



# City of Duluth

## Meeting Agenda

### Planning Commission.

*Council Chambers*

---

Tuesday, September 13, 2022

5:00 PM

Council Chambers

---

#### CALL TO ORDER AND ROLL CALL

#### APPROVAL OF PLANNING COMMISSION MINUTES

[PL 22-0809](#) Planning Commission Minutes 8/9/22

**Attachments:** [08-09-2022 PC Minutes \(not approved yet\)](#)

#### PUBLIC COMMENT ON ITEMS NOT ON AGENDA

#### CONSENT AGENDA

[PL 22-139](#) Interim Use Permit for Vacation Dwelling Unit at 130 Charlotte Place by Daniel Frank

**Attachments:** [PL22-139 Staff Report and Attachments](#)

[PL 22-142](#) Concurrent Use Permit for Underground Private Sanitary Sewer in the Right of Way of Sundby Road and Page Street by Kinseth Hotel Group

**Attachments:** [PL 22-142 Staff Report and Attachments](#)

[PL 22-140](#) Final Plat for Force 1 Commercial Development on Arrowhead Road, west of Rice Lake Road, by Force 1, LLC

**Attachments:** [PL 22-140 Staff report and attachments](#)

[PL 22-145](#) Variance to Corner Side Setback for Entry Deck at 431 E Skyline Parkway by Ed Oman Construction

**Attachments:** [PL 22-145 Staff report and attachments](#)

#### PUBLIC HEARINGS

[PL 22-141](#) Preliminary Plat for Rearrangement of Part of Western Woods on the east side of Decker Road south of Anderson Road by Lon Hovland.

**Attachments:** [PL 22-141 Staff Report - final with attachments](#)

[PL 22-143](#) MU-C Planning Review for Hotel on Sundby Road north of Maple Grove Road by Kinseth Hotel Group

**Attachments:** [PL22-143 Staff Report and Attachments](#)

[PL 22-146](#) Variance to Form District Driveway Location Requirement at 925 E 4th Street by Lunar Legacy LLC

**Attachments:** [PL22-146 Staff Report and Attachments](#)

## OTHER BUSINESS

[PL 22-134](#) Conformance to Comprehensive Plan for TIF at Grand Avenue, Carlton Street, and 34th Avenue W

**Attachments:** [PL22-134 Staff Report Final](#)

Appointment of HPC Representative

## COMMUNICATIONS

Correspondence

Land Use Supervisor Report

Historic Preservation Commission Report

Joint Airport Zoning Board Report

Duluth Midway Joint Powers Zoning Board Report

# City of Duluth Planning Commission

August 9, 2022 – City Hall Council Chambers  
Meeting Minutes

## Call to Order

Vice-President Gary Eckenberg called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, August 9th, 2022 in the Duluth city hall council chambers.

## Roll Call

### **Attendance:**

Members Present: Gary Eckenberg, Jason Hollinday, Samuel Lobby, Danielle Rhodes, and Andrea Wedul

Members Absent: Jason Crawford, Margie Nelson, and Michael Schraepfer

Staff Present: Adam Fulton, Robert Asleson, Theresa Bajda, and Brett Crecelius, and Cindy Stafford

## Approval of Planning Commission Minutes -

Planning Commission Meeting – July 12, 2022

**MOTION/Second:** Hollinday/Wedul approved

**VOTE: (5-0)**

## Public Comment on Items Not on Agenda

None

## Consent Agenda

(Item PL 22-118 was removed from the consent agenda and placed under public hearings.)

PL 22-036 Interim Use Permit for a Vacation Dwelling Unit at 619 W Skyline Parkway by Dawn M. Holmberg

PL 22-078 Interim Use Permit for a Vacation Dwelling Unit at 612 N 58th Avenue W by Antonio Valdovinos

PL 22-100 Variance to Parking Maximum at 3815 Prosperity Road by American Precision Avionics

PL 22-113 Minor Subdivision at 140 W Mankato Street by Alex Bruckelmyer

PL 22-115 Vacation of Sunrise Parkway, a Portion of Daybreak Overlook, and Portions of Two Alleys at 1225 Harbor Highlands Drive by Duluth Housing and Redevelopment Authority

PL 22-122 Planning Review for Parking Lot Expansion at 916 E 3rd Street by Jefferson School, LLC

**Public:** No speakers

**MOTION/Second:** Wedul/Holliday approved as per staff recommendations

**VOTE: (5-0)**

### Public Hearings

#### PL 22-118 Vacation of Platted Cherry Street, and Unnamed Platted Right of Way, and a Platted Alley at 3401 Grand Avenue by Brent Dahlstrom

**Staff:** Deputy Director Adam Fulton gave an overview. The applicant is requesting to vacate an unimproved 40-foot wide portion of the platted right of way for Cherry Street west of Grand Avenue, a 33-foot wide unimproved platted right of way north of Cherry Street with 16.5 feet retained for a utility easement, and a portion of a 16-foot unimproved wide alley, all in the recorded plat of Centredale Addition to Duluth, located in the Denfeld neighborhood. The vacation will help create an approximate 2-acre site for the development of an affordable multi-family housing complex. Staff recommends approval with the conditions listed in the staff report, and an added condition that the DEDA board approves. Chair Eckenberg noted in the staff report – Comp Plan Governing Principle #5 – would this allow for open space? Deputy Director Fulton noted the designation was made according to the 2006 Comp plan. This site was previously a Holiday gas station. The proposed use is consistent with the broader plan.

**Applicant:** Did not speak.

**Public:** No speakers.

**MOTION/Second:** Wedul/Lobby recommended approval as per staff recommendation

**VOTE: (5-0)**

#### PL 22-114 UDC Map Amendment for Changes to R-P District at 1225 Harbor Highlands Drive by Duluth Housing and Redevelopment Authority

**Staff:** Theresa Bajda introduced the applicant's proposal requesting to amend the approved Harbor View/Central Hillside Revitalization Traditional Neighborhood Development Regulating Plan to allow for changes to building types, lot configurations, and design standards for three parcels within the existing Harbor Highland Development (Tracts D, E, and F) to allow future construction of a 70-unit affordable senior housing apartment and up to 40 units of affordable housing amongst five distinct buildings (2,9, and 10-plex buildings). Any amendment to the Regulating Plan that involves changes to land use, density, or height is required to follow the rezoning process and receive approval from the planning commission and city council. Staff received one public comment regarding a housing voucher, which they will ask the developer to follow up on. Staff recommends approval based on the reasons listed in the staff report.

**Applicant:** Jake Morgan of HRA, and Heidi Bringman of LHB addressed the commission and welcomed questions. Morgan said they are excited to move forward on the project, which will help fill the need for senior housing.

**Commissioners:** Danielle Rhodes noted page 67 in the staff report which shows duplexes. Now an apartment building is being proposed? Bajda stated logs of changes have been made from the original plan. Andrea Wedul asked what the change in density will be. Jake Morgan doesn't have an exact number but referred to Tract I – which will be kept as open green space. Wedul stated the change in density looks considerable. Deputy Director Fulton noted the greater level of mixed housing. The density is consistent with the goals of the community. They continue to work with MNDOT to provide pedestrian safety. They are not close to maximum

allowed density, and there are no utility concerns. Wedul stated this is a great infill, and is excited to see the project move forward.

**Public:** No speakers.

**MOTION/Second:** Wedul/Holliday recommended approval as per staff recommendation

**VOTE: (5-0)**

PL 22-119 Variance to Shoreland Setback at 3401 Grand Avenue by Brent Dahlstrom

**Staff:** Brett Crecelius introduced the applicant's proposal for a variance from the shoreland setback to build an approximate 90,000 square foot, 80-unit apartment complex comprising of a mix of 1- and 2- bedroom units. Impervious surface will be 0' from the ordinary high-water level instead of the required 50' in a General Development Shoreland. This was previously a Holiday gas station. No public, agency, or city comments were received. Staff recommends approval with the conditions listed in the staff report. Wedul asked about condition #2. Will the stormwater and landscaping plan be brought back to the planning commission? Per Deputy Director Fulton, the plans will be approved by staff prior to issuing the building permit. Eckenberg asked about governing principle #4 – mixed-use income, and should it read, mixed-use "housing". Crecelius affirmed "housing" is correct. Wedul asked if there will be any market rate housing. Per Crecelius it is a mixture of affordable and workforce housing which includes 80% AMI (Area Median Income).

**Applicant:** Chad Ronchetti of Kraus Anderson addressed the commission. This is a 20-25 million dollar project going into West Duluth. The complex will be easily accessible to Wheeler Field. The owner will retain property for ten years, and the owner takes good care of their buildings. This project is good for the neighborhood, and wetland impacts are minimal. The unnamed stream on the site is not a stream of high importance. Chair Eckenberg noted city staff identified the stream after the site was presented and the project was selected and awarded ARPA funds. Per Ronchetti, the stream relocation did create an additional hurdle, but the owner still would have moved forward with the site. There is a dedication to the community, and it is a good site even with the constraints. Chair Eckenberg asked if it will be section 8 eligible. Ronchetti noted tenants will need income verification, but it is not eligible for section 8. He noted they will have maximum parking, and they are on a bus line. Wedul asked about the underground stormwater storage. Ronchetti stated the stormwater treatment will enhance water quality downstream.

**Public:** No speakers.

**Commissioners:** Chair Eckenberg noted the proximity of the project to the railroad tracks. The city should be conscious of how it uses ARP money. He finds it hard to see this as mixed-income housing. Deputy Director Fulton noted this is mixed income housing, and is adjacent to dock 5, which is not utilized. This is a high-value location with a view of the bay, and close to Wade and Wheeler fields. It hits the mark for more housing in the community. The site has been vacant for two decades, and he is very pleased with the developer's proposal. Ronchetti shared he took his kids to the site and a train came by. There was no horn. The train was at low speed, and the noise was minimal. He understands the concerns, but the benefits of the sight outweigh the concerns. Commissioner Rhodes shared her insight on property value and trains. There is sought after property at 36<sup>th</sup> Avenue East where people want to be close to the trains. She asked commissioners to be cautious when thinking trains are a barrier to value. Wedul noted the shoreland variance and the treatment of streams. They provide connectivity, and better the environment. Commissioner Samuel Lobby agrees with Wedul. He noted he works in the Lincoln Park neighborhood. The new apartments there are expensive. This project

seems like a good opportunity for the neighborhood. Chair Eckenberg stated he appreciated the commissioners' conversation.

**MOTION/Second:** Holliday/Rhodes approved as per staff recommendation

**VOTE: (5-0)**

PL 22-121 Variance to Front Building Setback at 3401 Grand Avenue by Brent Dahlstrom  
**Staff:** Brett Crecelius introduced the applicant's proposal for a variance from the front yard setbacks to build an approximate 90,000 square foot, 80-unit apartment complex comprising of a mix of 1- and 2- bedroom units. The proposed variance would require allowing a 25' setback compared to the 40' setback for buildings in an MU-N district above 35' in height. The decreased front yard setback allows all fire response vehicles to safely access all sides of the building. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Chad Ronchetti of Kraus Anderson addressed the commission. He echoed Chair Eckenberg's comment on the last agenda item in that he appreciated the commissions' thoughtful conversation. He welcomed questions. Chair Eckenberg asked about access, and changes to the intersection. Ronchetti noted the intersection is confusing, but improvement with better signaling will help. There will be no additional curb-cuts or egress/ingress added.

**Public:** No speakers

**MOTION/Second:** Wedul/Lobby approved as per staff recommendation

**VOTE: (5-0)**

### **New Business**

#### **Election of Officer**

Deputy Director Fulton gave an overview. Due to previous President Sarah Wisdorf taking a job out of state, they need to appoint a new planning commission president. He opened the floor for nominations.

Vice-President Eckenberg (serving this month as Chair) nominated Margie Nelson. Her previous role as President is not consecutive, so she is eligible to serve as President again. There were no other nominations.

#### **Margie Nelson for President**

**VOTE: (5-0) - Approved**

### **Communications**

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview. Projects staff are working on include: Broadband, I-35 traffic study and Lot D.

Heritage Preservation Commission – Deputy Director Fulton gave an overview. The HPC approved the certificate of appropriateness for the demo of 118 East First Street. The HPC's decision to deny the certificate of appropriateness for the demo of the Astoria Hotel last month is being appealed to the city council.

Joint Airport Zoning Board – Chair Eckenberg stated there have been no recent meetings.

Duluth Midway Joint Powers Zoning Board – No update.

**Adjournment**

Meeting adjourned at 6:47 p.m.

Respectfully,

---

Adam Fulton – Deputy Director  
Planning & Economic Development



**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

<b>File Number</b>	PL 22-139	<b>Contact</b>	Chris Lee, clee@duluthmn.gov	
<b>Type</b>	Interim Use Permit – Vacation Dwelling Unit	<b>Planning Commission Date</b>	September 13, 2022	
<b>Deadline for Action</b>	<b>Application Date</b>	July 28, 2022	<b>60 Days</b>	September 26, 2022
	<b>Date Extension Letter Mailed</b>	August 18, 2022	<b>120 Days</b>	November 25, 2022
<b>Location of Subject</b>	130 Charlotte Place			
<b>Applicant</b>	Daniel Frank	<b>Contact</b>		
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	PID # 010-0320-00200			
<b>Site Visit Date</b>	September 1, 2022	<b>Sign Notice Date</b>	August 30, 2022	
<b>Neighbor Letter Date</b>	August 31, 2022	<b>Number of Letters Sent</b>	TBD	

**Proposal**

Applicant proposes to use a one-bedroom home as a vacation dwelling unit. Up to 3 people will be allowed to stay in the home.

This is a renewal application.

**Recommended Action:** Staff recommends that Planning Commission approve.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Open Space
<b>North</b>	R-1	Residential	Traditional Neighborhood
<b>South</b>	R-1	Tischer Creek	Open Space
<b>East</b>	R-1	Residential	Open Space
<b>West</b>	R-1	Residential	Open Space

**Summary of Code Requirements:**

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

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

UDC Sec. 50-37.10.E . . . the commission shall only approve an interim use permit, or approve it with conditions, if it determines that: 1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location ....; 2. The applicant agrees to sign a development agreement with the city.



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

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

- **S9:** Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth.

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:** This 1,200 sq. ft. home was built in 1964 and contains 4 bedrooms. This proposed vacation rental is located in the lower level with separate access.

**Review and Discussion Items:**

- 1) Applicant's property is located at 130 Charlotte Place. The proposed vacation dwelling unit contains 1 bedroom, which would allow for a maximum of 3 guests.
- 2) The applicant is proposing 1 off street parking space on a driveway/parking area located in the side yard area with access from the street
- 3) The applicant has indicated there will not be a space for camper or trailer storage by VDU guests.
- 4) The applicant has does not indicate any outdoor amenities on the site plan. The site plan depicts a dense screening of trees on two sides and a retaining wall built up on the adjacent property above. Because the required dense urban screen must be maintained continuously by the applicant, the retaining wall does not constitute part of the screening. Staff recommends the applicant provide photos of the trees in the property's rear yard to confirm they meet the requirement of 75% opacity prior to receiving the interim use permit.
- 5) 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.
- 7) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 8) Applicant must comply with Vacation Dwelling Unit Regulations, including providing information to guests on city rules



**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

(included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").

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

10) The permit will lapse if no activity takes place within 1 year of approval.

**Staff Recommendation:**

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

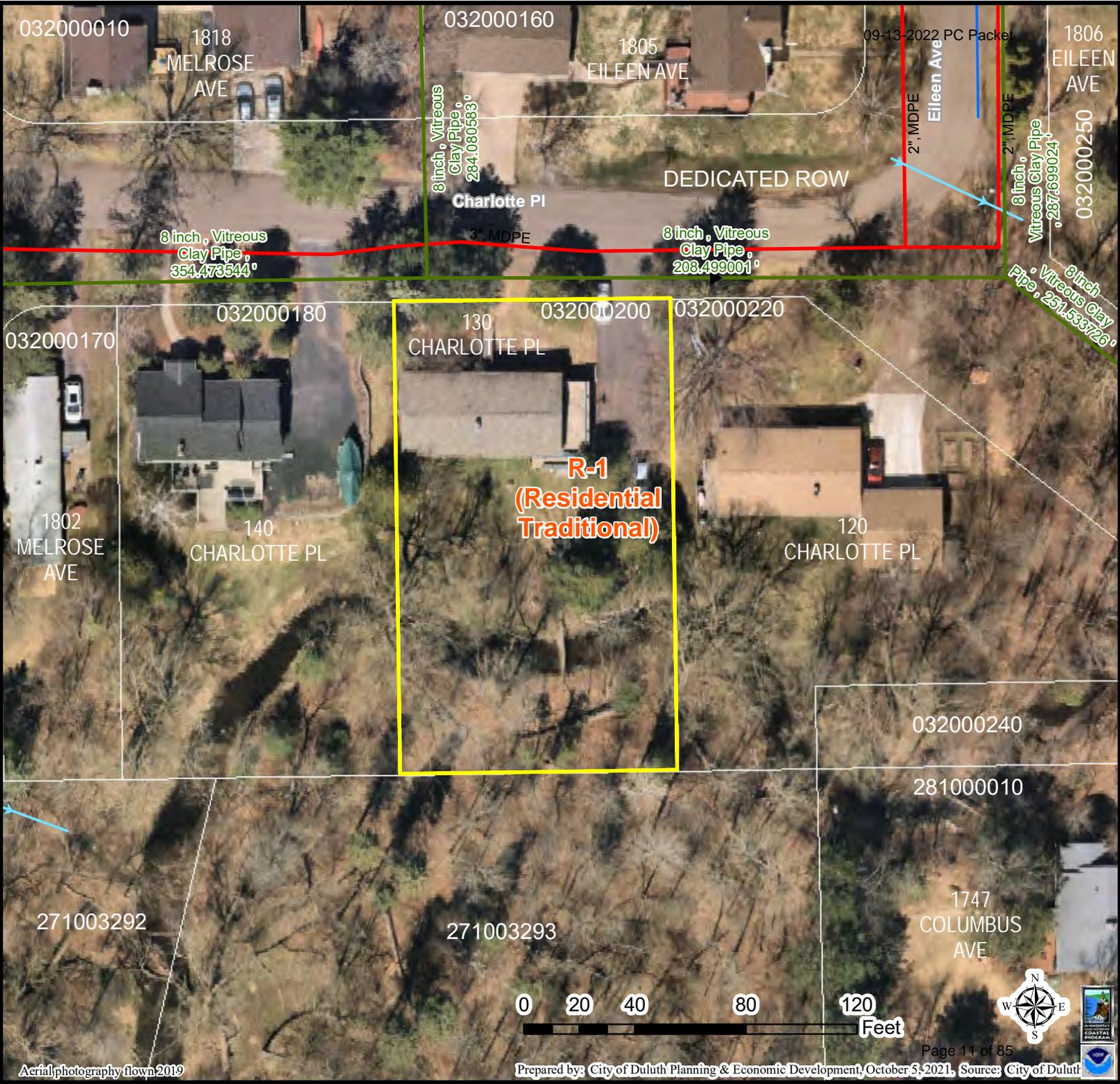
- 1) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.
- 2) Prior to receiving the interim use permit, the applicant shall provide evidence that the existing vegetation in the rear yard meets the screening requirement of 75% opacity.
- 3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission review; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL22-139  
Interim Use Permit - Renewal  
130 Charlotte Place

**Legend**

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
  - CITY OF DULUTH
  - WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- PS Pump Station
- Storm Sewer Mains
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
  - 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

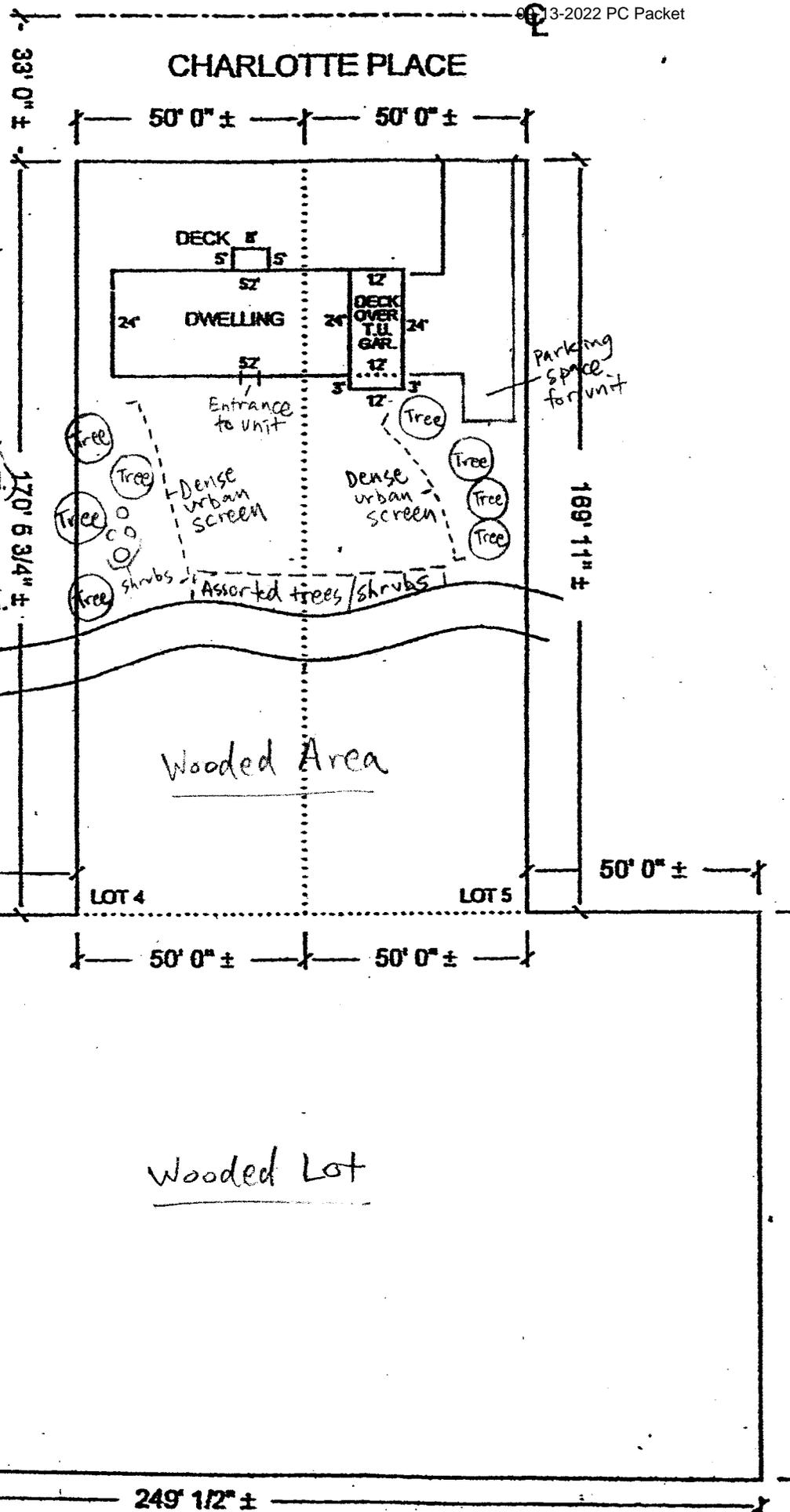


# Appendix A.1: Site Plan

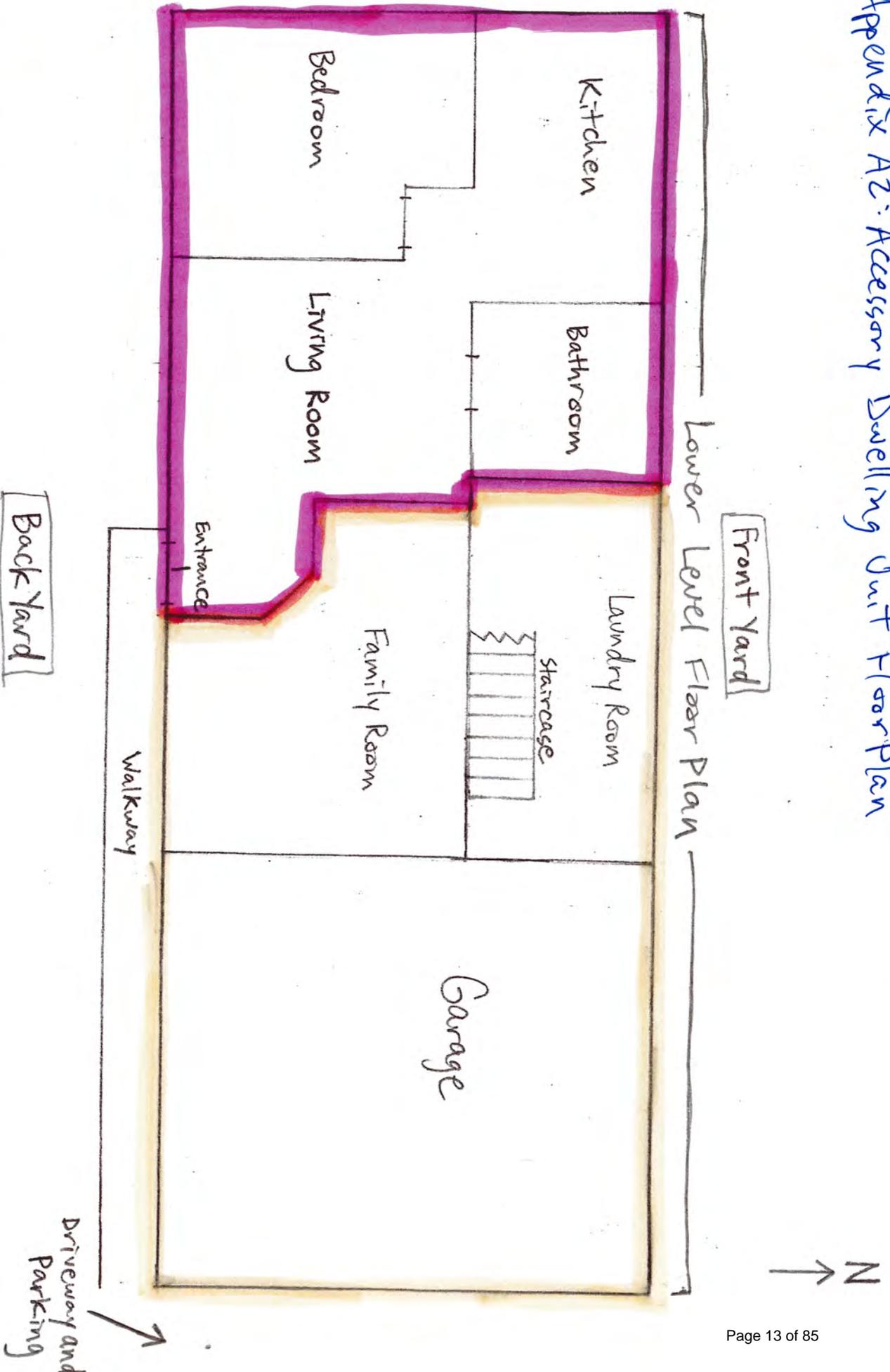
Scale  $3/8" = 12'$   
 (Trees and shrubs not drawn to scale)

## Notes

1. All access to accessory unit is from south side (rear) of primary unit.
2. Accessory unit occupies a portion of lower level of primary unit (see Appendix A.2 for accessory unit floor plan).
3. See Appendix A.3 for additional details regarding dense urban screen.



Appendix A2: Accessory Dwelling Unit Floor Plan



- Accessory Dwelling Unit
- Primary Dwelling Unit

130 Charlotte Place

### Legend

- Coffee Creek 150' Buffer
- Trout Stream (GPS)
- Other Stream (GPS)
- Zoning Boundaries
- Water Distribution System
- 30 - 60" Water Pipe
- 16 - 24" Water Pipe
- 4 - 6" Water Pipe
- Sanitary Sewer Collection System
- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- 8" - 16" Gas Pipes
- 4" - 6" Gas Pipes
- 0" - 4" Gas Pipes
- Storm Sewer Collection System
- Storm Sewer Catch Basin
- Vacated ROW

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.



Appendix A.3:  
Dense Urban  
screen detail

A - 5 1/2" Retaining wall for elevated driveway on adjacent property  
 B - Mature trees and shrubs  
 C - Primary dwelling w/ garage and deck  
 D - Mature trees and shrubs

TREE SPECIES:  
 B 2 CEDAR TREES  
 1 CHESTNUT  
 1 CRABAPPLE  
 D 1 NORWAY SPRUCE  
 3 CEDAR  
 1 BASSWOOD

Aerial photography: flown 2013

Prepared by: City of Duluth Planning

## Vacation Dwelling Unit Worksheet

1. The minimum rental period shall be not less than two consecutive nights (does not apply to Form districts). **What will be your minimum rental period?** 2 nights

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

**How many legal bedrooms are in the dwelling?**

**What will be your maximum occupancy?**

1

4

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

a. 1-2 bedroom unit, 1 space

b. 3 bedroom unit, 2 spaces

c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.

d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.

e. Form districts are not required to provide parking spaces.

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

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

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

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

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

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

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

WE WILL COLLECT THE INFO ON A REGISTRATION CARD AND SAVE IN A SPREADSHEET.

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

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

DANNY FRANK 218 340 7015, ANGIE FRANK 218 349 0354

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

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

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

IT WILL BE PLACED IN THE WELCOME BINDER OF INFORMATION.

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

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



**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

 218-730-5580

 [planning@duluthmn.gov](mailto:planning@duluthmn.gov)

<b>File Number</b>	PL 22-142	<b>Contact</b>	Chris Lee, <a href="mailto:clee@duluthmn.gov">clee@duluthmn.gov</a>	
<b>Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	September 13, 2022	
<b>Deadline for Action</b>	<b>Application Date</b>	July 21, 2022	<b>60 Days</b>	September 19, 2022
	<b>Date Extension Letter Mailed</b>	August 31, 2022	<b>120 Days</b>	November 18, 2022
<b>Location of Subject</b>	Sundby Road and W Page Street			
<b>Applicant</b>	Kinseth Hotel Corporation	<b>Contact</b>	Aaron Mailey	
<b>Agent</b>	Northland Consulting Engineers	<b>Contact</b>	David Bolf	
<b>Legal Description</b>	Parcel ID Number 010-2710-04594			
<b>Site Visit Date</b>	September 1, 2022	<b>Sign Notice Date</b>	August 30, 2022	
<b>Neighbor Letter Date</b>	N/A	<b>Number of Letters Sent</b>	N/A	

### Proposal

The applicant is proposing to construct private sanitary sewer improvements in the public right of way of Sundby Road and West Page Street.

### Staff Recommendation

Staff is recommending that planning commission recommend approval to City Council. A Concurrent Use Permit requires an ordinance.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-C	Undeveloped	Central Business Secondary
<b>North</b>	MU-C	Undeveloped	Central Business Secondary
<b>South</b>	MU-C	Undeveloped	Central Business Secondary
<b>East</b>	MU-C	Undeveloped	Low Density Residential
<b>West</b>	RR-1	Commercial - Retail	Open Space

## Summary of Code Requirements

UDC Section 50-37.7C. The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.

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

### Governing Principles

Governing Principle #4 – Support economic growth sectors which includes tourism.

### Future Land Use

Central Business Secondary: An area adjacent to and supporting the central business primary area or a stand -alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

## Review and Discussion Items

Staff finds that:

- 1.) The applicant is seeking a concurrent use permit to install a private sanitary sewer within the right of way for Sundby Street and West Page Street as shown in the attached exhibit.
- 2.) The concurrent use area contains 8,482 square feet. The applicant has stated that the purpose of the area is to connect to the nearest public utilities.
- 3.) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against occurrences in the right of way. Other protections for the city and the public are typically included in the ordinance that is submitted to City Council. The City is not responsible for removal/replacement of the applicants' infrastructure should the City need to access the right-of-way in the permitted area.
- 4.) Underground utilities are subject to locate requirements via Gopher State One Call. The applicant may be responsible for conducting locates for private utilities. Staff is confirming any requirements for this with City Engineering.
- 5.) The area proposed for the concurrent use permit will not take away from the public's ability to use the public right of way, nor will it harm or inconvenience the health, safety, and general welfare of the city.
- 6.) No public, agency, or other comments have been received as of August 31, 2022.

**Staff Recommendation**

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

- 1.) Applicant shall construct and maintain the project as identified in the attached exhibits.
- 2.) Applicant shall provide annual proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit.
- 3.) Applicant will remove the obstructions at the applicant's expense if directed to by the City with appropriate notice.
- 4.) If required by City Engineering, applicant shall sign up on the Gopher State One Call system to conduct locates.
- 5.) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.





**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

<b>File Number</b>	PL 22-140	<b>Contact</b>	John Kelley	
<b>Type</b>	Final Plat	<b>Planning Commission Date</b>	September 13, 2022	
<b>Deadline for Action</b>	<b>Application Date</b>	August 9, 2022	<b>60 Days</b>	October 8, 2022
	<b>Date Extension Letter Mailed</b>	August 23, 2022	<b>120 Days</b>	December 7, 2022
<b>Location of Subject</b>	SLY 433 FT OF S1/2 OF SE1/4 LYING W OF A LINE COMM ON S LINE 1308.11 FT WLY OF SE COR THENCE RUNNING N 0 DEG 9' 52"W 433 FT EX WLY 66 FT (Duluth Heights)			
<b>Applicant</b>	Force 1, LLC	<b>Contact</b>		
<b>Agent</b>	Robert R. Kanuit	<b>Contact</b>		
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	September 2, 2022	<b>Sign Notice Date</b>	August 30, 2022	
<b>Neighbor Letter Date</b>	August 31, 2022	<b>Number of Letters Sent</b>	12	

**Proposal**

Applicant is proposing to subdivide 12 acres of unplatted land into the Force 1 Commercial Development plat consisting of 3 building lots.

Staff recommends approval, with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-2 and MU-C	Vacant/Undeveloped	Neighborhood Mixed Use
<b>North</b>	RR-1	Vacant/Undeveloped	Open Space
<b>South</b>	MU-P	Mixed Use Planned Development	Urban Residential
<b>East</b>	MU-N	Commercial	Neighborhood Commercial
<b>West</b>	R-2	Church	Urban Residential

**Summary of Code Requirements**

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

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

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

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

Governing Principle #5 – Promote reinvestment in neighborhoods. New development should strengthen commercial centers or diversify residential opportunities. This project creates commercial development along a main traffic corridor in the Duluth Heights neighborhood. The development is located across the road from a mixed use planned development that will include commercial and multi-family residential development. The project is sited adjacent to existing transportation and utility infrastructure.

Governing Principle #8 – Encourage a mix of activities, uses, and densities. This project provides commercial uses in proximity to multi-family and single-family housing along a main transportation corridor.

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

**Zoning:**

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

Mixed-Use Commercial (MU-C): The MU-C district is established to provide for community and regional commercial development along commercial corridors and nodal centers. Intended non-residential uses include retail, lodging, service, and recreational facilities needed to support the community and region

**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.

**Related files:**

PL 22-096 Concept Plan. Approved by Land Use Supervisor on 6/16/22.

PL 22-103 Preliminary Plat. Approved by Planning Commission on 7/12/2022.

### Review and Discussion Items

#### Staff finds:

- 1) The proposal is to subdivide 12 acres of unplatted land into the Force 1 Commercial Development plat consisting of 3 building lots. The site is currently vacant land. The lots as shown in the preliminary plat can accommodate reasonably-scaled commercial development.
- 2) Lot 1 (6.4 acres), zoned R-2 (Residential-Urban), is proposed to be developed in a later phase. Lots 2 and 3 are intended for commercial uses and will require a MU-C Planning Review per the UDC.
- 3) The Planning Commission's approval of the Preliminary Plat was conditioned on these items:
  - a. Applicant shall submit a financial security in the form of a cash escrow or Letter of Credit in the amount of 33% of the installed value of the traffic signal at Stanford Avenue and West Arrowhead Road.
  - b. A tree inventory and tree replacement plan be approved for Lot 1 prior to any site development activity including the issuance of a grading and soil erosion permit.
  - c. That a wetland delineation and mitigation plan be approved prior to final plat approval.
  - d. That public utility easements be shown on the final plat for all public water and sewer mains for all lots.
- 4) Below is staff's response on the satisfaction of the preliminary plat conditions listed above:
  - a. The applicant will not need to provide a financial security for the traffic signal. St. Louis County has stated that they will commit to funding 75 percent of the cost (covers the east, west and north legs) and the City of Duluth, by agreement, will commit to funding 25 percent of the cost (covers the south leg). Maintenance of this traffic signal system would be shared between St. Louis County and the City of Duluth.
  - b. A tree inventory and tree replacement plan be approved for Lot 1 prior to any site development activity including the issuance of a grading and soil erosion permit. This can be reviewed and approved at the time of building permit submittal.
  - c. The wetland delineation and mitigation plans were approved by the Technical Evaluation Panel.
  - d. There will be no public water or sewer line easements.
- 5) Staff finds that, other than the items addressed above, the final plat conforms to the requirements of Sec 50-37.5. and is consistent with all applicable requirements of MSA 462.358 and Chapter 505.
- 6) No City, citizen or other agency comments have been received to date.

### Staff Recommendation

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

1. The final plat must be recorded in the office of the County Recorder as provided in MSA 505.4 and that such recording be completed within 2 years of the approval of the plat.
2. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission review; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



**Legend**  
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.



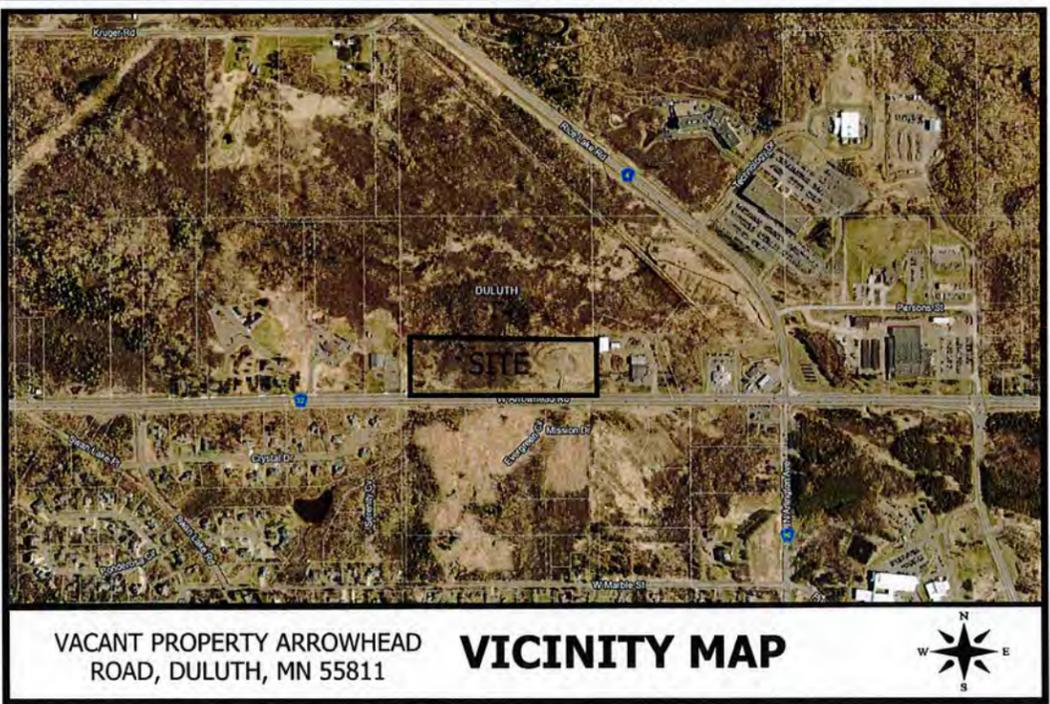
**ALTA/NSPS TABLE A**

OPTIONAL SURVEY RESPONSIBILITIES AND SPECIFICATIONS REQUESTED BY CLIENT, LENDER OR INSURER

1. Monuments placed (or a reference monument or witness to the corner) at all major corners of the boundary of the surveyed property, unless already marked or referenced by existing monuments or witnesses in close proximity to the corner. **NO REQUEST ON THIS SURVEY.**
2. Address(es) of the surveyed property if disclosed in documents provided to or obtained by the surveyor, or observed while conducting the fieldwork. **NO REQUEST ON THIS SURVEY.**
3. Flood zone classification (with proper annotation based on federal Flood Insurance Rate Maps or the state or local equivalent) depicted by scaled map location and graphic plotting only. **NO REQUEST ON THIS SURVEY.**
4. Gross land area (and other areas if specified by the client). **554,614 Sq. Feet or 12.73 Acres.**
5. Vertical relief with the source of information (e.g., ground survey, aerial map), contour interval, datum, and originating benchmark identified when appropriate. **NO REQUEST ON THIS SURVEY.**
6. (a) If the current zoning classification, setback requirements, the height and floor space area restriction, and parking requirements specific to the surveyed property are set forth in a zoning report or letter provided to the surveyor by the client or the client's designated representative, list the above items on the plat or map and identify the date and source of the report or letter. **NO REQUEST ON THIS SURVEY.**  
 (b) If the zoning setback requirements specific to the surveyed property are set forth in a zoning report or letter provided to the surveyor by the client or the client's designated representative, and if those requirements do not require an interpretation by the surveyor, graphically depict the building setback requirements on the plat or map. Identify the date and source of the report or letter. **NO REQUEST ON THIS SURVEY.**
7. (a) Exterior dimensions of all buildings at ground level. **NO REQUEST ON THIS SURVEY.**  
 (b) Square footage of:  
 (1) exterior footprint of all buildings at ground level. **NO REQUEST ON THIS SURVEY.**  
 (2) other areas as specified by the client. **NO REQUEST ON THIS SURVEY.**  
 (c) Measured height of all buildings above grade at a location specified by the client. If no location is specified, the point of measurement shall be identified. **NO REQUEST ON THIS SURVEY.**
8. Substantial features observed in the process of conducting the fieldwork (in addition to the improvements and features required pursuant to Section 5 above) (e.g., parking lots, billboards, signs, swimming pools, landscaped areas, substantial areas of refuse). **NO REQUEST ON THIS SURVEY.**
9. Number and type (e.g., disabled, motorcycle, regular and other marked specialized types) of clearly identifiable parking spaces on surface parking areas, lots and in parking structures. Striping of clearly identifiable parking spaces on surface parking areas and lots. **NO REQUEST ON THIS SURVEY.**
10. (a) As designated by the client, a determination of the relationship and location of certain division or party walls with respect to adjoining properties. **NO REQUEST ON THIS SURVEY.**
11. Evidence of underground utilities existing on or serving the surveyed property (in addition to the observed evidence of utilities required pursuant to Section 5.E.iv.) as determined by:  
 (a) plans and/or reports provided by client (with reference as to the sources of information). **NO REQUEST ON THIS SURVEY.**  
 (b) markings coordinated by the surveyor pursuant to a private utility locate request. **NO REQUEST ON THIS SURVEY.**  
 Note to the client, insurer, and lender - With regard to Table A, item 11, information from the sources checked above will be combined with observed evidence of utilities pursuant to Section 5.E.iv. to develop a view of the underground utilities. However, lacking excavation, the exact location of underground features cannot be accurately, completely, and reliably depicted. In addition, in some jurisdictions, 811 or other similar utility locate requests from surveyors may be ignored or result in an incomplete response, in which case the surveyor shall note on the plat or map how this affected the surveyor's assessment of the location of the utilities. Where additional or more detailed information is required, the client is advised that excavation may be necessary.
12. As specified by the client, Governmental Agency survey-related requirements (e.g., HUD surveys, surveys for leases on Bureau of Land Management managed lands). The relevant survey requirements are to be provided by the client or client's designated representative. **NO REQUEST ON THIS SURVEY.**
13. Names of adjoining owners according to current tax records. If more than one owner, identify the first owner's name listed in the tax records followed by "et al." **SHOWN HEREON.**
14. As specified by the client, distance to the nearest intersecting street. **NO REQUEST ON THIS SURVEY.**
15. Rectified orthophotography, photogrammetric mapping, remote sensing, airborne/mobile laser scanning and other similar products, tools or technologies as the basis for showing the location of certain features (excluding boundaries) where ground measurements are not otherwise necessary to locate those features to an appropriate and acceptable accuracy relative to a nearby boundary. The surveyor must (a) discuss the ramifications of such methodologies (e.g., the potential precision and completeness of the data gathered thereby) with the insurer, lender, and client prior to the performance of the survey, and (b) place a note on the face of the survey explaining the source, date, precision, and other relevant qualifications of any such data. **NO REQUEST ON THIS SURVEY.**
16. Evidence of recent earth moving work, building construction, or building additions observed in the process of conducting the fieldwork. **NO REQUEST ON THIS SURVEY.**
17. Proposed changes in street right of way lines, if such information is made available to the surveyor by the controlling jurisdiction. Evidence of recent street or sidewalk construction or repairs observed in the process of conducting the fieldwork. **NO REQUEST ON THIS SURVEY.**
18. Pursuant to Section 5 and 6 (and applicable selected Table A items, excluding Table A item 1), include as part of the survey and plottable offsite (i.e., appurtenant) easements disclosed in documents provided to or obtained by the surveyor. **NO REQUEST ON THIS SURVEY.**
19. Professional Liability Insurance policy obtained by the surveyor in the minimum amount of \$\_\_\_\_\_ to be in effect throughout the contract term. Certificate of Insurance to be furnished upon request, but this item shall not be addressed on the face of the plat or map. **NO REQUEST ON THIS SURVEY.**
20. **NO REQUEST ON THIS SURVEY.**

**SCHEDULE B EXCEPTIONS PER TITLE COMMITMENT NO. 1613874**

1. Defects, liens, encumbrances, adverse claims or other matters, if any, created, first appearing in the Public Records, or attaching subsequent to the Commitment Date but prior to the date the Proposed Insured acquires for value the Title or Mortgage covered by this Commitment. **NONE KNOWN OR PROVIDED.**
2. Any encroachment, encumbrance, violation, variation, or adverse circumstance affecting the Title that would be disclosed by an accurate and complete land survey of the Land. **ITEM 8 OF TABLE WAS NOT REQUIRED ON THIS SURVEY. NO IMPROVEMENTS LOCATED DURING SURVEY.**
3. Rights or claims of parties in possession not shown by the Public Records. **NONE KNOWN OR PROVIDED.**
4. Easements, or claims of easement, not shown by the Public Records. **NONE KNOWN OR PROVIDED.**
5. Any lien, or right to lien, for services, labor, or material heretofore or hereafter furnished, imposed by law and not shown by the Public Records. **DOES NOT AFFECT SURVEY.**
6. All assessments and taxes due and payable in 2022, and thereafter. **DOES NOT AFFECT SURVEY.**
7. Tenancy rights, either as month to month, or by virtue of written leases of persons in possession of any part of the subject property. **DOES NOT AFFECT SURVEY.**
8. The terms and provisions contained in the document entitled "Duluth International Airport Zoning Ordinance" recorded October 15, 2021 as Document No. 01427462 of Official Records. The above document has been amended by Document Number(s) 01432556. **AFFECTS PROEPRTY. BLANKET IN NATURE. NOT PLOTTABLE.**
9. An easement for highway purposes in the document recorded August 19, 1998 as Document No. 0724470 of Official Records. **SHOWN HEREON.**
10. Any interest outstanding of record in and to all the oil, gas and other minerals in and under and that may be produced from said premises, together with all rights incident to or growing out of said outstanding minerals, including but not limited to outstanding oil and gas leases and easements. **AFFECTS PROPERTY. DOES NOT AFFECT SURVEY.**
11. Rights of the public in and to that portion of the land lying within West Arrowhead Road. **ARROWHEAD ROAD SHOWN HEREON.**
12. Water rights, claims or title to water, whether or not shown by the public records. **NONE KNOWN OR PROVIDED.**
13. Rights of the United States of America and/or the State of Minnesota, the county, the municipality, and the public, in and to that part of the land which may be within Wetlands. **NO FIELDWORK WAS DONE FOR THIS SURVEY. NO WETLAND WERE OBSERVED.**



VACANT PROPERTY ARROWHEAD ROAD, DULUTH, MN 55811

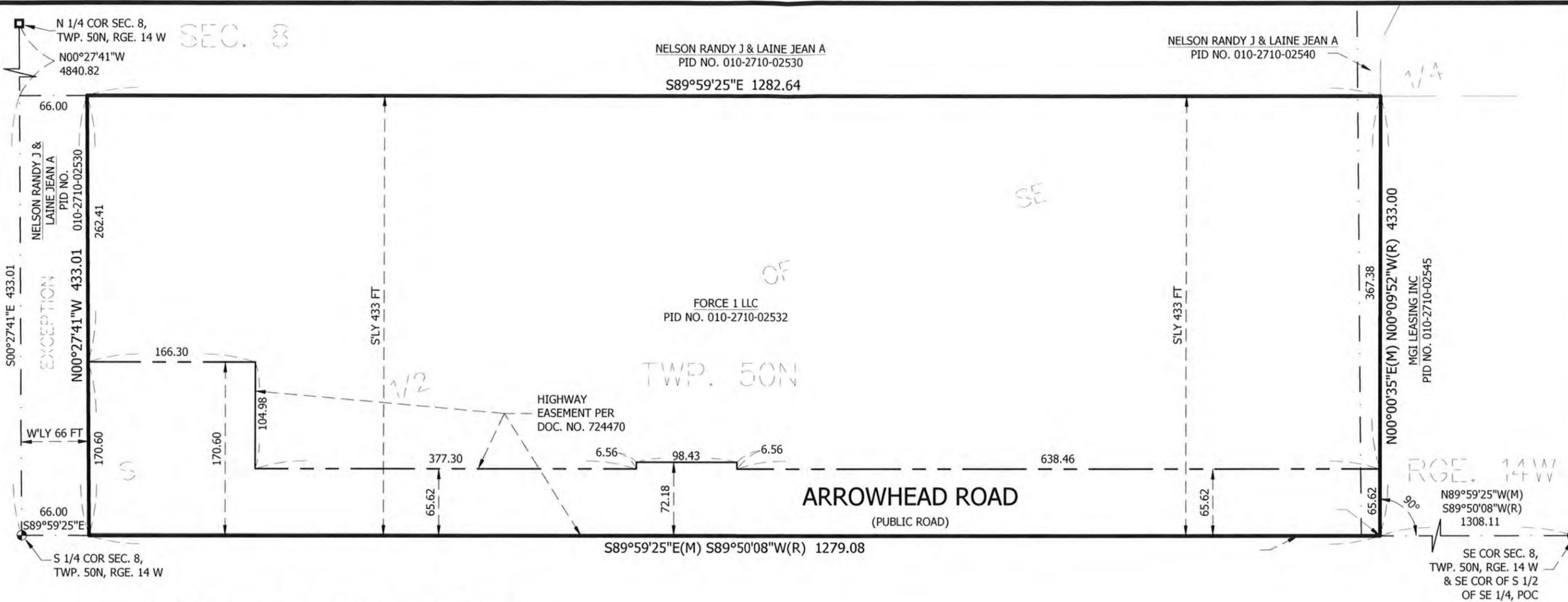
**VICINITY MAP**



**ALTA-NSPS LAND TITLE SURVEY**

CLIENT: TITANIUM PARTNERS	REVISIONS:
ADDRESS: VACANT PROPERTY ARROWHEAD ROAD DULUTH, MN 55811	
DATE: 05-24-2022	JOB NO: 22-073 SHEET 1 OF 2

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



**LEGAL DESCRIPTION PER TITLE COMMITMENT NO. 1613874**

The Land referred to herein below is situated in the County of St. Louis, State of MN, and is described as follows:

The Southerly 433.00 feet of the South Half of the Southeast Quarter of Section 8, Township 50 North, Range 14 west of the Fourth Principal Meridian, St. Louis County, Minnesota, lying Westerly of the line described as follows: Commencing at the Southeast corner of said South Half of the Southeast Quarter; thence South 89 degrees 50 minutes 08 seconds West, assumed bearing, along the South line of said South Half of the Southeast Quarter, a distance of 1308.11 feet to the beginning of the line to be described; thence North 00 degrees 09 minutes 52 seconds West a distance of 433.00 feet and said line there terminating.

EXCEPT the Westerly 66.00 feet of the Southerly 433.00 feet of the South Half of the Southeast Quarter of said Section 8, Township 50, Range 14.

NOTE: This property is Abstract

**ALTA/NSPS LAND TITLE SURVEY CERTIFICATION**

To Finley Sharon Properties IV LLC, a Minnesota Limited Liability Company, J&S Partnership, LLP, a Minnesota Limited Liability Partnership and First American Title Insurance Company:

This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 4 and 13 of Table A thereof. The fieldwork was completed on **NO FIELD WORK ON THIS SURVEY**

Date of Plat or Map: May 24, 2022

*David R. Evanson*

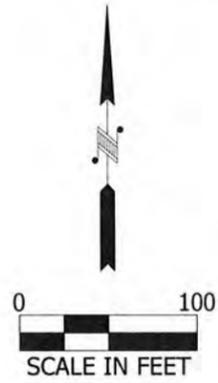
David R. Evanson, MN PLS. #49505

**SURVEYOR'S NOTES**

1. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
2. 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.
3. THIS SURVEY WAS PREPARED IN PART WITH TITLE COMMITMENT NO. 1613874 PROVIDED BY FIRST AMERICAN TITLE INSURANCE COMPANY DATED APRIL 19, 22 AT 8:00 AM.

**LEGEND**

- (M)-FIELD MEASURED DIMENSION
- (R)-RECORD DIMENSION
- POC-POINT OF COMMENCEMENT
- POB-POINT OF BEGINNING
- ALUM CAPPED MONUMENT OF RECORD
- IRON PIN OF RECORD
- SURVEY MONUMENT OF RECORD
- SECTION SUBDIVISION LINE
- RIGHT OF WAY LINE
- BOUNDARY LINE AS SURVEYED
- EXISTING PLAT LINE



<b>ALTA-NSPS LAND TITLE SURVEY</b>		<b>ALTA</b> LAND SURVEY COMPANY PHONE: 218-727-5211 LICENSED IN MN & WI WWW.ALTLANDSURVEYDULUTH.COM
CLIENT: TITANIUM PARTNERS	REVISIONS:	
ADDRESS: VACANT PROPERTY ARROWHEAD ROAD DULUTH, MN 55811	DATE: 05-24-2022	JOB NO: 22-073 SHEET 2 OF 2

# FORCE 1 COMMERCIAL DEVELOPMENT

LOCATED IN PART OF SECTION 8, TOWNSHIP 50 NORTH, RANGE 14 WEST OF THE FOURTH PRINCIPAL MERIDIAN,  
ST. LOUIS COUNTY, MINNESOTA

KNOW ALL PERSONS BY THESE PRESENTS That Force 1, LLC, a Limited Liability Company under the laws of Minnesota, owner of the following described property  
Certificate of Title No. 358079  
The Land referred to herein below is situated in the County of St. Louis, State of MN, and is described as follows:

The Southerly 433.00 feet of the South Half of the Southeast Quarter of Section 8, Township 50 North, Range 14 west of the Fourth Principal Meridian, St. Louis County, Minnesota, lying Westerly of the line described as follows: Commencing at the Southeast corner of said South Half of the Southeast Quarter; thence South 89 degrees 50 minutes 08 seconds West, assumed bearing, along the South line of said South Half of the Southeast Quarter, a distance of 1308.11 feet to the beginning of the line to be described; thence North 00 degrees 09 minutes 52 seconds West a distance of 433.00 feet and said line there terminating.

EXCEPT the Westerly 66.00 feet of the Southerly 433.00 feet of the South Half of the Southeast Quarter of said Section 8, Township 50, Range 14.

Has caused the same to be surveyed and platted as FORCE 1 COMMERCIAL DEVELOPMENT and does hereby dedicate to the public for public use the public way(s) and/or the drainage and utility easement(s) as created by this plat

In witness whereof said Force 1, LLC, a Limited Liability Company under the laws of Minnesota, has caused these presents to be signed by its proper officers this \_\_\_\_ day of \_\_\_\_\_, 2022.

Signed Force 1, LLC

Brian Forcier, Chief Executive Officer

STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

This instrument was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2022 by Brian Forcier, Chief Executive Officer, of Force 1, LLC, on behalf of the Company

Notary Public, \_\_\_\_\_ County, Minnesota  
My Commission Expires \_\_\_\_\_

I, David R. Evanson, do hereby certify that this plat was prepared by me or under my direct supervision; that I am a duly Licensed Land Surveyor in the State of Minnesota; that this plat is a correct representation of the boundary survey; that all mathematical data and labels are correctly designated on this plat; that all monuments depicted on this plat have been, or will be correctly set within one year; that all water boundaries and wet lands, as defined in Minnesota Statutes, Section 505.01, Subd. 3, as of the date of this certificate are shown and labeled on this plat; and all public ways are shown and labeled on this plat.  
Dated this \_\_\_\_ day of \_\_\_\_\_, 2022.

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

STATE OF MINNESOTA  
COUNTY OF ST. LOUIS

The foregoing Surveyor's Certificate was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2022 by David R. Evanson, Minnesota License Number 49505.

Notary Public, St. Louis County, Minnesota  
My Commission Expires \_\_\_\_\_

CITY OF DULUTH PLANNING COMMISSION  
Approved by the Planning Commission of the City of Duluth, St. Louis County, Minnesota, at a regular meeting thereof, on the \_\_\_\_ day of \_\_\_\_\_, 2022.

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

ST. LOUIS COUNTY SURVEYOR  
I hereby certify that in accordance with Minnesota Statutes, Section 505.021, Subd. 11, this plat has been reviewed and approved this \_\_\_\_ day of \_\_\_\_\_, 2022.

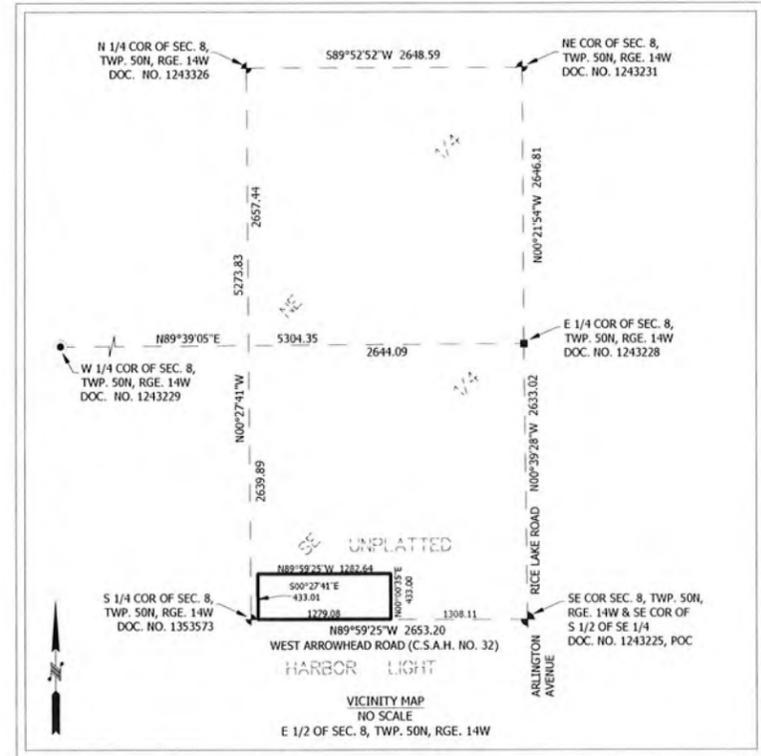
Nick C. Stewart  
County Surveyor Deputy

ST. LOUIS COUNTY AUDITOR  
Pursuant to Minnesota Statutes, Section 505.021, Subd. 9, and to Minnesota Statutes, Section 272.12, taxes payable in the year 20\_\_ on the land hereinbefore described have been paid; there are no delinquent taxes and transfer entered this \_\_\_\_ day of \_\_\_\_\_, 2022.

Nancy Nilsen  
County Auditor Deputy

ST. LOUIS COUNTY RECORDER  
I hereby certify that this plat of FORCE 1 COMMERCIAL DEVELOPMENT was filed in this office of the County Recorder for public record on this \_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_ o'clock \_\_\_\_ M., as Document No. \_\_\_\_\_.

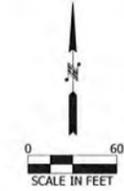
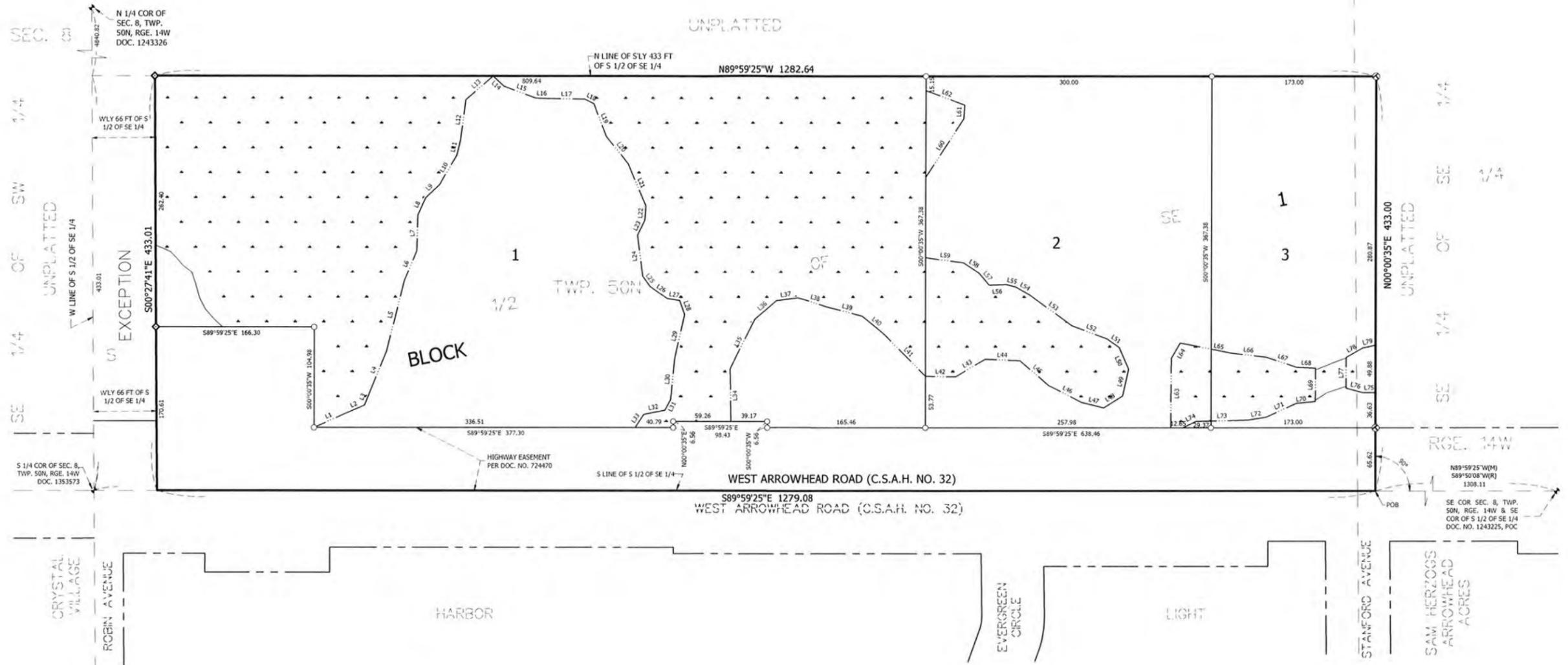
Wendy Levitt  
County Recorder Deputy



# FORCE 1 COMMERCIAL DEVELOPMENT

LOCATED IN PART OF SECTION 8, TOWNSHIP 50 NORTH, RANGE 14 WEST OF THE FOURTH PRINCIPAL MERIDIAN,  
ST. LOUIS COUNTY, MINNESOTA

**SURVEYOR'S NOTES**  
BEARINGS ARE BASED ON THE SOUTH LINE OF THE SOUTH HALF OF THE SOUTHEAST QUARTER OF SECTION 8, TOWNSHIP 50 NORTH, RANGE 14 WEST, WHICH IS SAID TO HAVE A BEARING OF S89°59'25"E.



### LEGEND

- POB-POINT OF COMMENCEMENT
- POB-POINT OF BEGINNING
- (M)-MEASURED DIMENSION
- (R)-RECORD DIMENSION
- WETLAND LINE
- SECTION SUBDIVISION LINE
- RIGHT OF WAY LINE
- PROPOSED EASEMENT LINE
- FLAT BOUNDARY LINE
- LOT LINE
- FOUND ALUMINUM CAPPED MONUMENT
- FOUND CONCRETE SURVEY MONUMENT
- FOUND SANDSTONE MONUMENT
- SET CAPPED REBAR BLS. NO. 49505
- FOUND CAPPED REBAR BLS. NO. 49505
- FOUND CAST IRON MONUMENT
- FOUND T-STAKE MONUMENT
- WET LAND

LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE	LINE	BEARING	DISTANCE
L1	N 65°56'39" E	37.99	L28	S 19°13'36" E	15.62	L55	N 75°47'05" W	10.09
L2	N 66°54'07" E	19.93	L29	N 12°24'36" E	47.53	L56	N 87°49'57" E	18.19
L3	S 21°58'34" W	14.94	L30	S 05°59'20" W	42.78	L57	S 40°37'39" E	16.74
L4	S 22°10'15" W	45.70	L31	N 27°58'10" E	14.40	L58	N 56°26'41" W	19.17
L5	S 14°02'36" W	26.54	L32	N 79°37'55" E	22.94	L59	S 82°34'51" E	40.50
L6	S 22°48'45" W	33.45	L33	S 34°36'25" W	17.03	L60	S 33°01'17" W	73.12
L7	S 01°49'31" W	37.41	L34	S 00°51'05" E	54.68	L61	S 03°34'44" W	14.27
L8	S 23°43'09" W	20.01	L35	S 27°09'47" W	59.14	L62	S 69°41'51" E	43.42
L9	S 46°21'16" W	20.39	L36	N 49°39'27" E	29.28	L63	S 00°19'29" W	72.31
L10	S 30°13'27" W	34.65	L37	S 03°57'11" W	21.81	L64	N 30°07'33" E	18.81
L11	S 14°10'17" W	15.26	L38	N 73°52'03" W	35.31	L65	N 28°40'50" W	53.72
L12	S 07°23'11" W	43.48	L39	N 75°06'10" W	35.56	L66	N 83°16'15" W	37.34
L13	S 49°15'13" W	37.77	L40	N 50°12'59" W	29.62	L67	N 71°57'45" W	34.45
L14	N 47°03'36" W	15.88	L41	N 44°44'24" W	61.73	L68	N 87°11'59" W	19.59
L15	N 69°52'41" W	35.72	L42	N 89°00'15" W	31.67	L69	N 00°40'38" E	34.73
L16	S 87°59'31" E	12.75	L43	N 59°12'26" E	35.25	L70	N 84°29'22" E	19.93
L17	N 88°57'56" W	37.13	L44	N 87°52'50" W	37.21	L71	N 65°36'09" E	35.05
L18	N 63°57'41" W	11.40	L45	S 49°17'47" E	39.93	L72	N 88°41'55" E	19.29
L19	N 21°41'09" W	36.31	L46	N 63°05'36" W	39.23	L73	N 88°36'55" E	54.32
L20	N 37°59'52" W	35.71	L47	N 75°58'27" W	23.28	L74	N 64°06'42" E	15.33
L21	N 24°11'45" W	48.01	L48	N 57°57'23" E	23.64	L75	S 90°00'00" W	13.03
L22	S 04°08'52" W	15.46	L49	S 17°52'54" W	28.55	L76	N 74°38'43" W	18.63
L23	S 26°46'12" W	17.37	L50	S 23°20'20" E	25.03	L77	S 00°00'00" E	32.06
L24	N 07°30'06" W	42.82	L51	S 55°45'13" E	15.16	L78	S 60°13'29" W	19.59
L25	S 37°04'41" E	13.72	L52	S 60°37'21" E	39.70	L79	N 77°18'31" E	14.35
L26	N 55°48'49" W	32.46	L53	S 54°00'13" E	55.04			
L27	N 80°52'37" W	12.68	L54	N 60°03'14" W	16.79			





**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

 218-730-5580

 planning@duluthmn.gov

<b>File Number</b>	PL 22-145	<b>Contact</b>	John Kelley	
<b>Type</b>	Variance from corner side yard setback	<b>Planning Commission Date</b>	September 13, 2022	
<b>Deadline for Action</b>	<b>Application Date</b>	August 10, 2022	<b>60 Days</b>	October 9, 2022
	<b>Date Extension Letter Mailed</b>	September 3, 2021	<b>120 Days</b>	December 8, 2022
<b>Location of Subject</b>	431 East Skyline Parkway			
<b>Applicant</b>	Elliot Anderson	<b>Contact</b>		
<b>Agent</b>	Ed Oman Construction	<b>Contact</b>		
<b>Legal Description</b>	See Attached	<b>Sign Notice Date</b>	August 30, 2021	
<b>Site Visit Date</b>	September 2, 2022	<b>Number of Letters Sent</b>	24	

#### Proposal

The applicant is seeking a variance to construct a 8' x 8' deck/landing to the front entrance of the home at 431 East Skyline Parkway. The east side of the home is within the corner side yard setback of 15 feet as the lot is adjacent to the unimproved 5<sup>th</sup> Avenue East and fronts East Skyline Parkway. The house and existing stoop is 3.7 feet from the east property line and is considered a legal nonconforming building and stoop. The proposed 8 x 8 deck/landing will be constructed on the southeast front corner of the house replacing the existing 5.5' x 3.2' foot landing.

#### Staff Recommendation

Staff recommends that the Planning Commission adopt the findings of fact and approve the variance.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Traditional Neighborhood
<b>North</b>	R-1	Residential	Traditional Neighborhood
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	P-1	Park	Open Space
<b>West</b>	R-1	Residential	Traditional Neighborhood

#### Summary of Code Requirements

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant's property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief 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 Principle and/or Policies and Current History (if applicable):****Governing Principle #5 -Promote reinvestment in neighborhoods.**

Duluth is strongly defined by its neighborhoods. This system should be supported 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.

Future Land Use

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

History

The home is 908 square feet containing 4 bedrooms built in 1942. This lot is 50 feet wide by 100 feet deep. There is an existing stoop at the front door located on the southeast corner of the home.

**Review and Discussion Items:**

- 1) The applicant is seeking a variance to the corner side yard setback to construct a new deck/landing. The existing landing with stairs is 5.4' x 9' and will be replaced with a 8' x 8' deck and stairs. The parcel is considered a corner lot as it is adjacent to the unimproved right of way for 5<sup>th</sup> Avenue East. The house and existing landing are 3.7 feet from the east property line and are within the 15-foot corner side yard setback. The proposed deck/landing will not encroach further into the setback area.
- 2) The applicant states that the variance is requested due to the existing conditions of the landing at the front door and the need to replace it. The applicant has stated that the landing is too short and creates a difficulty in opening the front door without having to back down one of the stairs leading up to it.
- 3) The applicant is proposing to use the property in a reasonable manner by constructing a deck/landing to the front entrance of to their home for access safety reasons. Additionally, the existing front yard area has an approximate 5-foot elevation gain from the driveway to the front door, which does present a challenge to access the front entrance of the home.
- 4) The applicant's practical difficulty was not created by the landowner but rather is due to the existing conditions present on the lot and topography of the site. The variance will not alter the essential character of the neighborhood as the proposed deck/landing will resemble similar alterations to other homes in the area.
- 5) No public, agency, or other City comments were received.
- 6) 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 the Planning Commission approve the variance with the following conditions:

- 1) The deck, be limited to, constructed, and maintained according to the site plan dated on September 2, 2022; and
- 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.



431 East Skyline Parkway

09-13-2022 PC Packet

430 E 13TH ST

501 E  
SKYLINE  
PKWY

**Legend**

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

431  
E SKYLINE  
PKWY

**R-1 (Residential  
Traditional)**

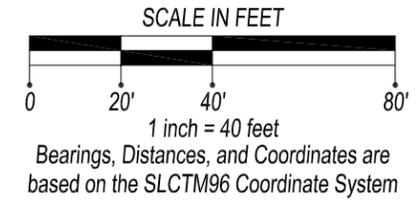
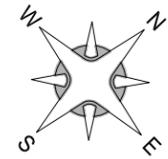
427 E  
SKYLINE  
PKWY

423 E  
SKYLINE  
PKWY

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.



P-1, P-1



Legend

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

Surveyors Notes:

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

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

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

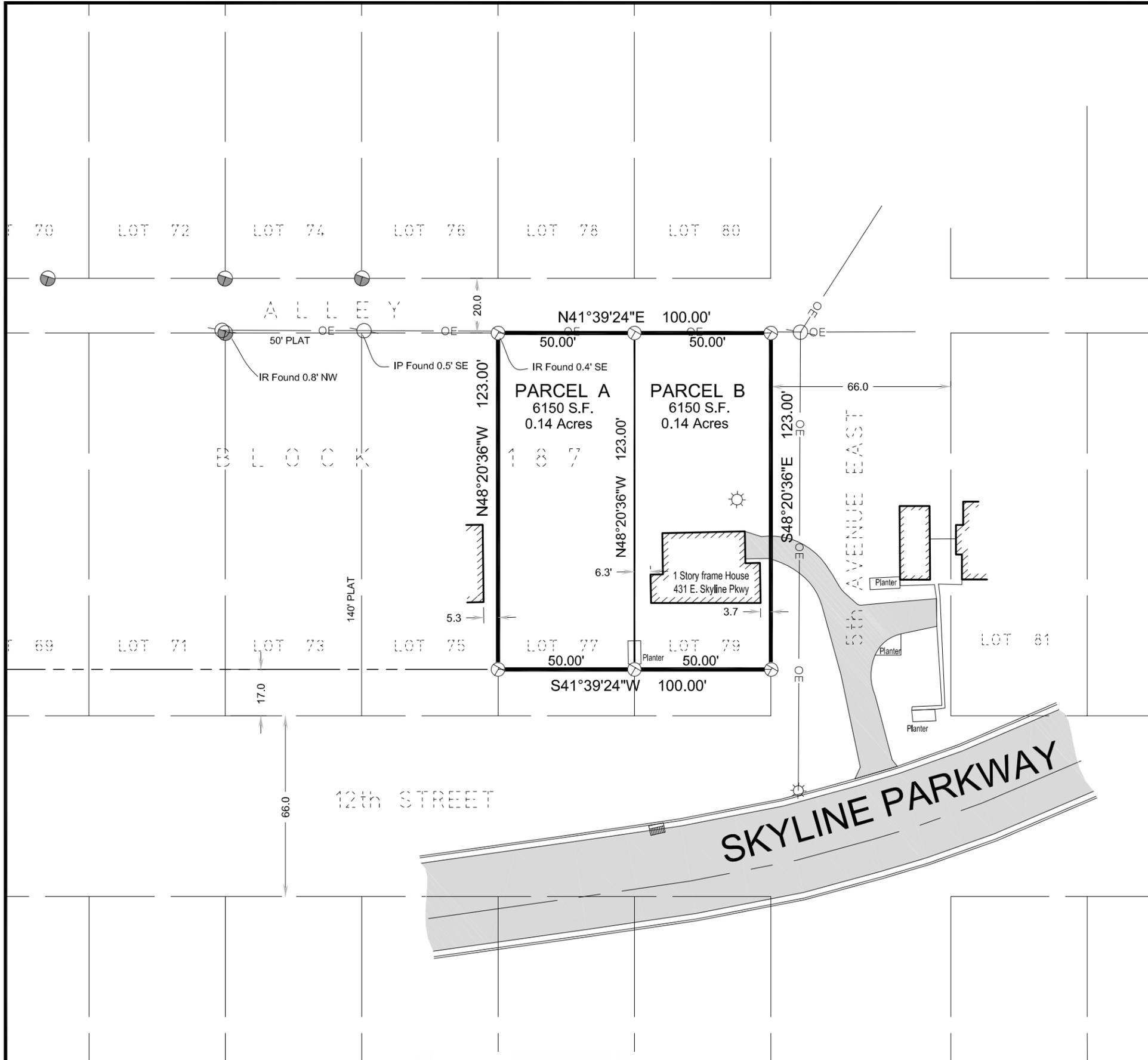
Proposed Legal Descriptions:

PARCEL A

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

PARCEL B

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



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

DESIGNED: JL  
DRAWN: JK  
CHECKED: JG

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

*Greg Stoewer* GREG STOEWER  
DATE: 04/08/2019 LIC. NO. 21774



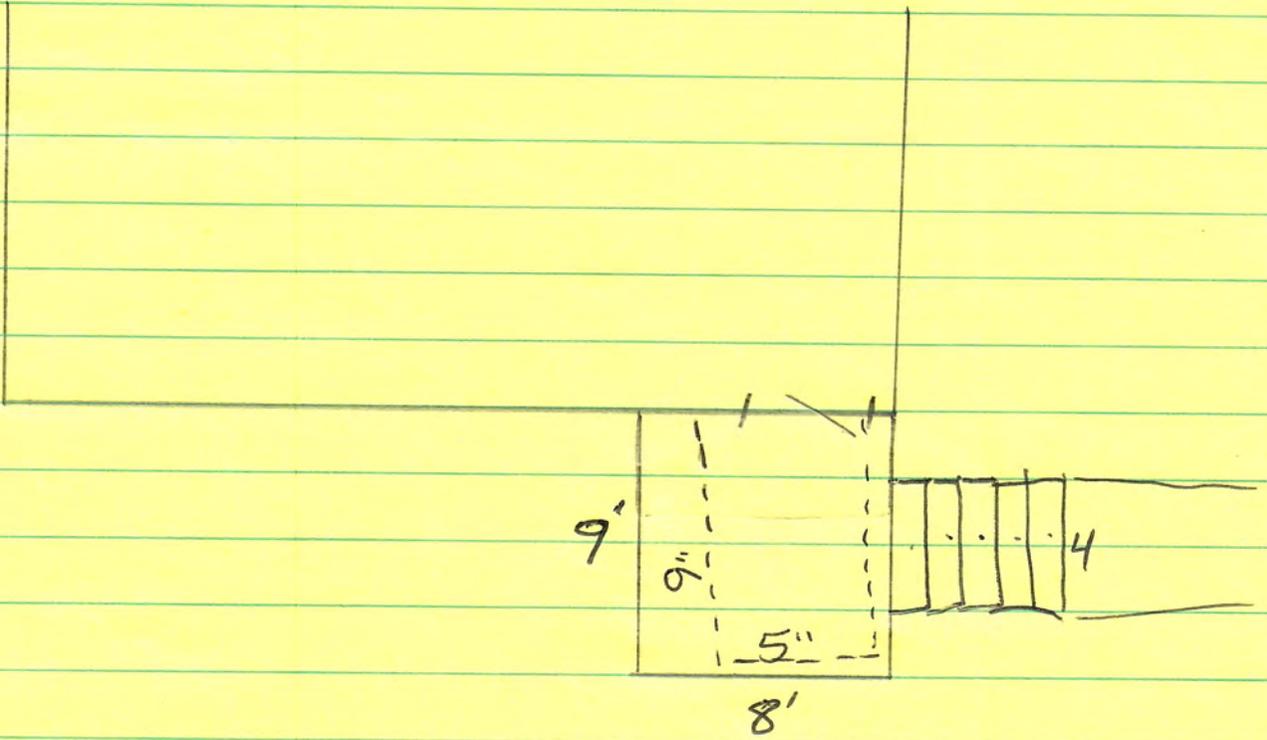
11 East Superior Street  
Suite 420  
Duluth, MN. 55802  
218.724.8578  
tkda.com

BOUNDARY SURVEY  
for: Mike Raschick  
DULUTH MINNESOTA

CERTIFICATE OF SURVEY

PROJECT NO. 15513.353  
RECORD NO. SHEET NO. 1  
Page 32 of 85

FIELD BOOK: FIELDBOOK  
Plot Date: 04/08/2019  
Project Name: F:\minnetonka\Office\Projects\TKDA\15513.353 Mike Raschick\04\_Productions\01\_CADD\01\_Xref\TKDA\15513.353.dwg



Old deck 5x9



**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

<b>File Number</b>	PL 22-141	<b>Contact</b>	Kyle Deming	
<b>Type</b>	Preliminary Plat	<b>Planning Commission Date</b>		September 13, 2022
<b>Deadline for Action</b>	<b>Application Date</b>	August 9, 2022	<b>60 Days</b>	October 8, 2022
	<b>Date Extension Letter Mailed</b>	August 26, 2022	<b>120 Days</b>	December 7, 2022
<b>Location of Subject</b>	South and east of the intersection of Anderson Rd. and Decker Rd. (Piedmont Heights)			
<b>Applicant</b>	HNH LLC (Lon Hovland – Owner) and Michael and Kathleen Wilson (owners)	<b>Contact</b>	Available, on file	
<b>Agent</b>	Northland Consulting Engineers – David Bolf; Alta Land Survey Co. – David	<b>Contact</b>	Available, on file	
<b>Legal Description</b>	See Attached Map			
<b>Site Visit Date</b>	August 26, 2022	<b>Sign Notice Date</b>		August 29, 2022
<b>Neighbor Letter Date</b>	August 26, 2022	<b>Number of Letters Sent</b>		59

**Proposal:** Approval of the preliminary plat of REARRANGEMENT OF PART OF WESTERN WOODS DIVISION to provide for re-platting of 17 lots and a 3 acre unplatted parcel totaling 11.3 acres into 19 lots on a shortened street. The proposal includes construction of a new public street with sidewalk and utilities.

**Staff Recommendation:** Approval of the preliminary plat, subject to included conditions and contingent upon approval of the requested street and utility easement vacation in PL21-158.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Vacant	Traditional Neighborhood
<b>North</b>	R-1	Dwellings	Traditional Neighborhood
<b>South</b>	R-1	Dwelling on large lot	Traditional Neighborhood
<b>East</b>	R-1	Dwellings and wetland	Traditional Neighborhood
<b>West</b>	R-1	Dwellings	Traditional Neighborhood

### Summary of Code Requirements

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

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

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

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

- Governing Principle #7 – Create and maintain connectivity. This subdivision provides pedestrian connectivity through the end of the cul du sac and road connectivity to Decker Rd.
- Governing Principle #12- Create efficiencies in delivery of public services. This subdivision provides space for public utilities serving the surrounding neighborhood to flow through to an existing sanitary sewer, which is at a lower cost to the alternative disconnected systems.
- Housing Policy #2 - Provide affordable, attainable housing opportunities. Two of the lots in the subdivision will be smaller and, therefore, more affordable.
- Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods. This subdivision will provide lots for new housing development.

Future Land Use

Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Includes many of Duluth’s older neighborhoods, infill projects, neighborhood extensions, and new traditional neighborhood areas. Densities of 4 -8 units/acre. Development types include a mix of housing types (i.e. town homes and 4-plexes) at corners and conservation development an option.

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.

Site History or Previous Studies

The site is a portion of the original plat of Western Woods Division, recorded in 1960.

Wetland Delineation approved 12/20/2016 (file no. PL 16-133) and updated delineation approved 8/24/2022 (PL 22-127).

Pre-application concept review 1/27/2020 and 2/3/2020. Preliminary Plat of Rearrangement of Western Woods approved 10/12/2021 (file no. PL 21-156). No Final Plat was filed for this version of the plat.

Vacation of streets and easements in a portion of Western Woods Division (PL 21-158) was recommended for approval by Planning Commission 10/12/2021 with the condition “the vacation must be recorded within 90 days of final approval by City Council, or such approval will lapse.” The vacation resolution is being held until the final plat is approved so that they can be recorded in close succession.

***Review and Discussion Items***

- 1) Request. The applicant is seeking Planning Commission approval of a preliminary plat. The proposal is to re-plate 17 lots and associated streets and easements along with a 3-acre unplatted parcel into 19 lots each with access to a new 1,900-foot-long public street (Westwood Cir.) connected to Decker Rd. The proposed lot sizes and widths conforms to the basic requirements of the R-1 zoning district. The proposed re-plate is generally consistent with the intent of the original plat, but re-orientes the rights-of-way and location of utilities to make development of the site practical.
- 2) Character of Area. This re-plate will create lots sized 0.14 acres to 1.67 acres with most lots approximately 0.5 acres. The proposed development is consistent with the lot configuration in the surrounding single family area, which is generally low density.
- 3) Area Transportation System. Decker Rd. and Anderson Rd. are paved municipal state aid streets with sidewalks on one side (and street trees in the case of Anderson Rd.) Anderson Rd. includes a striped bike lane and Decker Rd. is slated to include future bike facilities. The nearest transit route is ¼ mile away at Trinity Rd.
- 4) Site Access. The proposed plat includes dedication of a 66-foot-wide street, “Westwood Circle,” extending from Decker Rd. and ending in a cul du sac. Final street design details will be determined by the City Engineer, but plans include a 28-foot-wide street with curb and gutter and sidewalk on one side. To comply with site connectivity requirements, staff recommends the development agreement include the requirement for conveyance of a pedestrian easement connecting

the cul du sac to Anderson Rd. and the outlot in Sackette Division to the east.

- 5) Natural Features. The site is wooded and undeveloped with the land sloping downward from northwest to southeast to a wetland corridor containing approximately 1.3 acre of Type 7 (hardwood swamp) wetland (Wetland 1 and A). An additional wetland (Wetland B) appears to be an excavated wildlife pond. The site eventually drains to a tributary to Miller Creek, a trout stream, approximately 210 feet south of the site.
- 6) Wetlands. A complete wetland delineation is on file (PL 22-127). A wetland corridor crosses Lots 12-16. There is sufficient space for development on Lot 12 without impacting wetlands, but there are concerns about Lots 13 and 14 detailed in the "Storm Water" section below. Lot 15 development will necessitate a driveway crossing the wetland corridor, which staff recommends be in the same location as the sanitary sewer pipe. Lot 16 development will also necessitate a driveway across the wetland corridor. Staff recommends the driveway crossing be made in the narrowest portion of the wetland corridor. Staff recommends the development agreement include a requirement that wetland boundaries be permanently marked to prevent accidental impact and that a drainage and utility easement be placed on wetlands. Development of Lot 17 may result in the partial or complete impact to Wetland B which may be permitted by the Wetland Conservation Act with appropriate permits. This wetland appears to be an excavated wildlife pond. Development on Lots 9 and 10 should be possible without need to impact Wetland 2.
- 7) Tree Inventory and Replacement Plans. A tree replacement plan is required for this re-plat. Staff recommends the tree inventory be completed and approved by the City before application for the Final Plat is made and that the tree replacement plan be approved by the City prior to issuance of any permits for land disturbing activities on the site.
- 8) Utilities. The site will be connected to City water in Anderson Rd. via an existing platted, but unbuilt, street right of way at the northeast corner of the site. Municipal water pipe will be installed in the entire length of Westwood Cir. creating a looped system when connected to an existing municipal water pipe in Decker Rd. Municipal sanitary sewer pipes were installed in the proposed streets and are gravity flow draining to an existing municipal sewer pipe in Denim Dr. They were installed at the time that the City-initiated sanitary sewer was installed connecting Decker Rd. to Denim St. in 2021. Additional sanitary sewer main pipe is planned to extend in front of Lots 16, 17, and 18. Natural gas, electricity, and communications utilities can be extended to the site from Decker Rd. adjacent to the proposed Westwood Cir. or from Anderson Rd.
- 9) Storm Water. A preliminary drainage report and storm water system layout has been provided by the civil engineer and is not yet approved by City Engineering. Two storm water detention basins are planned for the east side of Westwood Cir., discharging to the wetland corridor in Lots 12-16. The City Engineer commented that these facilities need to be located in utility easements, which is a recommended condition of approval of the plat. Additional study is requested to document existing drainage patterns compared to proposed drainage patterns so the size of the detention basins can be calculated and verified by the City's storm water engineer. Additional BMPs may be needed to capture and treat areas not draining to the storm water basins shown. Lots 15 and 16 will require driveways that cross the wetland corridor. Lastly, because the site drains to Miller Creek, a trout stream, the wetlands are critically important for stream viability and there is concern that development on Lots 13 and 14 will result in wetland impacts due to the depth of the lots. Any wetland impacts need to be accounted for in the sizing of the storm water treatment basins.
- 10) Conformance with UDC and State Statute. The preliminary plat is consistent with the comprehensive land use plan designation of this site, which is for a traditional neighborhood development. The preliminary plat is located in an area of the city with adequate police, fire, and emergency facilities to serve the anticipated housing development. Staff finds that, other than the items addressed above and referenced in the recommendations below, the preliminary plat conforms to the requirements of Sec 50-37.5. and is consistent with all applicable requirements of MSA 462.358 and Chapter 505.
- 11) Development Agreement. A development agreement for the improvement of public streets and dedication of needed pedestrian easements is required, and shall be reviewed by City staff and approved by the City Council prior to initiating site work for the project.
- 12) Public Comments. No citizen comments have been received to date.

- 13) City Staff Comments. The City Engineering division has reviewed the proposed stormwater management systems and the proposed public street, and provided feedback. The City's property services specialist commented that the plat boundaries extend to Anderson Rd. and Decker Rd. covering existing platted streets, which may not be necessary. This will be resolved for the final plat.
- 14) The approval of the Preliminary Plat of REARRANGEMENT OF PART OF WESTERN WOODS DIVISION is contingent on the City Council's approval of the vacation of existing streets and utility easements in the area to be re-platted (file no. PL21-158).

### **Staff Recommendation**

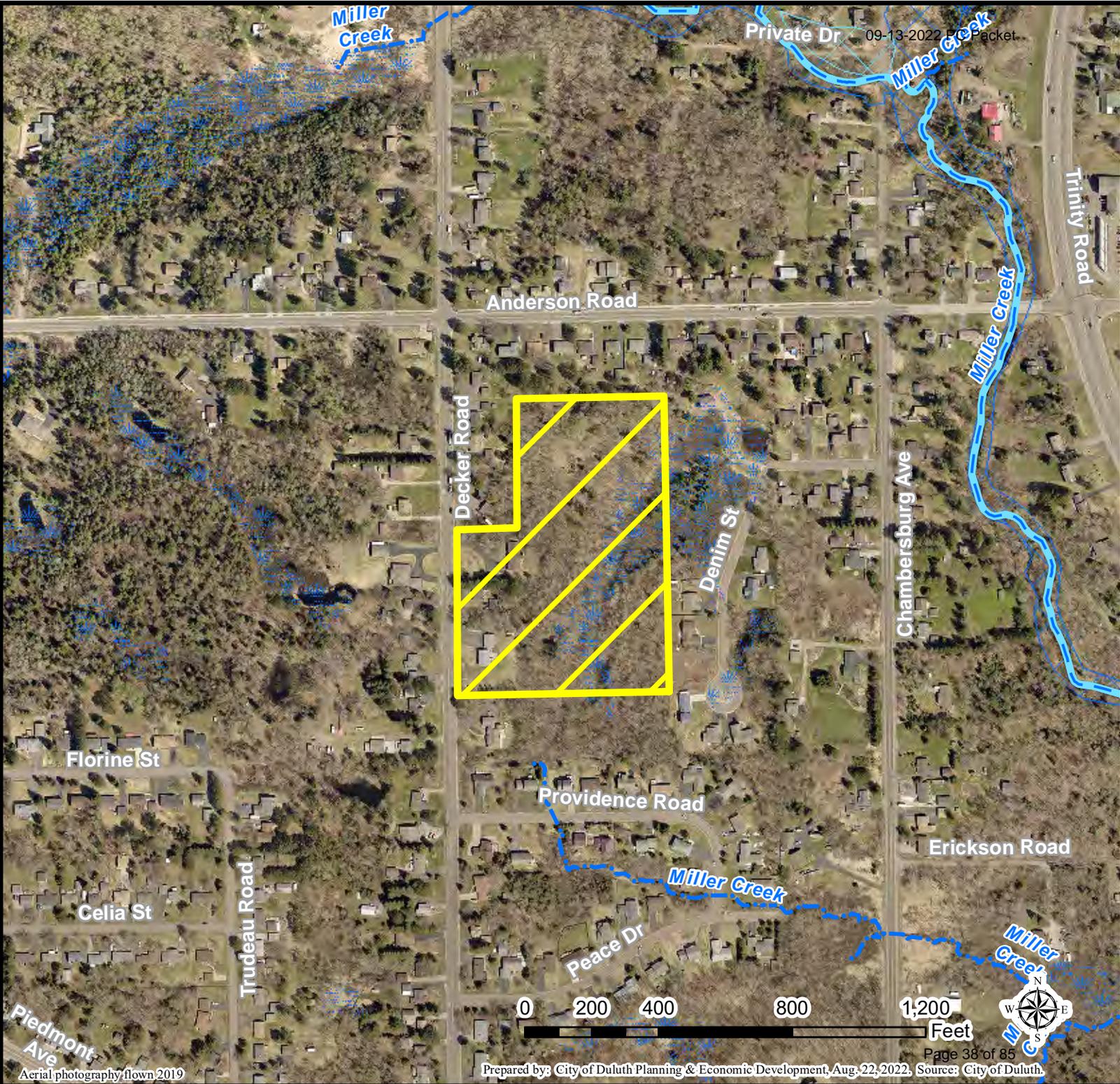
Based on the above findings, staff recommends that Planning Commission approve the application with the following conditions:

1. The approval is conditioned upon the City Council's approval of the vacation of existing streets and utility easements in the plat area (file no. PL21-158).
2. The final plat shall be drafted with modifications to the following elements depicted on the preliminary plat:
  - a. Drainage and utility easements shall be provided over wetlands on those portions of Lots 12-16. Permanent metallic markers on rigid metal posts shall be placed at the location of wetland boundaries with signs indicating the presence of wetlands to be left in a natural state.
  - b. Stormwater treatment facilities shall be sized and located in utility easements as approved by City Engineering.
  - c. Plat boundaries be adjusted in the area of existing streets relative to surveying and legal requirements.
3. Prior to undertaking any tree or land disturbing work, the following conditions shall be met:
  - a. The developer shall enter into a development agreement addressing applicable development terms as identified by City staff in this report and as further identified in the review of the Final Plat. The development agreement shall be approved by City Council and recorded with the appropriate St. Louis County offices.
  - b. A pedestrian easement through Lot 11 connecting the cul du sac to Anderson Rd. shall be conveyed to the public and its presence noted on the Final Plat.
  - c. The Final Plat shall be recorded.



PL 22-141  
 Preliminary Plat  
 Rearrangement of Part  
 of Western Woods

09-13-2022 Packet



**Legend**

**Floodplain (UDC)**

- Flood Way
- Flood Fringe
- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRR1)

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

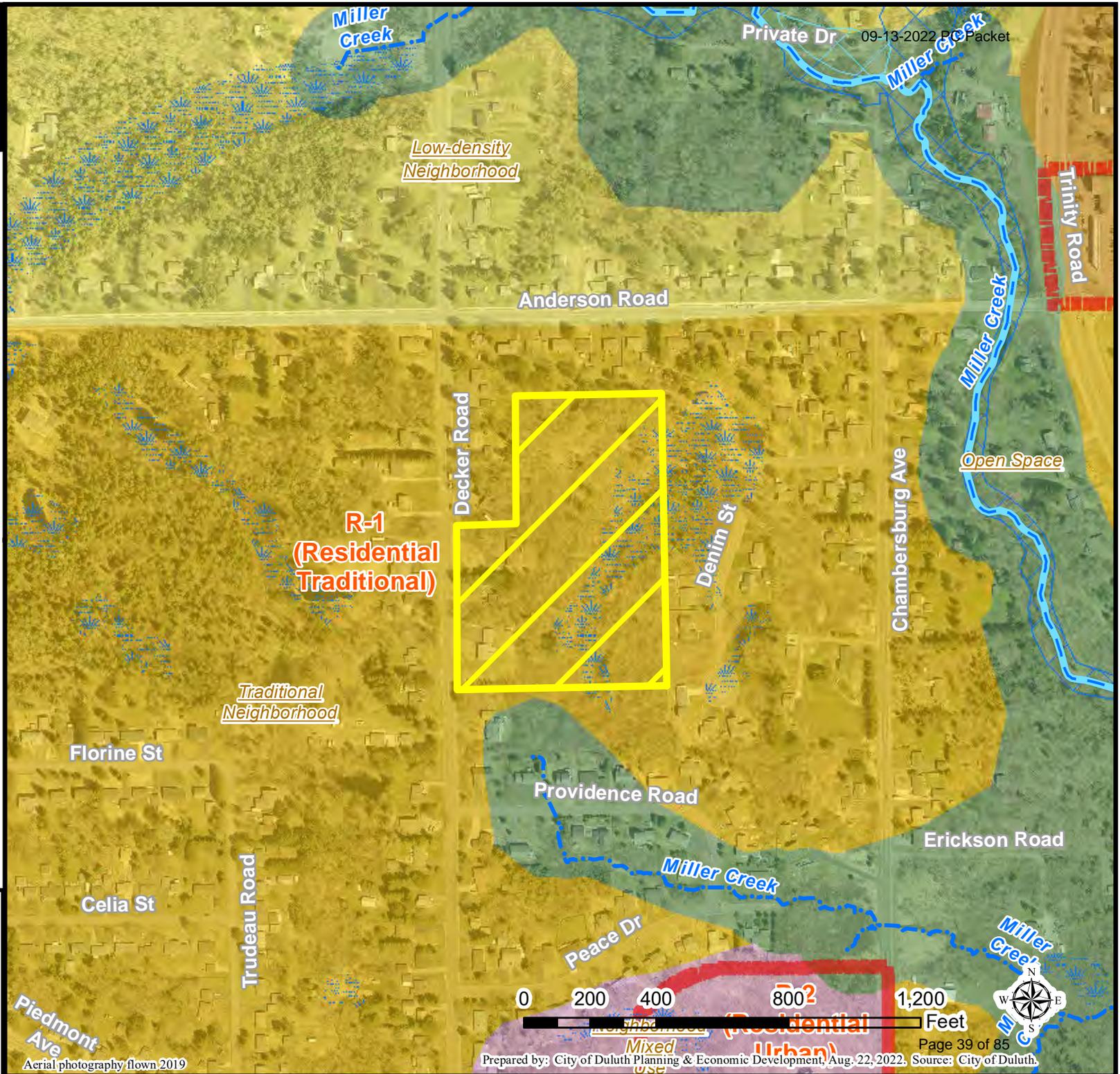


PL 22-141  
Preliminary Plat  
Rearrangement of Part  
of Western Woods

09-13-2022 BIP Packet

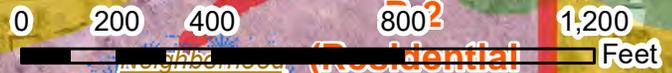
**Legend**

- Zoning Boundaries
- Floodplain (UDC)**
  - Flood Way
  - Flood Fringe
  - Trout Stream (GPS)
  - Other Stream (GPS)
  - Wetlands (NRR1)
- Open Space
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Mixed Use



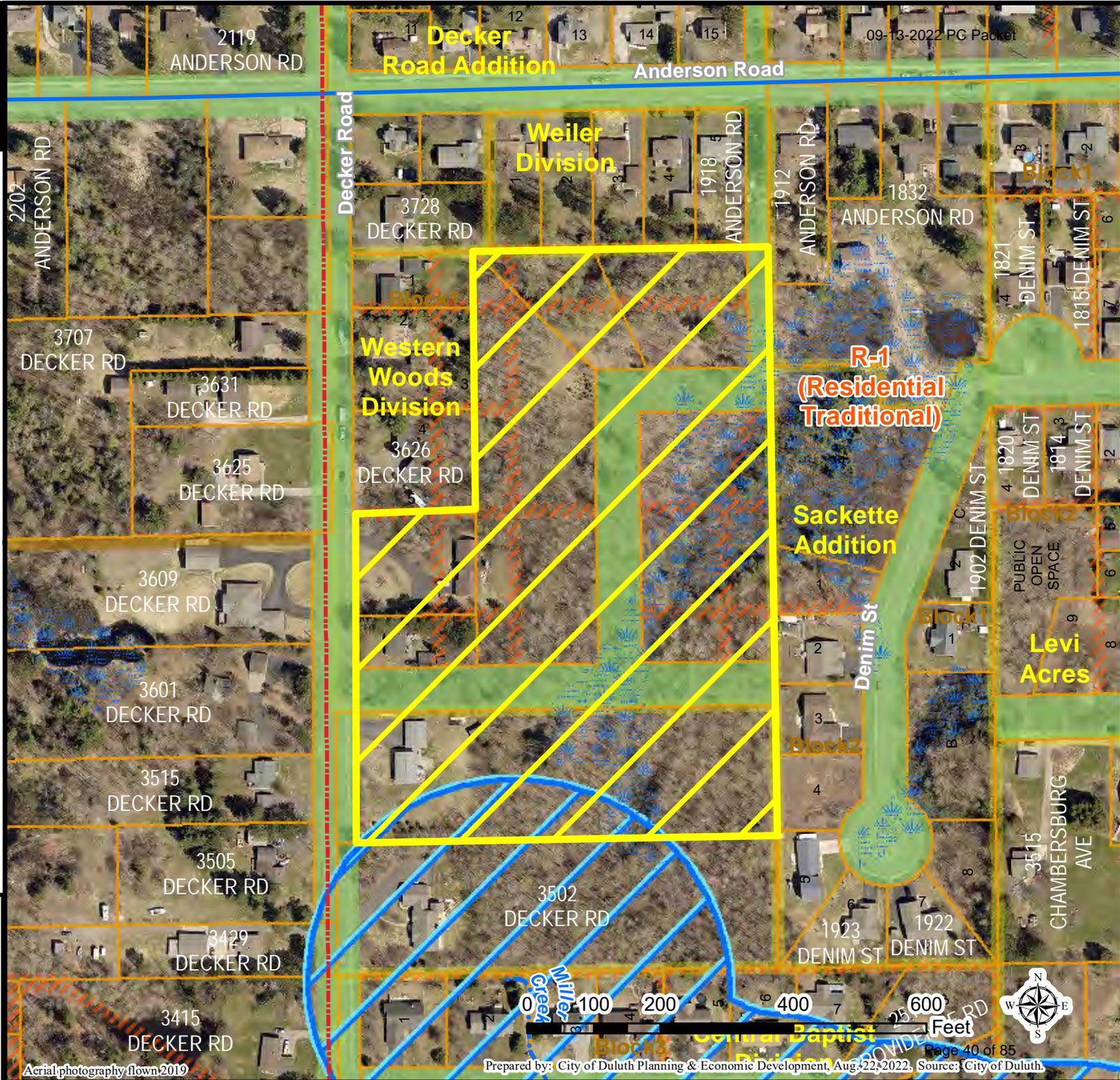
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used 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 22-141  
Preliminary Plat  
Rearrangement of Part  
of Western Woods



**Legend**

**Bike\_Facil**

- Future Bike Facility
- Signed Bikeable Shoulder

**Blocks**

- Lots
- Parcels

**ROW**

- <all other values>

**SUBTYPE, ROW\_STATUS**

- Utility, Active
- Road, Active - currently in use
- Utility, Vacated - vacated via recorded document

**Subdivision Boundaries**

**Zoning Boundaries**

**Shoreland (UDC)**

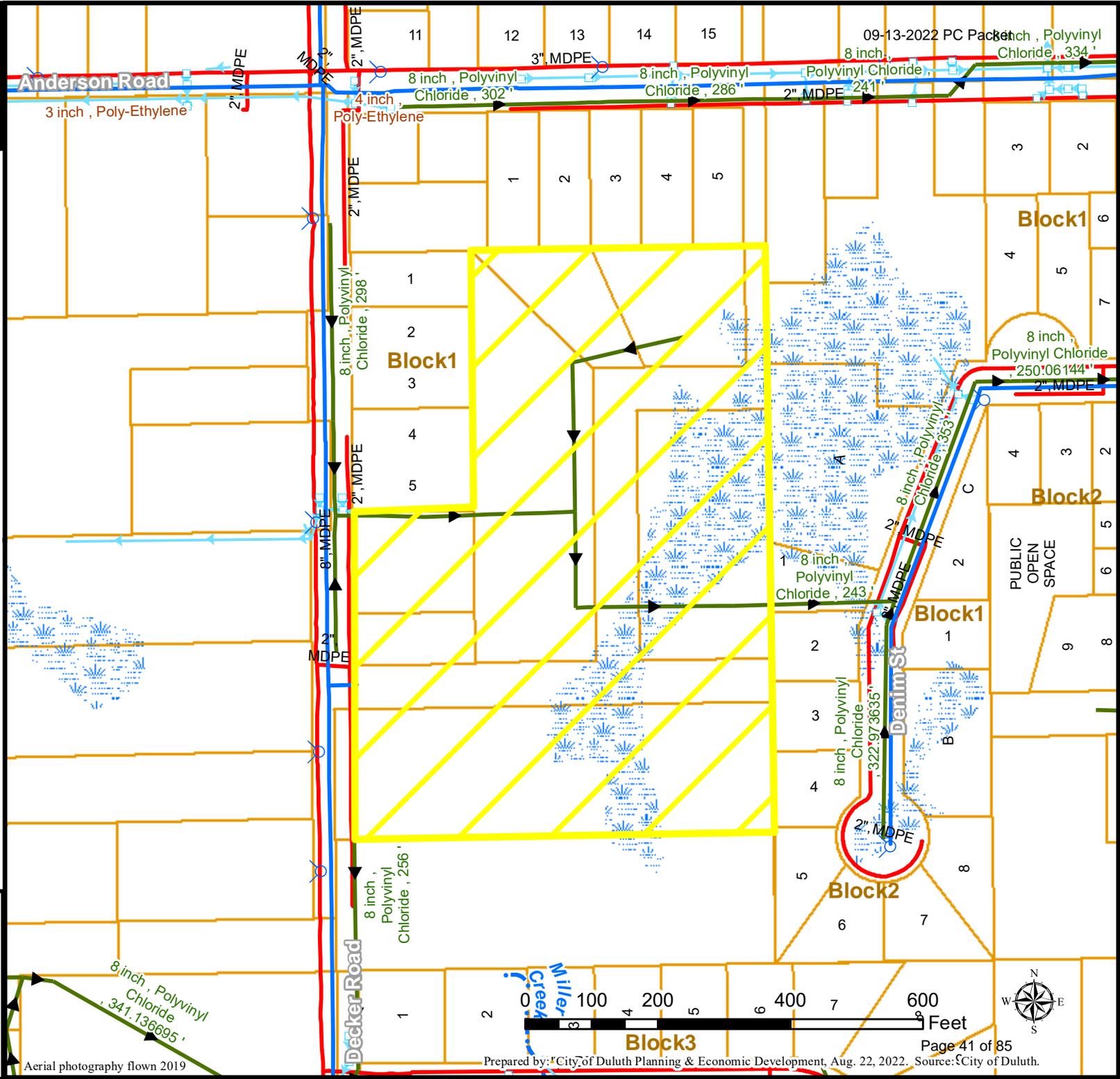
- Cold Water
- Other Stream (GPS)
- Wetlands (NRR1)

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 22-141  
Preliminary Plat  
Rearrangement of Part  
of Western Woods



**Legend**

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- Storm Sewer Mains
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Blocks
- Lots
- Parcels
- Other Stream (GPS)
- Wetlands (NRR1)

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.

0 100 200 400 600 Feet

Block3

Page 41 of 85

Prepared by: City of Duluth Planning & Economic Development, Aug. 22, 2022. Source: City of Duluth.

# PRELIMINARY PLAT OF REARRANGEMENT OF PART OF WESTERN WOODS

LOCATED IN PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER SECTION 30, TOWNSHIP 50 NORTH, RANGE 14 WEST OF THE FOURTH PRINCIPAL MERIDIAN, ST. LOUIS COUNTY, MINNESOTA

**LEGEND**

	CONCRETE SURFACE		TREE/BRUSH LINE
	BITUMINOUS SURFACE		FENCE LINE
	PAVER SURFACE		OVERHEAD UTILITIES
	PROPOSED STREET		SANITARY SEWER
	LANDSCAPED SURFACE		WATER MAIN
	GAS METER		WET LAND LINE BASED ON EXISTING FLAGS BY OTHERS AND AS SHOWN ON THE PLAT OF SACKETTE ADDITION
	HYDRANT		EXISTING BUILDING LINE
	WATER VALVE		SECTION SUBDIVISION LINE
	TELECOM PEDESTAL SIGN		CENTER LINE
	SET REBAR RLS. 49505		RIGHT OF WAY LINE
	EXIST SANITARY MANHOLE		EXISTING EASEMENT LINE
	PROPOSED SANITARY MANHOLE		BOUNDARY LINE AS SURVEYED
	ELEC METER		PROPOSED EASEMENT LINE
	UTILITY POLE		SANITARY SEWER LINE
			WATERMAIN LINE
			STORM SEWER LINE
			UNDERGROUND GAS LINE
			CONTROL POINT
			FOUND IRON PIPE
			FOUND CAPPED REBAR RLS. NO. 15294
			FOUND REBAR
			FOUND CAPPED REBAR RLS. NO. 14374
			FOUND IRON ROD
			ELEC PEDESTAL
			SANITARY MANHOLE
			SQUARE GRATE CATCH BASIN
			CULVERT

**OWNER/DEVELOPER**  
 LON HOVLAND  
 3612 DECKER ROAD  
 DULUTH, MN 55811  
 EMAIL: lon@hovlandinc.com

**ENGINEER**  
 NCE CONSULTING ENGINEERS, LLP  
 DAVID BOLF, P.E.  
 MINNESOTA STATE REG. NO. 40926  
 P.O. BOX 161138  
 102 S. 21ST AVE. W., SUITE 1  
 DULUTH, MN 55806  
 PHONE: (218) 727-5995  
 EMAIL: david@nce-duluth.com

**SURVEYOR**  
 ALTA LAND SURVEY COMPANY, PC  
 DAVID R. EVANSON  
 MINNESOTA STATE REG. NO. 49505  
 P.O. BOX 161138  
 102 S. 21ST AVE. W., SUITE 4  
 DULUTH, MN 55816-1138  
 PHONE: (218) 727-5211  
 EMAIL: davee@altasurveyduluth.com

**TABLE 50-14.5-1  
 R-1 DISTRICT DIMENSIONAL STANDARDS**

Minimum lot area per family (One-family) [100]	Minimum lot area per family (Two-family) [100]	Minimum lot area per family (Townhouse) [11]	Minimum lot area per family (Three-family) [11]	Minimum lot area per family (Four-family) [11]	Minimum lot area per family (Five-family) [11]
4,000 sq. ft. or average of developed 1-family lots on the block face	The smaller of 2,000 sq. ft. or average of developed 2-family lots on the block face	3,000 sq. ft.	The smaller of 400 sq. ft. or average of developed lots with similar uses on the block face	The average of developed lots with similar uses on the block face, but not less than 400 sq. ft.	The smaller of 25 sq. ft. or average of developed lots facing the same street
Minimum lot frontage (one-family) [100]	Minimum lot frontage (two-family and townhouse) [11]	Minimum lot frontage (three-family and townhouse) [11]	Minimum depth of side yard (one- and two-family) [10]	Minimum depth of side yard (three-family and townhouse) [11]	Minimum depth of front yard (one-family) [10]
35.00 ft.	35.00 ft.	35.00 ft.	5.00 ft.	5.00 ft.	5.00 ft.
Minimum lot frontage (two-family and townhouse) [11]	Minimum lot frontage (three-family and townhouse) [11]	Minimum lot frontage (four-family) [11]	Minimum depth of front side yard (one-family) [10]	Minimum depth of front side yard (two-family and townhouse) [11]	Minimum depth of front side yard (three-family and townhouse) [11]
35.00 ft.	35.00 ft.	35.00 ft.	5.00 ft.	5.00 ft.	5.00 ft.
Minimum depth of front side yard (two-family and townhouse) [11]	Minimum depth of front side yard (three-family and townhouse) [11]	Minimum depth of front side yard (four-family) [11]	Minimum depth of building [10]	Minimum depth of building [11]	Minimum depth of building [11]
5.00 ft.	5.00 ft.	5.00 ft.	30 ft.	30 ft.	30 ft.

*Note: Dimensions using feet on the block face definition. When doing the calculation, exclude the subject lot from the calculation. If lots without municipal sewer meet the street requirements of 50-21.2, existing structures that have a change of use from one-family to two-family must meet minimum lot area and frontage, but not setbacks. Section 50.21 Dimensional standards contain additional regulations applicable to the district.*



## AREA SUMMARY

Total Acreage	11.50 AC
Total Lot Acreage - R/W	8.20 AC
Total R/W Acreage	3.30 AC
Number of Lots	19
Largest lot in Sq. ft.	72,953 SQ. FT
Smallest lot in Sq. ft.	6,083 SQ. FT
Average Lot (total lot Sq. ft./# of lots)	26,365 SQ. FT

**LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 344559**  
 Lots 9 thru 17 Block 1 WESTERN WOODS DIVISION  
 Lots 1 thru 5 Block 2 WESTERN WOODS DIVISION

**LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 344558**  
 Lot 6 Block 1 WESTERN WOODS DIVISION  
 Lot 7 Block 1 WESTERN WOODS DIVISION

**LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 278724**  
 Lot 8 Block 1 WESTERN WOODS DIVISION

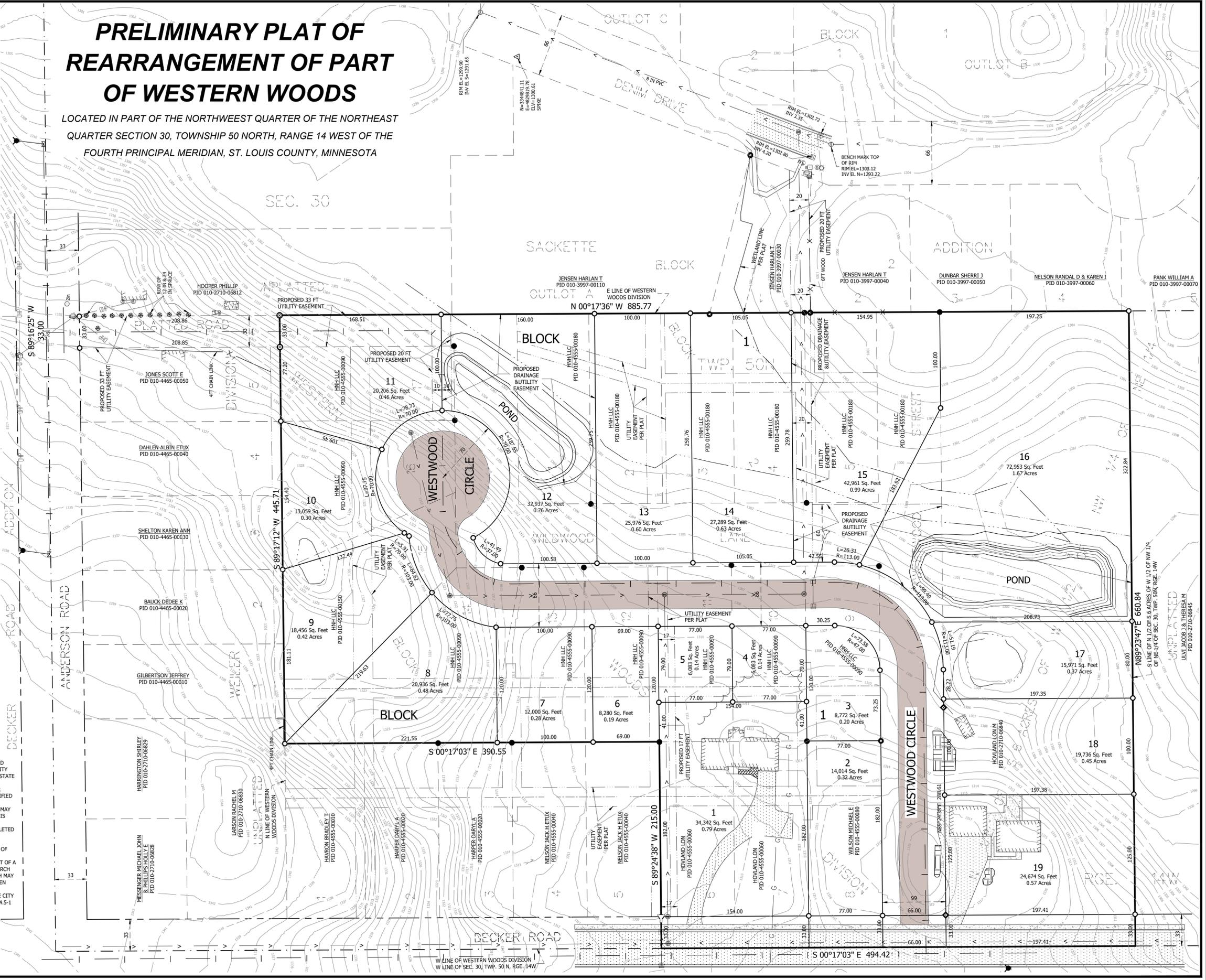
**LEGAL DESCRIPTION OF ADDITIONAL PROPERTY TO BE INCLUDED WITHIN PLAT**  
 And: All of Westwood Street, as delineated and dedicated in WESTERN WOODS DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.  
 And: All of Wildwood Lane, as delineated and dedicated in WESTERN WOODS DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.  
 And: All of the Platted Road, lying adjacent to Lot 5, WEILER DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

**LEGAL DESCRIPTION PER DOC. NO. 1442152**  
 North One-Half of South 6 Acres of West One-Half of Northwest One-Quarter of Northeast One-Quarter (N1/2 of S 6 of W 1/2 of NW 1/4 of NE 1/4, Section Thirty (30), Township Fifty (50) North of Range Fourteen (14), St. Louis County, Minnesota.

- SURVEYORS NOTES**
- UTILITIES WERE LOCATED IN THE FIELD BY OBSERVED EVIDENCE, BY UTILITY SKETCHES PROVIDED BY UTILITY COMPANIES AND THE CITY OF DULUTH PER GOPHER STATE ONE CALL TICKET NO. 173630085.
  - UTILITIES SHOWN ON THIS SURVEY ARE SHOWN FOR APPROXIMATE LOCATION ONLY AND SHOULD BE VERIFIED BEFORE ANY EXCAVATION OR CONSTRUCTION.
  - DUE TO SNOW AND ICE COVERAGE, SOME FEATURES MAY HAVE NOT BEEN VISIBLE DURING THE COURSE OF THIS SURVEY.
  - 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.
  - 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.
  - SITE ZONED R-1 RESIDENTIAL TRADITIONAL PER THE CITY OF DULUTH PLANNING AND ZONING. SEE TABLE 50-14.5-1 FOR STANDARDS.
  - BENCHMARK SHOWN ON SURVEY.

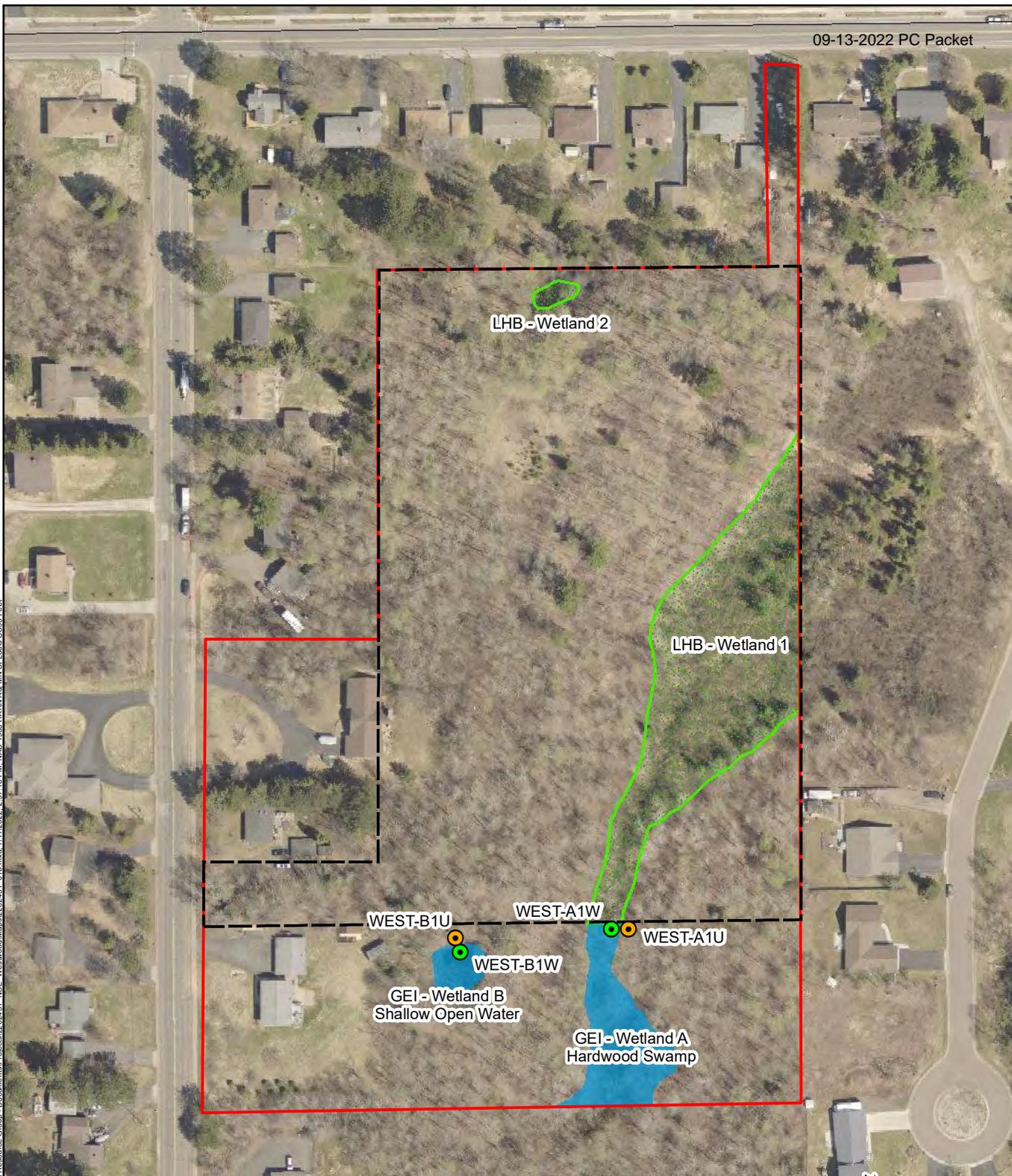
**ALTA LAND SURVEY COMPANY**  
 PHONE: 218-727-5211  
 WWW.ALTA-SURVEY.COM

REVISED 8-5-2022 ADD POND & EASEMENT  
 REVISED 8-3-2022 NEW LOT LAYOUT  
 REVISED 8-26-2021 NEW LOT LAYOUT



LINE OF N 1/2 OF S 6 ACRES OF W 1/2 OF NW 1/4 OF NE 1/4 OF SEC. 30, TWP. 50N, RGE. 14W  
 UNPLATTED  
 ULU 24068 18, THURSDAY, M  
 ULU 010-2710-0685

MSP:Office-Duluth, MN | Source: C:\Users\kpratt\OneDrive\Documents\Projects\2024\1 - NCE - Westwood\Maps\2024\1 - 01.mxd, 7/11/2022, 2:57:18 PM, NAD 1983 HARN 44, MN S1, Louis, CS98, Feet



- GEI Delineation Area 2022
- GEI Wetland Boundary 2022
- LHB Wetland Boundary 2016
- LHB Delineation Area 2016
- Upland Sampling Point
- Wetland Sampling Point



**WESTWOOD  
DULUTH, MINNESOTA**

PREPARED FOR  
**HOVLAND INC.**

**FIGURE 02**

**WETLAND BOUNDARIES  
AND SAMPLE POINT LOCATIONS**

Page 13 of 85  
JULY, 2022



### **Westwood Circle Subdivision Drainage Memo (8/8/22)**

Northland Consulting Engineers is assisting a land owner in subdividing their parcel of property with access off of Decker Road. The parcel is currently undeveloped and completely wooded. The proposed subdivision would create (18) lots accessed by the construction of a 24' wide roadway meeting City of Duluth standards. The road will be constructed privately and turned over to the City of Duluth upon as built and final acceptance.

#### **Existing Site Drainage Conditions**

The site is 9.44 acres according to the boundary survey provided by ALTA Land Survey Company. As mentioned above, the site is completely undeveloped and wooded. The site sits within the Miller Creek watershed. This watershed ultimately enters the St. Louis River. The site is situated between Decker and Denim Road just south of Anderson Road. The site currently flows from north to south through a wetland complex. Currently, there are no BMP's on-site treating storm water.

#### **Post-Construction Site Drainage Conditions**

The subdivision development proposes (18) lots with (16) new buildable lots. Lots will range in size from 0.14 acres to 1.67 acres meeting the requirements of the R-1 zoning. The expected user is a single-family home development. It is estimated that each home will develop an average of 4,200 square feet of impervious surface between the driveway, home and garage. This results in approximately 67,200 square feet of impervious area outside the public road. The 950 linear feet of public road will be 24' wide with a 5' concrete walk generating about 33,500 square feet of impervious area. The roadway will be constructed as an urban section so the roadway will have curb and gutter on both sides to convey road runoff and any runoff from outside the right of way.

The curb and gutter and subsequent storm sewer will convey stormwater runoff to a BMP to treat the runoff. Storm sewer will then flow into one of two filtration basins located along the east side of the road. The filtration basins will drain via perforated PVC pipes set below a sand filter layer. The BMP will treat the stormwater for total suspended solids and will be constructed with live storage and an outlet structure to manage the discharge rates per the City of Duluth UDC requirements. It is understood that the site sits above the bluff line and may be required to meet more restrictive peak discharge rate requirements.

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

**Area Summary**

	Pre-Development		Post-Development	
	Area (SF)	% of Total Site	Area (SF)	% of Total Site
<b><u>Total Site Area</u></b>	411,360	100%	411,360	100%
<b>Impervious Area</b>	0	0%	100,532	24%
<b>-Bit./Conc.</b>	0	0%	33,332	8%
<b>-Roof</b>	0	0%	67,200	16%
<b>Pervious Area</b>	411,360	100%	310,828	76%
<b>-Woods/Grass</b>	0	0%	310,828	76%
<b>-Woods</b>	411,360	100%	0	0%

Narrative Prepared by: Adam Zwak, P.E.



**Planning & Development Division**  
 Planning & Economic Development Department

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

<b>File Number</b>	PL 22-143	<b>Contact</b>	Chris Lee, clee@duluthmn.gov	
<b>Type</b>	MU-C Planning Review	<b>Planning Commission Date</b>	September 13, 2022	
<b>Deadline for Action</b>	<b>Application Date</b>	September 7, 2022	<b>60 Days</b>	September 19, 2022
	<b>Date Extension Letter Mailed</b>	September 7, 2022	<b>120 Days</b>	November 18, 2022
<b>Location of Subject</b>	Sundby Road and W Page Street			
<b>Applicant</b>	Kinseth Hotel Corporation	<b>Contact</b>	Aaron Mailey	
<b>Agent</b>	Northland Consulting Engineers	<b>Contact</b>	David Bolf	
<b>Legal Description</b>	Parcel ID Number 010-2710-04594			
<b>Site Visit Date</b>	September 1, 2022	<b>Sign Notice Date</b>	August 30, 2022	
<b>Neighbor Letter Date</b>	August 31, 2022	<b>Number of Letters Sent</b>	15	

**Proposal**

The applicant is proposing to construct a 4-story hotel with 112 parking stalls.

**Staff Recommendation**

Staff is recommending that planning commission approve the planning review.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-C	Undeveloped	Central Business Secondary
<b>North</b>	MU-C	Undeveloped	Central Business Secondary
<b>South</b>	MU-C	Undeveloped	Central Business Secondary
<b>East</b>	MU-C	Undeveloped	Low Density Residential
<b>West</b>	RR-1	Commercial - Retail	Open Space

**Summary of Code Requirements**

50-15.3.E MU-C District – Planning review by the Planning Commission is required for most development and redevelopment. Development Standards:

1. The location, size and number of curb cuts shall be designed to minimize traffic congestion or hazard in the area. Any traffic control improvements required as a result of the proposal such as traffic signals, turning lanes, medians, signage and other types of improvements necessary to accommodate traffic flow to and from the proposed project shall be paid for by the property owner. Any additional right-of-way or easements needed shall be provided by the property owner at no cost to the city;
2. Any necessary public easements over the subject property shall be dedicated, and any necessary improvements within such easements or other easements adjacent to the subject property shall be made.

50-18.1 Shoreland, Flood Plains, Wetlands, Stormwater.

50-23 Connectivity and Circulation – Focuses on pedestrian and bicycle accommodations.

50-24 Parking and Loading – Addresses required parking spaces, loading docks, and snow storage.

50-25 Landscaping and Tree Preservation – Landscaping requirements and tree preservation

50-26 Screening, Walls, and Fences – Screening of equipment, loading areas, etc., plus fences & retaining walls.

50-29 Sustainability Standards – Sustainability point system for new development.

50-30 Design Standards – Building standards for multi-family, commercial, institutional, and industrial buildings.

50-31 Exterior Lighting – Directs the minimum and maximum illumination values and lighting fixtures for a site.

50-37.11 Planning Review – Planning Commission shall approve the Planning Review or approve it with modifications, if it is determined that the application complies with all applicable provisions of this Chapter.

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

#### Governing Principles

Governing Principle #4 – Support economic growth sectors, including tourism.

#### Future Land Use

Central Business Secondary: An area adjacent to and supporting the central business primary area or a stand -alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities.

### **Review and Discussion Items**

Staff finds:

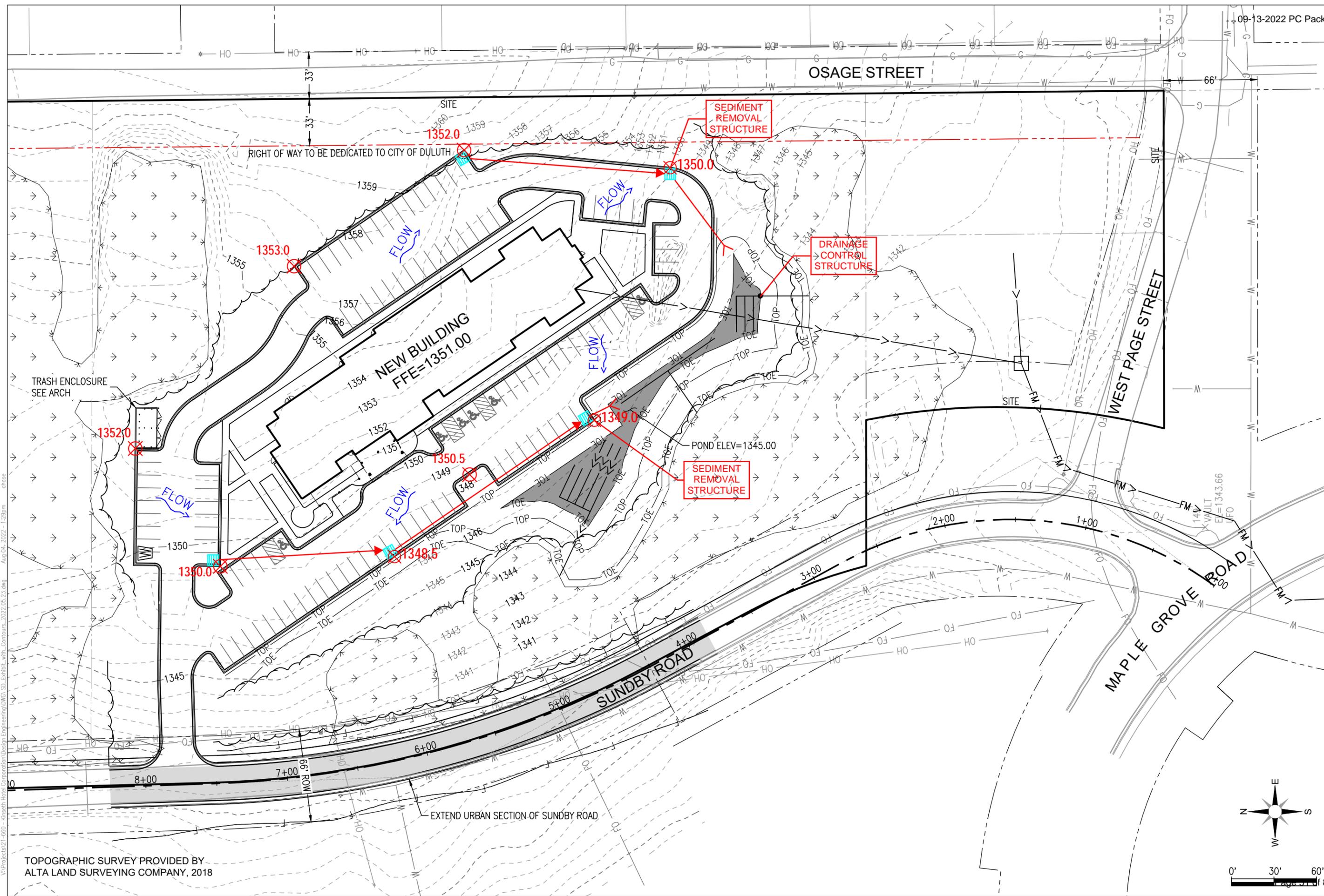
- 1) The applicant is proposing to construct a 4 story, 51' tall hotel. The applicant will be required to verify the maximum height of the structure at the time of building permit application.
- 2) 50-15.3 (MU-C District) –Not Applicable: The applicant is not proposing any public easements.
- 3) 50-18.1.B (Wetlands) – Wetland delineation performed June 2022 show that wetlands are present on site, but will not be impacted.
- 4) 50-18.1.E (Stormwater Management) –Storm water will be routed to two basins that will discharge to adjacent wetlands.
- 5) 50-23 (Connectivity) – Not applicable as Sundby Road does not have sidewalks nor is it shown on any bikeways, trail, or pedestrian plan.
- 6) 50-24 (Parking) – The plan shows 112 parking stalls which is the maximum (2 spaces per 3 guest rooms): 53 in the front, 58 in the rear and side.
- 7) 50-25 (Landscaping) – The landscape plan shows 21 trees, exceeding the required 19 for parking lot coverage. The required frontage landscaping is met with 33 trees and 149 shrubs. The applicant will must provide details of interior parking lot landscaping that meets the UDC requirements in 50-25.4.B
- 8) 50-26 (Screening) – The applicant proposes UDC compliant trash enclosure in the north corner of the parking lot. Any ground mounted or roof mounted mechanicals are required to be screened.
- 9) 50-27 (Signs) – None shown, but can be obtained via a separate permit.
- 10) 50-29 (Sustainability) – This development will be required to obtain a minimum of 4 sustainability points.
- 11) 50-30 (Design Standards) – The proposed plans meet requirements.
- 12) 50-31 (Exterior Lighting) – The applicant has submitted a photometric plan that indicates UDC compliant lighting.
- 13) No comments have been received from City or other agencies or the general public.
- 14) Per UDC 50-37.1.N, an approved Planning Review will expire if the project or activity authorized is not begun within one year, which may be extended for one additional year at the discretion of the Land Use Supervisor

**Staff Recommendation**

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

- 1.) Applicant shall construct and maintain the project as identified in the attached exhibits.
- 2.) Applicant shall verify that the height meets the maximum allowed in the MU-C zone district.
- 3.) Applicant shall show on the landscaping plans that interior parking lot landscaping requirement is meet prior to staff approval of the building permit.
- 4.) Applicant shall submit details of any mechanical screening prior to approval of the building permit.
- 5.) Applicant shall submit plans that indicate a minimum of 4 sustainability points are achieved.
- 6.) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

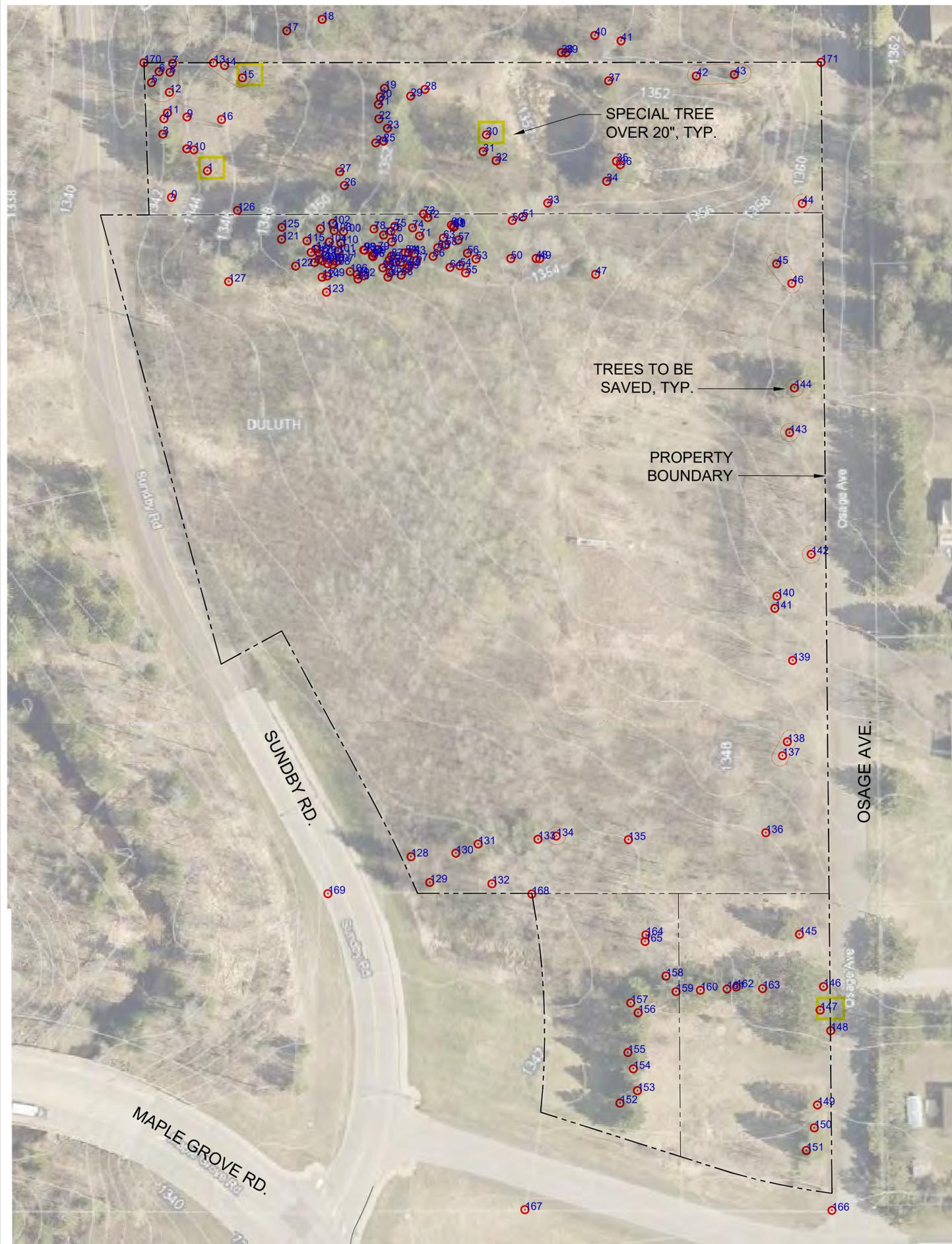




V:\Projects\21-660 - Kinseith Hotel Corporation\Design\Engineering\DWG\SD\_Exhibit\_with\_Contours\_2022.05.23.dwg  
 Aug 04, 2022 - 1:29pm chse

TOPOGRAPHIC SURVEY PROVIDED BY  
 ALTA LAND SURVEYING COMPANY, 2018

revision	
Proj: 21-660	
Date: 08/04/22	
Drawn: JDO	
Checked: DGB	
<b>SD SITE PLAN</b>	
Sheet Title	
Sheet Number	
<b>1 OF 1</b>	



Pt ID	Species	Diameter	Comment	UDC Classification
0	White Birch	10.75	Removed	Tree of Interest
1	White Spruce	22.00	Removed	Special Tree
2	Balsam Fir	14.25	Removed	Tree of Interest
3	Balsam Fir	10.50	Removed	Tree of Interest
4	White Spruce	17.50	Removed	Special Tree
5	Balsam Fir	13.75	SAVED	Tree of Interest
6	White Spruce	13.50	SAVED	Special Tree
7	White Spruce	10.00	SAVED	Special Tree
8	White Spruce	12.50	SAVED	Special Tree
9	Silver Maple	16.25	Removed	Tree of Interest
10	Silver Maple	29.50	Removed	Tree of Interest
11	Silver Maple	11.25	Removed	Tree of Interest
12	Silver Maple	13.00	SAVED	Tree of Interest
13	White Spruce	15.25	SAVED	Special Tree
14	White Spruce	12.25	SAVED	Special Tree
15	Red Pine	23.25	SAVED	Special Tree
16	White Birch	14.00	Removed	Tree of Interest
17	Balsam Fir	13.50	Off Property	Tree of Interest
18	Red Pine	17.50	Off Property	Special Tree
19	White Spruce	16.25	Removed	Special Tree
20	White Spruce	12.75	Removed	Special Tree
21	White Spruce	12.50	Removed	Special Tree
22	White Spruce	15.75	Removed	Special Tree
23	Red Pine	15.75	Removed	Special Tree
24	Red Pine	15.50	Removed	Special Tree
25	Red Pine	18.25	Removed	Special Tree
26	Red Pine	19.00	Removed	Special Tree
27	Red Pine	17.50	Removed	Special Tree
28	Sugar Maple	15.25	Removed	Special Tree
29	Red Oak	7.00	Removed	Tree of Interest
30	Red Pine	22.50	Removed	Special Tree
31	Red Pine	19.75	Removed	Special Tree
32	Jack Pine	18.50	Removed	Tree of Interest
33	White Spruce	7.75	Removed	Tree of Interest
34	Red Pine	12.75	Wetland Tree	Special Tree
35	Tamarack	7.00	Wetland Tree	Tree of Interest
36	Jack Pine	8.50	Wetland Tree	Tree of Interest
37	White Spruce	8.50	Wetland Tree	Special Tree
38	White Spruce	13.00	Off Property	Special Tree
39	White Spruce	9.75	Off Property	Special Tree
40	White Birch	12.00	Off Property	Tree of Interest
41	White Spruce	12.75	Off Property	Special Tree
42	White Spruce	7.75	SAVED	Tree of Interest
43	White Spruce	7.50	SAVED	Tree of Interest
44	Tamarack	9.25	SAVED	Tree of Interest
45	White Birch	10.50	SAVED	Tree of Interest
46	Green Ash	11.25	SAVED	Tree of Interest
47	Quaking Aspen	16.00	Removed	Tree of Interest
48	Paper Birch	11.25	Removed	Tree of Interest
49	Quaking Aspen	17.00	Removed	Tree of Interest
50	Quaking Aspen	13.50	Removed	Tree of Interest
51	Quaking Aspen	10.25	Removed	Tree of Interest
52	Quaking Aspen	11.50	Removed	Tree of Interest
53	Red Pine	14.50	Removed	Special Tree
54	Red Pine	12.50	Removed	Special Tree
55	Red Pine	10.50	Removed	Special Tree
56	Red Pine	14.00	Removed	Special Tree
57	Red Pine	10.50	Removed	Special Tree
58	Red Pine	10.00	Removed	Special Tree
59	Red Pine	11.50	Removed	Special Tree
60	Red Pine	13.75	Removed	Special Tree
61	Red Pine	11.75	Removed	Special Tree
62	Red Pine	10.50	Removed	Special Tree
63	Red Pine	8.25	Removed	Special Tree
64	Red Pine	14.00	Removed	Special Tree
65	Red Pine	11.75	Removed	Special Tree
66	Red Pine	6.50	Removed	Tree of Interest
67	Red Pine	10.25	Removed	Special Tree
68	Red Pine	15.00	Removed	Special Tree
69	Red Pine	13.75	Removed	Special Tree
70	Red Pine	10.00	Removed	Special Tree
71	Red Pine	12.00	Removed	Special Tree
72	Red Pine	13.00	Removed	Special Tree
73	Red Pine	12.75	Removed	Special Tree
74	Red Pine	9.25	Removed	Special Tree
75	White Birch	13.00	Removed	Tree of Interest
76	Red Pine	12.25	Removed	Special Tree
77	Red Pine	10.50	Removed	Special Tree
78	Red Pine	13.25	Removed	Special Tree
79	Red Pine	9.50	Removed	Special Tree
80	Red Pine	7.25	Removed	Tree of Interest
81	Red Pine	7.75	Removed	Tree of Interest
82	Red Pine	8.00	Removed	Special Tree
83	Red Pine	8.00	Removed	Special Tree
84	Red Pine	8.75	Removed	Special Tree
85	Red Pine	9.25	Removed	Special Tree

Pt ID	Species	Diameter	Removed	UDC Classification
86	Red Pine	10.75	Removed	Special Tree
87	Red Pine	10.25	Removed	Special Tree
88	Red Pine	14.25	Removed	Special Tree
89	Red Pine	8.25	Removed	Special Tree
90	Red Pine	15.00	Removed	Special Tree
91	Red Pine	6.75	Removed	Special Tree
92	Red Pine	14.00	Removed	Special Tree
93	Red Pine	8.00	Removed	Special Tree
94	Red Pine	6.50	Removed	Tree of Interest
95	Red Pine	9.50	Removed	Special Tree
96	Red Pine	8.00	Removed	Special Tree
97	Red Pine	10.50	Removed	Special Tree
98	Red Pine	10.50	Removed	Special Tree
99	Red Pine	8.75	Removed	Special Tree
100	Red Pine	8.25	Removed	Special Tree
101	Red Pine	10.50	Removed	Special Tree
102	Red Pine	11.00	Removed	Special Tree
103	Red Pine	11.50	Removed	Special Tree
104	Red Pine	10.00	Removed	Special Tree
105	Red Pine	8.75	Removed	Special Tree
106	Red Pine	7.50	Removed	Tree of Interest
107	Red Pine	8.50	Removed	Special Tree
108	Red Pine	10.50	Removed	Special Tree
109	Red Pine	6.25	Removed	Tree of Interest
110	Red Pine	14.20	Removed	Special Tree
111	Red Pine	7.50	Removed	Tree of Interest
112	Red Pine	10.00	Removed	Special Tree
113	Red Pine	14.00	Removed	Special Tree
114	Red Pine	11.75	Removed	Special Tree
115	Red Pine	14.50	Removed	Special Tree
116	Red Pine	9.75	Removed	Special Tree
117	Red Pine	8.50	Removed	Special Tree
118	Red Pine	6.50	Removed	Tree of Interest
119	Red Pine	8.75	Removed	Special Tree
120	Red Pine	6.00	Removed	Tree of Interest
121	Red Pine	14.00	Removed	Special Tree
122	Red Pine	16.00	Removed	Special Tree
123	Red Pine	16.00	Removed	Special Tree
124	Red Pine	14.75	Removed	Special Tree
125	Balsam Fir	10.50	Removed	Tree of Interest
126	White Spruce	9.25	Removed	Special Tree
127	Quaking Aspen	14.75	Removed	Tree of Interest
128	White Spruce	12.50	Wetland Tree	Special Tree
129	White Spruce	9.50	Wetland Tree	Special Tree
130	White Spruce	8.25	Wetland Tree	Special Tree
131	White Spruce	11.50	Wetland Tree	Special Tree
132	Quaking Aspen	10.25	Wetland Tree	Tree of Interest
133	Quaking Aspen	10.25	Wetland Tree	Tree of Interest
134	Quaking Aspen	11.00	SAVED	Tree of Interest
135	Quaking Aspen	11.50	Wetland Tree	Tree of Interest
136	Quaking Aspen	12.25	Wetland Tree	Tree of Interest
137	Quaking Aspen	11.25	SAVED	Tree of Interest
138	Quaking Aspen	10.75	SAVED	Tree of Interest
139	Quaking Aspen	10.00	Removed	Tree of Interest
140	Quaking Aspen	10.75	Removed	Tree of Interest
141	Quaking Aspen	11.00	Removed	Tree of Interest
142	Quaking Aspen	11.75	SAVED	Tree of Interest
143	White Spruce	9.50	SAVED	Special Tree
144	White Spruce	17.75	SAVED	Special Tree
145	White Spruce	16.25	Out of Development Area	Special Tree
146	Red Pine	18.50	Out of Development Area	Special Tree
147	Red Pine	20.00	Out of Development Area	Special Tree
148	Red Pine	19.50	Out of Development Area	Special Tree
149	White Spruce	19.50	Out of Development Area	Special Tree
150	White Spruce	15.25	Out of Development Area	Special Tree
151	Balsam Fir	12.50	Out of Development Area	Tree of Interest
152	White Spruce	17.50	Out of Development Area	Special Tree
153	White Spruce	18.00	Out of Development Area	Special Tree
154	White Spruce	16.00	Out of Development Area	Special Tree
155	White Spruce	14.25	Out of Development Area	Special Tree
156	White Spruce	19.50	Out of Development Area	Special Tree
157	White Spruce	16.75	Out of Development Area	Special Tree
158	Red Pine	13.25	Out of Development Area	Special Tree
159	Red Pine	17.75	Out of Development Area	Special Tree
160	White Spruce	10.50	Out of Development Area	Special Tree
161	White Spruce	9.50	Out of Development Area	Special Tree
162	White Spruce	10.50	Out of Development Area	Special Tree
163	Red Pine	17.00	Out of Development Area	Special Tree
164	Balsam Poplar	11.50	Out of Development Area	Tree of Interest
165	Balsam Poplar	14.50	Out of Development Area	Tree of Interest
166		0.00	Property Corner	
167		0.00	Property Corner	
168		0.00	Property Corner	
169		0.00	Property Corner	
170		0.00	Property Corner	
171		0.00	Property Corner	



LANDSCAPE ARCHITECTURE

ASSOCIATES

WWW.SASLANDARCH.COM

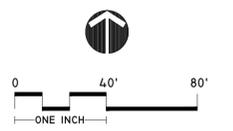
219 WEST FIRST STREET, SUITE 350  
DULUTH, MN 55802  
(P) 218.391.1335  
MAIL@SASLANDARCH.COM

COPYRIGHT 2022 ALL DRAWN AND WRITTEN INFORMATION APPEARING HEREIN SHALL NOT BE DUPLICATED, DISCLOSED OR OTHERWISE USED WITHOUT WRITTEN CONSENT OF SAS-ASSOCIATES.

ISSUE RECORD/REVISION

PURPOSE	DATE

KINSETH HOTEL CORPORATION  
SUNDBY RD.  
DULUTH, MINNESOTA



SHEET KEY

SHEET TITLE  
TREE INVENTORY

DATE: 8/5/2022

DRAWN BY: AMA

CHECKED BY: LWS

PROJECT NUMBER  
22100

SHEET NUMBER  
L-1.0



LANDSCAPE ARCHITECTURE

**+ ASSOCIATES**

WWW.SASLANDARCH.COM

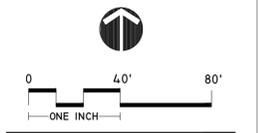
219 WEST FIRST STREET, SUITE 350  
DULUTH, MN 55802  
(P) 218.391.1335  
MAIL@SASLANDARCH.COM

COPYRIGHT 2021 ALL DRAWN AND WRITTEN INFORMATION APPEARING HEREIN SHALL NOT BE DUPLICATED, DISCLOSED OR OTHERWISE USED WITHOUT WRITTEN CONSENT OF SAS+ASSOCIATES.

ISSUE RECORD/REVISION

PURPOSE	DATE

**KINSETH HOTEL CORPORATION**  
 SUNDBY RD.  
 DULUTH, MINNESOTA



SHEET KEY

SHEET TITLE  
**UDC LANDSCAPE PLAN**

DATE: 8/5/2022

DRAWN BY: AMA

CHECKED BY: LWS

PROJECT NUMBER  
**22100**

SHEET NUMBER  
**L-1.1**

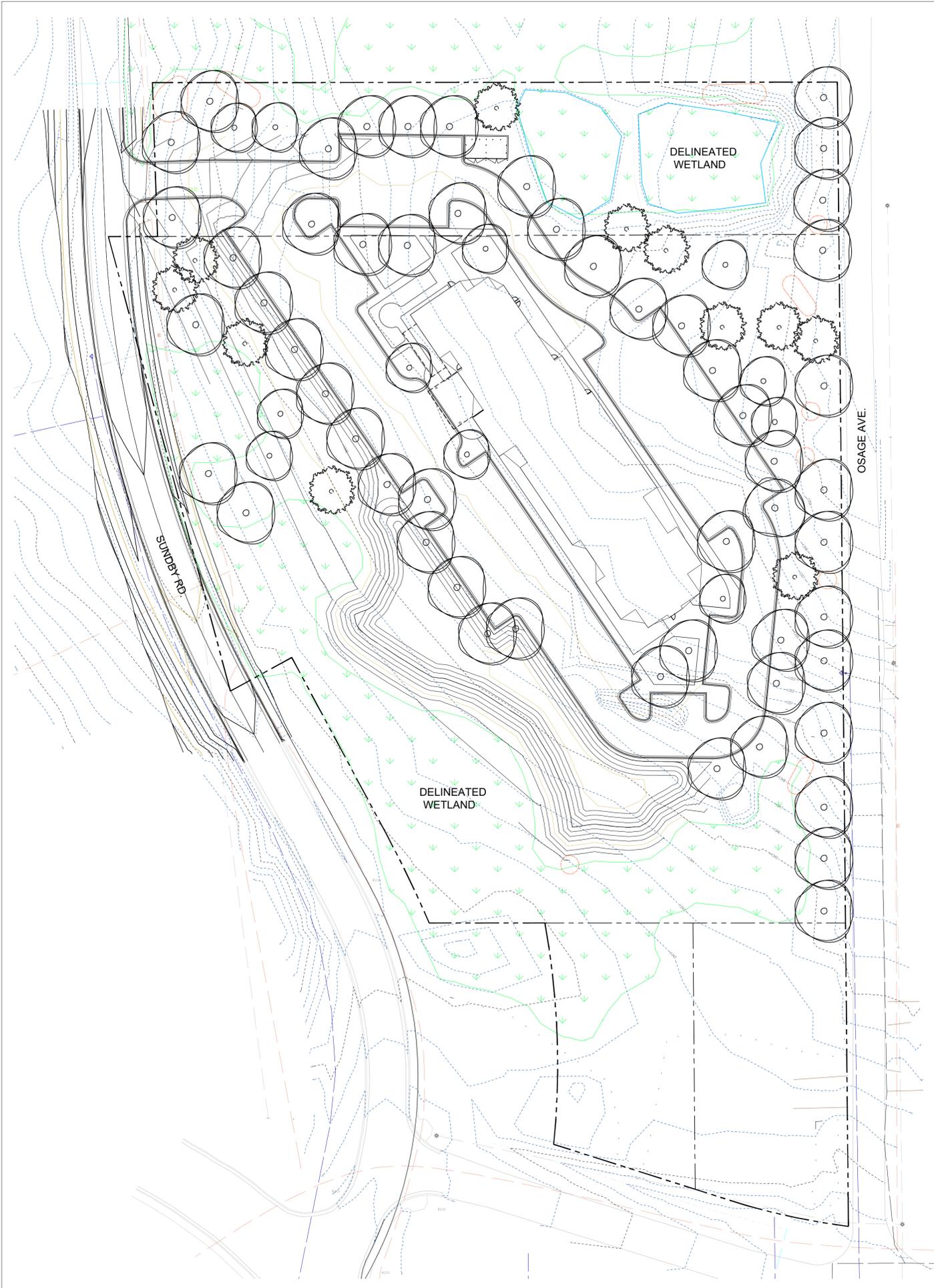
UDC CALCULATIONS	
<b>PARKING LOT SIZE:</b>	<b>45,545 SF (112 SPACES)</b>
<b>INTERIOR LANDSCAPING:</b>	45,545 SF PARKING AREA INTERNAL ISLANDS REQUIRED: 6,832 SF PROVIDED: 3,705 SF (8.1%)  1 TREE/300 SF INTERNAL LANDSCAPE AREA REQUIRED: 19 TREES PROVIDED: 21 TREES  MINIMUM 30% TREE CANOPY REQUIRED REQUIRED: 13,664 SF PROVIDED: 14,014 SF
<b>STREET FRONTAGE #1 LINEAR STREET FOOTAGE:</b>	<b>SUNDBY RD. 600 LF</b>
<b>TREES:</b>	1 TREE/35 FT. LINEAR FRONTAGE REQUIRED: 17 TREES PROVIDED: 17 TREES
<b>SHRUBS:</b>	3 LARGE SHRUBS/25 FT. LINEAR FRONTAGE REQUIRED: 72 LARGE SHRUBS/GRASSES PROVIDED: 82 LARGE SHRUBS/GRASSES
<b>STREET FRONTAGE #2 LINEAR STREET FOOTAGE:</b>	<b>OSAGE AVE. 550 LF</b>
<b>TREES:</b>	1 TREE/35 FT. LINEAR FRONTAGE REQUIRED: 16 TREES PROVIDED: 16 TREES
<b>SHRUBS:</b>	3 LARGE SHRUBS/25 FT. LINEAR FRONTAGE REQUIRED: 66 LARGE SHRUBS/GRASSES PROVIDED: 67 LARGE SHRUBS/GRASSES
ALL PLANT SELECTIONS WILL MEET UDC REQUIREMENTS  ALL SHRUB PLANTING BEDS TO INCLUDE 3-4" SHREDDED HARDWOOD MULCH WITH LANDSCAPE FABRIC  ALL DISTURBED AREAS NOT PLANTED WITH SHRUBS/TREES ARE TO BE SODDED OR PLANTED WITH NATIVE GRASSES; SEE PLANS FOR DETAIL.	

LANDSCAPE KEY

	Common Name	Scientific Name	Size	Type	Quantity	Height	Width
<b>TREES</b>							
AM	Apollo Maple	Acer saccharum 'Barrett Cole'	2.5"	B&B		25'	10-15'
BL	Boulevard Linden	Tilia americana 'Boulevard'	2.5"	B&B		50-60'	25-30'
FFM	Fall Fiesta Maple	Acer saccharum 'Bailista'	2.5"	B&B		50-75'	50'
JE	Jefferson Elm	Ulmus americana 'Jefferson'	2.5"	B&B		70'	50'
MSO	Majestic Skies Oak	Quercus ellipsoidalis 'Bailiskies'	2.5"	B&B		60'	45'
NFM	Northern Flare Maple	Acer saccharum 'Sisseton'	2.5"	B&B		40-50'	30-40'
NP	Norway Pine	Pinus resinosa	6"	B&B		50-80'	30-40'
PE	Princeton Elm	Ulmus americana 'Princeton'	2.5"	B&B		60'	40'
SL	Sentry Linden	Tilia americana 'McSentry'	2.5"	B&B		40-45'	25-30'
SWO	Swamp White Oak	Quercus bicolor	2.5"	B&B		50-60'	40-50'
WFS	White Spruce	Picea glauca	6"	B&B		40-60'	15-20'
<b>SHRUBS</b>							
APS	Acrocona Pusch Spruce	Picea abies 'Acrocona Pusch'	#3	Container		2-3'	3-4'
BBH	Butterfly Bush Honeysuckle	Diervilla sessilifolia 'Butterfly'	#2	Container		3-5'	3-4'
DPB	Double Play Big Bang Spirea	Spiraea japonica 'Tracy'	#2	Container		2-3'	2-3'
LGI	Lime Glow Juniper	Juniperus horizontalis 'Lime Glow'	#3	Container		18"	3-5'
<b>ORNAMENTAL GRASSES</b>							
ORG	Overdam Feather Reed Grass	Calamagrostis x acutiflora 'Overdam'	#1	Container		24-36"	18"
SSG	Shenandoah Red Switch Grass	Panicum virgatum 'Shenandoah'	#1	Container		36"	24"
TPD	Tara Prairie Dropseed	Sporobolus heterolepis 'Tara'	#1	Container		18-24"	12"

**LEGEND**

- PARKING LOT AREA
- PARKING LOT TREE CANOPY COVERAGE
- INTERNAL PARKING LOT ISLANDS
- PARKING LOT TREE
- LANDSCAPE EDGER



**TREE PRESERVATION AND REPLACEMENT PLAN**

TREE PRESERVATION CREDITS (50-25.6)			
DBH of Preserved Tree	Quantity	# of Trees Credited	Total
Over 12 in.	8	3	24
8 in. to 11.9 in.	9	2	18
5 in. to 7.9 in.	2	1	2
<b>TOTAL TREE CREDITS</b>		<b>44</b>	

**TREES TO BE REMOVED**

ID NO.	Species	DBH	UDC Designation
1	White Spruce	22.00	Special Tree
4	White Spruce	17.50	Special Tree
19	White Spruce	16.25	Special Tree
20	White Spruce	12.75	Special Tree
21	White Spruce	12.50	Special Tree
22	White Spruce	15.75	Special Tree
23	Red Pine	15.75	Special Tree
24	Red Pine	15.50	Special Tree
25	Red Pine	18.25	Special Tree
26	Red Pine	19.00	Special Tree
27	Red Pine	17.50	Special Tree
28	Sugar Maple	15.25	Special Tree
30	Red Pine	22.50	Special Tree
31	Red Pine	19.75	Special Tree
53	Red Pine	14.50	Special Tree
54	Red Pine	12.50	Special Tree
55	Red Pine	10.50	Special Tree
56	Red Pine	14.00	Special Tree
57	Red Pine	10.50	Special Tree
58	Red Pine	10.00	Special Tree
59	Red Pine	11.50	Special Tree
60	Red Pine	13.75	Special Tree
61	Red Pine	11.75	Special Tree
62	Red Pine	10.50	Special Tree
63	Red Pine	8.25	Special Tree
64	Red Pine	14.00	Special Tree
65	Red Pine	11.75	Special Tree
67	Red Pine	10.25	Special Tree
68	Red Pine	15.00	Special Tree
69	Red Pine	13.75	Special Tree
70	Red Pine	10.00	Special Tree
71	Red Pine	12.00	Special Tree
72	Red Pine	13.00	Special Tree
73	Red Pine	12.75	Special Tree
74	Red Pine	9.25	Special Tree
76	Red Pine	12.25	Special Tree
77	Red Pine	10.50	Special Tree
78	Red Pine	13.25	Special Tree
79	Red Pine	9.50	Special Tree
82	Red Pine	8.00	Special Tree
83	Red Pine	8.00	Special Tree
84	Red Pine	8.75	Special Tree
85	Red Pine	9.25	Special Tree
86	Red Pine	10.75	Special Tree
87	Red Pine	10.25	Special Tree
88	Red Pine	14.25	Special Tree
89	Red Pine	8.25	Special Tree
90	Red Pine	15.00	Special Tree
91	Red Pine	6.75	Special Tree
92	Red Pine	14.00	Special Tree
93	Red Pine	8.00	Special Tree
95	Red Pine	9.50	Special Tree
96	Red Pine	8.00	Special Tree
97	Red Pine	10.50	Special Tree
98	Red Pine	10.50	Special Tree
99	Red Pine	8.75	Special Tree
100	Red Pine	8.25	Special Tree
101	Red Pine	10.50	Special Tree
102	Red Pine	11.00	Special Tree
103	Red Pine	11.50	Special Tree
104	Red Pine	10.00	Special Tree
105	Red Pine	8.75	Special Tree
107	Red Pine	8.50	Special Tree
108	Red Pine	10.50	Special Tree
110	Red Pine	14.20	Special Tree
112	Red Pine	10.00	Special Tree
113	Red Pine	14.00	Special Tree
114	Red Pine	11.75	Special Tree
115	Red Pine	14.50	Special Tree
116	Red Pine	9.75	Special Tree
117	Red Pine	8.50	Special Tree
119	Red Pine	8.75	Special Tree
121	Red Pine	14.00	Special Tree
122	Red Pine	16.00	Special Tree
123	Red Pine	16.00	Special Tree
124	Red Pine	14.75	Special Tree
126	White Spruce	9.25	Special Tree
<b>Total DBH Removed</b>		<b>944.2</b>	

**TREES TO BE REMOVED**

TREES OF INTEREST			
ID NO.	Species	DBH	UDC Designation
0	White Birch	10.75	Tree of Interest
2	Balsam Fir	14.25	Tree of Interest
3	Balsam Fir	10.50	Tree of Interest
9	Silver Maple	16.25	Tree of Interest
10	Silver Maple	29.50	Tree of Interest
11	Silver Maple	11.25	Tree of Interest
16	White Birch	14.00	Tree of Interest
29	Red Oak	7.00	Tree of Interest
32	Jack Pine	18.50	Tree of Interest
33	White Spruce	7.75	Tree of Interest
47	Quaking Aspen	16.00	Tree of Interest
48	Paper Birch	11.25	Tree of Interest
49	Quaking Aspen	17.00	Tree of Interest
50	Quaking Aspen	13.50	Tree of Interest
51	Quaking Aspen	10.25	Tree of Interest
52	Quaking Aspen	11.50	Tree of Interest
66	Red Pine	6.50	Tree of Interest
75	White Birch	13.00	Tree of Interest
80	Red Pine	7.25	Tree of Interest
81	Red Pine	7.75	Tree of Interest
94	Red Pine	6.50	Tree of Interest
106	Red Pine	7.50	Tree of Interest
109	Red Pine	6.25	Tree of Interest
111	Red Pine	7.50	Tree of Interest
118	Red Pine	6.50	Tree of Interest
120	Red Pine	6.00	Tree of Interest
125	Balsam Fir	10.50	Tree of Interest
127	Quaking Aspen	14.75	Tree of Interest
139	Quaking Aspen	10.00	Tree of Interest
140	Quaking Aspen	10.75	Tree of Interest
141	Quaking Aspen	11.00	Tree of Interest
<b>Removed</b>		<b>351.0</b>	

**DBH REPLACEMENT REQUIREMENTS (50-25.9)**

Tree Type	# to be Removed	DBH to be Removed	% DBH to be Replaced	Replacement Requirement (in.)
Trees of Interest	31	351.0	20%	70.2
Special Trees	77	944.2	40%	377.7
<b>TOTAL</b>	<b>108</b>	<b>1295.2</b>	<b>n/a</b>	<b>447.9</b>

**TREE REPLACEMENT CALCULATIONS: Trees to be Planted**

IF REPLACING WITH:	Trees of Interest (1 in/ 1 in required)
Number of Trees	180
Caliper of Trees	2.5
<b>TOTAL INCHES REPLACED</b>	<b>450</b>
<b>TOTAL INCHES REQUIRED</b>	<b>447.9</b>

IF REPLACING WITH:	Special Trees (1 in/ 1.5 in required)
Number of Trees	120
Caliper of Trees	2.5
<b>TOTAL INCHES REPLACED</b>	<b>450</b>
<b>TOTAL INCHES REQUIRED</b>	<b>447.9</b>

**TREE REPLACEMENT w/ TREE PRESERVATION CREDITS:**

TOTAL TREE CREDITS=	44
SPECIAL TREES REQ'D=	120
TREES OF INTEREST REQ'D=	180

Per UDC Section 50-25.6, trees to be preserved will count towards the total number needed for replacement, up to 50%. With those factored in, the following are the final replacement numbers for both Special Trees and Trees of Interest:

SPECIAL TREES REQUIRED=	76
TREES OF INTEREST REQUIRED=	136

**TREE REPLACEMENT NOTE:**

REPLACEMENT TREE QUANTITY CAN BE REDUCED BY CONTRIBUTING CASH IN LIEU TO THE CITY TREE FUND. TREE QUANTITIES SHOWN ARE USING SPECIAL TREE SPECIES (USING OTHER SPECIES WOULD REQUIRE ADDITIONAL TREE PLANTINGS; SEE CHART 50-25.6).



LANDSCAPE ARCHITECTURE

**+ ASSOCIATES**

WWW.SASLANDARCH.COM

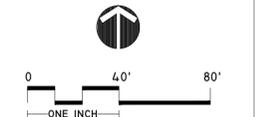
219 WEST FIRST STREET, SUITE 350  
DULUTH, MN 55802  
(P) 218.391.1335  
MAIL@SASLANDARCH.COM

COPYRIGHT 2021 ALL DRAWN AND WRITTEN INFORMATION APPEARING HEREIN SHALL NOT BE DUPLICATED, DISCLOSED OR OTHERWISE USED WITHOUT WRITTEN CONSENT OF SAS+ASSOCIATES.

**ISSUE RECORD/REVISION**

Purpose	DATE

**KINSETH HOTEL CORPORATION**  
SUNDBY RD.  
DULUTH, MINNESOTA



SHEET KEY

SHEET TITLE

**TREE REPLACEMENT PLAN**

DATE: 8/5/2022

DRAWN BY: AMA

CHECKED BY: LWS

PROJECT NUMBER: 22100

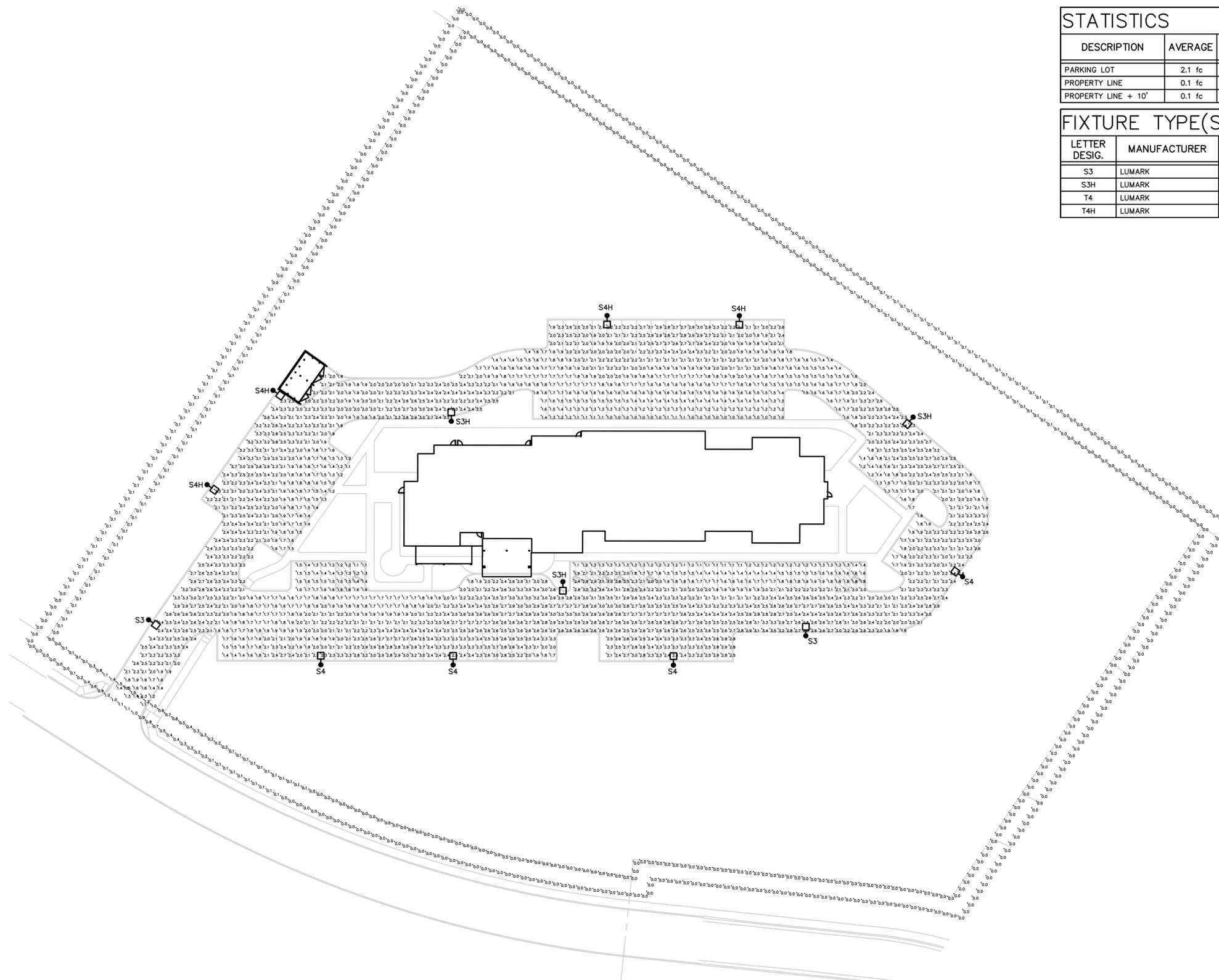
SHEET NUMBER: L-1.2

### STATISTICS

DESCRIPTION	AVERAGE	MAXIMUM	MINIMUM	MAX/MIN	AVG/MIN
PARKING LOT	2.1 fc	3.6 fc	1.0 fc	3.6:1	2.1:1
PROPERTY LINE	0.1 fc	1.5 fc	0.0 fc	N/A	N/A
PROPERTY LINE + 10'	0.1 fc	1.1 fc	0.0 fc	N/A	N/A

### FIXTURE TYPE(S)

LETTER DESIG.	MANUFACTURER	CATALOG NUMBER	LAMPS		LUMENS	MOUNTING HEIGHT
			NO.	TYPE		
S3	LUMARK	PRV-C40-D-UNV-T3-SA-BZ	-	LED W/ UNITS	17,100	25'-0" POLE ON 3' BASE
S3H	LUMARK	PRV-C40-D-UNV-T3-SA-BZ-HSS	-	LED W/ UNITS	17,100	25'-0" POLE ON 3' BASE
T4	LUMARK	PRV-C40-D-UNV-T4-SA-BZ	-	LED W/ UNITS	17,100	25'-0" POLE ON 3' BASE
T4H	LUMARK	PRV-C40-D-UNV-T4-SA-BZ-HSS	-	LED W/ UNITS	17,100	25'-0" POLE ON 3' BASE



**A SITE PHOTOMETRICS**  
1/32" = 1'-0"



Project	Catalog #	Type	
Prepared by	Notes	Date	



**Interactive Menu**

- Ordering Information page 2
- Mounting Details page 3
- Optical Configurations page 4
- Product Specifications page 4
- Energy and Performance Data page 5
- Control Options page 6

### Lumark Prevail LED

Area / Site Luminaire

**Product Features**

- Dimmable
- Adjustable
- Universal Mount
- Easy Installation

**Product Certifications**



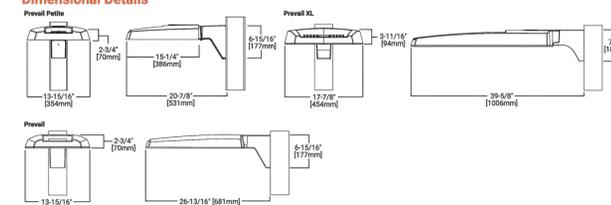
**Connected Systems**

- WaveLinx

**Quick Facts**

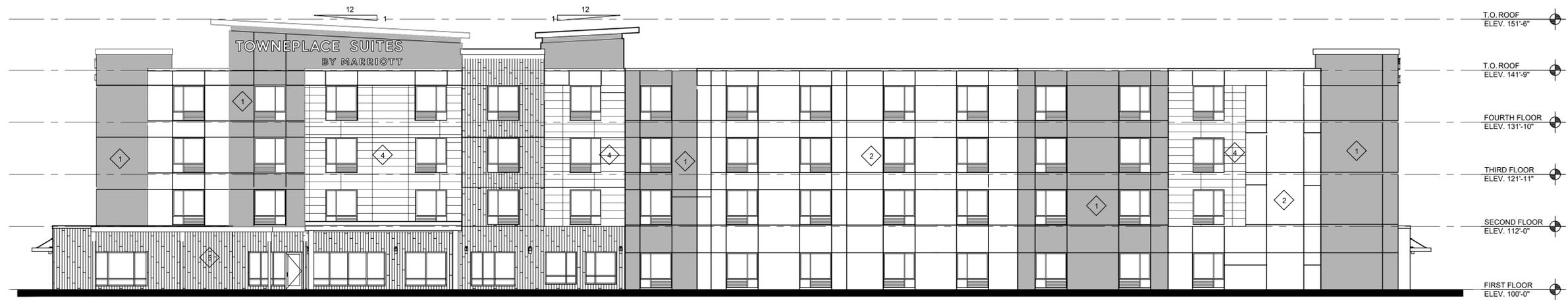
- Lumen packages range from 4,800 - 52,300 lumens (35W - 350W)
- Replaces 70W up to 1,000W HID equivalents
- Efficacies up to 160 lumens per watt
- Energy and maintenance savings up to 85% versus HID solutions
- Standard universal quick mount arm with universal drill pattern

**Dimensional Details**



**COOPER Lighting Solutions**

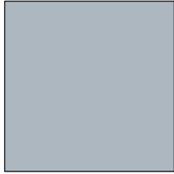
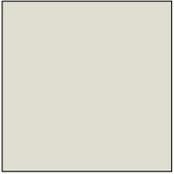
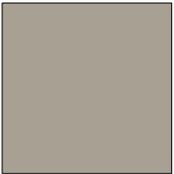
PS50001EN page 1  
February 14, 2022 11:26 AM



**B** SOUTHWEST ELEVATION  
 3/32" = 1'-0"  
 0' 5' 10' 20'



**A** NORTHWEST ELEVATION  
 3/32" = 1'-0"  
 0' 5' 10' 20'

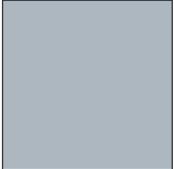
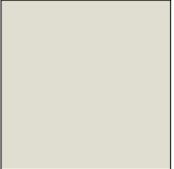
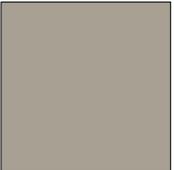
-   
 1 EIFS, COLOR : BENJAMIN MOORE  
 "MANOR BLUE" No. 1627 (CLR13414)
-   
 2 EIFS, COLOR : BENJAMIN MOORE  
 "NOVEMBER RAIN" No. 2142-60 (CLR13415)
-   
 4 EIFS, COLOR : MATCH CONTROL  
 COLOR SW 6006 "BLACK BEAN"
-   
 5 EIFS, COLOR : MATCH CONTROL  
 COLOR SW 7045 "INTELLECTUAL GREY"



**B** NORTHEAST ELEVATION  
 3/32" = 1'-0"  
 0' 5' 10' 20'



**A** SOUTHEAST ELEVATION  
 3/32" = 1'-0"  
 0' 5' 10' 20'

- |   |   |
|---|---|
|   |   |
| 1 EIFS, COLOR : BENJAMIN MOORE<br>"MANOR BLUE" No. 1627 (CLR13414)                    | 2 EIFS, COLOR : BENJAMIN MOORE<br>"NOVEMBER RAIN" No. 2142-60 (CLR13415)              |
|  |  |
| 4 EIFS, COLOR : MATCH CONTROL<br>COLOR SW 6006 "BLACK BEAN"                           | 5 EIFS, COLOR : MATCH CONTROL<br>COLOR SW 7045 "INTELLECTUAL GREY"                    |



**Planning & Development Division**  
 Planning & Economic Development Department

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

<b>File Number</b>	PL 22-146	<b>Contact</b>	Chris Lee, clee@duluthmn.gov	
<b>Type</b>	Variance – required driveway locations	<b>Planning Commission Date</b>	September 13, 2022	
<b>Deadline for Action</b>	<b>Application Date</b>	August 11, 2022	<b>60 Days</b>	October 10, 2022
	<b>Date Extension Letter Mailed</b>	August 19, 2022	<b>120 Days</b>	December 9, 2022
<b>Location of Subject</b>	925 East 4 <sup>th</sup> Street			
<b>Applicant</b>	Lunar Legacy, LLC	<b>Contact</b>	David Nelson	
<b>Agent</b>	Heirloom Property Management	<b>Contact</b>		
<b>Legal Description</b>	PIN: 010-3830-15150, 010-3830-15090, 010-3830-15070, 010-3830-15050,			
<b>Site Visit Date</b>	September 1, 2022	<b>Sign Notice Date</b>	August 30, 2022	
<b>Neighbor Letter Date</b>	August 31, 2022	<b>Number of Letters Sent</b>	73	

**Proposal**

A variance to allow a multi-family dwelling to be constructed that has two driveways in alternate locations from the requirements per UDC Section 50-22.

**Recommended Action:** Approve with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-6	Funeral Home	Neighborhood Mixed Use
<b>North</b>	R-1	Residential	Neighborhood Mixed Use
<b>South</b>	F-6	Mixed Use Retail	Neighborhood Mixed Use
<b>East</b>	P-1	Portland Square	Neighborhood Mixed Use
<b>West</b>	F-6	Multifamily	Neighborhood Mixed Use

**Summary of Code Requirements**

Sec. 50-22.12 – Parking Lot, Loading & Access – No driveway permitted if alley access is available; If no alley exists, 1 driveway permitted per frontage; 2 driveways may be permitted through (special exception) if frontage exceeds 200.

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 Comprehensive Plan.

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

General Principle 1: Reuse previously developed lands. 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. This strengthens neighborhoods and is preferred to a dispersed development pattern with associated alteration of natural landscapes and extensions of public services. Site preparation or building modification costs are offset by savings in existing public infrastructure such as streets and utilities, and transit, fire, and police services.

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

Zoning – Mid-Rise Neighborhood Shopping Form District (F-6) - This district was created to respond to the commercial nodes present in the Central Hillside neighborhood Main Street Building II, Corridor Building II, and Cottage Commercial Building I provide flexibility in the style of commercial building, with the Cottage Commercial building type especially applicable when it’s located adjacent to residential development.

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

**History:** The property was previously used as a funeral home. In 2022 the funeral home was purchased by the current owners who propose constructing housing on the site.

**Review and Discussion Items**

Staff finds that:

1. Applicant is proposing to construct a 6-story multifamily structure with 121 residential units and 97 covered parking stalls.
2. In F-6, a Corridor II Building is required to have parking access from the alley when the alley is present. The applicant is proposing to have one driveway on East 4<sup>th</sup> St. and one on 10<sup>th</sup> Ave E.
3. The applicant states that the extreme topography makes it difficult to have a single driveway from the alley that can access two floors of parking. The slope on the subject property is 14 degrees from 4<sup>th</sup> St. to alley.
4. The applicant is proposing a reasonable use of the site by constructing a large multifamily structure.
5. The proposal is consistent with the Comprehensive Plan principles and strategies and UDC to increase the density of housing on high traffic corridors and reuse infill lots.
6. The need for a variance is caused by site constraints unique to this site and not caused by the applicant.
7. Granting the variance will not alter the essential character of the area as there are other properties that have had driveways from 4<sup>th</sup> Street only and do not have access from the alleyway.
8. The variance, if granted, will not impair an adequate supply of light or air because the buildings on adjacent properties.
9. The variance, if granted, will not increase congestion on public streets.
10. St Louis County. Public Works, as the controlling agency of this stretch of 4<sup>th</sup> Street, has approved an additional driveway.
11. The variance, if granted, will not increase fire danger as the Fire Department possesses equipment for fighting fires on structures of this size and larger.
12. Granting the variance is not expected to unreasonably diminish established property values in the area.
13. Granting the variance is not expected to impair the health, safety, or public welfare of inhabitants of the city due to factors identified above. The applicant is proposing a pedestrian warning system on E 4<sup>th</sup> St.
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 to allow a height of up to 40 feet for the properties listed in the legal description above, with the following conditions:

- 1) The project be limited to, constructed, and maintained based on the plans submitted with the application that shows the locations of the driveways.
- 2) A pedestrian warning system is installed to warn sidewalk users a vehicle is approaching.
- 3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL22-146  
Variance  
925 E 4th St

09-13-2022 PC Packet

**Legend**

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
  - CITY OF DULUTH
  - WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- PS Pump Station
- Storm Sewer Mains
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
  - 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

Document No. 682534

**PROPERTY DESCRIPTION:**

Lots 7 through 16, inclusive, Block 96, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota; and Lots 15 and 16, Block 96-1/2, AUDITOR'S RE-ARRANGEMENT OF PART OF PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, said St. Louis County; also a 20.00 foot wide strip lying on the southerly side of said Lots 7 through 16, inclusive, Block 96, said PORTLAND DIVISION OF DULUTH; and Lots 15 and 16, Block 96-1/2, said AUDITOR'S RE-ARRANGEMENT OF PART OF PORTLAND DIVISION OF DULUTH, which said 20.00 foot wide strip was formerly the northerly 20.00 feet of East Fourth Street and was vacated for the uses and purposes of a street by resolution of the Common Council of the City of Duluth, passed September 25, 1912 and recorded in Book 293 of Deeds, at Page 515.

**SURVEYOR NOTES:**

Orientation of the bearing system is based on the west line of Lot 7, Block 96, PORTLAND DIVISION OF DULUTH, to have a bearing of N 48°21'34" W, St. Louis County Transverse Mercator Coordinate System of 1996.

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

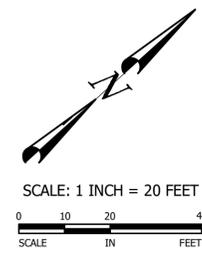
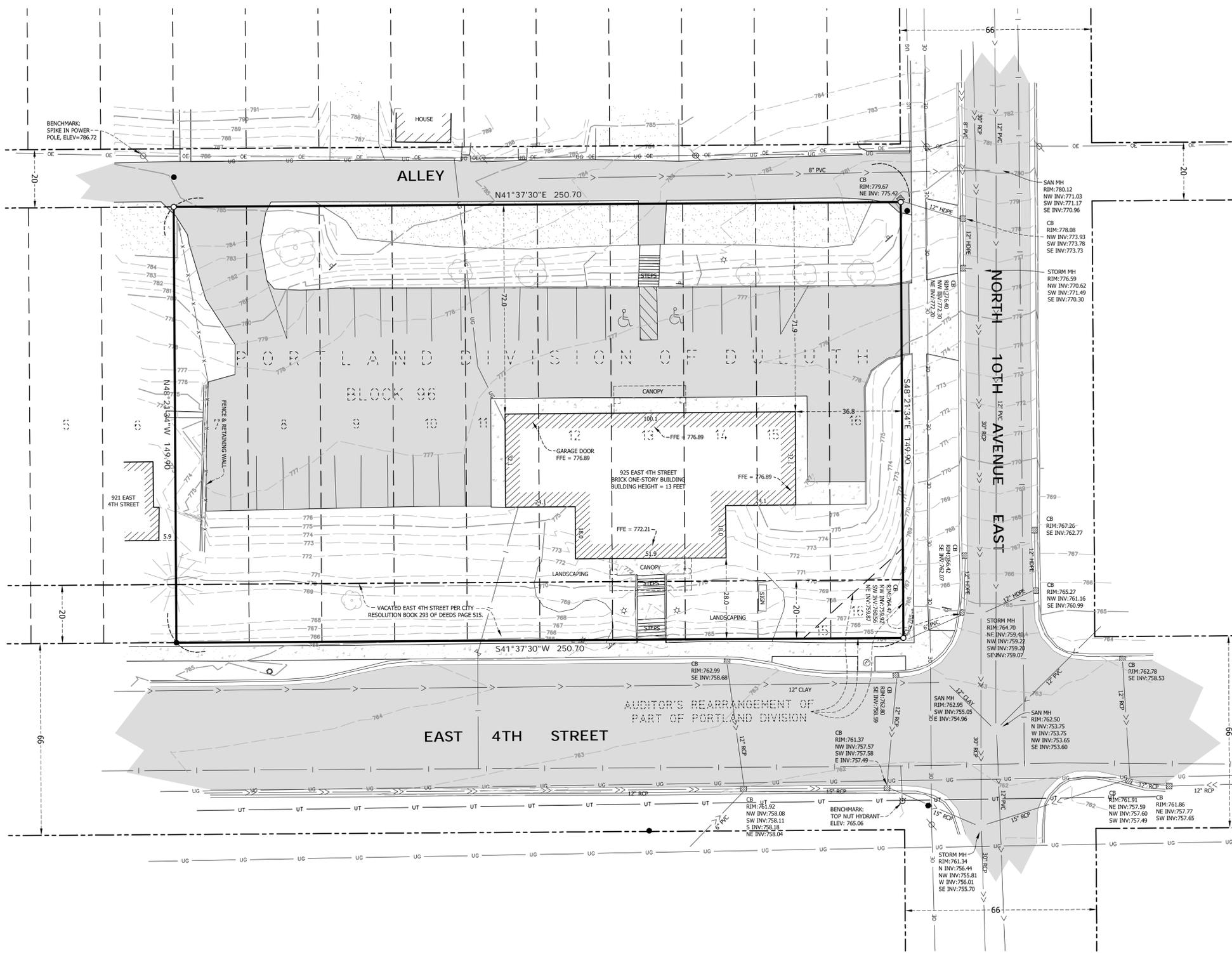
Parcel Identification Numbers for this property are 010-3830-15050, 010-3830-15070, 010-3830-15090 and 010-3830-15150.

Contour interval is one foot, all elevations are based on NAVD83 datum. Benchmark: MNDOT control point 6982 AU, elevation = 949.85. Benchmark: Spike set in power pole at northerly right of way line of Alley, opposite northwest corner of this property, elevation = 786.72. Benchmark: Top nut of hydrant at southwest quadrant of East 4th Street and North 10th Avenue East, elevation = 765.06.

Area of this property is 37,580 square feet or 0.8627 acres ±.

**LEGEND:**

- Iron monument found
- 1/2 inch iron monument set, marked "JPI ENG 21401"
- ⊕ Power pole
- ☆ Light pole
- ⊥ Sign
- ⊠ Catch basin
- ⊙ Sanitary sewer manhole
- ⊙ Storm sewer manhole
- Sanitary sewer line
- Storm sewer line
- Watermain line
- Overhead power line
- Underground gas line
- Underground telephone line
- ☼ Conifer tree
- ☼ Deciduous tree
- ▨ Gravel surface
- ▨ Bituminous surface
- ▨ Concrete surface
- ♿ Handicap parking space



**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 8th day of August, 2022, for: JPI Engineering, Inc.

*Randy M. Morten*  
 Randy M. Morten, PLS License Number 21401

Revised August 12, 2022

REVISION DESCRIPTION

DATE

**CERTIFICATE OF SURVEY & TOPOGRAPHY**

For: Doran Architecture  
 925 East 4th Street Duluth, Minnesota 55805  
 Lots 7-16, Block 96, PORTLAND DIVISION OF DULUTH, including vacated East 4th Street, St. Louis County, Minnesota.

SURVEY BY :	SBB JR
DRAWN BY :	AGJ
DESIGNED BY :	
APPROVED BY :	RMM
DATE:	8/08/2022
PROJECT NUMBER	22-067
SHEET NUMBER	1 of 1

Site Information			
Description	G.S.F.	Site Area %	
Site Area	37,500		
Site Acres		0.861	
Building Footprint	26,400	70.40%	
Pervious Surface	6,600	17.60%	
Impervious Surface	4,500	12.00%	
Total		100.00%	
Residence			
Net to Gross Rentable Area Efficiency			0.83
Net SF per Apartment Unit*			675
Residence	G.S.F.	Net Rentable	# Units
Level 1	5,400	4,482	6.0
Level 2	8,800	7,304	10.0
Level 3	21,900	18,177	26.0
Level 4	23,200	19,256	28.0
Level 5	23,200	19,256	28.0
Level 6	23,200	19,256	28.0
		87,731	
<b>Total GSF)</b>	<b>105,700</b>	175462.0	
<b>Unit Count</b>			<b>126</b>
*Min Ave Unit Size to meet Min parking requirement			

Density			
Units / Acre Residence:			146.4
FAR: (Parking Garage NIC)			3.85
Residence Parking			
Covered/Surace Stalls	S.F. /	400	180
Level 1 Garage, Trash, and Maint.	18,000		47
Level 2	16,300		43
Surface			17
On Street Short Term			4
Total	34,300		111
<b>Parking to Unit Ratio</b>			<b>0.88</b>
Amenity			
Level 1 Lobby, Leasing, Mail, Fitness			3,000
Level 3 Club & Game Room			1,300
Rooftop Ent Suite / Tower			900
Total			4,300
Area Totals			
		GSF	Units
Residence		105,700	126
Amenity		4,300	
Parking Garage		34,300	
<b>Total</b>		<b>144,300</b>	<b>126</b>

Zoning**		
Zoning Compliance Shown Below for Reference		
Current Zoning	F-6 Formed Base	
Proposed Zoning Path	Corridor Building II Zoning Shown	
	Compliance in Green	Variance in Red
Description	Requirement	Shown
Occupation of Corner	Yes	Yes
Front Build To Coverage	75%	90%
Height From Ave. Grade Plane	55'	55'
Min Landscape Area	15%	18%
Street Frontage BTZ	0' to 15'	8' to 12' Sidwalk
Side Yard Min	0'	7'
Rear Yard Setback	5'	7'
Access On Rear Only	Yes	No*
Active Liner on ground floor facing primary street	30'	38'
1 Ent per Front Main Façade	2	2
Min Parking To Unit Ratio ( 1:1.25 with 30% reduction w/ Tansit within 1/4 mile)	0.88	0.88
* Site has 14% Grade Change, making alley access ramp down parking extremely challenging		
**See Attached Zoning Excerpt pdf for more detail		





SCALE: 1" = 50'





SCALE: 1" = 50'



SCALE: 1" = 50'

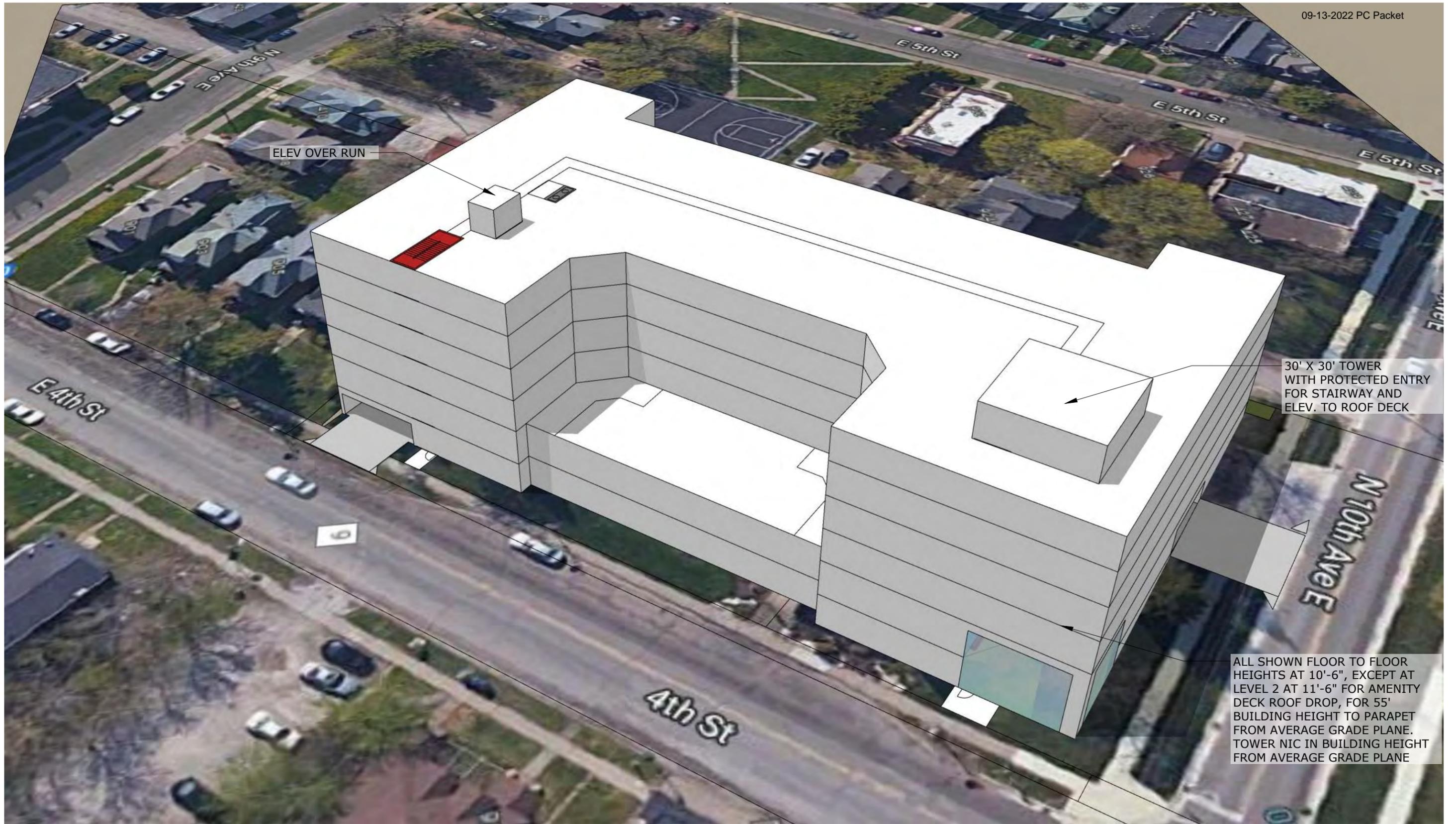


SCALE: 1" = 50'





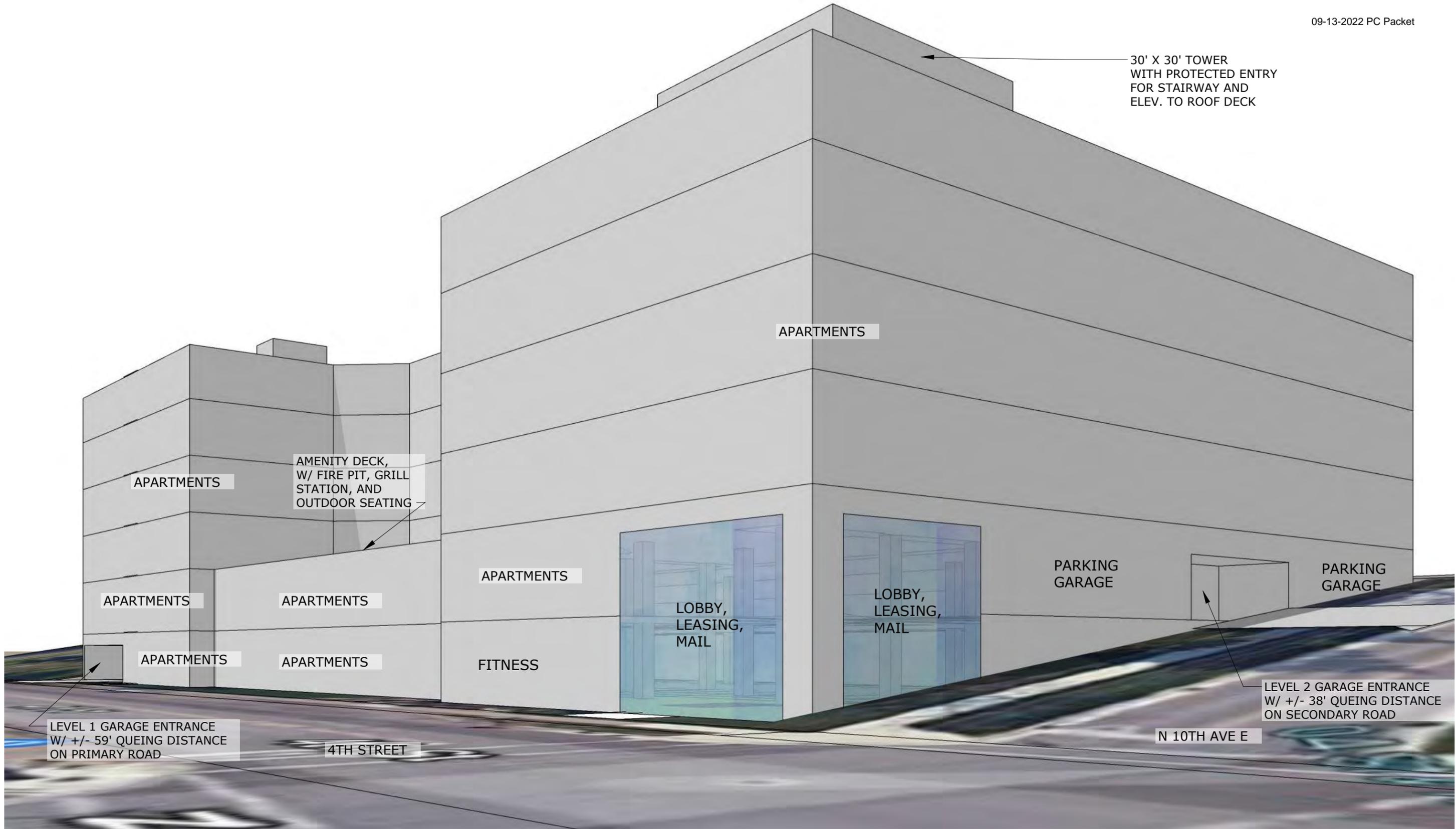
SCALE: 1" = 50'



30' X 30' TOWER  
WITH PROTECTED ENTRY  
FOR STAIRWAY AND  
ELEV. TO ROOF DECK

ALL SHOWN FLOOR TO FLOOR  
HEIGHTS AT 10'-6", EXCEPT AT  
LEVEL 2 AT 11'-6" FOR AMENITY  
DECK ROOF DROP, FOR 55'  
BUILDING HEIGHT TO PARAPET  
FROM AVERAGE GRADE PLANE.  
TOWER NIC IN BUILDING HEIGHT  
FROM AVERAGE GRADE PLANE





**Chris Lee**

---

**From:** Victor Lund <LundV@StLouisCountyMN.gov>  
**Sent:** Monday, August 29, 2022 10:02 AM  
**To:** Chris Lee  
**Cc:** Jim Foldesi; Matt Hemmila  
**Subject:** RE: Pending Items for September 13th Duluth Planning Commission Meeting  
**Attachments:** RE: Portland Square Development

This message was sent securely using Zix®

Good Morning, Chris,

St. Louis County Public Works has a comment on the following item...

PL22-146, Variance from Driveway Requirements at 925 E 4th St by Lunar Legacy LLC

4<sup>th</sup> Street is designated as a county road (CSAH 9) at this proposed apartment. I had a discussion with Nicholas Adams with Heirloom Property Management regarding a proposal to construct a driveway connection from this proposed apartment building to 4<sup>th</sup> Street located ~230 ft west of 10<sup>th</sup> Ave E. Based upon the distance of the proposed driveway from the intersection of 10<sup>th</sup> Ave E, the all-way stop control at the intersection of 10<sup>th</sup> Ave E, and the configuration of the apartment building (basement parking), I approved the access. See my attached email to Nicholas stating this approval. During our discussion, Nicholas also mentioned that they are planning to install a pedestrian warning system that would warn drivers exiting the apartment building about the presence of pedestrians on the sidewalk on 4<sup>th</sup> Street. Please note St. Louis County will not require this system, but it is certainly permissible. The installation/maintenance and ownership of this system is the responsibility of the apartment building.

Let me know if you have any questions.

Thanks!

**Victor Lund, PE, PTOE**

Traffic Engineer  
 St. Louis County, MN  
 Direct: 218-625-3873  
 Main: 218-625-3830  
[lundv@stlouiscountymn.gov](mailto:lundv@stlouiscountymn.gov)  
[www.stlouiscountymn.gov](http://www.stlouiscountymn.gov)

---

**From:** Jim Foldesi <foldesij@StLouisCountyMN.gov>  
**Sent:** Monday, August 29, 2022 7:37 AM  
**To:** Victor Lund <LundV@StLouisCountyMN.gov>  
**Cc:** Matt Hemmila <HemmilaM@StLouisCountyMN.gov>  
**Subject:** FW: Pending Items for September 13th Duluth Planning Commission Meeting

Vic – please review. Thanks.

James T. Foldesi  
 St. Louis County Public Works  
 Public Works Director/

## Variance Application Supplemental Form

925 E 4<sup>th</sup> St Duluth, MN

Parcel ID: 010-3830-15150, 15090, 15070, 15050

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

### **UDC Section 50-22: Permitted Driveway Locations**

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:

**We are requesting a variance to allow for driveway access on both E 4<sup>th</sup> Street and N 10<sup>th</sup> Ave E to allow for the entrances to two independent levels of indoor parking for a multifamily residential building. Based on the current UDC, parking entrance is required off of the alley, due to the steep grade of the property, that would place parking entrance on the third floor of the building. This creates difficulty in functionality and design of the building.**

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 topography of the property is a 14 degree grade from 4<sup>th</sup> street to the alley. This is common in the geography of the entire area.**

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 located within a F6 zoning, which is intended for high density usage. To build a high density apartment building, a significant amount of parking is required per zoning. The existing property currently has a driveway entrance off of 10<sup>th</sup> Ave E and Portland Manor, and existing 5 story multi family residential building (831 E 4<sup>th</sup> St) has a driveway entrance off of 4<sup>th</sup> Ave E due to similar topography issues.**

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 project being proposed with the approval of the variance for driveway location would consist of 121 residential units. With the approved driveway variance the project would include 97 indoor parking spots with entrances from E 4<sup>th</sup> St and 10<sup>th</sup> Ave E. The current proposed building with the approved variance would also allow for 17 outdoor surface parking stalls located along the alley adjacent to the building. By approving the variance, it provides the ability to maximize under utilized space to create more housing density with ample off street parking which is in line with Image Duluth 2035.**

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

**The variance requested for the project does not add any light or air pollution. All lighting for the building will conform to building codes as required in the permitting process. E 4<sup>th</sup> Street at this location is a county road and per conversations with St. Louis County Traffic Engineer Victor Lund, the proposed driveway access to 4<sup>th</sup> is approved pending variance approval by the City of Duluth Planning Commission. Email correspondence of approval is attached to this supplemental form. Per St Louis County, the driveway access on 4<sup>th</sup> St will require a driveway permit, which includes maintaining ADA sidewalk requirements across the driveway. The same planning will be applied to N 10<sup>th</sup> Ave E driveway to ensure pedestrian safety across the driveway. The project architect and builder are also considering the addition of pedestrian notification of exiting vehicles on the exterior of the building at both driveway locations.**

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:

**There is no change.**

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)?    Yes                      **No**

**No.**

**PLANNING COMMISSION  
CITY OF DULUTH, MINNESOTA**

**RESOLUTION NO. 22-134**

**RESOLUTION OF THE CITY OF DULUTH PLANNING COMMISSION FINDING THAT A  
A TAX INCREMENT FINANCING PLAN FOR THE RESIDENCE APARTMENTS TAX  
INCREMENT FINANCING DISTRICT CONFORMS TO THE GENERAL PLANS FOR THE  
DEVELOPMENT AND REDEVELOPMENT OF THE CITY.**

WHEREAS, the Housing and Redevelopment Authority of Duluth, Minnesota (the "HRA") and the City of Duluth (the "City") have established Project Area and adopted a Housing Development Plan for Tax Increment Financing District The Residence Apartments (the "TIF Plan") and have submitted the Plan to the City Planning Commission (the "Commission") pursuant to Minnesota Statutes, Section 467.175, Subd. 3, and

WHEREAS, the Commission has reviewed the Plan to determine their conformity with the general plans for the development and redevelopment of the City as described in the comprehensive plan for the City.

NOW, THEREFORE, BE IT RESOLVED by the Commission that the Program and Plan conform to the general plans for the development and redevelopment of the City as a whole.

Dated: \_\_\_\_\_, 2022

\_\_\_\_\_

Chair

ATTEST:

\_\_\_\_\_

Secretary



**Planning & Development Division**  
 Planning & Economic Development Department

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

# MEMO

**TO:** Planning Commission

**FROM:** Adam Fulton, Deputy Director of Planning and Development

**DATE:** September 13, 2022

**RE:** Conformance of The Residence Conformance to Comprehensive Plan

In order to facilitate development of The Residence mixed-income apartment complex located at the intersection of Grand Avenue, Carlton Street, and North 34<sup>th</sup> Avenue West (the “Project”), the City needs to approve adoption of The Residence Tax Increment Financing Plan. Staff recommends a motion to adopt the findings that the Tax Increment Financing Plan for The Residence conforms to the general plans for the development and redevelopment of the City via resolution PL22-134. The role of the Planning Commission is to make sure the proposed development and its uses are consistent with the Comprehensive Plan and Unified Development Code (UDC). Tax Increment Financing (TIF) is a financing tool that uses the increase in property taxes generated from site improvements to pay for a portion of those improvements.

The 80-unit Residence Apartments will be constructed to provide the one- and two- bedroom units, of which 40% will be made available to individuals and families earning 60% or less of the area median income, while the remaining 60% of the units will be made available for individuals or families earning 80% or less of the area median income.

The future land use designation of the development site is Neighborhood Commercial (NC), Open Space (OS), and General Mixed Use (GMU). According to the Imagine Duluth 2035 Comprehensive Plan, NC, OS, and GMU areas include a broad range of uses and intensities that support high density housing with retail, small retail and coffee shops, and open recreational space. This proposed development meets the intent of this future land use.

The property is zoned MU-N; according to the Unified Development Chapter, this district was intended “To accommodate a mix of neighborhood scale, neighborhood serving non-residential uses and a range of residential uses”. MU-N is an appropriate zone designation for the NC and GMU future land use category and allows multi-family and commercial retail uses.

This project implements the following Comprehensive Plan principles:

*Principle #1 Reuse previously developed lands.* 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. This strengthens neighborhoods and is preferred to a dispersed development pattern with

associated alteration of natural landscapes and extensions of public services. Site preparation or building modification costs are offset by savings in existing public infrastructure such as streets and utilities, and transit, fire, and police services.

*Principle #3 -Support existing economic base.* Supporting Duluth's existing economic foundation maintains jobs, tax base, and opportunity. Economic activity with specific location requirements may be subject to displacement or site competition with changes in real estate values. This traditional economic activity faces change as a result of global economic patterns, changing markets, new regulation, and aging of extensive infrastructure. Nevertheless, fundamentals remain and the economic contribution, sometimes taken for granted, is significant. This project supports the significant economic base of nearby business districts, which contain a high concentration of commercial and retail businesses. Residential units in this area will contribute to more patronization of these businesses as well as increased utilization of public green space amenities.

*Principle #5 Promote reinvestment in neighborhoods.* Duluth is strongly defined by its neighborhoods. This system should be supported 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.

*Principle #6 Reinforce the place-specific.* Public and private actions should reinforce cultural, physical, and economic features which have traditionally defined Duluth, its open space, and its neighborhoods. This includes commercial areas providing neighborhood goods and services, ravine parks and other natural features, and view corridors to the lake or river which serve to provide location and context.

*Principle #12 Create efficiencies in delivery of public services.* The costs of public service must be considered in land use decisions. Street construction and maintenance, utilities, libraries, fire, police, snow removal, and recreation facilities are services directly related to the physical location of development. Infrastructure should help direct development location rather than react to it. The integration of public services to maximize efficiencies with all related use decisions should be evaluated.

City staff believe that the proposed development conforms to and implements the Comprehensive Plan principles. City staff ask that the Planning Commission review this item, and following discussion, make a finding that it conforms to the Imagine Duluth 2035 Comprehensive Plan via resolution PL22-134.

---

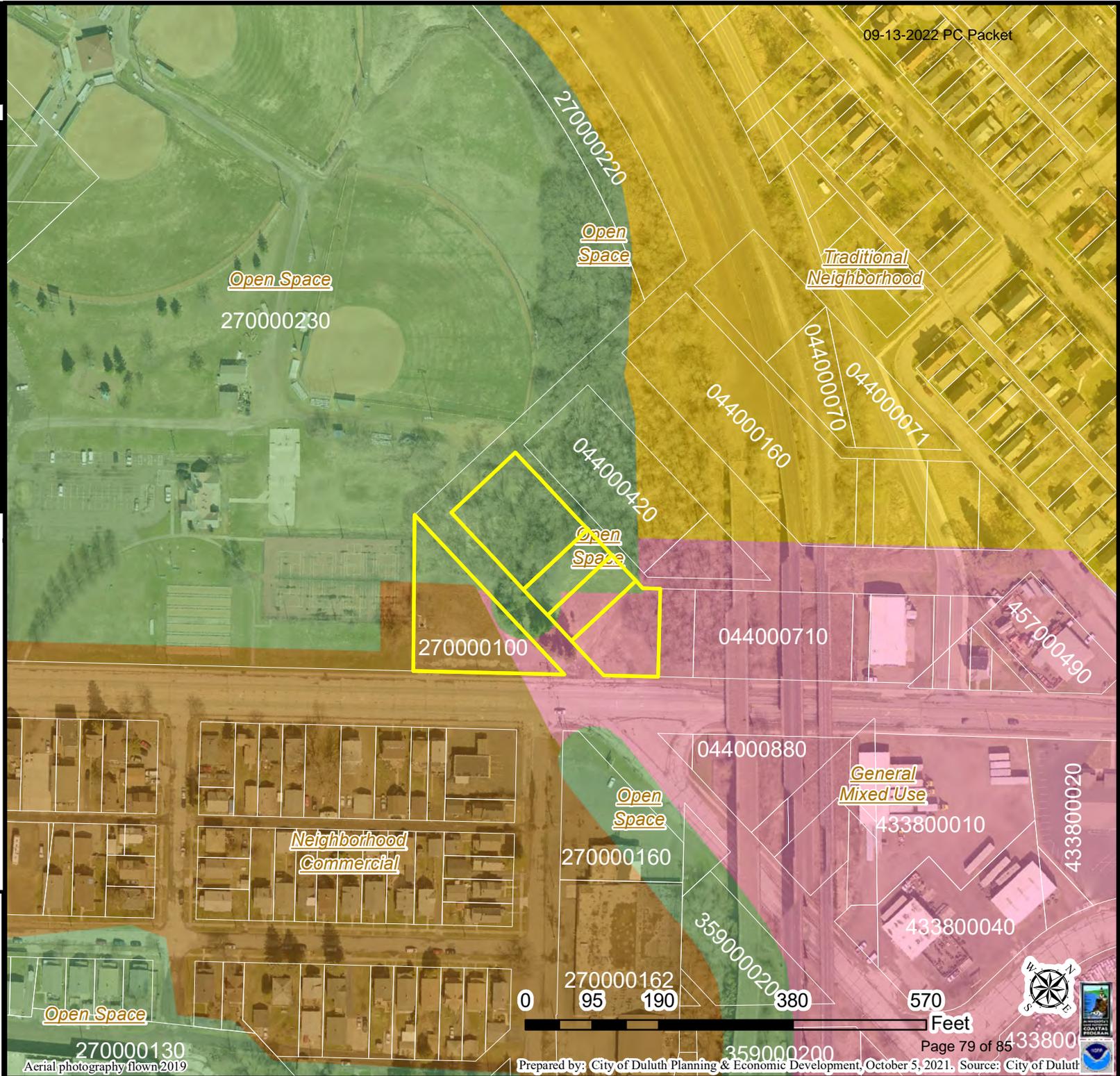


3401 Grand Avenue

09-13-2022 PC Packet

### Legend

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



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

270000130  
Aerial photography flown 2019

To: Duluth, MN Alcohol, Gambling & Tobacco Commission  
c/o Ian Johnson, City Clerk  
City Hall, Room 318  
411 West First Street  
Duluth, MN 55802  
218-730-5500

From: James Matheson, Resident  
1818 East Fourth Street  
Duluth, MN 55812  
218-591-8559

Re: Alcohol Licensing Of Property Located At 318 North 18<sup>th</sup> Avenue East, Duluth, MN 55812

I would like to begin by thanking the members of the Alcohol, Gambling & Tobacco Commission for their time and attention to this matter. Both are greatly appreciated.

My name is James Matheson, and I am a resident of the 1800 block of East Fourth Street in Duluth, MN. I was born and raised in Duluth, specifically at the residence there, and my family still retains ownership of that particular property. Over the years, we have been interested in the maintenance and development of the building located at 318 N. 18<sup>th</sup> Ave. E. since it has always been a part of the area we acknowledge as being our neighborhood.

My earliest recollection of that building stretches back to the mid-1970s when it was a small grocery store named Fair Deal Market. The proprietor lived in an apartment on the second floor and operated the business on the street level. Fair Deal Market was permanently closed by the mid- 1970s, but the building was soon purchased and occupied by a young married couple who opened a houseplant shop on the lower level and dwelt in the apartment above. By the mid- 1980s, the building had again changed hands and- from what I have been told- was used as a real estate office until the owner/agent sold the building to a small church that went on to use the space for over ten years. The building was then offered for sale and purchased by the current owner.

I have spoken with the current owner- Imran Khan of St. Paul, MN- on several occasions, prompted by a "For Sale" sign that has periodically appeared in the building's window. The first conversation, which I believe was in 2017, quickly evolved into a discussion that I did not expect to have. I was never quoted a sale price for the building, but I was told about plans for a restaurant and offered a partnership in that business for \$100,000. It was proposed that this restaurant may serve wine and beer, but I did not note any particular emphasis on that particular detail. When I asked about the nature of the partnership, I was told in no uncertain terms that my investment would not entitle me to any amount of ownership in the real property.

In 2019, I noticed that the sign had reappeared in the window so I called again. In this conversation, I was quoted \$400,000 as an asking price for the building and was again offered an opportunity to invest in the venture- at a price of \$150,000. However, this time I heard nothing about a restaurant. The owner's new vision was for a bar that would offer rooftop seating and would appeal to college- aged patrons. I was also told about plans to implement a "self-service" tap room that may include a microbrewery in the basement. It was expressed to me that this model would be ideal because it would require no employees whatsoever, an idea that I believed was short- sighted and irresponsible.

I saw the sign in the window one more time after our second conversation, but did not call because I had an uneasy feeling about the scope of the previous conversations and I believed that the owner had no intention of selling the building. He seemed solely interested in attracting individuals who may write him a check for some sort of stake in his business venture.

I have included the information above to establish some context regarding the situation as a whole. I will now address specific concerns that are relevant to the presence of this business venture in its current location.

## I. Business Model

There are a number of issues that I believe have not been properly addressed when considering the approval and licensing of the current business entity that occupies the aforementioned property, hereafter referred to by its registered business name Golden Bulldog, Inc.

While Golden Bulldog, Inc. is currently licensed to operate as a restaurant, it is apparent that the actual business model is far more focused on alcohol sales. In fact, while this establishment does not maintain a dedicated website, its Facebook page identifies the business as a “Bulldogs Themed Bar and Arcade Lounge”. Directly below this statement there is a second identifier that simply states “Lounge”. Clicking the link associated with this identifier produces a Facebook search that yields results that primarily consist of bars and taverns.

In fact, the owner has been broadcasting the actual business model through the media for some time now. In an interview with [perfectduluthday.com](http://perfectduluthday.com) dated Oct 21, 2020 he states it quite clearly: “Khan, a developer based in Saint Paul, said his ambition is to create a community-focused bar in the heart of Duluth.”<sup>1</sup> A web search for “the golden bulldog duluth mn” yields numerous results that identify the business as a bar or pub.

A look at the establishment’s menu- if one can be found anywhere online or in print- is also suspect. From what can be ascertained, the menu has never consisted of anything more than hotdogs and Heggies frozen pizza- either of which can be readily purchased at numerous gas stations in the Duluth/Superior area. On July 7, 2022 their Facebook page announced a new “Izakawa pop-up” that will serve “. . . Japanese pub food. . . on Fridays! Along with karaoke!!” While karaoke may be a popular entertainment option for many types of venues, it seems counterintuitive that a restaurant would need to host a pop-up food service event.

Or perhaps it’s not. A photograph of their on-site menu board from July 2, 2022 seems to indicate that at some point they stopped offering hotdogs altogether, while the list of available beverages appears to have expanded to include hard alcohol drinks- even before their full liquor license has been issued, according to Duluth City Clerk Ian B. Johnson. An online review dated January 2022 states, “They have the best seltzers in the area!”<sup>2</sup> The current menu also offers bottled/canned beverages from Vikre Distillery in Duluth, MN.

A YouTube video posted on Apr 28, 2022 seems to define the business model as well as anything else, though. Entitled “Golden Bulldog Bar FPV Drone Flythrough (Duluth, MN)”<sup>3</sup>, it allows the viewer to take a virtual tour of the establishment during operating hours. While the video does show numerous people in the building with drinks in their hands, there is not a single plate of food to be seen anywhere. In fact, there does not even appear to be a kitchen area in the building.

The lack of a kitchen is perplexing, since on August 8, 2017 the Planning Commission of the City of Duluth Planning & Construction Services Community Planning Division voted to approve “PL 17-079 Special Use Permit for a Restaurant in a Mixed Use Neighborhood District (MU-N) and in the Higher Education Overlay District (HE-O) at 318 N. 18<sup>th</sup> Ave East by Imran Khan”.<sup>4</sup> Presuming that this permit is in effect in 2022, it is alarming to think that it has been renewed over the past five years without any requirement that the building contain a code- compliant food preparation area.

On September 5<sup>th</sup>, 2018 the Alcohol, Gambling & Tobacco Commission considered “APPLICATION FOR AN ON SALE WINE AND ON SALE NON INTOXICATING MALT LIQUOR LICENSE, 318 NORTH 18<sup>TH</sup> AVE EAST, DULUTH, MN. IMRAN KHAN, OWNER.”<sup>5</sup> In this meeting, the commission was advised by Officer Vang of the Duluth Police Department that “. . . Police Administration is recommending reduced hours of operations due to the restaurant being in a residential area. Proposed hours of operation will be: Sunday-Thursday 8:00 a. m.-9:00 p. m. and Friday and Saturday they may stay open until 10:00 p. m.”<sup>5</sup> The minutes from this meeting indicate that, “Approval of the license, with the limited hours was recommended Commissioner Rosenthal, and a second was made by Commissioner Stauber. The limited hours licenses

will move forward for council's approval, pending completion of the health department inspection, fire department approval, and finance approval."<sup>5</sup>

It's hard to imagine what the Department of Health may have inspected, but nonetheless on October 8, 2018 the Duluth City Council unanimously adopted Resolution 18-0627R "RESOLUTION ISSUING AN ON SALE 3.2 PERCENT NON INTOXICATING MALT LIQUOR LICENSE AND APPROVING ISSUANCE OF AN ON SALE WINE LICENSE TO GOLDEN BULLDOG, INC. (GOLDEN BULLDOG) 318 NORTH 18<sup>TH</sup> AVENUE EAST".<sup>6</sup> The attachment to this resolution, which is signed by the building owner, states that "50% of sales will be food".

It may be difficult to verify that half of Golden Bulldog, Inc.'s sales are resulting from food purchases, but verifying its failure to comply with reduced hours of operation is not. Numerous loud noise complaints have been lodged with the 911 system and the Duluth Police, many of which were reported outside the parameters of Golden Bulldog, Inc.'s mandated operating hours. After noticing a pattern of neighborhood nuisance I contacted City Councilor Mike Mayou, who referred me to the City Clerk for more information. On July 1<sup>st</sup>, 2022 I received an email from Ian B. Johnson containing the following information:

*"They applied for a full on-sale intoxicating liquor license in March, 2022, and were approved by the council on April 25. However, the on-sale license hasn't yet been issued and they are effectively still operating under their wine and beer license.*

*Upon looking at their website, it appears that they are not operating in compliance with the time restrictions imposed by the city. I will follow up with them and make it clear that their hours must be reduced immediately to be in compliance with city requirements and that continued non-compliance will be dealt with appropriately. I will also contact DPD to make sure that they are aware of the reduced operating hours of this establishment, in case they receive further complaints."*

While the City Clerk's immediate attention to this matter is greatly appreciated, it has not been effective in curtailing non-compliant operation on the part of Golden Bulldog, Inc. Enclosed with this document are a number of photographs that indicate not only Golden Bulldog, Inc.'s unwillingness to cease operations at the mandated times, but also the fact that they have been and continue to vend beverages that are not included in their current licensing. Several nuisance calls have been made in conjunction with live music events that Golden Bulldog, Inc. has seen fit to host in the building. One in particular- a concert featuring a band called "Love House"- resulted in a call on the Monday night before the event, since the band was apparently allowed to sleep in the building as opposed to spending money on hotel rooms. These overnight occupants made several trips into the parking lot behind the building for the apparent purpose of blaring loud music from a vehicle parked there. It was also visible to me from the street that they were drinking in the building, well after the mandated hours of operation.

Also included in the enclosed photographs is a picture of the front of the building, where the hours of operation are clearly posted on the front door.

One added concern relates specifically to the operation of a restaurant with a license to vend liquor. As a restaurant, Golden Bulldog, Inc. is permitted to admit patrons of any age and is required to verify the age of any customer who orders an alcoholic beverage. Given the nature of its current business model, the potential for providing alcohol to patrons who are underage seems high. It is certainly possible for customers who are of legal age to order multiple beverages, and then simply hand them to younger patrons. Businesses that operate bars seem to be subject to restrictions that make this occurrence less likely.

## **II. Zoning Requirements**

A review of the licensing and permitting process for Golden Bulldog, Inc.'s operations raises several questions.

1. 15 Foot Easement From Adjacent Properties
2. Setback From Street Versus Building Height

While both of these requirements may be excusable through variances or a “grandfather clause” policy, it seems that the type of business that occupies the property should be considered carefully before approval is issued. Office space and retail ventures are typically less likely to present a nuisance to neighboring residential properties than certain other types of businesses. Even a restaurant could operate inside of the 15 foot easement distance without disturbing the residents in neighboring structures. The atmosphere typical of a bar or tavern setting tends toward loud music and conversation, and Golden Bulldog, Inc. has displayed this type of setting on numerous occasions. The property occupied by the business shares a property line with 1802 East 4<sup>th</sup> Street with only a narrow walkway between the building and the yard to the north. Considering the fact that noise complaints have been lodged by residents in the apartments across the avenue from Golden Bulldog, Inc. it seems reasonable that the property to the north has been inconvenienced as well.

Also of note is the fact that their patrons have been seen outside the building with alcoholic beverages in hand. In one instance, I personally observed two customers drinking openly on the street a full half block away from the building. More commonly, customers have been seen drinking outside of the building at the back and front doors. I have also on several occasions personally observed patrons of the establishment at the eastern end of the causeway to the south of the building, for reasons that I can only speculate about.

There is obviously little that can be done about the setback requirements as related to the building height, so a variance with regard to this requirement seems entirely reasonable.

Golden Bulldog, Inc. has one problem related to its location that has apparently been completely overlooked in the approval process: Adequate parking. With the heavy parking burden on the area, caused by the presence of numerous multi- unit rental properties, it is reasonable that Golden Bulldog, Inc. be asked to accommodate their customers with off street parking. Several other restaurants within six blocks of this location have been able to do so successfully. Golden Bulldog, Inc. does not appear to have the ability to do the same.

The minutes from the aforementioned meeting of the Planning Commission of the City of Duluth Planning & Construction Services Community Planning Division on August 8, 2017 demonstrates the problem. Prior to the approval of the PL 17-079 Special Use Permit, there is a withdrawn request for “PL 17-092 Variance From Parking Standards (Width of Parking Lot Drive Aisle from the 24 feet required to 10 feet) at 318 N 18<sup>th</sup> Avenue East by Imran Khan Withdrawn”.<sup>4</sup> This is significant for several reasons. First, the request was likely to be denied for reasons of safety. Second, since the existing driveway cannot be widened because it is bordered by a utility pole and the property line to the south and the building’s gas main on the north, the building owner was left needing to find another solution.

Golden Bulldog, Inc.’s solution was to “cut the curb” between the back of its property and the alley to the south, seemingly allowing customers to access off- street parking behind the building. There is a problem with this solution, though. The causeway that Golden Bulldog, Inc. is encouraging its patrons to use is not a public roadway belonging to the City of Duluth- it is a private driveway attached to 1807 East 3<sup>rd</sup> Street and owned by Trondheim 18 LLC of St. Paul, MN. This situation should be verified and assessed carefully, as any damage or injury caused by Golden Bulldog, Inc.’s customers could result in extensive legal ramifications.

The current situation is not Imran Khan’s first misstep when dealing with Minnesota property law. In June of 2014, several plaintiffs filed suit against Mr. Khan in a dispute regarding real property located in St. Paul, MN. In the proceedings contained in Case Number 62-CV-14-4207<sup>7</sup> it was determined that Imran Khan had made erroneous claims regarding the location of the boundary enclosing a property he had purchased.

It seems reasonable that, at the very least, Golden Bulldog, Inc. be required to produce a legally- binding easement between itself and Trondheim 18 LLC for use of the causeway in question. Without the existence of such an agreement, the result is that Golden Bulldog, Inc. creates an attractive nuisance and encourages its customers to trespass on private property. Further, without some provision for customer parking Golden Bulldog, Inc. has no option but to impose an undue burden on the already strained parking situation in the area. Even with the current situation in

place, it has not been uncommon to observe Golden Bulldog, Inc.'s customers parking solely in Trondheim 18 LLC's driveway, blocking garage doors and limiting access to the driveway by the residents of 1807 East 3<sup>rd</sup> Street.

**III. Conclusion**

In the preceding document, I have attempted to highlight concerns regarding Golden Bulldog, Inc.'s operations in a Mixed Use- Neighborhood zone in the City of Duluth. These concerns range from what may be referred to as the "original spirit or intent" of the MU-N zone definition itself, and extend into the areas of nuisance properties and public safety. I believe it is important to consider the impact that businesses can have in residential neighborhoods, especially when they are mismanaged or- in the worst case- operated outside the parameters of the law.

Businesses in residential areas do not always add value to the areas they occupy, but they do almost always add a burden to the residents that live nearby. Issues such as available parking and peaceful enjoyment of legally- occupied residences may mean nothing to a business person who resides several hundred miles away, but it is important to remember that the residents of the area see no profit from the business venture at all. Property values do not necessarily increase, for example, simply due to the presence of a business in the area. It is the business owner who receives revenue from the venture, and as such should feel some ethical- if not legal- responsibility to be as respectful as possible to the neighborhood's residents and to lessen the impact of their operation's presence to a minimum.

With that in mind, I find it outrageously disrespectful that Golden Bulldog, Inc. should believe that it is acceptable to completely ignore the laws and edicts of this city in its quest for profit. Ignoring mandated operating hours, vending beverages not covered by its licensing, allowing open containers outside of the building and encouraging loud and raucous behavior on and around the premises should not be tolerated or rewarded- especially considering some of the questionable circumstances regarding this business's original permitting and licensing. A lack of response to Golden Bulldog, Inc.'s disregard for these details will set a dangerous precedent for future business ventures in the city, and can only serve to weaken the authority of its governing body.

Considering the concerns outlined in this document, I request that the Alcohol, Gambling & Tobacco Commission, the Planning Commission of the City of Duluth Planning & Construction Services Community Planning Division, and Duluth City Council reconsider the circumstances surrounding Golden Bulldog, Inc.'s permitting and licensing to operate under its current business model in this Mixed Use- Neighborhood zone. A review of the previous permitting and licensing process, re- inspection of the property, re- evaluation of the area and verification of the business as a restaurant all seem to be in order. If Golden Bulldog, Inc. is unable to meet the criteria set forth for compliant, safe, lawful and nuisance- free operation then it would be my request that its permitting and licensing be suspended or revoked until such time that a satisfactory resolution can be found.

If any member of the above- mentioned council or commissions would like to contact me for further information, please feel free to do so. I would be happy to answer any questions or provide whatever further information may be deemed useful. I again thank the commission for its time and attention to this matter, and I look forward to hearing its thoughts on the matter.

Signed \_\_\_\_\_

Date \_\_\_\_\_

James William Matheson

**Referenced Web Links**

1. <https://www.perfectduluthday.com/2020/10/21/golden-bulldog-owner-still-struggling-to-open-pub-near-umd/>
2. <https://www.restaurantji.com/mn/duluth/golden-bulldog-/>
3. <https://www.youtube.com/watch?v=QM0S54wQ7sw>
4. <https://duluthmn.gov/media/WebSubscriptions/97/20170808-97-8788.pdf>
5. <https://duluthmn.gov/media/WebSubscriptions/159/20180906-159-9828.pdf>
6. <https://duluth-mn.legistar.com/LegislationDetail.aspx?ID=3645885&GUID=E5C62E0A-66D3-4B57-BD9B-547B664CDC50>
7. <https://publicaccess.courts.state.mn.us/CaseSearch>

**Related information**

[https://m.facebook.com/perfect.duluth.day/posts/10158820980642246?\\_se\\_imp=0c8xZqA5n0I75juMp](https://m.facebook.com/perfect.duluth.day/posts/10158820980642246?_se_imp=0c8xZqA5n0I75juMp)

Comments from readers at the Facebook version of PerfectDuluthDay's article are of interest.

<https://www.twincities.com/2016/10/28/fighting-soo-restaurant-st-paul-west-seventh/>

<https://www.grandforksherald.com/business/man-seeks-to-open-fighting-soo-restaurant-in-st-paul>

Each of these links refer to Imran Khan's other business interests in Minnesota.

**Encl. 15 Related photographs provided to Duluth City Clerk via email.**