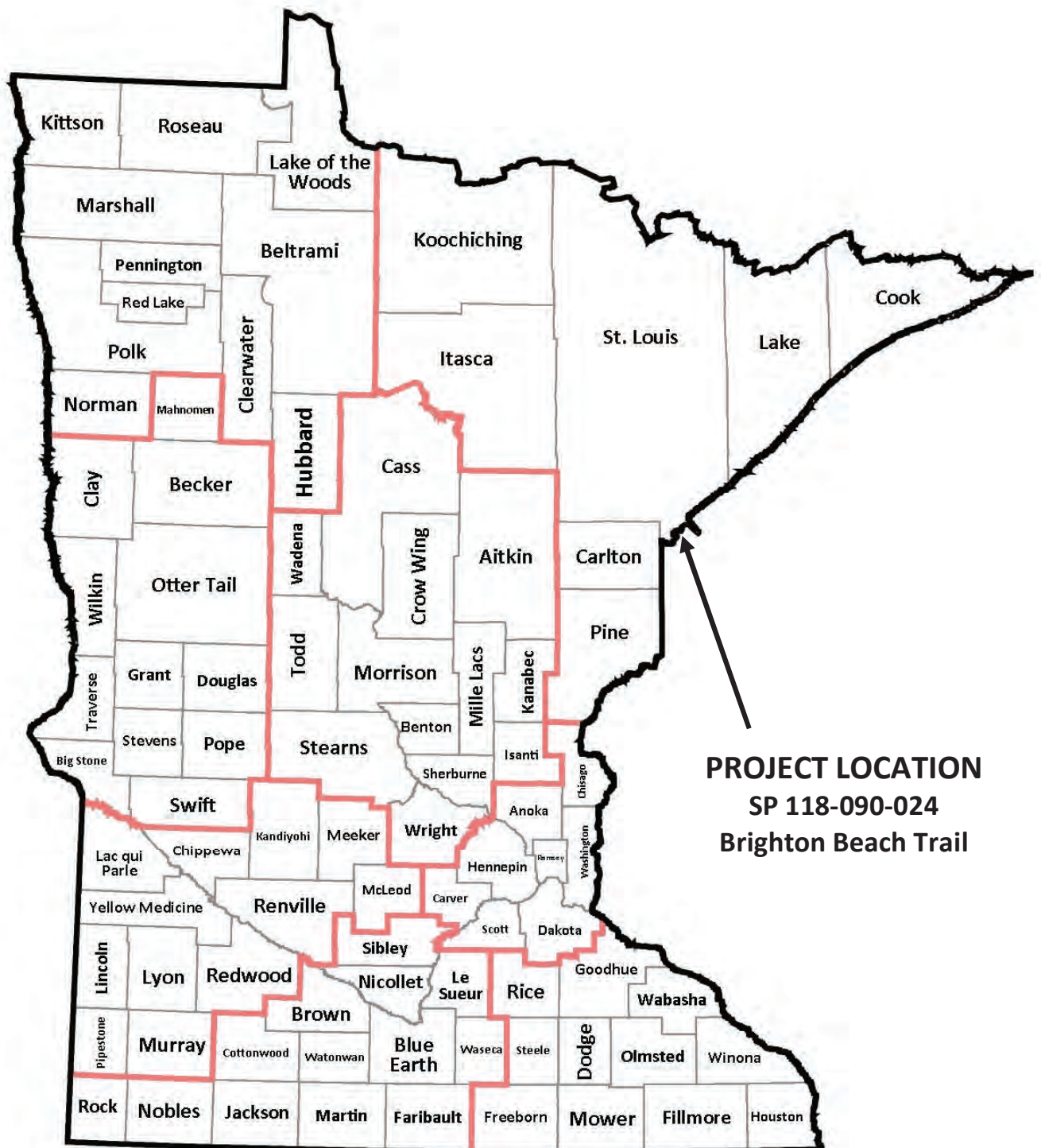
Approved:

Sulmaan Khan

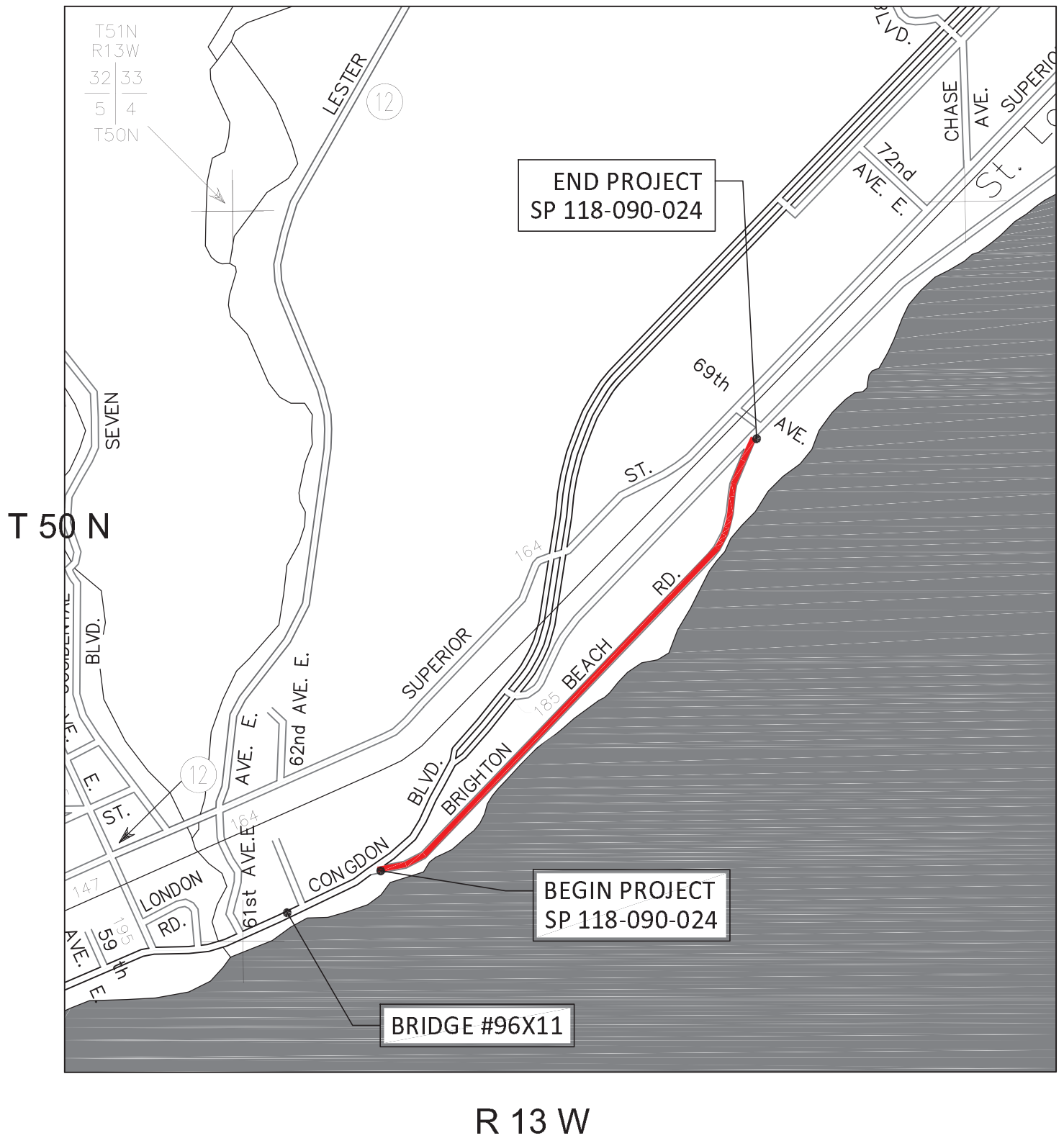
for State Aid Engineer

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Date: 2020.04.27 12:29:27 -05'00'

Date



STATE MAP



LOCATION MAP

1. REPORT PURPOSE

This Project Memorandum (PM) documents the need for the proposed improvement, environmental impacts and mitigation, and schedule, funding and design information.

This documentation was prepared to demonstrate that the project does not have a significant environmental effect and is excluded from the requirement to prepare an EA or EIS in accordance with 23 CFR 771.115.

Project Owner

City of Duluth

Project Manager

Patrick Loomis, P.E.
Project Engineer (City of Duluth)
411 West First Street, room 240, Duluth MN, 55802
(218)-730-5094
ploomis@duluthmn.gov

Preparer

Patrick Loomis, P.E.

2. HIGHWAY SECTION DESCRIPTION

The Lakewalk Trail System in the City of Duluth begins in Canal Park and runs along the north shore of Lake Superior to 62th Avenue East. The first mile in Canal Park includes both a wooden boardwalk and multi-use paved trail. The remaining segments through the Lakeside community consist of a multi-use paved trail with multiple connections to Superior Street, London Road and several other locations. The trail accommodates pedestrians and cyclists and currently terminates at the entrance road to Brighton Beach Park (Kitchi Gammi). Dominant land features in the project area include the Lester River and the north shore of Lake Superior. The last phase built a tunnel under London Road/Highway 61 to get the trail to the entrance of Brighton Beach. No bridge structures will be required for this last segment through the park. The proposed trail corridor consists entirely of city-owned property within Brighton Beach Park, which would start at the south entrance road, run through the park,

southwest to northeast, roughly along the road corridor and terminate at the north end of the park to connect to the existing bike lanes on Congdon Boulevard.

Highway Section Termini

From: Highway 61 (Brighton Beach entrance)
To: Congdon Boulevard
Length: approximately 4680 LF

See additional 'existing condition' elements description in the Design Study Section. See **Appendix A** for typical section.

Unusual Traffic or Road / Facility Use: None, but can be heavily used on weekends and if events are held at park.

Horizontal/Vertical Alignment: Rolling and winding.

Adjacent Land Use: Residential, commercial, railroad, forest.

Bridge Crossing(s): No bridges. Culvert crossings only.

Railroad Crossing Location: No

Airport Proximity: No

Traffic Signal(s): No

3. PROJECT PURPOSE AND NEED

Purpose/Objectives

The Lakewalk trail is currently a year round paved trail that stretches eight miles from downtown Duluth to the Brighton Beach entrance. The extension through Brighton Beach will connect the existing Lakewalk multiuse paved trail to the 8' paved bike lanes on Congdon Blvd/North Shore Scenic Drive (Scenic 61) that travel north/south along the North Shore connecting to Two Harbors MN, the start of the Gitchi Gammi State Trail. The Brighton Beach segment is the final segment to complete.

Need/Deficiencies

This trail extension will close the gap between the Lakewalk terminus at the entrance of Brighton Beach and the dedicated bike lanes on the Scenic 61 (Congdon Boulevard). The project will provide improved lake and facility access to the high quality recreation opportunity of Brighton Beach while simultaneously eliminating a significant public safety risk for pedestrians and bicyclists. Nowhere else in Duluth exists the combination of exposed bedrock, lake-level elevation, and access that is Brighton Beach. The Brighton Beach project addresses the badly needed separation of motor vehicles from pedestrians and bicycles and moves the trail above the wave impact line. This is in response to help mitigate the severe storm damage that has occurred periodically about every 10 years but recently has affected the park three times since October 2017.

4. ALTERNATIVES

No Build Alternative

The no build alternative was not recommended because it would not address the need to remedy the safety concerns or complete the trail system from Canal Park to the North Shore.

Design/Construction Alternatives

At this point in the design process, design and construction of the trail will use past methods that were successful on previous phases of the trail based on recommended design standards. See section 9, Design Study for a list of these standards.

Location Alternatives

The Brighton Beach Mini-Master Planning Process, which included representatives from City Engineering, Parks and Recreation, Property and Facilities Management, Planning as well as the public, began meeting December of 2017 to determine future action at Brighton Beach. The location of the trail is using existing impervious surfaces and old road corridors as much as possible to minimize the impact to the park. The trail will be routed through the park to give bicyclists an option over Highway 61, provide better access to the park and separate pedestrians and bikers from vehicles.

Bridge Alternatives

N/A

Preferred Alternative

The proposed project will construct approximately 4680 LF of multi-use, non-motorized trail between the entrance to Brighton Beach Park and Congdon Boulevard. A minimum of 10' wide paved trail with 2' shoulders.

5. PROJECT COSTS AND FUNDING SUMMARY

Estimated Project Costs

Trail Costs:	<u>\$ 761,585</u>
Total Estimated Costs:	\$ 761,585

All Non-Bridge Construction

Federal TAP Funds:	\$ 375,000
Local Funds:	\$ 386,585

Bridge Construction N/A

Total Cost:	\$ 761,585
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STIP Details

STIP Document Years:	2020-2023
STIP Project Year:	2020
STIP Sequence Number:	23
STIP Federal Funding Amount:	\$ 375,000
STIP Estimate Construction Cost:	\$ 761,585

6. PROJECT SCHEDULE

Project Memo:	April 2020
Public Hearings:	Summer 2019
Right of Way Acquisition:	N/A
Plans, Specs and Estimate:	April 2020
Bid Opening:	June 2020
Desired Construction Start:	August 2020

Future Stages or Improvements:

This is the last phase (phase 6) of the Lakewalk Trail connecting Canal Park to Scenic 61 (Congdon Boulevard).

7. PUBLIC INVOLVEMENT

Public open house: June 3, 2019

Who was invited & how: Public open house at Brighton Beach.

Concerns raised: Generally, the comments were directed to the traffic and pedestrian conflicts. Wider road, more parking and separating pedestrians from vehicles.

The concerns will be addressed during design by constructing the trail with separation from the roadway by either grassy areas with ditches, boulevards or curb and gutter if necessary.

Parks and Recreation Commission Meeting: June 12, 2019

Who was invited & how: Parks Commission and Public.

Draft plan presented to Parks Recreation Commission.

Copy of meeting summary attached in Appendix G.

Parks and Recreation Meeting: July 10, 2019

Final Plan presented to Commissioners.

Copy of meeting summary attached in Appendix G.

City Council Approved-August 19, 2019.

Resolution and meeting minutes attached in **Appendix G**.

8. Social, Economic and Environmental (SEE) Impacts

The project will have no significant social, economic or environmental impacts as documented below.

Section 4(f) of the Transportation Act of 1966

The proposed project will impact the Brighton Beach Park. The proposed project is an independent bikeway/walkway project covered by the bikeway/walkway Negative Declaration statement.

See attached written approval from the official having direct jurisdiction over the Section 4(f) property as well as a map in Appendix B.

Section 6(f) of the Land and Water Conservation Fund Act Of 1965

The project will not impact Section 6(f) lands or properties.

Section 106 of the National Historic Preservation Act of 1996

It has been determined that no historic properties eligible for or listed in the National Register of Historic Places will be affected by the project.

See attached letter dated March 18, 2020 from the Mn/DOT's Cultural Resources Unit (CRU) finding "No Adverse Effects" in Appendix C. The letter was sent to State Historical Preservation Office (SHPO) to allow time for additional review as requested by SHPO.

See attached letter dated April 16, 2020 from SHPO finding "no Adverse Effects" in Appendix C also.

Endangered Species Act of 1973

The project **may affect, but not likely to adversely affect**, Federally-listed T&E Species or critical habitat.

Tree removal will be coordinated by the City and be done before contract letting in the winter of 2019-2020. Guidelines in Natural heritage Review letter will be used during design and construction to minimize impacts. Full time inspection will be provided by City to monitor construction and erosion.

See attached letters from OES & the USFWS for Federally listed species in Appendix D

Right-Of-Way

This project will not require any permanent ROW acquisition, temporary easements or parcels secured by permit or agreement.

The project will not require residential or business relocations.

It will require City owned park property to be reassigned as ROW for purposes of trail and road construction by two readings of the Ordinance. First reading was March 9, 2020 and the second reading was March 23, 2020.

See attached Map and Ordinance showing City property placed in City ROW in Appendix I.

Hazardous Materials

The project will not require bridge or building demolition.

Potential for impacts from contaminated properties has been considered, but because of the project location and nature of the planned work, there is little potential for encountering contaminated materials. Any potentially contaminated materials encountered during construction will be handled and treated in accordance with applicable state and federal regulations.

Farmland Protection Policy Act Of 1981

The project will not involve the acquisition of farmland.

Air Quality

The project will not significantly impact air quality.

Highway Traffic Noise

The project is not a Type 1 project. Procedures for the abatement of highway traffic noise do not apply in accordance with 23 CFR 772.

Construction Noise

Construction noise has been considered and no impact is anticipated.

Night construction activities are not anticipated.

Floodplain Management

The project will not encroach into a floodplain. See attachments in Appendix E.

Wetland Protection

The project will include non-significant wetland encroachment. The provisions of Executive Order 11990 have been complied with. All recommendations of the wetland assessment will be included in the plans and specifications for the project.

See the attached Wetland Assessment including a Two Part Finding in Appendix F.

Section 404 of the Clean Water Act (CWA)

The project will not involve placement of fill into waters of the U.S. (defined in 33CFR 328).

Water Pollution / MPCA--NPDES

The construction activities will disturb 1 or more acre of land area (including clearing, grading, & excavation). A Phase II NPDES permit is required.

The permit will be submitted to Mn/DOT State Aid prior to project authorization, and a Stormwater Pollution Prevention Plan (SWPPP) will be included in the construction plan package.

The project will increase the existing impervious surface area and associated trail runoff. Runoff from the proposed trail will be routed through adjacent grassed swales and upland areas prior to reaching wetlands or Lake Superior.

Environmental Justice

The purpose of Executive Order 12898 is to identify, address, and avoid disproportionately high and adverse human health or environmental effects on minority and low income populations. The environmental justice/community impact analysis contained in the Duluth-Superior Metropolitan Interstate Council's FY 2019-2022 Transportation Improvement Program (TIP) for the Duluth Area highlights those transportation projects that could potentially have a negative impact on disenfranchised neighborhoods. The proposed project has not been identified as being located within high concentrations of minority or low-income populations (see label #12 on map in **Appendix H**). Therefore, there are no Environmental Justice concerns on this project.

State Environmental Review (MEQB)

The project consists of construction of a bicycle and pedestrian path within a combination of existing right-of way and City Park property.

The project has been determined to be an exemption category project in accordance with current Minnesota Rules, Part 4410.4600, Subp. 14.

Controversy

The project is not anticipated to be controversial.

Federal Action Determination Statement

Based on the results of the environmental study in accordance with 23 CFR 771.117, summarized herein, it is determined that the proposed project is a Class II Action (Categorical Exclusion). This action will have non-significant social, economic, or environmental impacts, and is anticipated to have no foreseeable change on the quality of the human environment.

AGENCY COORDINATION

DNR Natural Heritage and Nongame Research Program

See attached MnDNR response letter for a summary of features that may be adversely affected in Appendix D.

Railroad Company-No conflicts

Agency Permits or Agreements	REQ'D
USACE Section 404	No
Coast Guard	No
DNR--Water	No
DNR--Public Waters	No
MPCA--NPDES	Yes
MPCA--Section 401	No
Watershed District	No
Wetland Conservation Act / BSWR	No
Railroad	No
Other	No

MPCA-- NPDES Permit Status - to be submitted.

9. DESIGN STUDY

The project will be designed in accordance with the FHWA-MnDOT Stewardship Agreement. For this project, the following design standards are applicable.

8820.9995 Minimum Off-Road and Shared Use Path Standards

Minnesota Manual on Uniform Traffic Control Devices

Americans with Disabilities Act (ADA)

Mn/DOT Bikeway Facility Design Manual, March 2007.

AASHTO Guide for the Planning, Design, and Operation of Pedestrian Facilities, July 2004

Public Right of Way Access Guidance (PROWAG) as amended and adapted by the City of Duluth.

The project will be constructed in accordance with the current edition of the Minnesota Department of Transportation's "Standard Specifications for Construction", including all Supplemental Specifications.

BIKE PATH DATA

**Segment Termini: From: Brighton Beach Boulevard / Highway 61
to: Brighton Beach Boulevard / Congdon Boulevard**

Design Element	Existing Condition	Proposed Design	Required Design Standards
Bike Path / Trail Type	N/A	Off road-two way	
Path Width, ft	N/A	10 ft.	8 ft.
Path Surfacing	N/A	Bituminous	
Shoulder Width, ft	N/A	2 ft.	2 ft.
Shoulder Surfacing	N/A	turf	

Clear Zone, ft	N/A	2 ft.	2 ft.
Inslope, rise:run	N/A	1:3	1:2 max
Design Speed, mph	N/A	20 mph	20 mph
Maximum Grade, %	N/A	Less than 5%	8.3% max
Vertical Clearance, ft	N/A	10 ft.	10 ft.
Lead-In Guardrail or Fencing	N/A	N/A	
Distance from Roadway, ft	N/A	3-100 ft.	

10. Traffic During Construction

Traffic on Highway 61 and Congdon Boulevard will be minimally impacted with construction at the entrance and exit to park. The road through the park (Brighton Beach Boulevard) will be closed during construction of the trail.

11. Design Exceptions

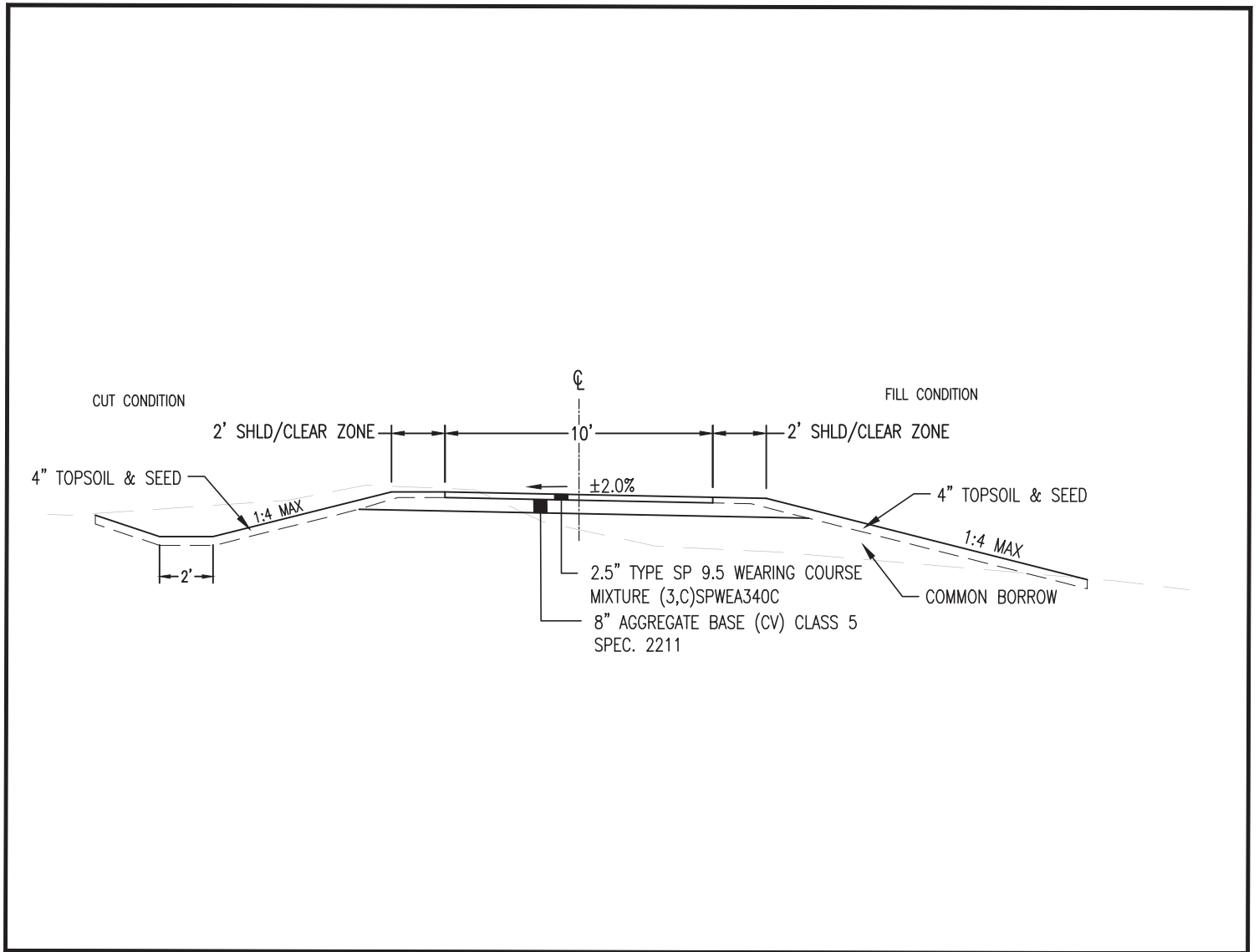
The proposed project meets State Aid Rules, there are no design exceptions required for this project.

12. Safety Enhancements

The project will separate pedestrians and bikers from vehicular traffic through park. This was the most common complaint and suggestion during public process.

APPENDIX A

Proposed Typical Section



TYPICAL SECTION
10' BITUMINOUS MULTI-USE TRAIL

APPENDIX B

Section 4(f) Letter

Section 4(f) Map



Parks & Recreation

Ground Floor
411 West First Street
Duluth, Minnesota 55802



218-730-4300



parks@duluthmn.gov

November 19, 2019

RE: Brighton Beach Trail
Lakewalk Extension
S.P. 118-090-024
City of Duluth/Section 4(f)
Impacts & Letter of Approval

Patrick Loomis, PE
City of Duluth, Project Manager
411 West First Street, Room 211
Duluth, MN 55802

Dear Mr. Loomis,

The City of Duluth is proposing to construct the final segment of the Lakewalk through Brighton Beach (Kitchi Gammi) Park. This project, when complete, will extend the existing Lakewalk to Congdon Blvd/North Shore Scenic Drive, and their bike lane facility. The project improvements are discussed in detail within the Brighton Beach Trail/Lakewalk Project Memorandum (PM).

As stated in the PM, the proposed project will require encroachment onto City of Duluth-owned Brighton Beach Park property established and maintained for active recreation, opens space, and water access. As Manager of the City of Duluth Parks and Recreation Division, I support the proposed trail alignment. In addition, support from the general public for the proposed Lakewalk trail extension was obtained at public meetings held in June and July of 2019. The City of Duluth has developed a trail alignment that effectively minimizes impacts to the property, and provides increased public access and safety.

As Park Manager, I believe the project is acceptable and consistent with the designed use of the Section 4(f) properties and that all possible planning to minimize harm has been accomplished in the location and design of the trail facility.

If you have any questions, please feel free to contact me at 218.730.4309 or jpeterson@duluthmn.gov.

Sincerely,

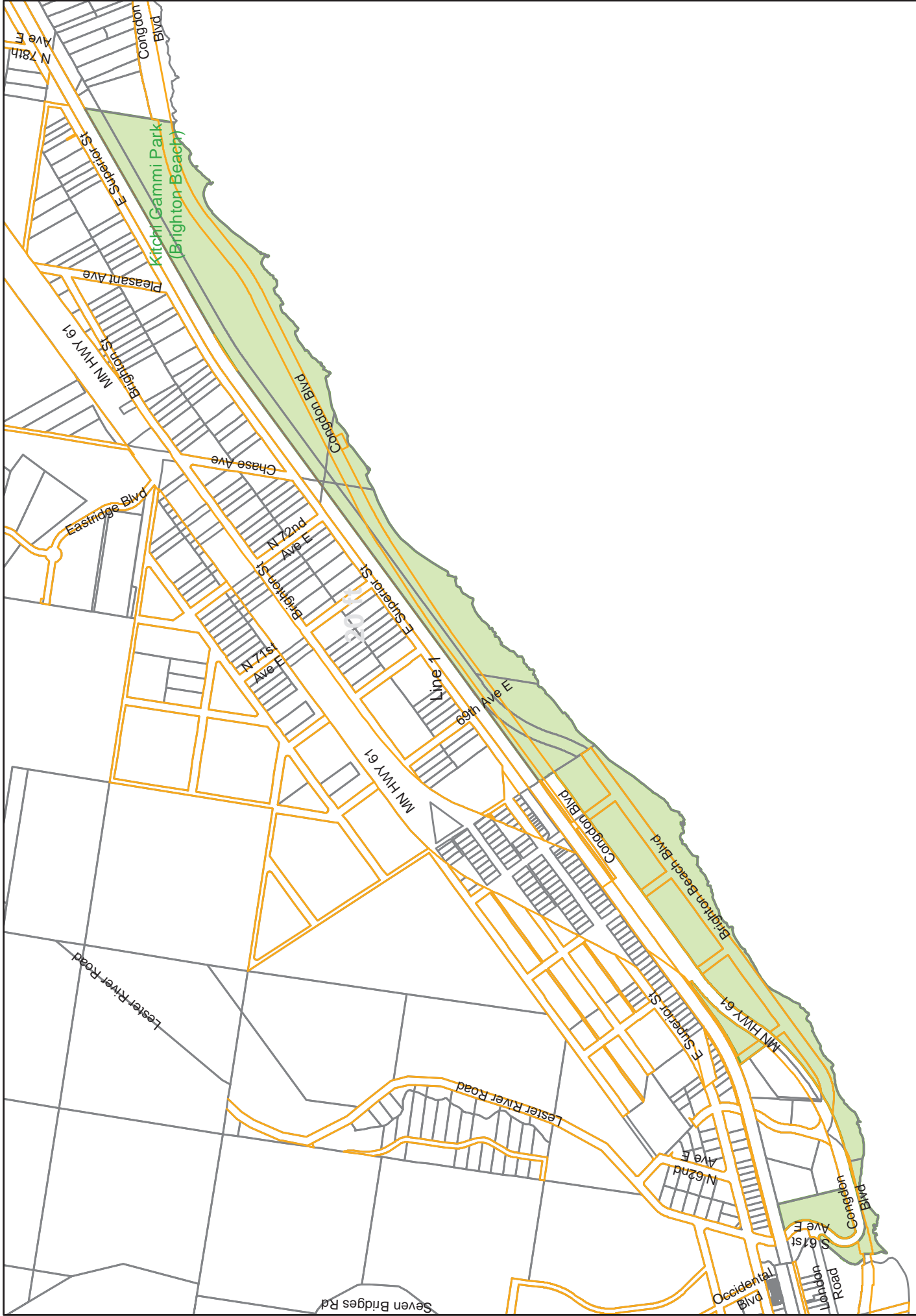
Jessica Peterson
Manager, Parks and Recreation



**Duluth Parks
& Recreation**

www.duluthmn.gov

The City of Duluth is an Equal Opportunity Employer.



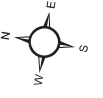
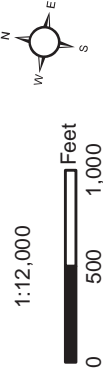
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used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

Section 4(F) Property



City of Duluth Section 4(F) Property

1:12,000



APPENDIX C

MnDOT Cultural Resources - Section 106 Correspondence

Sarah Beimers, Environmental Review Program Manager
State Historic Preservation Office Administration Building #203
50 Sherburne Ave. Saint Paul, MN 55155

March 18, 2020

Re: S.P. 118-090-024, Lakewalk Trail Extension, Duluth, St. Louis County
Township 50N, Range 13W, Section 4

Dear Ms. Beimers,

We have reviewed the above-referenced undertaking pursuant to our FHWA-delegated responsibilities for compliance with Section 306108 (formerly known as Section 106 of the National Historic Preservation Act [54 USC 300101 et. seq.] and its implementing regulations, 36 CFR 800, and as per the terms of the 2015 Section 106 Programmatic Agreement between the FHWA and the Minnesota State Historic Preservation Office (SHPO). MnDOT is not responsible for compliance with the Minnesota Historic Sites Act (MS 138.665-.666) since we are not funding or permitting the project, or for compliance with the Field Archaeology Act of Minnesota (MS 138.40) and the Private Cemeteries Act (MS 307.08) on this project, since MnDOT does not control the said lands (excepting a very minor strip on the edge of the TH 61 road); however, we did consult with the Minnesota Indian Affairs Council (MIAC) and the Office of State Archaeologist (OSA) on the behalf of the City.

The City of Duluth proposes to construct an extension of the Lakewalk Trail (a proposed 10-foot-wide pedestrian/bicycle trail), extending approximately 4400 linear feet from the intersection of TH 61/Congdon Boulevard and Brighton Beach Road, through Brighton Beach/Kitchi Gammi Park to the eastern intersection of Congdon Boulevard and Brighton Beach Road (see enclosed plans). The trail will cross multiple existing culverts/drainages (all installed since the 1960s or later), which will be replaced or extended. Some minor grading for drainage will occur. Also, the City is considering a new vehicular entrance to the park from the south and the removal of a portion of Brighton Beach Boulevard, along with improvements near the lakeshore as part of a revised 2019 "Mini Master Plan" available at <https://duluthmn.gov/media/8180/draft-2019-revised-brighton-beach-mmp-low-res.pdf>. While the future road realignment and park improvements are not part of this undertaking, our unit factored them into our assessment of potential indirect and cumulative effects.

CONSULTATION SUMMARY

Our unit consulted with the following tribal groups, as per 36 CFR 800 or existing agreement between FHWA and certain tribes: Bois Forte Band of Chippewa, Fond du Lac Band of Lake Superior Chippewa, Grand Portage Band of Lake Superior Chippewa, Santee Sioux Nation, Turtle Mountain Band of Chippewa, and Upper Sioux Community, in June 2019. We had no responses. In addition, consultation letters were sent to the Office of the State Archaeologist and the Minnesota Indian Affairs Council, requesting any information regarding sites not included in the SHPO and OSA databases. MIAC did not respond and OSA did not identify additional sites.

No specific Section 106 public meetings were held for this undertaking due to the relatively small scale nature of the trail project. The City of Duluth's Park Department, however, had multiple opportunities for public input on the Mini Master Plan, including an online survey and public comment period (a total of 31 comments received); an open house on June 3, 2019 (25 attendees) in which several alternatives were presented, including the final proposed layout; a Park and Recreation Commission public hearing with the preferred site plan June 12, 2019; another public comment period June 13-27, 2019 on the preferred plan; and Commission hearing July 10th and final adoption August 19, 2019. Overall the project was non-controversial and supported by the community due to the poor road conditions and issues it caused with the use of the park. The biggest public concern was over the potential of closing the park if the erosion and associated road damage was not address. See Master Mini Plan link above for details of the public involvement process.

AREA OF POTENTIAL EFFECT

As defined in 36 CFR 800.16, the area of potential effects is “the geographic area or areas within which an undertaking may directly or indirectly cause alterations in the character and use of a historic property, if any are present.” While the current FHWA-funded project is limited to construction of a 10-ft.-wide bicycle-pedestrian trail, the plan sheets for the trail project indicates that the City is proposing to establish a new vehicular connection between Brighton Beach road and TH 61/Congdon Boulevard. Also, the City’s Parks Department has developed a “Mini Master Plan” for Brighton Beach/Kitchi Gammi Park, which calls for many park improvements including: the Lakeview Trail extension project funded under this undertaking, the new vehicular entrance and parking area, a pedestrian trail looping off the Lakeview Trail extension, new picnic shelters, a restroom building, play area, viewing deck, beach/kayak landing, and shoreline stabilization (due to the extensive erosion in the park).

The purpose for all the proposed improvements stem from issues related to rising lake levels. As Lake Superior’s levels rise, the park’s infrastructure is experiencing cyclical damage and destruction, namely to Brighton Beach Boulevard. Through the studies conducted for the Mini Master Plan, the City determined that there were two courses of action for the future of the Kitchi Gammi Park beach area: move Brighton Beach Boulevard (which currently serves pedestrian, bike and vehicular traffic) to higher ground in order to keep the park open to vehicular traffic and separate the uses for safety reasons; or close the park to vehicular traffic and remove all of Brighton Beach Boulevard, since they are unable to maintain the road in its current location due to erosion caused by rising lake levels. The City considered but decided against installing extensive retaining wall systems and other infrastructure to address the erosion issue and keep the road where it is, since such infrastructure would detract from the scenic and natural qualities that characterize the park and shoreline. Further, since the park is well used and a key location where the public can directly access Lake Superior, it was decided that the park should not be closed and the natural shoreline should be maintained. Therefore, the relocation of the park road is essential in order for the park to remain in use. In addition to addressing the erosion issues to the road, the proposed new intersection between TH 61/Congdon Boulevard and Brighton Beach Road addresses the poor sightlines and traffic congestion at the current intersection caused by high volumes of vehicular, pedestrian, and bicycle traffic all seeking to access the Kitchi Gammi Park beach area.

The City currently has no funding to do the work beyond the trail covered under this current undertaking, and is exploring either funding the other improvements itself, or seeking State Park Road Account money from the DNR or funding through MnDOT for the intersection improvements (it has already obtained a MnDOT permit for the work).

With that background and project understanding in mind, our unit developed the project APE. Since the City’s plan is to continue to use the land as a park, with improved facilities for the public, the current and planned projects would not alter the use of the park (one of the determining factors in defining a project APE as per 36 CFR 800.16). The proposed current trail project and planned future park improvement projects could change the park’s character; therefore, we established the APE to incorporate the entirety of the Kitchi Gammi Site Plan, as shown on page 4 of the Brighton Beach Mini Master Plan. Since the park itself is a much larger property than the limits of the proposed current and future improvements, our unit decided we needed to evaluate the full extent of Brighton Beach/Kitchi Gammi Park, the Congdon Boulevard Segment of the potentially eligible Skyline Parkway, and portions of TH 61.

For archaeology, the survey area was limited to those locations within the Kitchi Gammi Site Plan that had potential to contain intact, significant archaeological sites, which were primarily the corridors for the potential future road and the currently proposed trail (see attached Phase I archaeology report Figure 4 Mapbook). Areas closer to the lakeshore have been subject to numerous episodes of erosion, as evidenced in the photos in the Mini Master Plan, and many areas consist of fill brought in throughout the decades.

IDENTIFICATION/EVALUATION OF HISTORIC PROPERTIES

Archaeology

Based on a search of the OSA Portal in May 2019 and the consultation listed above, there are no known archaeological sites within the APE. After reviewing MnModel, past construction logs, and review of aerial photos, CRU archaeologists determine the APE had potential to contain intact, significant archaeological sites and that archaeological testing was warranted. Merjent Inc. was contracted to perform a Phase I archaeological reconnaissance survey within the APE (see enclosed report). In summary, Merjent Inc. states there were no archaeological sites identified during the field investigations, and they recommend that no

additional survey is necessary. **MnDOT CRU concurs with this recommendation and our unit has determined that no further archaeological work is warranted.**

Architectural Properties/Above Ground Resources

Our unit reviewed our GIS layer of inventoried properties created from your office's inventory dated through April 1, 2019, and conducted a desktop review of resources of the APE (Google Earth, historic and current aerials, etc.). Based on that review, we determined there were five previously inventoried properties within or adjacent to the APE: Brighton Beach Tourist Camp (SL-DUL-2328), Brighton Beach Fireplace/Shelter (SL-DUL-3132), Brighton Beach Gazebo (SL-DUL-3125); Trunk Highway (TH) 61 (XX-ROD-006, the only property previously evaluated), and Congdon North Shore Boulevard (SL-XXX-001), which was recommended by Stark in 2011 as a contributing segment of the Skyline Parkway Historic District. However, his 2011 report on Skyline Parkway was a Phase I and not a full evaluation of the property. We also identified through the research for this project (conducted with the assistance of Andrea Pizza from Deco Cultural Services) that the Brighton Beach Tourist Camp is part of the larger Brighton Beach Park/Kitchi Gammi Park property, and not a stand-alone property, as was previously thought.

Brighton Beach Park/Kitchi Gammi Park

The park along the Congdon Boulevard segment of the Skyline Parkway/TH 61/Congdon Boulevard has a somewhat complicated history due to the park's expansion over time, the use of three different names concurrently throughout its history, and changing boundaries since its creation in 1922 (the road too has a complicated history—see discussion below). In 2011, Stark Preservation Planning identified the Brighton Beach Tourist Camp as being located near the lakeshore; however, the research conducted here demonstrates that it was located on the other side of TH 61/Congdon Boulevard. The discussion below accurately depicts the park's history and changes over time. Also, see Figure 1 for a map of the park.

History

After Samuel Snively was elected mayor of Duluth in April of 1921, one of his first proposals was to obtain the land that would become Brighton Beach for incorporation into the city's park system and the establishment of a tourist camp there (*The Duluth Herald* [*Herald*] 1921a, 1921b). Snively's vision, building on the work begun more than three decades earlier by the first president of the Duluth Board of Park Commissioners, William K. Rogers, was to construct a scenic parkway system to connect Duluth's major parks. Whereas Rogers, though, proposed a parkway system running from Miller Creek to the former corporate boundary at 40th Avenue East, Snively promoted a "'combined park and boulevard system' that included . . . extending and connecting the boulevards from Jay Cooke State Park along the brow of the hill all the way to Lester Park and Brighton Beach" (Nelson and Dierckins 2017:44, 28). He stated, "Our main boulevard passing through all of the parks will be the link connecting the state highway 1 with its easterly and westerly approaches to our city" (quoted in *Herald* 1922a). This boulevard came to be called the Skyline Parkway.

Citing the importance of retaining public views to water as part of his plan, Snively stated, "Every city should own the beaches that surround it . . . We have failed to get the land west of the Lester river, except for Lakeshore park, but this mistake must not be made to the east of the river. Here the shore line must belong to the city, and now is the time to get it" (*Herald* 1921a). Approval to purchase the approximately 65-acre, 1.5-mile stretch of shoreline east of the river, referred to as the Brighton Beach tract, initially failed due to a sudden rise in the price requested by the selling party. After the amount was reduced to \$46,200 in August of 1921 and a few other requirements addressed, the city council acquiesced and approved the purchase on September 28th. The purchase was made possible by the issuance of bonds payable in 1952.

In December of 1922, while mentioning Brighton Beach, the *Herald* indicated it was "about 53 acres of land" rather than 65 acres. Almost one year later, it noted that the City purchased "two parcels of land lying between the Lakeshore and Brighton Beach, [consisting of] 7.38 acres in Lot 1 and 7.92 acres in Lot 2 of Brighton Beach." By January of 1925, according to the *Herald*, Brighton Beach was up to 120 acres. It was also during this time that the Brighton Beach Tourist Camp was established on the north side of TH 61/Congdon Boulevard. In its earliest manifestation, the camp provided tent spaces around a central pavilion. By the late 1920s, a shower and toilet building were also installed.

No archival information could be located to document the extent of park development between 1925 and 1928 (research conducted at the Duluth Public Library and the archives and special collections at the University of Minnesota Kathryn A. Martin Library [Martin Library]). The 1928 annual report of the Duluth Park Department identified Kitchi Gammi Park (the name it had "unofficially" bestowed on the portion of Brighton Beach Park near the lakeshore), as one of the parks maintained that year which had not been maintained

in 1925, but says nothing about the intervening years. The report indicates work carried out there in 1928 was as follows:

The old road running through this area close to the lake shore, which has been almost impassable for years, was reconditioned by the installation of several corrugated iron culverts and by some widening, grading and graveling. A considerable portion of the area was cleared of brush and all rubbish was removed. It is hoped that the clearing will not only open up the vistas and picnic centers, but will tend to prevent in the future, the dumping of all kinds of disagreeable waste material.

The same report states that Kitchi Gammi Park comprised 80.86 acres at that time, with 69.68 acres classified as “natural scenic park – rough topography.”

In 1931, 16,000 coniferous seedlings donated by the Isaac Walton League were planted in Kitchi Gammi Park along the “upper” (north) side of Brighton Beach Road. Also in 1930 and 1931, the City constructed nine cabins in the tourist camp, which had previously supported only tent sites.

In March of 1938, the National Youth Administration completed construction of nine additional cabins in the tourist camp. In September of 1938, the *Herald* reported that funding for a two-year, \$1,500,000 WPA project to improve Duluth’s parks had been approved, one aspect of which was the “development of Kitchi Gammi park on the lakeshore east of the Brighton Beach tourist camp.” The specifics of this development are not noted in the article, but presumably included the fireplace shelter (SL-DUL-3132) present near the shoreline today (although one article identified the fireplace as being built by the “NYC (National Youth Corps) [*sic*]” rather than the WPA [Lewis 2015]).

A 1941 WPA publication describes Kitchi Gammi Park as being on both sides of TH 61 “between E. Lester Blvd (61st Ave. E.) and Lakewood Rd. (81st Ave. E.) [with] 153 acres of native trees and several species foreign to Minnesota, with excellent picnic sites along the lake.” This marks the maximum park boundaries—only six years later, the easternmost area was sold off and developed with private homes and cabins as part of the Lakewood division plat. The cabins in the tourist camp were removed in 1963 and four years later, the National Water Quality Laboratory, now an EPA research facility, was built on the site of the tourist camp; the parcel is no longer within the park boundaries. Today, the City of Duluth records the boundaries of Kitchi Gammi Park as extending from 61st Avenue E to approximately 0.6 mile west of Lakewood Road (see Figure 1).

Integrity

In addition to the elimination of two parcels from the park boundaries and the loss of the tourist camp, a significant feature of the park, the features and amenities within the lakeshore portion of the park have changed through time, resulting today in a temporal hodgepodge of elements. The fireplace was built in 1938. A historic map found by the City noted the location of the “Historic Bridle Trail Route” running through the park (see pink dashed line on pages 18-22 of Mini Master Plan) , which was apparently a foot and horse path through the park. No physical expression remains of the trail, since the area has experienced extensive episodes of erosion and placement of up to 5 ft. of fill. A system of paved and unpaved pull offs between Brighton Beach Road and the lakeshore has evolved throughout time. The area covered by the proposed Kitchi Gammi Site Plan proposal (see Page 4 of the Mini Master Plan) as well as further east on both Brighton Boulevard and Congdon Boulevard show an ever-evolving circulation system in each area, mainly consisting of a series of seemingly informal, gravel pull offs along both roads. Over time, these pull offs were consolidated, paved, and in the case of the area covered on page 4 of the Mini Master Plan, connected immediately adjacent to the lakeshore. The configurations seen today, however, were not fully in place until sometime in the 1950s. The western entrance to Brighton Beach Boulevard off TH 61/Congdon Boulevard was realigned in the late 1960s and the gabbro stones that line it and other portions of Brighton Beach Boulevard were installed at that time. A gazebo was erected sometime after 1972; and a modern playground equipment and a pavilion were built in the 1980s.

Determination of Eligibility

The Brighton Beach Park/Kitchi Gammi Park property is associated with tourism and city planning; and has significance in these areas under Criterion A from its inception in 1922 through 1963, when substantial changes were made to the park and its use with the elimination of the tourist camp amenities. Based on research conducted to date, there is no indication that there was any intentional landscape design for the park, making it not historically significant for its design under Criterion C. While the park has significance under Criterion A for tourism and city planning, it does not retain sufficient integrity to convey its association with the time period of 1922-1963 due to the removal of key elements, such as the tourist camp, the eastern portion

of the park, and the numerous changes in the lakeshore side off Brighton Beach Boulevard and along TH 61/Congdon Boulevard. These changes have diminished its ability to convey an early to mid-twentieth century park in regards to design, material, workmanship, feeling and association. The park retains good integrity of location and setting. It is therefore the determination of this unit that the Brighton Beach/Kitchi Gammi Park is not individually eligible for listing on the National Register of Historic Places.

Trunk Highway 61 (XX-ROD-005) and Congdon North Shore Boulevard Segment (SL-XXX-001) of Skyline Parkway

As with Brighton Beach Park/Kitchi Gammi Park/Tourist Camp, the roadways near the proposed project have a complicated history, with changing names/route designation and boundaries over time. Only a small portion of SL-XXX-001 and XX-ROD-006 are within the project APE, where the proposed Lakewalk Trail connects with the roadway. However, it is necessary to understand the significance and integrity of TH 61, the Congdon North Shore Boulevard Segment and the associated Brighton Beach Park/Kitchi Gammi Park as a potential contributing element in order to assess the project's effects.

In 2011, Stark Preservation Planning completed a Phase I inventory of the Skyline Parkway. In the report, he identifies segments of the parkway system and likely contributing elements. The report provides a historical context and a period of significance (1891-1940), and potential contributing elements. He further suggests ways to identify the contributing elements and boundaries of the different parkway segments.

1. The historic roadway right-of-way, where known, forms the minimal district boundaries.
2. Immediately adjacent properties or a broader setting may be included within the boundaries if the properties or area historically contribute to the recreational and scenic qualities that define the Skyline Parkway.
3. Portions or entirety of surrounding parks may be included within the district boundaries if the parkway forms an important and dominant feature of the park and if the establishment of the park and extant built features also date to the period of significance for the parkway.

Since the report was not a full evaluation and no formal determination of eligibility was made, our unit examined the report and performed a site assessment in 2019 in order to make a determination of eligibility. Further, since the time of the completion of this report, our unit's approach to evaluating roadways has changed. While a historic road's boundaries might be based on historic right-of-way, the Stark report does not provide sufficient information on how to assess a roadway's integrity. Through our study of other roads (mainly trunk highways), we now base roadway integrity assessment on factors such as the original versus the current width and material of the road surface and prism, the presence/absence and type of material for shoulders, and other features, such as the presence of turn lanes.

Stark identified the Congdon North Shore Boulevard Segment (SL-XXX-001) as a part of the larger Skyline Parkway System. The segment is a 12.8 mile-long stretch from South 61 Street East to the St. Louis County border. It is beyond the scale and scope of this undertaking to evaluate the entire parkway system, since no work is proposed to the boulevard itself (just connections along the edge of its right-of-way). While he noted that the interchange with the expressway altered approximately 700 feet of the original road, the Phase I effort did not include a detailed analysis of the integrity of the rest of the road. We therefore examined the history, significance and integrity of this segment.

Congdon Boulevard was built in the early 1920s as an 18-foot wide concrete-surfaced road with no shoulders as a part of the Skyline Parkway system. In the 1930s, it was incorporated into the state's Trunk Highway system and reclassified as Trunk Highway 61. The roadway was expanded in 1951-1952 to 24-feet with bituminous overlay with gravel shoulders (width not specified but likely 2 ft. each side). In the late 1950s and early 1960s, the Minnesota Highway Department built an expressway between Duluth and Two Harbors, which became Trunk Highway 61. This resulted in a modification to the original road alignment to incorporate the expansion into a four-lane expressway. The old highway north and east of the new expressway interchange was again called Congdon Boulevard, and repaved. During the 1951-1952 project, 16 small, pull-off waysides off TH 61/Congdon Boulevard between Duluth and Knife River were constructed by the Minnesota Department of Highways. Five of these are within the current boundaries of Kitchi Gammi Park. An interpretive marker pertaining to the Skyline Parkway was installed in the westernmost one, located approximately 300 feet east of the Lester River, in 1972. At the next wayside to the east, approximately 0.2 mile east of the Lester River, a tourist information building was constructed during the 1960s. In 1998, the gravel shoulders were paved (4 feet in width) (see Figure 2).

XX-ROD-006/TH 61 in this location was determined not eligible in 2017 under the context of Trunk Highways

(1921-1954). The roadway was determined to lack integrity from the 1921-1954 period of the Trunk Highway development (the four-lane expressway [XX-ROD-005] was determined eligible for the National Register; however, it is outside the APE for this undertaking).

In evaluating the integrity of the road in association with Skyline Parkway, the roadway between East 61 Street and Lakewood Boulevard has poor integrity. As described above, the road was widened and surfaced with a different material after the proposed period of significance for Skyline Parkway (1891-1940), altered to incorporate the expressway interchange, and had paved shoulders installed, all of which changed the material, design, workmanship, feeling and association of the road. The road's integrity of location and setting are good. In the same way the roadway does not have the integrity to convey its association with its time as a trunk highway from the early to mid-twentieth century, it also has compromised integrity to convey its association with the Skyline Parkway's period of significance (ending in 1940) when it was an 18-foot-wide concrete road with no shoulders.

Determination of Eligibility

Due to the lack of integrity for this portion of the Congdon North Shore Boulevard and the Brighton Beach Park/Kitchi Gammi Park as detailed above, it is the determination of this unit that both the Congdon North Shore Boulevard and the Brighton Beach Park/Kitchi Gammi Park are non-contributing elements to the Skyline Parkway.

Brighton Beach Fireplace/Shelter (SL-DUL-3132)

Because our unit has determined that Congdon North Shore Boulevard and the Brighton Beach Park/Kitchi Gammi Park/Tourist Camp do not retain sufficient integrity from the end of the period of significance for the Skyline Parkway (1940), there is no further consideration of if the Brighton Beach Fireplace/Shelter (SL-DUL-3132) is a contributing element.

The fireplace shelter was evaluated with reference to the registration requirements for social and recreational facilities within the National Register Multiple Property Documentation Form for Federal Relief Construction in Minnesota, 1933-1943 (MPDF). While the overall 1.5 million-dollar parks improvement project under which the shelter was likely constructed may have been particularly important to Duluth, taken individually, the shelter does not meet this registration requirement (3a). It is noted that while the fireplace shelter exhibits fine craftsmanship using indigenous stone, this quality is common to numerous federal relief-era buildings, structures, and objects in the Rustic style throughout the state; the shelter, while attractive, does not stand out as a representative of this style, even when only the regional or local level is considered (3b). It is possible that this fireplace shelter is a relatively unique type of structure for the federal relief era in Minnesota (3c). Rarity alone, however, is not sufficient to bestow significance on a property, and as the shelter does not constitute a particularly important federal relief project; stand out from an architectural or engineering standpoint; or appear to have played an identifiably significant role in Duluth's recreational history. Registration requirement 4 indicates that a building or structure constructed as part of a larger complex, such as a park, parkway, wayside, or zoo, may not be considered eligible unless the original landscape design and spatial and functional relationships remain intact. The park lack integrity of design from the 1933-1943 era, so any association between this building and a larger complex is lost. Therefore the fireplace does not meet Registration Requirement 4. Due to a lack of significance, the Brighton Beach Fireplace/Shelter (SL-DUL-3132) is not individually eligible for listing in the National Register.

Brighton Beach Gazebo (SL-DUL-3125)

Because our unit has determined that Congdon North Shore Boulevard and the Brighton Beach Park/Kitchi Gammi Park/Tourist Camp do not retain sufficient integrity from the end of the period of significance (1940), we further determine that the Brighton Beach Gazebo (SL-DUL-3125) is not a contributing element; and that it does not have exceptional significance (since it is less than 50 years old, having been installed sometime after 1972) on its own to warrant further investigation/evaluation for individual eligibility, especially considering the scale and scope of this undertaking.

Assessment of Effects

It is the finding of this unit that the project as proposed would have **No Adverse Effects** to any historic properties. The Congdon Boulevard Segments and associated Brighton Beach/Kitchi Gammi Park are non-contributing to the larger potentially eligible Skyline Parkway (which we are treating as eligible for the purposes of this review since it has not had a full Phase II evaluation). The portion of the park within the current trail project area and the future Kitchi Gammi Park Site Plan especially have poor integrity. The proposed trail and future site improvements will be placed in an area with compromised integrity from the 1891-1940 era,

and the proposed changes do not represent a significant change to the character of this small segment of a very large resource (Skyline Parkway). The proposed site improvements continues to provide vehicular access, parking, access to the beach and recreational use of the area, and continues the historical pattern of cyclical improvements to the amenities in this area. Without the proposed work, the end result will be the removal of the road and vehicular use of the park, which has been a key feature since its founding. When comparing options—closing the park to vehicular traffic versus very minor modifications to the design and circulation patterns in an area with marginal integrity from the early to mid-twentieth century—it is best for the resource as a whole to remain open to vehicular traffic and used in a similar manner as it has been throughout its history.

Our office will submit updated inventory forms on all the properties discussed in this letter, since our research has clarified their history and integrity within three (3) months of your response to this letter.

This letter also fulfills the City's obligations under the Field Archaeology Act (M.S. 138.40 Cooperation of State Agencies; Development Plans) and the Private Cemeteries Act (M.S. 307.08, Subd. 10). Since there are no properties listed on the State or National Register of Historic Places in the APE, and no known or suspected archaeological sites or burials, the City of Duluth has no further obligations under these acts unless there are any unanticipated discoveries during construction.

Sincerely,



Renée Hutter Barnes, Historian
Cultural Resources Unit Supervisor
renee.barnes@state.mn.us
651-366-4291



Kristen Zschomler, Historian, RPA-Registered Archaeologist
Cultural Resources Unit Manager
kristen.zschomler@state.mn.us
651-366-3633

cc: MnDOT CRU Project File
Patrick Loomis, City Of Duluth Project engineer (email)
Ben VanTassel, Duluth Heritage Preservation Commission (email)

April 16, 2020

Renee Hutter Barnes
Cultural Resources Unit
Office of Environmental Stewardship
MN Dept of Transportation, MS 620
395 John Ireland Blvd
St. Paul, MN 55155-1899

RE: SP 118-090-024; Lakewalk Trail Extension
Duluth, St. Louis County
SHPO Number: 2020-0917

Dear Ms. Hutter Barnes:

Thank you for initiating consultation on the above referenced project. Information received in our office on March 18, 2020 has been reviewed pursuant to the responsibilities given the State Historic Preservation Officer by the National Historic Preservation Act of 1966 and implementing federal regulations at 36 CFR 800, and per the terms of the Amended Programmatic Agreement (PA) executed among the Federal Highway Administration, the U.S. Army Corps of Engineers, the Advisory County on Historic Preservation, and the Minnesota State Historic Preservation Office.

Define Undertaking and Area of Potential Effects

As indicated in your March 18, 2020 letter, the City of Duluth is proposing to use FHWA funding to construct an extension (4400 linear feet) of the Lakewalk Trail from the intersection of TH 61/Congdon Boulevard and Brighton Beach Road, through Brighton Beach/Kitchi Gammi Park, to the eastern intersection of Congdon Boulevard and Brighton Beach Road. The proposed undertaking includes the construction of a 10 ft wide pedestrian/bike trail, replacement or extension of existing culverts, and some minor grading for drainage. As part of a revised 2019 "Mini Master Plan" for Brighton Beach/Kitchi Gammi Park, the City is also considering a new vehicular entrance to the park from the south, a new parking area, the removal of a portion of Brighton Beach Boulevard, construction of a new pedestrian loop trail off the Lakeview Trail extension, construction of new picnic shelters, construction of a new restroom building, play area, viewing deck, and beach/kayak landing, and shoreline stabilization. While these future improvements are not part of this federal undertaking, we understand that your agency has factored them into your assessment of effect for this project.

We have completed our review of the documentation provided in regards to your agency's determination of the area of potential effect (APE) for the Federal undertaking. We agree that this APE determination is generally appropriate to take into account the potential direct and indirect effects of the proposed undertaking as we currently understand it. As the project's scope of work is further defined, or if it is significantly altered from the current scope, additional consultation with our office may be necessary in order to revise the current APE.

MINNESOTA STATE HISTORIC PRESERVATION OFFICE

50 Sherburne Avenue ■ Administration Building 203 ■ Saint Paul, Minnesota 55155 ■ 651-201-3287 mn.gov/admin/shpo ■ mnshpo@state.mn.us

AN EQUAL OPPORTUNITY AND SERVICE PROVIDER

Identification of Historic Properties

Archaeological Resources

We have reviewed the Phase I archaeological survey report that was included with your March 18th submittal titled *Kitchi Gammi Park Trail, Phase I Archaeological Reconnaissance Survey, St. Louis County, Minnesota* (December 2019) as prepared by Merjent, Inc. No archaeological resources were identified within the Project APE as a result of the field investigations, and we concur with your agency's determination that no further archaeological work is warranted for the project as it is currently defined.

Architecture/History Properties

Your agency has identified six (6) previously recorded Architecture/History properties that are located within the APE for this project: **Brighton Beach Tourist Camp** (SL-DUL-2328), **Brighton Beach Fireplace/Shelter** (SL-DUL-3132), **Brighton Beach Gazebo** (SL-DUL-3125), **Trunk Highway 61** (XX-ROD-006), **Congdon North Shore Boulevard Segment of Skyline Parkway** (SL-XXX-001), and the **Skyline Parkway Historic District**.

Brighton Beach Park/Kitchi Gammi Park

Brighton Beach Park/Kitchi Gammi Park was initially created in 1922. The park has undergone numerous modifications including boundary changes since its creation. The Brighton Beach Tourist Camp was initially identified as being located near the lakeshore in Brighton Beach Park, however, further research has shown that it was actually located on the other side of TH 61/Congdon Boulevard. The Brighton Beach Tourist Camp was established in the early 1920s and consisted of tent spaces around a central pavilion. By the late 1920s, a shower and toilet building were installed. In 1930 and 1931, the City of Duluth built nine (9) cabins in the tourist camp. In 1938 the National Youth Administration built 9 additional cabins in the tourist camp. All the cabins were removed in 1963 and the National Quality Laboratory, now an Environmental Protection Agency (EPA) research facility, was built on the site of the tourist camp and the parcel is no longer within the park boundaries.

In addition to the elimination of two parcels from the park boundaries and the loss of the tourist camp, a lot of the features and other amenities within the lakeshore portion of the park have changed over time. The park shows an ever-evolving circulation system of informal pull-offs and paved and unpaved trails and the configurations as seen today, were not fully in-place until sometime in the 1950s. The western entrance to Brighton Beach Boulevard off TH 61/Congdon Boulevard was realigned in the late 1960s and the gabbro stones that line it and other portions of Brighton Beach Boulevard were installed at that time. A gazebo was erected sometime after 1972 and modern playground equipment and a pavilion were added in the 1980s.

Brighton Beach Park/Kitchi Gammi Park is associated with tourism and city planning and has significance in these areas under National Register Criterion A from its inception in 1922 through 1963, when substantial changes were made to the park and its use, especially with the elimination of the tourist camp amenities. There is no indication that there was any intentional landscape design for the park and there does not appear to be significance for its design under Criterion C. While the park does have significance under Criterion A for tourism and city planning, it does not retain sufficient integrity to convey its association with the time period of 1922-1963 due to the removal of key elements, such as the tourist camp, the eastern portion of the park, and the numerous changes in the lakeshore side off Brighton Beach Boulevard and along TH 61/Congdon Boulevard. These changes have diminished the park's ability to convey an early to mid-twentieth century park in regards to design, material, workmanship, feeling, and association. Therefore, we concur with your agency's determination that Brighton Beach Park/Kitchi Gammi Park is **not individually eligible** for listing in the National Register of Historic Places (NRHP).

Trunk Highway 61 and Congdon North Shore Boulevard Segment of Skyline Parkway

Although only a small portion of Trunk Highway 61 and Congdon North Shore Boulevard are located within the project APE, an understanding of the significance and integrity of these roadways, as well as the associated Brighton Beach Park/Kitchi Gammi Park, is necessary in order to assess the project's effects on these properties.

The Congdon North Shore Boulevard Segment of Skyline Parkway is 12.8 miles long and stretches from South 61 Street East to the St. Louis County border. The **Skyline Parkway Historic District** as a whole is potentially eligible for listing in the NRHP. Although this property has not undergone a formal Phase II evaluation, we agree to treat this property as eligible for listing in the NRHP for the purposes of this review. Congdon Boulevard was built in the early 1920s as an 18-foot- wide concrete-surface road with no shoulders and was built as part of the Skyline Parkway system. In the 1930s it was incorporated in the state's trunk highway system and reclassified as Trunk Highway 61. The original roadway was expanded in 1951-1952 to 24 feet with bituminous overlay and gravel shoulders. These shoulders were later paved in 1988. In the late 1950s and early 1960s the Minnesota Highway Department built an expressway between Duluth and the Two Harbors, which became the new Trunk Highway 61. This resulted in a modification to the original road alignment to incorporate the expansion into a four-lane expressway. Trunk Highway 61 in this location was determined not eligible in 2017 under the context of Trunk Highways (1921-1954). The roadway was determined to lack integrity from the 1921-1954 period of the Trunk Highway development. The Trunk Highway 61 expressway was determined eligible for the NRHP, but it is located outside the APE for this undertaking.

The old highway north and east of the new expressway interchange was again called Congdon Boulevard and repaved. According to your letter, during the 1951-1952 roadway project, sixteen (16) small pull-off waysides off TH 61/Congdon Boulevard were constructed between Duluth and Knife River and five (5) of these waysides are located within the current boundaries of Kitchi Gammi Park and the APE for this project.

The stretch of Congdon North Shore Boulevard from 61 Street East to Lakewood Boulevard (north of the project area) has poor integrity. The road was widened and surfaced with a different material in 1951-1952, after the proposed period of significance for Skyline Parkway (1891-1940). The roadway was also altered to incorporate the expressway interchange and had paved shoulders installed, all of which changed the material, design, workmanship, feeling and association of the road. In the same way the roadway does not have the integrity to convey its association with its time as a trunk highway from the early to mid-twentieth century, it also has compromised integrity to convey its associated with the Skyline Parkway's period of significance (ending in 1940) when it was an 18 foot wide concrete road with no shoulders. Therefore, due to the lack of integrity for Congdon North Shore Boulevard, and the Brighton Beach/Kitchi Gammi Park as detailed above, we concur with your agency's determination that Congdon North Shore Boulevard and the Brighton Beach/Kitchi Gammi Park are **non-contributing** elements to Skyline Parkway Historic District.

Brighton Beach Fireplace/Shelter

Because the Congdon North Shore Boulevard Segment of Skyline Parkway and the Brighton Beach /Kitchi Gammi Park/Tourist Camp do not retain sufficient integrity from the end of the period of significance for the Skyline Parkway (1940), we concur with your agency's determination that the Brighton Beach Fireplace/Shelter is also a **non-contributing** element to the Skyline Parkway Historic District.

This property was also evaluated under the registration requirements for social and recreational facility within the National Register Multiple Property Documentation Form for Federal Relief Construction in Minnesota, 1933-1943. We concur with your agency's determination that, due to lack of significance, the Brighton Beach Fireplace/Shelter is **not individually eligible** for listing in the NRHP.

Brighton Beach Gazebo

Because the Congdon North Shore Boulevard Segment of Skyline Parkway and the Brighton Beach /Kitchi Gammi Park/Tourist Camp do not retain sufficient integrity from the end of the period of significance for the Skyline Parkway (1940), we concur with your determination that the Brighton Beach Gazebo is also a **non-contributing** element to the Skyline Parkway Historic District. We also agree that this property does not have exceptional significance on its own to warrant further investigation/evaluation for individual eligibility. The property is less than 50 years old and was installed sometime after 1972.

We look forward to receiving the updated/new inventory forms for the above properties.

Assessment of Effect

Based on information that is available to us at this time, we concur with your agency's finding that the project, as currently proposed, will have **no adverse effect** on the Skyline Parkway Historic District. The Congdon North Shore Boulevard Segment of the Skyline Parkway and associated Brighton Beach Park/Kitchi Gammi Park, including the Brighton Beach Fireplace/Shelter and Brighton Beach Gazebo, are non-contributing elements to the larger potentially eligible Skyline Parkway Historic District.

Consulting Parties

We understand that your agency has consulted with Native American tribes who may have an ancestral interest in this area of the state, as well as the Office of the State Archaeologist and the Minnesota Indian Affairs Council and have had no response from these parties. You also reference the City of Duluth's public outreach on the Mini Master Plan for Brighton Beach/Kitchi Gammi Park which included an online survey and public comment period, an open house in June 2019, another public comment period on the preferred plan, and the Park and Recreation Commission's public hearing and final adoption of the plan in August 2019. Your letter indicates that the plan was non-controversial and was supported by the community and that the biggest concern was over the potential closing of the park if the erosion and associated road damage was not addressed. Although none of the properties are designated as local landmarks, we assume, as per Stipulation 3.A.iii of the General PA that your agency has consulted with the City of Duluth's Heritage Preservation Commission (HPC) regarding the proposed undertaking and that the HPC expressed no concerns regarding identification of historic properties and assessment of effects. If, subsequent to this review, the City of Duluth or your agency receive any concerns or disagreement with agency efforts to identify historic properties and/or the assessment of adverse effect, your agency will need to reopen consultation with our office.

Implementation of the undertaking in accordance with this finding, as documented, fulfills your agency's responsibilities under Section 106. If the project is not constructed as proposed, including, but not limited to, a situation where design changes to the currently proposed project diverts substantially from what was presented at the time of this review, then your agency will need to reopen Section 106 consultation with our office pursuant to 36 CFR 800.5(d)(1).

Please feel free to contact me at (651) 201-3290 or sarah.beimers@state.mn.us if you have any questions regarding our review of this project.

Sincerely,



Sarah J. Beimers
Environmental Review Program Manager

APPENDIX D

MnDOT OES Threatened & Endangered Species Letter and MNDNR Natural
Heritage and Non-Game Research Program Letter

October 17, 2019

U.S. Fish and Wildlife Service
Ecological Services Field Office
4101 American Boulevard East
Bloomington, MN 55425

S.P. 118-090-024

Duluth, St. Louis County, Minnesota

Notification of Determination – May affect, not likely to adversely affect – Northern long-eared bat (*Myotis septentrionalis*)

No Effect Determination – Canada lynx (*Lynx canadensis*) and designated Critical Habitat

No Effect Determination – Gray wolf (*Canis lupus*)

No Effect Determination – Piping plover (*Charadrius melodus*)

No Effect Determination – Rufa red knot (*Calidris canutus rufa*)

Project Description: This project proposes to construct an approximately 4400' extension to the Lakewalk trail in Duluth, Minnesota from TH 61/Brighton Beach Road through Brighton Beach to Congdon Boulevard. Associated activities include replacing, upgrading, or extending multiple existing culverts and drainage features along the proposed extension, as well as some minor grading for drainage. Less than one acre of tree removal is proposed, with removal to occur during the winter (November 1 – March 31, inclusive). No bridge work is proposed.



Action Area identified for the proposed project.

Conservation Measures:

Required Avoidance and Minimization Measures (AMMs) - Northern long-eared bat:

- **General AMM 1:** Ensure all operators, employees, and contractors working in areas of known or presumed bat habitat are aware of all FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable AMMs. *Notify contractor(s) during the pre-construction meeting. Bat sightings (including sick, injured, and/or dead bats) on the project must be reported to OES wildlife ecologist (651-366-3605).*
- **Tree Removal AMM 2:** Restrict all tree clearing activities to when NLEB are not likely to be present. *Winter tree clearing required – tree clearing allowed November 1 to March 31, inclusive.*
- **Tree Removal AMM 3:** Tree removal must be limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits).
- **Tree Removal AMM 4:** Tree removal must not remove documented NLEB roosts, or trees within 0.25 miles of roosts; or documented foraging habitat any time of the year.

Additional Conservation Measures:

- If used, erosion control blanket should be limited to 'bio-netting' or 'natural netting' types, and specifically not products containing plastic mesh netting or other plastic components. These are Category 3N or 4N in the 2016 & 2018 MnDOT Standards Specifications for Construction. Be aware that hydro-mulch products may contain small plastic fibers to aid in its matrix strength. These loose fibers could potentially re-suspend and make their way into Public Waters impacting protected aquatic species (e.g., mussels, fishes).
- Revegetation of disturbed soils must follow D1 Vegetation Establishment Recommendations (<http://www.dot.state.mn.us/environment/erosion/vegetation.html>), and use native mixes in areas that are not proposed for mowed turf grass. Include mowing and weed spraying as indicated in the District Vegetation Establishment Recommendations. For additional information, visit: <http://www.dot.state.mn.us/environment/erosion/vegetation.html>.

Species List for the Project Action Area

A list of federally threatened, endangered, proposed and candidate species, and designated and proposed critical habitat that overlaps with the action area, was requested via the Information for Planning and Consultation (IPaC) web application maintained by the U.S. Fish and Wildlife Service (requested October 2019). Based on this list, the project is within the range of the following:

Species	Status	Habitat
Northern long-eared bat <i>Myotis septentrionalis</i>	Threatened	Hibernates in caves and mines - swarming in surrounding wooded areas in autumn. Roosts and forages in upland forests during spring and summer.
Canada lynx <i>Lynx canadensis</i>	Threatened & Critical Habitat	Northern forest
Gray wolf <i>Canis lupus</i>	Threatened	Northern forest
Piping plover <i>Charadrius melodus</i>	Endangered	Sandy beaches, islands
Rufa red knot <i>Calidris canutus rufa</i>	Threatened	Coastal areas along Lake Superior

MnDOT consults the Minnesota Department of Natural Resources Natural Heritage Information System (Copyright 2019 State of Minnesota, Department of Natural Resources), and other resources as available, to determine if proposed projects may affect listed species.

Endangered Species Act – Section 7 Consultation

Section 7 of Endangered Species Act of 1973, as amended (Act), requires each Federal agency to review any action that it funds, authorizes or carries out to determine whether it may affect threatened, endangered, proposed species or listed critical habitat. Federal agencies (or their designated representatives) must consult with the U.S. Fish and Wildlife Service (Service) if any such effects may occur as a result of their actions. Consultation with the Service is not necessary if the proposed action will not directly or indirectly affect listed species or critical habitat. If a federal agency finds that an action will have no effect on listed species or critical habitat, it should maintain a written record of that finding that includes the supporting rationale.

Notice of Determination

Northern long-eared bat – May affect, not likely to adversely affect

No documented NLEB hibernacula and/or roost trees are documented within the project Action Area (https://files.dnr.state.mn.us/eco/ereview/minnesota_nleb_township_list_and_map.pdf).

This project review relies on the USFWS Programmatic Biological Opinion for FHWA, FRA, FTA Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C 1531 et seq.). The review was completed using the U.S. Fish and Wildlife Service's Information for Planning and Consultation (IPaC) system (Consultation Code: 03E19000-2020-I-0014). The U.S. Fish and Wildlife Service's concurrence verification letter is attached (Attachment 1).

No Effect Determinations

No Effect Determination – Canada lynx (*Lynx canadensis*) and designated Critical Habitat

No Effect Determination – Gray wolf (*Canis lupus*)

No Effect Determination – Piping plover (*Charadrius melodus*)

No Effect Determination – Rufa red knot (*Calidris canutus rufa*)

Canada lynx and designated Critical Habitat – *No effect determination.*

Tree clearing is limited to less than one acre immediately adjacent to existing roads. Suitable habitat is not anticipated to be impacted by the proposed project. Critical Habitat is not expected to be destroyed or adversely modified. **Therefore, MnDOT on behalf of the FHWA has made a determination of no effect for this species.**

Gray wolf – *No effect determination.*

No documented occurrences for this species exist within the Action Area. Tree clearing is limited to less than one acre immediately adjacent to existing roads. Suitable habitat is not anticipated to be impacted by the proposed project. **Therefore, MnDOT on behalf of the FHWA has made a determination of no effect for this species.**

Piping plover and rufa red knot – *No effect determination.*

No documented occurrences for this species exist within the Action Area. Suitable habitat is not anticipated to be impacted by the proposed project. **Therefore, MnDOT on behalf of the FHWA has made a determination of no effect for this species.**

Please contact me if there are questions or concerns.

Thank you,



Digitally signed by Christopher E Smith

Date: 2019.10.17 16:52:33 -05'00'

Christopher E. Smith, M.Sc., C.W.B.®

Wildlife Ecologist | Protected Species Program Coordinator

Minnesota Department of Transportation

Office of Environmental Stewardship

395 John Ireland Blvd., M.S. 620

St. Paul, Minnesota 55155

O: 651-366-3605



United States Department of the Interior

FISH AND WILDLIFE SERVICE

Minnesota-Wisconsin Ecological Services Field Office

4101 American Blvd E

Bloomington, MN 55425-1665

Phone: (952) 252-0092 Fax: (952) 646-2873

<http://www.fws.gov/midwest/Endangered/section7/s7process/step1.html>



In Reply Refer To:

October 17, 2019

Consultation Code: 03E19000-2020-I-0014

Event Code: 03E19000-2020-E-00354

Project Name: SP 118-090-024 Duluth Lakewalk Extension

Subject: Concurrence verification letter for the 'SP 118-090-024 Duluth Lakewalk Extension' project under the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

To whom it may concern:

The U.S. Fish and Wildlife Service (Service) has received your request dated to verify that the **SP 118-090-024 Duluth Lakewalk Extension** (Proposed Action) may rely on the concurrence provided in the February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat (PBO) to satisfy requirements under Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended; 16 U.S.C 1531 *et seq.*).

Based on the information you provided (Project Description shown below), you have determined that the Proposed Action is within the scope and adheres to the criteria of the PBO, including the adoption of applicable avoidance and minimization measures, may affect, but is not likely to adversely affect (NLAA) the endangered Indiana bat (*Myotis sodalis*) and/or the threatened Northern long-eared bat (*Myotis septentrionalis*).

The Service has 14 calendar days to notify the lead Federal action agency or designated non-federal representative if we determine that the Proposed Action does not meet the criteria for a NLAA determination under the PBO. If we do not notify the lead Federal action agency or designated non-federal representative within that timeframe, you may proceed with the Proposed Action under the terms of the NLAA concurrence provided in the PBO. This verification period allows Service Field Offices to apply local knowledge to implementation of the PBO, as we may identify a small subset of actions having impacts that were unanticipated. In such instances, Service Field Offices may request additional information that is necessary to verify inclusion of the proposed action under the PBO.

For Proposed Actions that include bridge/structure removal, replacement, and/or maintenance activities: If your initial bridge/structure assessments failed to detect Indiana bats, but you later detect bats during construction, please submit the Post Assessment Discovery of Bats at Bridge/Structure Form (User Guide Appendix E) to this Service Office. In these instances, potential incidental take of Indiana bats may be exempted provided that the take is reported to the Service.

If the Proposed Action is modified, or new information reveals that it may affect the Indiana bat and/or Northern long-eared bat in a manner or to an extent not considered in the PBO, further review to conclude the requirements of ESA Section 7(a)(2) may be required. If the Proposed Action may affect any other federally-listed or proposed species, and/or any designated critical habitat, additional consultation is required. If the proposed action has the potential to take bald or golden eagles, additional coordination with the Service under the Bald and Golden Eagle Protection Act may also be required. In either of these circumstances, please contact this Service Office.

The following species may occur in your project area and **are not** covered by this determination:

- Canada Lynx, *Lynx canadensis* (Threatened)
 - Gray Wolf, *Canis lupus* (Threatened)
 - Piping Plover, *Charadrius melodus* (Endangered)
 - Red Knot, *Calidris canutus rufa* (Threatened)
-

Project Description

The following project name and description was collected in IPaC as part of the endangered species review process.

Name

SP 118-090-024 Duluth Lakewalk Extension

Description

This project proposes to construct an approximately 4400' extension to the Lakewalk trail in Duluth, Minnesota from TH 61/Brighton Beach Road through Brighton Beach to Congdon Boulevard. Associated activities include replacing, upgrading, or extending multiple existing culverts and drainage features along the proposed extension, as well as some minor grading for drainage. Less than one acre of tree removal is proposed, with removal to occur during the winter (November 1 – March 31, inclusive). No bridge work is proposed.

Determination Key Result

Based on your answers provided, this project(s) may affect, but is not likely to adversely affect the endangered Indiana bat and/or the threatened Northern long-eared bat. Therefore, consultation with the U.S. Fish and Wildlife Service pursuant to Section 7(a)(2) of the Endangered Species Act of 1973 (ESA) (87 Stat. 884, as amended 16 U.S.C. 1531 *et seq.*) is required. However, also based on your answers provided, this project may rely on the concurrence provided in the revised February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects within the Range of the Indiana Bat and Northern Long-eared Bat.

Qualification Interview

1. Is the project within the range of the Indiana bat^[1]?

[1] See [Indiana bat species profile](#)

Automatically answered

No

2. Is the project within the range of the Northern long-eared bat^[1]?

[1] See [Northern long-eared bat species profile](#)

Automatically answered

Yes

3. Which Federal Agency is the lead for the action?

A) Federal Highway Administration (FHWA)

4. Are *all* project activities limited to non-construction^[1] activities only? (examples of non-construction activities include: bridge/abandoned structure assessments, surveys, planning and technical studies, property inspections, and property sales)

[1] Construction refers to activities involving ground disturbance, percussive noise, and/or lighting.

No

5. Does the project include *any* activities that are **greater than** 300 feet from existing road/rail surfaces^[1]?

[1] Road surface is defined as the actively used [e.g. motorized vehicles] driving surface and shoulders [may be pavement, gravel, etc.] and rail surface is defined as the edge of the actively used rail ballast.

No

6. Does the project include *any* activities **within** 0.5 miles of a known Indiana bat and/or NLEB hibernaculum^[1]?

[1] For the purpose of this consultation, a hibernaculum is a site, most often a cave or mine, where bats hibernate during the winter (see suitable habitat), but could also include bridges and structures if bats are found to be hibernating there during the winter.

No

7. Is the project located **within** a karst area?

No

8. Is there *any* suitable^[1] summer habitat for Indiana Bat or NLEB **within** the project action area^[2]? (includes any trees suitable for maternity, roosting, foraging, or travelling habitat)

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] The action area is defined as all areas to be affected directly or indirectly by the Federal action and not merely the immediate area involved in the action (50 CFR Section 402.02). Further clarification is provided by the [national consultation FAQs](#).

Yes

9. Will the project remove *any* suitable summer habitat^[1] and/or remove/trim any existing trees **within** suitable summer habitat?

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

Yes

10. Will the project clear more than 20 acres of suitable habitat per 5-mile section of road/rail?

No

11. Have presence/probable absence (P/A) summer surveys^{[1][2]} been conducted^{[3][4]} **within** the suitable habitat located within your project action area?

[1] See the Service's [summer survey guidance](#) for our current definitions of suitable habitat.

[2] Presence/probable absence summer surveys conducted within the fall swarming/spring emergence home range of a documented Indiana bat hibernaculum (contact local Service Field Office for appropriate distance from hibernacula) that result in a negative finding requires additional consultation with the local Service Field Office to determine if clearing of forested habitat is appropriate and/or if seasonal clearing restrictions are needed to avoid and minimize potential adverse effects on fall swarming and spring emerging Indiana bats.

[3] For projects within the range of either the Indiana bat or NLEB in which suitable habitat is present, and no bat surveys have been conducted, the transportation agency will assume presence of the appropriate species. This assumption of presence should be based upon the presence of suitable habitat and the capability of bats to occupy it because of their mobility.

[4] Negative presence/probable absence survey results obtained using the [summer survey guidance](#) are valid for a minimum of two years from the completion of the survey unless new information (e.g., other nearby surveys) suggest otherwise.

No

12. Does the project include activities **within documented NLEB habitat**^{[1][2]}?

[1] Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry biangulation/triangulation to estimate foraging areas; or (3) foraging areas with repeated use documented using acoustics. Documented roosting habitat is also considered as suitable summer habitat within 0.25 miles of documented roosts.)

[2] For the purposes of this key, we are considering documented corridors as that where Indiana bats and/or NLEB have actually been captured and tracked to using (1) radio telemetry; or (2) treed corridors located directly between documented roosting and foraging habitat.

No

13. Will the removal or trimming of habitat or trees occur **within** suitable but **undocumented NLEB** roosting/foraging habitat or travel corridors?

Yes

14. What time of year will the removal or trimming of habitat or trees **within** suitable but **undocumented NLEB** roosting/foraging habitat or travel corridors occur?

B) During the inactive season

15. Will *any* tree trimming or removal occur **within** 100 feet of existing road/rail surfaces?
Yes
16. Will the tree removal alter *any* **documented** Indiana bat or NLEB roosts and/or alter any surrounding summer habitat **within** 0.25 mile of a documented roost?
No
17. Will *any* tree trimming or removal occur **between** 100-300 feet of existing road/rail surfaces?
No
18. Are *all* trees that are being removed clearly demarcated?
Yes
19. Will the removal of habitat or the removal/trimming of trees include installing new or replacing existing **permanent** lighting?
No
20. Does the project include wetland or stream protection activities associated with compensatory wetland mitigation?
No
21. Does the project include slash pile burning?
No
22. Does the project include *any* bridge removal, replacement, and/or maintenance activities (e.g., any bridge repair, retrofit, maintenance, and/or rehabilitation work)?
No
23. Does the project include the removal, replacement, and/or maintenance of *any* structure other than a bridge? (e.g., rest areas, offices, sheds, outbuildings, barns, parking garages, etc.)
No
24. Will the project involve the use of **temporary** lighting *during* the active season?
No
25. Will the project install new or replace existing **permanent** lighting?
No
-

26. Does the project include percussives or other activities (**not including tree removal/trimming or bridge/structure work**) that will increase noise levels above existing traffic/background levels?

Yes

27. Will the activities that use percussives (**not including tree removal/trimming or bridge/structure work**) and/or increase noise levels above existing traffic/background levels be conducted *during* the active season^[1]?

[1] Coordinate with the local Service Field Office for appropriate dates.

Yes

28. Will *any* activities that use percussives (**not including tree removal/trimming or bridge/structure work**) and/or increase noise levels above existing traffic/background levels be conducted *during* the inactive season^[1]?

[1] Coordinate with the local Service Field Office for appropriate dates.

Yes

29. Are *all* project activities that are **not associated with** habitat removal, tree removal/trimming, bridge and/or structure activities, temporary or permanent lighting, or use of percussives, limited to actions that DO NOT cause any additional stressors to the bat species?

Examples: lining roadways, unlighted signage , rail road crossing signals, signal lighting, and minor road repair such as asphalt fill of potholes, etc.

Yes

30. Will the project raise the road profile **above the tree canopy**?

No

31. Are the project activities that use percussives (not including tree removal/trimming or bridge/structure work) consistent with a Not Likely to Adversely Affect determination in this key?

Automatically answered

Yes, because the activities are within 300 feet of the existing road/rail surface, greater than 0.5 miles from a hibernacula, conducted during the active season, and are not within documented habitat

32. Are the project activities that use percussives (not including tree removal/trimming or bridge/structure work) and/or increase noise levels above existing traffic/background levels consistent with a No Effect determination in this key?

Automatically answered

Yes, because the activities are within 300 feet of the existing road/rail surface, greater than 0.5 miles from a hibernacula, and conducted during the inactive season

33. Is the habitat removal portion of this project consistent with a Not Likely to Adversely Affect determination in this key?

Automatically answered

Yes, because the tree removal/trimming that occurs outside of the active season occurs greater than 0.5 miles from the nearest hibernaculum, is less than 100 feet from the existing road/rail surface, includes clear demarcation of the trees that are to be removed, and does not alter documented roosts and/or surrounding summer habitat within 0.25 miles of a documented roost

34. **General AMM 1**

Will the project ensure *all* operators, employees, and contractors working in areas of known or presumed bat habitat are aware of *all* FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable Avoidance and Minimization Measures?

Yes

35. **Tree Removal AMM 1**

Can *all* phases/aspects of the project (e.g., temporary work areas, alignments) be modified, to the extent practicable, to avoid tree removal^[1] in excess of what is required to implement the project safely?

Note: Tree Removal AMM 1 is a minimization measure, the full implementation of which may not always be practicable. Projects may still be NLAA as long as Tree Removal AMMs 2, 3, and 4 are implemented and LAA as long as Tree Removal AMMs 3, 5, 6, and 7 are implemented.

[1] The word “trees” as used in the AMMs refers to trees that are suitable habitat for each species within their range. See the USFWS’ current summer survey guidance for our latest definitions of suitable habitat.

No

36. Tree Removal AMM 2

Can *all* tree removal activities be restricted to when Northern long-eared bats are not likely to be present (e.g., the inactive season)^[1]?

[1] Coordinate with the local Service Field Office for appropriate dates.

Automatically answered

Yes

37. Tree Removal AMM 3

Can tree removal be limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits)?

Yes

38. Tree Removal AMM 4

Can the project avoid cutting down/removal of *all* (1) **documented**^[1] Indiana bat or NLEB roosts^[2] (that are still suitable for roosting), (2) trees **within** 0.25 miles of roosts, and (3) documented foraging habitat any time of year?

[1] The word documented means habitat where bats have actually been captured and/or tracked.

[2] Documented roosting or foraging habitat – for the purposes of this consultation, we are considering documented habitat as that where Indiana bats and/or NLEB have actually been captured and tracked using (1) radio telemetry to roosts; (2) radio telemetry triangulation/triangulation to estimate foraging areas; or (3) foraging areas with repeated use documented using acoustics. Documented roosting habitat is also considered as suitable summer habitat within 0.25 miles of documented roosts.)

Yes

39. Lighting AMM 1

Will *all* **temporary** lighting used during the removal of suitable habitat and/or the removal/trimming of trees within suitable habitat be directed away from suitable habitat during the active season?

Yes

Project Questionnaire

1. Have you made a No Effect determination for *all* other species indicated on the FWS IPaC generated species list?

Yes

2. Have you made a May Affect determination for *any* other species on the FWS IPaC generated species list?

No

3. How many acres^[1] of trees are proposed for removal between 0-100 feet of the existing road/rail surface?

[1] If described as number of trees, multiply by 0.09 to convert to acreage and enter that number.

0.99

Avoidance And Minimization Measures (AMMs)

This determination key result includes the commitment to implement the following Avoidance and Minimization Measures (AMMs):

GENERAL AMM 1

Ensure all operators, employees, and contractors working in areas of known or presumed bat habitat are aware of all FHWA/FRA/FTA (Transportation Agencies) environmental commitments, including all applicable AMMs.

LIGHTING AMM 1

Direct temporary lighting away from suitable habitat during the active season.

TREE REMOVAL AMM 2

Apply time of year restrictions for tree removal when bats are not likely to be present, or limit tree removal to 10 or fewer trees per project at any time of year within 100 feet of existing road/rail surface and **outside of documented** roosting/foraging habitat or travel corridors; visual emergence survey must be conducted with no bats observed.

TREE REMOVAL AMM 3

Ensure tree removal is limited to that specified in project plans and ensure that contractors understand clearing limits and how they are marked in the field (e.g., install bright colored flagging/fencing prior to any tree clearing to ensure contractors stay within clearing limits).

TREE REMOVAL AMM 4

Do not remove **documented** Indiana bat or NLEB roosts that are still suitable for roosting, or trees within 0.25 miles of roosts, or **documented** foraging habitat any time of year.

Determination Key Description: FHWA, FRA, FTA Programmatic Consultation For Transportation Projects Affecting NLEB Or Indiana Bat

This key was last updated in IPaC on March 16, 2018. Keys are subject to periodic revision.

This decision key is intended for projects/activities funded or authorized by the Federal Highway Administration (FHWA), Federal Railroad Administration (FRA), and/or Federal Transit Administration (FTA), which require consultation with the U.S. Fish and Wildlife Service (Service) under Section 7 of the Endangered Species Act (ESA) for the endangered **Indiana bat** (*Myotis sodalis*) and the threatened **Northern long-eared bat** (NLEB) (*Myotis septentrionalis*).

This decision key should only be used to verify project applicability with the Service's [February 5, 2018, FHWA, FRA, FTA Programmatic Biological Opinion for Transportation Projects](#). The programmatic biological opinion covers limited transportation activities that may affect either bat species, and addresses situations that are both likely and not likely to adversely affect either bat species. This decision key will assist in identifying the effect of a specific project/activity and applicability of the programmatic consultation. The programmatic biological opinion is not intended to cover all types of transportation actions. Activities outside the scope of the programmatic biological opinion, or that may affect ESA-listed species other than the Indiana bat or NLEB, or any designated critical habitat, may require additional ESA Section 7 consultation.



Minnesota Department of Natural Resources
Division of Ecological & Water Resources
500 Lafayette Road, Box 25
St. Paul, MN 55155-4025

August 29, 2019

Correspondence # ERDB 20120030

Mr. Patrick Loomis
City of Duluth
411 West First Street
Duluth, MN 55802

RE: Natural Heritage Review of the proposed Lakewalk Trail - Brighton Beach Extension,
T50N R13W Section 4; St. Louis County

Dear Mr. Loomis,

As requested, the Minnesota Natural Heritage Information System has been queried to determine if any rare species or other significant natural features are known to occur within an approximate one-mile radius of the proposed project. Based on this query, rare features have been documented within the search area (for details, please visit the [Rare Species Guide Website](#) for more information on the biology, habitat use, and conservation measures of these rare species). Please note that the following rare features may be adversely affected by the proposed project:

- Lake Superior has been identified as a Lake of *Outstanding* Biological Significance. Lakes of Biological Significance were ranked as *Outstanding*, *High* or *Moderate* based on unique plant and animal presence. This particular lake was ranked based on its fish population. The lake sturgeon (*Acipenser fulvescens*), lake chub (*Couesius plumbeus*), shortjaw cisco (*Coregonus zenithicus*), kiyi (*Coregonus kiyi*) and pygmy whitefish (*Prosopium coulterii*), all state-listed species of special concern, have been documented in Lake Superior in the vicinity of the project. These species can be adversely impacted by actions which alter stream hydrology or decrease water quality, including sedimentation, dredging and filling, stream dewatering, impoundment, eutrophication, channelization, and pollution/contamination. As such, effective erosion and sediment control practices should be implemented and maintained during construction and be incorporated into any stormwater management plan.
- The proposed project is within an area Minnesota Biological Survey (MBS) has identified a Site of *Moderate* Biodiversity Significance. Sites of Biodiversity Significance have varying levels of native biodiversity and are ranked based on the relative significance of this biodiversity at a statewide level. Sites ranked as *Moderate* contain occurrences of rare species and/or moderately disturbed native plant communities, and/or landscapes that have a strong potential for recovery.

Soapberry (*Shepherdia canadensis*), a state-listed species of special concern, has been documented along the shore of Lake Superior within this MBS site. This species is a flowering shrub with greenish, yellow flowers that develop into bright red berries in July. This species was documented in the close vicinity of the potential expansion area. A survey could be conducted to better determine the location of this species and possible impacts.

Given the ecological significance of this area and possible presence of soapberry, we recommend minimizing disturbance in this area as much as possible. Actions to minimize disturbance may include, but are not limited to, the following recommendations:

- Minimize width of trail;
 - As much as possible, operate within already-disturbed areas;
 - Do not route trails through wet swales or depressions, or sensitive rock outcrop areas;
 - Bridge all stream and wetland crossings;
 - Minimize vehicular disturbance in the area (allow only vehicles/equipment necessary for construction activities);
 - Do not park equipment or stockpile supplies in the area;
 - Do not place spoil within MBS Sites or other sensitive areas;
 - Use effective erosion prevention and sediment control measures;
 - Inspect and clean all equipment prior to bringing it to the site to prevent the introduction and spread of invasive species;
 - Trail maintenance plans should address erodible soils, especially in areas of steep topography;
 - Use signage to encourage visitors to stay on designated trails;
 - Revegetate disturbed soil with [native species suitable to the local habitat](#) as soon after construction as possible; and
 - Use only weed-free mulches, topsoils, and seed mixes.
- Please include a copy of this letter in any state or local license or permit application. Please note that measures to avoid or minimize disturbance to the above rare features may be included as restrictions or conditions in any required permits or licenses.

The Natural Heritage Information System (NHIS), a collection of databases that contains information about Minnesota's rare natural features, is maintained by the Division of Ecological and Water Resources, Department of Natural Resources. The NHIS is continually updated as new information becomes available, and is the most complete source of data on Minnesota's rare or otherwise significant species, native plant communities, and other natural features. However, the NHIS is not an exhaustive inventory and thus does not represent all of the occurrences of rare features within the state. Therefore, ecologically significant features for which we have no records may exist within the project area. If additional information becomes available regarding rare features in the vicinity of the project, further review may be necessary.

For environmental review purposes, the results of this Natural Heritage Review are valid for one year; the results are only valid for the project location (noted above) and the project description provided on the NHIS Data Request Form. Please contact me if project details change or for an updated review if construction has not occurred within one year.

The Natural Heritage Review does not constitute review or approval by the Department of Natural Resources as a whole. Instead, it identifies issues regarding known occurrences of rare features and potential effects to these rare features. If needed, please contact your [DNR Regional Environmental Assessment Ecologist](#) to determine whether there are other natural resource concerns associated with the proposed project. Please be aware that additional site assessments or review may be required.

Thank you for consulting us on this matter, and for your interest in preserving Minnesota's rare natural resources. An invoice will be mailed to you under separate cover.

Sincerely,



Samantha Bump
Natural Heritage Review Specialist
Samantha.Bump@state.mn.us

Links: Rare Species Guide
<http://www.dnr.state.mn.us/rsg/index.html>
DNR Regional Environmental Assessment Ecologist Contact Info
http://www.dnr.state.mn.us/eco/ereview/erp_regioncontacts.html
MBS Sites of Biodiversity Significance
http://www.dnr.state.mn.us/eco/mcbs/biodiversity_guidelines.html
DNR Native Plant Communities
<http://www.dnr.state.mn.us/npc/index.html>
MN Geospatial Commons
<https://gisdata.mn.gov/>
BWSR Native Vegetation/Seed Mixes
http://www.bwsr.state.mn.us/native_vegetation/

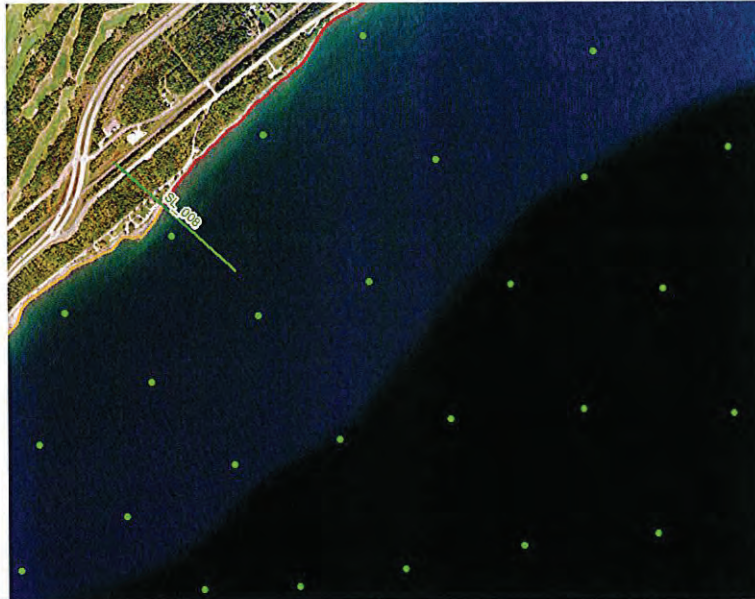
Cc: Margi Coyle

APPENDIX E

Flood Maps

St. Louis County, MN – FEMA Coastal Analysis Transect Summary

Transect 8



Aerial Transect Location

Oblique Imagery



Transect Results Summary

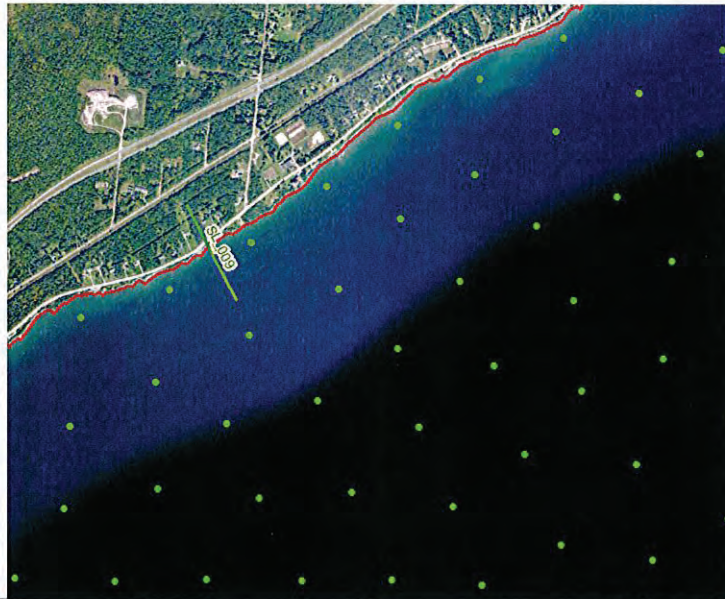
Transect Number	8
Shoreline Description	Mixed Grain Size Beach
Erosion Modeled	No
1% SWEL [ft NAVD88]	603.7
Max Wave Height at Shoreline [ft]	3.7
Runup Method	Van Gent
Runup Slope Description	Revetment
Mapped BFE at Shoreline [ft NAVD88]	607
BFE Source (Mapped Hazard)	Runup





St. Louis County, MN – FEMA Coastal Analysis Transect Summary

Transect 9



Aerial Transect Location



Oblique Imagery



Transect Results Summary

Transect Number	9
Shoreline Description	Non-eroding bedrock
Erosion Modeled	No
1% SWEL [ft NAVD88]	603.7
Max Wave Height at Shoreline [ft]	5.4
Runup Method	Van Gent
Runup Slope Description	Bluff
Mapped BFE at Shoreline [ft NAVD88]	612
BFE Source (Mapped Hazard)	Runup



APPENDIX F

Wetland Assessment and Maps

WETLAND ASSESSMENT & TWO PART FINDING

County: St. Louis County
Watershed: Lake Superior - South

State Aid Manual Chapter 5.1, VI.J.

WETLAND ASSESSMENT

WETLAND ASSESSMENT								
	ID #1	ID #2	ID #3	ID #4	ID #5	ID #6	ID #7	ID #8
Classification (Type of wetland)	Type 2 & 7 (fringe)	Type 6	Type 7	Type 7	Type 7	Type 6	Type 2 (ditch)	Type 7
Approx. Basin Size, acres	1,696 sf	404 sf	4,920 sf	7,413 sf	22,186 sf	22,732 sf	1,693 sf	9,080 sf
Anticipated Encroachment Size, acres	980 sf	228 sf	1,187 sf	2,104 sf	905 sf	1,342 sf	684 sf	348 sf
Type of Impact: fill, excavation, drain	Fill	Fill	Fill	Fill	Fill	Fill	Fill	Fill
% Encroachment to Basin Size	57.0%	56.0%	24.0%	28.0	0.4%	0.6%	4.0%	0.4%
Protected wetland? Y/N	N	N	N	N	N	N	N	N
Connection to other wetlands? Y/N	Y	Y	N	Y	Y	Y	Y	N
Impacts to public water supply? Y/N	N	N	N	N	N	N	N	N
Water Quality impacts? ----recharge/discharge (Y) ----water pollution (N) ----flooding (Y) ----sedimentation (Y) ----erosion (N)	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal
Impacts to fish/wildlife & habitat?	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal	Minimal
Impacts to recreational, cultural, or scientific uses?	N	N	N	N	N	N	N	N

AVOIDANCE ALTERNATIVES

1. No Build Alternative: The only avoidance alternative for no impacts would be a “no build” option. Brighton Beach is a heavily used park and completing the separated trail through the park to complete the Lakewalk Trail is high priority for the City. The new trail will separate vehicles from pedestrians and bikers through the park and keep bikers off Highway 61. The existing road is in poor condition, constructed too close to the lake and damaged by storm events almost annually. The new trail will use as much of the existing road corridor as possible to minimize impacts to wetlands and other wooded areas. Because of these conditions, the “no build” alternative did not meet the project’s purpose or need.

2. Alternative #1: The first route looked at was an inland trail alignment that kept the trail corridor north of the existing road into the wooded hillside. The majority of wetland bodies that exist on site consist of narrow riverine channel ways that drain from Highway 61 and Congdon Boulevard toward Lake Superior to the south. With this alternative trail alignment, wetland impacts increased. The trail crossed the same number of channels but since the route was a little flatter this caused the wetland impact areas to be wider. In addition, this alternative does not meet one of the project goals of minimizing mature vegetation removal between the existing roadway and Trunk Highway 61 Expressway.
3. Alternative #2: The selected trail alignment was chosen because it utilizes as much of the existing road corridor as possible, while also allowing for minimal tree, wildlife, and habitat disturbances. In addition, it disturbs less wetlands than Alternative #1. Because of these reasons, Alternative #2 is the preferred option.

AVOIDANCE ALTERNATIVES			
	Anticipated Encroachment per Alternative, acres		
	No Build Alternative	Alternative #1	Alternative #2 (preferred)
Wetland ID #1	0	980 sf	980 sf
Wetland ID #2	0	228 sf	228 sf
Wetland ID #3	0	1,872 sf	1,187 sf
Wetland ID #4	0	2,104 sf	2,104 sf
Wetland ID #5	0	905 sf	905 sf
Wetland ID #6	0	2,635 sf	1,342 sf
Wetland ID #7	0	705 sf	684 sf
Wetland ID #7B	0	1,231 sf	0
Wetland ID #8	0	2,344 sf	348 sf
Total, acres	0 square ft (0 acres)	13,004 square feet (0.299 acres)	7,778 square feet (0.179 acres)

MINIMIZATION MEASURES

Wetland impacts were minimized to the best extent practical, and include alignment shifts to cross at narrow areas, limiting the overall construction limits and providing steep side slopes at the wetland crossings. Silt fence and other erosion control measures will also be placed along the toe of slopes to prevent sedimentation entering adjacent wetlands and other downstream areas. Prior to construction, the limits of the wetlands will be staked and the contractor will be instructed to not to disturb areas beyond the planned construction limits.

WETLAND IMPACTS

WETLAND IMPACTS (Preferred Alternative)										
	Anticipated Encroachment per Type of Wetland, acres									
	1	1L	2	3	4	5	6	7	8	
ID #1			735 sf					245 sf		
ID #2							228 sf			
ID #3								1,187 sf		
ID #4								2,104 sf		
ID #5								905 sf		
ID #6							1,342 sf			
ID #7			684 sf							
ID #8								348 sf		
Total			1,419 sf				1,570 sf	4,789 sf		7,778 square feet (0.179 acres)

COMPENSATION (REPLACEMENT/ENHANCEMENTS)

The wetlands located on this site are administered by the Wetland Conservation Act (WCA) and are regulated by the Local Government Unit (LGU). The LGU for this site is the City of Duluth Planning Department. The US Army Corps of Engineers (COE), the Minnesota Department of Natural Resources (DNR), and the Minnesota Board of Soil and Water Resources (BWSR) may also have jurisdiction over these wetlands.

This project will impact approximately 7,778 SF (0.179 Ac) of onsite wetlands. A local, state, and federal joint permit application for water and wetland projects will be submitted to the regulatory agencies having jurisdiction for approval of these wetland impacts. Because the wetland impacts are to Types 2, 6 & 7, and are under 10,000 SF, Part 2: Replacement Plan of the permit application will not be required for the project.

CONCLUSION

Based upon the above factors and considerations, it is determined that there is no practicable alternative to the proposed construction in the identified wetlands, and the proposed action includes all practicable measures to minimize harm to the wetlands.

ATTACHMENTS

LAKEWALK TRAIL EXTENSION – (BRIGHTON BEACH) PRELIMINARY WETLAND IMPACTS
PARCELS 1-8 EXHIBITS



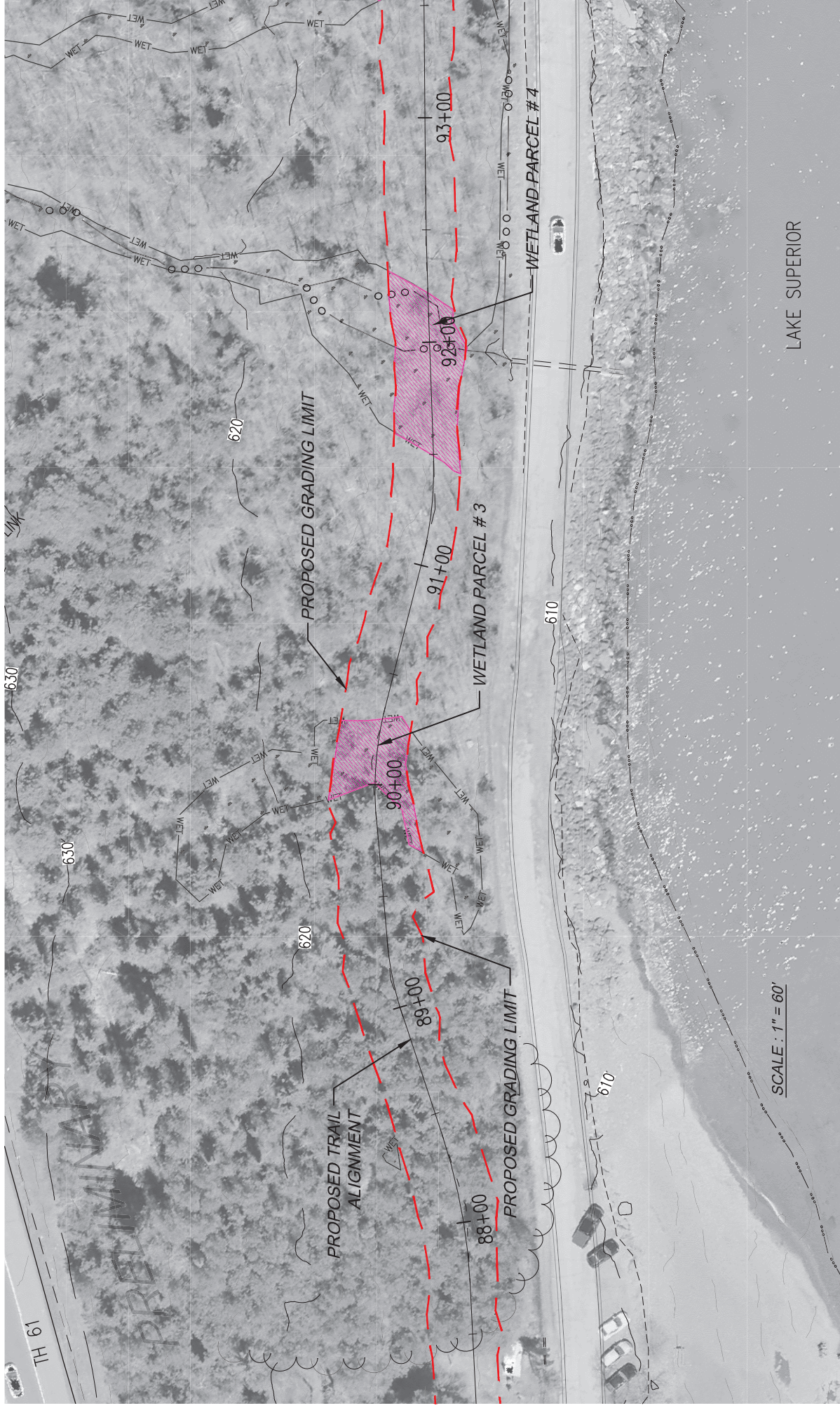
LAKE SUPERIOR

SCALE: 1" = 60'



LAKEWALK TRAIL EXTENSION - (BRIGHTON BEACH)
PRELIMINARY WETLAND IMPACTS
PARCELS (1 & 2)





SCALE : 1" = 60'

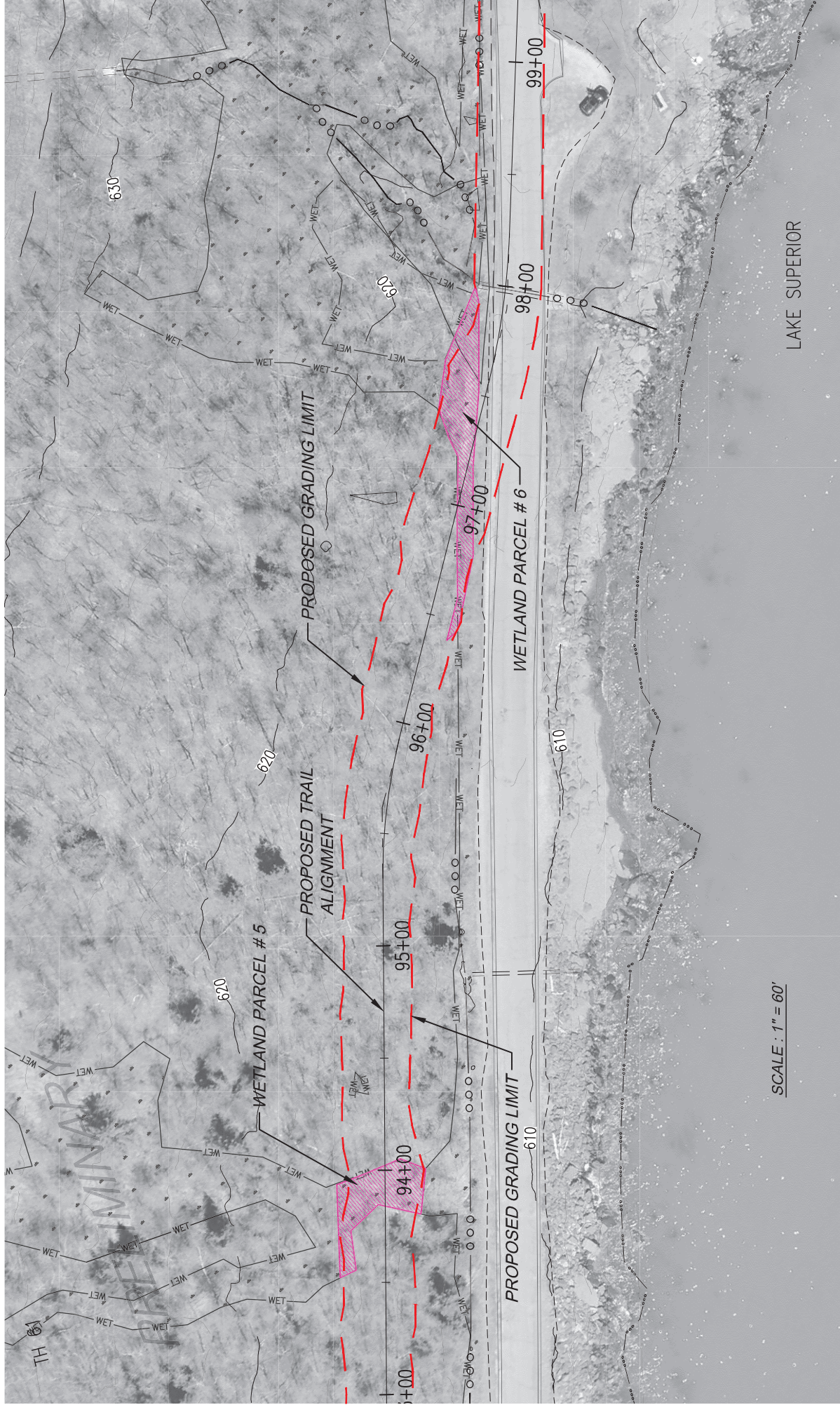
LAKE SUPERIOR

IMPACTED AREA



LAKEWALK TRAIL EXTENSION - (BRIGHTON BEACH)
PRELIMINARY WETLAND IMPACTS
PARCELS (3 & 4)





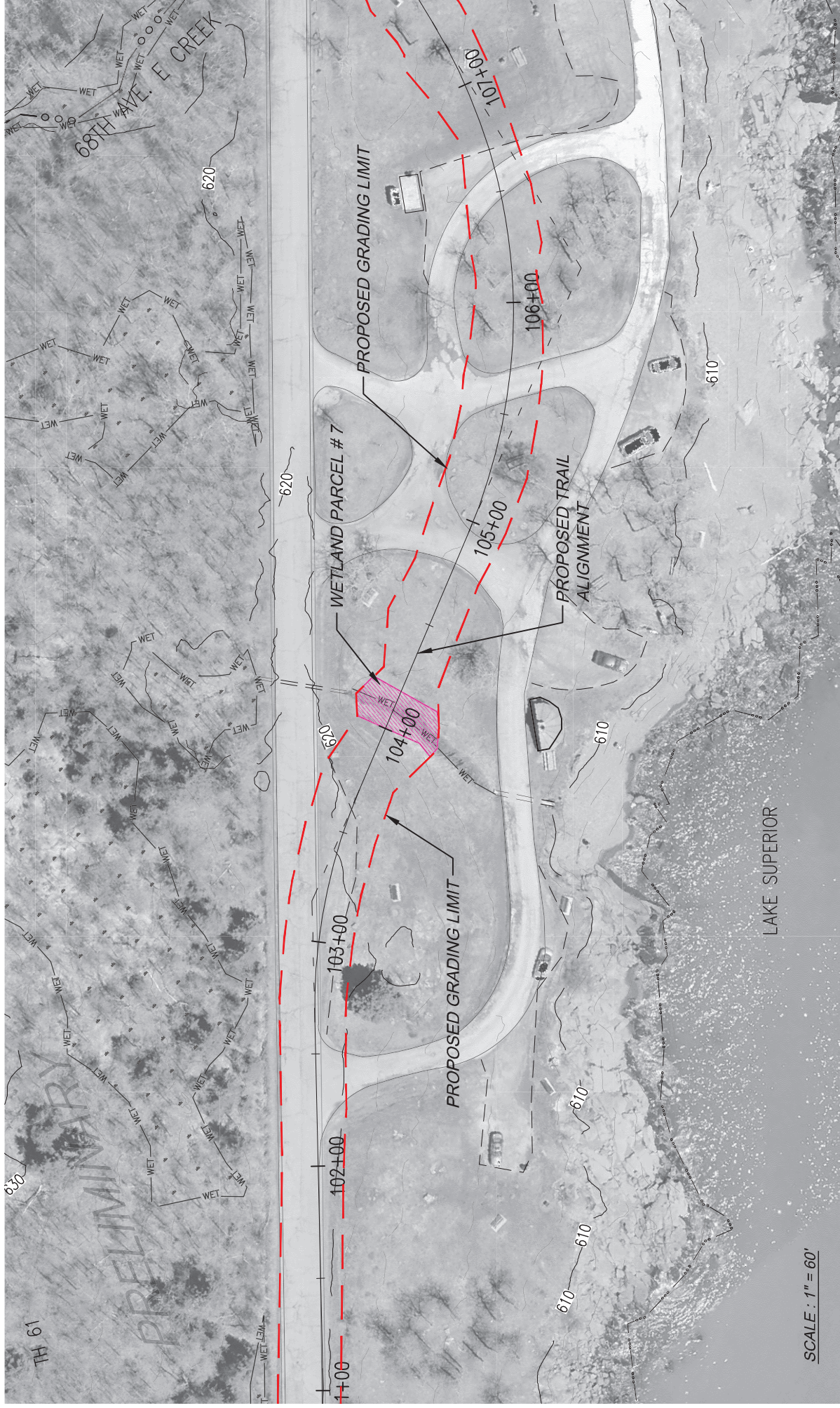
SCALE : 1" = 60'

IMPACTED AREA



LAKEWALK TRAIL EXTENSION - (BRIGHTON BEACH)
PRELIMINARY WETLAND IMPACTS
PARCELS (5 & 6)



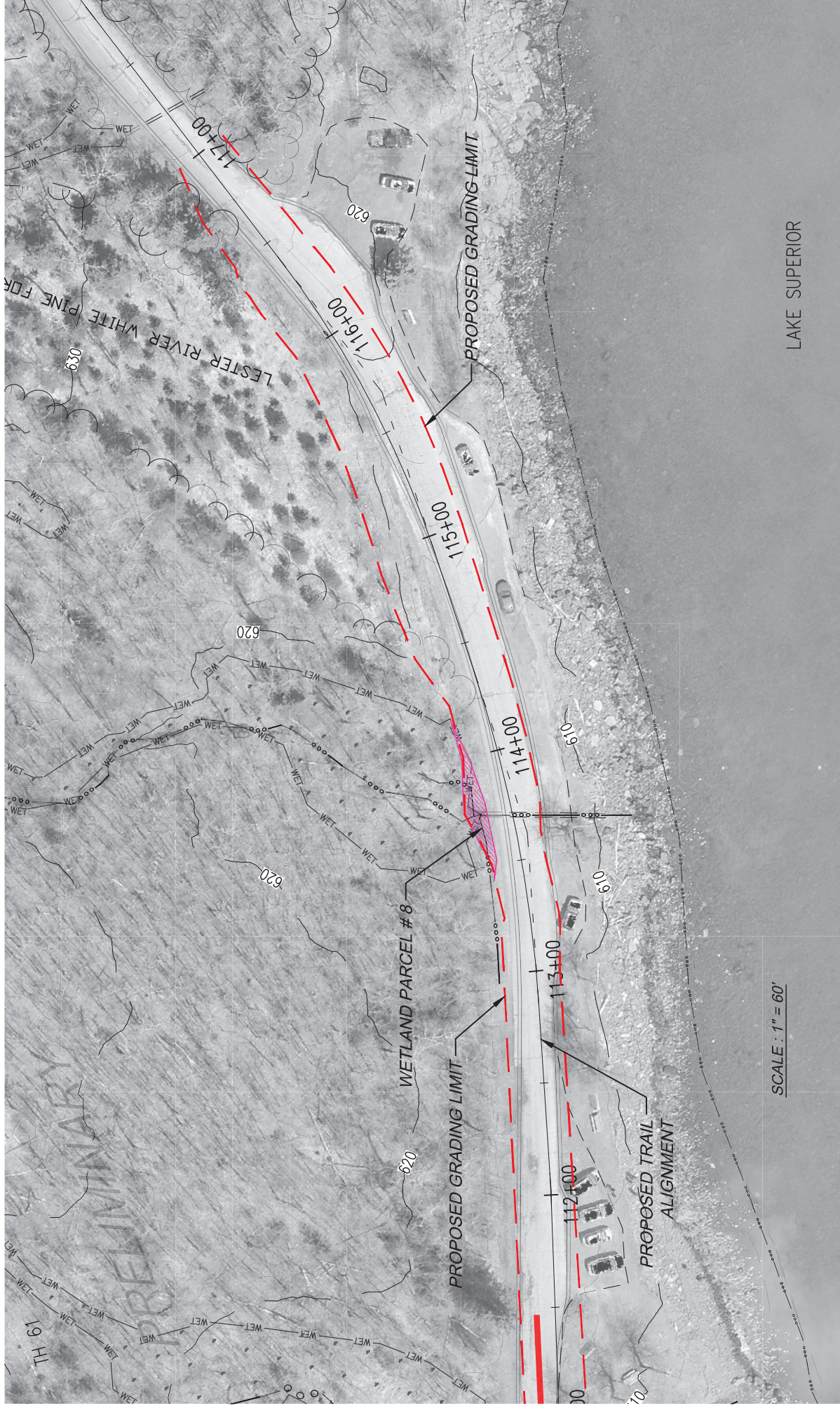


IMPACTED AREA



LAKEWALK TRAIL EXTENSION - (BRIGHTON BEACH)
PRELIMINARY WETLAND IMPACTS
PARCEL (7)





SCALE : 1" = 60'

LAKE SUPERIOR

IMPACTED AREA



LAKEWALK TRAIL EXTENSION - (BRIGHTON BEACH)
PRELIMINARY WETLAND IMPACTS
PARCEL (8)



APPENDIX G

Public Involvement

Parks and Recreation Commission Meeting Minutes

Resolution 19-0549R



PARKS & RECREATION COMMISSION

Meeting Minutes of June 12, 2019
Parks & Recreation Annual Meeting

City Hall – Council Chamber



I. Call Meeting to Order

President Crosby called the meeting to order at 5:03 p.m.

II. Roll Call

Present: Amanda Crosby, Jill Joyce, Erik Torch, Tjaard Breeuwer, Dennis Isernhagen, Britt Rohrbaugh, Dudley Edmondson, David Demmer, Jenny Peterson.

Not present: David Kirby (ISD 709 School Board Liaison), Frank Jewell (St. Louis County Board Liaison), Em Westerlund (City Council Liaison).

III. Approval of May 8th Meeting Minutes

Commissioner Torch motioned for approval of the May 8th meeting minutes; second by Commissioner Edmondson. Unanimously approved.

IV. Presentations

A. Revisions to the Brighton Beach Mini-Master Plan (Informational) – Lisa Luukkala, Stewardship Assistant Manager

Luukkala provided updates on the Brighton Beach Master Plan revisions. Highlighted the importance of the park will be that users will have water access. Stated shoreline resiliency being a goal of this project as well as providing an access that fits the community. Referenced the history of the area, which held a camp and designated camping sites. Stated the 2012 Master Plan calls for a reconfiguration of the roadway. Displayed a document that shows the plan from 2012 that includes the roadway being separated from the pedestrian path. Reflected on the grant award received in 2015 from the Transportation Alternatives Fund, which will be used for 2020. Indicated the roadway is City owned, and is overseen by Streets and Engineering. Mentioned Engineering is working to reconfigure the roadway. Stated FEMA has been involved with this project, therefore, other decisions can be made outside of Parks and Recreation. Displayed the preliminary design alternative (posted on the website). Reflected on the Open House that was hosted on June 3rd which gathered information from the public on how the park is used. Shared an inventory of existing memorial benches, where 2 have been lost due to storms. Stated that the City will be in contact with the donors on the potential for relocation of benches with the plan calling for an increased amount of greenspace.

Stated the City is looking into installing a permanent vault toilet, but more assessments need to occur to see if this is feasible for the landscape. Highlighted a designated path will be installed for those using the canoe and kayak launch. Shared the footprint of the playground will remain in the same location. Luukkala opened the floor for questions from the Parks and Recreation Commission.



PARKS & RECREATION COMMISSION

Meeting Minutes of June 12, 2019
Parks & Recreation Annual Meeting

City Hall – Council Chamber



Edmondson questioned if the bike path will be completed this year. Luukkala indicated funds were secured for the trail in 2015, but it will start in late 2020 and could take two years to complete. Stated City Engineers will need to go to full design this fall. Edmondson questioned if the reroute will separate the cars and pedestrians in 2020. Luukkala indicated that closure of car access will likely happen in order to complete the project. Peterson questioned the distance of the road. Luukkala mentioned it is just shy of a mile. Peterson questioned what the distance would be for the new road. Luukkala indicated it would be reduced by a tenth of a mile with improved sightlines. Demmer questioned what the pink dashed line is on the map. Luukkala confirmed it is the Historic Bridle Trail Reroute (Approximate). Torch questioned the size of the waves during the storm surge. Luukkala indicated she does not have this information available for today's meeting. Luukkala shared that the Planning Commission will vote on the new roadway in the future, rather than Parks and Recreation. Edmondson questioned if we could move parks infrastructure even further than what is displayed on the map. Luukkala indicated she will work to see if there is an opportunity to move infrastructure. Luukkala mentioned we are gathering feedback through public comment through June 13th for the design. Luukkala also shared results of the survey will be posted online.

Public Comment

Bill Lynch: Questioned if any work has been done to calm the waters in this area. Shared that some oceans use jacks, similar to what is done in St. Johns runway.

Luukkala: Indicated this study has not been done at this time.

Bill Lynch: Indicated this is an ongoing problem for this park. Shared it would be best to take care of the waves before they hit land.

V. Commissioner Committees

- A. Administrative (E-board) – meeting date: Thursday, June 27th at noon at the Parks Office
Chair – Amanda Crosby, Jill Joyce, Tjaard Breeuwer [Alicia Watts, Lisa Luukkala, Jim Filby Williams]

VI. Commissioner & Liaison Reports

VII. New Business

VIII. Old Business

- A. Western Waterfront Trail Mini-Master Plan Draft – Segment 1 Update (Informational) – Lisa Luukkala, Stewardship Assistant Manager



PARKS & RECREATION COMMISSION

Meeting Minutes of June 12, 2019
Parks & Recreation Annual Meeting

City Hall – Council Chamber



Luukkala shared the project began in 2016 and a presentation was given last year asking the Parks Commission to make a formal recommendation. Shared and displayed the overview of the plan – which is to determine the future recreational uses between Irving neighborhood and Chambers Grove. Indicated 5 water access points were studied which where the adjacent neighborhoods access points. Displayed the 7 trail segments and mentioned there is little room within segment 1 because of the railway. Stated the Burlington Northern Santa Fe Corporation (BNSF) will not accommodate, as a result, there is not a feasible financial option for this segment of the trail. Stated this segment alone will cost \$1.4 million dollars to complete. Shared segment 1 will be omitted from the Master Plan, where we will not be moving forward with a recommendation. Jessica Peterson thanked Lake Superior and Mississippi Railroad for the ask with BNSF. Indicated this is an unfortunate decision that we will not be moving forward with this segment at this time. Luukkala shared the hope to look into this again in the future and seek permission from BNSF.

Crosby questioned what the new access point will be within segment 2. Luukkala confirmed this would be at Munger Landing. Demmer questioned if there would be an alternative route provided. Luukkala indicated there is currently not.

Public Comment

Mike Casey (public): Indicated he is representing the Chair of the Friends of Western Duluth Parks and Trails. Shared the City has known this information for month. Indicated the Lakewalk received \$1.2-2 million for 5/8th of a mile. Stated this is a long-term plan, and there are alternative routes. Mentioned this is not an impediment for the Western Waterfront Trail users. Mentioned a rail and trail system is the ultimate prize for the West Community.

XIII. Division Report

Public Comment

Dan Proctor: Reflected on his volunteer work on the Chester Park trails. Indicated the area received major maintenance over 30 years ago. Shared the groomer is now larger, making it challenging to get the groomer through safely and is damaging the wet lands. Stated the Master Plan has three solutions for walkers and share with skiers – eliminate skiers from trails, create separate walking trail, continue sharing the trail. Reflected on the four-year trial period, where only two options were given. Mentioned a trail camera was placed on the trail. Stated the ski trail is not used heavily in comparison to other areas on the trail system. Stated there is an opportunity that walkers could still walk on the ski trails. Indicated the signage is not clear defining the type of use on the trail. Shared a proposal will come to the Parks and Recreation Commission to vote on the future use of the trails.

Breeuwer: Questioned if the commission will receive the results of the trial period.

Jessica Peterson: Indicated being newer to the Division, she will need to spend more time with the Chester Master Plan. Mentioned the process will be slowed down, and a decision will not be made in



PARKS & RECREATION COMMISSION

Meeting Minutes of June 12, 2019
Parks & Recreation Annual Meeting

City Hall – Council Chamber



order to look at all types of uses.

Denette Lynch: Questioned why Quarry is receiving signage before Chambers Grove. Indicated there is not wayfinding signs along Grand Avenue. Questioned why Riverside did not receive signs. Reflected on the scholarship program for the summer camp program. Indicated she has not seen information advertised. Stated the \$300 per family is a logistically complicated process to try and track how much credit is left per family. Mentioned the fee-based programming is confusing.

Jessica Peterson: Thanked Denette for bringing up the growing programming initiative charged by the Mayor. Shared that historically, there has not been the luxury to provide the programming that we have today. Shared there is not a fee for all programs, and the programs that do have a charge are for cost recovery purposes. Indicated our software will track the amount of funding per family for programming scholarships. Stated there is an opportunity to change the fee structure through City Council on an annual basis.

Denette Lynch commented many people are not aware of the scholarship opportunity.

Mike Casey questioned what the E Board Meeting is.

Crosby: Indicated this meeting is similar to an Agenda Session.

Adjournment

Meeting adjourned at 6:31 pm.

XIV. Next Meeting

The next meeting will be Wednesday, July 10th, 2019 at the City Hall Room 303



PARKS & RECREATION COMMISSION

Meeting Minutes of July 10, 2019
Parks & Recreation Annual Meeting

City Hall – Room 303



I. Call Meeting to Order

President Crosby called the meeting to order at 5:04 p.m.

II. Roll Call

Present: Amanda Crosby, Jill Joyce, Tjaard Breeuwer, Dennis Isernhagen, Britt Rohrbaugh, David Demmer, Jenny Peterson.

Not present: Erik Torch, Dudley Edmondson, David Kirby (ISD 709 School Board Liaison), Frank Jewell (St. Louis County Board Liaison), Em Westerlund (City Council Liaison).

III. Approval of June 12th Meeting Minutes

Commissioner Breeuwer motioned for approval of the June 12th meeting minutes; second by Commissioner Isernhagen. Unanimously approved.

IV. Presentations

V. Commissioner Committees

- A. Administrative (E-board) – meeting date: Thursday, June 27th at noon at the Parks Office
Chair – Amanda Crosby, Jill Joyce, Tjaard Breeuwer [Alicia Watts, Lisa Luokkala, Jim Filby Williams]

VI. Commissioner & Liaison Reports

VII. New Business

VIII. Old Business

- A. Revisions to the Brighton Beach Mini-Master Plan Design Update (Action Requested) – Lisa Luokkala, Stewardship Assistant Manager

Luokkala reflected on the June Parks and Recreation Commission Meeting that discussed the draft Brighton Beach Mini-Master Plan. Shared the plan was revised due to the last storm surge, where there will be infrastructure placement changes to become more resilient to future storms. Shared the plan changes include

1. Reduce City infrastructure within the DNR 10 foot wave zone of the shoreline
2. Increase circulation safety for all parks users – vehicular, bicycle, and pedestrian



PARKS & RECREATION COMMISSION

Meeting Minutes of July 10, 2019
Parks & Recreation Annual Meeting

City Hall – Room 303



3. Increase shoreline resiliency by formalizing trails, access points and parking areas to minimize shoreline erosion
4. Provide high quality experience for recreational access to the lake and adjacent green space

Questions from Parks and Recreation Commissioners:

Demmer questioned if the distance of the new road alignment is the minimum distance from the wave action. Jim Filby Williams stated the elevation is ten vertical feet above, not ten feet off the shore in regards to the ten foot wave action zone. Filby Williams shared this is an aggressively resilient plan for the Brighton Beach area and the plan far meets the coastal policy. Peterson questioned what would happen if the State Water Access Grant is denied. Luukkala mentioned there is always the possibility of not receiving a grant, but this project holds a high merit and would seek additional grant opportunities if needed. Luukkala highlighted additional work is being done with FEMA for additional funding for shoreline resiliency. Joyce shared she was happy to see the road entry being a 90 degree angle and how this enhances safety.

VOTE: Breeuwer motioned to approve the revised draft Mini-Master Plan for Brighton Beach. Rohbaugh second. **Motion carried.**

- B. Western Waterfront Trail Mini-Master Plan Update/Mud Lake (Informational) – Lisa Luukkala, Stewardship Assistant Manager

Luukkala reflected on the Mud Lake Workshop that occurred in May 2019. Indicated Parks and Recreation will be looking for action during the August Meeting. Reflected on the goals being to

1. Increase connectivity to adjacent neighborhoods
2. Increase recreational and development opportunities
3. Enhance neighborhood quality of life
4. Restore and protect natural habitat
5. Determine whether to retain/improve remaining riverfront rail line and renew LS&MR lease for excursion rail trips

Luukkala shared the City looked at many options to narrow down the cost for Segment 1. Stated the following updates for the project being

1. Funding for Segment 1 is not financially feasible, costing \$1.6 million dollars to complete, and BNSF denied the easement permissions
2. USS will likely pay for Segment 3, and a final agreement is near
3. Three alternatives options being rail on causeway, trail on causeway, and causeway removal



PARKS & RECREATION COMMISSION

Meeting Minutes of July 10, 2019
Parks & Recreation Annual Meeting

City Hall – Room 303



Parks and Recreation Commission Questions:

Demmer requested a status update on the historic designation. Adam Fulton reflected on the Mud Lake Workshop, where it was determined to pursue historical designation for the Lake Superior and Mississippi Railroad. Indicated this designation process needed to be restarted by the Planning Commission for action during the July Planning Commission Meeting. Mentioned the next step is to go to City Council in two readings and a single ordinance to be a local historical landmark. Indicated voting from the Heritage Preservation Commission will occur, and the vote would be appealable by City Council. Crosby questioned what the historical designation will reflect specifically. Fulton shared the local landmark designation would include the corridor from Boy Scout Landing to Spring Street. Fulton highlighted this was the first railroad coming to Duluth in 1870. Demmer questioned if the designation would include the type of use. Fulton stated it is for the corridor, and modifications would need to be approved by the Heritage Preservation Commission. Demmer questioned the timeline if modifications were to occur. Fulton indicated Minnesota Statute 1599, which has a deadline of 120 days for action. Jim Filby Williams requested Fulton to go over the HPC's oversight for the designation in the event City Administration wanted to make a change to the corridor that departs from HPC's wishes. Fulton stated the HPC is not the final decision if this were to be appealed by the City Council.

Breeuwer requested for clarification regarding the trail only option and if it would include the cost of the removal of the causeway. Luukkala indicated the trail still has an upland route, which would allow the causeway to be separate. Luukkala also mentioned the prices listed will increase once amenities are included to the project. Isernhagen questioned if there would be a work around for Segment 1. Luukkala shared the option would be to have further conversations with BNSF. Isernhagen questioned if there is there an opportunity to go further inland. Luukkala indicated it is near a neighborhood and an active roadway, which would not meet the goals of the WWFT Master Plan. Demmer questioned the length of time of the LS&MR lease. Filby Williams shared the lease is 5 years. Isernhagen questioned how long the interruption would be without the rail and hiking trail. Filby Williams indicated the commencement and duration of the work is ongoing, but the aspiration would be 2 years – which is ambitious and could potentially be for three years. Amanda indicated she serves as the liaison for the Commission on Disabilities and read the opinion of the Commission of Disabilities as followed,

"June 12, 2019
Comments on Mud Lake

The Duluth Commission on Disabilities appreciates the work the City has done in identifying different alternatives for Mud Lake on the St. Louis River. These are difficult decisions that have long lasting impacts.

People with disabilities live, work and play in our community. Accessing outdoor recreational space can sometimes be challenging or even impossible due to lack of accessibility. We have an opportunity here to create public recreation space that is accessible. We understand the historic significance of the train, but it is not accessible to many people with disabilities. And, it is unlikely that it will be made accessible. At Mud Lake, a trail can be made that is accessible. Train tracks can be



PARKS & RECREATION COMMISSION

Meeting Minutes of July 10, 2019
Parks & Recreation Annual Meeting

City Hall – Room 303



made into great, wide, flat trails that people of all abilities can enjoy.

The Commission feels that whenever there is the opportunity to make a space accessible, we need to do it. Especially when using public funds. In reviewing the proposed alternatives, we think that Alternative 3 (causeway retained for trail) would provide the best option for accessibility for everyone."

Mike Casey (public) questioned what the City's position is on the historical designation.

Fulton indicated the delay in the designation was due to insufficient available information related to remediation of US Steel and other related sites. Shared that upon receiving the further information, and subsequent to the Mud Lake Workshop, the Planning Commission took action and brought forward to City Council. Filby Williams indicated City Administration is not opposing historical designation.

Public Comment:

Bruce Fehringer (public) member of the Western Duluth Parks and Trails, shared he realizes the cost would be cheaper with removal of the tracks should it be converted to trail. Indicated it is shortsighted to not promote the business that LS&MR brings, which was stated as \$1.3 million dollars to the City. Reflected on the report that was submitted to the City from the EPA. Stated the report listed the pros and cons of each alternative except alternative 2 version 2, where it does not have any cons. Disagreed with the inaccessibility comments, mentioned that having ramp has been discussed. Shared that his dad may not be able to walk the trail, but he could ride the train.

Dwight Morrison (public) Co-Chair of Wheels on Trails, shared he strongly supports the idea to extend the WWFT. Stated if you have an abandoned rail – it is great place to put a trail because of the accessible grade. Indicated this is a common trend. Shared a 7 mile trail accessible trail is too long without multiple accessible access points.

Mike Casey (public) requested the Parks and Recreation Commission to review the EPA study. Shared alternative 2 is a win-win. Indicated many people do not know about the train, but those who have do favor the train.

Tom Arbor (public) shared he is a volunteer with the LS&MR, tax payer, and citizen. Questioned why is Mud Lake suddenly became a priority. Indicated the map of the lake has not changed much from many years ago. Shared there is no reason to move the causeway.

Joel Manns (public) President of the LS&MR, stated the railroad and members fully support a trail. Indicated maintenance has been funded for 35 years – questioned how the City would save money because they have not funded this. Shared it is not feasible to have grandparents take their grandchildren down the trail for 7 miles. Shared the concern of not having a definitive timeline. Indicated a trail on rail is an option. Mentioned they can operate safely with having both uses and is willing to talk with the city with other concerns.



PARKS & RECREATION COMMISSION

Meeting Minutes of July 10, 2019
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City Hall – Room 303



Peter Braneu (public) shared he is lifetime resident of Duluth, and encouraged everyone to take a ride. Stated the train was here before the Depot. Highlighted people from all over the world to have taken a ride on the train. Stated LS&MR generates over a million dollars per year, which is run by volunteers.

Breeuwer requested commissioners to consider wild rice.

XIII. Division Report

Peterson reflected on the new programs and how it represents the heavy workload within the Division. Provided the Campus Connector Trail and the Chester Park Mini Master plan update. Mentioned she has attended the past stakeholder projects for those meetings. Indicated the timing is important and will do our best to be clear.

Isernhagen reflected on the action taken on the Lower Chester Park. Stated this was approved, and has not seen progress.

Filby Williams shared \$400,000 set aside to implement the most important elements of the Mini- Master Plan. Stated he is not entirely certain when we can get to this. Luokkala mentioned we are working on some predesign at this time, but only to vet for probable cost estimates. Shared staffing capacity is very limited during construction season.

Isernhagen questioned if the neighbors were informed of the sod and the potential for the second ice rink.

Public Comment

Adjournment

Meeting adjourned at 7:01 pm.

XIV. Next Meeting

The next meeting will be Wednesday, August 14th, 2019 at the City Hall Council Chambers



City of Duluth

411 West First Street
Duluth, Minnesota
55802

Certified Copy

Resolution: 19-0549R

File Number: 19-0549R

RESOLUTION AUTHORIZING APPROVAL AND IMPLEMENTATION OF THE BRIGHTON BEACH MINI MASTER PLAN.

CITY PROPOSAL:

RESOLVED, that the proper city officials hereby approve the Brighton Beach Mini-Master Plan, attached hereto as exhibit A, and authorize implementation of the plan as funding becomes available.

This resolution was adopted unanimously.

Absent: Councilor Fosle

I, Chelsea Helmer, City Clerk of the City of Duluth, Minnesota, do hereby certify that I have compared the foregoing passed by the city council on 8/19/2019, with the original approved and that the same is a true and correct transcript therefrom.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said city of Duluth.

Assistant City Clerk

Carmel Petersen

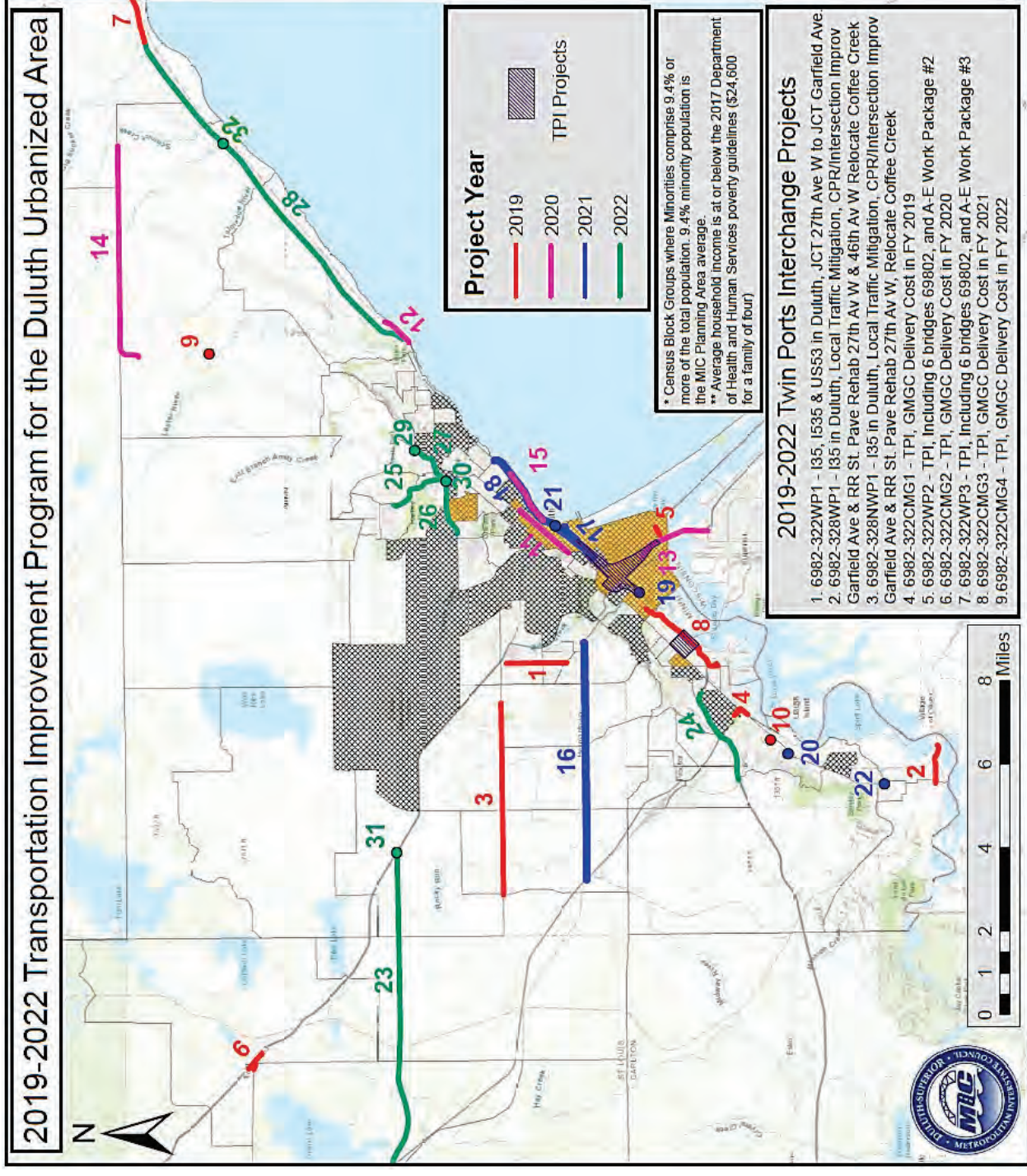
2/6/2020

Date Certified

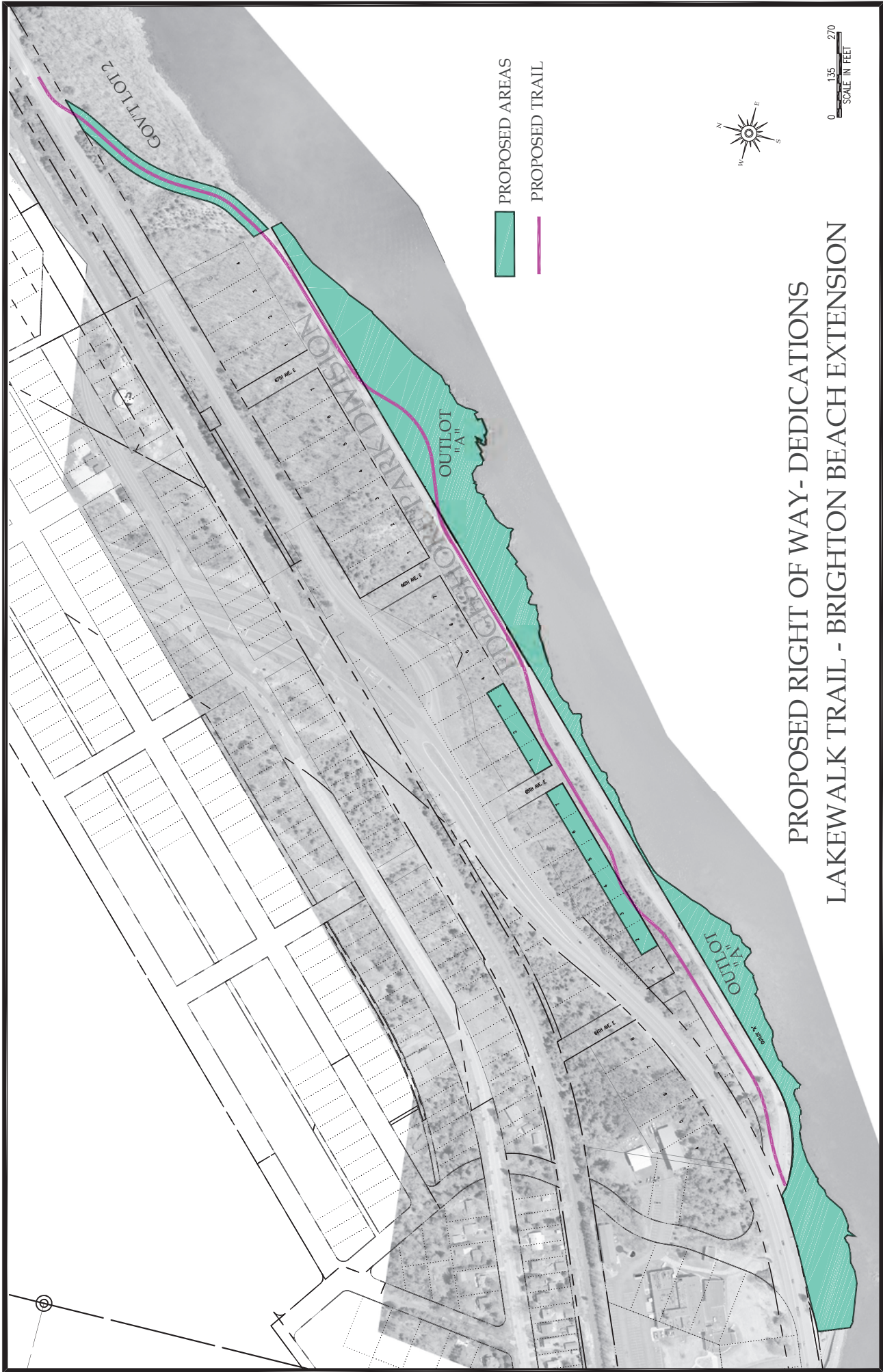
APPENDIX H

Environmental Justice

Map 3: Project Locations and Concentrations of Minority and Low-Income Populations



APPENDIX I
City ROW Exhibit



PROPOSED RIGHT OF WAY - DEDICATIONS
LAKEWALK TRAIL - BRIGHTON BEACH EXTENSION



City of Duluth

411 West First Street
Duluth, Minnesota 55802

Certified Copy

Ordinance: 10692

File Number: 20-023-O

Enactment Number: 10692

AN ORDINANCE DEDICATING A PERPETUAL EASEMENT FOR STREET PURPOSES OVER CITY-OWNED PROPERTY.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1.

(a) That the city of Duluth does hereby dedicate to the general public a perpetual easement for street purposes over, under and across the property legally described on the attached Exhibit A and B; the property described on Exhibit B is depicted on the attached Exhibit C.

Section 2. That the proper city officials are authorized to record, with the register of deeds and/or the registrar of titles of Saint Louis County, Minnesota, a certified copy of this ordinance showing the easement to be dedicated.

Section 3. That this ordinance shall take effect 30 days after its passage and publication.

This Ordinance was adopted unanimously.

Absent: Councilor Russ

I, Chelsea Helmer, City Clerk of the City of Duluth, Minnesota, do hereby certify that I have compared the foregoing passed by the city council on 3/23/2020, with the original approved and that the same is a true and correct transcript therefrom. IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said city of Duluth.

Chelsea Helmer, City Clerk

By:  Digitally signed by Chelsea J. Helmer
Date: 2020.04.20 07:17:51 -05'00'
Duluth, Minnesota

EXHIBIT A

DESCRIPTION:

The southeasterly 60.00 feet of Lots Two (2) thru Seven (7), Block Three (3), and Lots One (1) thru Three (3), Block Four (4); all in EDGESHORE PARK DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

AND

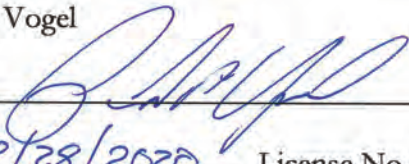
Outlot A, EDGESHORE PARK DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota.

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.

Paul A. Vogel

Signed

Date


2/28/2020

License No. 44075



EXHIBIT B

DESCRIPTION:

A 50 foot wide corridor in Government Lot 2, Section 4, Township 50 North, Range 13 West of the Fourth Principal Meridian centered on the following described line:

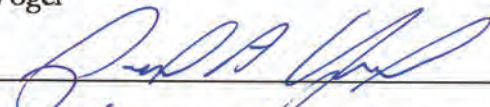
Commencing at the intersection of Congdon Boulevard, EDGESHORE PARK DIVISION OF DULUTH, City of Duluth, St. Louis County, Minnesota and the northeasterly line of said plat of EDGESHORE PARK DIVISION OF DULUTH; thence South 42 degrees 22 minutes, 23 seconds East (bearings assumed) along said northeasterly line of said plat, a distance of 16.64 feet to the Point of Beginning of the centerline to be described; thence 52.16 feet along a non-tangential curve concave northwesterly having a radius of 750.00 feet, a central angle of 03 degrees 59 minutes 04 seconds and a chord bearing North 29 degrees 05 minutes 31 seconds East; thence North 27 degrees 05 minutes 59 seconds East, a distance of 64.49 feet; thence 92.75 feet along a tangential curve concave westerly having a radius of 200.00 feet and a central angle of 26 degrees 34 minutes 20 seconds; thence North 00 degrees 31 minutes 39 seconds East, a distance of 89.66 feet; thence 226.25 feet along a tangential curve concave easterly having a radius of 500.00 feet and a central angle of 25 degrees 55 minutes 35 seconds; thence North 26 degrees 27 minutes 14 seconds East, a distance of 136.52 feet; thence 45.67 feet along a tangential curve concave northwesterly having a radius of 250.00 feet and a central angle of 10 degrees 28 minutes 00 seconds; thence North 15 degrees 59 minutes 13 seconds East, a distance of 8.25 feet to the southeasterly line of former Trunk Highway No. 103, renumbered as Trunk Highway No. 61, described in Parcel 1 of that document filed with the St. Louis County Registrar of Titles Office as Document No. 374655.

The westerly sidelines being prolonged or shortened to terminate at said northeasterly line of said plat of EDGESHORE PARK DIVISION OF DULUTH. The easterly sidelines being prolonged or shortened to terminate at said southeasterly line of said former Trunk Highway No. 103.

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.

Paul A. Vogel

Signed



Date

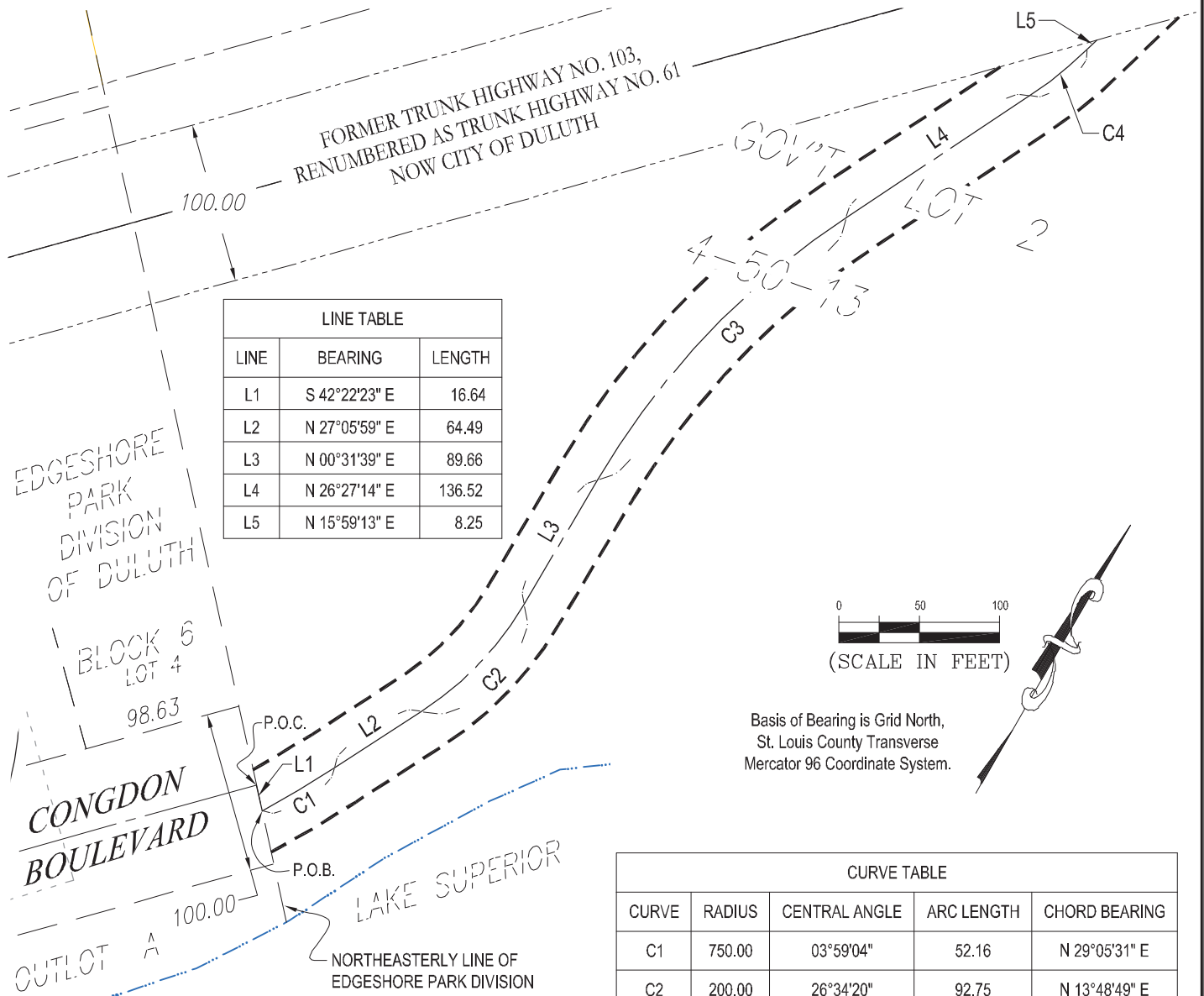
2/28/2020

License No. 44075



EXHIBIT C

PART OF GOV'T LOT 2, SECTION 4, TWP. 50 N, RNG. 13 W
CITY OF DULUTH, ST. LOUIS CO., MN.



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

Print Name: Paul A. Vogel License # 44075

Signature:  Date: 2/28/2020

DATE PREPARED: 2/28/20

PROJ NO: 180961

FILE: 180961vSurv-

SHEET 1 of 1 SHEETS



PERFORMANCE
DRIVEN DESIGN.

LHBcorp.com

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