



City of Duluth

Meeting Agenda

Planning Commission.

Tuesday, October 13, 2020

5:00 PM

Council Chamber, Third Floor, City Hall, 411
West First Street

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

Call to Order and Roll Call

Public Comment on Items Not on Agenda

Approval of Planning Commission Minutes

[PL 20-0908](#) Minutes 09/08/20

Attachments: [09-08-20 PC Minutes \(not approved yet\) \(1\)](#)

Consent Agenda

[PL 20-139](#) Interim Use Permit for Vacation Dwelling Unit at 5330 E Superior Street by Sarah and Seth Maxim

Attachments: [PL 20-139 Staff Report and Attachments](#)

[PL 20-140](#) Interim Use Permit for a Vacation Rental at 11 S 54th Avenue E by Sarah and Seth Maxim

Attachments: [PL 20-140 Staff Report and Attachments](#)

[PL 20-142](#) Interim Use Permit for Vacation Dwelling Unit at 409 S 19th Avenue E by Nola Wick

Attachments: [PL 20-142 Staff Report and Attachments](#)

[PL 20-141](#) Variance for Front Yard Parking at 1400 and 1420 London Road by Andrew Baertsch

Attachments: [PL 20-141 Staff Report and Attachments](#)

[PL 20-146](#) Variance for Deck at 4 Lakeside Court by Andrew Sternberg

Attachments: [PL 20-146 Staff Report and Attachments](#)

[PL 20-147](#) Variance to Side Yard Setback at 2835 Minnesota Ave by Patrick and Heather Sims

Attachments: [PL 20-147 Staff Report - with attachments](#)

[PL 20-161](#) Variance from Shoreland Setback at 2835 Minnesota Ave by Patrick and Heather Sims

Attachments: [PL 20-161 Staff Report - with attachments](#)

Old Business

[PL 20-120](#) Variance to Lot Size Requirements for a Six-Unit Residential Building at 106 S 15th Avenue E by James Talago

Attachments: [PL 20-120 Staff Report and Attachments](#)

[Public Comments Redact](#)

[Talago Memo](#)

[PL 20-121](#) Variance to Rear Yard Setback for a Six-Unit Residential Building at 106 S 15th Avenue E by James Talago

Attachments: [PL 20-121 Staff Report and Attachments](#)

[Public Comments Redact](#)

[Talago Memo](#)

Public Hearings

[PL 20-130](#) UDC Map Amendment from RR-1 to RR-2 at 3821 N 87th Avenue W by Terry and Ashley Dunbar

Attachments: [PL 20-130 Staff Report and Attachments](#)

[PL 20-136](#) Interim Use Permit for Vacation Dwelling Unit at 1920 Minnesota Avenue by Candace Allender and Kevin Groenevelt

Attachments: [PL 20-136 Staff Report and Attachments](#)

[PL 20-138](#) Variance from Shoreland Setback for a Garage at 2511 W 13th Street by Kevin Heaslip

Attachments: [PL 20-138 Staff Report and Attachments](#)

[PL 20-151](#) Variance for Fence in Skyline Parkway Overlay at 460 Jean Duluth Road by Paul Miner

Attachments: [PL 20-151 Staff Report - with attachments](#)

Communications

- Land Use Supervisor Report
- Historic Preservation Commission Report
- Joint Airport Zoning Board Report

- Duluth Midway Joint Powers Zoning Board Report

NOTICE: The Duluth Planning Commission will be holding its October 13, 2020 Special Meeting by other electronic means pursuant to Minnesota Statutes Section 13D.021 in response to the COVID-19 emergency. Some members of the Commission will be participating through video conference. Due to the COVID-19 emergency and the closure of City facilities, public comment will not be taken in person. However, members of the public can monitor the meeting and provide public comment on agenda items through WebEx Events. Visit <https://duluthmn.gov/live-meeting> to access the meeting. The public is also encouraged to submit written comment to planning@duluthmn.gov prior to the meeting. Please include "Planning Commission Agenda" in the subject line, and include your name and address and the agenda item you are speaking to. Please note that all public comment is considered Public Data. The public is also encouraged to watch the meeting by tuning into Public Access Television, Channel 180.

City of Duluth Planning Commission

September 08, 2020
Meeting Minutes

Due to the COVID-19 emergency, many planning commission members participated through video conference from home. The meeting was held as a Special Meeting pursuant to Minnesota Statute 13D.021 in response to the Covid-19 emergency. Public comment was taken at planning@duluthmn.gov prior to and during the meeting, and via verbal comment through public attendance in the WebEx video conference during the meeting.

Call to Order

President Margie Nelson called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, September 8th, 2020.

Roll Call

Attendance: (* Via WebEx video conferencing – all votes conducted via roll call)

Members Present: Jason Crawford*, Gary Eckenberg*, Tim Meyer*, Margie Nelson*, Eddie Ratnam*, Michael Schraepfer*, Andrea Wedul*, Sarah Wisdorf*, and Zandra Zweibel* (entered meeting during agenda item PL 20-120)

Members Absent: N/A

Staff Present: Adam Fulton*, Robert Asleson*, Chris Lee*, and Theresa Bajda*

Public Comment on Items Not on Agenda

No comments

Approval of Planning Commission Minutes

Planning Commission Meeting - August 11, 2020

MOTION/Second: Wisdorf/Crawford approved the minutes

VOTE: (8-0)

Tax Forfeit Subcommittee Meeting – August 10, 2020

MOTION/Second: Nelson/Wisdorf approved the minutes

VOTE: (8-0)

Consent Agenda

PL 20-124: Concurrent Use Permit for a Railroad Crossing at S 59th Avenue West by IPS Cranes

PL 20-125: Concurrent Use Permit for a Railroad Crossing at Waseca Industrial Road by Hallett Rail and Storage Services

Staff: N/A

Applicant: Scott Stempihar noted the applicant for PL 20-124 is IPS Cranes. Staff will make the correction.

Public: No speakers.

MOTION/Second: Wisdorf/Eckenberg approved the consent agenda items as per staff recommendations.

VOTE: (8-0)

Public Hearings

(The next two items are related, and were discussed together.)

PL 20-120: Variance to Lot Size Requirements for a Six-Unit Residential Building at 106 S 15th Avenue E by James Talago

Staff: Chris Lee introduced the applicant's proposal for a variance to reduce the minimum lot area (5,000 square feet) to construct a multi-family dwelling unit. The proposal is to allow for a reduction of 223 square feet, with a total lot size of 4,773 square feet. The applicant expressed that the practical difficulty of the lot size is restrictive based on the current code standards and that similar density exists on other lots. Staff recommended approval with the conditions listed in the staff report. Citizen comments were included in the staff report. One late comment was received, which stated they didn't feel the applicant determined a hardship. Lee noted parking is included underneath and the roof will have a deck space. Commissioner Andrea Wedul noted the number of towers. They are proposing two, but are only allowed one. Deputy Director Adam Fulton noted it will be addressed in the next phase and clarified this isn't a planning review. Wedul noted the height of the building and stated it may need a variance in the next planning review phase. Gary Eckenberg referred to a citizen comment they received, which stated the project size could be reduced without the need for a variance. Lee noted that anything over a two-family dwelling would require 5,000 square feet, so a variance would still be required. Eckenberg questioned how many garages are proposed. Lee stated four, but parking isn't addressed for this variance. Eckenberg noted the comments they received were related to parking concerns. He referred to items four and five in the staff report, which stated there will be no added congestion. Lee explained the items were referring to traffic hazards. Deputy Director Fulton noted public parking is not a right and can be taken away at any time. Chair Nelson asked what the hardship is. Lee noted the practical difficulty is the existing lot size. He noted the setback difficulty and that moving the structure to the back lessens the impact in front. Wedul asked about landscaping and the shared wall. Questioned whether landscaping would need to be extended to cover the entire width of the building? Lee deferred to the applicant and noted they can add more during the permitting phase. The Commission can add landscaping as a condition.

Applicant: Justin Talago present, but experienced audio difficulty when connected to Webex. Deputy Director Fulton asked City Attorney Robert Asleson if they could proceed to taking public comments while staff and the applicant work through technical difficulties. Asleson affirmed.

Public: Martin Dewitt, 1516 Jefferson St., addressed the commission and commended the applicant for the work he has done at a different address. Stated he doesn't feel this proposal is a good fit for the site. He has lived there for 17 years and noted the areas current traffic congestion. Expressed opposition to request for variance. Andrew Webster, 1512 Jefferson St., addressed the commission. He has lived there for 24 years. He also has congestion concerns. He stated light and air issues will be affected. He noted it is an odd design to have a new addition added on to an existing home. He doesn't think a hardship has been determined, and is opposed.

Applicant: Still unavailable due to technical difficulties. Deputy Director noted November 21, 2020 would be 120 days, and the commissioners could table application PL20-120 until their October meeting.

Commissioners: Eckenberg would like to speak to the owner, and will make a motion.

MOTION/Second: Eckenberg/Wedul motion to table until next month.

VOTE: (9-0)

PL 20-121: Variance to Rear Yard Setback for a Six-Unit Residential Building at 106 S 15th Avenue E by James Talago

Staff: Chris Lee introduced the applicant's proposal for a variance to reduce the rear yard setback from 25 feet to 10 feet to allow for an addition to the current residential structure. The addition will blend in with what is currently there, and landscaping will be added for buffering. Staff can work with the applicant during the permit phase process. This will increase the density, but not to the extreme. Staff recommended approval with the conditions listed in the staff report.

Applicant: (See above.)

Public: (See above.)

Commissioners: (See above.)

MOTION/Second: Eckenberg/Wedul motion to table until next month.

VOTE: (9-0)

PL 20-129: Concurrent Use Permit for Concrete Barrier and Underground Sewer at 2 W 1st Street by Station Two, LLC

Staff: Deputy Director Fulton introduced the applicant's proposal for a concurrent use permit for a barrier between the sidewalk and the street adjacent to the Spina building at 2 W 1st Street, as well as an existing underground sewer line located in the right of way of North Lake Avenue. In the past, the applicant has had vehicle hits to the building and wanted to modify the design. The applicant is proposing an attractive barrier with plantings. Staff recommend approval with the conditions listed in the staff report. Wedul asked about maintenance. Deputy Director Fulton noted the applicant will be in charge of maintenance. Wedul appreciates the addition of plantings to a practical use.

Applicant: John Gerzina noted this is a long-term solution, and looks forward to a favorable response.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Wisdorf/Wedul recommend approval as per staff recommendations.

VOTE: (9-0)

Public Comment for Special Use Permit for Automobile and Light Vehicle Repair at 5718 Cody St. (PL 16-055)

Staff: Deputy Director Fulton and Chris Lee introduced the agenda item. In 2016, the applicant was granted a special use permit for auto repair at 58th Avenue West and Cody Street. Not all of the requirements were met. Staff now wish to obtain additional public comment. Automobile sales is not an allowed use. Lee noted the applicant was given two years to pave, screen, and remove the existing chain-link fence. In the last two years there have been periodic site inspections. Cars continue to accumulate, and the area is still not paved. It has gone from repair to salvage yard. Lee noted a wood fence has gone up, and has progressed somewhat. Cars missing parts are stored there. Deputy Director Fulton noted this deviates from the typical enforcement process. The special use permit was granted by the Planning Commission, and this is why they are bringing it back. Wedul asked what their options are if the applicant is not in compliance. Deputy Director Fulton noted they are working the City Attorneys' office. No action is needed by the Planning Commission at this time. Zandra Zwiebel affirmed they are not asking to revoke the special use permit, but are seeking additional information. Eckenberg noted they don't have the current letter. It is now two years past expiration date. Questioned why the noncompliance wasn't addressed sooner. Deputy Director Fulton noted their main goal is to seek compliance. Eckenberg asked when there will be enough information to make a determination. Deputy Director Fulton noted this will be discussed with the City Attorneys' office. Staff intent is for the applicant to carry out the requirements of their special use permit. Eddie Ratnam asked if this is an actively running business in good standing. Lee noted the certificate of occupancy was issued by building safety.

Public: Jay Duncan, 5815 Wadena St., addressed the commission. This has been going on for an extended period of time and gets progressively worse. There are semi-trucks parked on the city street for weeks on end. This property is an eye sore for the entire neighborhood. Joyce and Ed Anstett, 516 N 59th Ave W., addressed the commission. They have a garage in the alley, so they have to drive by the property to access their garage. The property is nothing but a junk yard. They are frustrated that they pay their taxes in order to live by a junk yard. The building needs to be painted. There is no activity until noon, and then activity goes on until early morning hours. There is garbage dumped into the fenced area. Neighbors should not have to live with this. Joyce would like the owner's special use permit to be revoked. Ed is concerned their property value has decreased due to the junk yard. Jay Duncan stated there are cars with "for sale" signs on them.

Applicant: Jessie Witt, owner of 5718 Cody Street, addressed the commission. He feels the neighbors are difficult. He has experienced financial hardship, including a balloon payment. He stated the dead cars will be removed. It has taken him 20 years to build this business. The semi-trucks and dump trucks are gone. He purchased equipment to blacktop the area himself.

Staff: Chris Lee summarized the citizen comments they received. The neighbors are concerned about junk and the property being an eye sore. Staff received two phone calls which mentioned junk and blight.

Commissioners: Tim Meyer asked the owner about improvements and questioned the timeframe for completion of said improvements. Witt stated 6 months for auto clean-up and 12 months for paving due to cold winter months approaching. Eckenberg asked the owner if he is selling vehicles. Witt stated he originally purchased this property as a car sales outfit and believes he is grand-fathered in. Eckenberg asked staff if car sales is against the law. Deputy Director Fulton noted he didn't know whether the site would be eligible for a grandfathered use. Staff will follow up. Wedul noted the active salvage yard. She asked the owner to define what his site operation is. Witt stated he buys cars to fix and sell.

Staff: Deputy Director Fulton noted the comments/input they received from citizens, the owner and the commissioners is appreciated. They will use the information to determine the appropriate next step.

New Business

PL 20-123: Lincoln Park Flats Conformance with Comprehensive Plan

Staff: Deputy Director Fulton gave an overview and indicated the location is the current Robert's Furniture building. They will be razing three buildings to build a 74-unit apartment building. The Planning Commission is tasked to determine if it is in conformity with the Comprehensive Plan. Staff noted the reinvestment in Lincoln Park along with much needed affordable housing. Staff recommends approval. The TIF Plan is in draft form and not finalized yet, but the resolution is provided in the staff packet.

Commissioners: Eckenberg noted this project came before the Planning Commission last year and he didn't remember a TIF discussion at that time. Deputy Director Fulton was not involved in the financing dialogue. He noted as with any development, financing needs can change. City Planner, Theresa Bajda noted they filled out a financial application with DEDA to help close the financial gap and make the project move forward. Eckenberg asked if this is the same Developer. Bajda affirmed and noted it is Rachel Development. Meyer asked about the financial gap. Bajda stated without TIF, the project would not move forward.

MOTION/Second: Wisdorf/Crawford approved resolution – Lincoln Park Flats TIF is in conformance with the Comprehensive Plan.

VOTE: (9-0)

PL 20-133: Planning Commission Review of Tax Forfeiture Parcels Proposed for Reclassification (8 in total), Recommendation from Tax Forfeit Subcommittee

Staff: Deputy Director Fulton gave an overview. The subcommittee met and agreed on the reclassification.

MOTION/Second: Zwiebel/Schraepfer recommend approval of parcel reclassification.

VOTE: (9-0)

Communications

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview. Upcoming training is available to the commissioners on the essentials of planning and zoning. There is an upcoming public meeting to discuss the concurrent use permits 32nd and 36th avenues east. He thanked the commissioners for their service, and noted there are lots of items on the agenda for their October meeting.

Heritage Preservation Commission – Commissioner Sarah Wisdorf gave an overview. The HPC approved signage for Bell Bank at the Temple Opera building. They are working on guidelines for the historic district.

Joint Airport Zoning Board – No report.

Duluth Midway Joint Powers Zoning Board – No report.

Adjournment

Meeting adjourned at 6:44 p.m.

Respectfully,

Adam Fulton – Deputy Director
Planning and Economic Development



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

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 planning@duluthmn.gov

File Number	PL 20-139	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Interim Use Permit – Vacation Dwelling Unit	Planning Commission Date	October 13, 2020	
Deadline for Action	Application Date	September 8, 2020	60 Days	November 7, 2020
	Date Extension Letter Mailed	September 22, 2020	120 Days	January 6, 2021
Location of Subject	5330 East Superior Street			
Applicant	Sarah and Seth Maxim	Contact		
Agent		Contact		
Legal Description	PID # 010-3060-00120			
Site Visit Date	October 2, 2020	Sign Notice Date	September 29, 2020	
Neighbor Letter Date	September 28, 2020	Number of Letters Sent	55	

Proposal

Applicant proposes use of a 2 bedroom apartment within the existing 7,150 square foot building as a vacation dwelling unit. The permit is good for a 2 bedroom home with 5 occupants.

Vacation dwelling units located in the F-2 Form District are exempt from minimum night stays and parking, and there is no cap on number of permits issued.

Recommended Action: Staff recommends that Planning Commission recommend approval.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-2	Vacant commercial building	Neighborhood Mixed Use
North	F-2	Dental office	Neighborhood Mixed Use
South	F-2	Single Family Dwelling	Neighborhood Mixed Use
East	F-2	Gas station	Neighborhood Mixed Use
West	F-2	Gas station	Neighborhood Mixed Use

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-2 zone district.

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

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location;
2. The applicant agrees to sign a development agreement with the city for no more than



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60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units. Permits issued for vacation dwelling units or accessory vacation dwelling units in any form district shall not be counted against the maximum number of permits that may be issued, 4. Except for properties within the Higher Education Overlay District as identified in 50-18.5, the minimum rental period and off-street parking requirements of 50-20.3.U and 50-20.5.M shall not apply for vacation dwelling units or accessory vacation dwelling units in form districts,

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

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

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

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

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

History: Building is 7,150 square feet in size and constructed in 1928. Most recent uses included an apartment, fitness and tanning center. The proposed use will occupy only a portion of the building.

Review and Discussion Items:

- 1) Applicant's property is located at 5530 East Superior Street. The proposed vacation dwelling is a 1,500 square foot 2 bedroom apartment within an existing commercial building that formerly was a fitness center and tanning salon. The 2-bedroom apartment would allow for a maximum of 5 guests.
- 2) Vacation dwelling units located in Form districts are exempt from number of interim use permits issued, minimum night stays and parking requirements. The applicant is proposing one parking space for the unit located on the southeast corner of the rear of the building.
- 3) The site plan depicts green space located on the northeast corner of the site. The proposed green space is located within the right of way for East Superior Street and would require the issuance of a concurrent use permit to use that area for outdoor space.
- 4) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed themselves to serve as the managing agent, and meet the criteria.



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

8) Applicant has applied for all relevant permits and licenses and these are contingent upon approval of the Interim Use Permit for a Vacation Dwelling Unit.

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

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

Staff Recommendation:

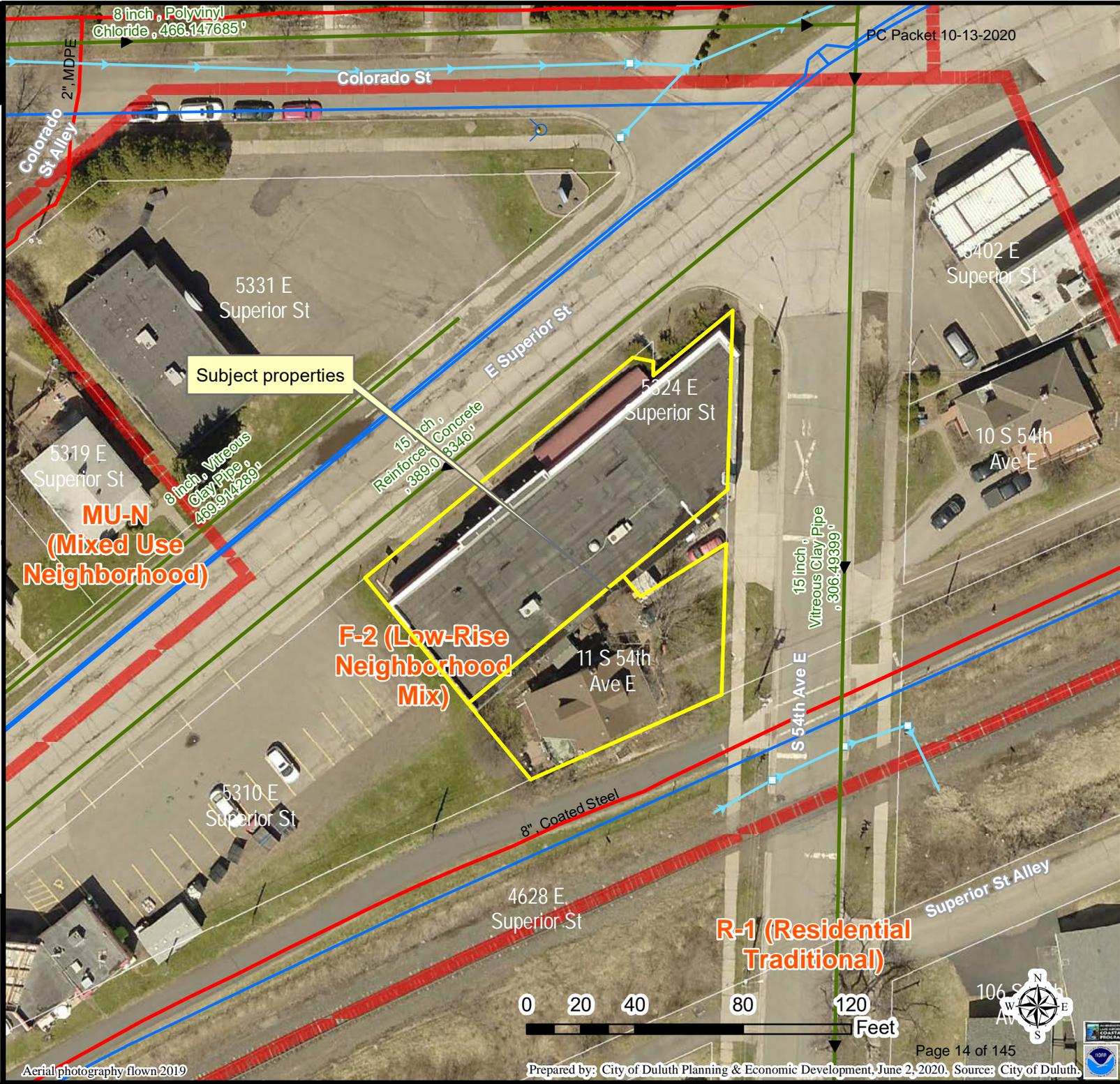
Based on the above findings, Staff recommends that Planning Commission recommend approval subject to the following:

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.
- 3) The applicant cannot use the green space in the Right of Way of East Superior Street as shown on their site plan.

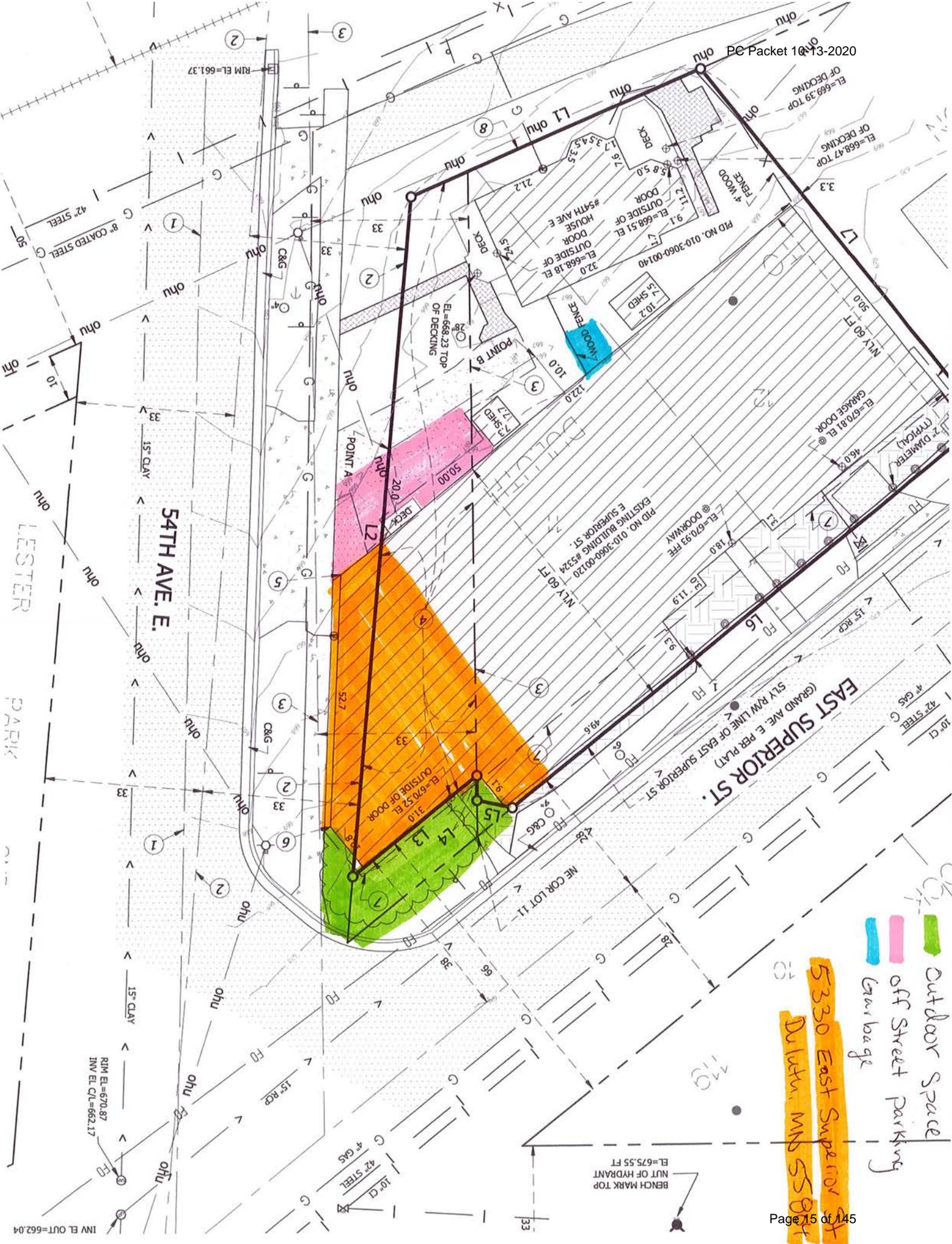


Legend

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



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



- █ Outdoor Space
- █ off Street parking
- █ Garbage

5330 East Superior St
 Duluth, MN 55804



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File Number	PL 20-140	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Interim Use Permit – Vacation Dwelling Unit	Planning Commission Date	October 13, 2020	
Deadline for Action	Application Date	September 8, 2020	60 Days	November 7, 2020
	Date Extension Letter Mailed	September 22, 2020	120 Days	January 6, 2021
Location of Subject	11 South 54 th Avenue East			
Applicant	Sarah and Seth Maxim	Contact		
Agent		Contact		
Legal Description	PID # 010-3060-00140			
Site Visit Date	October 2, 2020	Sign Notice Date	September 29, 2020	
Neighbor Letter Date	September 28, 2020	Number of Letters Sent	55	

Proposal

The applicant proposes use of the dwelling unit located at 11 South 54th Avenue East with two bedrooms as a vacation rental property. The permit is good for a 2-bedroom home with 5 occupants.

Vacation dwelling units located in the F-2 Form District are exempt from minimum night stays and parking, and there is no cap on number of permits issued.

Recommended Action: Staff recommends that Planning Commission recommend approval.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-2	Single family home	Neighborhood Mixed Use
North	F-2	Commercial building	Neighborhood Mixed Use
South	F-2/R-1	Single Family Dwelling	Neighborhood Mixed Use
East	F-2	Gas station	Neighborhood Mixed Use
West	F-2	Gas station	Neighborhood Mixed Use

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-2 zone district.

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

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location;
2. The applicant agrees to sign a development agreement with the city for no more than



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60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units. Permits issued for vacation dwelling units or accessory vacation dwelling units in any form district shall not be counted against the maximum number of permits that may be issued, 4. Except for properties within the Higher Education Overlay District as identified in 50-18.5, the minimum rental period and off-street parking requirements of 50-20.3.U and 50-20.5.M shall not apply for vacation dwelling units or accessory vacation dwelling units in form districts,

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

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

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

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

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

History: The two bedroom home is 1,290 square feet in size and constructed in 1910.

Review and Discussion Items:

- 1) Applicant's property is located at 11 South 54th Avenue East. The proposed vacation dwelling unit contains 2 bedrooms, which would allow for a maximum of 5 guests.
- 2) Vacation dwelling units located in Form districts are exempt from the number of interim use permits issued, minimum night stays and parking requirements. The applicant is proposing one parking space located on the northeast corner of the parcel.
- 2) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed themselves to serve as the managing agent.
- 5) The house has a deck in the back yard, which is screened with fencing and surrounded by trees and foliage.
- 6) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.



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7) Applicant has applied for all relevant permits and licenses and these are contingent upon approval of the Interim Use Permit for a Vacation Dwelling Unit.

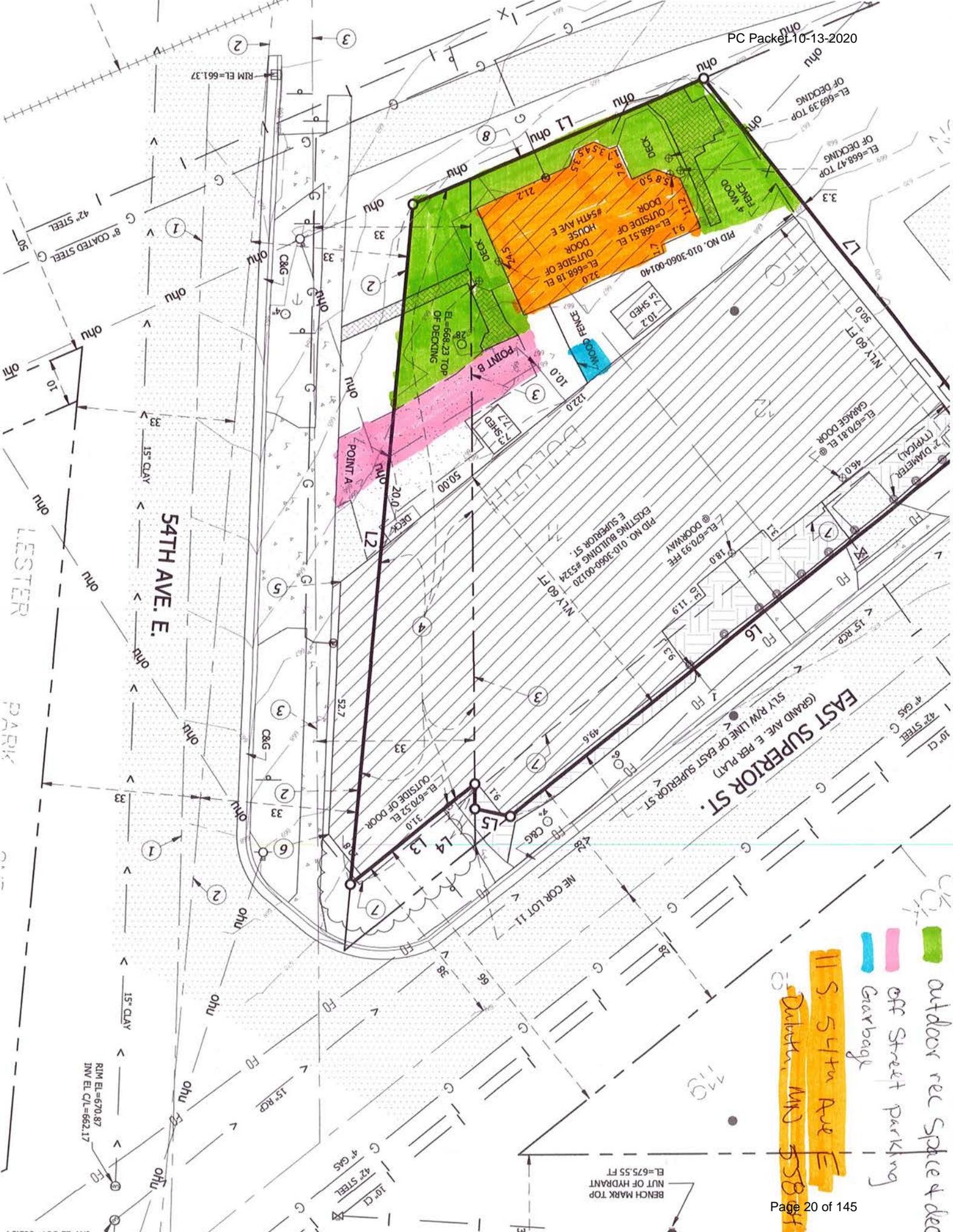
8) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").

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

Staff Recommendation:

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

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.



- █ outdoor rec space & decks
- █ off street parking
- █ Garbage
- █ Garage

11 S. 54th Ave E
 Duluth, MN 55817

11 S, 54th Avenue East

Write a description for your map.





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File Number	PL 20-142	Contact	Chris Lee, clee@duluthmn.gov	
Type	Interim Use Permit– Vacation Dwelling Unit in Form District	Planning Commission Date		October 13, 2020
Deadline for Action	Application Date	September 8, 2020	60 Days	November 6, 2020
	Date Extension Letter Mailed	September 16, 2020	120 Days	January 6, 2021
Location of Subject	409 South 19 th Avenue East			
Applicant	Nola Wick	Contact		
Agent		Contact		
Legal Description	PID # 010-1460-00360, 010-1460-00355			
Site Visit Date	October 1, 2020	Sign Notice Date	September 29, 2020	
Neighbor Letter Date	September 28, 2020	Number of Letters Sent	33	

Proposal

Applicant is proposing a new interim use permit for a vacation dwelling unit. The permit would be good for a 3-bedroom home with 6 occupants.

This property is located in the F-2 Form District and is exempt from the cap of 60 vacation dwelling units .

Recommended Action: Staff recommends that Planning Commission recommend approval.

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

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-2 zone district.

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

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location;
2. The applicant agrees to sign a development agreement with the city.



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

 218-730-5580

 planning@duluthmn.gov

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

Governing Principle #5 - Strengthen neighborhoods

Governing Principle #8 - Encourage mix of activities, uses, and densities – The issuance of a permit allows an otherwise unused or underutilized structure to have use and increase tax base.

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

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

Current History: The property currently a single family home. It is 1,178 square feet and contains 3 bedrooms built in 1891.

Review and Discussion Items:

- 1) Applicant's property is located at 409 South 19th Avenue East. The proposed vacation dwelling unit contains 3 bedrooms that would allow for a maximum of 7 guests. Applicant is proposing a maximum of 6 guests.
- 2) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed Heirloom Properties to serve as the managing agent.
- 3) Form district regulations allow for modification to parking requirements if parking is unavailable on the site. Applicant indicates that renters will park on the street. There is not space on this property for off-street parking.
- 4) The site has a deck as an amenity. The deck is screened from the neighboring properties by a fence around the rear yard and some vegetation.
- 5) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 6) Applicant has applied for all relevant permits and licenses and these are contingent upon approval of the Interim Use Permit for a Vacation Dwelling Unit.
- 7) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").



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218-730-5580



planning@duluthmn.gov

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

Staff Recommendation:

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

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



409 S 19th Ave E



Legend

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

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

1810
London Rd
TACO JOHNS

Aerial photography flown 2019

1821 South St Prepared by: City of Duluth Planning & Development Division, February 25, 2020. Source: City of Duluth.

PC Packet 10-13-2020
M.D.
COMPANY
LLC

1902
London Rd

12 inch, Cast
Iron, 7/1/1888
24 inch, Polyethylene
, 1/1/2007

2'-MDPE

6 inch, Cast
Iron, 7/1/1902
S 19th Ave E

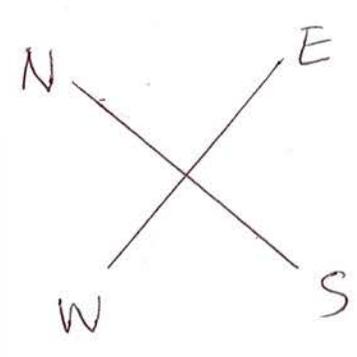
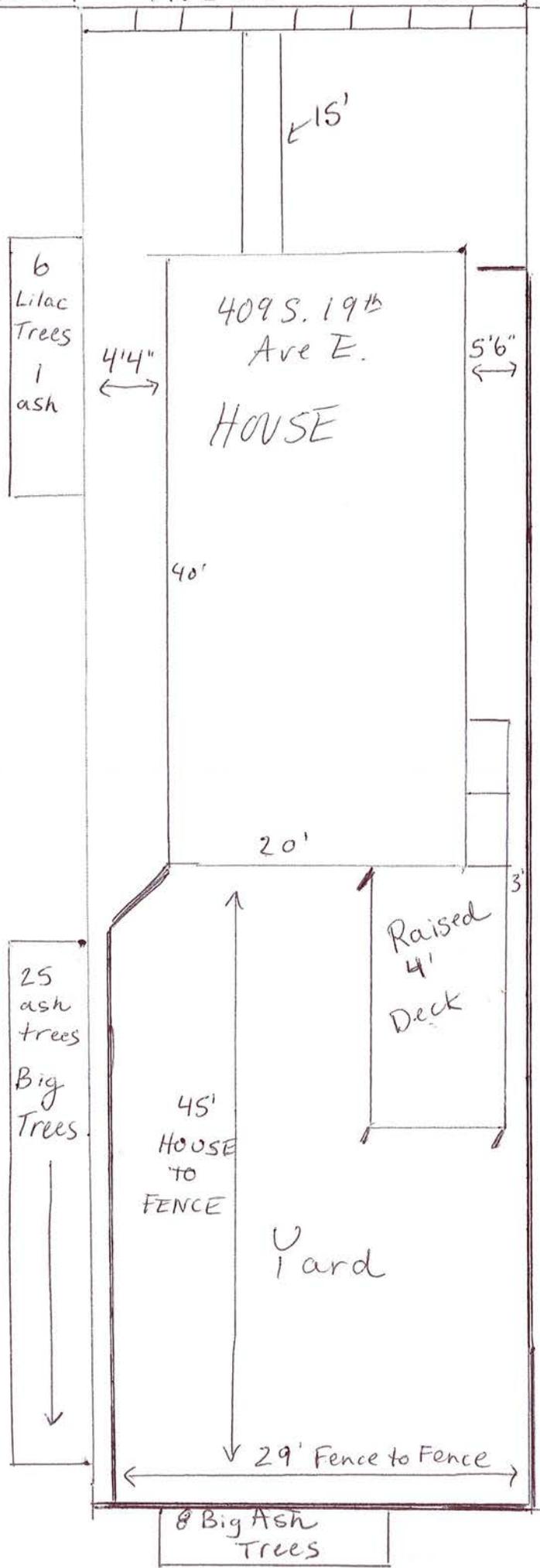
2'-MDPE

**F-2 (Low-Rise
Neighborhood Mix)**



Page 26 of 145





— Fence

10 feet / Inch

Vacation Dwelling Unit Worksheet (April 2018)

1. The minimum rental period shall be not less than two consecutive nights. **What will be your minimum rental period?**

1 nights *It is my understanding that the code requirements for a form district is 1 night minimum*

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.

Stay.

How many legal bedrooms are in the dwelling? What will be your maximum occupancy?

3 6

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

- a. 1-2 bedroom unit, 1 space
- b. 3 bedroom unit, 2 spaces
- c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
- d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.

How many off-street parking spaces will your unit provide? 0 *It is my understanding that for form districts no parking is required.*

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

**There is plenty of on-street parking*

5. The property owner must obtain all licenses and permits from the City of Duluth and State of Minnesota required for guest occupancy on the property for 2 to 29 days. Provide copies of the lodging and fire inspection reports with your initial application. *available.*

- Mn Department of Health Lodging License (Requires Inspection) *Called twice, waiting on response.*
- City of Duluth Fire Operational Permit (Requires Inspection) *Called twice, waiting on response.*
- City of Duluth Hotel/Motel License *→ City clerk office told me I don't need one.*
- City of Duluth Tourism Tax Number *→ Don't need if I only use AirBnB or Urbo.*
- State of Mn Tax Identification Number *→ I will register when I decide if it will be an LLC or sole proprietorship.*

6. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.

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

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

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

Management company will take care of this. They use Airbnb and Live Rez.

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

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

Potentially Heirloom Management 218-390-4317

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

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

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

Management company will provide this. ~~management company will provide this information on the website, listing site, and welcome book~~. They provide the information on the website, listing site, and welcome book

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

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

14. **Prior to rental**, the building must be inspected and an Operational Permit issued by the Fire Prevention office. Permit holder must apply for and be granted State and local sales tax numbers, including Hotel and Motel Use Sales Tax, as discussed in item number 5 above; submit a copy of these approvals to the Planning and Community Development office.

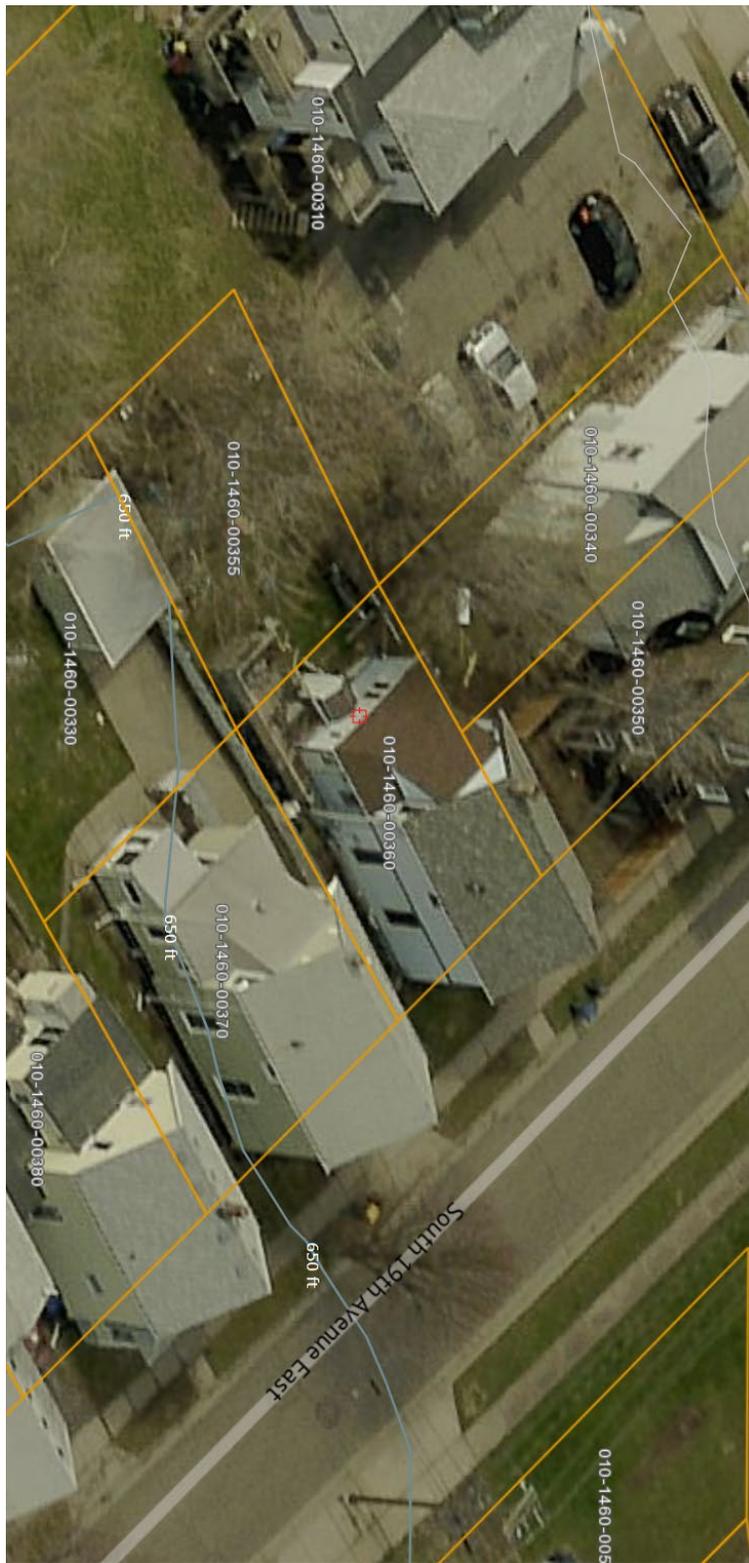
5 years. We have not had an issue with parking ~~at~~ during that time. We have on-street, alternate side parking and there are almost always many spaces available.

There are 6 lilac bushes on the North side of the house. There are 25 ash trees on the West side of the lawn, as well as a big hill. There are 8 ash trees on the South West side of the yard. The Deck is more than 4 feet above the neighbors yard on the South side, as the yards slope down towards the lake.

Thank You for accepting my application. I look forward to hearing back.

Best,
Tola Wicks





From: [planning](#)
To: [Chris Lee](#)
Subject: FW: 409 S 19th Ave E - October 13th commission meeting
Date: Tuesday, October 6, 2020 6:20:46 AM

From: Mags David <[REDACTED]>
Sent: Monday, October 5, 2020 6:31 PM
To: planning <planning@DuluthMN.gov>
Subject: 409 S 19th Ave E - October 13th commission meeting

Dear Commissioners,

I am writing in regard to the requested Interim Use Permit for a Vacation Dwelling Unit at 409 S 19th Ave E in Duluth. I live on the block that this property is on and do not support a vacation rental use of the property. Following are my concerns that underlie my lack of support for the Interim Use Permit.

Parking

The property at 409 S 19th Ave E has no off street parking available. That property is one of four properties on the block that do not have off street parking, the remaining properties on the block have limited off street parking. The commercial building at the corner of S 19th Ave E and South St does not have adequate parking for the employees and customers who use the building, and often employee cars fill all of 19th Ave below London Rd and South St from 19th Ave to 18th Ave and occasionally beyond, especially in the winter. I would object to any new business on our street that did not have off street parking for their customers. A vacation rental unit is a business and should provide parking for their customers.

Out of town visitors often are confused or uninformed about alternate side parking in Duluth. Cars parked on the wrong side of the street cause difficulties with snow removal, and just one car on the wrong side of the street can create a situation that makes the street impassable.

Housing Shortage

As you well know, Duluth faces a serious shortage of housing for our residents. The last occupants of 409 S 19th Ave E were a family with two children who were

stationed in Duluth by the Coast Guard. We need housing for families. Using our residential buildings for occasional out of town guests leaves valuable housing space unoccupied for days or weeks at a time.

Neighborhood

Our block on S 19th Ave E is a small community within a busy urban area. The residents and businesses here know each other and support each other. A building that serves as temporary lodgings detracts from a community by removing community members in favor of visitors who have no connection to the community and no incentive to meet community norms or watch out for unusual happenings on the street.

Absentee landlord

The current owner of the property does not live in Duluth. I am not confident that problems with guests can be adequately addressed. Or that problems the guests have can be adequately addressed. Even with local Duluth contacts, if the owner is not on the premises while guests are present, problems will arise, and neighbors most likely will have nowhere to turn for help.

Please deny the requested Interim Use Permit for a Vacation Dwelling Unit at 409 S 19th Ave E in Duluth.

Thank you for your consideration,
Mags David

420 S 19th Ave E
Duluth MN 55812

From: [planning](#)
To: [Chris Lee](#)
Subject: FW: Comments for public hearing
Date: Tuesday, October 6, 2020 8:30:42 AM

From: Rory Litwin [REDACTED] >
Sent: Tuesday, October 6, 2020 8:29 AM
To: planning <planning@DuluthMN.gov>
Subject: Comments for public hearing

Dear planning department,

This email is in reference to the public hearing for an interim use permit for a vacation dwelling unit at 409 S. 19th Ave. E. I am the owner of the property next door, on the corner of London Rd. and 19th Ave. E. I am writing only to say that I have no problem with the application for the permit. I am fine with it.

Rory Litwin



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 20-141	Contact	Jenn Moses, jmoses@duluthmn.gov	
Type	Variance – front yard parking	Planning Commission Date	October 13, 2020	
Deadline for Action	Application Date	Sept 8, 2020	60 Days	November 7, 2020
	Date Extension Letter Mailed	October 2, 2020	120 Days	January 6, 2021
Location of Subject	1400 and 1420 London Road			
Applicant	Andrew Baertsch	Contact		
Agent	Tom DesMarais	Contact	Northland Consulting Engineers	
Legal Description	PIN # 010-1440-02030, 010-1440-02032			
Site Visit Date	October 2, 2020	Sign Notice Date	September 29, 2020	
Neighbor Letter Date	September 29, 2020	Number of Letters Sent	33	

Proposal

A variance to construct 12 additional off-street parking spaces in the front yard between Lakewalk Surgical Center and London Road.

Recommended Action: Approve variance with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-2	Medical Clinic	Central Business Secondary
North	F-2	Residential	Central Business Secondary
South	MU-B	Freeway	Transportation and Utilities
East	F-2	Medical Clinic	Neighborhood Mixed Use
West	MU-N	Parking Lot, Rose Garden	Open Space

Summary of Code Requirements

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

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

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

Governing Principle #4 – Support economic growth sectors: This includes the medical sector. Lakewalk Surgical Center is an outpatient surgical facility.

Future Land Use – Central Business Secondary: A similar mix of destination land uses as the central business primary area, but at a lower intensity. Multi-story and mixed-use buildings are encouraged. Design should include form-based guidelines and pedestrian-oriented design.

History: Lakewalk Surgical Center at 1420 London Road was built in 1998. Valentini's was, until recently, located at 1400 London Road. Upon closure of Valentini's, Lakewalk Surgical Center acquired the parcel.

Review and Discussion Items

Staff finds that:

- 1) Lakewalk Surgical Center was built in 1998 and complied with zoning standards at the time that allowed the building to be placed on the rear of the lot. After 2010, the zone district was changed to F-2, which requires buildings to be placed closer to the street and parking to be in the rear of the lot. This building is a legal nonconforming structure.
- 2) The applicant has identified a need for more parking at the site. The applicant is proposing a reasonable use of the site by adding 12 parking spaces adjacent to an existing parking lot. The proposal is consistent with parking rules in the UDC since the additional spaces will bring the site total to 181 spaces which is between the 180 minimum parking spaces required and the 270 maximum parking spaces allowed.
- 3) Given the location of the existing building, it is not possible to locate this additional parking on the side or rear of the building; relocating the building on the lot to allow for additional parking would result in practical difficulties.
- 4) As this building was built according to previous zoning standards and the City later rezoned the property, the need for a variance is not due to actions of the property owner.
- 5) The applicant notes a potential future building expansion. However, approval of this parking variance does not constitute any implied approvals of a future building expansion. Any expansion will need to comply with zoning regulations in place at the time of construction.
- 6) Applicant has submitted a landscaping plan that includes a plaza and significant landscaping at the corner of London Road and 14th Avenue E. This landscaping and plaza contributes to the intent of the pedestrian amenities desired in the F-2 district. A sidewalk is proposed from the corner leading into the site; as there currently is no sidewalk within the site, staff recommends that if the parking lot is restriped or repaved in the future, pedestrian connections be made from this location to the building entrance.
- 7) Applicant proposes moving the driveway on London Road to the west; however, the City Engineer has stated that the driveway cannot be placed in this location, as it is much safer to have the vehicles use 14th Avenue E. Applicant will need to locate the driveway in a location that meets City Engineering's standards.
- 8) Per UDC Section 50-37.1. N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission grant the Variance with the following conditions:

1. The project be limited to, constructed, and maintained according to the Site Layout dated 09/04/2020 and the Concept Landscape Plan submitted with this application.
2. Driveway location is subject to City Engineer approval.
3. If the parking lot is restriped or repaved, a pedestrian connection be provided between the plaza area shown on the landscape plan and the building entrance.
4. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 20-141

1400 & 1420 London Rd.
Variance for Front Yard Parking

PC Packet 10-13-2020

Legend

- Subject Property
- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- Sanitary Sewer Forced Main
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Vacated ROW
- Zoning Boundaries



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

Aerial photography flown 2019

Prepared by: City of Duluth Planning & Economic Development, June 2, 2020, Source: City of Duluth.

CONCEPT LANDSCAPE PLAN

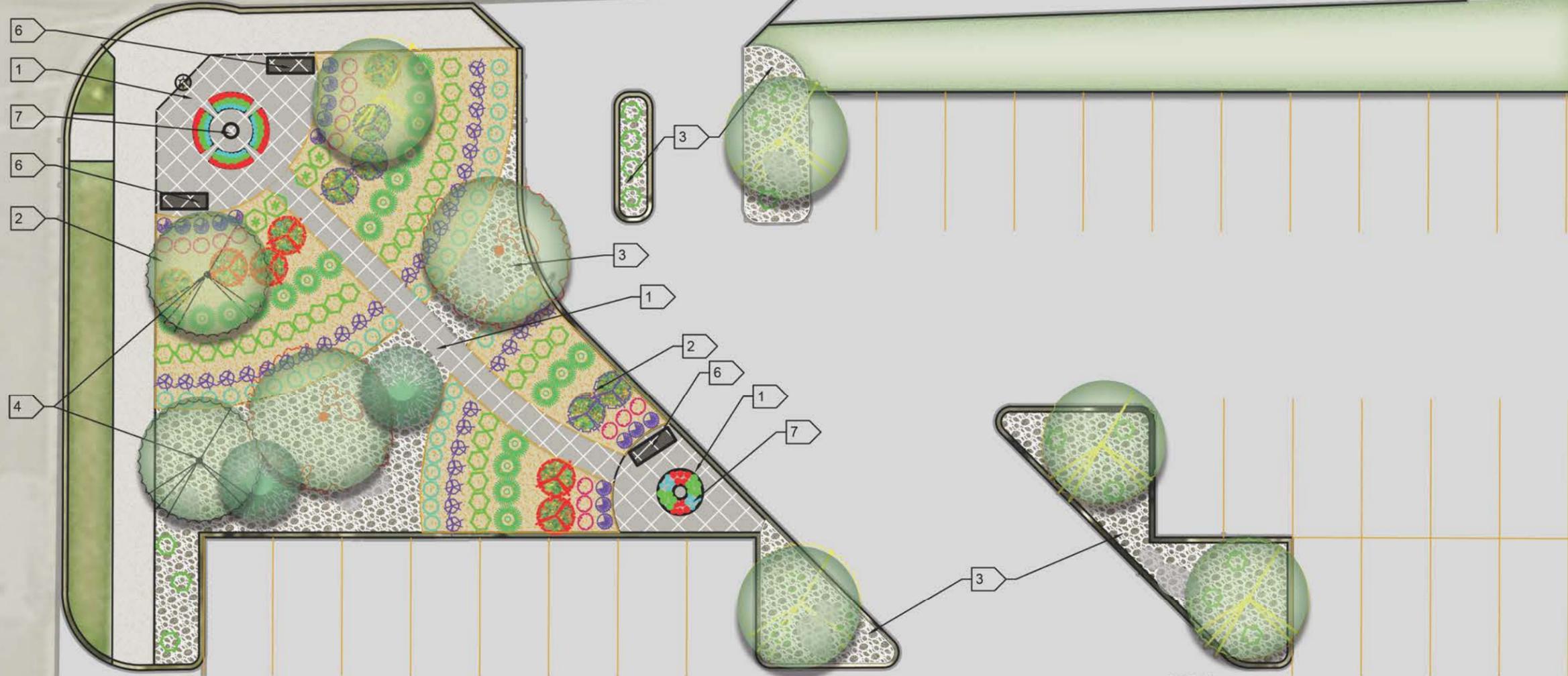


Engineering
Land Surveying
Economic Development

JPJ ENGINEERING, INC
425 Grant Street
P.O. Box 656
Hibbing, MN 55746
Phone: (218) 262-5528
www.jpjeng.com

Hibbing, MN • Duluth, MN

S 14th Ave E



NOTE:
FINAL PLANTING SELECTIONS AND FINAL LAYOUT WILL BE SUBMITTED TO THE CITY FOLLOWING THE FINAL SELECTION OF THE ART PIECES/SCULPTURES.

LAKEWALK SURGERY CENTER
PARKING EXPANSION
DULUTH, MN

CONCEPT
LANDSCAPE PLAN

REVISION DATE:	DESCRIPTION:

SURVEYED	DESIGNED	DRAWN	CHECKED
	TC	TC	TC

I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly licensed Landscape Architect under the laws of the State of Minnesota.

PRELIMINARY

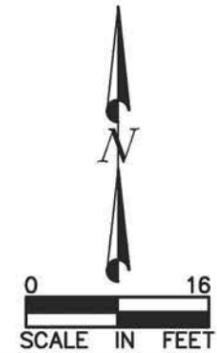
Patricia Jean S. Crego

DATE _____ LIC. NO. _____

Oct_01_2020_8:09pm T:\USGM\20-786 Lakewalk Surgery Center\dwg\300\20-786ba.dwg

Name	Count	KEY	COMMON NAME	SCIENTIFIC NAME	MATURE SIZE	PLANTING SIZE	ROOT COND.
CONIFEROUS TREES	2	PST	WHITE PINE	PINUS STROBUS	50'H x 40'W	8'	B&B
DECIDUOUS TREES	2	FFM	FALL FIESTA SUGAR MAPLE	ACER SACCHARUM 'BAILSTA' FALL FIESTA	10'H x 35'W	2.5' CAL.	B&B
DECIDUOUS TREES	5	DPB	DAKOTA PINNACLE® BIRCH	BETULA PLATYPHYLLA 'FARGO'	35'H x 10'W	2.5" CAL.	B&B
EVERGREEN SHRUB	21	GLCR	EMERALD GREEN ARBORVITAE	THUJA OCCIDENTALIS 'EMERALD GREEN'	12'H x 4'W	4'-0"	CONTAINER
DECIDUOUS SHRUBS	12	RV	ROSE VARIETY (TBD)	PICEA ABIES 'ELEGANS'	3'H x 6'W	4"	CONTAINER
GRASSES	4	PD	PRAIRIE DROPSEED	SPOROBOLUS HETEROLEPIS	5'H x 5'W	6"	CONTAINER
GRASSES	51	KFG	FEATHER REED GRASS	CALAMAGROSTIS ACUTIFLORA 'KARL FOERSTER'	5'H x 2'W	18"	CONTAINER
PERENNIALS	16	BES	BEE BALM PETITE DELIGHT	MONARDA 'PETITE DELIGHT'	1.5'H x 1.5'W	12"	CONTAINER
PERENNIALS	16	FVL	GAYFEATHER	LIATRIS SPICATA 'FLORISTAN VIOLET'	3'H x 2'W	12"	CONTAINER
PERENNIALS	38	SMA	SILVER MOUND ARTEMISIA	ARTEMISIA SCHMIDTIANA	1'H x 2'W	0'-8"	CONTAINER
PERENNIALS	36	RS	RUSSIAN SAGE	PEROVSKIA ATRIPLICIFOLIA	3'H x 2'W	12"	CONTAINER

- LANDSCAPE CONCEPT NOTES**
- 1 CONCRETE PATIO/WALK
 - 2 SHREDDED BARK MULCH BED
 - 3 COBBLE STONE BED
 - 4 EXISTING TREE TO REMAIN
 - 5 LANDSCAPE BOULDER (TYP.)
 - 6 BENCH
 - 7 ART PIECE* WITH ANNUAL BEDS
- *Art pieces to be selected by the building owner and approved by the City



HANFT FRIDE
A PROFESSIONAL ASSOCIATION

DULUTH OFFICE:
1000 U.S. BANK PLACE
130 WEST SUPERIOR STREET
DULUTH, MN 55802-2094
TELEPHONE: 218/722-4766
FAX: 218/529-2401

CLOQUET OFFICE:
1219 -14TH STREET
CLOQUET, MN 55720
TELEPHONE: 218/879-3333
FAX: 218/879-3201

REPLY TO CLOQUET OFFICE

WWW.HANFTLAW.COM

EMAIL: WMB@HANFTLAW.COM

September 8, 2020

GILBERT W. HARRIES*
WILLIAM M. BURNS
JOHN D. KELLY*
FREDERICK A. DUDDERAR, JR.
R. THOMAS TORGERSON*
CHERYL M. PRINCE*
ROBIN C. MERRITT*
JENNIFER L. CAREY*
MARK D. PILON*
JACOB J. BAKER*
SCOTT A. WITTY*
LEAH L. FISHER
HOLLY E. HALLER
BRENT W. MALVICK
HAL J. SPOTT
COURTNEY L. BECK
HEATHER E. MUTCHLER

RICHARD R. BURNS,* OF COUNSEL
CHARLES H. ANDRESEN, OF COUNSEL

*ALSO ADMITTED IN WISCONSIN

Via Email Only

Ms. Jenn Reed Moses
Mr. Adam Fulton
City of Duluth
City Hall, Room 110
411 W. First Street
Duluth, MN 55802

Re: Lakewalk Center
Our File No.: 22010.006

Dear Jenn and Adam:

Enclosed with this letter is a Variance Application we're submitting on behalf of our client, Duluth Lakewalk Offices, LLC. The property subject to the variance included the Valentini's Restaurant, now closed and boarded up, and Lakewalk Center. The principal tenant of the Building is the Lakewalk Surgery Center. There are, however, other tenants including general office tenants which are not medically related.

This building is recognized as perhaps the finest office building in Duluth and is in a premiere location.

The property was built in full compliance with all City of Duluth zoning requirements.

In the adoption of the Unified Development Code, the zoning was changed to a Form District zoning. While the owner of the property may have received notice of such re-zoning, he was not aware of it until the recent discussions with the City which indicated that a variance would be required for the front-yard parking.

We've met and discussed this subject. The wide range of discussions included representatives from Northland Consulting Engineers, DSGW Architects, Dr. Baertsch and I, as well as, the two of you. Following those discussions there has been further discussion and I'm noting here that:

Mr. Adam Fulton
 September 8, 2020
 Page 2

1. In historic discussions regarding the purpose of rezoning, for district zoning, walking areas, neighborhood preservation, etc., I frankly do not see a basis for this property having been rezoned to a Form District other than, potentially, at the owner's request. The rezoning created a situation where the existing Lakewalk Center building is, in reality, a preexisting nonconforming use with the limitations that apply to that. We've recommended to ownership that they pursue further discussions with you and the possibility of an actual rezoning that would also encompass the newer Lakewalk North building.
2. The reasons that the office building was located as it was, have to do with a number of factors again discussed in our first meeting namely:
 - The slope of the property makes parking in the rear impractical due to the elevations in question and the expense;
 - Placing the property as it is, just above the Lakewalk and with a view of Lake Superior, creates the most appropriate use of the property and our greatest natural resource, Lake Superior;
 - The modern, welcoming, design and the nature of the entrance to the building would not be consistent with the idea of placing a building at the curb; and
 - There were no restrictions on the design as originally implemented.

Of course, the reality is that rules that are inhibiting or potentially inhibiting this property now, were not in fact in existence at the time it was constructed.

3. This building represents a multi-million dollar investment in an important, vibrant part of our medical community. I can't help but note that the City of Duluth and the State of Minnesota have provided many millions of dollars of financing or grants which are supporting the rest of the infrastructure for major medical resources in the community. This facility has never received a dollar of public subsidy. Accordingly, we make a core fairness argument in favor of a variance as it will encourage the further development of the medical portion of this facility, as well as, representing an additional increment to the property value without a give back.

With respect to the removal of the Valentini's restaurant, it's no secret that restaurants are suffering mightily during the pandemic and many will not survive. This one did not and was shuttered some months ago. The building needs to be demolished. The demolition will have a further positive effect on the property by opening up sight lines, improving the flow of traffic, making a small amount of additional parking available, and allowing people who drive in the entrance to approach the building directly rather than skirt the restaurant.

Mr. Adam Fulton
September 8, 2020
Page 3

As we seek this variance we must note, with the restaurant no longer open, the overall parking pressure on this site will be significantly diminished. It was open six days per week for lunch and dinner (and sometimes breakfast) and created a fairly substantial burden on the parking. Further, as the demand for a surgical center of this caliber increases, ownership has in mind building a 5,000 square foot addition to the Surgery Center. We're studying the parking demands of that but the overall parking demand, once the restaurant is demolished and when the future addition is built, will be less than it was 12 months ago with the restaurant in full operation.

The potential Addition referenced above is in the planning stages. No permits are being applied for or requested at this time as it is not yet designed or finalized. We're noting it in the interest of transparency.

We're also of the understanding that once this variance is granted, we can proceed with the demolition of the restaurant deferring the additional work on the parking entrance and landscaping until Spring 2021. We'd appreciate a confirmation from this via direct report from the staff or in the staff report.

Very truly yours,



William M. Burns

WMB/mef
Enclosures



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

Variance Application Supplemental Form

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

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

Front-yard parking in a Form District
 50-24.6 B
 Parking location within the site

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

As noted in the cover letter, this property topographically slopes out quite rapidly toward the lake. This condition is antithetical to parking in the rear due to cost and the elevation change. Further, of course, this is a pre-existing building "trapped" into a need for a variance by the adoption of the Unified Development Code subsequent to construction of the existing main structure.

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

The topographical situation here, as well as, obviously, the appropriateness of being as close as possible to Lake Superior, were not created by the property owner. It is the case, however, that the property owner designed and built the building in conformance with the then Duluth zoning code and the nonconformity and need for variance was created by City action not the applicant.

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

This property is one of the few newer buildings on the lower side of London Road. The only other building, to our knowledge, that would be similar to other land or buildings in the vicinity is Lakewalk North which has common ownership and houses and Essentia Clinic, Wipfli Accounting Firm and other offices. It's our opinion that the neighborhood, land and buildings in the vicinity are not of a nature that would ordinarily be found in a Form District.

Revised July 2019

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

This is a difficult question to answer because the non-use of this building is really not an option. Only the peculiarities of the Uniform Development Code are requiring a variance for this pre-existing building built appropriately to the then in existence zoning. By removing the shuttered restaurant we're creating a more beautiful site, allowing for increased parking, all to allow the applicant appropriate use of the main structure.

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

Situated as it is, the variance grant will recognize the pre-existing use, create less diminution of view sight, supply of light, and air by demolition of the Valentini's restaurant and will not unreasonably diminish or impair any established property values or in any other respect the health, safety, or public welfare of the inhabitants of Duluth.

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

This variance will not impair the intent of the zoning code since it's consistent with the original structure nor will it alter the essential character of the neighborhood which already includes the use in question.

Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M (E. Unsewered Areas, F. Two Family Dwellings in R-1, G. Parking Regulations, H. Reduce Setbacks, I. MU-C District, J. Airport Overlay, K. Flood Plain Regulations, L. Shorelands, or M. Non-Conforming Buildings)?

Yes No

Discuss what subsections are applicable and how this request meets those: 50-24.6 B

This variance is about the front-yard parking regulations and the information above, together with the cover letter which is incorporated here by reference, show compliance with the code and ordinances subject to the variance. This is an unusual variance request because it's for an existing building and was created by the code and the rezone, not requested by applicant, which burdens the property.

Lakewalk Center Parking Study 9/4/2020

Current				
Area	Use	Requirement	Square FT	Stalls Required
Lakewalk Surgery Center	Medical	4 per 1,000 SF	30,400	122
Lakewalk Surgery Center Office	Office	2.5 per 1,000 SF	23,280	58
Valentinis	Restaurant	6.5 per 1,000 SF	5,700	37
Total Required				217
Total Max Allowed (+50%)				325
Total Min Allowed (-30%)				152
Provided				
Surface				121
Garage				48
Total Provided				169

Proposed				
Area	Use	Requirement	Square FT	Stalls Required
Lakewalk Surgery Center	Medical	4 per 1,000 SF	30,400	122
Lakewalk Surgery Center Office	Office	2.5 per 1,000 SF	23,280	58
Total Required				180
Total Max Allowed (+50%)				270
Total Min Allowed (-30%)				126
Provided				
Surface				133
Garage				48
Total Proposed Provided				181



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 20-146	Contact	Chris Lee, clee@duluthmn.gov	
Type	Variance – rear yard structure setback	Planning Commission Date		October 13, 2020
Deadline for Action	Application Date	September 15, 2020	60 Days	November 14, 2020
	Date Extension Letter Mailed	September 18, 2020	120 Days	January 13, 2021
Location of Subject	4 Lakeside Court			
Applicant	Andrew Sternberg	Contact	Corey Solberg	
Agent		Contact		
Legal Description	See attached			
Site Visit Date	October 2, 2020	Sign Notice Date		September 28, 2020
Neighbor Letter Date	September 28, 2020	Number of Letters Sent		29

Proposal

A variance to the rear yard setback from the required 25 feet to a distance of 10 feet to allow for the construction of a second story deck. The proposed variance, if granted, would apply to the deck only.

Recommended Action: Approve variance with conditions.

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

Summary of Code Requirements

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

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief for from the normal

regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

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

Governing Principle #5 – Promote reinvestment in neighborhoods. The addition of a deck allows the owners to enjoy a greater variety of aspects of their home and property.

Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods. The proposed deck would allow for continued investment in the property.

Zoning – Residential-Urban (R-1): The R-1 district is established to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots. This district is intended to be used primarily in established neighborhoods. Many of the dimensional standards in this district require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas.

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

History: The property currently contains a 2,000 square foot, 3-bedroom residential structure constructed in 1920.

Review and Discussion Items

Staff finds that:

- 1) The applicant is proposing to construct a deck addition to the existing home. The proposed deck would be attached to the home from the second floor. The proposed deck will be 14’6” x 16’6”. The current home is 24.45’ from the rear property line.
- 2) The structure, when built in 1920 as part of the Lakeside Court plat, was oriented with other homes to front on Lakeside Court. The variance area would have been the side yard at the time of platting. Modifications to the UDC definitions result in this lot constituting a corner lot, thus resulting in a need for a variance related to the rear yard. The applicant states that the practical difficulty is the platting of the property, including its platted shape and dimensions, and the existing location of the house.
- 3) The deck is proposed for the rear of the structure and not have an impact on neighborhood character.
- 4) The applicant is not proposing any screening.
- 5) The applicant is proposing to use the property in a reasonable manner through the addition of a deck to a single-family home.
- 6) The variance, if granted, would not impair adequate light and air to surrounding properties.
- 7) The variance, if granted, would not result in congestion on the surrounding streets, would not impair fire or emergency service access, and would not diminish established property values in the surrounding area.
- 8) The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property.
- 9) No comments from citizens, City staff, or any other entities were received during the drafting of this staff report.
- 10) Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

Based on the above findings, staff recommends that Planning Commission grant the Variance with the following conditions:

- 1) The project be limited to, constructed, and maintained according to the plans submitted with the date of 9/15/2020;
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



4 Lakeside Court

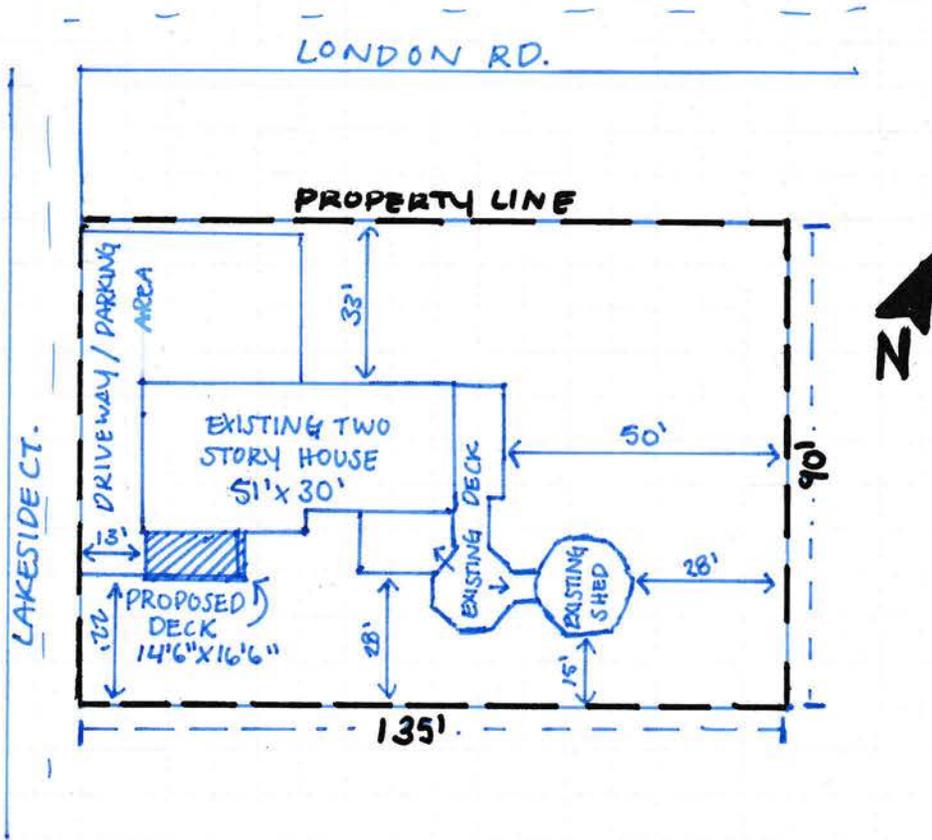


Legend

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

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Construction Services & Inspections
Reviewed For Code Compliance
 MSBC 2020
Tari Rayala 05/12/2020

North Arrow Required

RESIDENTIAL SITE PLAN PAPER

Do Not Use Pencil

Site Address: <u>4 Lakeside Ct.</u> <u>Duluth, MN</u>	Plat / Parcel No. _____
Owner's Name: <u>Andrew Sternberg</u>	Grid is 4 squares per Scale: 1" = <u>35</u> Feet
This Site Plan is an accurate and complete representation of the footprint(s) of all existing and proposed structure(s) and their location(s) on the subject property.	Date: <u>5/10/20</u>
Applicant's Signature: _____	

Doc 203-0718

Yes
OSION RESISTANT
HING

LEDGER CONN. TYPE # **1/2" GRK structural screw**
(2) - ROWS AT **12** IN. O.C.
EXIST. / NEW RESIDENCE

INDICATE WINDOW AND
DOOR LOCATIONS
LATERAL LOAD CONNECTION,
MIN. TWO LOCATIONS

Simpson Tension Tie

Simpson
HANGERS, TYP.

2x10 JOISTS AT
16" IN. O.C.

2x12
SUPPORT BEAM

3) - 2x12
STRINGERS

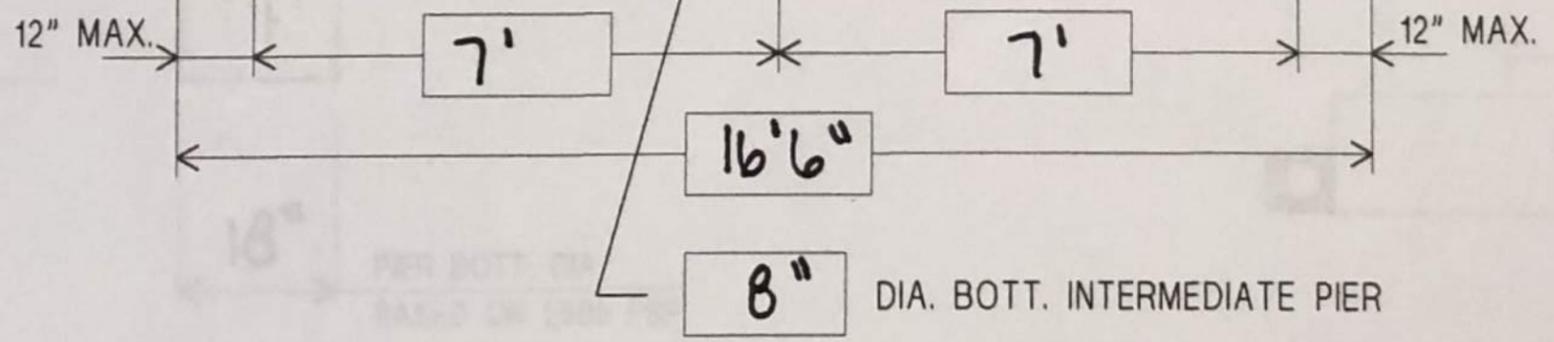
Composite
DECKING

N/A
36" MIN.

Construction Services & Inspections
Reviewed For Code Compliance
MSBC 2020
Tari Rayala 05/12/2020

TO GROUND W/
BOARDS, TYP.

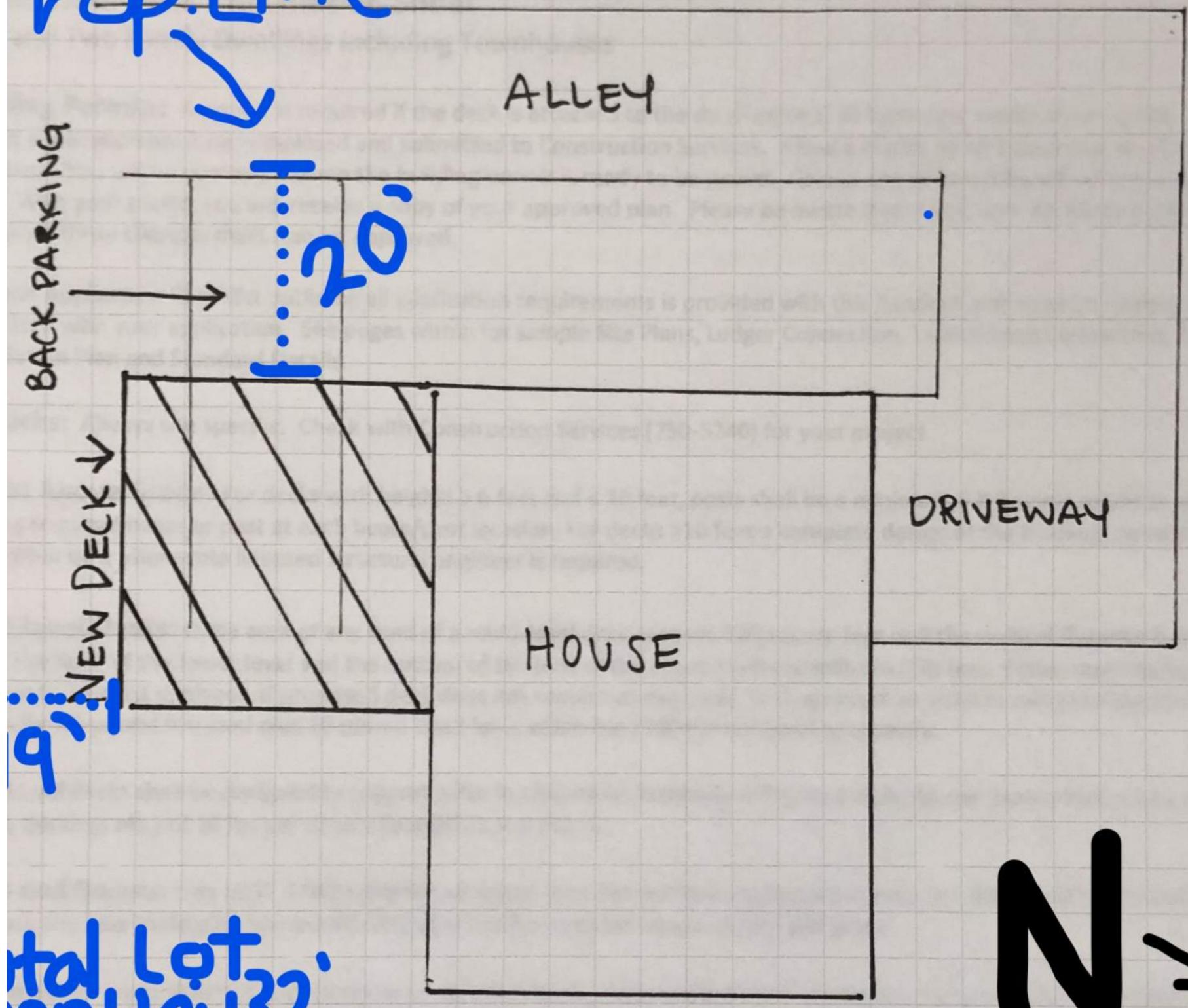
N/A
IN. RISER, TYP.
IN. TREAD, TYP.



8 DIA. BOTT. CORNER PIER
6x6 POST
Notched w/ 1/2 thru bolts
TYP. BM. / POST CONN.
Post base
TYP. POST / PIER CONN.

UR DECK IS MORE
LEX, DRAW OUT A

Prop Line



North Arrow Required

RESIDENTIAL SITE PLAN PAPER

Do Not Use Pen

Address: _____

Owner's Name: _____

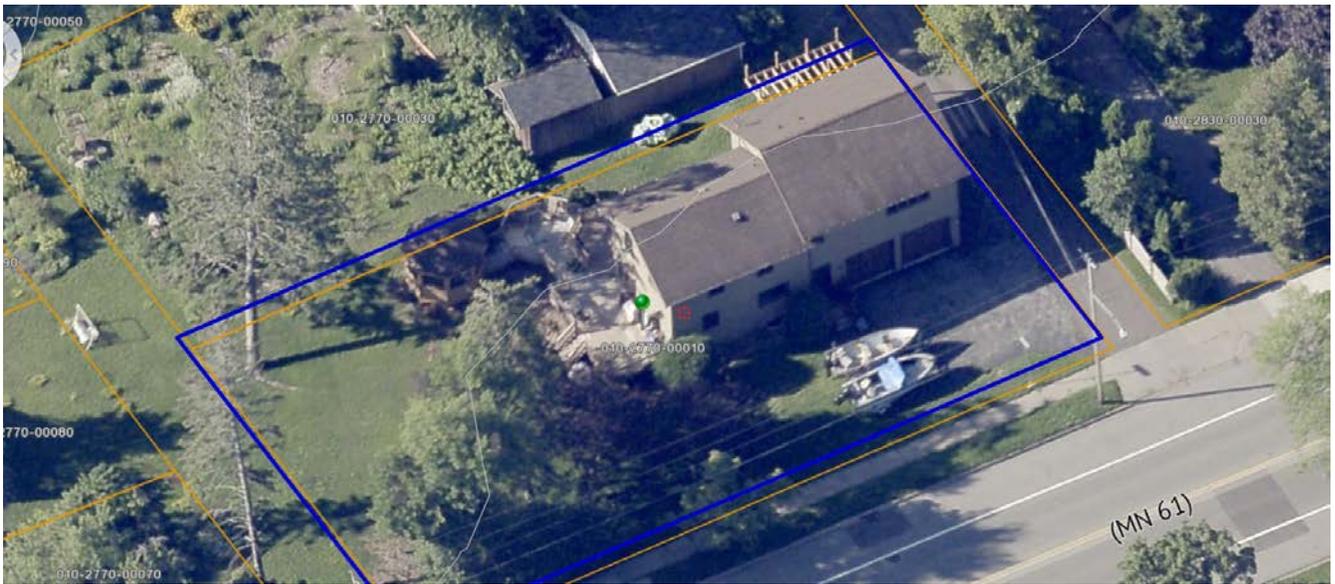
Site Plan is an accurate and complete representation of the footprint(s) of existing and proposed structure(s) and their location(s) on the subject property.

Applicant's Signature: _____

Plat / Parcel No. _____

Grid is 4 squares per
Scale: 1" = _____ Feet

Date: _____





Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 20-147	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Variance – side yard setback	Planning Commission Date		October 13, 2020
Deadline for Action	Application Date	September 10, 2020	60 Days	November 10, 2020
	Date Extension Letter Mailed	October 6, 2020	120 Days	January 8, 2021
Location of Subject	2835 Minnesota Ave. (Park Point)			
Applicant	Patrick & Heather Sims	Contact		
Agent		Contact		
Legal Description	Lot 197, Minnesota Ave., Lower Duluth and 198, St. Louis Ave., Lower Duluth (010-3110-01030)			
Site Visit Date	October 2, 2020	Sign Notice Date	September 29, 2020	
Neighbor Letter Date	October 2, 2020	Number of Letters Sent	28	

Proposal

Demolish the home, retaining the basement, and construct a new two-story dwelling and attached one-car garage with living space above. The request is a variance to allow the new two-story dwelling to be 6 feet from the side lot line, which is the present one-story structure's setback, when the zoning requires a combined setback of 12 feet and the proposed combined setbacks is 9.7 feet. The proposal is also to extend the variance area 26 feet toward the front lot line for a one-car garage with living space above.

Recommended Action: Approve variance with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Dwelling	Traditional Neighborhood
North	R-1	Dwellings	Traditional Neighborhood
South	R-1	Dwellings	Traditional Neighborhood
East	R-1	Dwellings	Traditional Neighborhood
West	R-1	St. Louis Bay	Traditional Neighborhood

Summary of Code Requirements

Table 50-14.5-1 – Minimum width of side yard for lots with less than 50 feet of frontage, but more than 25 feet is the combined width of side yards must be at least 12 feet, with no side yard less than 3 feet.

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant's property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief for from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance

will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan. PG Packet 10-13-2010

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods

Zoning – Residential-Traditional (R-1): traditional neighborhoods of single-family, duplexes and townhouses on moderately sized lots. Intended to be used primarily in established neighborhoods. Dimensional standards require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas.

Future Land Use – Traditional Neighborhood - Characterized by grid/connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Includes many of Duluth’s older neighborhoods, infill projects, neighborhood extensions. 4-8 units/acre, mix of housing types (i.e. town homes and 4-plexes).

Review and Discussion Items

Staff finds that:

- 1) The applicant’s existing 1,728 sq. ft. dwelling was constructed in 1900, including a 2005 one-story addition (252 sq. ft.) put on to the north. The existing home is positioned on the lot with 3.4 feet to the south property line and 6.3 feet to the north property line, which were compliant with required setbacks at the times of their construction.
- 2) The 40 foot wide property is zoned R-1, Residential-Traditional, which requires a side yard setback of a combined 12 feet with neither setback less than 3 feet. The new home would comply with the second clause (house is 3.4 feet to the south lot line), but cannot comply with the first clause, which requires a combined 12 feet of setbacks ($12 - 3.4 = 9.7$) while reusing the existing foundation that is set at 6.3 feet to the north property line.
- 3) The applicant is proposing to reuse the existing 12 inch block foundation after an assessment by MBJ Engineering found it in excellent condition.
- 4) In order to comply with current setbacks, the applicant would need to reduce the encroaching foundation which imposes multiple practical difficulties with regard to equipment access to the narrow side yard for demolition as well as risk of damaging the neighbor’s dwelling.
- 5) The applicant is proposing to use the property in a reasonable manner through removing an existing 120 year old dwelling that is not conducive to the applicant’s use, and constructing a new dwelling on a combination of the existing foundation and a new 12 foot by 26 foot one-car attached garage.
- 6) The special circumstances creating the need for the variance are a result of a previous owner who constructed the 2005 one-story addition to the north in compliance with setbacks at the time combined with a change in setback requirements in 2010.
- 7) Due to the narrow width of the parcel (40 feet) there are not practical ways to construct a one-car garage addition while retaining the existing foundation without seeking a variance. The narrow width also constrains where additional living space can be added to the property.
- 8) The variance, if granted, will not alter the essential character of the area as there are currently multiple two-story dwellings on small lots on the blocks surrounding the subject parcel, including the dwelling on the property to the south.
- 9) The two-story dwelling proposed for the site may reduce the amount of light falling on the property to the north but, because the new structure will be set at 6.3 feet from the north property line, the reduction is not expected to cause substantial impact. Likewise, due to the size of the structure and the distance to the property lines, there is not anticipated to be a reduction in air circulation.
- 10) The health, safety, and public welfare are not expected to be effected by the granting of the variances. Construction of the new dwelling according to current building codes will reduce the danger of fire when compared to the current building and the use as a dwelling is not expected to cause public safety or congestion concerns.

11. The variance, if granted, would not impair established property values in the surrounding area since views of and access to water are significant factors in property values on Park Point and this project has no effect on the those features of neighboring properties.
12. The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Traditional Neighborhood and housing policy that seeks to foster opportunities for reinvestment in homes.
13. No additional landscaping is recommended as mitigation for the reduced setback per Sec. 50-37.9. H since landscaping is not required for one-family dwellings.
14. No comments from citizens, City staff, or any other entity were received regarding the application.
15. Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

Based on the above findings, staff recommends that Planning Commission grant the Variance with the following conditions:

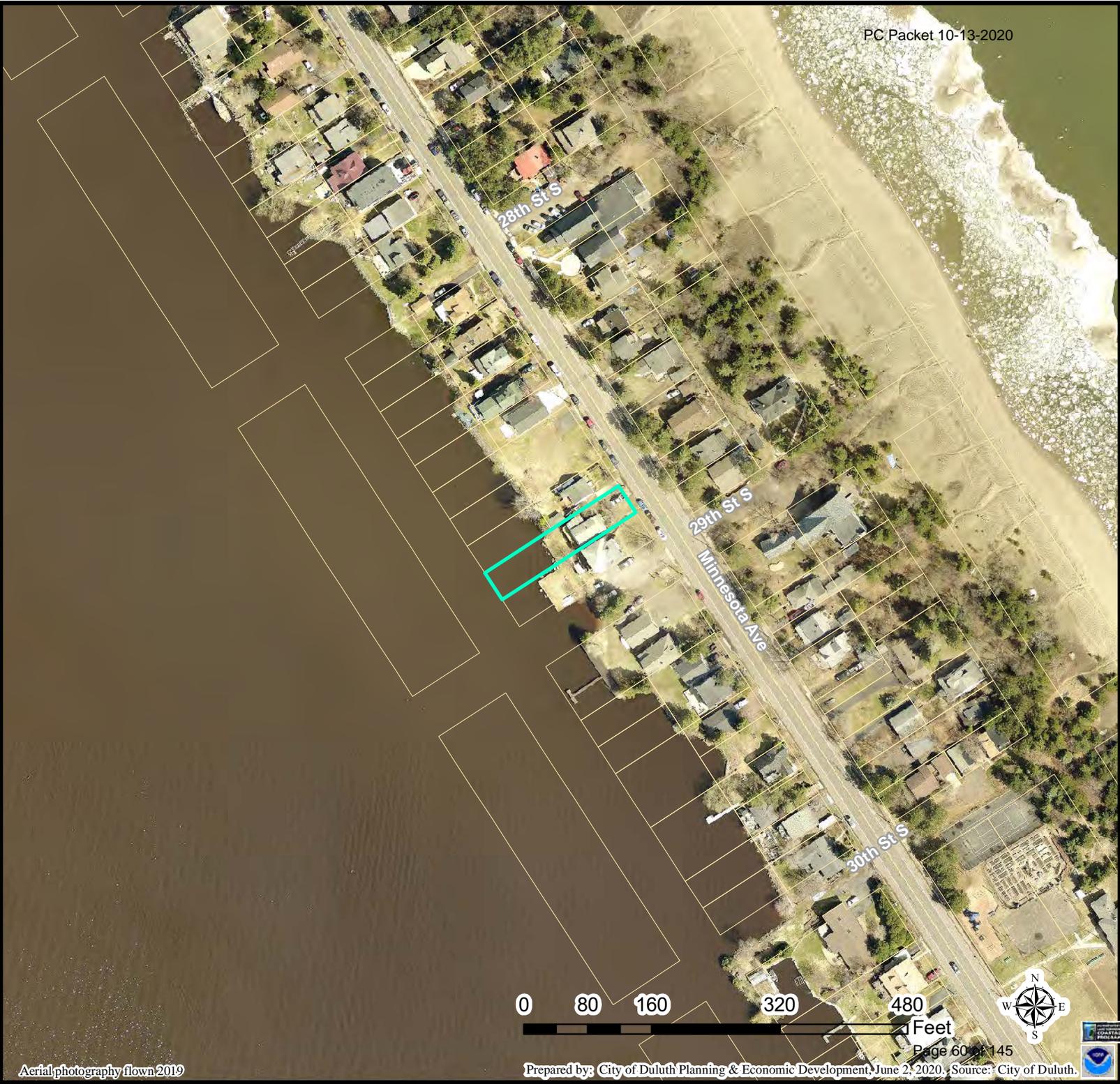
- 1) The project be limited to, constructed, and maintained according to plans provided by the applicant including the Site Plan, Sheet C100 dated 8/31/2020;
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 20-147
 2835 Minnesota Ave.
 Side Yard Setback Variance

Legend

- Subject Parcel
- Parcel Boundaries



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Aerial photography flown 2019





PL 20-147
2835 Minnesota Ave.
Side Yard Setback Variance

Legend

- Subject Parcel
- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- Sanitary Sewer Forced Main
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Zoning Boundaries



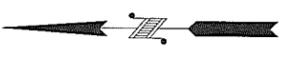
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Aerial photography flown 2019



LEGEND

-  CONCRETE SURFACE
-  GRAVEL SURFACE
-  EXISTING BUILDINGS
-  (M)-FIELD MEASURED DIMENSION
-  (R)-RECORD DIMENSION
-  C&G-CONCRETE CURB & GUTTER
-  RETAINING WALL
-  FENCE LINE
-  OVERHEAD UTILITIES
-  CENTER LINE
-  RIGHT OF WAY LINE
-  PLAT LINE
-  BOUNDARY LINE AS SURVEYED
-  TELECOM PEDESTAL
-  REFER TO SURVEYOR'S NOTES
-  FOUND REBAR
-  FOUND CAPPED REBAR
-  SET CAPPED REBAR RLS. NO. 49505
-  UTILITY POLE



LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 353371

Lot 197 MINNESOTA AVENUE, LOWER DULUTH
 Lot 198 ST LOUIS AVENUE, LOWER DULUTH

SURVEYOR'S NOTES

1. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
2. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
3. BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.
4. NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.
5. FOUND CAPPED REBAR RLS. NO. 10725, S21°E AND 0.44 FEET FROM THIS PROPERTY CORNER. SET A NEW CAPPED REBAR AS SHOWN IN THE CORRECT LOCATION.
6. BENCHMARK ON TOP OF REBAR AT PROPERTY CORNER IS 608.43 FEET.

CERTIFICATE OF SURVEY

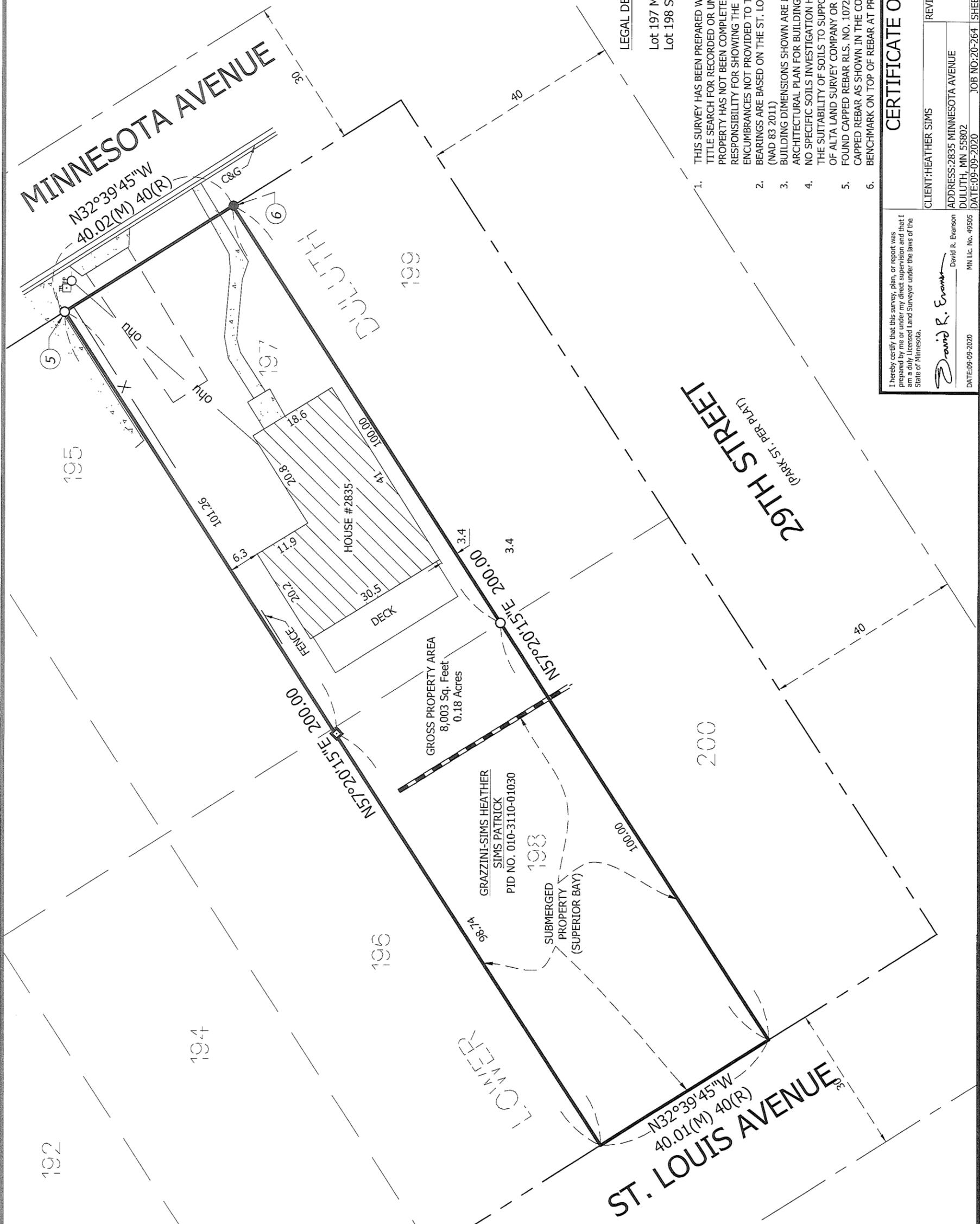
CLIENT: HEATHER SIMS
 REVISIONS:

ADDRESS: 2835 MINNESOTA AVENUE
 DULUTH, MN 55802
 DATE: 09-09-2020

JOB NO: 20-264 SHEET 1 OF 1

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

David R. Evanson
 David R. Evanson
 MN Lic. No. 49505
 DATE: 09-09-2020



St Louis Ave

Minnesota Ave

194

193

198

200

199

197

New rain garden between home and shoreline

Existing Landscaping to be removed, landscaping to be replaced upon construction completion, to be a rain garden.

Existing Arborvitae (Qty 2) to be removed

2005 12'x21' One (1) Story Existing Addition - Proposed To Rebuild Two (2) Story Addition - Shaded Blue

Proposed 12'x26' Two (2) Story Single Car Garage Addition - Shaded Green

Approx. location of shoreline

Existing Grades to Remain, Existing Grass/Vegetation to be Undisturbed to the furthest extent possible

10' Wide Permeable Paver Driveway

3' Wide Permeable Paver Sidewalk

Existing Steel Seawall

Note: Existing Foundation (Footprint) to remain the same size - exception: new garage addition

Original 18'x41' Two (2) Story Existing House - Proposed To Rebuild Two (2) Story

New landscaping - shrubs, flowers, etc.

Note: Any OH utilities shall be buried - power & low voltage (TV Cable)

Existing Grades to Remain, Existing Grass/Vegetation to be Undisturbed to the furthest extent possible

Existing Birch Tree to Remain

29th Street

Pat and Heather Sims

Site Plan

Project number 01

Date 8/31/2020

Drawn by BN

Checked by PS

C100

Scale 1" = 20'-0"

Reasons for this Request Cont'd:

- 1) The existing house (18'x41') was constructed in 1900, and with the construction in that era, the house is not energy efficient as the walls are 2x4 construction.
- 2) The wall insulation and windows were installed in 1964 and lack the thermal efficiency of modern wall insulation and high-quality windows.
- 3) The electrical wiring is a combination of various ages with some wiring that still has the cloth shielding.
- 4) The siding is in very poor condition and needs to be replaced.
- 5) The house is a combination of the original house and an addition that was added in 2005 and has a very inefficient floor plan, room sizes, etc. which make it very costly to remodel and/or reconfigure.
- 6) The existing wood framing would not meet current building codes regarding wind loading, particularly at the harbor side of the existing house.
- 7) The existing deck (harbor side), deck board spacing is too wide and does not meet code, 1/2" – 5/8" wide spacing.
- 8) The existing deck (harbor side), railing spindles spaces are greater than 4" wide and do not meet code, as well as the railing attachment does not meet the 250 lb code required force restraint for a guardrail.
- 9) The existing foundation is 12" block and is in excellent condition. MBJ Engineering reviewed the foundation and determined the foundation is certainly worth keeping.
- 10) The existing has a drain tile system/sump pump that was installed in 2017, which keeps the basement dry and is very effective, which is another reason to keep the existing foundation.

BUILDING PHOTOGRAPHS

See Instructions for Item A6.

OMB No. 1660-0008

Expiration Date: November 30, 2022

ELEVATION CERTIFICATE

IMPORTANT: In these spaces, copy the corresponding information from Section A.			FOR INSURANCE COMPANY USE
Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 2835 MINNESOTA AVENUE			Policy Number:
City DULUTH	State Minnesota	ZIP Code 55802	Company NAIC Number

If using the Elevation Certificate to obtain NFIP flood insurance, affix at least 2 building photographs below according to the instructions for Item A6. Identify all photographs with date taken; "Front View" and "Rear View"; and, if required, "Right Side View" and "Left Side View." When applicable, photographs must show the foundation with representative examples of the flood openings or vents, as indicated in Section A8. If submitting more photographs than will fit on this page, use the Continuation Page.



Photo One

Photo One Caption FRONT VIEW 09-03-2020

Clear Photo One



Photo Two

Photo Two Caption RIGHT VIEW 09-03-2020

Clear Photo Two

BUILDING PHOTOGRAPHS

Continuation Page

OMB No. 1660-0008

Expiration Date: November 30, 2022

ELEVATION CERTIFICATE

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Building Street Address (including Apt., Unit, Suite, and/or Bldg. No.) or P.O. Route and Box No. 2835 MINNESOTA AVENUE			Policy Number:
City DULUTH	State Minnesota	ZIP Code 55802	Company NAIC Number

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Photo Three

Photo Three Caption REAR VIEW 09-03-2020

Clear Photo Three



Photo Four

Photo Four Caption LEFT VIEW 09-03-2020

Clear Photo Four



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 20-161	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Variance – Shoreland setback	Planning Commission Date		October 13, 2020
Deadline for Action	Application Date	October 5, 2020	60 Days	December 5, 2020
	Date Extension Letter Mailed	October 6, 2020	120 Days	February 2, 2021
Location of Subject	2835 Minnesota Ave. (Park Point)			
Applicant	Patrick & Heather Sims	Contact		
Agent		Contact		
Legal Description	Lot 197, Minnesota Ave., Lower Duluth and 198, St. Louis Ave., Lower Duluth (010-3110-01030)			
Site Visit Date	October 2, 2020	Sign Notice Date	September 29, 2020	
Neighbor Letter Date	October 2, 2020	Number of Letters Sent	28	

Proposal

Demolish the home, retaining the basement, and construct a new two-story dwelling and attached one-car garage with living space above. The request is a variance to allow the new two-story dwelling to be set at 27 feet instead of the required 50 feet from St. Louis Bay. The applicant is proposing a permeable paver driveway and sidewalk and the installation of rain gardens in mitigation for Shoreland impacts.

Recommended Action: Approve variance with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Dwelling	Traditional Neighborhood
North	R-1	Dwellings	Traditional Neighborhood
South	R-1	Dwellings	Traditional Neighborhood
East	R-1	Dwellings	Traditional Neighborhood
West	R-1	St. Louis Bay	Traditional Neighborhood

Summary of Code Requirements

Sec. 50-18.1.D.3(a) – Minimum Shoreland Area Standards for General Development Waters, Minimum Setback to Ordinary High Water Level for Structures is 50 feet, Width of Naturally Vegetative Buffer is 50 feet.

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief for from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the

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

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods

Zoning – Residential-Traditional (R-1): traditional neighborhoods of single-family, duplexes and townhouses on moderately sized lots. Intended to be used primarily in established neighborhoods. Dimensional standards require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas.

Natural Resources Overlay Zone - The purpose of this overlay is to promote, preserve and enhance the water resources and environment within the city and protect them from adverse effects caused by poorly sited or incompatible development. It is intended to implement the Minnesota department of natural resources (DNR) shoreland.

Future Land Use – Traditional Neighborhood - Characterized by grid/connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Includes many of Duluth’s older neighborhoods, infill projects, neighborhood extensions. 4-8 units/acre, mix of housing types (i.e. town homes and 4-plexes).

Review and Discussion Items

Staff finds that:

- 1) The property is located in a General Development Waters Shoreland Zone which requires structures to be setback 50 feet from the ordinary high water level at St. Louis Bay.
- 2) The applicant’s existing 1,728 sq. ft. dwelling was constructed in 1900, including a 2005 one-story addition (252 sq. ft.) put on to the north. The existing home is positioned on the lot 27 feet from the ordinary high water level and is a legal, nonconforming building.
- 3) According to Sec. 50-38.3.A, a nonconforming building may continue to be used, and may be expanded provided that the expansion does not increase or extend any nonconformity horizontally or vertically. The proposal is to remove the dwelling down to the basement and construct a new two-story dwelling. The 252 sq. ft. 2005 addition is currently one-story tall and so replacing it with a two-story building is increasing the nonconformity vertically, conflicting with Sec. 50-38.5.A.
- 4) The applicant is proposing to reuse the existing 12 inch block foundation after an assessment by MBJ Engineering found it in excellent condition.
- 5) The applicant is proposing to use the property in a reasonable manner through removing an existing 120 year old dwelling that is not conducive to the applicant’s use, and constructing a new dwelling on a combination of the existing foundation and a new 12 foot by 26 foot one-car attached garage.
- 6) Due to the narrow width of the parcel (40 feet) there are not practical ways to construct a one-car garage addition while retaining the existing foundation without seeking a variance. The narrow width also constrains where additional living space can be added to the property.
- 7) The variance, if granted, will not alter the essential character of the area as there are currently multiple dwellings on the blocks surrounding the subject parcel that are built within the 50-foot Shoreland setback.
- 8) The health, safety, and public welfare are not expected to be effected by the granting of the variances. Construction of the new dwelling according to current building codes will reduce the danger of fire when compared to the current building and the use as a dwelling is not expected to cause public safety or congestion concerns.
- 9) The variance, if granted, would not impair established property values in the surrounding area since views of and access to water are significant factors in property values on Park Point and this project has no effect on the those features of neighboring properties.

10. The variance, if granted, would not impair established property values in the surrounding area since views of and access to water are significant factors in property values on Park Point and this project has no effect on the those features of neighboring properties.
11. The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Traditional Neighborhood and housing policy that seeks to foster opportunities for reinvestment in homes.
12. No adverse impacts to the environment are expected from the granting of this variance since the applicant is proposing to offset the proposed structure's increased footprint by replacing the existing driveway and sidewalk with permeable pavers. Additionally, the setback to the water is not proposed to be reduced over the current position of the building, therefore, the amount of pervious area available to absorb runoff would remain the same. Overall, the infiltration of water on the site is expected to increase due to the proposed installation of two rain gardens, one to be located between the building and the bay.
13. No comments from citizens, City staff, or any other entity were received regarding the application.
14. Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

Based on the above findings, staff recommends that Planning Commission grant the Variance with the following conditions:

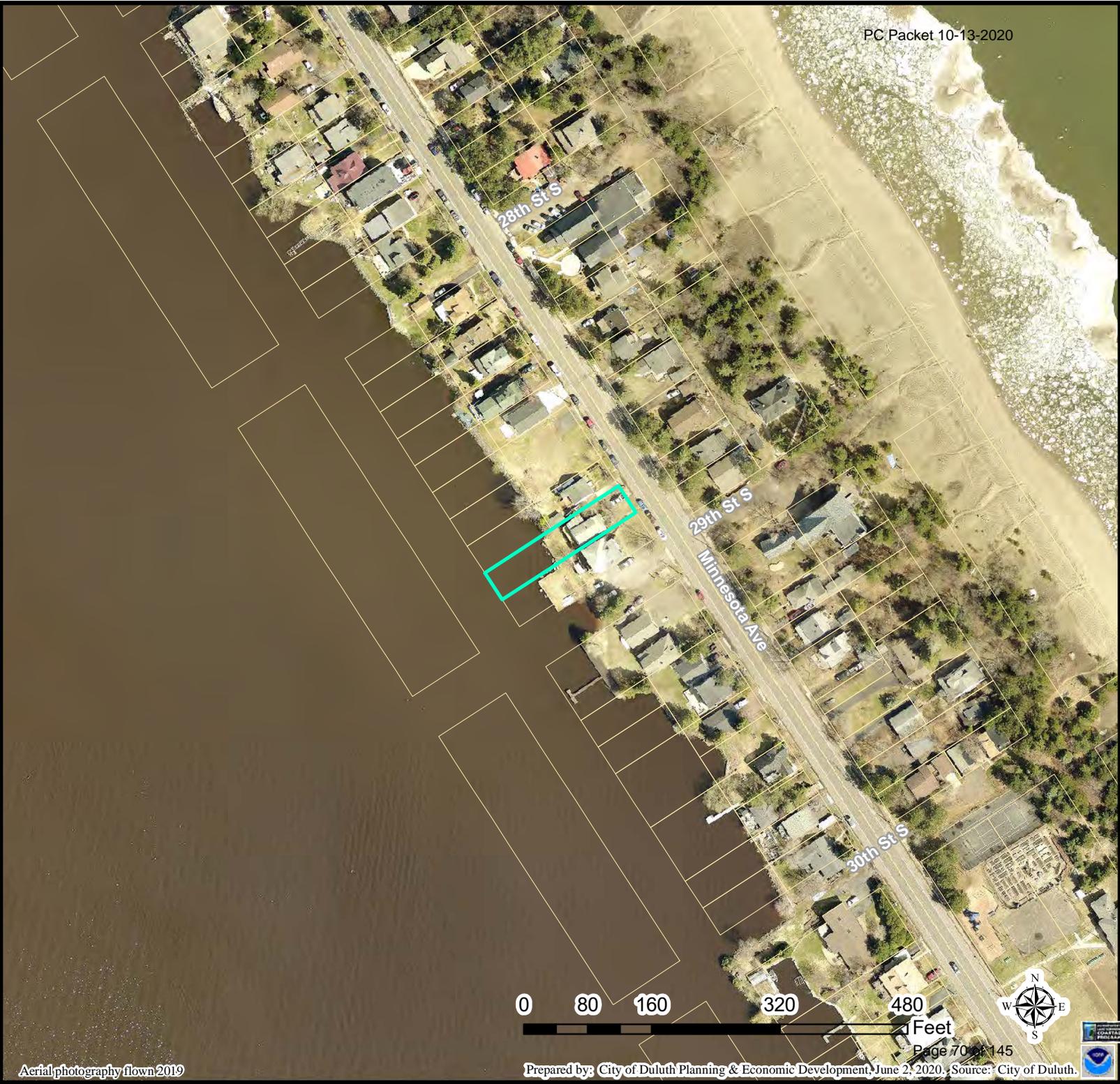
- 1) The project be limited to, constructed, and maintained according to plans provided by the applicant including the Site Plan, Sheet C100 dated 8/31/2020;
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 20-147
 2835 Minnesota Ave.
 Side Yard Setback Variance

Legend

-  Subject Parcel
-  Parcel Boundaries



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

Aerial photography flown 2019





PL 20-147
2835 Minnesota Ave.
Side Yard Setback Variance

PC Packet 10-13-2020

Legend

- Subject Parcel
- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- Sanitary Sewer Forced Main
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Zoning Boundaries



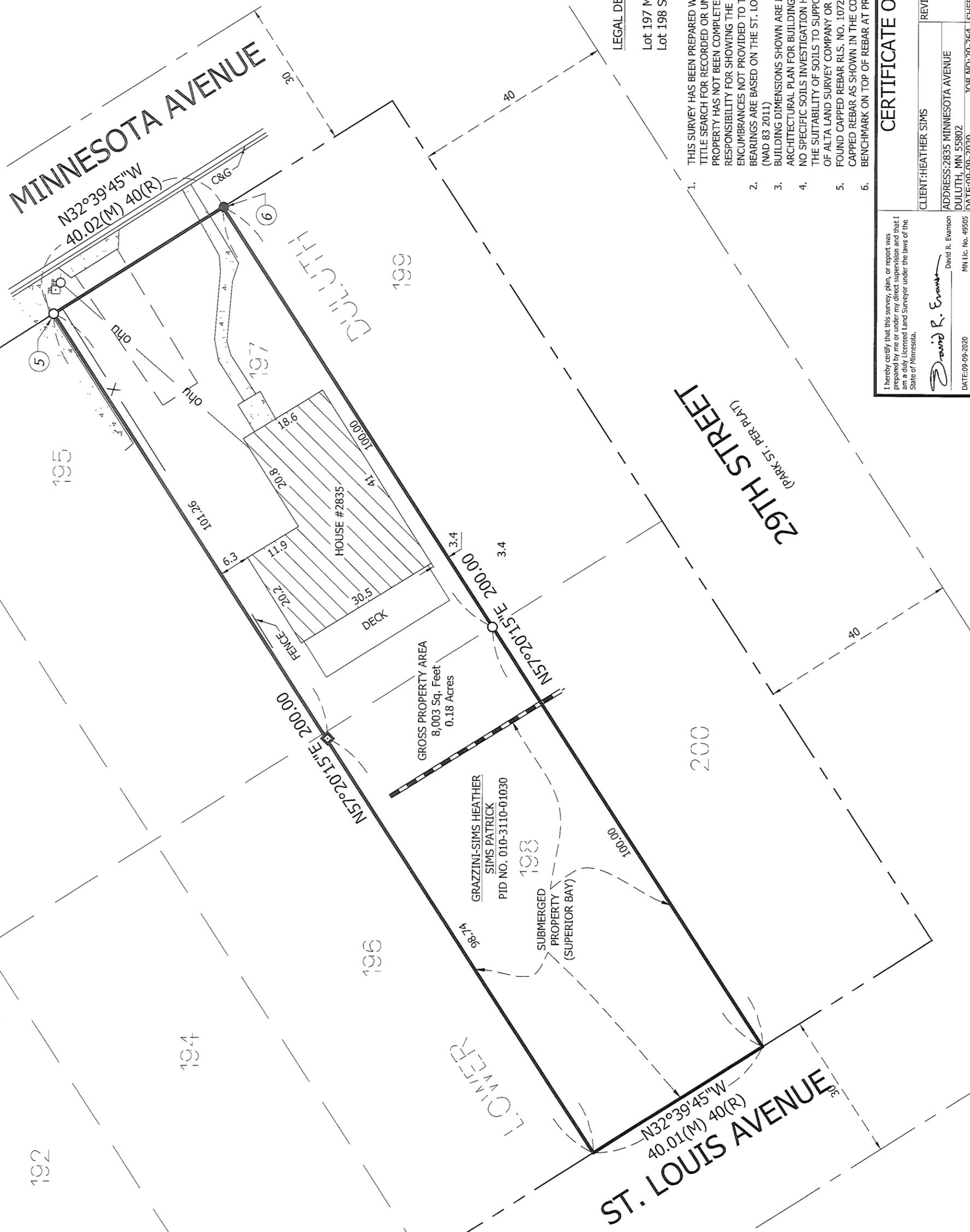
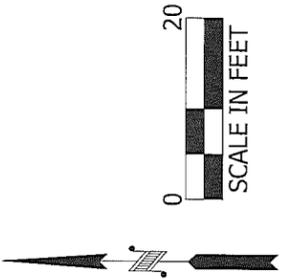
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Aerial photography flown 2019

Prepared by: City of Duluth Planning & Economic Development, June 2, 2020. Source: City of Duluth.

LEGEND

-  CONCRETE SURFACE
-  GRAVEL SURFACE
-  EXISTING BUILDINGS
-  (M)-FIELD MEASURED DIMENSION
-  (R)-RECORD DIMENSION
-  C&G-CONCRETE CURB & GUTTER
-  RETAINING WALL
-  FENCE LINE
-  OVERHEAD UTILITIES
-  CENTER LINE
-  RIGHT OF WAY LINE
-  PLAT LINE
-  BOUNDARY LINE AS SURVEYED
-  TELECOM PEDESTAL
-  REFER TO SURVEYOR'S NOTES
-  FOUND REBAR
-  FOUND CAPPED REBAR
-  SET CAPPED REBAR RLS. NO. 49505
-  UTILITY POLE



LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 353371

Lot 197 MINNESOTA AVENUE, LOWER DULUTH
 Lot 198 ST LOUIS AVENUE, LOWER DULUTH

SURVEYOR'S NOTES

1. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
2. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
3. BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.
4. NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.
5. FOUND CAPPED REBAR RLS. NO. 10725, S21°E AND 0.44 FEET FROM THIS PROPERTY CORNER. SET A NEW CAPPED REBAR AS SHOWN IN THE CORRECT LOCATION.
6. BENCHMARK ON TOP OF REBAR AT PROPERTY CORNER IS 608.43 FEET.

CERTIFICATE OF SURVEY

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

David R. Evans
 David R. Evans
 MN Lic. No. 49505
 DATE: 09-09-2020

CLIENT: HEATHER SIMS

ADDRESS: 2835 MINNESOTA AVENUE
 DULUTH, MN 55802
 DATE: 09-09-2020

REVISIONS:

JOB NO: 20-264 SHEET 1 OF 1



Reasons for this Request Cont'd:

- 1) The existing house (18'x41') was constructed in 1900, and with the construction in that era, the house is not energy efficient as the walls are 2x4 construction.
- 2) The wall insulation and windows were installed in 1964 and lack the thermal efficiency of modern wall insulation and high-quality windows.
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- 9) The existing foundation is 12" block and is in excellent condition. MBJ Engineering reviewed the foundation and determined the foundation is certainly worth keeping.
- 10) The existing has a drain tile system/sump pump that was installed in 2017, which keeps the basement dry and is very effective, which is another reason to keep the existing foundation.

Mitigation and Purpose Statement

The rebuild that is proposed will not hinder the purpose statement of 50-18.1.A to promote, preserve, and enhance the water resources and environment of the General Development Waters of Lake Superior. We are not proposing to increase the footprint of the existing structure as it relates to the existing shoreland setback, dimensional standards. We are proposing to rebuild on the existing foundations in order to avoid adverse or potentially irreversible impacts on unique and fragile land, by minimizing conflicts that would be created by the disturbance of removing the existing foundations. The existing property does not have any run-off mitigation, i.e. impervious paver hardscape, rain gardens, or rain water containment. In conjunction with the rebuild of the structure on the existing foundation, impervious pavers will be utilized for the driveway and sidewalk, in addition to rain gardens in the front and back yard, with rain water run-off/containment measurements throughout.

BUILDING PHOTOGRAPHS

See Instructions for Item A6.

OMB No. 1660-0008

Expiration Date: November 30, 2022

ELEVATION CERTIFICATE

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Photo One

Photo One Caption FRONT VIEW 09-03-2020

Clear Photo One



Photo Two

Photo Two Caption RIGHT VIEW 09-03-2020

Clear Photo Two

BUILDING PHOTOGRAPHS

Continuation Page

OMB No. 1660-0008

Expiration Date: November 30, 2022

ELEVATION CERTIFICATE

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Photo Three

Photo Three Caption REAR VIEW 09-03-2020

Clear Photo Three



Photo Four

Photo Four Caption LEFT VIEW 09-03-2020

Clear Photo Four



Planning & Development Division
Planning & Economic Development Department

Room 160
411 West First Street
Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

MEMORANDUM

DATE: October 5, 2020
TO: Planning Commission
FROM: Chris Lee, Planner I
RE: Updated site plan with detailed landscaping for variance application by James Talago (PL 20-120 and PL 20-121)

At the September 8, 2020 meeting, the members of the Planning Commission discussed (and ultimately tabled) two variance requests from James Talago at 106 South 15th Avenue East. A representative of the applicant was attending to the meeting, but due to technical difficulties was unable to address the commission.

The applicant, James Talago, has submitted an updated landscaping plan showing more detail of the buffer between the proposed structure and the neighboring property. This landscaping is often a requirement for variances that reduce setbacks. The updated landscape plan also shows two bike racks located on the property. The fence indicated on the updated plan will require a separate fence permit.

Additional comments have been received regarding the architectural design of the building and how it relates to the surrounding neighborhood.

Staff is recommending that Planning Commission approve variance PL 20-120 and PL 20-121.



Engineering
Land Surveying
Economic Development

JPJ ENGINEERING, INC
425 Grant Street
P.O. Box 656
Hibbing, MN 55746
Phone: (218) 262-5528
www.jpjeng.com

Hibbing, MN • Duluth, MN

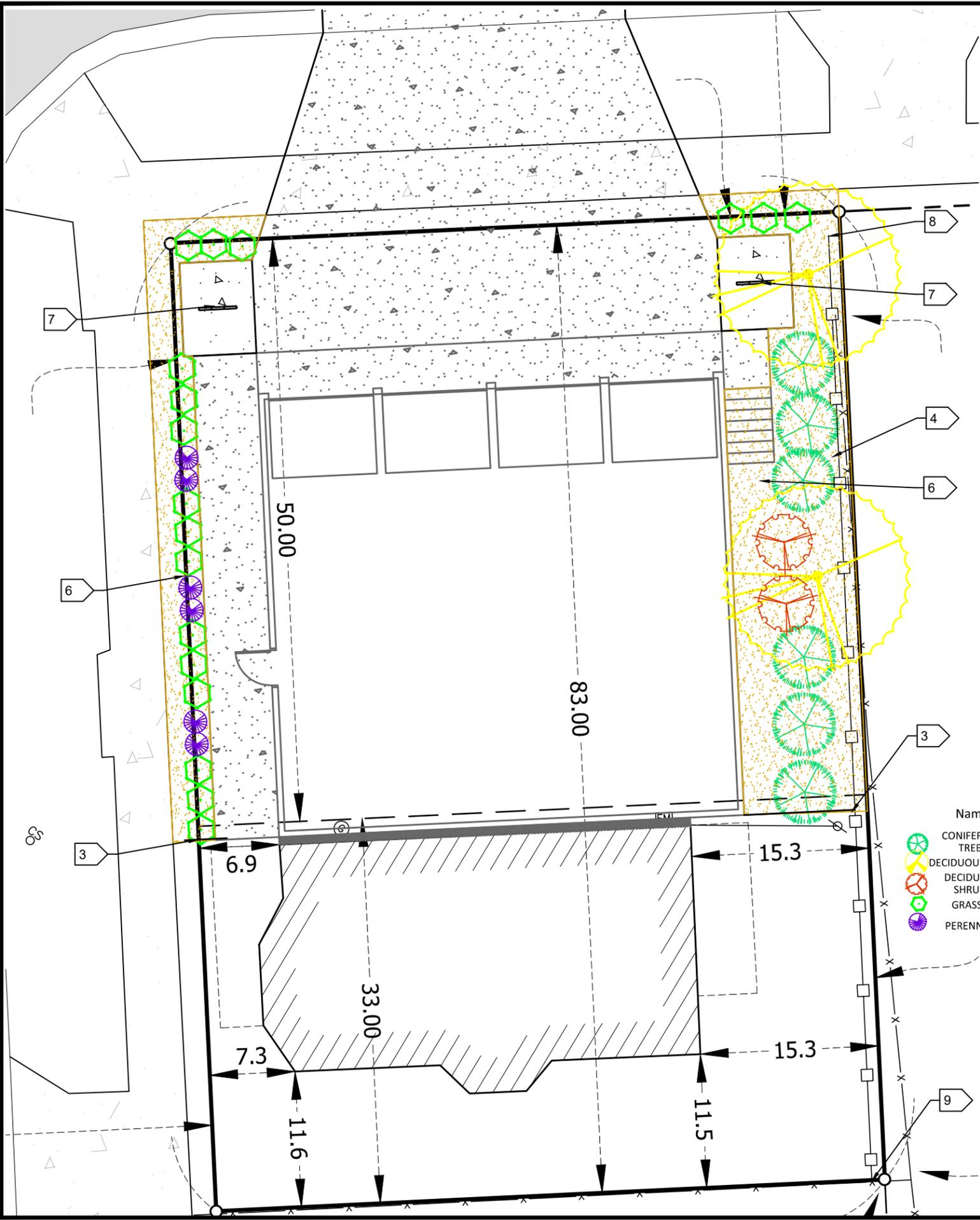


JAMES PATRICK
JEFFERSON STREET 5 PLEX
DULUTH, MN

LANDSCAPE PLAN

LANDSCAPE NOTES

1. PLANT MATERIAL SHALL CONFORM TO THE AMERICAN ASSOCIATION OF NURSERYMEN STANDARDS AND BE OF HARDY STOCK, FREE FROM DISEASE, INFESTATION, DAMAGE, AND DISFIGURATION. FOR DISCREPANCY BETWEEN THE NUMBER OF PLANTS ON THE SCHEDULE AND THE NUMBER SHOWN ON THE DRAWING, THE DRAWING SHALL GOVERN.
2. PLANTING SOIL SHALL CONSIST OF 4 PARTS TOPSOIL TO 1 PART PEAT HUMUS, WITH 3 POUNDS OF COMMERCIAL FERTILIZER ADDED PER CUBIC YARD.
3. EDGE SHRUB BEDS WITH 6-INCH BLACK VINYL EDGING (BLACK DIAMOND OR APPROVED EQUAL) EXCEPT WHERE ADJACENT TO CURBING, WALKS OR BUILDINGS.
4. PLACE PLANTS ACCORDING TO LAYOUT WITH PROPER NOMINAL SPACING.
5. SEE DETAILS FOR DEPTH OF PLANTING SOIL.
6. INSTALL 4 INCH DEPTH OF SHREDDED HARDWOOD BARK MULCH IN PERENNIAL BED AREAS.
7. INSTALL 5 STALL PACK RACK AND 8'x6' CONCRETE PAD.
8. BEGIN 6' HIGH WOOD FENCE.
9. END 6' HIGH WOOD FENCE.



Name	Count	KEY	COMMON NAME	SCIENTIFIC NAME	MATURE SIZE	PLANTING SIZE	ROOT COND
CONIFEROUS TREES	6	PST	WHITE PINE	PINUS STROBUS	50'H x 40'W	8'	B&B
DECIDUOUS TREES	2	DPB	DAKOTA PINNACLE® BIRCH	BETULA PLATYPHYLLA 'FARGO'	35'H x 10'W	2.5" CAL.	B&B
DECIDUOUS SHRUBS	2	WRW	WINE AND ROSES WEIGELA	WEIGELA FLORIDA 'ALEXANDRA'	5'H x 5'W	6"	CONTAINER
GRASSES	18	KFG	FEATHER REED GRASS	CALAMAGROSTIS ACUTIFLORA 'KARL FOERSTER'	5'H x 2'W	18"	CONTAINER
PERENNIALS	6	FVL	GAYFEATHER	LIATRIS SPICATA 'FLORISTAN VIOLET'	3'H x 2'W	12"	CONTAINER

REVISION DATE:	DESCRIPTION:

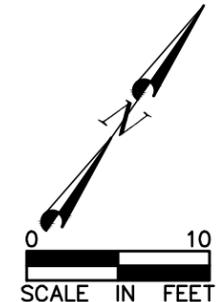
SURVEYED	TC
DESIGNED	TC
DRAWN	TC
CHECKED	

I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly licensed Landscape Architect under the laws of the State of Minnesota.

PRELIMINARY

DATE _____ LIC. NO. _____

Call 48 Hours before digging
GOPHER STATE ONE CALL
Twin Cities Area 651-454-0002
MN. Toll Free 1-800-252-1166



Oct. 05, 2020 9:39am
T:\James Patrick\20-739 COS Duluth, MN.dwg\300\20-739la.dwg



Engineering
Land Surveying
Site Development

JPI ENGINEERING, INC
425 Grant Street
Hibbing, MN 55746
(218) 262-5528
5670 Miller Trunk Hwy
Duluth, MN 55811
(218) 720-6219
www.jpjeng.com



JAMES PATRICK
DEVELOPMENT

JAMES PATRICK DEVELOPMENT
JEFFERSON STREET 5 PLEX
DULUTH, MINNESOTA

LANDSCAPE PLANTING
DETAILS

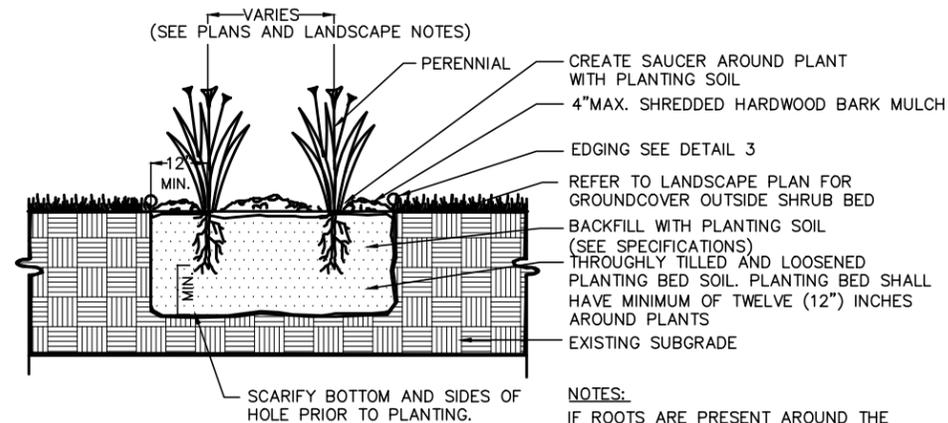
REVISION DATE:	DESCRIPTION:

SURVEYED	
DESIGNED	
DRAWN	TC
CHECKED	

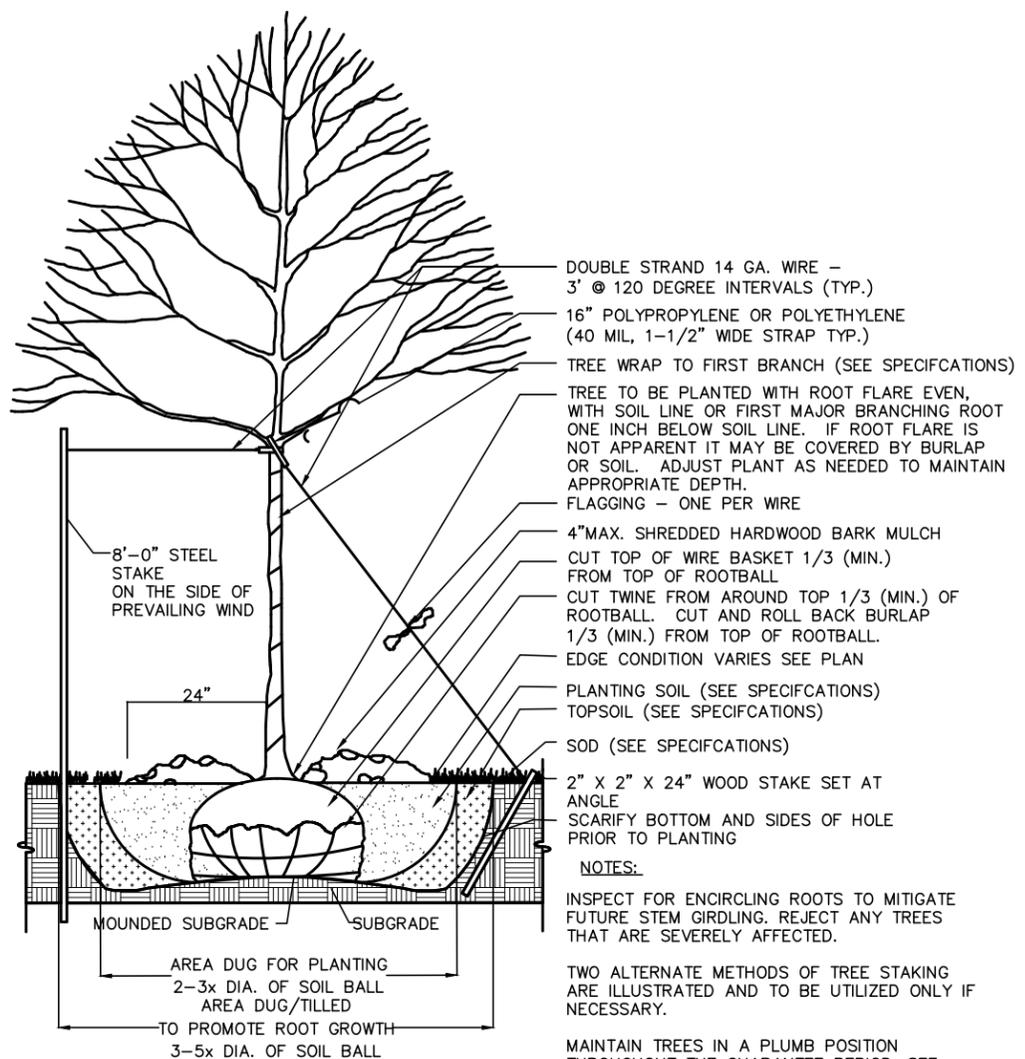
I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly licensed Landscape Architect under the laws of the State of Minnesota.

PRELIMINARY

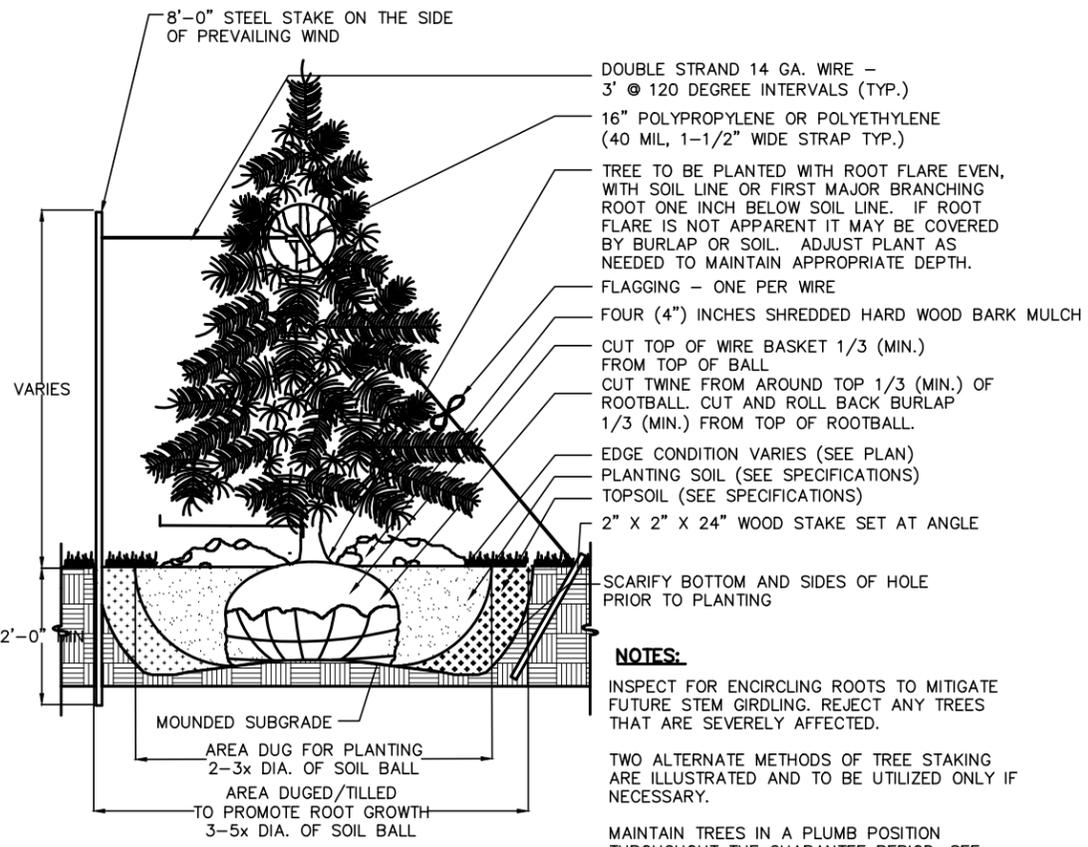
DATE _____ LIC. NO. _____



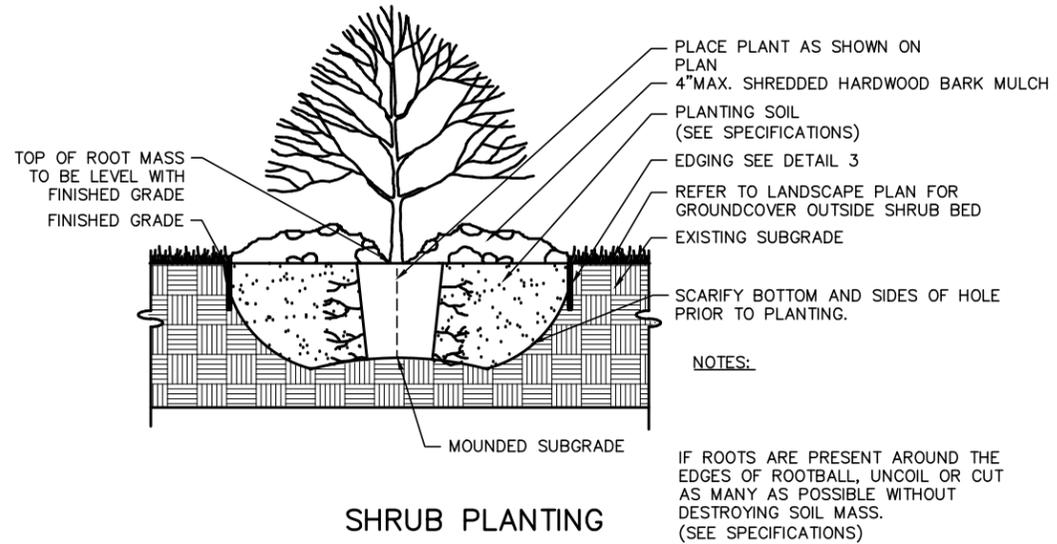
PERENNIAL PLANTING



DECIDUOUS TREE PLANTING



CONIFEROUS TREE PLANTING



SHRUB PLANTING

Oct 05, 2020 9:34am
T:\James Patrick\20-739 COS Duluth, MN.dwg\300\20-739gd.dwg



Engineering
Land Surveying
Site Development

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425 Grant Street
Hibbing, MN 55746
(218) 262-5528

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JAMES PATRICK
DEVELOPMENT

JAMES PATRICK DEVELOPMENT
JEFFERSON STREET 5 PLEX
DULUTH, MINNESOTA

LANDSCAPE AMMENITIES
DETAILS

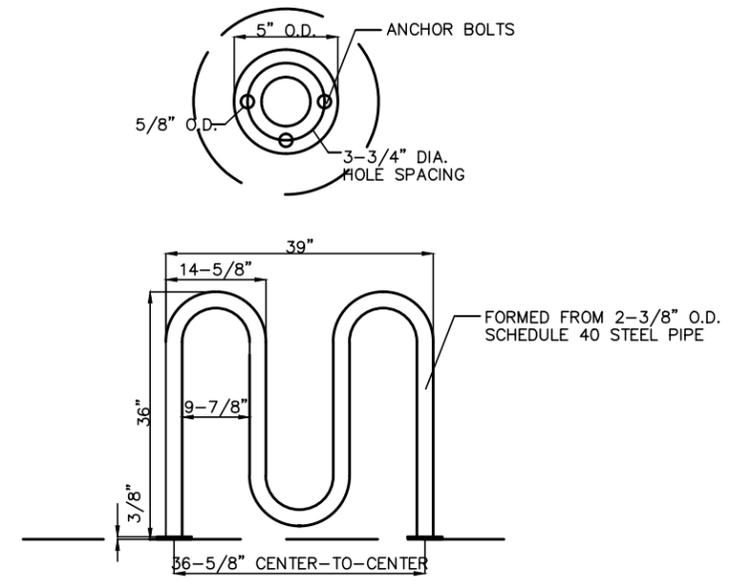
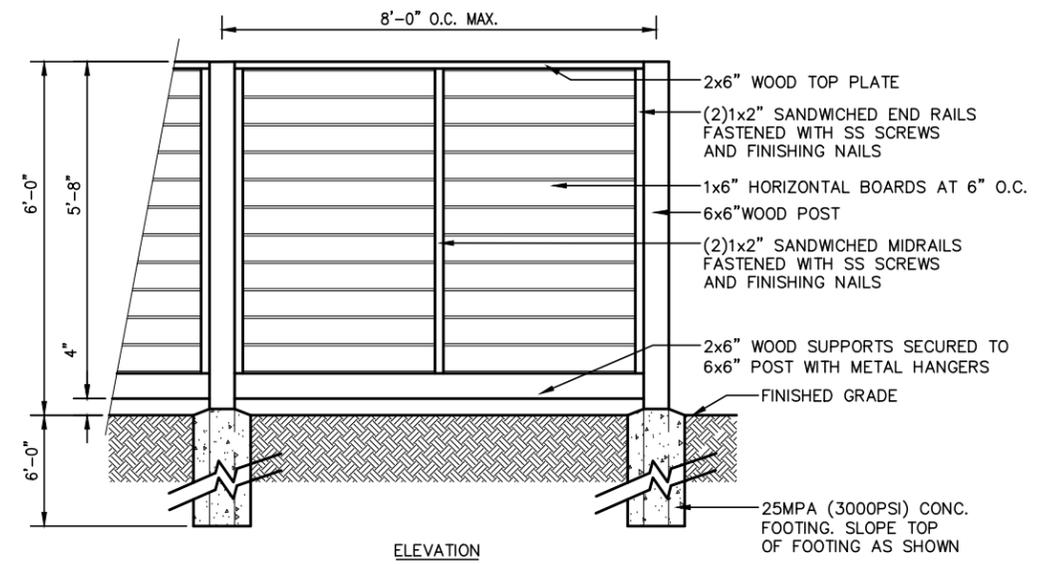
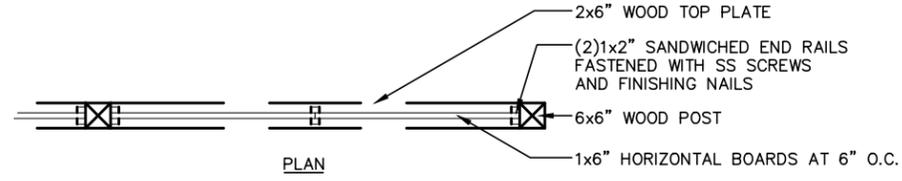
REVISION DATE:	DESCRIPTION:

SURVEYED	
DESIGNED	TC
DRAWN	TC
CHECKED	JPJ

I hereby certify that this plan was prepared by me or under my direct supervision and that I am a duly licensed Landscape Architect under the laws of the State of Minnesota.

PRELIMINARY

DATE _____ LIC. NO. _____



SPECIFICATIONS:

1. ALL WOOD TO BE NO. 1 GRADE CEDAR AND FREE OF EXCESSIVE CHIPS, CRACKS, WARPS OR KNOTS. UNLESS NOTED OTHERWISE ON DRAWING.
2. ALL FASTENERS TO BE HOT DIPPED GALVANIZED
3. ALL WOOD TO BE COATED WITH TWO COATS OF SOLID STAIN. COLOUR TO BE APPROVED BY OWNER

Oct 05, 2020 9:34am
 T:\James Patrick\20-739_COS Duluth, MN.dwg\300\20-739gd.dwg

From: [planning](#)
To: [Chris Lee](#)
Subject: FW: Comments for Public Hearing for variance at 1400 and 1420 London Road
Date: Friday, October 2, 2020 11:04:33 AM

From: ERIN DEWITT <[REDACTED]>
Sent: Friday, October 2, 2020 9:06 AM
To: planning <planning@DuluthMN.gov>
Subject: Comments for Public Hearing for variance at 1400 and 1420 London Road

Dear Planning Commission Members,

I was listening in to the Planning Commission meeting in September. My husband, Andrew Webster, and I were sharing the computer with our neighbor, Danielle, who lives next door to the proposed project. As an elder person that speaks English as a second language, Danielle could not figure out how to access the meeting so she joined us. She had difficulty understanding the conversation. Neither she or her husband Mac, feel comfortable or safe talking about their concerns. This project will negatively impact the value of their home, quality of light and air, visual sight lines and privacy. We tried to "raise our hand" to ask questions but the moderator didn't call upon us. We thought it must be because Andrew had already spoke and we were sharing the same platform.

We were discouraged to hear the meeting Chair say that "Parking is not a right" and the swift dismissal of a concern that nearly every letter submitted commented on. It was also shared that community members may not have realized that the proposed project has a 4 car garage included. The neighborhood is aware of that. As Martin DeWitt shared, the entrance to the parking garage will take up 3 existing parking spots on Jefferson Street. With the proposed design, there is the potential for up to 12 residents. That could mean that there could potentially be 12+ additional vehicles needing access to parking on Jefferson Street and the Avenue. We don't have it and we will have less of it with this proposal. Not even close. Last night I parked on 17th and Jefferson. I live on 15th and Jefferson. I was coming home late from visiting my sister at the hospital. It was dark. I walked by someone completely lit up on heroin that was interested in engaging me in conversation. The heroin epidemic is another story but it intersected with my lack of rights to park safely near my home. Lack of parking is a safety issue and it is a traffic issue. I was not the only one circling looking for a place to park. There were 2 other vehicles doing so. One racing to beat the car in front to a spot. Parking may not be a right, but it is a safety issue and a concern by every person who lives in this neighborhood. As members of the Duluth Planning Commission, it is my understanding, that your role is to ensure safe building projects and to consider the concerns of neighborhoods.

The staff member that presented the project shared that it would not impact light and air and that is just not true. It will shade both the home on the corner of 15th and

Jefferson Street and Mac and Danielle's home that butts up to the property. They are avid gardeners, growing much of what they eat, and the change in lighting with effect their ability to grow their food at the capacity that they do now. The comments that there would be beneficial landscaping are perplexing. There would only be room for shrubs. It will be a shaded space. Mac and Danielle would be looking at a gigantic wall where they once had full sun and trees. The same would be true for anyone walking and driving in the neighborhood.

And lastly, I am concerned about the visual architectural integrity of the current plan. It does not fit the neighborhood. Jefferson has several homes on the historic architectural registry. This design is not in keeping with that feel. It would change how one feels walking down the street and driving in the neighborhood.

I urge you to table this for a redesign that fits the existing lot and building parameters. Please do not grant this variance.

Thank you for considering my comments and for the work that you do,

Erin DeWitt

[REDACTED]

1512 Jefferson Street

Erin DeWitt

[REDACTED]

Create the life and world you want to live in!

From: [Jennifer Moses](#)
To: [Chris Lee](#); [Cindy Stafford](#)
Subject: FW: FW: Comments for Public Hearing Variance at 1400 and 1420 London Road
Date: Friday, October 2, 2020 10:57:11 AM

Chris,

Please see below comment that should be added (along with any others received since last month) to a memo for the Talago variance. Cindy – if you receive one from Erin DeWitt, that should also be forwarded to Chris.

Jenn

Jenn Reed Moses, AICP | Senior Planner | **Planning and Development Division** | City of Duluth |
411 W 1st Street Room 160, Duluth, MN 55802 | 218-730-5328 (direct) | 612-670-1300 (cell)
[|jmoses@duluthmn.gov](mailto:jmoses@duluthmn.gov)

From: Andrew Webster <[REDACTED]m>
Sent: Friday, October 2, 2020 10:40 AM
To: Jennifer Moses <jmoses@DuluthMN.gov>
Subject: Re: FW: Comments for Public Hearing Variance at 1400 and 1420 London Road

Jennifer-

Yes please do that, I would appreciate it. Erin also sent out an email this morning that also had the incorrect address.

Thank you
Andrew Webster

On Fri, Oct 2, 2020, 8:43 AM Jennifer Moses <jmoses@duluthmn.gov> wrote:

Hi Andrew!

I'm checking on this email, as I know you commented on the 15th Avenue E variances and your points below sound like they pertain to that address. 1400 and 1420 London Road is a variance for Lakewalk Surgical Center. Can you confirm? I'll make sure the comments get to Planning Commission but want to make sure it's related to the right file.

Thanks,

Jenn

Jenn Reed Moses, AICP | Senior Planner | **Planning and Development Division** | City of Duluth |
411 W 1st Street Room 160, Duluth, MN 55802 | 218-730-5328 (direct) | 612-670-1300 (cell)
[|jmoses@duluthmn.gov](mailto:jmoses@duluthmn.gov)

From: planning <planning@DuluthMN.gov>

Sent: Friday, October 2, 2020 8:18 AM
To: Jennifer Moses <jmoses@DuluthMN.gov>
Subject: FW: Comments for Public Hearing Variance at 1400 and 1420 London Road

From: Andrew Webster <[REDACTED]>
Sent: Friday, October 2, 2020 8:17 AM
To: planning <planning@DuluthMN.gov>
Subject: Comments for Public Hearing Variance at 1400 and 1420 London Road

Dear Duluth Planning Commission,

Please consider a redesign for the proposed 5 plex at 1400 and 1420 London Road. As a resident of this neighborhood for 33 years it is my belief that this project is not keeping with the architectural integrity of the neighborhood for the following reasons:

1. The proposed proximity to Jefferson Street would block views of surroundings and create visual blind spots for traffic and additional traffic of residents looking for parking. Sight lines, safe traffic flow and parking do matter- even if the ladder isn't a right.
2. Both heights and modern design do not fit with existing structures. Architectural continuity matters.
3. It will shade the neighbors across the avenue and the neighbors on Jefferson street and change the air flow. Light and air quality matter.

This project wouldn't need a variance if it was sized appropriately to the building site. As it is now, it would negatively impact the homeowners in close proximity and the overall architectural integrity of the neighborhood. Please consider a redesign for this project so that it better fits the neighborhood.

Thank you,
Andrew Webster
[REDACTED]
1512 Jefferson St



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 20-120	Contact	Chris Lee, clee@duluthmn.gov	
Type	Variance – minimum lot area for multi-family dwelling	Planning Commission Date		September 8, 2020
Deadline for Action	Application Date	July 24, 2020	60 Days	September 22, 2020
	Date Extension Letter Mailed	August 18, 2020	120 Days	November 21, 2020
Location of Subject	106 South 15 th Avenue East			
Applicant	James Talago	Contact		
Agent		Contact		
Legal Description	See attached			
Site Visit Date	August 31, 2020	Sign Notice Date	August 25, 2020	
Neighbor Letter Date	August 26, 2020	Number of Letters Sent	53	

Proposal

A variance to reduce the minimum lot area (5,000 square feet) to construct a multi-family dwelling unit. The proposal is to allow for a reduction of 223 square feet, with a total lot size of 4,773 square feet.

Recommended Action: Approve variance with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	Residential	Urban Residential
North	R-2	Mixed-Use Commercial	Urban Residential
South	R-2	Residential	Urban Residential
East	R-2	Residential	Urban Residential
West	MU-N	Residential	Central Business Secondary

Summary of Code Requirements

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

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief for from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

Governing Principle #8 – Encourage a mix of activities, uses, and densities. – The current lot is underutilized with the existing structure. This property is served by transit and utilities that makes a strong case for increased density among an area where the higher density already exists.

Housing Policy #2 - Provide affordable, attainable housing opportunities

Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods

Zoning – Residential-Urban (R-2): The R-2 district is established to accommodate multi-family apartments and townhouses, in an urban setting. This district also allows for single-family detached dwellings, duplexes and group living accommodations as shown in Table 50-19.8. The district is intended primarily for locations closer to commercial and mixed use activity centers, and may serve as a transition between lower-density residential areas and more intense commercial and mixed use neighborhoods.

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

Related files: PL 20-121: variance to reduce the rear yard setbacks to construct an addition to a structure

History: The property currently contains a 1,667 square foot, 3-bedroom residential structure constructed in 1901.

Review and Discussion Items

Staff finds that:

- 1) The applicant is proposing to construct an addition to the existing home that will contain 5 units, creating a 6-unit multi-family dwelling. The current platted lot is 4,773 square feet. A minimum lot area for a dwelling of this type is 5,000 square feet. The subject property is short 223 square feet.
- 2) The applicant is proposing to use the property in a reasonable manner through development of apartments that are otherwise consistent with zoning requirements. Other surrounding properties currently contain multi-family dwellings including some located on similar legal-nonconforming lots. The applicant expresses that the practical difficulty of the lot size is restrictive based on the current code standards and that similar density exists on other lots.
- 3) The applicant is not proposing to alter the character of the neighborhood as there are similar structures in the neighborhood, several within a two-block radius. This lot sits within a transitional space between commercial uses and residential uses. Increasing the density on this lot will provide infill housing in an area that can support it through existing infrastructure and comprehensive plan goals for land use in the area.
- 4) The variance, if granted, would not impair adequate light and air to surrounding properties, would not result in congestion on the surrounding streets.
- 5) The variance, if granted, would not result in congestion on the surrounding streets, would not impair fire or emergency service access, and would not diminish established property values in the surrounding area.
- 6) The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Urban Residential and housing policy that seeks to foster opportunities for creative housing types and concepts.
- 7) No comments from citizens, City staff, or any other entity have been received.
- 8) Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

Based on the above findings, staff recommends that Planning Commission grant the Variance with the following conditions:

- 1) The project be limited to, constructed, and maintained according to the plans submitted with the date of 7/24/2020;
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 20-120 & PL 20-121
Location Map

12 S 15th Ave E

PC Packet 10-13-2020

1512 Jefferson St

1510 Jefferson St

Jefferson St

10 inch, Vitreous Clay Pipe, 507.1'

6 inch, Cast Iron, 1/1/1889

21" Reinforced Concrete, 472.44-601'

2" MDPE

106 S 15th Ave E

Subject Property

1504 Jefferson St

R-2
(Residential Urban)

Legend

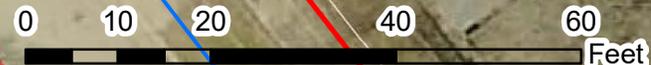
- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
 - CITY OF DULUTH
 - WLSDD; PRIVATE
 - Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
- Vacated ROW
- Easement Type
 - Utility Easement
 - Other Easement
- Zoning Boundaries



101 S 15th Ave E

MU-N (Mixed Use Neighborhood)

112 S 15th Ave E



North arrow and logos for Minnesota Department of Natural Resources Coastal Program and NOAA.

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

Aerial photography flown 2019

Prepared by: City of Duluth Planning & Development Division, February 25, 2020, Source: City of Duluth.



Engineering
Land Surveying
Economic
Development
JPJ ENGINEERING, INC
5670 Miller Trunk Hwy
Suite A
Duluth, MN 55811
Phone: 218-720-6219
www.jpjeng.com

CERTIFICATE OF SURVEY
For: James Patrick
106 South 15th Avenue East, Duluth, Minnesota 55812
Part of Lot 1, Block 39, ENDION DIVISION OF DULUTH, St. Louis County, Minnesota.

SURVEY BY :	RMM
DRAWN BY :	RMM
DESIGNED BY :	RMM
APPROVED BY :	RMM
DATE :	6/30/2020
PROJECT NUMBER :	20-739
SHEET NUMBER :	0
1 OF 1	

PROPERTY DESCRIPTION:

The north 50.00 feet of Lot 1, Block 39, ENDION DIVISION OF DULUTH, according to the recorded plat therefor, St. Louis County, Minnesota and the south 33.00 feet of the north 83.00 feet of said Lot 1.

SURVEYOR NOTES:

Orientation of the bearing system is based on the southerly line of Lot 1, Block 39, ENDION DIVISION OF DULUTH, to have a bearing of N 37°42'21" W.

JPJ Engineering has made no investigation or independent search for easements or record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.

Total gross area of the property is 4,773 square feet or 0.1096 acres ±.
Parcel Identification Numbers are 010-1460-03670.



LEGEND:

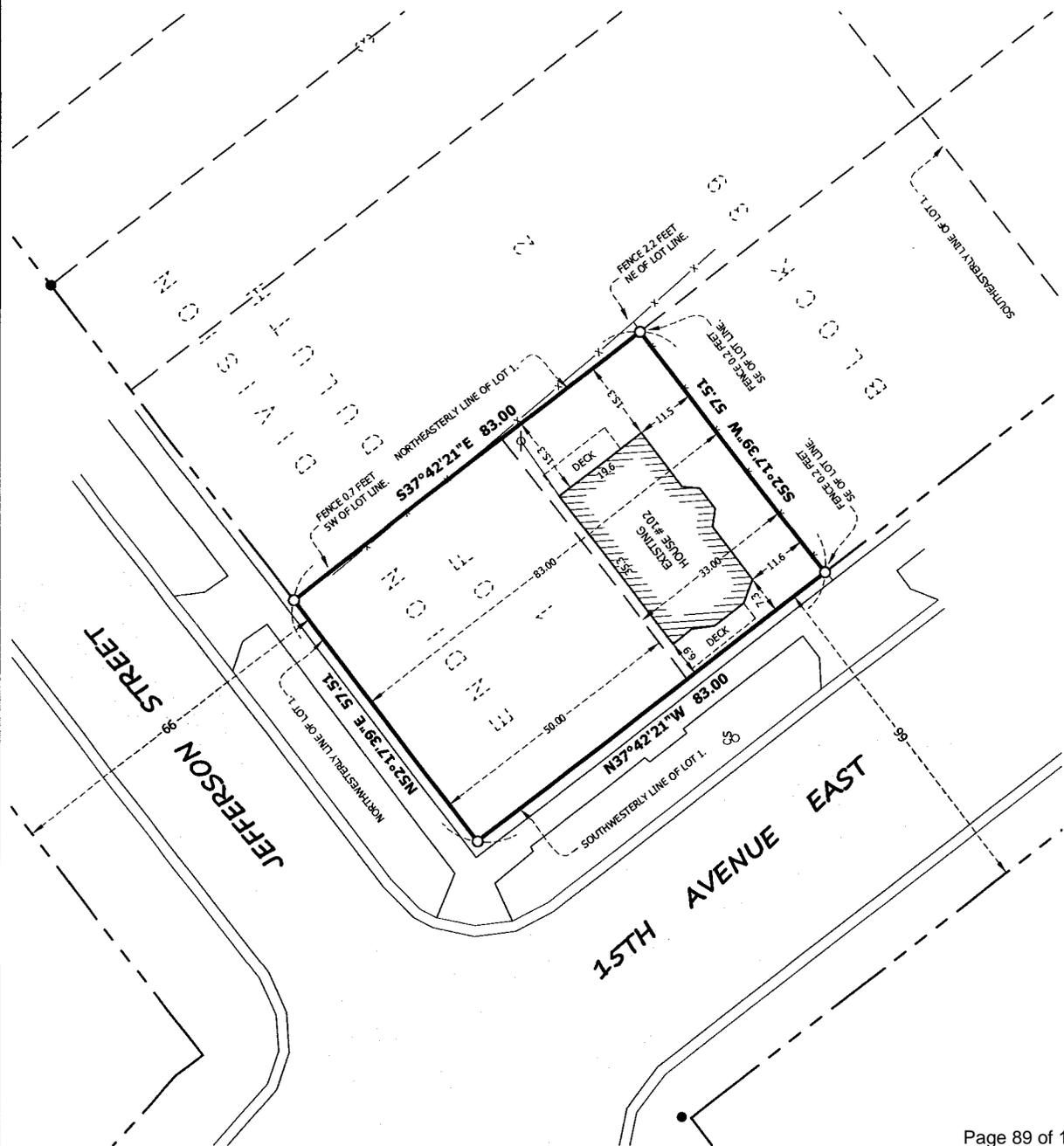
- Iron monument found
- 1/2 inch iron monument set, marked "JPJ ENG 21401"
- ⊗ Water curb stop
- ⊘ Power pole
- x — Fence line
- ▭ Concrete surface
- ▭ Bituminous surface

CERTIFICATION:

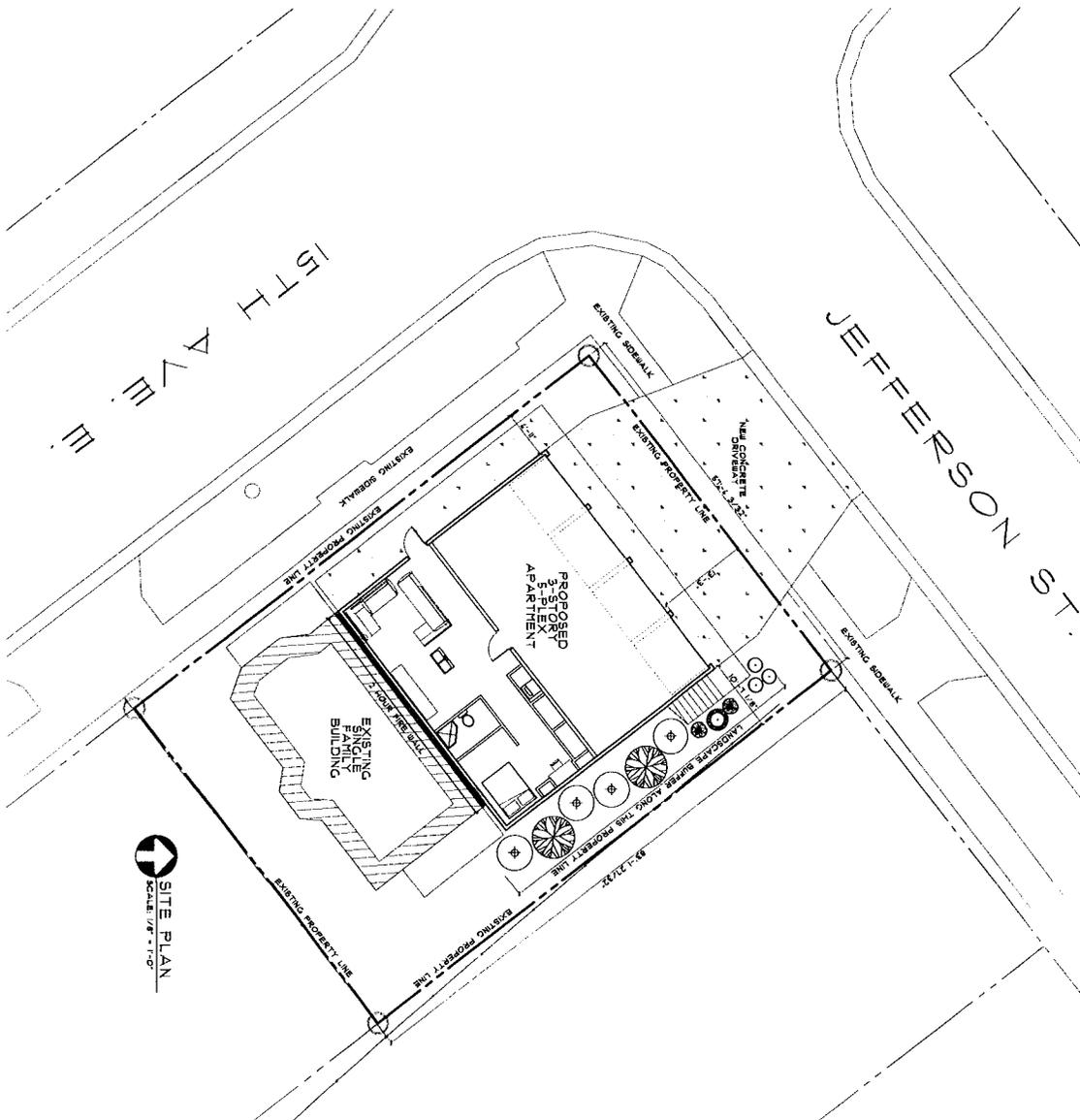
We hereby certify that this is a true and correct representation of a survey of the boundaries of the land above described and of the location of all buildings, if any, thereon, and all visible encroachments, if any, from or on said land.

Signed this 30th day of June, 2020 for JPJ Engineering, Inc.

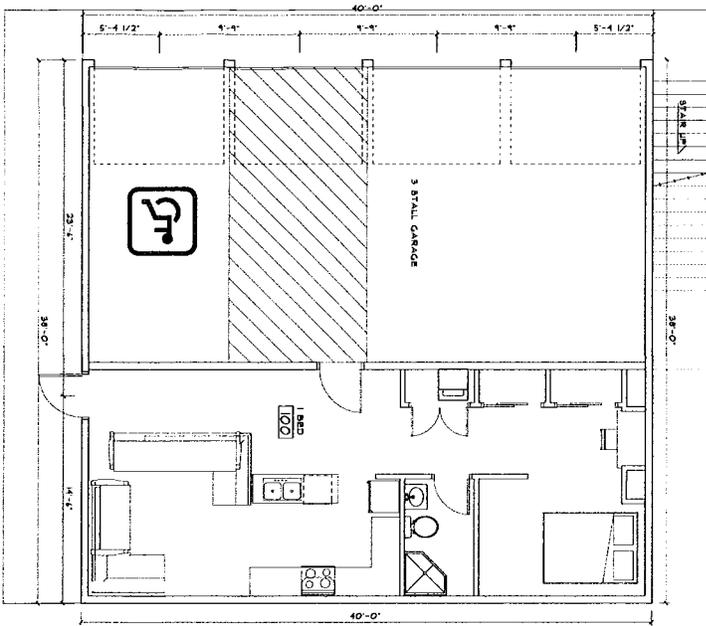
Randy M. Mortz
Randy M. Mortz, PLS License Number 21401



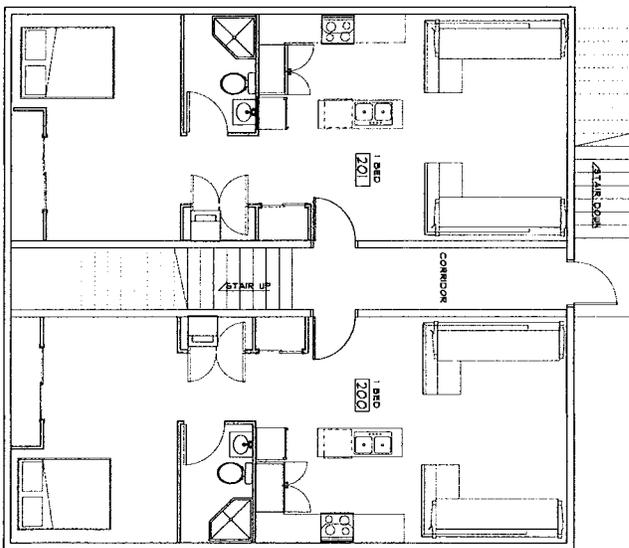
ZONING REQUIREMENTS	
EXISTING ZONING DISTRICT	R-1
MAXIMUM BUILDING HEIGHT	45'-0"
PROPOSED BUILDING HEIGHT (T.O. RAILING)	34'-6"
SITE DATA	
GROSS ACREAGE	4.884 S.F.
GROSS BUILDING AREA	4,540 S.F.
BUILDING SETBACKS	
SIDE YARD (JEFFERSON) SETBACK	15'-0"
PROPOSED SETBACK	MATCH EXIST
FRONT YARD (15TH AVE.) SETBACK	25'-0"
PROPOSED SETBACK	MATCH EXIST
REAR YARD SETBACK	25'-0"
PROPOSED SETBACK (RESIDENTIAL)	10'-1 1/8"
PARKING CALC	
0.30 STALLS PER UNIT	
TOTAL UNITS	5
STALLS REQUIRED	2
STALLS PROVIDED	5
- 3 ENCLOSED/2 OUTSIDE	



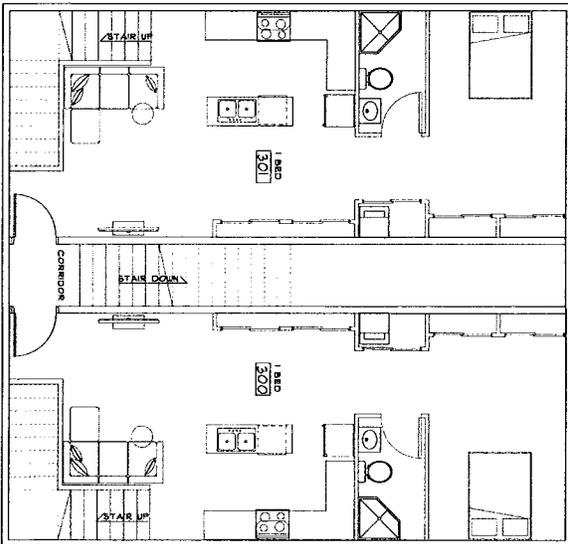
<p>AD1010</p>	<p>PROPOSED: 5-PLEX APARTMENT DULUTH, MN</p>	 <p>JAMES PATRICK ARCHITECTS</p>	<p>These drawings are not valid for bidding, permit, or other use without the express written consent of the architect. Copies are not valid.</p> <p>I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly licensed architect under the laws of the State of MINNESOTA.</p> <p>Name: MORTAN E. COLE</p>
<p>COLE GROUP ARCHITECTS LLC</p>		<p>Page 90</p>	



FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0" 1320 CROSS S.A.



SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0" 1320 CROSS S.A.

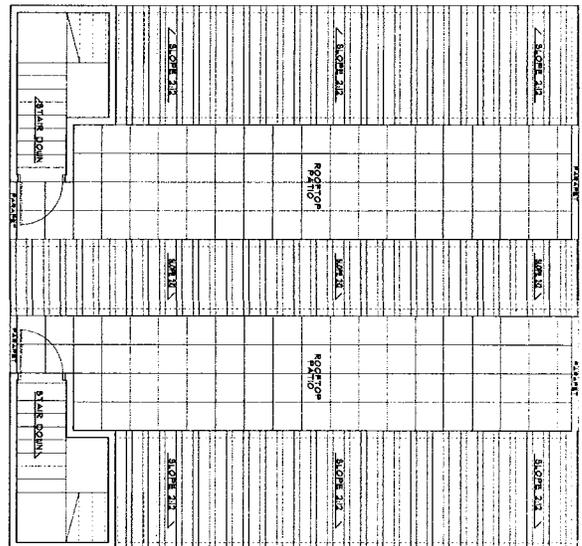


THIRD FLOOR PLAN
SCALE: 1/4" = 1'-0" 1320 CROSS S.A.

PENTHOUSE ROOF PLAN
SCALE: 1/4" = 1'-0"



ROOF DECK PLAN
SCALE: 1/4" = 1'-0" 1320 CROSS S.A.



DATE: 10-13-2020 FAX: 202497 004 1

PROJECT NO.	1320
DATE	10-13-2020
SCALE	1/4" = 1'-0"
PROJECT NAME	5-PLEX APARTMENT
PROJECT ADDRESS	DULUTH, MN
PROJECT OWNER	UNIVERSITY MICROFILMS
PROJECT ARCHITECT	COLE GROUP ARCHITECTS INC.
PROJECT ENGINEER	JAMES PATRICK ARCHITECTS
PROJECT CONTRACTOR	MORRIS & COLE

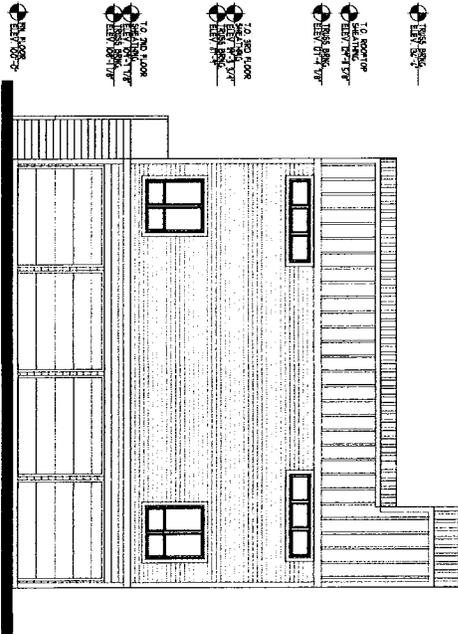
PROPOSED
5-PLEX APARTMENT
DULUTH, MN



This document is not valid for building permit unless stamped and sealed after official. Copies are not valid.
I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of MINNESOTA.
Name: MORRIS & COLE

COLE GROUP ARCHITECTS INC.
1320 PARK AVENUE, SUITE 100
DULUTH, MN 55812
PHONE: 218-825-4300
FAX: 218-825-4301
WWW.COLEGROUPARCHITECTS.COM

Page 94



NORTH-WEST ELEVATION
SCALE 3/8" = 1'-0"



SOUTH-WEST ELEVATION
SCALE 3/8" = 1'-0"



NORTH-EAST ELEVATION
SCALE 3/8" = 1'-0"

10/13/20 7:46:20 FILE 2004E COM 1

ASOT	10/13/20	7:46:20	FILE 2004E	COM 1
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PROPOSED:
5-PLEX
APARTMENT
DULUTH, MN



These drawings are not valid for building permit unless stamped as such and every detail. Check the site plan. I hereby certify that the full specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of MINNESOTA Name: NORMAN E. COLE

COLE GROUP
ARCHITECTS
10000
200 Park Avenue
Suite 200
Duluth, MN 55812
763/261-9900
www.colegroup.com

1. **Please explain how the exceptional narrowness, shallowness or shape of the property, or exceptional topographic or other conditions related to the property, would result in practical difficulties under strict application of the requirements of the UDC:**
 - a. The parcel at 106 S 15th Ave E is 4,773 Square Feet. This property has the dimensions of 57.51' x 83'. Currently the lot has an existing single-family residence which we are proposing to add an addition on to which would add 5 units to the building. The current zoning allows for an additional 5 units to be added to the vacant land adjacent to the existing home but because we are 223 SQFT shy of the 5,000 required we must seek a variance. We have designed our 5-unit structure to adhere to all regulations with-in the UDC.

2. **Please explain how the special circumstances or conditions that create the need for relief is due to circumstances unique to the property, and were NOT created by the property owner or the property owners' predecessors-in-interest:**
 - a. The circumstances that are preventing this parcel from expanding from a single-family residence to a 6-unit building is that the lot is short of 5,000 SQFT. The owner of the parcel purchased this property and did not decrease the existing square footage of the lot nor make any changes to the property personally that would warrant the need for relief. This is a legal city lot with-in the City of Duluth.

3. **Please explain the special circumstances or conditions applying to the building or land in question are peculiar to this property or immediately adjoining properties, and do not apply generally to other land or buildings in the vicinity:**
 - a. The property in question currently stands as a single-family residence in an R2 zoning district. The variance which we are applying for is needed to build an additional units 5 on the site. Under the R2 zoning district we need 750 SQFT of lot coverage per unit which is attainable on this specific site. The special circumstances are that the parcel is 227 SQFT less than the 5000 SQFT required for multi-family. This parcel is a platted lot with-in the city of Duluth in a multi-family zone district.
 - b. In the surrounding two blocks adjacent to the site there are several properties that do not currently meet the UDC Guidelines such as;
 - i. 109 S 15th Ave E. This property is a duplex rental that sits on a 1900 SQFT parcel with on street parking only.
 - ii. 31 S 17th Ave E. This property is a multifamily property consisting of 3 or more units. The lot is under the 5,000 SQFT requirement under the UDC.
 - iii. 1708 Greysolon Rd. This parcel is less than 4000 SQFT and houses a 3 unit building.
 - iv. 1713 Jefferson St. This parcel is less than 5,000 SQFT and currently has a duplex on the property
 - c. The surrounding neighborhood around the subject parcel is a majority of older rental housing stock consisting of both single-family homes and multifamily dwellings. By building a new structure we will be increasing the property values and rejuvenating an area that does not see many new structures being built.

- 4. Please explain how the application proposes to use the property in a reasonable manner, which would not be permitted by this code except for a variance:**
- The application proposes to increase the market rate housing stock and utilized the urban in-fill lots within the city. We are proposing to add a unique building which will enhance the Jefferson Street façade. We have come up with a newer concept for this neighborhood that will increase the property values and appeal to the area. This new building will have 5 one-bedroom apartments with the upper two units having access to the rooftop deck. Our proposal adheres to the UDC Guidelines and building codes.
- 5. Please explain how that if the variance is granted it will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety or public welfare of the inhabitants of the city:**
- The proposed addition will still maintain about 26' from the NE neighbor which is more of a separation that most of the single-family homes in the area. There are several nearby buildings where the separation is around 2'-0".
 - This area appears to be in a transitional stage where it has single-family and multi-family so the neighboring streets are already set up for this type of density and traffic flow. The site is next to two collector streets (E. Superior and London Rd) so the additional traffic will have easy access to collector streets without going through several single-family neighbors.
 - As described in the other responses, it is our understanding this would increase property values as this area has seen growth and higher density lots popping up nearby.
 - The building will comply with the new version of the MN state building code so the addition will include all the latest code requirements as it pertains to the health, safety and public welfare for the addition, existing home and neighboring parcels.
- 6. Please explain how, if the variance is granted, it will not substantially impair the intent of zoning code and the official zoning map, and will not alter the essential character of the neighborhood:**
- As our preliminary plans show the building is very well designed 5 units structure with covered parking for 3 vehicle and an additional space for another vehicle. The new building has a modern provincial design that will enhance the corner appeal. The location of the parcel is within walking/biking distance from many amenities and businesses. This building will also feature a rooftop deck that will have built-in garden beds for the residences. It is crucial to take advantage of the rooftop sunlight exposure and be able to grow and enjoy the outside air.

Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M (E. Unsewered Areas, F. Two Family Dwellings in R-1, G. Parking Regulations, H. Reduce Setbacks, I. MU-C District, J. Airport Overlay, K. Flood Plain Regulations, L. Shorelands, or M. Non-Conforming Buildings)?

This request does need to meet the UDC Sections G. Parking Regulations, and H. Reduced Setbacks. These sections have been addressed in our preliminary plans.

Pictometry





Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 20-121	Contact	Chris Lee, clee@duluthmn.gov	
Type	Variance – rear yard structure setback	Planning Commission Date		September 8, 2020
Deadline for Action	Application Date	July 24, 2020	60 Days	September 22, 2020
	Date Extension Letter Mailed	August 14, 2020	120 Days	November 21, 2020
Location of Subject	106 South 15 th Avenue East			
Applicant	James Talago	Contact		
Agent		Contact		
Legal Description	See attached			
Site Visit Date	August 31, 2020	Sign Notice Date	August 25, 2020	
Neighbor Letter Date	August 26, 2020	Number of Letters Sent	53	

Proposal

A variance to reduce the rear yard setback from 25 feet to 10 feet to allow for an addition to residential structure.

Recommended Action: Approve variance with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	Single Family	Urban Residential
North	R-2	Mixed-Use Commercial	Urban Residential
South	R-2	Residential	Urban Residential
East	R-2	Residential	Urban Residential
West	MU-N	Residential	Central Business Secondary

Summary of Code Requirements

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

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief for from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

Governing Principle #8 – Encourage a mix of activities, uses, and densities. – The current lot is underutilized with the existing structure. This property is served by transit and utilities that makes a strong case for increased density among an area where the higher density already exists.

Housing Policy #2 - Provide affordable, attainable housing opportunities

Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods

Zoning – Residential-Urban (R-2): The R-2 district is established to accommodate multi-family apartments and townhouses, in an urban setting. This district also allows for single-family detached dwellings, duplexes and group living accommodations as shown in Table 50-19.8. The district is intended primarily for locations closer to commercial and mixed use activity centers, and may serve as a transition between lower-density residential areas and more intense commercial and mixed use neighborhoods.

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

Related files: PL 20-120: Variance to reduce the minimum lot area for a multi-family dwelling.

History: The property currently contains a 1,667 square foot, 3-bedroom residential structure constructed in 1901.

Review and Discussion Items

Staff finds that:

- 1) The applicant is proposing to construct an addition to the existing home. The proposed addition would be a 3-story, 5-unit apartment building, which, when combined with the existing home, will result in 6 total units on the property.
- 2) Because of the orientation of the existing structure, the front yard per UDC requirements is along 15th Avenue E rather than along the narrowest part of the lot. This also makes the rear yard setback of 25 feet run parallel to 15th Avenue E. This unusual orientation results in building setbacks restricting over half of the lot.
- 3) The current structure encroaches into the rear yard setback by about 15 feet and the applicant is proposing that the addition will be similar to the existing structure. Due to the nature of the corner lot, the applicant would rather build into the rear yard than the corner front yard to reduce the impact on neighborhood character.
- 4) The applicant is proposing to landscape along the property lines between the neighboring structure. This landscaping will consist of a mix of trees and shrubs. This landscaping is required in order to reduce the structures visual impact on the neighboring structure. Staff would like to see a more detailed landscaping plan prior to building permit approval.
- 5) The applicant is proposing to use the property in a reasonable manner through development of apartments that are otherwise consistent with zoning requirements.
- 6) The applicant is not proposing to alter the character of the neighborhood as there are similar structures in the neighborhood.
- 7) The variance, if granted, would not impair adequate light and air to surrounding properties as the three-story addition is proposed to be 26 feet from the nearest structure to the north east.
- 8) The variance, if granted, would not result in congestion on the surrounding streets, would not impair fire or emergency service access, and would not diminish established property values in the surrounding area.
- 9) The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Urban Residential and housing policy that seeks to foster opportunities for creative housing types and concepts
- 10) No comments from citizens, City staff, or any other entities were received during the drafting of this staff report.
- 11) Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

Based on the above findings, staff recommends that Planning Commission grant the Variance with the following conditions:

- 1) The project be limited to, constructed, and maintained according to the plans submitted with the date of 7/24/2020;
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 20-120 & PL 20-121
Location Map



PC Packet 10-13-2020

Subject Property

**R-2
(Residential
Urban)**

**MU-N (Mixed Use
Neighborhood)**

Legend

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

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

Aerial photography flown 2019

Prepared by: City of Duluth Planning & Development Division, February 25, 2020, Source: City of Duluth.



Engineering
Land Surveying
Economic
Development
JPJ ENGINEERING, INC
5670 Miller Trunk Hwy
Suite A
Duluth, MN 55811
Phone: 218-720-6219
www.jpjeng.com

Part of Lot 1, Block 39, ENDION DIVISION OF DULUTH, St. Louis County, Minnesota.
106 South 15th Avenue East, Duluth, Minnesota 55812
For: James Patrick

SURVEY BY :	RMM
DRAWN BY :	RMM
DESIGNED BY :	RMM
APPROVED BY :	RMM
DATE :	6/30/2020
PROJECT NUMBER :	20-739
SHEET NUMBER :	0
1 OF 1	

PROPERTY DESCRIPTION:

The north 50.00 feet of Lot 1, Block 39, ENDION DIVISION OF DULUTH, according to the recorded plat therefor, St. Louis County, Minnesota and the south 33.00 feet of the north 83.00 feet of said Lot 1.

SURVEYOR NOTES:

Orientation of the bearing system is based on the southerly line of Lot 1, Block 39, ENDION DIVISION OF DULUTH, to have a bearing of N 37°42'21" W.

JPJ Engineering has made no investigation or independent search for easements or record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.

Total gross area of the property is 4,773 square feet or 0.1096 acres ±.
Parcel Identification Numbers are 010-1460-03670.



LEGEND:

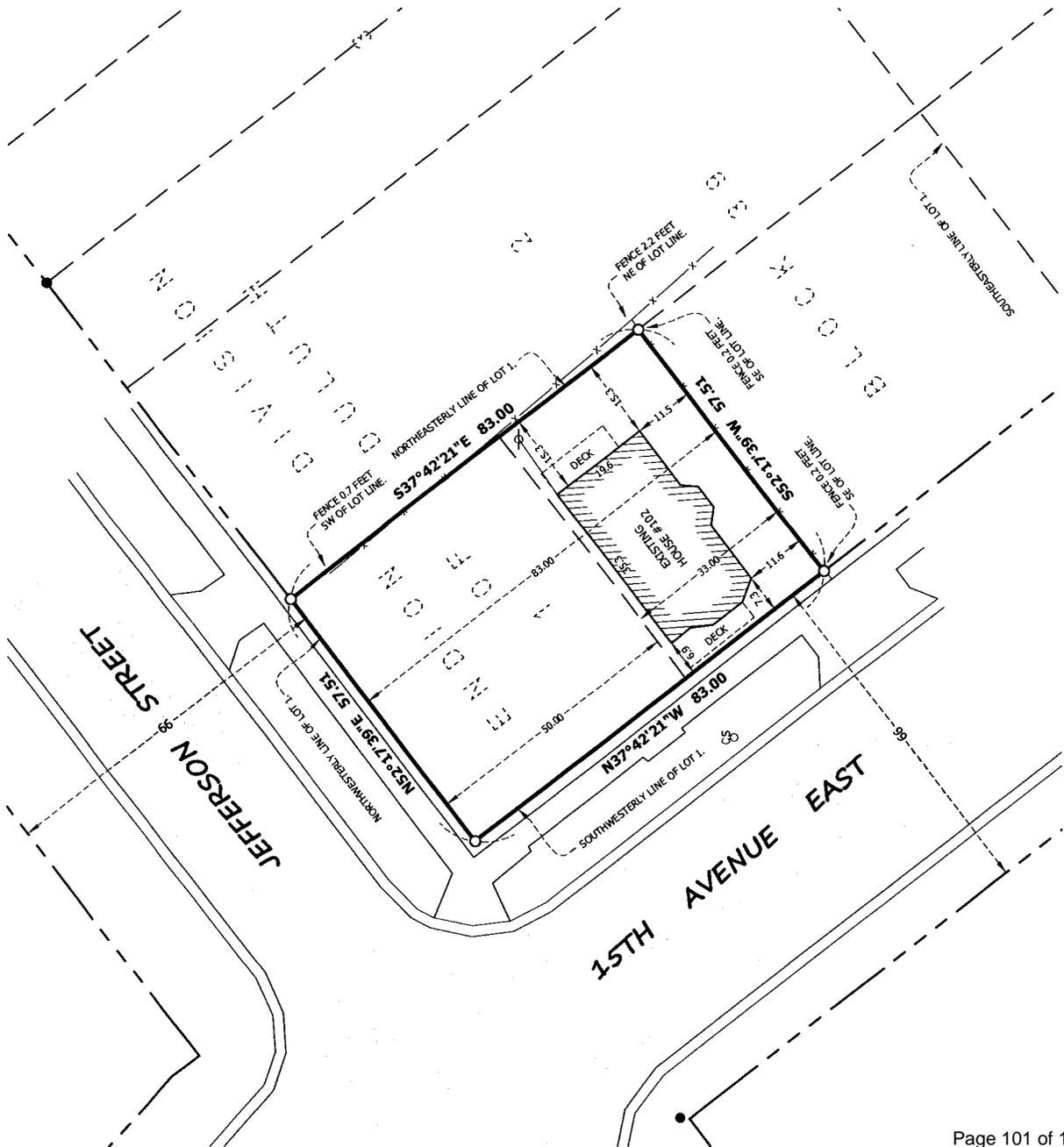
- Iron monument found
- 1/2 inch iron monument set, marked "JPJ ENG 21401"
- ⊗ Water curb stop
- ⊘ Power pole
- x — Fence line
- ▭ Concrete surface
- ▭ Bituminous surface

CERTIFICATION:

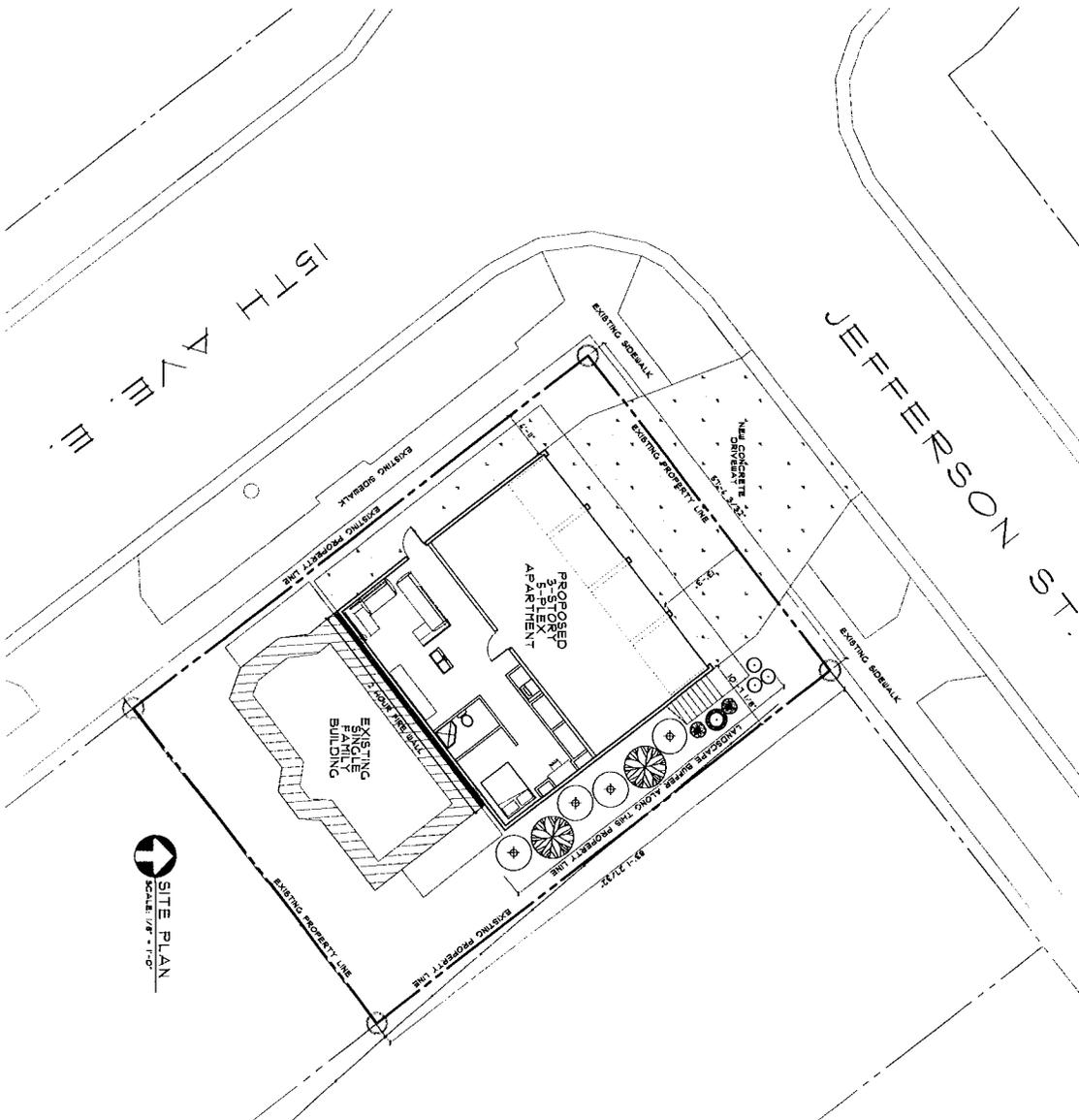
We hereby certify that this is a true and correct representation of a survey of the boundaries of the land above described and of the location of all buildings, if any, thereon, and all visible encroachments, if any, from or on said land.

Signed this 30th day of June, 2020 for JPJ Engineering, Inc.

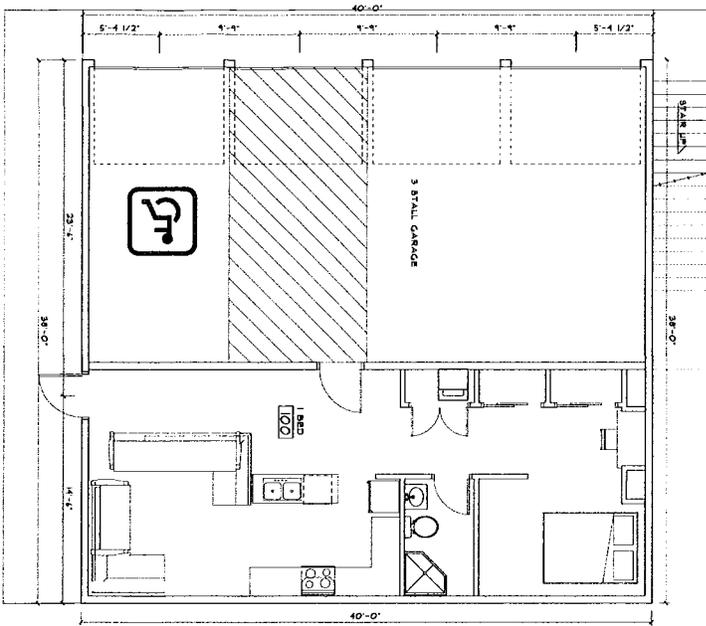
Randy M. Mortz
Randy M. Mortz, PLS License Number 21401



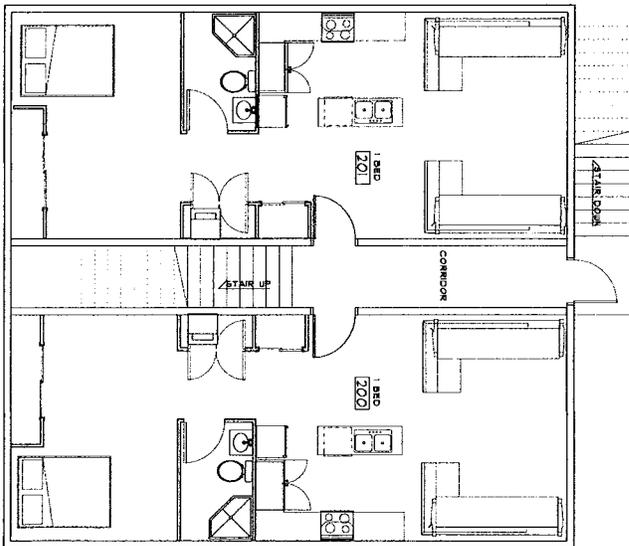
ZONING REQUIREMENTS	
EXISTING ZONING DISTRICT	R-1
MAXIMUM BUILDING HEIGHT	45'-0"
PROPOSED BUILDING HEIGHT (T.O. RAILING)	34'-6"
SITE DATA	
GROSS ACREAGE	4.884 S.F.
GROSS BUILDING AREA	4,540 S.F.
BUILDING SETBACKS	
SIDE YARD (JEFFERSON) SETBACK	15'-0"
PROPOSED SETBACK	MATCH EXST
FRONT YARD (15TH AVE) SETBACK	25'-0"
PROPOSED SETBACK	MATCH EXST
REAR YARD SETBACK	25'-0"
PROPOSED SETBACK (RESIDENTIAL)	10'-1 1/8"
PARKING CALC	
0.30 STALLS PER UNIT	
TOTAL UNITS	5
STALLS REQUIRED	2
STALLS PROVIDED	5
- 3 ENCLOSED/2 OUTSIDE	



<p>AD1010</p>	<p>PROPOSED: 5-PLEX APARTMENT DULUTH, MN</p>	<p>JAMES PATRICK ARCHITECTS</p>	<p>These drawings are not valid for building permit unless stamped and signed and sealed. Copies are not valid.</p> <p>I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly licensed architect under the laws of the State of MINNESOTA.</p> <p>Name: MORTAN E. COLE</p>	<p>COLE GROUP ARCHITECTS LLC</p> <p>200 Park Ave. S., Suite 102 Duluth, MN 55810 (612) 551-1130 mcolegroup.com</p>
	<p>DATE: 10/13/2020</p>			

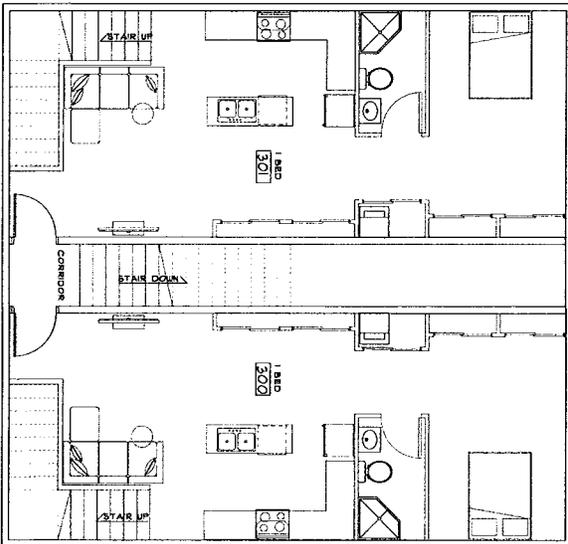


FIRST FLOOR PLAN
SCALE: 1/4" = 1'-0" 1320 CROSS S.A.



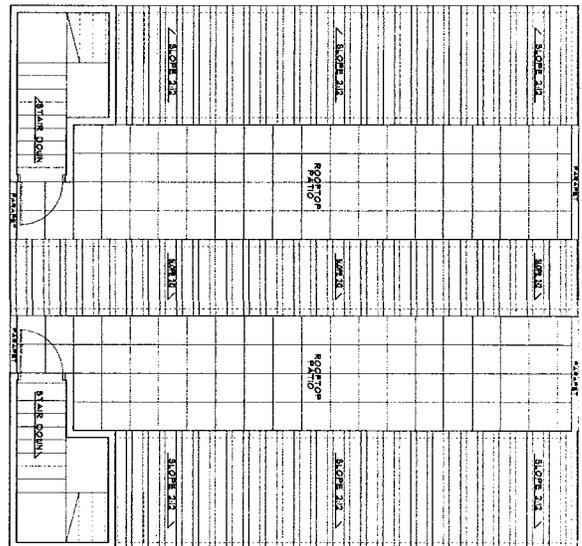
SECOND FLOOR PLAN
SCALE: 1/4" = 1'-0" 1320 CROSS S.A.

PENTHOUSE ROOF PLAN
SCALE: 1/4" = 1'-0"



THIRD FLOOR PLAN
SCALE: 1/4" = 1'-0" 1320 CROSS S.A.

ROOF DECK PLAN
SCALE: 1/4" = 1'-0" 1320 CROSS S.A.



PROJECT NO.	101
DATE	10-13-2020
SCALE	1/4" = 1'-0"
CROSS SECTION	1320

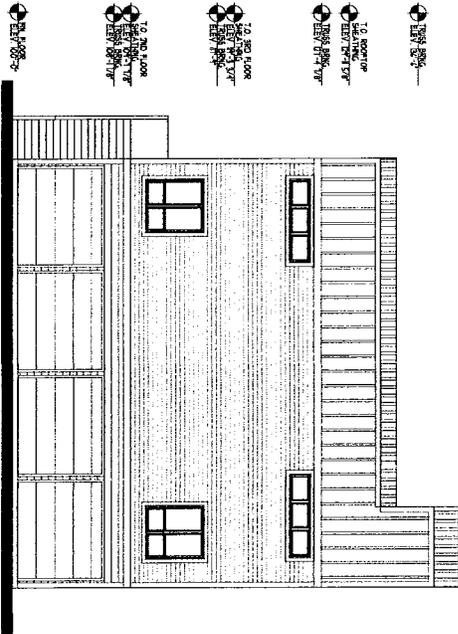
REVISION	NO.	DESCRIPTION

PROPOSED
5-PLEX
APARTMENT
DULUTH, MN

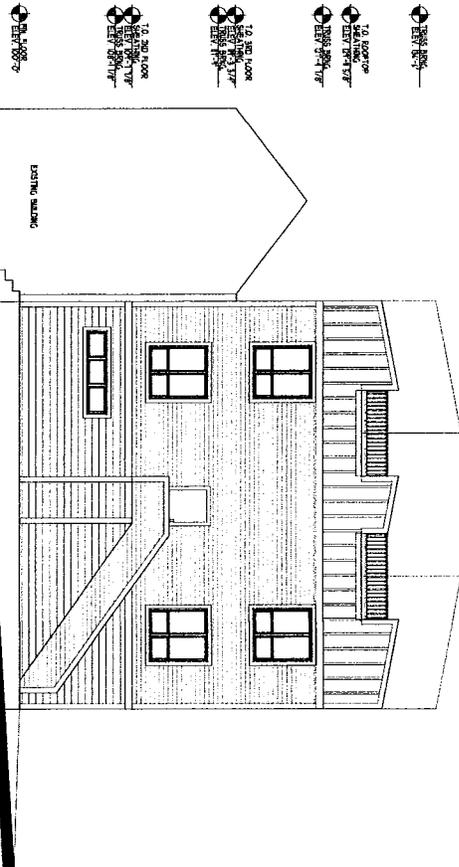
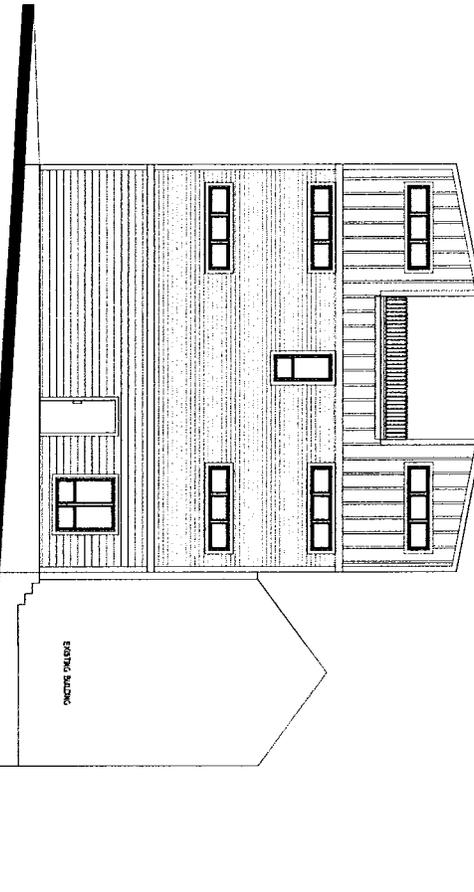


This document is not valid for building permit unless stamped as such and after official Copies are set forth.
I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of MINNESOTA.
Name: MORRIS B. COLE

COLE GROUPE
ARCHITECTS, INC.
101 Park Ave. Suite 1000
Duluth, MN 55812
Phone: 218-261-1300
13201 1320-1320
www.colegroupe.com



SOUTH-WEST ELEVATION
SCALE 3/8\"/>



© 2020 7-6-20 FILE 2004E COM 1

AS01

NO.	REVISION	DATE	BY	CHKD.
1	ISSUED FOR PERMITS	10/13/20	JPC	JPC
2	ISSUED FOR PERMITS	10/13/20	JPC	JPC
3	ISSUED FOR PERMITS	10/13/20	JPC	JPC
4	ISSUED FOR PERMITS	10/13/20	JPC	JPC
5	ISSUED FOR PERMITS	10/13/20	JPC	JPC
6	ISSUED FOR PERMITS	10/13/20	JPC	JPC
7	ISSUED FOR PERMITS	10/13/20	JPC	JPC
8	ISSUED FOR PERMITS	10/13/20	JPC	JPC
9	ISSUED FOR PERMITS	10/13/20	JPC	JPC
10	ISSUED FOR PERMITS	10/13/20	JPC	JPC

PROPOSED:
5-PLEX
APARTMENT
DULUTH, MN



JAMES PATRICK
ARCHITECTS

These drawings are not valid for building permit unless stamped as such and every detail. Check the site plan. I hereby certify that the full specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of MINNESOTA Name: NORMAN E. COLE

COLE GROUP
ARCHITECTS INC.
100 Park Plaza
Duluth, MN 55812
Phone: 218-825-4104
Fax: 218-825-4105
www.colegroup.com

Pictometry



Variance Application Supplemental Form

List the UDC Section you are seeking relief from: 106 S 15th Ave E, Duluth, MN 55812

UDC Section 50-14.6 Residential-Urban (R-2): Minimum depth of rear yard – 25'. We are seeking a variance for a 10' rear yard setback.

1. **Please explain how the exceptional narrowness, shallowness or shape of the property, or exceptional topographic or other conditions related to the property, would result in practical difficulties under strict application of the requirements of the UDC:**
 - a. The 25' rear yard setback indicated in the UDC Section 50-14.6 would not allow for enough room for the structure being proposed. We are seeking relief from the 25' rear yard setback so that we may add a 5-unit addition on to the existing residence. The existing home on the parcel does not currently meet this 25' rear yard setback. We are proposing to match the existing rear yard setback of the property on the parcel.
2. **Please explain how the special circumstances or conditions that create the need for relief is due to circumstances unique to the property, and were NOT created by the property owner or the property owners' predecessors-in-interest:**
 - a. Like many of the parcels in this neighborhood we are faced with having a smaller than average lot size with reduced setbacks but this parcel is larger than some that currently house multifamily structures of 3 or more units such as:
 - i. 1430 E Superior St. This property is a 3-story structure with commercial and multifamily use.
 - ii. 109 S 15th Ave E. Property is currently a 2-story duplex that shows the rear yard setback less than 5' from the property line.
 - iii. 101 S 15th Ave E. Single family home that shows a rear yard setback less than 2' from the property line.
 - iv. Most of the properties within a 2-block radius have structures that would not meet the UDC guidelines with either the main existing structure or an auxiliary building.
3. **Please explain the special circumstances or conditions applying to the building or land in question are peculiar to this property or immediately adjoining properties, and do not apply generally to other land or buildings in the vicinity:**
 - a. This parcel is unique to the neighborhood for the fact that it has a vacant side yard adjacent to the main structure. The majority of the parcels in the neighborhood have utilized all of the lot space to make room for the existing structures and/or auxiliary buildings.
4. **Please explain how the application proposes to use the property in a reasonable manner, which would not be permitted by this code except for a variance:**
 - a. This application proposes to add an addition on the existing single-family residence. We plan on adding 5 units on the property which will adhere to the R2 zoning. The R2 zoning district's purpose is to be utilized for single family use as well as multi-family use.

Our proposal meets the guidelines for multi-family use except for the two variances that we are seeking.

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

- a. The proposed addition will still maintain about 26' from the NE neighbor which is more of a separation than most of the single-family homes in the area. There are several nearby buildings where the separation is around 2'-0".
- b. This area appears to be in a transitional stage where it has single-family and multi-family so the neighboring streets are already set up for this type of density and traffic flow. The site is next to two collector streets (E. Superior and London Rd) so the additional traffic will have easy access to collector streets without going through several single-family neighbors.
- c. As described in the other responses, it is our understanding this would increase property values as this area has seen growth and higher density lots popping up nearby.
- d. The building will comply with the new version of the MN state building code so the addition will include all the latest code requirements as it pertains to the health, safety and public welfare for the addition, existing home and neighboring parcels.

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

- a. If the variances are granted, this project will follow all guidelines and exceed building standards in many cases. Our design has been well thought through so that we may achieve several goals such as improving the street façade, increasing the property values, and promoting growth and property improvement within the area.

7. Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M (E. Unsewered Areas, F. Two Family Dwellings in R-1, G. Parking Regulations, H. Reduce Setbacks, I. MU-C District, J. Airport Overlay, K. Flood Plain Regulations, L. Shorelands, or M. Non-Conforming Buildings)?

- a. Yes. Subsections G. Parking Regulations and H. Reduced Setbacks.

From: [planning](#)
To: [Chris Lee](#)
Subject: FW: setback variances 106 S. 15th Avenue East
Date: Monday, August 31, 2020 9:41:54 AM

From: [REDACTED] >
Sent: Monday, August 31, 2020 6:58 AM
To: planning <planning@DuluthMN.gov>
Subject: setback variances 106 S. 15th Avenue East

As a neighboring property owner, I ask the question, where will the occupants park? 15th Avenue East as well as Jefferson Street is already very crowded with vehicles. Wintertime parking is very difficult.

Is the owner trying to add more into the lot than it can handle? Thank you.

[REDACTED]

From: [planning](#)
To: [Chris Lee](#)
Subject: FW: Public Comments for Planning Commission Review regarding Notice of Public Hearing for lot area and rear yard setback variances 106 Sth 15th Ave East (PL 20-120 & PL 20-121)
Date: Monday, August 31, 2020 11:53:42 AM

From: [REDACTED] >
Sent: Monday, August 31, 2020 11:11 AM
To: planning <planning@DuluthMN.gov>
Cc: [REDACTED]
Subject: Public Comments for Planning Commission Review regarding Notice of Public Hearing for lot area and rear yard setback variances 106 Sth 15th Ave East (PL 20-120 & PL 20-121)

Dear Duluth Planning Commission Review Committee,

My name is [REDACTED] I live with my family at [REDACTED] Jefferson Street- just a couple houses down the street from the proposed setback variances- 5 plex building proposal for 106 Sth 15th Ave East. My husband, [REDACTED] and I are concerned about this proposal and the impact it will have upon our already vehicle congested neighborhood. There just isn't enough parking available to accommodate a new 5 plex apartment building on our block.

The off-street parking in our neighborhood is already at its max. Please see attached a photo taken Sunday morning, 8/30/20, that shows cars parked on both sides of the street. There are few to no parking spaces available and this is during the switch over where both sides are being used. This is a common occurrence here as many of the homes are rental units with 3-4 people living in each unit- many having their own vehicles. We have also attached two photos taken Monday morning, 8/31/20. Each one was taken from our driveway. One looking down the street towards 15th Ave East and the other down the street towards 16th Ave East. As you can see there are no open parking spaces. This is an even greater problem during the noon hour and between the hours of 4-7 pm as there is an Anytime Fitness on the corner of 15th Avenue East and Superior Street. Just up the street from the proposed variance. Patrons often park on Jefferson Street as the lot isn't big enough to accommodate their peak capacity times. There has also been an increase in parking between the 14th- 15th block and on the avenue by Inner Bliss Yoga participants and Center for Changing Lives visitors- both businesses relatively new to our community.

We have one parking space on our lot. My husband parks there and I park on the street. I am often parking two blocks away from our home. I am able bodied so that is not a physical limitation for me but it is a nuisance. We do have elderly people and some folks with special needs that do not have that flexibility. Many times college students unknowingly park in the only handicap spot on our block. Handicap spaces occupy 1 1/2 car spaces. Students and other

renters often can't see the handicap signs as they are desperately looking for a spot to park and that is the only space open- they grab it and go. Shirley, our elderly neighbor with mobility issues requiring that space, has often needed to park two blocks away- sometimes in the winter.

The corner or 15th Ave East and Jefferson Street is busy. Cars speed down the street often missing the stop or barely stopping. There have been several accidents there. A 5 plex apartment building on that corner would decrease visibility even more and increase the likelihood of accidents.

We urge you to consider denying this variance and 5 plex building proposal. The lot and the neighborhood just doesn't have the capacity to accommodate it.

Thank you so much for hearing our comments.

Sincerely,

[Redacted]

[Redacted] Street

Duluth, MN 55812

[Redacted]

[Redacted]

[Redacted]

Create the life and world you want to live in!

From: [planning](#)
To: [Chris Lee](#)
Subject: FW: Proposed 5 plex apartment complex 15th Ave and Jefferson St
Date: Tuesday, September 1, 2020 6:42:06 AM

From: [REDACTED]
Sent: Monday, August 31, 2020 5:21 PM
To: planning <planning@DuluthMN.gov>
Subject: Proposed 5 plex apartment complex 15th Ave and Jefferson St

Planning Commission,

I live at [REDACTED] Jefferson St and have for over 12 years. I am opposed to the building of a new 5 plex apartment in this neighborhood. There is a condemned apartment building that is directly behind my building that has been nothing but trouble since it was vacated years ago. It has been vandalized and set on fire. A large section of the roof collapsed onto an area in our back yard that could have caused significant damage or injury yet nothing gets done with the building. The police have been called multiple times due to squatters living in the building also. Why can't this building be renovated to accommodate new apartments? It is an eyesore let alone the garbage and used needles that seem to accumulate in the yard. Why add another building to this crowded area?

Another issue to address is the lack of parking spaces in this neighborhood. This building will only add to the problem. Parking between 14th Ave E and 21st Ave E becomes near impossible when the college students return.

Please do not add to the existing issues that have not been addressed or remedied by adding another apartment building.

Thank you
[REDACTED]

[Sent from Yahoo Mail on Android](#)

From: [planning](#)
To: [Chris Lee](#)
Subject: FW: 106 S. 15th Ave E
Date: Tuesday, September 1, 2020 6:41:40 AM

From: [REDACTED]
Sent: Monday, August 31, 2020 4:31 PM
To: planning <planning@DuluthMN.gov>
Subject: 106 S. 15th Ave E

Hello!

I saw there is a zoning notice for a new 5-plex at this address. As a resident for nearly four years, I can attest that the parking situation in this area is simply not equipped for any additional parking space, and especially not for this large of a complex. Residents already need to park two to three blocks away, which is not okay for the elderly and disabled residents of our neighborhood. The school year is when it is most difficult, and with our winters, and the fact that this street is low on the priority list for plowing, it would create a major burden on us. Please do not allow this to go through. It would only make things more frustrating for those who reside here yearlong. Please put the current residents first!!

Thank you.

[REDACTED]



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 20-130	Contact	John Kelley	
Type	Rezone from RR-1 to RR-2	Planning Commission Date	October 13, 2020	
Deadline for Action	Application Date	August 27, 2020	60 Days	October 26, 2020
	Date Extension Letter Mailed	September 22, 2020	120 Days	December 25, 2020
Location of Subject	3821 North 87 th Avenue West			
Applicant	Terry and Ashley Dunbar	Contact		
Agent	Kimberley Brzezinski	Contact		
Legal Description	See Attached Map			
Site Visit Date	October 2, 2020	Sign Notice Date	September 29, 2020	
Neighbor Letter Date	September 28, 2020	Number of Letters Sent	8	

Proposal

The Applicant is proposing to rezone the subject property from the current zoning district of Residential-Rural 1 (RR-1) to Residential-Rural 2 (RR-2).

Staff Recommendation

Staff recommends that Planning Commission recommend approval of the proposed rezoning from RR-1 to RR-2.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1	Residential	Low Density Neighborhood
North	RR-1	Residential	Low Density Neighborhood
South	RR-1	Residential	Low Density Neighborhood
East	RR-1	Residential	Low Density Neighborhood
West	Proctor	Undeveloped	Low Density Neighborhood

Summary of Code Requirements

- UDC Sec. 50-37.3.B: Planning Commission shall review the application, conduct a public hearing ... with public notice ... and make a written recommendation to council.

- UDC Sec. 50-37.3.C: The Planning Commission shall review the application, and Council shall approve the application or approve it with modifications, if it determines that the application: 1. Is consistent with the Comprehensive Land Use Plan; 2. Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use; 3. Is required by public necessity, convenience, or general welfare, or good zoning practice; 4. Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

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

Policy #5 – Expand the cohesiveness of “One Duluth” by expanding a variety of housing opportunities throughout the city while maintaining unique community characteristics within distinct individual neighborhoods.

Future Land Use

Low Density Neighborhood- Single-family housing with urban services. Typified by curvilinear streets, houses with longer dimension parallel to street, and attached garages. Includes a range of house sizes and lot sizes. Non –residential uses are mainly uses such as schools and churches. Parks and open space are located within or adjacent.

Review and Discussion Items:

- 1) The applicant proposes rezoning approximately 5 acres of land located at 3820 North 87th Avenue West. The applicant is the property owner and has their home and accessory structures located on the parcel. The rezoning would be consistent with the Imagine Duluth 2035 Comprehensive Plan. This proposed rezoning would allow the applicant to sell the northern portion of the property for possible development of a new single family home. The applicant has also submitted a companion application for a boundary line adjustment to make the northern parcel into a 2-acre lot compliant with RR-2 parcel size.
- 2) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan, and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or be considered arbitrary and capricious. Good zoning practice requires that zone districts be consistent with the future land use category identified for the area. The future land use designation for the subject area is Low Density Neighborhood.
- 3) State Statute requires that a community's zoning map implement the general objectives of the Comprehensive Plan. The future land use category of Low Density Neighborhood is most commonly reflected in the City's zoning map as RR-2. Other criteria for zoning include considering existing land use patterns and if the rezoning is related to the needs to the community or existing land use. The existing land use of the immediate area is residential with similar parcel size to the east of the subject area.
- 4) The purpose of the RR-2 district is to accommodate single-family detached residential uses on lots of at least two acres each. The district encourages distinctive neighborhoods with a suburban character. The district may serve as a transition between lower-density semi-rural areas and more intense residential or mixed use neighborhoods. Intended uses include residential, community and cultural facilities, educational facilities and agriculture.
- 5) Based on the development pattern of adjacent areas, the guidance of the comprehensive plan, and the purpose statement of RR-2 zone district, rezoning as proposed in the attached map is appropriate for this area.
- 6) No public, agency, or City comments have been received at this time of writing this staff report.

Staff Recommendation:

Based on the above findings, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning from RR-1 To RR-2 as shown on the map titled Proposed Rezoning Area Map, with the additional comments:

- 1) The proposed zone districts are the most reasonably able to implement the objectives of the Comprehensive Plan related to the land use for this area.
- 2) Material adverse impacts on nearby properties are not anticipated.



274100175

274100230

9111 Saint
Louis
River Rd

8901 Saint
Louis
River Rd

**RR-1 (Rural
Residential 1)**

St Louis River Rd

274100240

Subject properties

274100290

274100250

274100300

274100260

3821 N
87th Ave W

3822 N
87th Ave W

3907 N
87th Ave W

274100310

274100270

**RR-2 (Rural
Residential 2)**

3802 N
87th Ave W

N 87th Ave W

Legend

 Zoning Boundaries

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Aerial photography flown 2019

0 65 130 260 390 Feet



87th Ave W

Page 116 of 145



274100175

274100230

9111 Saint
Louis
River Rd

8901 Saint
Louis
River Rd

Legend

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

Subject properties

St Louis River Rd 274100240

274100290

274100250

274100300

Low-density
Neighborhood

274100260

3821 N
87th Ave W

3822 N
87th Ave W

274100310

274100270

3907 N
87th Ave W

3802 N
87th Ave W

N 87th Ave W

0 65 130 260 390

Feet



274100330
87th Ave W
274100370

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Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 20-136	Contact	Chris Lee, clee@duluthmn.gov	
Type	Interim Use Permit– Vacation Dwelling Unit	Planning Commission Date	October 13, 2020	
Deadline for Action	Application Date	September 1, 2020	60 Days	October 31, 2020
	Date Extension Letter Mailed	September 12, 2020	120 Days	December 30, 2020
Location of Subject	1920 Minnesota Ave			
Applicant	Candace Allender and Kevin Groeneveld	Contact		
Agent		Contact		
Legal Description	PID # 010-3110-02110			
Site Visit Date	October 1, 2020	Sign Notice Date	September 29, 2020	
Neighbor Letter Date	September 28, 2020	Number of Letters Sent	50	

Proposal

Applicant is proposing a new interim use permit for a vacation dwelling unit. The permit would be good for a 4-bedroom home with 9 occupants.

The proposed IUP for a vacation dwelling unit is associated with an application that was part of the eligible applicants list and is subject to the 60-unit cap on vacation dwelling units.

Recommended Action: Staff recommends Planning Commission recommend approval.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Single Family	Traditional Neighborhood
North	MU-N	Multifamily building	Traditional Neighborhood
South	R-1	Single Family	Traditional Neighborhood
East	R-1	Lake/Beach	Traditional Neighborhood
West	MU-N	Multifamily Building	Traditional Neighborhood

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the R-1 zone district.

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

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location;
2. The applicant agrees to sign a development agreement with the city.



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

Governing Principle #5 - Strengthen neighborhoods. - This permit allows the owner to expand upon the ownership and use of their property.

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

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

Future Land Use – Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home businesses. Parks and open space areas are scattered through or adjacent to the neighborhood.

Current History: The property is a 1,600 square foot single family home built in 1906.

Review and Discussion Items:

- 1) Applicant's property is located at 1920 Minnesota Avenue. The proposed vacation dwelling unit contains 4 bedrooms that would allow for a maximum of 9 guests.
- 2) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicants have listed Heirloom Properties to serve as the managing agent.
- 3) The site plan shows that 3 required parking spaces will be on the driveway. Campers and trailers will be able to use the driveway or the available street parking.
- 4) The site does have a patio as an amenity. This is screened from the neighboring properties via vegetation.
- 5) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 6) Applicant has applied for all relevant permits and licenses and these are contingent upon approval of the Interim Use Permit for a Vacation Dwelling Unit.
- 7) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 8) No comments from citizens, City staff, or any other entity were received regarding the application.



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218-730-5580



planning@duluthmn.gov

Staff Recommendation:

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

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



TEMPLE CORP
INCORPORATED

1900 Minnesota

MANTY Ave
NAUNI JO

WING TODD
R & AMY M

WING TODD
R & AMY M

MCKINNEY
MICHAEL & SUSAN

ALBRECHT
HENRY P &
BRIDGIT C

ALBRECHT
HENRY P &
BRIDGIT C

HILLILA
DAVID J

HILLILA
DAVID J

ALLENDER CANDACE &
GROENEVELD KEVIN

**MU-N (Mixed Use
Neighborhood)**

ALLENDER CANDACE &
GROENEVELD KEVIN

1920
Minnesota
Ave

BENGSTON
DAVID &
CHERYL

**R-1
(Residential
Traditional)**

BENGSTON
DAVID &
CHERYL

TOURVILLE
RICKY J
& MARY J

TOURVILLE
MARY J &
RICK J

1932
Minnesota
Ave

75 Ave W

Page 122 of 145

Legend

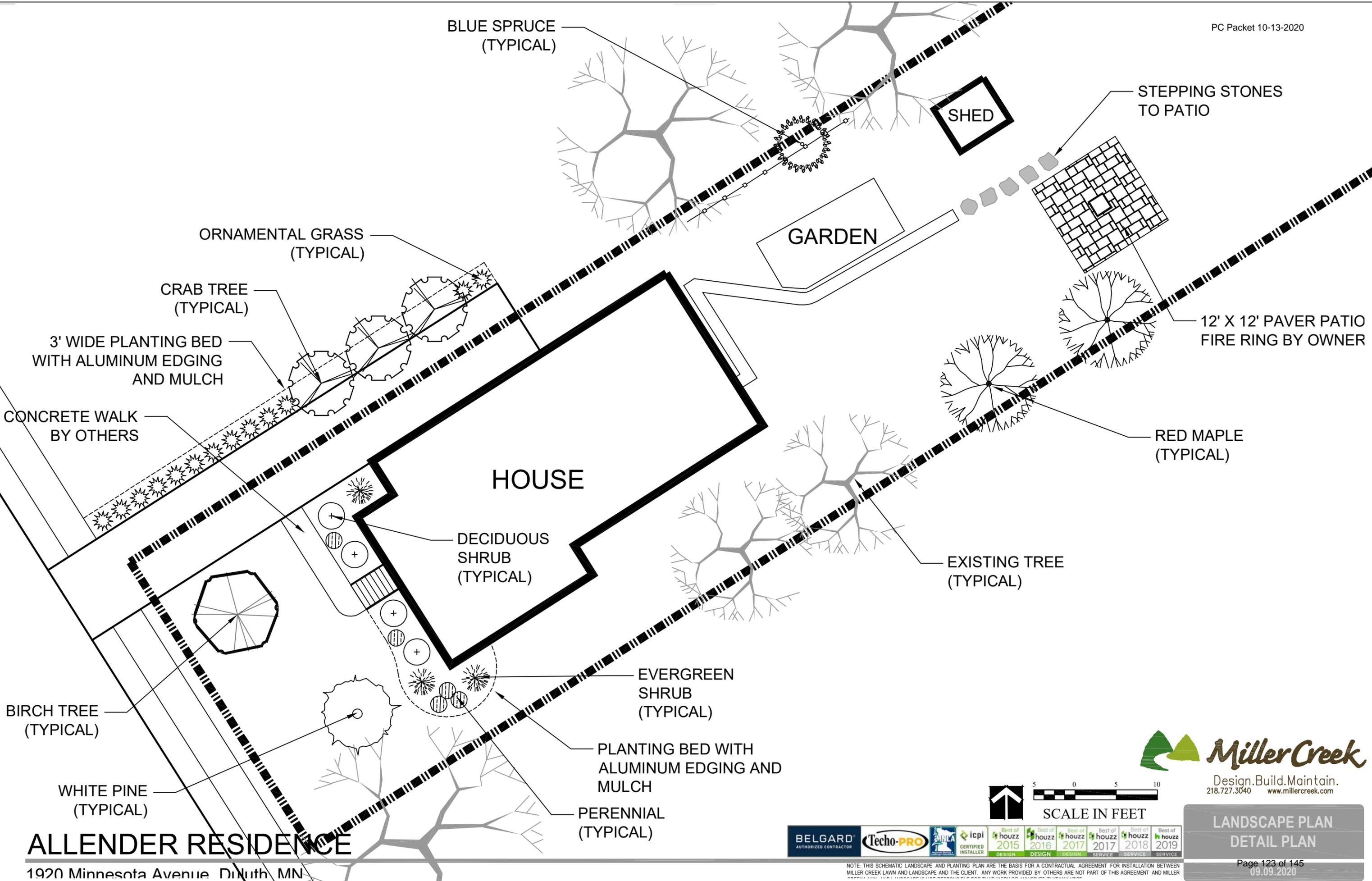
- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
 - CITY OF DULUTH
 - WLSSD; PRIVATE
 - Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
- Road or Alley ROW
- Vacated ROW
- Easement Type
 - Utility Easement
 - Other Easement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

**R-2
(Residential
Urban)**

ASSESSED
Aerial photography: flown 2019



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BLUE SPRUCE (TYPICAL)

SHED

STEPPING STONES TO PATIO

GARDEN

ORNAMENTAL GRASS (TYPICAL)

12' X 12' PAVER PATIO FIRE RING BY OWNER

CRAB TREE (TYPICAL)

3' WIDE PLANTING BED WITH ALUMINUM EDGING AND MULCH

RED MAPLE (TYPICAL)

CONCRETE WALK BY OTHERS

HOUSE

EXISTING TREE (TYPICAL)

DECIDUOUS SHRUB (TYPICAL)

EVERGREEN SHRUB (TYPICAL)

BIRCH TREE (TYPICAL)

PLANTING BED WITH ALUMINUM EDGING AND MULCH

WHITE PINE (TYPICAL)

PERENNIAL (TYPICAL)

ALLENDER RESIDENCE

1920 Minnesota Avenue Duluth, MN



SCALE IN FEET

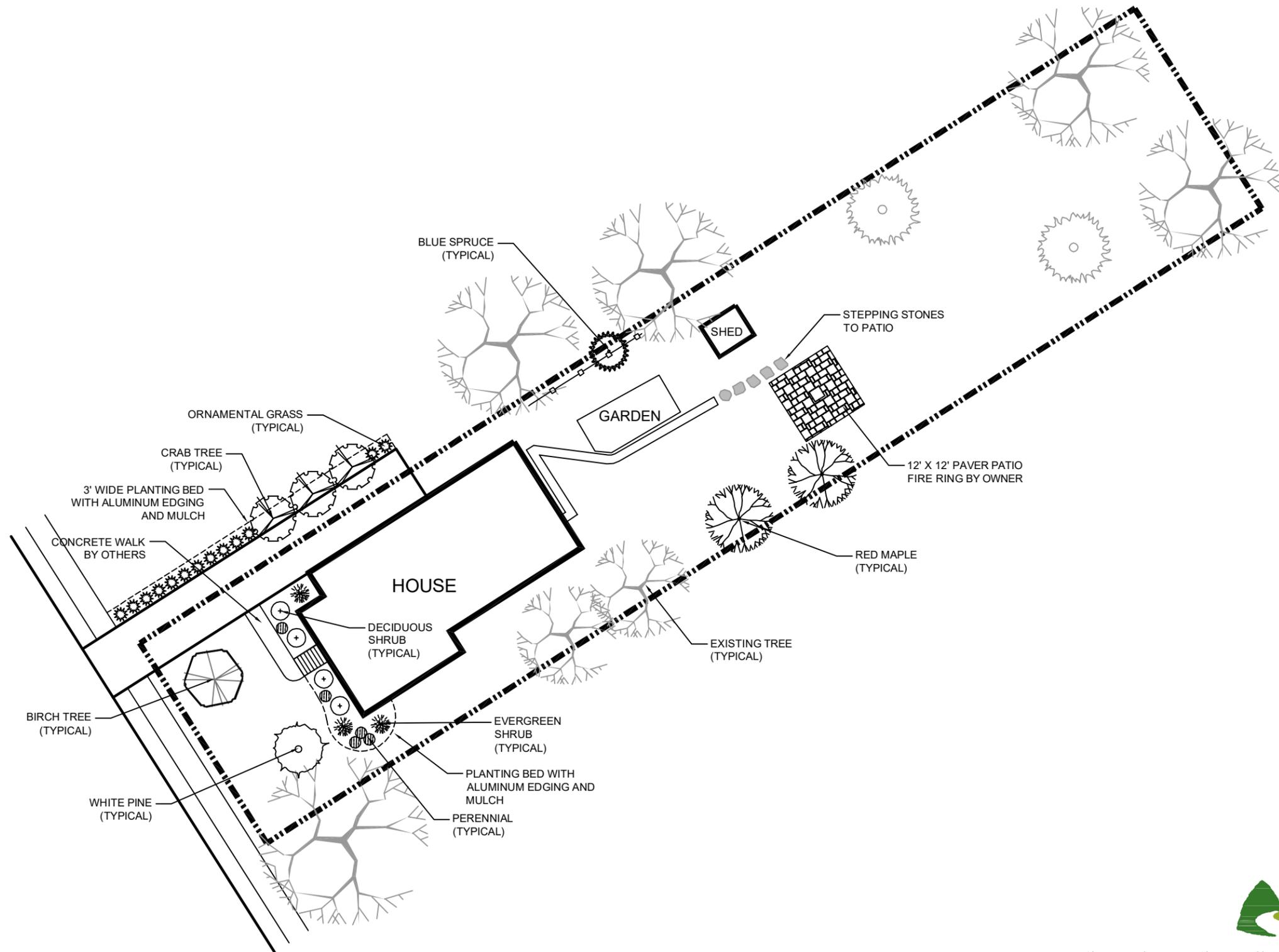


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218.727.3040 www.millercreek.com



LANDSCAPE PLAN
DETAIL PLAN

NOTE: THIS SCHEMATIC LANDSCAPE AND PLANTING PLAN ARE THE BASIS FOR A CONTRACTUAL AGREEMENT FOR INSTALLATION BETWEEN MILLER CREEK LAWN AND LANDSCAPE AND THE CLIENT. ANY WORK PROVIDED BY OTHERS ARE NOT PART OF THIS AGREEMENT AND MILLER CREEK LAWN AND LANDSCAPE IS NOT RESPONSIBLE FOR SUCH WORK.



ALLENDER RESIDENCE

1920 Minnesota Avenue Duluth MN



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LANDSCAPE PLAN
OVERALL PLAN



1920

ZONING NOTICE
This notice is posted on the property of the subject property, which is located at 1920 [Address]. The subject property is currently zoned [Zoning Code]. The proposed [Project Name] is a [Project Description]. The project is being proposed for [Project Location]. The project is being proposed for [Project Location]. The project is being proposed for [Project Location].



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 20-138	Contact	John Kelley, jkelly@duluthmn.gov	
Type	Variance – Shoreland structure setback	Planning Commission Date	October 13, 2020	
Deadline for Action	Application Date	September 8, 2020	60 Days	November 7, 2020
	Date Extension Letter Mailed	September 22, 2020	120 Days	January 6, 2021
Location of Subject	2511 West 13 th Street			
Applicant	Kevin Heaslip	Contact		
Agent	Evan Peterson	Contact	Superior Construction	
Legal Description	See attached			
Site Visit Date	010-2910-00900	Sign Notice Date	September 29, 2020	
Neighbor Letter Date	September 28, 2020	Number of Letters Sent	29	

Proposal:

The applicant is seeking a variance to construct a new 20x26 garage within the 150' shoreland setback of Miller Creek.

Recommended Action:

Staff recommends approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Single Family Homes	Traditional Neighborhood/Open Space
North	R-1	Single Family Homes	Traditional Neighborhood
South	R-1	Single Family Homes	Open Space
East	R-1	Single Family Homes	Traditional Neighborhood/Open Space
West	R-1	Single Family Homes	Traditional Neighborhood/Open Space

Summary of Code Requirements

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

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

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

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

Governing Principle #1 - Reuse of previously developed lands, including adaptive reuse of existing building stock and historic resources, directs new investment to sites which have the potential to perform at a higher level than their current state. The applicant is proposing to construct the new garage in the general area of the existing structure location.

Governing Principle 5 – Promote reinvestment in neighborhoods through land use and transportation that foster neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the neighborhood’s character . The homeowner will be reinvesting in their home in the Lincoln Park neighborhood by constructing a new garage.

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

History: House constructed in 1926.

Review and Discussion Items

- 1) The applicant is requesting a shoreland variance to construct a 20 x 26 garage within the 150’ setback of Miller Creek, a cold-water stream. The proposed garage would be approximately 60 feet from Miller Creek and located on the southwest corner of the property in a graveled area currently used for parking.
- 2) The applicant stated that there is approximately a 20-foot elevation change from their house to the proposed garage site. Alternative locations for the garage were considered but would also have the 20-foot elevation change and would require significant excavation, loss of trees, and more impervious surface that could impact the stream.
- 3) The garage would be accessed from West 13th Street via an existing graveled driveway. In front yard areas, driveways are required to be paved. The applicant has noted on the site plan that the driveway would be paved.
- 4) The proposed garage would meet setback requirements for accessory structures with a 3-foot setback from the southern property line. The applicant currently has an accessory building located on the adjacent tax forfeit parcel. Staff has asked that the structure/shed be removed and is noted on the site plan to do so.
- 5) The applicant is proposing a reasonable use of the site consisting of garage constructed in the general area of the existing graveled parking area.
- 6) The proposal will not alter the essential character of the neighborhood as adjacent homes and garages are in proximity to or within to the shoreland setback from Miller Creek.
- 7) Section 50-37.9.L of the UDC requires mitigation for shoreland variances; the applicant is proposing to install gutters on the garage with all roof runoff being collected from the drain tile and diverted to a proposed rain garden located on the north side of the driveway. The property is forested and has existing ground cover between the proposed garage and Miller Creek.
- 8) The proposed modification to improved surfaces, including a paved driveway and garage roof, from gravel driveway and parking area, is likely to reduce surface runoff of sediment and silt into the creek.
- 9) No other public, private or City comments were received.
- 10) Per UDC Section 50-37.1. N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year

Staff Recommendation

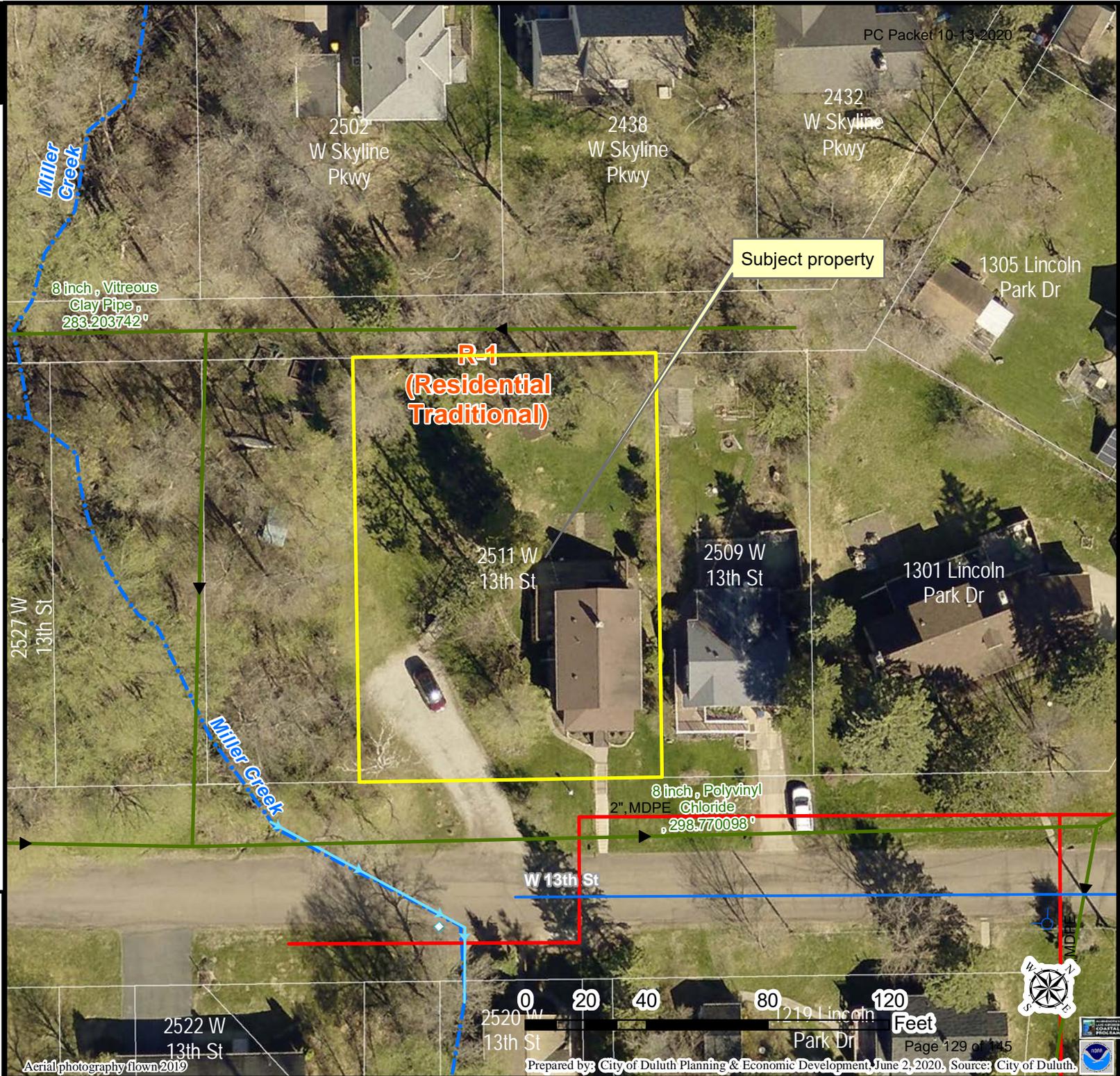
Based on the above findings, Staff recommends that Planning Commission grant the Variance with the following conditions:

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

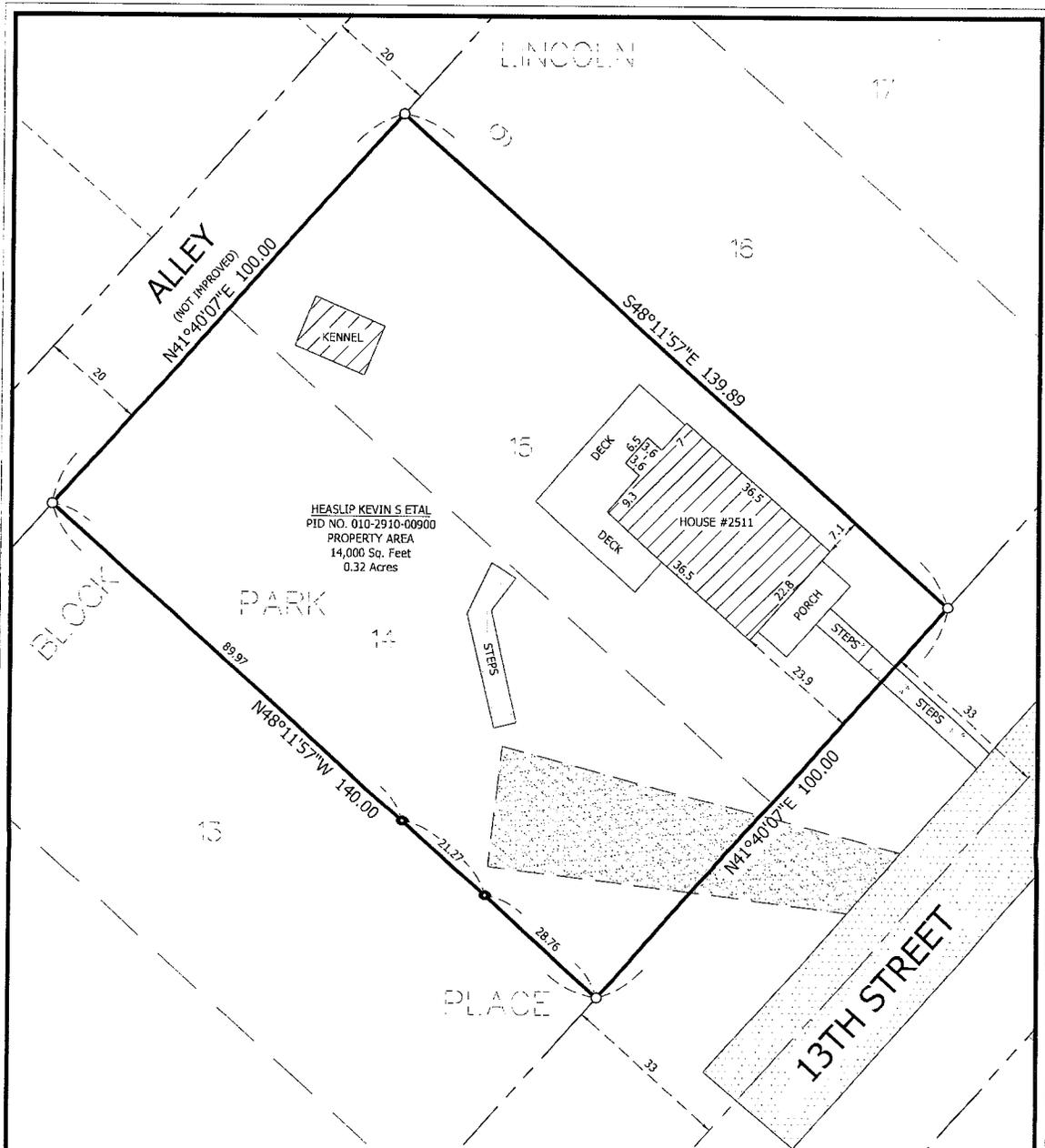


Legend

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



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LEGEND

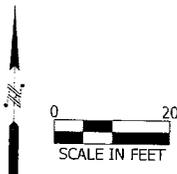
	BITUMINOUS SURFACE		CENTER LINE
	GRAVEL SURFACE		RIGHT OF WAY LINE
	WOOD SURFACE		PLAT LINE
	EXISTING BUILDINGS		BOUNDARY LINE AS SURVEYED
			SET SPIKE
			SET CAPPED REBAR RLS. NO. 49505

LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 245344

Lot 14 Block 9 LINCOLN PARK PLACE
 Lot 15 Block 9 LINCOLN PARK PLACE

SURVEYOR'S NOTES

1. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
2. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
3. BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.
4. NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.



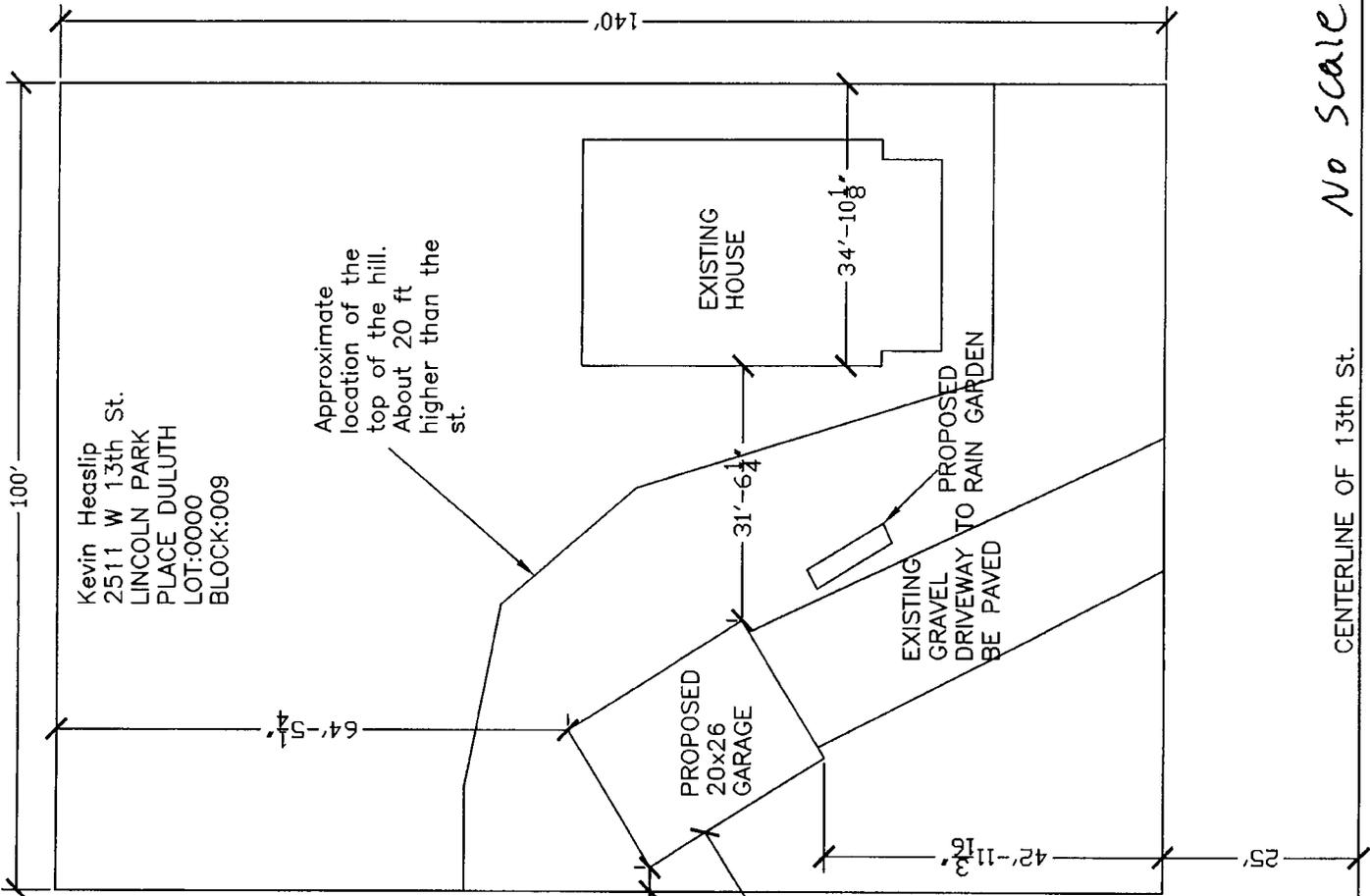
I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
David R. Everson
 David R. Everson
 MN Lic. No. 49506
 DATE: 10-14-2019

CERTIFICATE OF SURVEY

CLIENT: KEVIN HEASLIP
 ADDRESS: 2511 WEST 13TH STREET
 DULUTH, MN 55806
 DATE: 10-14-2019

REVISIONS:

ALTA
 LAND SURVEY COMPANY
 PHONE: 218-727-5111
 LICENSED IN MN, IA, WI
 WWW.ALTLANDSURVEYDULUTH.COM



Kevin Heaslip
 2511 W 13th St.
 LINCOLN PARK
 PLACE DULUTH
 LOT:0000
 BLOCK:009

Approximate location of the top of the hill. About 20 ft higher than the st.

EXISTING HOUSE

PROPOSED 20x26 GARAGE

EXISTING GRAVEL DRIVEWAY TO RAIN GARDEN BE PAVED

Location of existing shed to be removed.



Location of closest bank of the stream

Location of stream centerline

Location where the stream goes into a culvert under the street.

No Scale

CENTERLINE OF 13th St.

Untitled Map

Write a description for your map.

PC Pack 10/10/20

Legend
📍 2511 W 13th St



To the Planning Commission in Duluth:

We are neighbors of Kevin and Kathy Heaslip and support the Heaslip's garage build. We would like to see a variance granted from the shoreland setback requirements.

Maurice Strand - 2904 W. 13th St.
218-213-8628

Tim Wleczinski
2522 W 13th St
218-348-0296

John Norman
2509 W. 13TH ST.

Josh Redz
Ryn
1301 ~~W.~~ Lincoln Park Dr
1305 Lincoln Park Dr.

Sara Feick
Willet
1317 Lincoln park dr.
1325 Lincoln park dr.

John Steger

Greg Somrak
2520 W 13TH ST

Kathy Mac
2527 W 13TH ST.

Melissa Orr
1219 Lincoln Park Dr.



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 20-151	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Variance – fence setback, height, and transparency	Planning Commission Date		October 13, 2020
Deadline for Action	Application Date	September 15, 2020	60 Days	November 15, 2020
	Date Extension Letter Mailed	October 6, 2020	120 Days	January 13, 2021
Location of Subject	460 Jean Duluth Rd. (Hunters Park)			
Applicant	Paul Miner	Contact		
Agent	Hanft Fride P.A.	Contact	William Burns/Terri Crossmon	
Legal Description	See attached (010-3330-01520)			
Site Visit Date	October 2, 2020	Sign Notice Date	September 29, 2020	
Neighbor Letter Date	October 2, 2020	Number of Letters Sent	28	

Proposal

Three variances related to the infilling of a legal, nonconforming fence along the street easement for Skyline Parkway:

1. Transparency – fences that exceed the elevation of Skyline Parkway plus 3 feet must be at least 75% transparent and the proposed fence infill is to be 100% opaque like the existing fence.
2. Setback – fences are to be 3 feet back from the street easement line and the proposed fence infill is to be at the easement line in alignment with the existing fence.
3. Height – opaque fences between the house and street are required to be less than 4 feet tall and the proposed fence infill is to match the existing fence at that location, which is 5 feet – 8 inches tall.

Recommended Action: Approve variance with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1, Skyline Pkwy Overlay	Dwelling	Open Space
North	R-1, Skyline Pkwy Overlay	Vacant/Undeveloped	Traditional Neighborhood
South	R-1	Dwellings	Traditional Neighborhood
East	R-1, Skyline Pkwy Overlay	Vacant/Undeveloped	Open Space
West	R-1, Skyline Pkwy Overlay	Vacant/Undeveloped	Open Space

Summary of Code Requirements

Sec. 50-18.4.D.7 – “All portions of a fence located within 50 feet of horizontal distance from the property line along Skyline Parkway and extending more than three feet above the elevation of the centerline of Skyline Parkway shall be at least 75 percent transparent. No more than 25 percent of the area bounded by the top, bottom, and sides of the fence may be constructed of solid or opaque materials.”

Sec. 50-21.3 – “Fences may not be located closer than 3 ft. to any publicly maintained right-of-way and meet the standards of 50-26.4.”

Sec. 50-26.4.A.1(a) – “No fence or wall located between the principal structure on a lot and the front property line shall exceed four feet in height. If a fence is constructed with an ornamental material, such as wrought iron, a six foot high fence may be allowed with an approved zoning permit provided that the fence is at least 50 percent open or transparent.”

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

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief for from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods

Zoning – Residential-Traditional (R-1): traditional neighborhoods of single-family, duplexes and townhouses on moderately sized lots. Intended to be used primarily in established neighborhoods. Dimensional standards require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas.

Zoning – Skyline Parkway Overlay - The purpose of this Section is to protect the unique character and visual qualities of Skyline Parkway as documented in the Skyline Parkway corridor management plan and the comprehensive land use plan while protecting the property rights of private property owners affected by these regulations. One key purpose is to protect views from Skyline Parkway toward Lake Superior, the St. Louis River, and the harbor, from a wide variety of vantage points along the Parkway and to encourage the construction of narrower buildings located farther from the Skyline Parkway rather than wider buildings located closer to the parkway;

Future Land Use – Open Space - High natural resource or scenic value, with substantial restrictions and development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Low intensity uses such as trails and recreation, viewshed protection and access, water access, with some parking and support facilities

Future Land Use – Traditional Neighborhood - Characterized by grid/connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Includes many of Duluth’s older neighborhoods, infill projects, neighborhood extensions. 4-8 units/acre, mix of housing types (i.e. town homes and 4-plexes).

Review and Discussion Items

Staff finds that:

- 1) The applicant’s dwelling and yard is separated from Skyline Parkway by masonry fence built at the street easement line that is 5 feet – 8 inches tall. This fence has two gaps in it that allow access via a semi-circular driveway and the proposal is to close off one leg of the driveway and to infill the wall at the same height and in alignment with the existing, legal nonconforming fence.
- 2) The property is zoned R-1, Residential-Traditional, which limits the height of an opaque fence to 4 feet and requires it be setback from the street easement 3 feet. The property is also in the Skyline Parkway Overlay which is intended to preserve views of the lake through a number of means relating to structures placement, including limiting the height of opaque fences to less than 3 feet above Skyline Parkway elevation and requiring any fences that exceed Skyline Parkway +3 feet to be no more than 75% opaque.

3. The applicant is proposing to use the property in a reasonable manner through simplifying their property access and providing additional screening to their property at the corner of Jean Duluth Rd., an arterial roadway with moderate traffic levels at times. In addition, it is reasonable to do the screening via infilling the existing legal, nonconforming fence in alignment with the rest of the fence that extends across 280 feet of their property along the street.
4. This property is unique to this 0.8 mile long segment of Skyline Parkway (that is also Jean Duluth Rd.) from Lakeview Ave. to Glenwood St. in that is the only home on the lake side of the Parkway. The uniqueness extends to the location on a corner and the need to provide appropriate screening from traffic.
5. The need for the variance, while being undertaken by the current landowner, is not the result of the landowner's actions since the opaque fence was constructed long before the fence setback and Skyline Parkway Overlay requirements were enacted in 2010. The infilling in alignment with the existing fence is a normal design response, though not the only option. The applicant considered (see Page 2 of the attached 9/18/2020 letter from Bill Burns) providing the screening via a means that would comply with the viewshed and setback ordinance requirements and estimated the cost at 2-3 times the cost of the current proposal.
6. Modifying the location of the existing fence, rather than constructing the infill segment as proposed, would constitute a practical difficulty as it would require extensive topographic modifications to the applicant's property to provide for usable yard area, and would result in unnecessary destruction of existing trees and vegetation that would otherwise be preserved.
7. Granting the variance will not alter the essential character of the area since the view to Lake Superior is already obstructed by the position of the home when viewed through the gaps in the fence and the fence itself. Additionally, the proposed infill will be the same material and height and will be in line with the existing fence.
8. Granting the variances won't affect access to light and air for surrounding properties due to the quantity of open space surrounding the property. Additionally, the variance won't affect the provision of emergency services to the public and it will reduce potential traffic congestion by eliminating one of the driveways on to Jean Duluth Rd.
9. The variance, if granted, would not impair established property values in the surrounding area since the fence does not impact private property views.
10. The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Traditional Neighborhood and housing policy that seeks to foster opportunities for creative housing types and concepts.
11. No additional landscaping is recommended as mitigation for the reduced setback per Sec. 50-37.9. H since landscaping is not required for one-family dwellings.
12. One comment from a neighbor, no City staff, or any other comments were received regarding the application.
13. Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

Based on the above findings, staff recommends that Planning Commission grant the Variance with the following conditions:

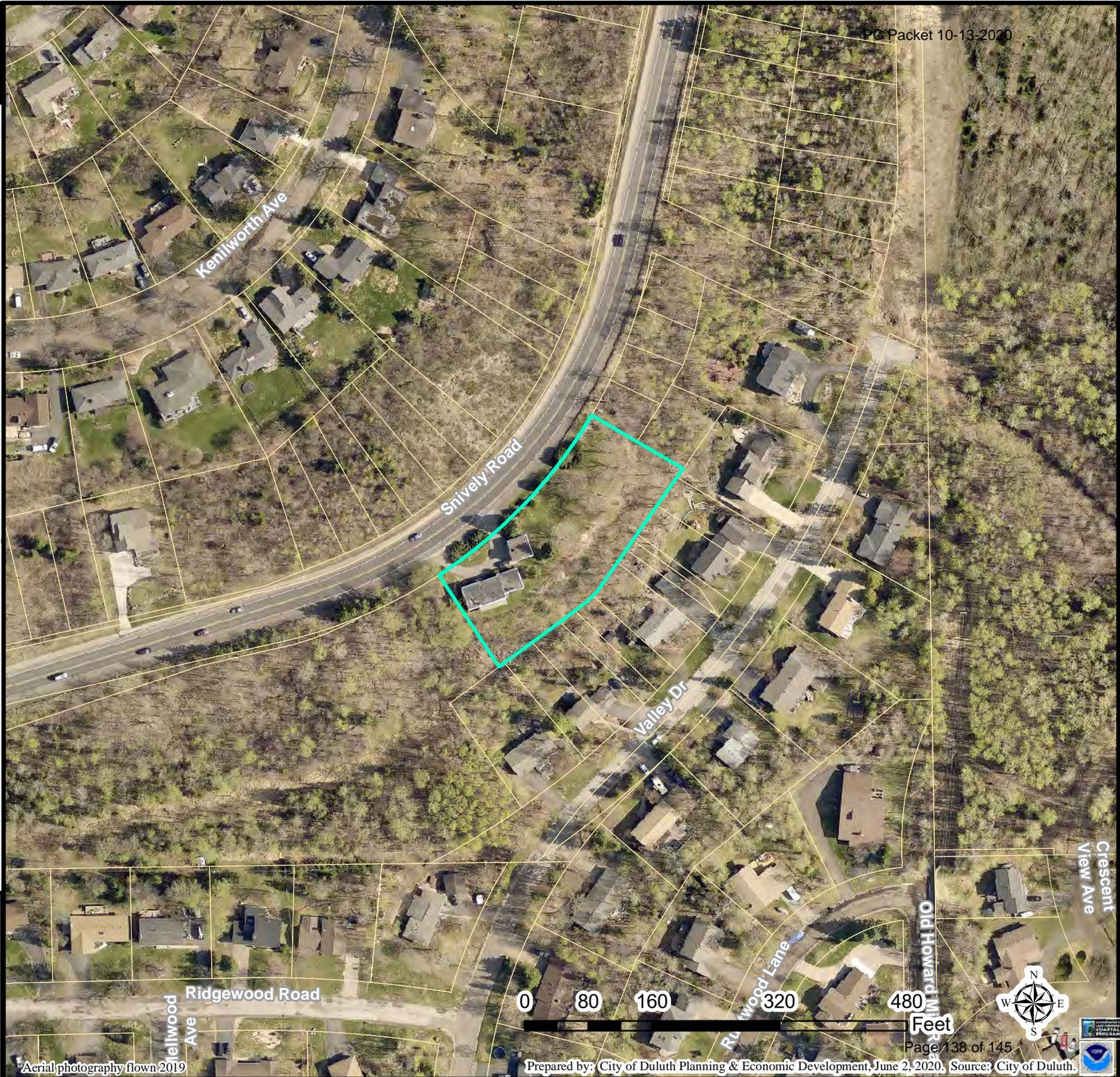
- 1) The project be limited to, constructed, and maintained according to plans provided by the applicant;
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration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



PL 20-151
460 Jean Duluth Rd.
Fence Variance

Legend

- Subject Parcel
- Parcel Boundaries



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





PL 20-151
460 Jean Duluth Rd.
Fence Variance

PC Packet 10-13-2020

Legend

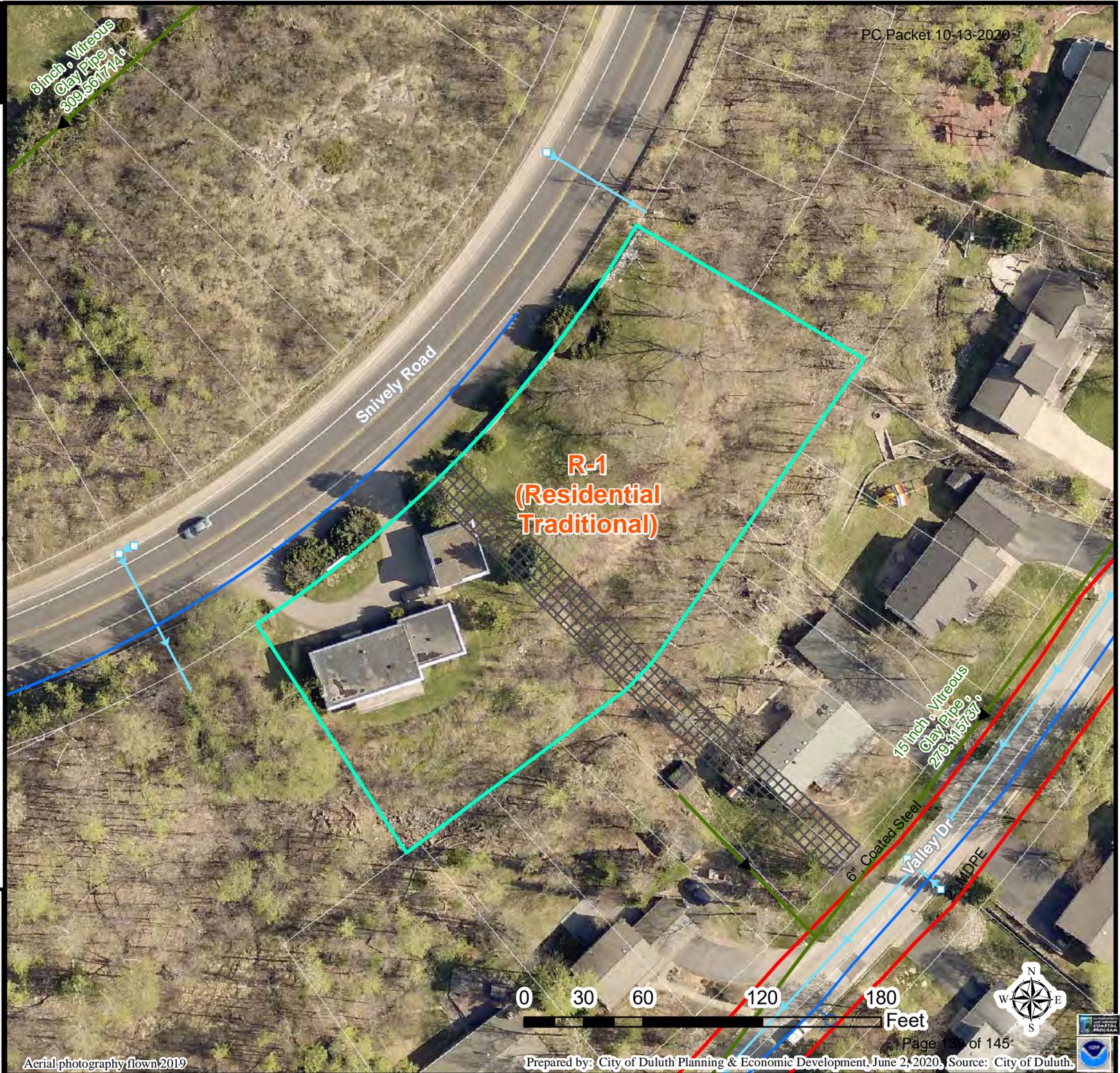
- Subject Parcel
- Gas Main
- Water Main
- ⊕ Hydrant

Sanitary Sewer Mains

- ▶ CITY OF DULUTH

Storm Sewer Mains

- ▶ Storm Sewer Pipe
- Storm Sewer Catch Basin
- Vacated ROW
- Zoning Boundaries



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Aerial photography flown 2019

Prepared by: City of Duluth Planning & Economic Development, June 2, 2020. Source: City of Duluth.

HANFT FRIDE
A PROFESSIONAL ASSOCIATION

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REPLY TO CLOQUET OFFICE

WWW.HANFTLAW.COM

EMAIL: WMB@HANFTLAW.COM

September 18, 2020

GILBERT W. HARRIES*
WILLIAM M. BURNS
JOHN D. KELLY*
FREDERICK A. DUDDERAR, JR.
R. THOMAS TORGERSON*
CHERYL M. PRINCE*
ROBIN C. MERRITT*
JENNIFER L. CAREY*
MARK D. PILON*
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COURTNEY L. BECK
HEATHER E. MUTCHLER

RICHARD R. BURNS,* OF COUNSEL
CHARLES H. ANDRESEN, OF COUNSEL

*ALSO ADMITTED IN WISCONSIN

Via Email Only

Ms. Jenn Reed Moses
City of Duluth Planning Division
411 West First Street, Room 110
Duluth, MN 55802

Re: Paul Miner Variance/460 Jean Duluth Road
Our File No. 33954.000

Dear Jenn:

I am following up here to address questions regarding the nature of the variance application which we filed on behalf of Paul Miner. Mr. Fulton suggested that I might write you to add some clarity and perhaps better define our position, and I am happy to do so. Here is exactly what is contemplated:

1. Do keep in mind that the applicant has significantly modified design of this home, grandfathered as is, to eliminate any need for variances with respect to the structures on the property. You have been very helpful in simplifying these issues and in assisting us to move into compliance.
2. The existent fence/wall will not be replaced. Per the UDC, it will be repaired in place but not rebuilt and no change in height will occur. We all agree that it was a legal fence/wall when built and is totally grandfathered.
3. There are currently two entrances to the property off the busy road in front. They are shown in the pictures which are a part of the enclosed application. The only request here is to in-fill one of these two openings. That request requires a variance because even though the fence/wall is totally grandfathered, the two gaps could not be filled in without a variance because of the current setback requirements. This extension, however, is just a continuation of the existing fence/wall.

September 18, 2020
Page 2

4. Since there is no viewshed here because of the legal grandfathered wall and the dense foliage, there is no public entrance to protect and the in-fill will serve the public in fact by eliminating a curb cut on the busy road.
5. Based on the application and the above, we believe that the practical difficulty test that is part of your variance standards is easily met here. To achieve the result of appropriately eliminating this curb cut, without impacting the viewshed, the property owner would need to construct a fence/wall of two or three times the length of the in-fill area three feet from the property line. This would be an inordinate expense given the insignificant/no impact of the in-fill itself. There would be no betterment to the property or the grandfathered situation from this, but there would be significant more cost and a less attractive aesthetic situation.

The cost of the alternative wall is estimated at roughly three times the cost of the in-fill. The in-fill wall would be at the same height and have the same appearance as the existing fence/wall.

You have heard my position before with respect to practical difficulties. We believe that is more fairly interpreted as does it make sense to do it the way the Code may dictate or more sense to do it in another way that requires a variance but does not run into any of the basic philosophies of the Code and is more efficient and has no impact on the neighborhood. We feel that test is clearly met here.

Please contact me if there are any further questions or if you need additional information.

Very truly yours,

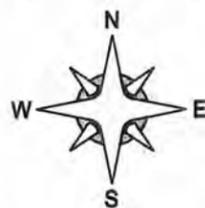


William M. Burns

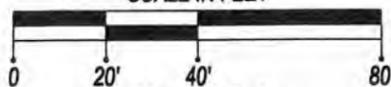
WMB:dar

c: Kyle Deming
Adam Fulton

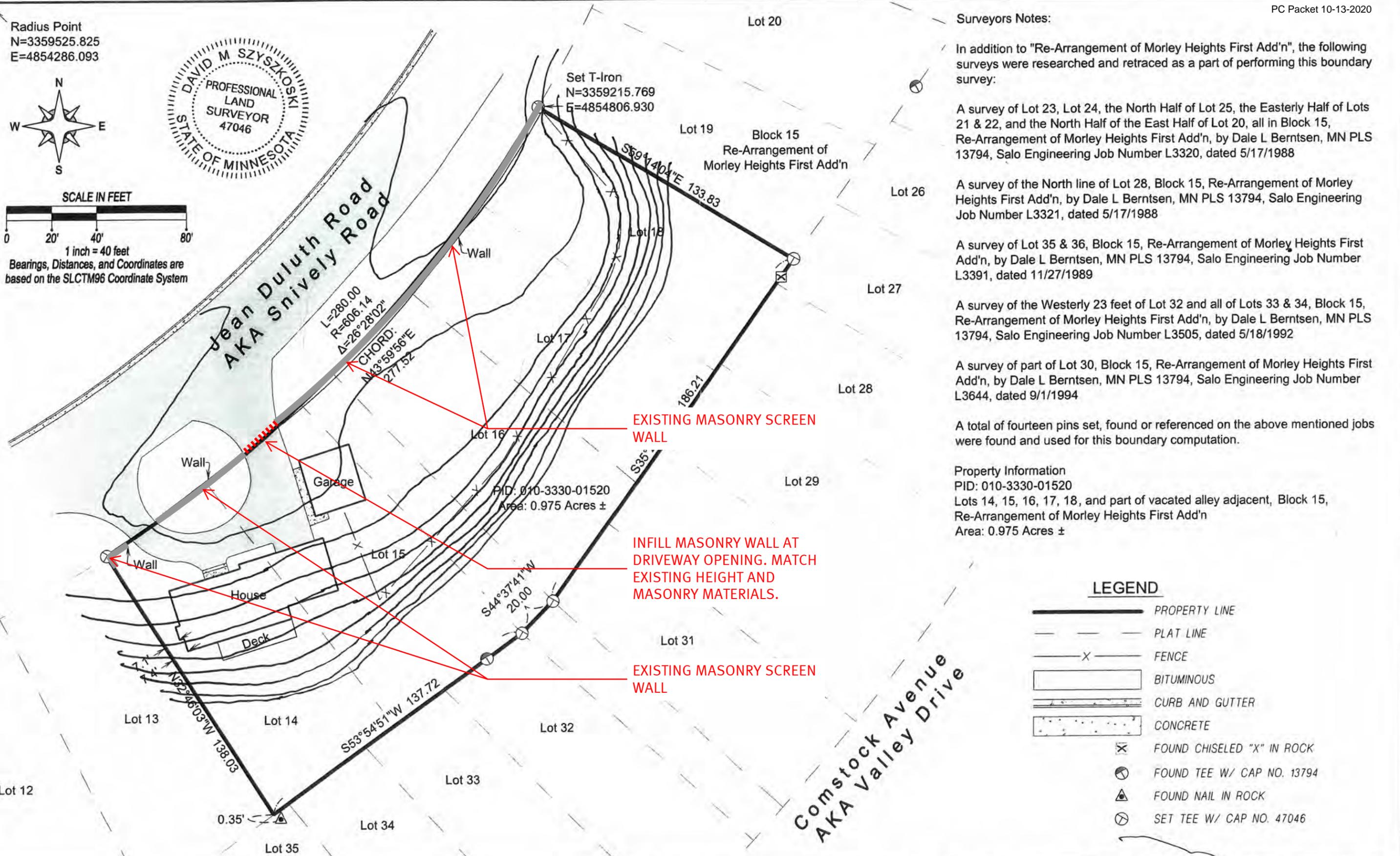
Radius Point
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E=4854286.093



SCALE IN FEET



1 inch = 40 feet
Bearings, Distances, and Coordinates are based on the SLCTM96 Coordinate System



Surveyors Notes:

In addition to "Re-Arrangement of Morley Heights First Add'n", the following surveys were researched and retraced as a part of performing this boundary survey:

A survey of Lot 23, Lot 24, the North Half of Lot 25, the Easterly Half of Lots 21 & 22, and the North Half of the East Half of Lot 20, all in Block 15, Re-Arrangement of Morley Heights First Add'n, by Dale L Berntsen, MN PLS 13794, Salo Engineering Job Number L3320, dated 5/17/1988

A survey of the North line of Lot 28, Block 15, Re-Arrangement of Morley Heights First Add'n, by Dale L Berntsen, MN PLS 13794, Salo Engineering Job Number L3321, dated 5/17/1988

A survey of Lot 35 & 36, Block 15, Re-Arrangement of Morley Heights First Add'n, by Dale L Berntsen, MN PLS 13794, Salo Engineering Job Number L3391, dated 11/27/1989

A survey of the Westerly 23 feet of Lot 32 and all of Lots 33 & 34, Block 15, Re-Arrangement of Morley Heights First Add'n, by Dale L Berntsen, MN PLS 13794, Salo Engineering Job Number L3505, dated 5/18/1992

A survey of part of Lot 30, Block 15, Re-Arrangement of Morley Heights First Add'n, by Dale L Berntsen, MN PLS 13794, Salo Engineering Job Number L3644, dated 9/1/1994

A total of fourteen pins set, found or referenced on the above mentioned jobs were found and used for this boundary computation.

Property Information

PID: 010-3330-01520
Lots 14, 15, 16, 17, 18, and part of vacated alley adjacent, Block 15, Re-Arrangement of Morley Heights First Add'n
Area: 0.975 Acres ±

LEGEND

- PROPERTY LINE (solid line)
- PLAT LINE (dashed line)
- FENCE (line with 'x' marks)
- BITUMINOUS (stippled pattern)
- CURB AND GUTTER (double line)
- CONCRETE (dotted pattern)
- FOUND CHISELED "X" IN ROCK (square with 'x')
- FOUND TEE W/ CAP NO. 13794 (circle with 'x')
- FOUND NAIL IN ROCK (triangle)
- SET TEE W/ CAP NO. 47046 (circle with 'x')

4560 Norway Pines Place
Duluth, MN 55811
218-727-8796
tkda.com

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.

DATE 8/21/2014

DAVID SZYSZKOSKI MINNESOTA LICENSE NUMBER 47046

NO	DATE	REVISION
1		
2		
3		

Boundary Survey of Lots 14, 15, 16, 17, 18, and part of vacated alley adjacent, Block 15, Re-Arrangement of Morley Heights First Add'n, Section 12, T50N, R14W, St. Louis County, MN
For: Paul Miner

JOB NO. 15513.070 FILE NO. L4749 DATE OF FIELD WORK: 8/20/14



EXISTING MASONRY
SCREEN WALL

INFILL MASONRY
WALL AT DRIVEWAY
OPENING. MATCH
EXISTING HEIGHT
AND MASONRY
MATERIALS.





From: [planning](#)
To: [Kyle Deming](#)
Subject: FW: Variance for 460 Jane Duluth Road
Date: Tuesday, October 6, 2020 12:26:22 PM

From: Mike Seyfer <mseyfer@haileysault.com>
Sent: Tuesday, October 6, 2020 11:23 AM
To: planning <planning@DuluthMN.gov>
Subject: Variance for 460 Jane Duluth Road

Good morning:

Thank you for the notice of the hearing regarding the variance for 460 Jean Duluth Road. I am familiar with the property, as we live immediately below it on Valley Drive. If what you are describing as filling the eastern driveway entrance at the same height, and same distance from the road, then I do not see any reason the variance shouldn't be approved.

Thank you.

Mike Seyfer
Partner | [Hailey Sault](#)
(c) 218-340-4791