



CITY OF DULUTH

PLANNING & CONSTRUCTION SERVICES
Community Planning Division
411 West First Street – Room 208 - Duluth, Minnesota 55802-1197
218-730-5580 – An Equal Opportunity Employer

Planning Commission Agenda

City Council Chambers, 3rd Floor Duluth City Hall
Tuesday, July 10, 2018 – 5:00 PM

Call to Order and Roll Call

Approval of Planning Commission Minutes (June 12, 2018)

Zenith Awards (C.A.I.R, Endi, Center for Changing Lives)

Consent Agenda

Items that are perceived to be non-controversial or routine will be placed on the consent agenda. There will not be an individual public hearing on each of these items unless the applicant or a member of the public wishes to speak to the matter. These items on the consent agenda will be approved by the Planning Commission with one vote.

1. PL 18-077 Vacation of Building Line Easement at 2031 London Road by Marvin Development IV, LLC
2. PL 18-075 Variance from Front Yard Setback in a Rural Residential 1 (RR-1) District at 3902 Norton Road by Leah Collette
3. PL 18-084 Variance from Side Yard Setback in a Rural Residential 1 (RR-1) District at 711 Howard Gnesen Road by Christopher and Lindsay Theis

Public Hearings

4. PL 18-078 Final Plat for Kayak Bay at Approximately the Intersection of Warwick Street and Grand Avenue by Spirit Valley Land Company LLC
5. PL 18-079 Vacation of Public Right of Way for Kayak Bay Final Plat by Spirit Valley Land Company LLC
6. PL 18-086 Variance from Minimum Lot Frontage Requirement in a Rural Residential 1 (RR-1) District at 10013 West Skyline Parkway by Edward and Candace Barbo

Communications

- A. Manager’s Report
 - EAW
 - Kenwood Rezoning
- B. Reports of Officers and Committees
 - Heritage Preservation Commission Representative
- C. Adjournment

City of Duluth
 Planning Commission
 June 12, 2018 Meeting Minutes
 Council Chambers - Duluth City Hall

Call to Order

President Michael Schraepfer called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, June 12, 2018, in city hall council chambers.

Roll Call

Attending: Jason Crawford, Janet Kennedy, Tim Meyer, Margie Nelson, Michael Schraepfer, Luke Sydow, Sarah Wisdorf, and Zandra Zwiebel

Absent: N/A

Staff Present: Keith Hamre, Robert Asleson, Steven Robertson, John Kelley, Chris Lee, and Cindy Stafford

Approval of Planning Commission Minutes – May 8, 2018

MOTION/Second: Wisdorf/Zwiebel approve the minutes with one change

VOTE: (8-0)

Consent Agenda and hearing

Items that are perceived to be non-controversial or routine will be placed on the consent agenda. There will be no staff presentations on these items; the Planning Commission will be acting upon the staff recommendation and conditions written in the staff reports. There will not be an individual public hearing on each of these items unless the applicant or a member of the public wishes to speak to the matter. Instead there will be one public hearing for all the items on the consent agenda, and they will be addressed by the Planning Commission with one vote.

1. PL 18-058 Vacation of 125 Feet of Unimproved Platted Right of Way (Alley) Between South 90th and 91st Avenues West and Clyde Avenue by Scott and Beth Nelson
2. PL 18-059 Concurrent Use Permit for Private Obstruction (Structure Cladding or Surfacing) in the Public Right of Way of Michigan Street at 310 East Superior Street by First North Development LLC
3. PL 18-060 Concurrent Use Permit for Private Obstruction (Existing Structure's Footprint) in the Public Rights of Way of 60th Avenue East and Superior Street at 6001 East Superior Street by North Shore Veterinary Hospital
4. PL 18-061 Concurrent Use Permit for 1.5 Foot Building Encroachment (Existing Structure's Footprint) in the Platted Right of Way of 13th Avenue East at 1231 East Ninth Street by Jordan Decaro
5. PL 18-062 Concurrent Use Permit for Private Obstruction (Small Cell Antenna) in the Public Right of Way in the Public Right of Way of North 6th Avenue West at Approximately 98 North 6th Avenue West by CommNet Cellular Inc d/b/a Verizon Wireless
6. PL 18-063 Concurrent Use Permit for Private Obstruction (Small Cell Antenna) in the Public Right of Way of Maple Grove Road at Approximately 2150 Maple Grove Road by CommNet Cellular Inc d/b/a Verizon Wireless
7. PL 18-064 Concurrent Use Permit for Private Obstruction (Small Cell Antenna) in the Public Rights of Way of West Railroad Street and Canal Park Drive at Approximately 688

West Railroad Street and 250 Canal Park Drive by CommNet Cellular Inc d/b/a Verizon Wireless

8. PL 18-070 Minor Subdivision to Separate Two Single Family Homes at 2226 and 2230 Minnesota Avenue by Gregory Peterson

Staff: Steven Robertson gives an overview of all items. Janet Kennedy asks about changes that were made to the small cell antenna. Robertson shows the copy of his red-lined documents which basically changes the wording. The documents given today are the final documents. Director Keith Hamre states the changes were not something the planning commission needs to review within a community context. Luke Sydow questions the age of removal. What happens when they are not needed anymore? Is there money set aside? Per Robertson, he doesn't know, but they are modest in size. Zandy Zwiebel notes it is written in the document that the permittee will be responsible for removal. Director Hamre affirms. Commissioner Jason Crawford will abstain from voting on agenda item PL 18-061. Sydow will also abstain from voting on PL 18-061.

Public: No speakers.

MOTION/Second: Zwiebel/Meyer approve staff's recommendations for consent agenda items.

VOTE: (8-0)

VOTE PL 18-061: (6-0, Crawford and Sydow Abstained)

(Commissioner Sarah Wisdorf left during the next item.)

Public Hearings

9. PL 18-069 UDC Map Amendment to Rezone Property on the South Side of Arrowhead Road, Between Swan Lake Road and Rice Lake Road (Harbor Light Development), from Residential-Urban (R-2) to Mixed Use-Planned (MU-P) by Brad Johnson

Staff: Steven Robertson introduces the applicant's proposal to rezone the north 18 acres of the Harbor Light plat to Mixed Use-Planned (MU-P) to accommodate 3.9 acres of mixed-use/commercial uses on Lots 1 and 2 near Arrowhead Rd., 5.0 acres of community/civic space in Lot 3, 1 acre of street infrastructure, and 7 acres of open space to be preserved on the balance of the 18 acres. Staff recommends approval. Zwiebel asks about the additional public benefits. Is there something specific in mind? (i.e. park benches). Robertson shares the overview which shows the preservation of trees. He suggests she asks the applicant.

Applicant: Heidi Bringman of LHB addresses the commission on behalf of the applicant. Regarding additional public benefits, the site plan is not fully developed yet. They have completed a tree survey for the site. A conservation area/easement has been created for the entire property. It will include 13.43 acres of land which will be preserved. 886 trees (401 special trees and the rest will be significant trees) will be preserved within this area. Special trees include: white pine and red pine; significant trees include more common trees: birch, poplar, maple, and oak. Zwiebel asks if the distinction just pertains to tree type, or does it refer to other factors including size. Bringman explains they are meeting the intent of the code and size is a factor. Sydow questions why the regulating plan does not include the southern portion of the development, which they are grading and removing trees. Bringman notes the area is already zoned R-1, and they don't see a need to change that. They are grading it to balance the site and possibly get it ready for residential use. They are providing reassurance to the adjacent neighbors that it won't become MU-P. Zwiebel asks about

the comp plan principles. Bringman notes the benefits to the community includes a trail system. There will be a sidewalk which will connect to the residential development. There will be a paved path to Marble Street. There will be connections from north to south and east to west. Sydow are they willing to show the north/south trails. Bringman yes, they will be providing an updated map. Director Hamre notes it will be shown on the final plat. Tim Meyer asks about the timing of the next resubmittal. Robertson notes the uses are permitted and will not be brought back to the planning commission.

Public: Greg Follmer, 230 E. Superior St., addresses the commission. He is in favor of the rezoning.

Commissioners: Zwiebel

MOTION/Second: Zwiebel/Crawford recommend approval as per staff's recommendations.

VOTE: (6-1, Nelson Opposed)

Communications

10. Manager's Report – Director Hamre gives an overview. The comp plan was tabled by the city council last night. The topic of golf courses was addressed. They need to look at all aspects of operation. Crawford states a consultant has been hired to complete a golf study report. June 25th will be the next opportunity to pass the comp plan. The city council approved a new member for the planning commission. Gary Eckenberg will replace Heather Wright Wendel. Next month is the zenith awards. Regarding vacation rentals, a waiting list of applications is not feasible. Currently there are four interim use permits available. In the coming week, the city will advertise and make known the status of availability and then conduct a lottery. The timeline for interested parties will be open for approximately three weeks.
11. Reports of Officers and Committees
-Heritage Preservation Commission Representative – Zwiebel states there was no meeting this month.
12. Meeting adjourned at 6:10 p.m.

Respectfully,

Keith Hamre - Director
Community Planning and Construction Services



CITY OF DULUTH

PLANNING & CONSTRUCTION SERVICES DEPARTMENT
Community Planning Division
411 West First Street – Room 208 - Duluth, Minnesota 55802-1197
218-730-5580 – An Equal Opportunity Employer

DATE: July 10, 2018
TO: President Schraepfer and Planning Commissioners
FROM: Adam Fulton, Community Planning Manager
RE: Status of Ongoing and Upcoming Planning Projects

Projects:

Imagine Duluth 2035

The Imagine Duluth 2035 update to the Comprehensive Plan was adopted by the City Council on June 25, 2018. Implementation actions will begin over the next several months, including specific policy and city code elements to be evaluated. An implementation schedule is in development and will be provided to the Planning Commission at a future meeting. Implementation actions will include intended study of selected Core Investment Areas over the course of the next several years.

Pastoret Terrace Environmental Assessment Worksheet (EAW)

An EAW for the Pastoret Terrace has been prepared and approved by the Duluth Economic Development Authority. The EAW is being undertaken to evaluate the site's historic character and to consider the possibility of changes to the site, including razing existing structures. The Pastoret EAW is available for review at <http://www.duluthmn.gov/community-planning/eaw/> and will come before the Planning Commission for an optional public hearing at its August 14, 2018 meeting.

Kenwood Avenue / Arrowhead Road Rezoning

A neighborhood meeting to consider rezoning changes to the area of Kenwood Avenue and Arrowhead Road was held on June 7th. The proposed rezoning is consistent with the adopted Future Land Use Map, and would help set the stage for further analysis of this area as one of the twelve designated Core Investment Areas. Following that meeting, staff is evaluating elements of the area before the recommendations come to the Planning Commission, anticipated at the August 14th meeting. A map of the area is attached.



City of Duluth
Planning Division

411 West First Street • Room 208 • Duluth, Minnesota 55802-1197
218-730-5580 • Fax: 218-730-5904 • www.duluthmn.gov

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DATE: May 22, 2018

RE: Notice of Planning Meeting

Dear Sir or Madam,

You are receiving this letter in order to inform you of a planning activity near your property. The City recognizes this neighborhood as a core investment area in the Imagine Duluth 2035 Comprehensive Land Use Plan based on the existing character and redevelopment potential for the area. To help achieve priorities and opportunities for this core investment area the City is proposing to rezone property in the general area of Kenwood Drive and West Arrowhead Road (see map on reverse of this letter) to the following:

- Area A: from Residential-Traditional (R-1) to Mixed Use Neighborhood (MU-N),
- Area B: from Residential-Urban (R-2) to Mixed Use Neighborhood (MU-N),
- Area C: from Residential-Traditional (R-1) to Mixed Use Neighborhood (MU-N), and
- Area D: from Residential-Traditional (R-1) to Mixed Use Neighborhood (MU-N).

We invite your input on the proposed rezoning. A special public meeting to discuss the proposal is scheduled for **Thursday, June 7, 2018, at 6:00 – 7:00 pm** at the Vineyard Church, 1533 W Arrowhead Road.

A property's zone district determines what uses are allowed on the site, dimensional standards such as height and setbacks, and other applicable zoning regulations. The rezoning process will allow different uses on the properties identified on the map. The purpose of the Mixed Use Neighborhood (MU-N) district is to accommodate a mix of neighborhood scale, neighborhood serving non-residential uses and a range of residential uses located in close proximity. Permitted residential uses include single family, two families, townhomes, and apartments. Non-residential uses may include small-scale retail, service and professional offices that provide goods and services to the residents of the surrounding neighborhood. In addition to the map on the back of this letter, I have included two handouts showing what uses are allowed in the R-1 and MU-N zone districts.

This matter is scheduled to be reviewed by the Planning Commission at their meeting starting **5:00 pm, on Tuesday, July 10, 2018**, in the 3rd floor Council Chambers at City Hall (approximately five weeks after the neighborhood meeting). If you have an interest in this matter, it is suggested that you attend the public hearing or send your written comments to the Planning Commission at 411 West First Street, Room 208, Duluth, MN 55802.

Please note that staff reports on agenda items, including more detailed information such as public agency comments and staff conclusions, are typically available on the Planning Division's Web Site, www.duluthmn.gov/community-planning, the Wednesday before the Planning Commission hearing date. In addition, the agenda is typically posted the Wednesday before the hearing date, and the public is encouraged to review the agenda because occasionally items are delayed until the following month.

If you have any questions, please email afulton@duluthmn.gov or jkelley@duluthmn.gov, or call the general Community Planning phone line at 730-5580.

Respectfully,

Adam Fulton, Manager of Community Planning
Attachments: Map of Rezoning Area, List of Allowed Uses



R-2

R-1

R-C

R-1 to MU-N

R-2 to MU-N

R-1 to MU-N

MU-N

R-1 to MU-N

MU-I

Uses Allowed in Mixed Use-Neighborhood (MU-N) Zone District Revised September 25, 2017

Permitted Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> - Dwelling, one family - Dwelling, two-family - Dwelling, townhouse - Dwelling, multi-family - Dwelling, live-work - Co-housing facility - Residential care facility/assisted living (6 or fewer) - Residential care facility/assisted living (7 or more) - Rooming house - Bus or rail transit station - Club or lodge (private) - Government building or public safety facility - Museum, library, or art gallery - Park, playground, or forest reserve - Religious assembly, small (less than 50,000 sq. ft. or more) | <ul style="list-style-type: none"> - Religious assembly, large (50,000 sq. ft. or more) - Business, art, or vocational school - School, elementary - Medical or dental clinic - Nursing home - Agricultural, community garden - Veterinary or animal hospital - Bed and breakfast - Office - Preschool - Day care facility, small (14 or fewer) - Day care facility, large (15 or more) - Personal service and repair, small (less than 10,000 sq ft) - Grocery store, small (less than 15,000 sq ft) - Retail store not listed, small (less than 15,000 sq ft) |
|--|--|

Special Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> - Manufactured Home Park - Cemetery or mausoleum - School, middle or high - Bank - Data Center - Agricultural, farmers' market - Agricultural, urban - Restaurant (less than 5,000 sq ft) - Theater - Hotel or motel - Funeral Home or Crematorium | <ul style="list-style-type: none"> - Personal service and repair, large (10,000 sq ft or more) - Automobile and light vehicle repair and service - Filling Station - Parking Lot (primary use) - Electric power transmission line or substation - Major utility or wireless telecommunication facility - Water or sewer pumping stations/reservoirs |
|--|--|

Interim Uses

- Vacation dwelling unit

Uses Allowed in Residential-Traditional (R-1) Zone District Revised September 25, 2017

Permitted Uses

- | | |
|--|---|
| <ul style="list-style-type: none"> - Dwelling, one-family - Dwelling, two-family - Residential care facility/assisted Living (6 or fewer) - Park, playground or forest reserve | <ul style="list-style-type: none"> - School, elementary - Agriculture, community garden - Day care facility, small (14 or fewer) |
|--|---|

Special or Interim Uses

- | | |
|--|---|
| <ul style="list-style-type: none"> - Dwelling, townhouse - Manufactured Home Park - Co-housing facility - Residential care facility/assisted living (7 or more) - Cemetery or mausoleum - Government building or public safety facility - Museum, library, or art gallery - Religious assembly, small (less than 50,000 sq. ft. or more) - Religious assembly, large (50,000 sq. ft. or more) | <ul style="list-style-type: none"> - School, middle or high - Agriculture, urban - Bed and breakfast - Preschool - Day care facility, large (15 or more) - Electric power transmission line or substation - Major utility or wireless telecommunication facility - Water or sewer pumping stations/reservoirs |
|--|---|

Interim Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> - Vacation dwelling unit | <ul style="list-style-type: none"> - Accessory vacation dwelling unit |
|--|--|



CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-077	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Vacation of Building Line Easement	Planning Commission Date	July 10, 2018	
Deadline for Action	Application Date	June 5, 2018	60 Days	August 4, 2018
	Date Extension Letter Mailed	June 14, 2018	120 Days	October 3, 2018
Location of Subject	2031 London Road			
Applicant	Marvin Development IV, LLC	Contact	Barb Schneider	
Agent	Adam Zwak	Contact		
Legal Description	PID 010-1460-02640, 010-1460-02650			
Site Visit Date	June 28, 2018	Sign Notice Date	June 26, 2018	
Neighbor Letter Date	June 26, 2018	Number of Letters Sent	36	

Proposal

Applicant proposes to vacate a 25-foot-wide building line easement established in 1903. This easement is not for utilities or public access, and is an outdated form of legal requirement for setbacks that predates zoning. The applicant is requesting the vacation to comply with the build-to zone or setback in the Form District 2 (F-2) low-rise neighborhood mix zone district.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-2	Former Gas Station	Neighborhood Mixed Use
North	R-2	Residential	Urban Residential
South	F-2	Gas Station	Neighborhood Mixed Use
East	MU-N	McDonalds	Neighborhood Mixed Use
West	F-2	Veterinary Clinic	Neighborhood Mixed Use

Summary of Code Requirements

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

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

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

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

Governing Principle #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 attendant 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, utilities, and transit, fire and police services.

Governing Principle #5 - Strengthen neighborhoods: The present city is an historical amalgam of villages and other independent units of government, contributing to the present condition of Duluth being strongly defined by its neighborhoods. This condition should be reinforced through land use, transportation and public service delivery patterns which strengthen neighborhood identity. New institutional expansions, major public infrastructure or large commercial or industrial uses should not divide historic neighborhood patterns

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: Chapter 194, General Laws, of the State of Minnesota for 1903 adopted legislation enabling municipalities to establish and acquire building line easements. The building line easement was established so that no buildings or structures could be erected within the easement area. The existing building line easement is 25 feet in depth from the front property line and 150.84' feet in length running parallel to London Road. The City of Duluth by resolution in 1906 established this building line easement on the property located at 2031 London Road.

Review and Discussion Items

Staff finds that:

- 1) Applicant is proposing to vacate an existing 25' x 150.84' building line easement which encumbers 3,771 square feet of the property located at 2301 London Road.
- 2) The intent of the easement was to establish an early form of a front yard setback from the property line. The City of Duluth did not have zoning in 1903.
- 3) The property is zoned F-2. The applicant is proposing to construct a Main Street Building I, which requires a 0' to 15' front yard Build-to Zone or setback. The existing building line easement is in conflict with the current zoning standards for building setbacks.
- 4) This easement is not and will not be needed for the supply of utilities or public services in the city, and as a dedicated building line easement, could not be used for other purposes.
- 5) The building line easement to be vacated is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.
- 6) No public, agency, or City comments have been received.
- 7) Vacations of streets and easement lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

Staff Recommendation

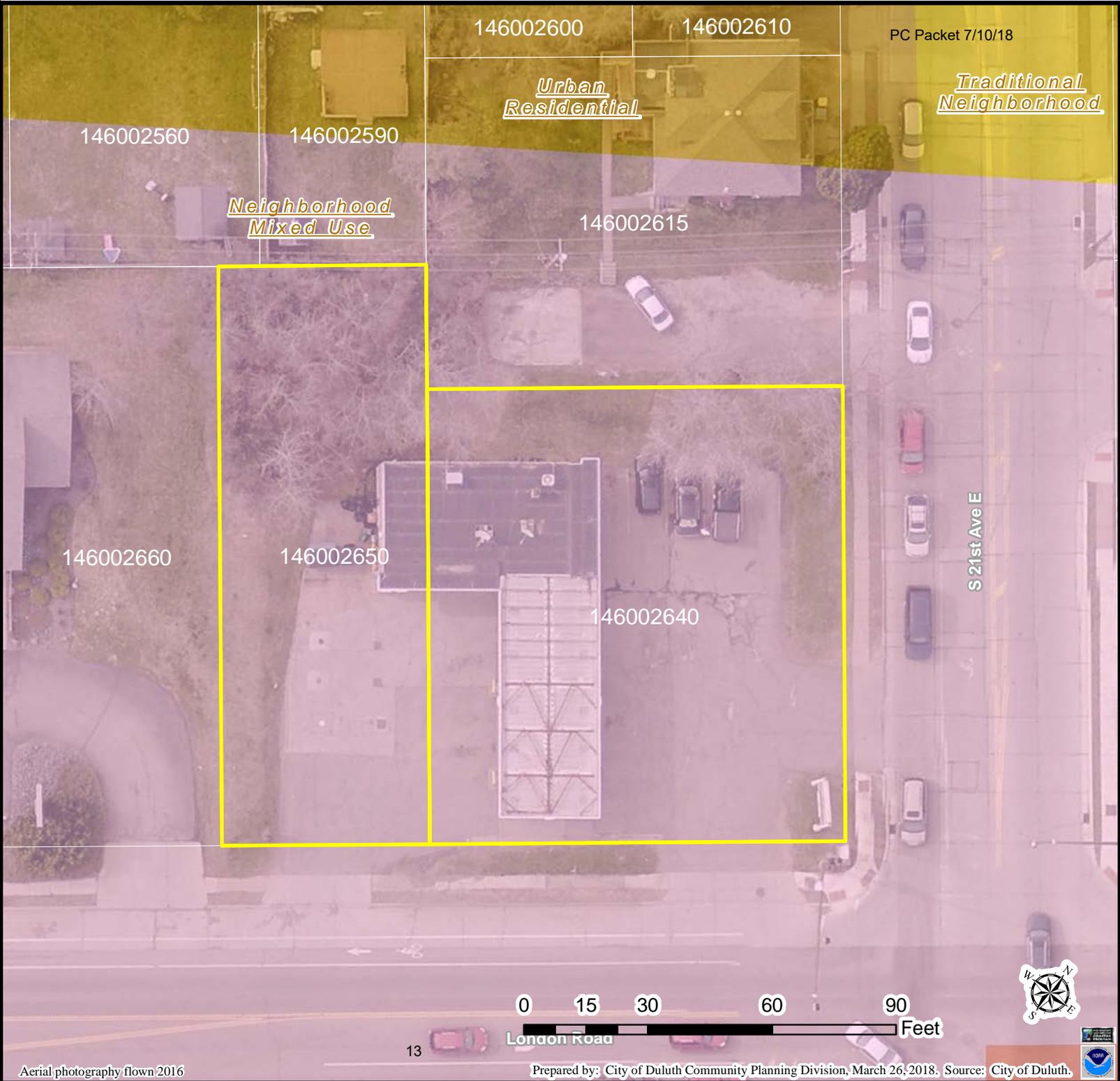
Based on the above findings, Staff recommends that the Planning Commission recommend approval of the vacation of the building line easement, as shown in the exhibit from ALTA.



Legend
Future Land Use - Plus Future Land Use

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

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.



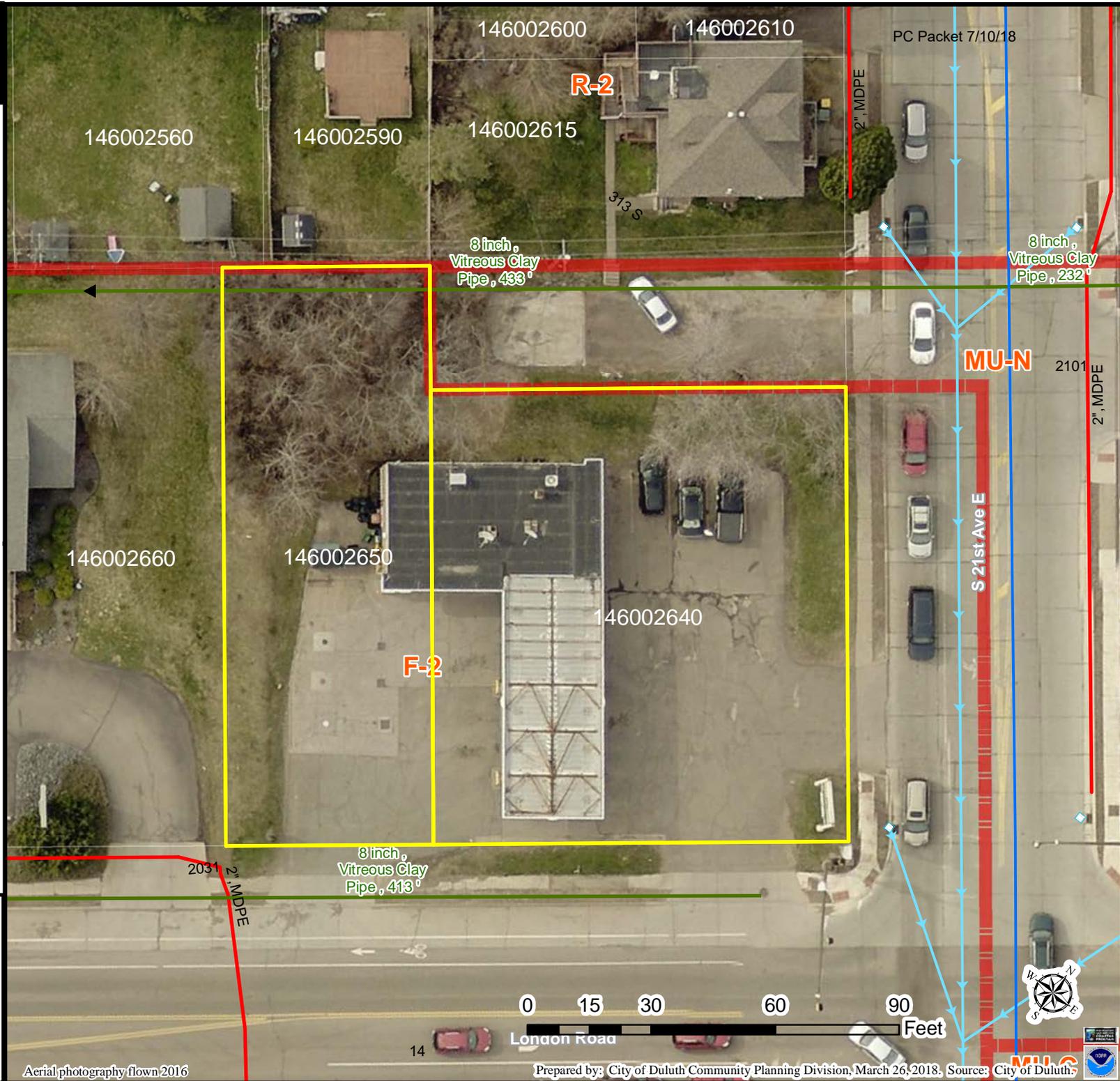


PL 18-077
Vacation
Zoning/Utility Map

Legend

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

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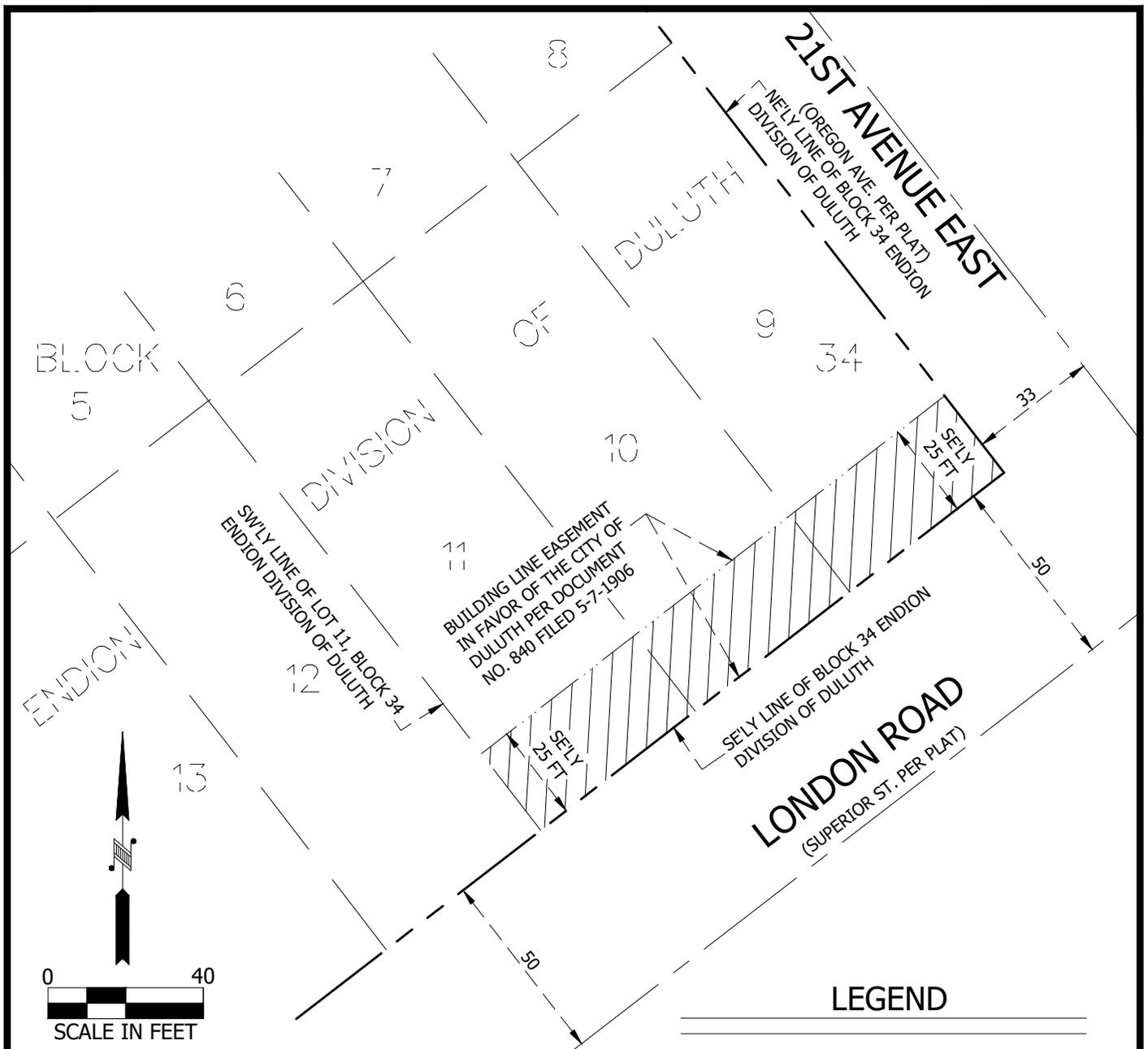


Aerial photography flown 2016

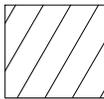


Prepared by: City of Duluth Community Planning Division, March 26, 2018. Source: City of Duluth.





LEGEND

-  PROPOSED BUILDING LINE EASEMENT VACATION
-  CENTER LINE
-  RIGHT OF WAY LINE
-  EXISTING EASEMENT LINE

SURVEYORS NOTES

1. THIS IS NOT A BOUNDARY SURVEY.
2. 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.

LEGAL DESCRIPTION OF PROPOSED BUILDING LINE EASEMENT VACATION
 All that part of the 25 foot wide building line easement lying over, under and across the Southeastery 25 feet of Lots 9, 10 and 11, Block 34, ENDION DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.
 Said building line easement vacation contains 3,771 Sq. Feet or 0.09 Acres.

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

David R. Evanson

Date: 6-6-2018 MN Lic. No. 49505

BUILDING LINE EASEMENT VACATION EXHIBIT	
CLIENT: NORTHLAND CONSULTING ENGINEERS/BORDER FOODS	REVISIONS: XXX
DATE: 6-6-2018	
ADDRESS: 2031 LONDON RD DULUTH, MN 55812	
JOB NUMBER: 18-165	



ALTA
 LAND SURVEY COMPANY

* LAND SURVEYING PHONE: 218-727-5211
 * LAND DEVELOPMENT LICENSED IN MN & WI
 * PLATTING CERTIFIED FEDERAL SURVEYOR
 * LEGAL DESCRIPTIONS WWW.ALTLANDSURVEYDULUTH.COM
 * CONSTRUCTION STAKING

powers of attorney or other instruments conveying or affecting in any manner any interest in or title to real property situated in newly organized counties have been filed and recorded in the office of the register of deeds for the county in which said real property was situated at the time of the creation of said new county, since the creation and organization of said new county, and before the passage of this act, such record is, in all respects, legalized and made valid and effectual, for the purpose of notice, evidence or otherwise, as though the same had been recorded in the office of the register of deeds for the county where said property was actually situated. *Provided*, that nothing herein contained shall in any manner affect the rights or title of any bona fide purchaser without notice for a valuable consideration of any such real estate prior to the passage of this act, and shall not apply to or affect any action or proceedings now pending in any court of this state.

SEC. 3. This act shall take effect and be in force from and after its passage.

Approved April 14, 1903.

H. F. No. 49.

CHAPTER 194.

Enabling municipalities to establish building line easements.

An act to enable municipalities to establish and acquire building line easements along streets, highways, parks and parkways, and defining the nature of such easements.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. The common council of any city may establish along any street or highway within such city a building line upon the land adjoining such street or highway, or any portion thereof, and distant not more than fifty feet from the margin of such street or highway, and may, in behalf of the city, acquire an easement in the land between such line and the exterior street line, such that no buildings or structure shall be erected or maintained upon said land. Such easement shall be known as a building line easement.

By purchase, grant or condemnation.

SEC. 2. Such easement may be acquired by the city council by purchase, or by grant, or by condemnation. It may also be created by dedication by indicating such building line upon any town plat hereafter recorded in the

office of the register of deeds of the county where the land lies; and city council shall have power to refuse to accept or approve plats of lands unless building lines are shown thereon.

SEC. 3. Any board of park commissioners having control of any park or parkway may in like manner acquire building line easements along the same, or any portion thereof.

Board of park commissioners may exercise such right.

SEC. 4. The easement above specified may be acquired by proceedings to be conducted in the following manner by the board of park commissioners, in case of parks and parkways controlled by a board of park commissioners, and by the city council in other cases.

Proceedings.

The term "governing body" is used in this and the following sections to designate the appropriate body in any given case, whether the city council, or board of park commissioners. The governing body shall first designate the easement to be acquired and define the lines by which it is bounded, and shall have power to condemn for the use of the public a building line easement as defined above, and when such condemnation shall have been completed, as in this section provided, the title to such easement shall pass to and be vested in the city for the public use. For the purpose of making said condemnation all the tracts of land required for any improvement may be included in the same proceeding.

Governing body may condemn.

Provided, that no such easement shall include or take in any portion of a private residence existing at the time of the passage of this act excepting by purchase or grant.

Exception.

After making the designation the governing body shall proceed in manner following:

•SEC. 5. First—The governing body shall appoint five appraisers, who shall be disinterested freeholders and qualified voters of said city, and none of whom shall be residents of the ward or wards in which the property so designated is situated, to view the premises and appraise the damages which may be occasioned by the taking of private property or otherwise in making such improvement.

Appraisers.

Said appraisers shall be notified as soon as practicable by the secretary of the board or the city clerk, as the case may be, to attend at a time fixed by him, for the purpose of qualifying and entering upon their duties. Whenever a vacancy may occur among said appraisers by neglect

or refusal of any of them to act or otherwise, such vacancy shall be filled by the governing body.

Oath of office.

Second—The appraisers shall be sworn to discharge their duty as appraisers in the matter with impartiality and fidelity; and to make due return of their acts to the governing body.

To give notice by publication.

Third—The appraisers shall give notice, by publication in the official newspaper of the city, once a week for two consecutive weeks, which last publication shall be at least ten days before the day of such meeting, which notice shall contain a general description of the lands designated by the governing body, and give notice that a plat of the same has been filed in the office of the city clerk or secretary, as the case may be, and that said appraisers will meet at a place and time designated in the notice, and thence proceed to view the premises, and appraise the damages for property to be taken, or which may be damaged by such improvement, and to assess benefits in the manner hereinafter specified.

Notice served on owners by mailing.

Fourth—The secretary or city clerk shall, after the first publication of such notice, and at least six days (Sundays excluded) prior to the meeting specified in said notice, serve upon each person in whose name each tract or parcel of said land is then assessed, a copy of said notice by depositing the same in the postoffice of said city, with postage prepaid, directed to such person at his place of residence, if known to the secretary, or city clerk, but if not known, then to his place of residence as given in the last published city directory of said city, if his name appears therein.

Notice to person in possession.

After the first publication of such notice, and at least six days (Sundays excluded) prior to the meeting specified in said notice, a copy of the same shall also be served upon the person in possession of each of said tracts or parcels of land, or some part thereof, if the same be actually occupied, in the same manner as provided for the service of summons in a civil action in the district court. A copy of all subsequent notices relating to said proceedings which are required to be published, shall be mailed by said clerk or secretary in the manner above specified, immediately after the first publication thereof, to such persons as shall have appeared in said proceedings and requested in writing that such notice be mailed to them.

Fifth—At the time and place mentioned in the notice, the said appraisers shall meet and thence proceed to view the premises, and may hear any evidence or proof offered by the parties interested, and may adjourn from time to time for the purposes aforesaid. When their view and hearing shall be concluded they shall determine the amount of damages, if any, suffered by each piece or parcel of land of which that taken is a part. They shall also determine the amount of benefits, if any, to each piece or parcel of land of which that taken is a part. If the damages exceed the benefits to any particular piece, the excess shall be awarded as damages. If the benefits exceed the damages to any particular piece, the difference shall be assessed as benefits, but the total assessment for benefits shall not be greater than the aggregate net award of damages; and in every case the benefits assessed upon the several parcels shall be in proportion to the actual benefits received, and no assessment upon any particular piece shall exceed the amount of actual benefits after deducting the damages, of any.

Meeting of appraisers. Hear and determine damages and benefits.

Sixth—If there be any buildings standing, in whole or in part, upon any parcel of the land to be taken, the said appraisers shall, in such case, determine the amount of damages which should be paid to the owner or owners thereof, in case such building, or so much as may be necessary, should be taken, and shall also appraise and determine the amount of damages to be paid such owner or owners in case he, or they, shall elect to remove such buildings.

In case of buildings on lands.

Seventh—If the land and buildings belong to different persons, or if the land be subject to lease, mortgage or judgment, or if there be any estate less than an estate in fee, the injury or damage done to such person or interests respectively may be awarded to them separately by the appraisers. *Provided*, that neither such award of the appraisers, nor the confirmation thereof by the governing body, shall be deemed to require the payment of such damages to the person or persons named in such award in case it shall transpire that such person or persons are not entitled to receive the same.

Land and building owned by different persons, etc.

Eighth—The said appraisers having ascertained and appraised the damages and benefits as aforesaid, shall make and file with the secretary or city clerk, as the case may be, a written report of their action in the premises,

Report.

embracing a schedule and appraisalment of the damages awarded and benefits assessed, with descriptions of the lands, and the names of the owners, if known to them, and also a statement of the costs of the proceeding.

Notice.
Governing
board to
meet and
consider re-
port.

Ninth—Upon such report being filed, the secretary of the board or city clerk shall give notice that such appraisalment has been returned, and that the same will be considered by the governing body at a meeting thereof, to be named in the notice, which notice shall be published in the official newspaper of said city, once a week for two consecutive weeks, and the last publication shall be at least 10 days before such meeting. Any person interested in any building standing in whole or in part upon any land required to be taken by such improvement, shall on or before the time specified for said meeting in such notice, notify the governing body in writing of his election to remove such building, if he so elect. The governing body upon the day fixed for the consideration of such report, or at any subsequent meeting to which the same may stand over or be referred, shall have power in their discretion to confirm, revise or annul the appraisalment and assessment, giving due consideration to any objections interposed by parties interested in the manner hereinafter specified, provided that said governing body shall not have the power to reduce the amount of any award, nor increase any assessment. In case the appraisalment and assessment is annulled, the governing body may thereupon appoint new appraisers, who shall proceed, in like manner, as in case of the first appraisalment, and upon the coming in of their report, the governing body shall proceed in a like manner and with the same powers as in the case of the first appraisalment. In case any owner or owners shall elect to remove any building or buildings, and thereby reduce the amount of damages to be paid, the amount of reduction shall be deducted from the benefits assessed to each parcel proportionately before confirmation thereof.

New ap-
praisers.

Awards.

Tenth—If not annulled or set aside, such awards shall be final, and shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. Such assessments shall be and remain a lien and charge upon the respective lands until paid. The awards shall be paid to the persons entitled thereto, or shall be deposited and set apart in the treasury of the city for the use of

the parties entitled thereto, within six months after the confirmation of the appraisal and award. But in case any appeal or appeals shall be taken from the order confirming said appraisal and assessment, as hereinafter provided, then the time for payment of said awards shall be extended until and including sixty days after the final determination of all appeals taken in the proceeding, and in case of any change in the awards or assessment upon appeal, the governing body may, by resolution duly adopted, at any time within sixty days after the determination of all appeals, set aside the entire proceeding. Any awards so set aside shall not be paid, and the proceedings as to the tracts for which the awards are so set aside shall be deemed abandoned. Any awards not so set aside shall be a charge upon the city, for the payment of which the credit of the city shall be pledged. All awards shall bear interest at the rate of six per centum per annum from the time of the filing of the original appraisers' report, and all subsequent awards and awards upon appeals shall be made as of the day and date of filing of such original reports.

Eleventh—Upon the conclusion of the proceedings and the payment of the awards, the several tracts of land shall be deemed to be taken and appropriated for the purpose of this act, and the easement above specified shall vest absolutely in the city in which the lands are situate. In case the governing body shall in any case be unable to determine to whom the damages should in any particular case be paid, or in case of adverse claim in relation thereto, or in case of the legal disability of any person interested, the governing body shall, and in any and every case, the governing body may in its discretion deposit the amount of damages with the district court of the county in which such lands are situate, for the use of the parties entitled thereto, and the court shall, upon the application of any person interested and upon such notice as the court shall prescribe, determine who is entitled to the award, and shall order the same paid accordingly. Any such deposit shall have the same effect as the payment to the proper persons.

Twelfth—In case any owner or owners of buildings, as aforesaid, shall have elected to remove his or their buildings, he or they shall remove them within thirty days from the confirmation of said report, or within such

Conclusion
and payment
of awards.

In case of
removal of
buildings.

further time as the governing body may allow for the purpose, and shall be entitled to the payment of the amount of damages awarded in such case, in case of removal. When such person or persons shall not have elected to remove such buildings, or shall have neglected (after having elected) to remove the same within the time above specified, such buildings, or so much thereof as may be necessary, upon paying or depositing the damages awarded for such taking in manner aforesaid, may be taken and appropriated, sold or disposed of as the said governing body shall direct.

Thirteenth—Any person whose property is proposed to be taken or interfered with or assessed under any provision of this chapter, and who deems that there is any irregularity in the proceedings of said governing body, or action of the appraisers, by reason of which the award of the appraisers ought not to be confirmed, or who is dissatisfied with the amount of damages awarded to him for the taking of, or interference with his property, or the assessment thereon, may at any time before the time specified for the consideration of the award and assessment by the governing body, file with the secretary of the board or the city clerk, as the case may be, in writing, his objections to such confirmation, setting forth therein specifically the particular irregularities complained of, and the particular objection to the award or assessment, and continuing a description of the property in which he is interested, affected by such proceedings and his interest therein, and if, notwithstanding such objections the said governing body shall confirm the award, or assessment, such person so objecting shall have the right to appeal from such order of confirmation of the governing body to the district court of the county where such land is situate, within twenty days after such order. Such appeal shall be made by serving a written notice of appeal upon the secretary of the board, or the city clerk, as the case may be, which shall specify the property of the appellant affected by such award and refer to the objection filed as aforesaid, thereupon said secretary or city clerk, at the expense of the appellant, shall make out and transmit to the clerk of the district court a copy of the record of the entire proceedings, and of the award of the appraisers as confirmed by the governing body and of the order of the governing body confirming the same, and of the objections filed by

Appeal
from
order of
govern-
ing body.

the appellant, as aforesaid, and of the notice of appeal, all certified by said secretary or city clerk to be true copies, within ten days after the taking of such appeal. But if more than one appeal be taken from any award, it shall not be necessary that the secretary or city clerk in appeals subsequent to the first, shall send up anything but a certified copy of the appellant's objections. There shall be no pleading on any appeal, but the court shall determine in the first instance whether there was in the proceedings any such irregularity or omission of duty prejudicial to the appellant and specified in his written objection that as to him the award or assessment of the appraisers ought not to stand, and whether said appraisers had jurisdiction to take action in the premises.

Fourteenth—The case may be brought on for hearing on eight days' notice, at any general or special term of the court, and the judgment of the court shall be to confirm or annul the proceedings, only so far as the said proceedings affect the property of the appellant proposed to be taken or damaged or assessed, and described in said written objection. In case the amount of damages or benefits assessed is complained of by such appellant, the court shall, if the proceedings be confirmed in other respects, appoint three disinterested freeholders, residents of said city, appraisers, to reappraise said damages, and reassess benefits as to the property of appellant. The parties to such appeal shall be heard by said court upon the appointment of such appraisers, and the court shall fix the time and place of meeting of such appraisers, they shall be sworn to the faithful discharge of their duties as such appraisers, and shall proceed to view the premises and to hear the parties interested, with their allegations and proofs pertinent to the question of the amount of damages or benefits; such appraisers shall be governed by the same provisions in respect to the method of arriving at the amount of damages or benefits and in all other material respects as are in this chapter made for the government of appraisers appointed by said governing body. They shall, after the hearing and view of the premises, make a report to said court of their award of damages and assessment of benefits in respect to the property of such appellant. The appellant shall within five days of the notice of filing the award file his written election to remove the building if he so elect. Such election

Hearing,
etc.

shall not affect his right to a review. The award shall be final unless set aside by the court. The motion to set aside shall be made within fifteen days. In case such report is set aside, the court may, in its discretion, recommit the same to the same appraisers, or appoint new appraisers, as it shall deem best; said court shall allow to said appraisers a reasonable compensation for their services, and make such award of costs on such appeal, including the compensation of such appraisers as it shall deem just in the premises, and enforce the same by execution. In case the court shall be of the opinion that such appeal was frivolous or vexatious, it may adjudge double costs against such appellant. An appeal may be taken to the supreme court of the state from any final decision of the district court in said proceedings.

Frivolous
or vexa-
tious ap-
peals.

Maps and
plats to
be made,
filing.

SEC. 6. As soon as such condemnation proceedings have been completed, it shall be the duty of such governing body to cause maps or plats of such improvement to be made, with a list of the parcels of land taken and the amount paid on account of each parcel, and to file one of such maps and list duly certified by the president of the governing body and the clerk or secretary, as the case may be, in each of the following offices, to-wit: the office of the city engineer, the office of the register of deeds of the county, and the office of the city clerk or secretary of the park board, as the case may be; and the same shall be prima facie evidence of the full and complete condemnation and appropriation of such easement for the public use. As soon as the assessments are confirmed, the secretary of the board of park commissioners or the city clerk, or the clerk of the district court, as the case may be, shall transmit a copy thereof duly certified, to the county auditor of the county in which the lands lie. The county auditor shall include the same in the next general tax list for the collection of state, county and city taxes, against the several tracts or parcels of land, and said assessments shall be collected with and as a part of, and shall be subject to the same penalties, costs and interest, as the general taxes. Such assessments shall be set down in the tax books in an appropriate column to be headed, "Building Line Assessments," and when collected a separate account thereof shall be kept by the county auditor, and the same shall

Assess-
ments con-
firmed to
be included
in general
tax lists.

Building
line as-
sessments.

be transmitted to the treasurer of the city, and placed to the credit of the proper fund.

SEC. 7. The governing body shall have power at any time to vacate such building line easement or any portion thereof.

Easements
vacated.

SEC. 8. This act shall take effect and be in force from and after its passage.

Approved April 14, 1903.

CHAPTER 195.

H. F. No. 533.

An act to provide for the release and discharge of executors, administrators and guardians, and for the depositing with the county treasurer of funds belonging to absent heirs, legatees, wards or creditors, or other persons whose whereabouts cannot be ascertained.

Release of
executors,
administrators,
and
guardians.

Be it enacted by the Legislature of the State of Minnesota:

SECTION 1. That whenever an executor or administrator shall have fully complied with all the terms and conditions of the final decree of distribution and of all other decrees and orders of the probate court appointing him, and shall have paid over to the distributees named in such final decree of distribution of the said court, all moneys and funds and property to them awarded by such final decree, and when such executor shall have in all other respects fully complied with the terms and conditions of said final decree, and have fully complied with all the orders and decrees of the said court, the court may, upon due notice given, and after full hearing and examination, find such facts, and if it shall appear to the court that the executor or administrator has paid over all moneys to the proper parties, and that he has in all things complied with the orders of the court and the terms of the final decree in the said estate, and that he has in all things, well, faithfully and fully administered his trust as such executor or administrator, the court may enter an order and decree fully discharging the said executor or administrator and the sureties on his bond from all further liability, and from all liability by reason of said trust and by reason of said administration.

On full
compliance
with all
orders of
probate
court, said
court may
order discharge
of executor
or administrator.

SEC. 2. That whenever any guardian shall have fully complied with all the terms and conditions of the orders

Same as to
guardians.



CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-072	Contact	Chris Lee, 218-730-5304	
Type	Variance, Front Yard Setback	Planning Commission Date	July 10, 2018	
Deadline for Action	Application Date	June 5, 2018	60 Days	August 8, 2018
	Date Extension Letter Mailed	June 18, 2018	120 Days	October 3, 2018
Location of Subject	3902 Norton Rd			
Applicant	Leah Collette and Alex Grajner	Contact	3902 Norton Rd	
Agent		Contact		
Legal Description	Complete legal description on file. PIN #010-2710-01360.			
Site Visit Date	June 24, 2018	Sign Notice Date	June 26, 2018	
Neighbor Letter Date	June 27, 2017	Number of Letters Sent	10	

Proposal

Applicant requests a variance from UDC Section 50-14.3, front yard setback to construct a 10' x 29' addition to the west side of the house. The existing house is set 60.3 feet back from the property line. The norther property line is the centerline for Norton Road. Typically, there is a 66' easement for roads, but for this road there is no recorded easement. A 33' buffer from the centerline of Norton Road is acting as an easement for any future road projects. The house sits approximately 27 feet from this road boundary. The proposed addition would expand the house a further 10 feet to the west, allowing the addition to be constructed in alignment with the existing house. This necessitates a request for reduction of 33 feet from the required 60-foot front yard setback in the RR-1 district, to a distance of 27 feet.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1	Single Family Home	General Mixed Use/Preservation
North	RR-1	Single Family Home	General Mixed Use
South	RR-1	Undeveloped	General Mixed Use /Preservation
East	RR-1	Undeveloped	Preservation
West	RR-1	Undeveloped	General Mixed Use /Preservation

Summary of Code Requirements

50-14.3. RR-1. District: Residential Rural: Front Yard Setback 60 feet

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 practical difficulties or hardship. The Planning Commission must find the following for a variance to be granted: a) That they are proposing to use the property in a reasonable manner, b) that the need for relief from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

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

1911 – A 680 square foot home was constructed in its present location.

1988 – A 720 square foot garage was constructed in its present location.

2012 – Current owners purchased the property.

Governing Principles:

Principle #5 - Strengthen neighborhoods. Reinvestment in housing in this location is consistent with the policies of the comprehensive plan.

Future Land Use: General Mixed Use: The broadest mix of uses, including light industrial, office, commercial, and residential use, with performance standards to ensure compatibility. Includes areas that are in transition from industrial uses and large redevelopments that require master plans and phased development. General or heavy industrial can be included when a large site is master planned to allow appropriate separation of uses.

Review and Discussion Items**Staff finds that:**

- 1) The applicant's property is 331' wide by 1319' deep and improved with a 1,200 square foot home and two-car garage. The lot is approximately 9.94 acres and the dwelling is set back 24 feet from the property line. The setback reduction requested is 33 feet from the required 60 feet, allowing for the 27-foot setback for the existing house and proposed addition.
- 2) The applicant is proposing to use the property in a reasonable manner through reinvestment and expansion of an existing structure in a rural location. The property is served by an existing well and septic system, and does not have access to public water and sewer utilities.
- 3) The applicant states that the intent of this variance is construct the addition to avoid disrupting the septic system and well lines.
- 4) Staff finds that other potential alternatives for the addition would also require a variance, such as constructing on the north and east sides. The request for the variance is driven by the placement of the house on the lot at a time when the current UDC standards did not apply. An addition to the south side of the house would interfere with the existing well and septic system.
- 5) Granting the variance will not alter the essential character of the area. Other houses in the area are larger and newer and were built to conform to setbacks in the current code. In this rural setting, the 33-foot setback reduction would not substantially change how the area looks and feels. This variance would not result in reductions of light and air to surrounding properties. No additional traffic would be generated and threats to public safety would not increase. Property values in the area would not be affected by the granting of the variance.
- 6) The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as General Mixed Use.
- 7) No additional landscaping is recommended as mitigation for the reduced setback per Sec. 50-37.9. H.
- 8) No letters were received concerning this proposed variance.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission approve the variance reducing the required setback for the principle structure on the site from 60 feet to 27 feet, subject to the following conditions:

- 1) The project be limited to, constructed, and maintained according to the site plan dated June 5, 2018.
- 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 administrative approval shall constitute a variance from the provisions of Chapter 50.



PL 18-075 Variance:
3902 Norton Rd.

PC Packet 7/10/18

Legend

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Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, June 12, 2018. Source: City of Duluth.

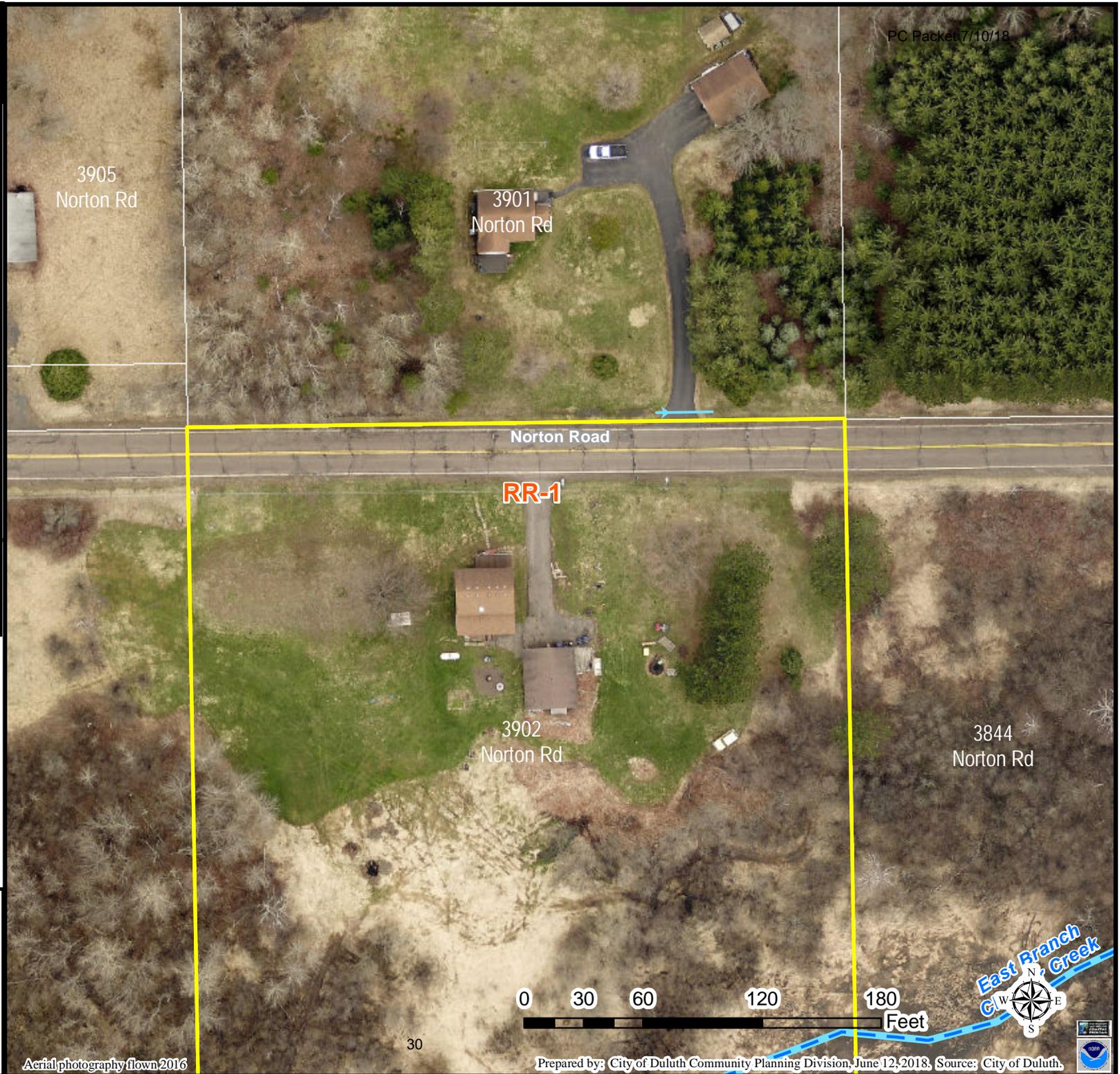


PL 18-075 Variance:
3902 Norton Rd.

PC Packet 7/10/18

Legend

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



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PL 18-075 Variance:
3902 Norton Rd.

PC Packet 7/10/18

General
Mixed Use

Preservation

Business Park

Legend

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Aerial photography flown 2016



Leah Collette

3902 Norton Rd.
Duluth, MN 55803
218-348-4243
LittleLAC@gmail.com

4th June 2018

City Of Duluth

Planning and Construction Services
411 W. 1st St.
Duluth, MN 55802

To Whom It May Concern:

This letter is in regards to a requested variance to the property located at 3902 Norton Rd. The UDC section referenced for this specific situation is 50-14.3 Rural Residential Front of Property Setback. Please see attached drawing for a more detailed layout of the property.

- 1) When planning for an addition at my house the only feasible option was to build off to the west of the home. The reason this is the only practical solution is due to the fact that the East side of the home the driveway, the south of the home has our plumbing and well lines running into the house in that direction and north part of the home is close to Norton Rd.

- 2) The reason we ask for a variance is due to the fact the home was built in 1911 and the north side of the home is already currently within the setback zoning code. To our south we have a septic line exits the home about center of the structure and that runs southwest out of the home to our mound septic system. Directly east of where the septic line exits the home is the pressurized line from our well. Our well is approximately 40' away from the back of the house and we are worried about disrupting or contaminating our well water due to the fact we have a shallow well approximately 8' deep. The well is original from 1911 and the septic system was reused when I purchased the home and installed a new mound system to keep the cost of that project down. Directly east of the house is our driveway which was built as far as we can tell in 1986. The cost estimate I obtained to remove and relocate the driveway

2

took all these variables into consideration and concluded the only reasonable, safe and cost effective location for an addition is to our west.

3) Generally on our road most homes that have been built within the recent past have been able to accommodate the Building Codes set by The City Of Duluth. Unfortunately due to the age of our home we are unable to conform to these codes without an unnecessary and undue burden. Down our road most all homes are setback from their property line approximately 60' or more. When they were constructed that zoning ordinance was taken into consideration and homes were built accordingly. Our house, however, was built prior to those codes existence. Therefore, we would need to seek a variance for an addition we would like to have built due to the setback standards set by Duluth.

4) For our growing family our rural farm home is running out of space. We inquired about other homes in the area and we couldn't find one that was reasonably priced in a suitable area. Therefore we began the process of building an addition. We love all our neighbors and our location, sadly the setback standards inhibit our ability to create a larger home for our family. We are aware of the shortage of single family homes in our area and we would love to keep our property within the city as well as grow as a family.

5) The addition we are proposing will not be adding any exterior lighting or pollution. No driveways are being added and the home will be built to code and inspected by Duluth City Building Inspectors. Directly across our lot is wooded areas and we are surrounded on all three sides of our property boundaries by densely wooded areas. We will not harm or diminish any of the trees, streams or landscape around us, instead we would work to protect these cherished parts of our land.

6) If the variance we are seeking is granted it will help solidify our plans as a family to stay in our neighborhood and stay in Duluth. We recently stood up for our neighborhood zone by attending zoning and planning committee meetings. There is in no way shape or form any intent to lessen the character of our neighborhood. We are very close with all our neighbors and everyone on Norton Road knows each other and helps each other whenever needed. This is the biggest reason we are trying to stay on our road and build a future for our family.

3

7) We are currently living in the airport overlay set by the City of Duluth. We do not see any reason why we would be violating or breaching any of those zoning regulations. Our property is located inside Duluth International Airport Safety Zone A.

Thank you for your time and consideration on this matter.

Best,

Leah Collette

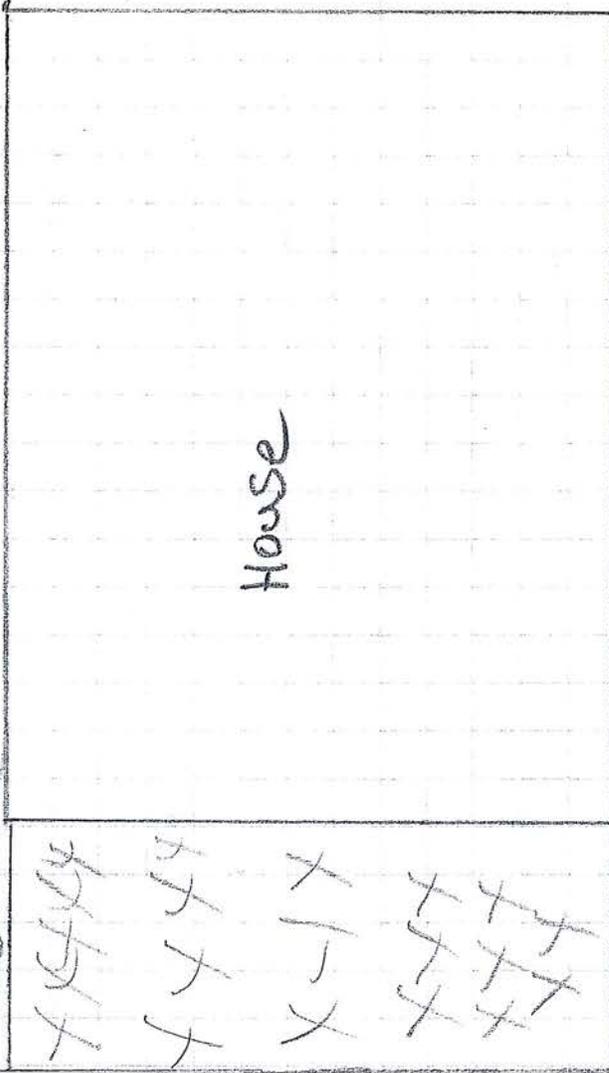
DRIVEWAY

GARAGE

NORTON ROAD

EASEMENT SEARCH - Survey find easement and setback need for variance timeline

APPLICATION TO DIO COMPLETE



House

X	X	X	X	X	X
X	X	X	X	X	X
X	X	X	X	X	X
X	X	X	X	X	X
X	X	X	X	X	X

35' from Well

SEPTIC LINE 60'

WET LANDS

↑ N

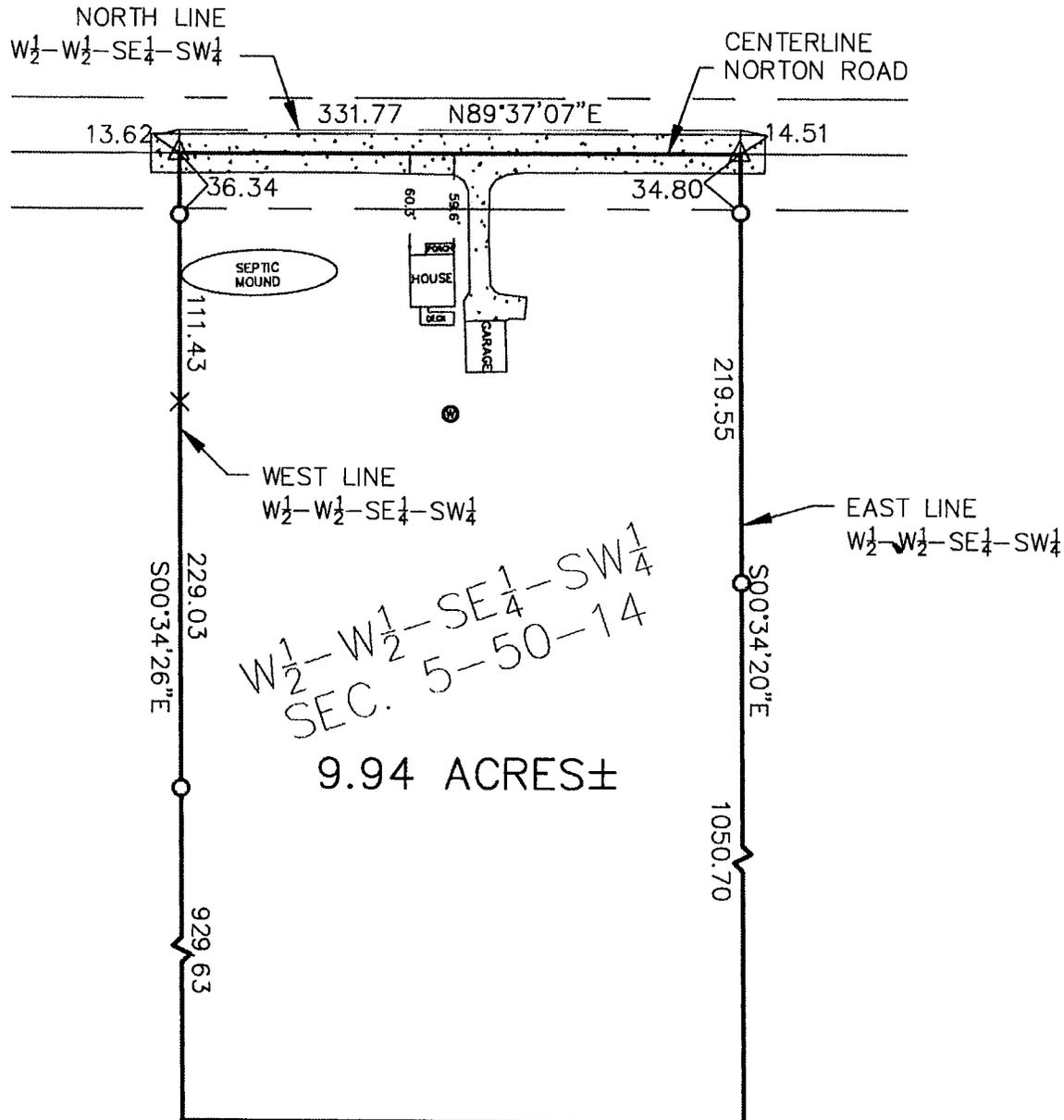
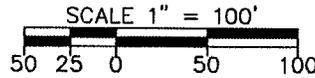
SURVEY FOR: ALEX GRAJNERT
3902 NORTON ROAD
DULUTH, MN 55803
SURVEY OF: PARTS OF THE WEST HALF OF THE
WEST HALF OF THE SOUTHEAST
QUARTER OF THE SOUTHWEST
QUARTER, SECTION 5, TOWNSHIP
50, RANGE 14, ST. LOUIS COUNTY,
MINNESOTA.

STRAIGHTLINE SURVEYING, INC.

P.O. Box 510, 500 Folz Blvd
Moose Lake, MN 55767
E-MAIL: banderson@straightlinesurveying.com

Telephone: (218)-485-4811
Fax: (218)-485-4811

- ⊙ DENOTES WELL
- DENOTES 1/2" IRON REBAR MONUMENT SET AND CAPPED "ANDERSON 45498"
- × DENOTES 60d SPIKE SET
- △ DENOTES "MAG" NAIL SET
- DENOTES BITUMINOUS SURFACE



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

Benjamin H. Anderson
Benjamin H. Anderson

45498
License No.

06-05-2018
Date

2018-127
Job No.

NONE
Book No.





CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL18-084	Contact	Adam Fulton, afulton@duluthmn.gov	
Type	Variance, Side Yard Setback	Planning Commission Date	July 10, 2018	
Deadline for Action	Application Date	June 21, 2018	60 Days	August 20, 2018
	Date Extension Letter Mailed	June 29, 2018	120 Days	October 19, 2018
Location of Subject	711 Howard Gnesen Road			
Applicant	Christopher and Lindsay Theis	Contact	Christopher Theis	
Agent	NA	Contact	NA	
Legal Description	Lots 1, 2, and 3, Block 1, FAY ADDITION			
Site Visit Date	July 3, 2018	Sign Notice Date	June 26, 2018	
Neighbor Letter Date	June 29, 2018	Number of Letters Sent	6	

Proposal

Requested is a reduction of 4 feet to the required 25-foot side yard setback, to a distance of 21 feet from the side yard (north) property line, to allow for construction of garage addition to the existing principal structure. Applicant's front yard faces Howard Gnesen Road, located to the east of the subject property.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1	Single family house	Open Space
North	NA – City of Rice Lake	Single family house	NA – City of Rice Lake
South	N/A	Single family house	Open Space
East	RR-1	Ridgeview Golf Course	Open Space
West	RR- 1	Vacant – open space	Open Space

Summary of Code Requirements

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

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

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

Future Land Use – Open Space – "...Primarily public lands, but limited private use is anticipated subject to use and design controls. Examples include: city parks and recreation areas, primary viewsheds, shorelands of the lake and streams, wetlands and floodplains, and high-value habitat.

Applicant's site has been privately owned and maintained for many years. The existing low-density, rural single-family dwelling is consistent with the RR-1 district and Open Space designation. Tischer Creek runs in a north-south direction immediately west of the subject property; Applicant's site is located outside the floodplain and shoreland setbacks. Platted street "Ridgeview Road" runs along the north side of Applicant's site with right-of-way located in both Duluth and the City of Rice Lake. It is not anticipated that Ridgeview Road would be extended in this location, due to the Comprehensive Plan designation in Duluth and the environmental sensitivity of the areas around Tischer Creek.

Review and Discussion Items

Staff finds that:

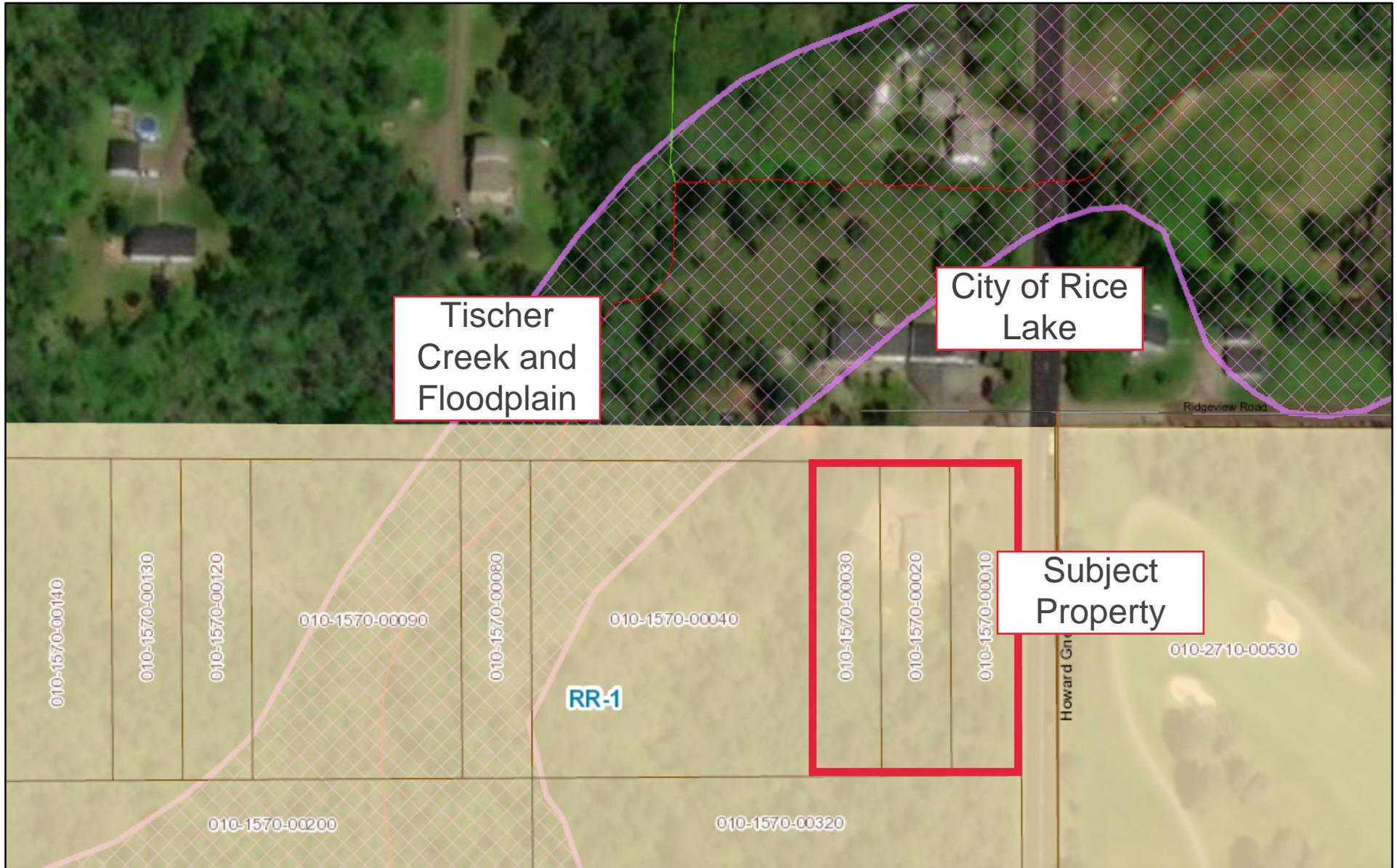
- 1) Applicant requests a variance to reduce the north side-yard setback along the property from the required distance of 25 feet between the property line and principal building by four feet, to a distance of 21 feet. Proposed garage will be placed in an area of existing turf grass and gravel driveway.
- 2) The proposed expansion of a garage on the site is a reasonable use of an existing single family property.
- 3) Granting the variance would allow for the proposed garage to be located north of the existing house, rather than to the west of the house. Were the proposed garage placed to the west of the house, it would be located closer to Tischer Creek, a coldwater trout stream, with greater possibility for impacts to the creek.
- 4) Ridgeview Road right-of-way, located to the north of the subject property, is unbuilt and functions as a driveway for Applicant and the property owner to the north in the City of Rice Lake. The existing house is 89 feet from the location of the shared access drive. Applicant's proposed garage would be located 51 feet from the shared access drive. Were the right-of-way for Ridgeview Road vacated, no variance would be needed. However, the city does not wish to vacate the existing right-of-way to preserve the possibility for future public access to Tischer Creek.
- 5) The conditions unique to the site include unused right-of-way and a shoreland setback from Tischer Creek, necessitating placement of the proposed garage addition to the north of the house. Such conditions are unique to the site and have not been created by the Applicant.
- 6) The existing house meets the front-yard setback requirement from Howard Gnesen Road, but the proposed garage could not be placed in the front yard without a front-yard setback variance.
- 7) The existing house meets the side-yard setback to the south, but it is determined that constructing the proposed garage to the south of the house would create greater impervious surface coverage and thus greater potential for impacts to Tischer Creek.
- 8) Granting the variance will not impact or in any way alter the essential character of the area.
- 9) Granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.
- 10) No public, agency or City comments were received.
- 11) Per UDC Section 50-37.1. N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission grant the Variance reducing the north side-yard setback on the subject property by four feet to a distance of 21 feet, with the following conditions:

- 1) The project and any future building additions shall be limited to, constructed, and maintained according to site drawing dated June 6, 2018.
- 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 action by the Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.

711 Howard Gnesen Road



July 3 2018

Duluth Streets

Interstate

US Highway

MN Highway

CSAH County Rds Zoning

Local Roads

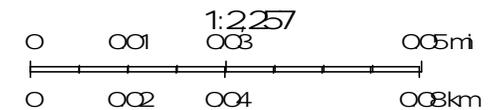
Duluth Parcels

F-1 (Low Rise Neighborhood Shopping)

F-2 (Low Rise Neighborhood Mix)

F-3 (Mid Rise Community Shopping)

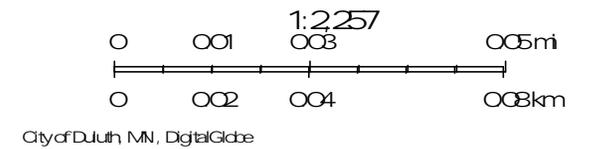
F-4 (Mid Rise Community Mix)



City of Duluth MN, DigitalGlobe



July 3 2018



CERTIFICATE OF SURVEY

PROPERTY DESCRIPTION:
Lots 1, 2 and 3, Block 1, FAY ADDITION, according to the recorded plat thereof, St. Louis County, Minnesota.

SURVEYOR NOTES:

Orientation of the bearing system is based on the east line of Lot 1, Block 1, FAY ADDITION, to have an assumed bearing of $S 0^{\circ}30'53'' E$.
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.

Area of the property is 57,937 square feet or 1.322 acres ±.
Parcel Identification Numbers for this property are 010-1570-00010, 010-1570-00020 and 010-1570-00030.



LEGEND:

- Denotes iron monument found
- Denotes 1/2 inch iron monument set, marked "JPI ENG 21401"
- ⊘ Denotes power pole
- Denotes overhead power line
- Denotes electric pedestal
- ▨ Denotes concrete surface
- ▩ Denotes bituminous surface
- ▧ Denotes gravel surface

CERTIFICATION:

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

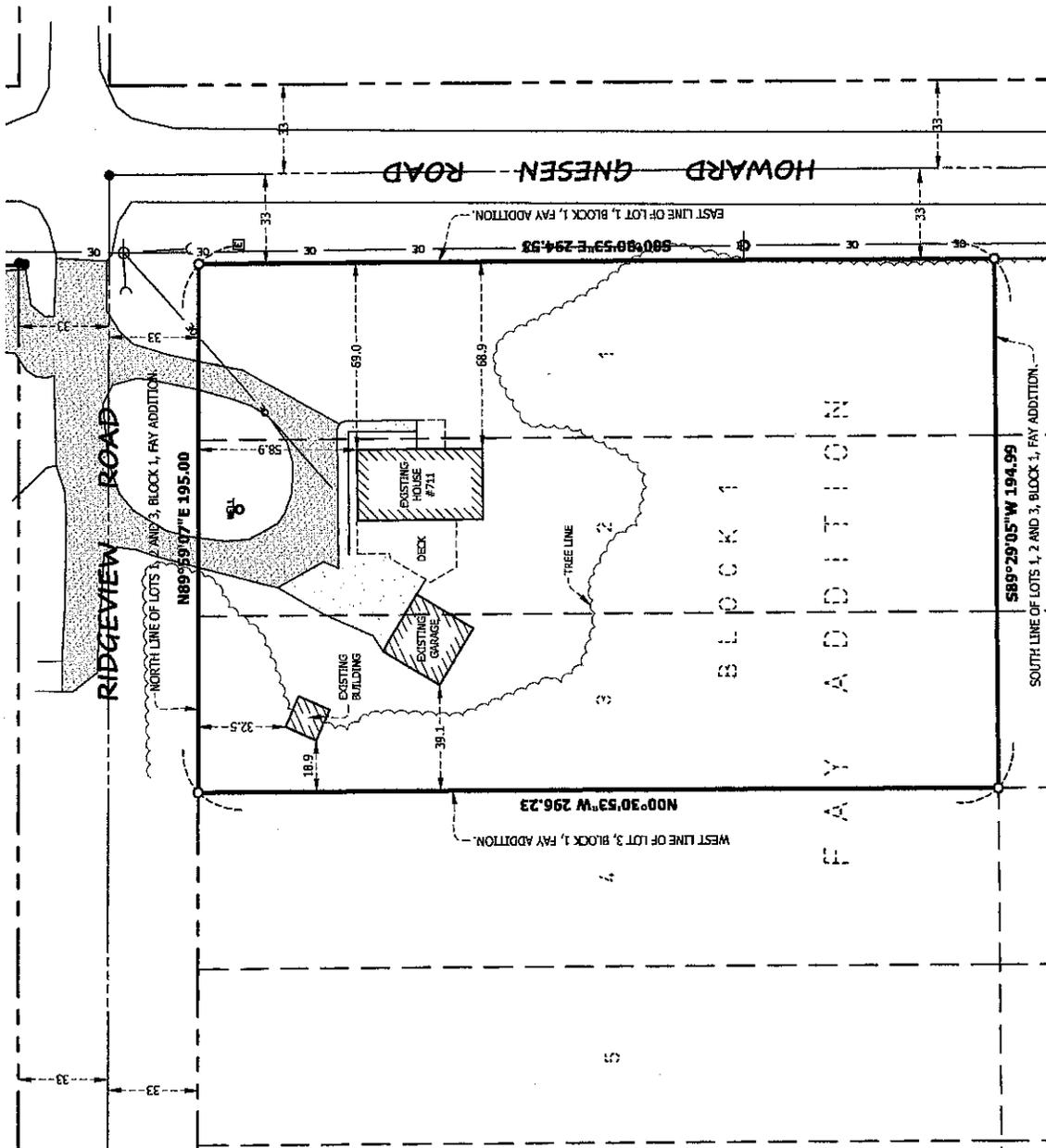
Signed this 6th day of June, 2018 for JPI Engineering, Inc.

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

Engineering
Land Surveying
Economic
Development
JPI ENGINEERING, INC.
802 Garfield Ave.
Suite 105
Duluth, MN 55802
Phone: 218-720-6219
www.jpieng.com

CERTIFICATE OF SURVEY
FOR: CHRISTOPHER THEIS
Lots 1, 2 and 3, Block 1, FAY ADDITION, St. Louis County, Minnesota.
11 Howard Gnesen Road, Duluth, Minnesota 55809

SURVEY BY :	DRS
DRAWN BY :	DRS
DESIGNED BY :	
APPROVED BY :	RMM
DATE :	6/06/2018
PROJECT NUMBER :	18-464
SHEET NUMBER :	1 OF 1



58.9 Ft
 - 25.0 Ft

 34 Ft

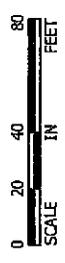
CERTIFICATE OF SURVEY

PROPERTY DESCRIPTION:
 Lots 1, 2 and 3, Block 1, FAY ADDITION, according to the recorded plat thereof, St. Louis County, Minnesota.

SURVEYOR NOTES:
 Orientation of the bearing system is based on the east line of Lot 1, Block 1, FAY ADDITION, to have an assumed bearing of S 9°30'57" E.

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

Area of the property is 57,597 square feet or 1.322 acres ±.
 Parcel Identification Numbers for this property are 010-1570-00010, 010-1570-00020 and 010-1570-00030.

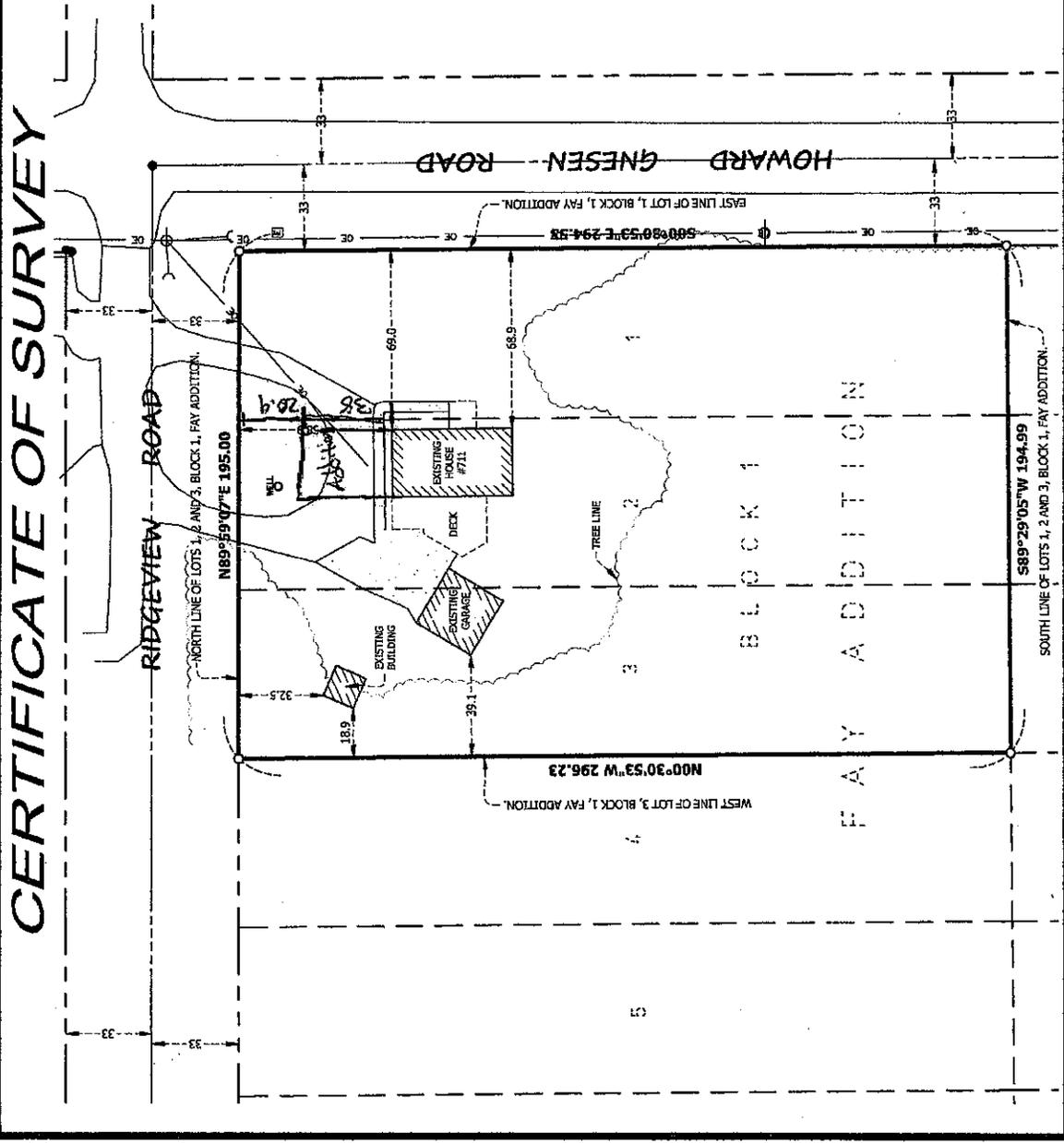


- LEGEND:**
- Denotes iron monument found
 - Denotes 1/2 inch iron monument set, marked "JPI ENG 21401"
 - ⊗ Denotes power pole
 - Denotes overhead power line
 - ▣ Denotes electric pedestal
 - ▤ Denotes concrete surface
 - ▥ Denotes bituminous surface
 - ▧ Denotes gravel surface

CERTIFICATION:

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

Signed this 9th day of June, 2018 for JPI Engineering, Inc.
Randy M. Merton
 Randy M. Merton, PLS License Number 21401



CERTIFICATE OF SURVEY

FOR: CHRISTOPHER THEIS

Lots 1, 2 and 3, Block 1, FAY ADDITION, St. Louis County, Minnesota, 711 Howard Gnesen Road, Duluth, Minnesota 55803

JPI ENGINEERING, INC.
 Engineering
 Land Surveying
 Economic
 Development
 802 Garfield Ave.
 Suite 105
 Duluth, MN 55802
 Phone: 218-726-6219
 www.jpieng.com

SURVEY BY:	DMS
DRAWN BY:	DMS
DESIGNED BY:	RMM
APPROVED BY:	RMM
DATE:	6/06/2018
PROJECT NUMBER:	
SHEET NUMBER:	18-484
	1 OF 1

NO.	DESCRIPTION	BY	DATE

SHEET TITLE

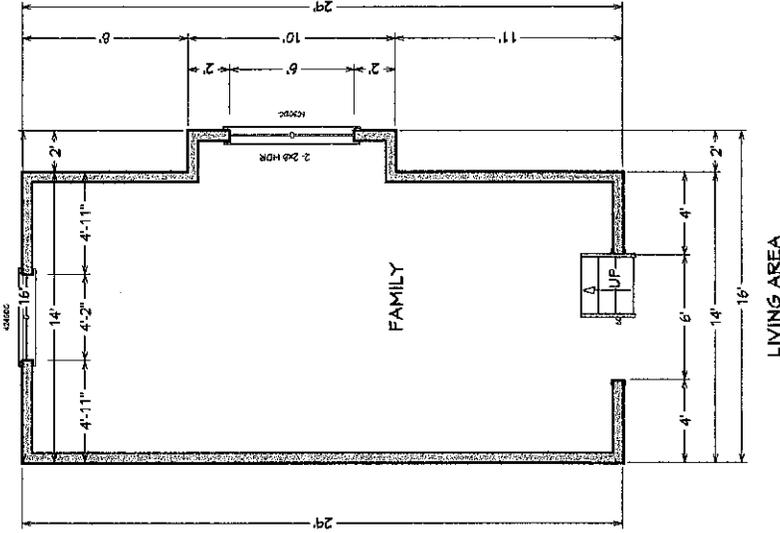
PROJECT DESCRIPTION:
THEIS ADDITION
711 HOWARD GNESEN RD
DULUTH MN 55803

DRAWINGS PROVIDED BY:
Bryan Gustafson
Worn Stair

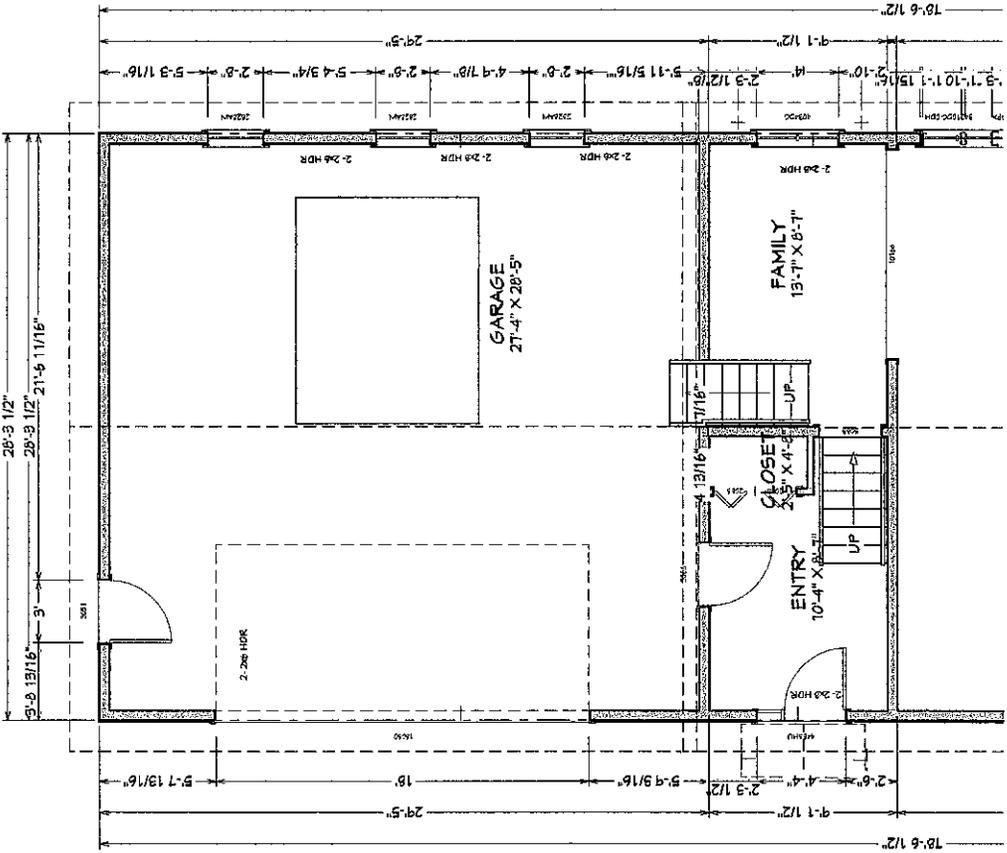
DATE: PC Packet 7/10/18

SCALE:

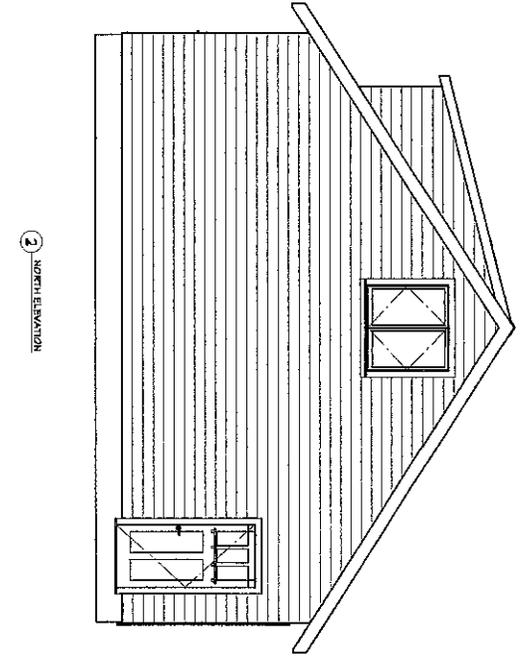
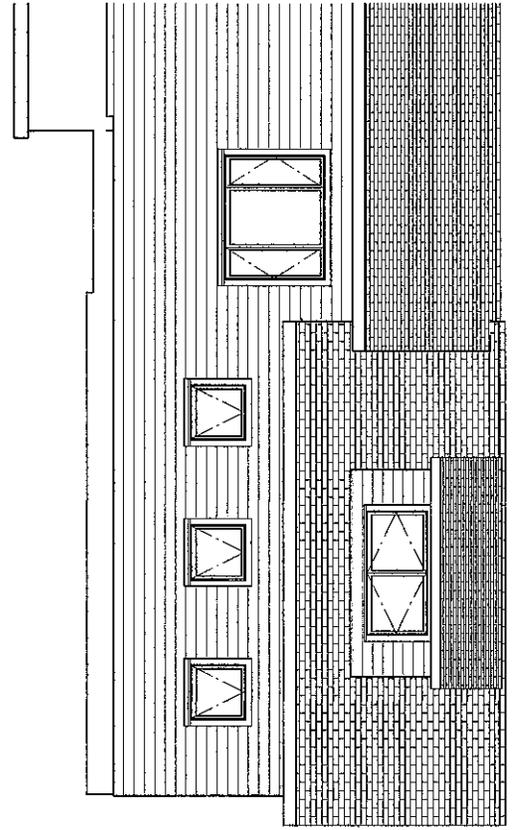
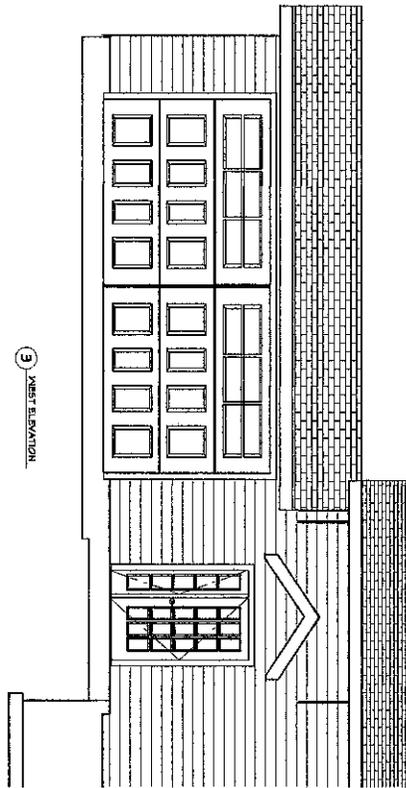
SHEET
A-1



ABC



1st Floor



A-2	SHEET:	SCALE:	DATE:	DRAWINGS PROVIDED BY: Bryan Gustafson Worn Stair	PROJECT DESCRIPTION: THIS ADDITION 711 HOWARD GNESEN RD DULUTH MN 55803	SHEET TITLE: SHEET TITLE	NO.	DESCRIPTION	BY	DATE	

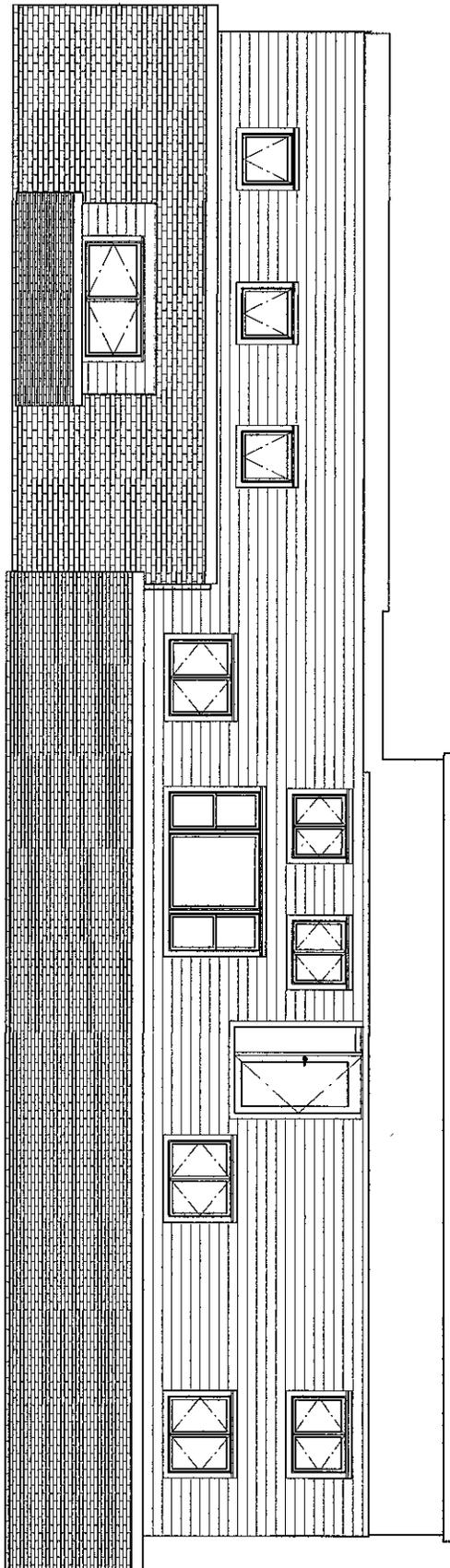
NO.	DESCRIPTION	BY	DATE

SHEET TITLE

PROJECT DESCRIPTION:
 THEIRS ADDITION
 711 HOWARD GENSEN RD
 DULUTH MN 55803

DRAWINGS PROVIDED BY:
 Bryan Gustafson
 Worn Stair

DATE: PC Packet 7/10/18
 SCALE:
 SHEET: A-1



Elevation 1



CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-078	Contact	Steven Robertson, 218-730-5295	
Type	Final Plat	Planning Commission Date	July 10, 2018	
Deadline for Action	Application Date	June 8, 2018	60 Days	August 7, 2018
	Date Extension Letter Mailed	July 2, 2018	120 Days	October 6, 2018
Location of Subject	South of the intersection of Grand Avenue and Warwick Street			
Applicant	Spirit Valley Land Company	Contact	Brad Johnson	
Agent	LHB	Contact	Paul Vogel	
Legal Description	See Attached			
Site Visit Date	April 28, 2017	Sign Notice Date	July 25, 2017	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal

The applicant is proposing a final plat to subdivide the previously platted property in preparation for a future mixed use development (Kayak Bay).

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-P	Residential/Undeveloped	General Mixed, Preservation, Urban Res
North	MU-N, R-1, P-1	Residential, Recreation	Neighborhood Commercial, Pres, Rec
South	I-G, R-1	Undeveloped, Railroad/Trail	Preservation
East	I-G	Undeveloped, Residential	Preservation
West	R-1, R-2	Residential	Preservation, Recreation, Urban Resid

Summary of Code Requirements

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

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

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

2006 Governing Principle #5 - Strengthen neighborhoods

2006 Governing Principle #8 - Encourage mix of activities, uses, and densities.

Future Land Use- General Mixed Use. The broadest mix of uses, including light industrial, office, commercial, and residential use, with performance standards to ensure compatibility. Includes areas that are in transition from industrial uses and large redevelopments that require master plans and phased development. General or heavy industrial can be included when a large site is master planned to allow appropriate separation of uses.

Future Land Use- Neighborhood Commercial. Small- to moderate scale commercial, serving primarily the adjacent neighborhood(s). May include specialty retail; community gathering businesses such as coffee shops or lower intensity entertainment; offices; studios or housing above retail (storefront retail with vertical mixed use). Typically situated in or adjacent to residential neighborhoods. May transition to neighborhood mixed use.

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

Future Land Use – Preservation. Lands with substantial restrictions. High natural resource or scenic value, or severe development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: most city parklands and primary viewsheds; shorelands of lake, rivers, streams; wetlands and floodplains; high-value habitat; low-intensity private or public uses.

Previous Actions:

- Riverside Small Area Plan was adopted on October 26, 2015. It addressed land use and other related topics for the Riverside area, which included much of the area being platted as Kayak Bay.
- Wetland delineation was approved on in November 2015, and a wetland replacement plan showing impacts of approximately 24,000 square feet on the 27-acre site was approved on May 31, 2018.
- Property was rezoned (PL 16-105) from R-1, R-2, MU-N and I-G, to MU-P (Mixed Use Planned); approved by the City Council on February 13, 2017, effective March 15, 2017. The rezoning included a concept plan, which showed the uses, height, and density of the proposed plan.
- A preliminary plat was approved by the Planning Commission (PL 17-028) with conditions, on March 14, 2017.
- An EAW was conducted for this project (PL 17-085). On January 9, 2018, the Planning Commission made a negative declaration and did not require the preparation of an EIS for the project.

Review and Discussion Items

1) The applicant is proposing to subdivide the property to prepare for future development. The general process for subdivisions is that first the applicant submits to the Land Use Supervisor a concept plan that shows, in very general terms, the overall development. That was accomplished in September 2016. The second step is to submit a preliminary plat, that better identifies public right of way and easements (where appropriate), preliminary locations for utilities and storm water control, and general lot configuration. The Planning Commission reviews the preliminary plat for general conformance to the comprehensive plan and the zoning code, and makes recommendations. The applicant then prepares the final plat based upon the recommendations and comments heard at the previous public hearing. Once approved by the Planning Commission, final plats can be recorded (President of the Planning Commission and Secretary of the Planning Commission are required to sign the plat as evidence of approval).

2) In addition to the platting process described above, the property is zoned Mixed-Use Planned (MU-P), a zone district intended to “provide a flexible development option for mixed use projects that integrate creative site design, provide a variety of building types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in final products that provides a greater level of public benefit than would

be required under the existing zone district". There is an adopted concept plan for this development that identifies uses, densities, and heights of structures, but a regulating plan has not been submitted for review/approval of the Land Use Supervisor. An approved regulating plan will be required before building permits for new structures can be issued.

3) A phase 1 archeology survey was conducted on this property in June 2018. According to the report, a determination of No Historic Properties Affected is recommended for most of the Kayak Bay Village development as currently proposed. A determination of No Adverse Impacts is recommended for the road crossings of the LS&M Railroad and the Duluth Short Line Railroad.

4) A survey of Threatened and Endangered Species, including pale sedge, is being conducted the second week of July 2018. A final report is expected at the end of July 2018. This is being done because one of the comments received during the EAW stated that this species has the potential to occur in fire-dependent forest edges near Lake Superior, and this property has the potential habitat that could potentially support this species. If this species is found in areas proposed to be impacted by development, the project proposer will need to either amend the plat or seek approval to impact the species, as may be permitted by the Department of Natural Resources. No ground disturbing activity, such as grading, can occur before the pale sedge survey is completed.

5) The site contains three waterways: Knowlton Creek, 84th Avenue West Creek, and 85th Avenue West Creek. The first is a coldwater river, and the other two are general development waters. New development in MU-P zone districts must comply with the shoreland standards; the plat is generally avoiding shoreland impacts via open space and drainage and utility easements. There is a floodplain present, but at the extreme northeast corner of the property, near Knowlton Creek.

5) The final plat has 6 blocks, each containing 1 or 2 lots, and 2 outlots. It is significantly similar to the preliminary plat approved in 2017 (and also included with this staff report for reference), with the exception of the removal of Bayview Road. The state would not authorize a second crossing over the Willard Munger trail, so instead the private road is proposed to run alongside/adjacent to the right of way for the trail, to allow access to Block 5, Lot 1. Final approval for this will be with the state.

6) During preliminary plat review, the staff report had comment street names of connecting streets should be consistent. Either "Kayak Bay Drive" should change or "Warwick Street" (the name of the road that accesses the Spirit Mountain Chalet) should change. The final plat keeps the name Kayak Bay Drive, but city staff are amending their recommendation from the preliminary plat and are not recommending a change at this time.

7) During the preliminary plat review process, St. Louis County, Traffic Engineering, stated that the County may be participating in the funding and construction of Kayak Bay Drive and that any development of the site must be planned and coordinated directly with St. Louis County Public Works with regard to Kayak Bay Drive. In addition, MnDOT stated that any access from Highway 23 will need to be permitted and any access issues should be identified and resolved prior to the plan being finalized. The development of Kayak Bay Drive and other public infrastructure shall be governed by the requirements of the development agreement between the city and the project proposer. These comments and conditions still apply with the final plat.

8) City staff had comments (technical corrections) on both the plat exhibit and the vacation exhibits, which were still being made/corrected at the time that this staff report was written. No other comments were received from city, agency or public comments.

9) If the Saint Louis County Examiner of Titles determines it necessary, existing platted public easements will need to be vacated concurrent with any final plat recording. The City Council has already vacated these easements and the Council resolution and vacation exhibit can be recorded, if necessary, at the time of final plat recording.

10) Staff find that, other than the items addressed above, which shall be conditions of this approval, the preliminary plat conforms to the requirements of Sec 50-37.5. Subdivided blocks will conform to the minimum lot area and lot

frontage for the approved MU-P concept plan. The preliminary plat is consistent with the comprehensive land use plan, is consistent with all applicable requirements of MSA 462.358 and Chapter 505. A regulating plan, which regulates development in the MU-P district, has not been submitted. Regulating Plans are reviewed and approved by the Land Use Supervisor.

Staff Recommendation

Based on the above findings, staff recommends that Planning Commission approve the Final Plat with the items referenced above, including:

- 1) Developer shall enter into a development agreement with the City of Duluth, which shall be recorded with the property for each lot within the Plat of Kayak Bay, prior to issuance of any building permits; and
- 2) No ground disturbing activity, such as grading, commence until the pale sedge report is completed. In addition, the Land Use Supervisor and the President of the Planning Commission may not sign the plat until the study is completed; and
- 3) That the City Council resolution and exhibit vacating existing public right of way and easements be recorded concurrent with recording of the final plat, if the Examiner of Titles determines this step is necessary.



Grand Avenue Estates

Kayak Bay

Orchards of Morgan Park

Morgan Park Estates

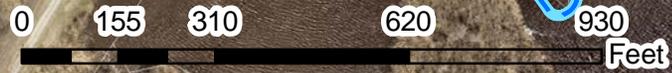


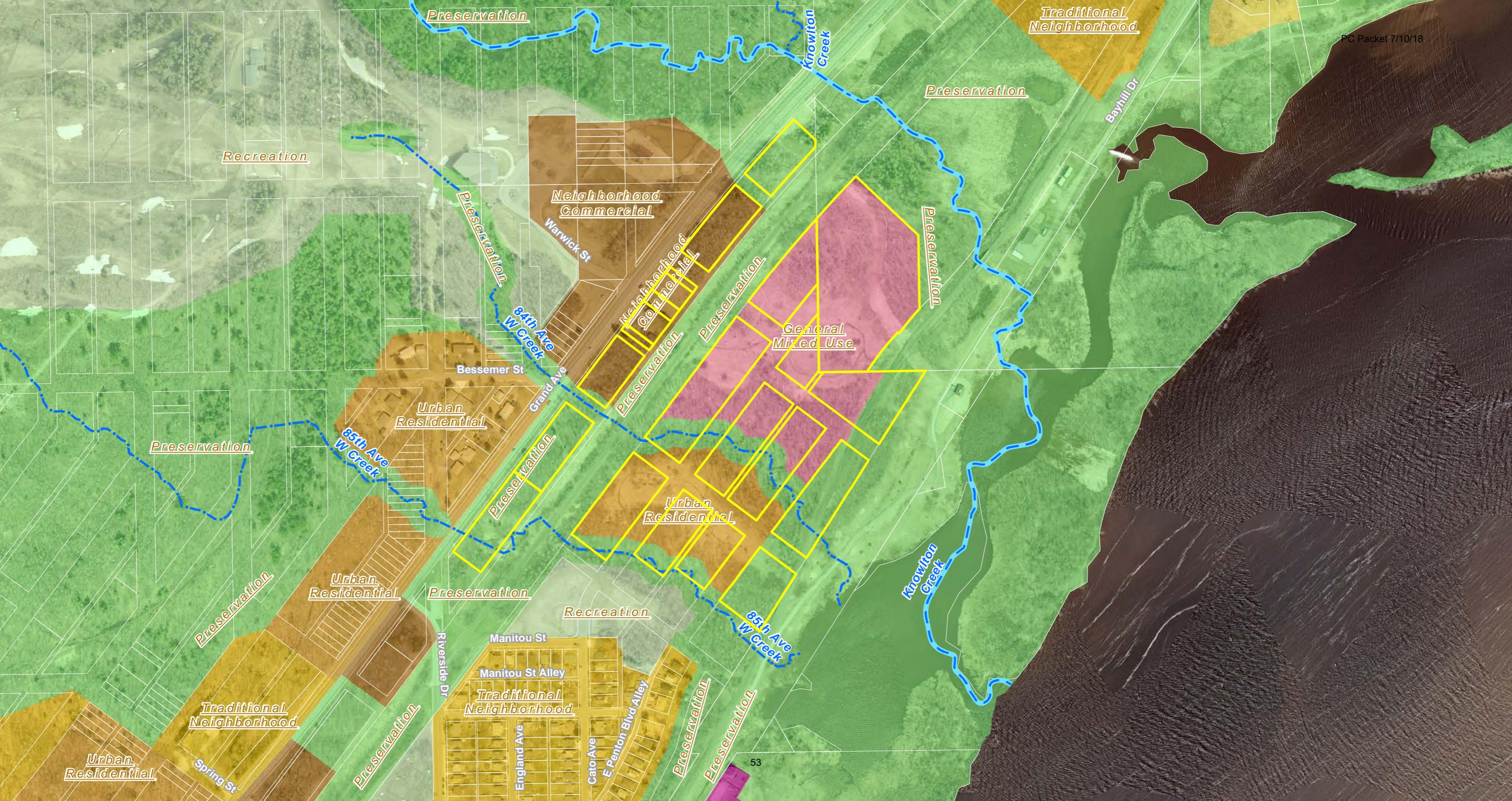


Legend

-  Zoning Boundaries
-  Trout Stream (GPS)
-  Other Stream (GPS)

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





Preservation

Traditional Neighborhood

Recreation

Preservation

Neighborhood Commercial

Preservation

Neighborhood Commercial

Preservation

General Mixed Use

Preservation

Bessemer St

Urban Residential

Grand Ave

Preservation

85th Ave W Creek

Preservation

Urban Residential

Urban Residential

Preservation

Recreation

85th Ave W Creek

Knowlton Creek

Manitou St

Manitou St Alley

Traditional Neighborhood

Preservation

Preservation

53

Urban Residential

Traditional Neighborhood

Spring St

Preservation

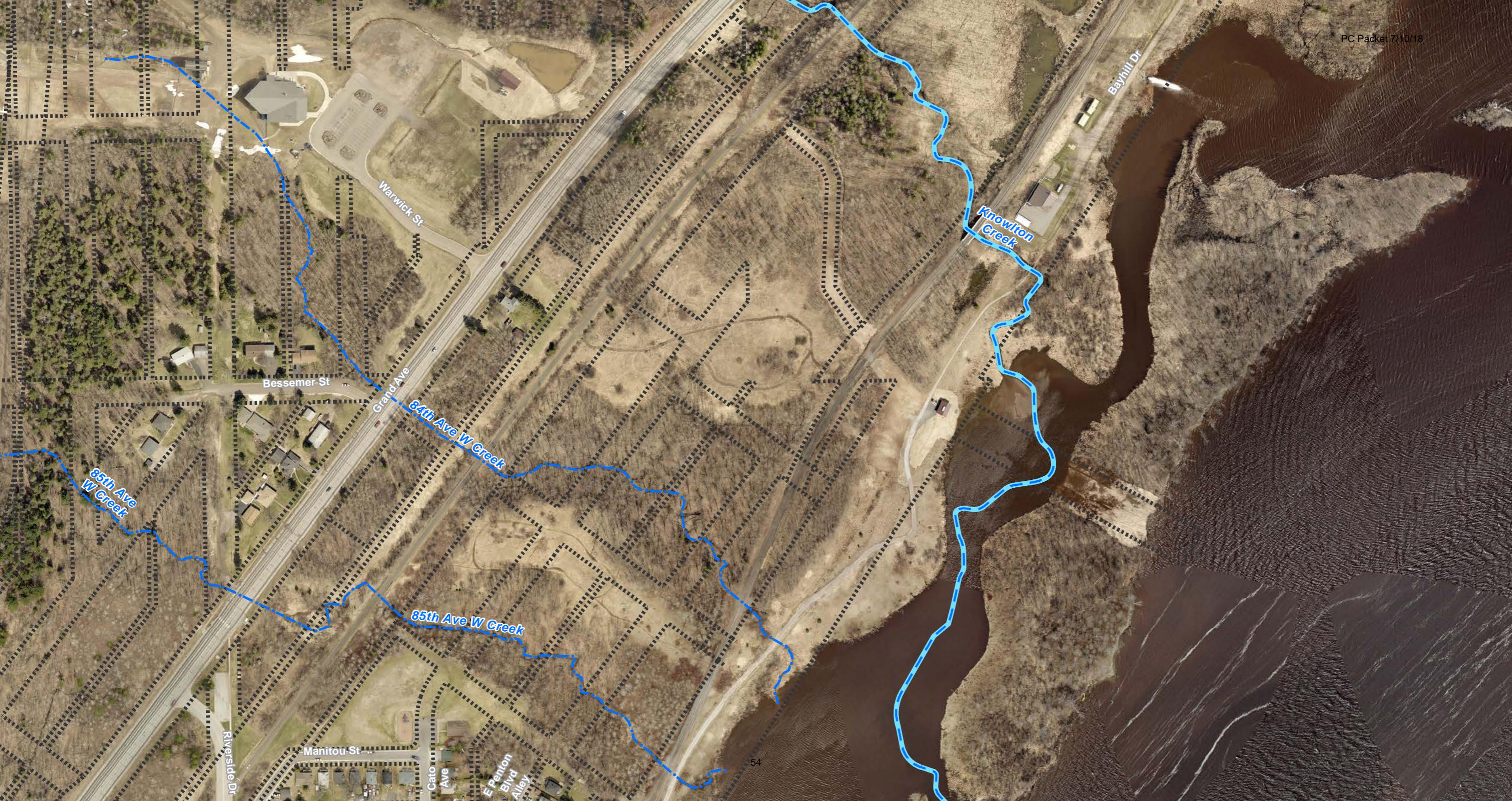
Riverside Dr

England Ave

Cato Ave

E Penton Blvd Alley

Bayhill Dr



Warwick St

Bessemer St

Grand Ave

84th Ave W Creek

85th Ave W Creek

85th Ave W Creek

Knowlton Creek

Bayhill Dr

Riverside Dr

Manitou St

Cato Ave

E Penton Blvd Alley

CLIENT:
**SPIRIT VALLEY
LAND COMPANY LLC**

THIS SQUARE APPEARS 1/2" x 1/2" ON
FULL SIZE SHEETS.

OCTOBER 2015 TEP APPROVAL
NO DATE ISSUED FOR

NO DATE REVISION

PRELIMINARY
NOT FOR CONSTRUCTION
OCTOBER 2015

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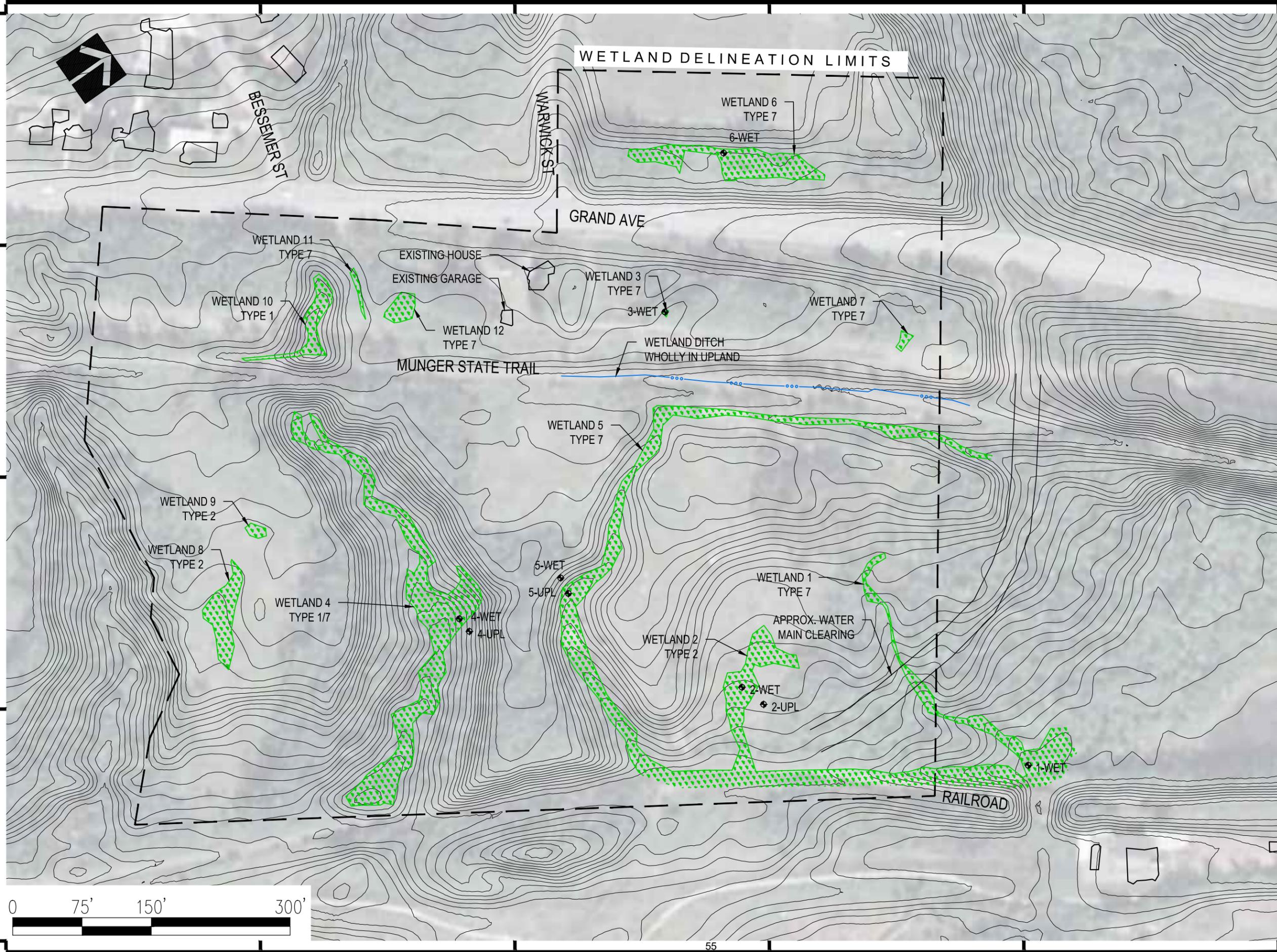
PROJECT NAME:
**WARWICK STREET /
KAYAK BAY
REDEVELOPMENT**

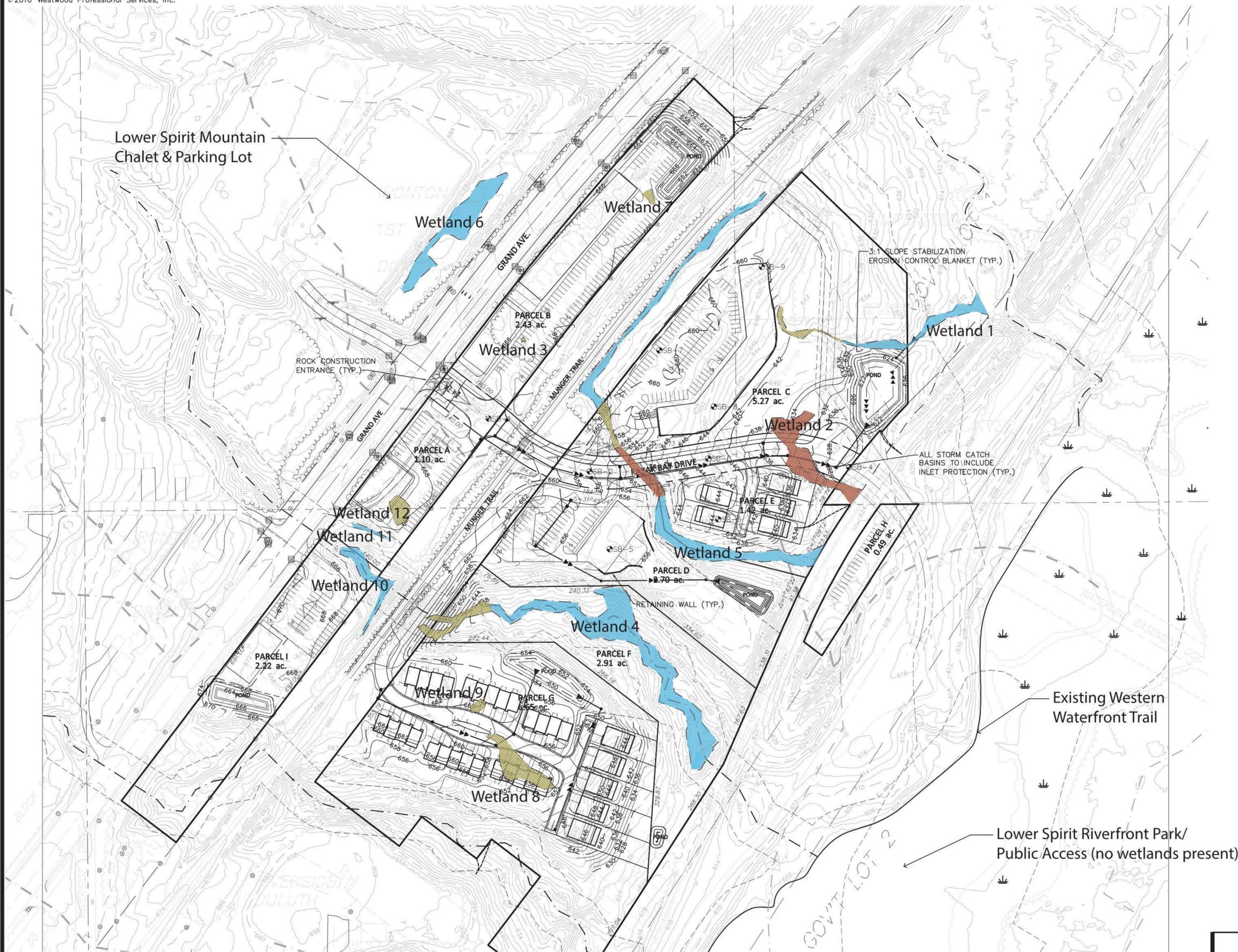
DRAWING TITLE:
**WETLAND DELINEATION
EXHIBIT**

FILE: .1150444\600 Drawings\Basel150444_CWET.dwg
DRAWN BY:
CHECKED BY:
PROJ. NO: 150444
DRAWING NO:

W1.0

WETLAND DELINEATION LIMITS





WETLAND IMPACTS - KAYAK BAY DRIVE:

WETLAND 2:	8,250 sf	(Impacts shown in red)
WETLAND 5:	2,403 sf	
TOTAL KAYAK BAY DRIVE:	10,653 sf	

WETLAND IMPACTS - DEVELOPMENT:

WETLAND 1:	1,269 sf	(Impacts shown in yellow)
WETLAND 3:	43 sf	
WETLAND 4:	3,097 sf	
WETLAND 5:	1,214 sf	
WETLAND 7:	424 sf	
WETLAND 8:	4,988 sf	
WETLAND 9:	557 sf	
WETLAND 12:	1,719 sf	
TOTAL DEVELOPMENT:	13,331 sf	

WETLAND IMPACTS - COMBINED OVERALL:

SUBTOTAL KAYAK BAY DRIVE:	10,653 sf
SUBTOTAL DEVELOPMENT:	13,331 sf
TOTAL PROJECT IMPACTS:	23,964 sf

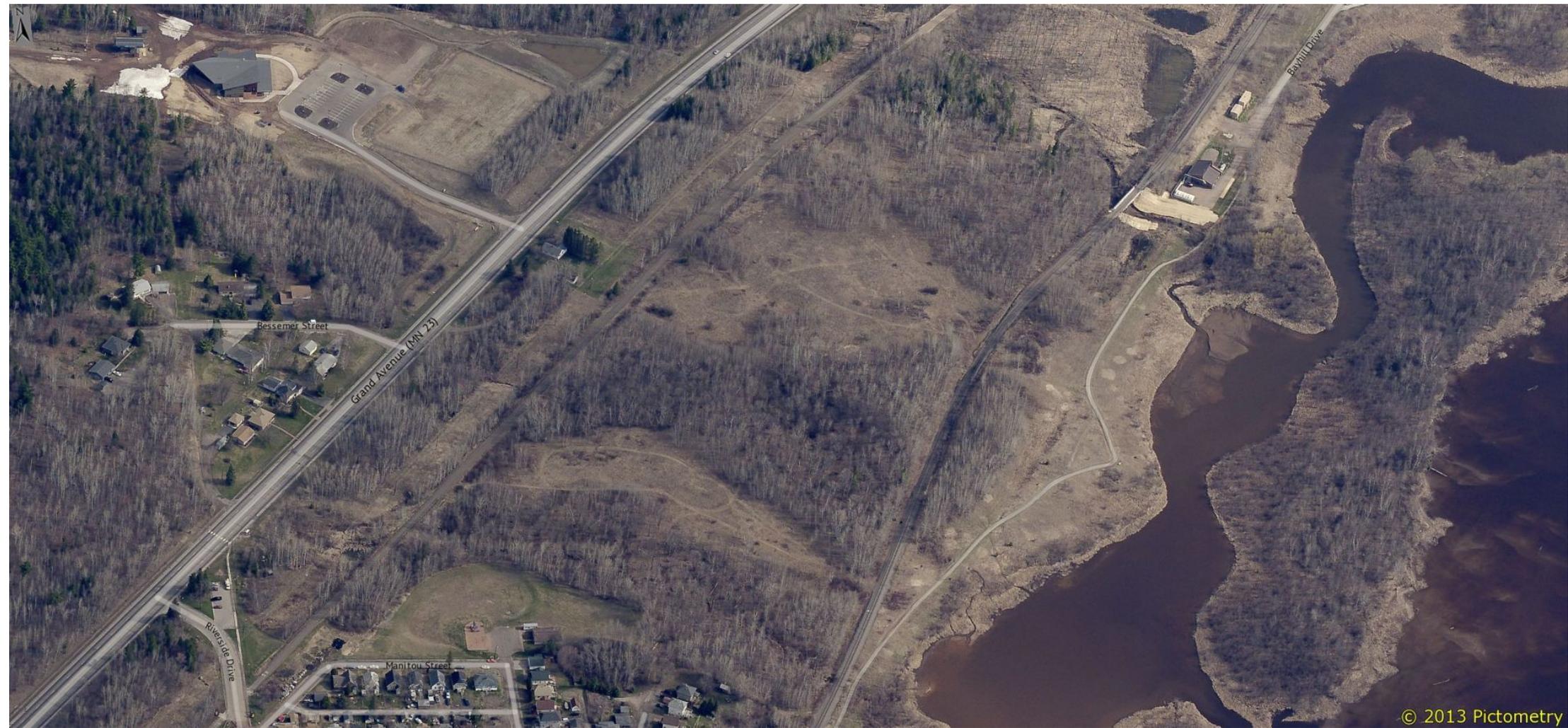
LEGEND:

- DENOTES SOIL BORING
- DENOTES SILT FENCE
- DENOTES HEAVY DUTY SILT FENCE
- DENOTES EXISTING CONTOURS
- DENOTES PROPOSED CONTOURS
- DENOTES EXISTING STORM SEWER
- DENOTES PROPOSED STORM SEWER
- DENOTES EXISTING TREE LINE
- DENOTES APPROXIMATE TREE REMOVAL LIMITS
- DENOTES EXISTING SPOT ELEVATION
- DENOTES PROPOSED SPOT ELEVATION
- DENOTES BIO-ROLL EROSION CHECKS
- DENOTES EMERGENCY OVERFLOW ELEVATION
- DENOTES EXISTING WETLAND
- DENOTES WETLAND FILL



Date: 4/11/2018 Sheet: OF
 0002483GDP02.dwg

Designed:	CLJ
Checked:	RMB
Drawn:	HW
Record Drawing by/date:	



© 2013 Pictometry

KAYAK BAY

being a portion of IRONTON FIRST DIVISION and GOVERNMENT LOT 1
Section 23, Township 49 North, Range 15 West of the 4th Principal Meridian
City of Duluth, St. Louis County, Minnesota

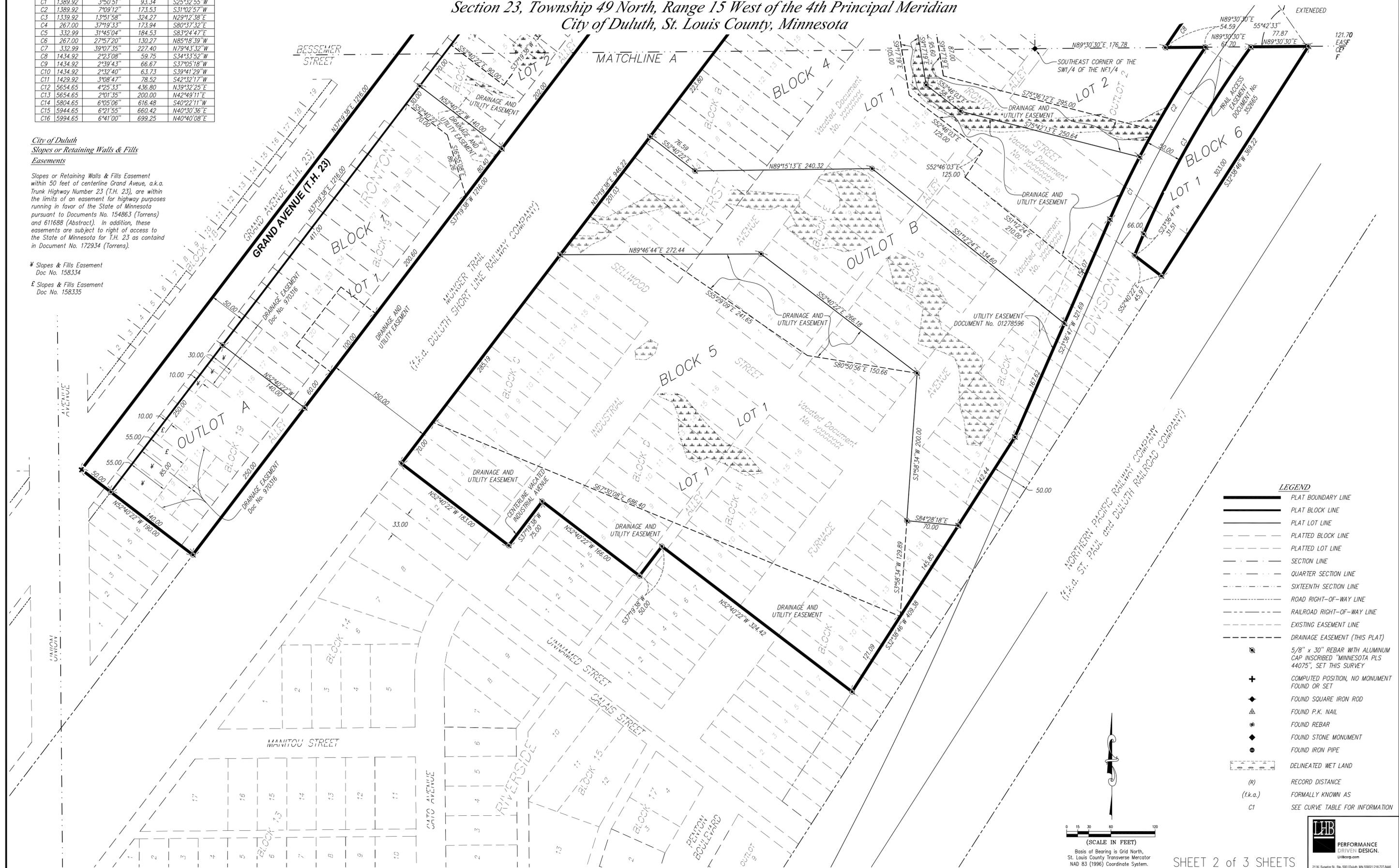
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City of Duluth Slopes or Retaining Walls & Fills Easements

Slopes or Retaining Walls & Fills Easement within 50 feet of centerline Grand Ave., a.k.a. Trunk Highway Number 23 (T.H. 23), are within the limits of an easement for highway purposes running in favor of the State of Minnesota pursuant to Documents No. 154863 (Torrens) and 611688 (Abstract). In addition, these easements are subject to right of access to the State of Minnesota for T.H. 23 as contained in Document No. 172934 (Torrens).

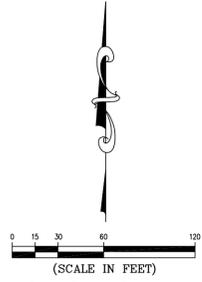
⌘ Slopes & Fills Easement
Doc No. 158334

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Doc No. 158335



LEGEND

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	PLAT LOT LINE
	PLATTED BLOCK LINE
	PLATTED LOT LINE
	SECTION LINE
	QUARTER SECTION LINE
	SIXTEENTH SECTION LINE
	ROAD RIGHT-OF-WAY LINE
	RAILROAD RIGHT-OF-WAY LINE
	EXISTING EASEMENT LINE
	DRAINAGE EASEMENT (THIS PLAT)
	5/8" x 30" REBAR WITH ALUMINUM CAP INSCRIBED "MINNESOTA PLS 44075", SET THIS SURVEY
	COMPUTED POSITION, NO MONUMENT FOUND OR SET
	FOUND SQUARE IRON ROD
	FOUND P.K. NAIL
	FOUND REBAR
	FOUND STONE MONUMENT
	FOUND IRON PIPE
	DELINEATED WET LAND
(R)	RECORD DISTANCE
(f.k.a.)	FORMALLY KNOWN AS
C1	SEE CURVE TABLE FOR INFORMATION



Basis of Bearing is Grid North,
St. Louis County Transverse Mercator
NAD 83 (1996) Coordinate System.



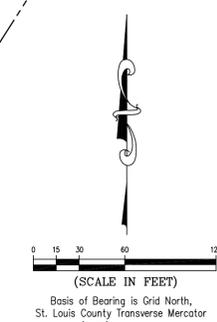
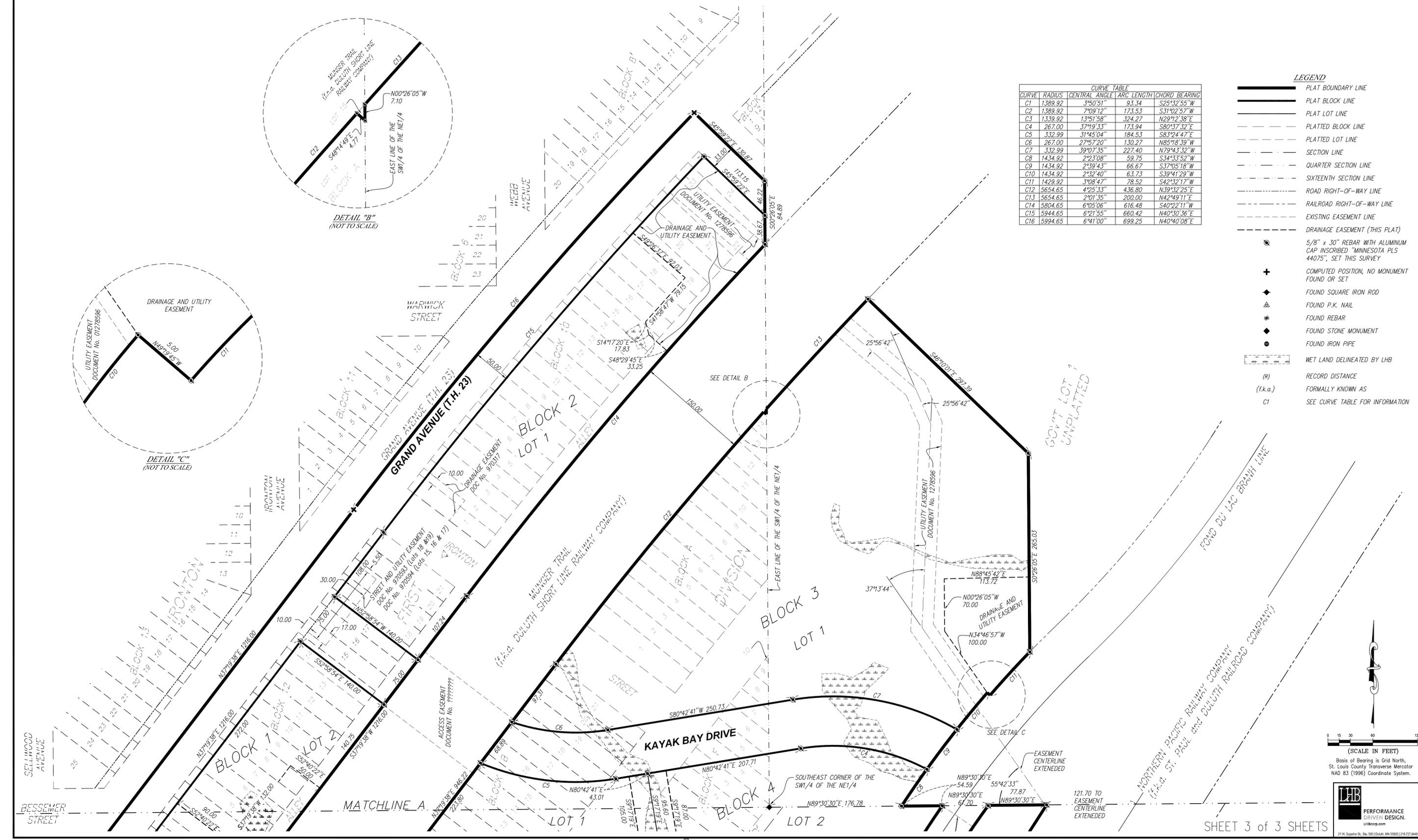
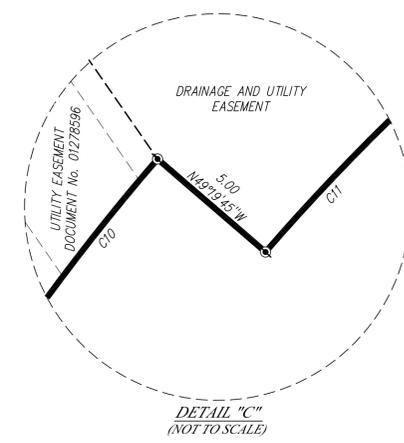
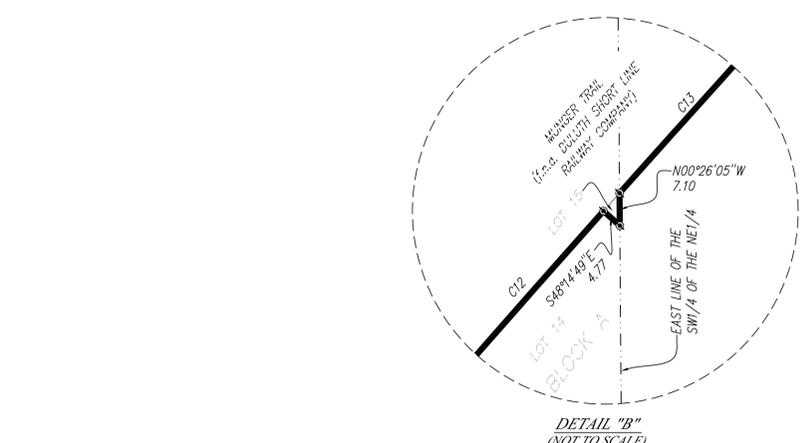
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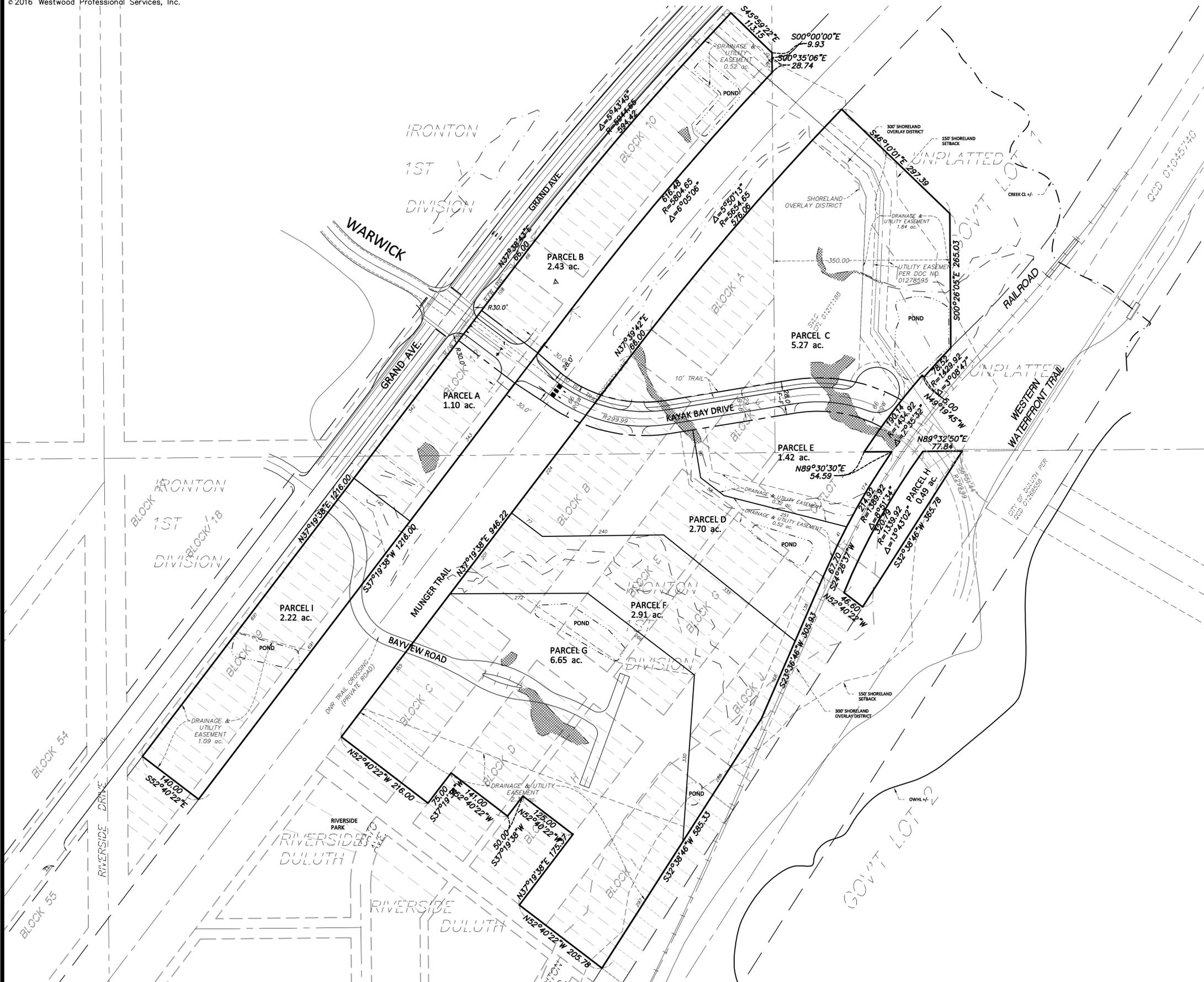
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(SCALE IN FEET)
Basis of Bearing is Grid North,
St. Louis County Transverse Mercator
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Property Description

See Attached Legals

Parcel Data

Kayak Bay Village Regulating Plan

12/28/16

Parcel	Gross Acres	D/U Easement Acres		Maximum Density	Max. Height	Notes
A	1.10 ac.	0.22 ac.	0.88 ac.	Mixed Use (see detail)	10,000 sf Retail / 20,000 sf Office	20' Rtl / 35' Off.
B	2.43 ac.	0.52 ac.	1.91 ac.	Mixed Use (see detail)	25,000 sf Retail / 40,000 sf Office / 100 units	72'
C	5.27 ac.	1.84 ac.	3.43 ac.	Mixed Use (see detail)	35,000 sf Retail / 50,000 sf Office / 150 units	72'
D	2.70 ac.	0.52 ac.	2.18 ac.	Mixed Use (see detail)	15,000 sf Retail / 30,000 sf Office / 100 units	72'
E	1.42 ac.	0.32 ac.	1.10 ac.	Mixed use (see detail)	40 MF units / 15 Res Townhomes	60'
F	2.91 ac.	2.91 ac.	0.0 ac.	Open Space	n/a	
G	6.65 ac.	2.75 ac.	3.90 ac.	Mixed Use (see detail)	150 MF units / 50 Res Townhomes	60'
H	0.49 ac.	0.49 ac.	0.0 ac.	Open Space/Parking	n/a	
I	2.22 ac.	1.23 ac.	0.99 ac.	Mixed Use (see detail)	20,000 sf Retail / 35,000 sf Office	20' Rtl / 35' Off.
R/W	1.16 ac.	n/a	1.16 ac.	Public Street	n/a	n/a
Total	26.35 ac.	10.80 ac.	15.55 ac.			

Permitted Uses in Mixed Use District:

- | | |
|---|---|
| <p>Parcels B, C & D</p> <ul style="list-style-type: none"> • Retail store Less Than 15,000sqft • Bank • Office • Medical or Dental Clinic • Lodging (Hotel or Motel) • Multifamily Rental • Multi-family Condos • Restaurant up to 5,000 sqft or more • Garden Material Sales • Personal Service or Repair • Dwelling, one or two Family, Townhomes • Convention or Event Center | <p>Parcels A & I</p> <ul style="list-style-type: none"> • Retail Store Less Than 15,000sqft • Office • Bank • Medical or Dental Clinic • Restaurant less than 5,000sqft • Garden Material Sales • Personal service or repair <p>Parcels G & E</p> <ul style="list-style-type: none"> • Dwelling, one-two family • Dwelling, townhouse • Dwelling, Multifamily, Rental or Condos |
|---|---|

1 | Page

TOTAL PERIMETER OF ALL BOUNDARY IS 9371.01 FEET

ALL PARCELS TO BE OWNED BY SVLC



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Date: 2/13/2017 Sheet: 3 OF 11

Westwood

Phone (952) 937-5150 7699 Anagram Drive
 Fax (952) 937-5822 Eden Prairie, MN 55344
 Toll Free (888) 937-5150 westwoodps.com
 Westwood Professional Services, Inc.

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.

Craig W. Morse, RLS
 Date: 2/13/2017 License No. 23021

Revisions:

2/23/2017 City comments(CWM)

Designed: CLM
 Checked: CLM
 Drawn: SRS
 Record Drawing by/date:

Prepared for:
Spirit Valley Land Company, LLC
 P.O. Box 235
 Chanhassen, Minnesota 55317

Kayak Bay

Duluth, Minnesota

Preliminary Plat



CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-079	Contact	Steven Robertson, 218-730-5295	
Type	Vacation of Platted Right of Way	Planning Commission Date	July 10, 2018	
Deadline for Action	Application Date	June 8, 2018	60 Days	August 7, 2018
	Date Extension Letter Mailed	July 2, 2018	120 Days	October 6, 2018
Location of Subject	South of the intersection of Grand Avenue and Warwick Street			
Applicant	Spirit Valley Land Company	Contact	Brad Johnson	
Agent	LHB	Contact	Paul Vogel	
Legal Description	See Attached			
Site Visit Date		Sign Notice Date	June 25, 2018	
Neighbor Letter Date	June 28, 2018	Number of Letters Sent	10	

Proposal

Vacate platted, but unimproved right of way, in preparation for a replatting of the subject area, with subsequent dedication of new right of way and utility and drainage easements.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-P	Residential/Undeveloped	General Mixed, Preservation, Urban Res
North	MU-N, R-1, P-1	Residential, Recreation	Neighborhood Commercial, Pres, Rec
South	I-G, R-1	Undeveloped, Railroad/Trail	Preservation
East	I-G	Undeveloped, Residential	Preservation
West	R-1, R-2	Residential	Preservation, Recreation, Urban Resid

Summary of Code Requirements

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

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

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

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

2006 Governing Principle #7 – Create and maintain connectivity.

2006 Governing Principle #8 - Encourage mix of activities, uses, and densities.

Future Land Use- General Mixed Use. The broadest mix of uses, including light industrial, office, commercial, and residential use, with performance standards to ensure compatibility. Includes areas that are in transition from industrial uses and large redevelopments that require master plans and phased development. General or heavy industrial can be included when a large site is master planned to allow appropriate separation of uses.

Future Land Use- Neighborhood Commercial. Small- to moderate scale commercial, serving primarily the adjacent neighborhood(s). May include specialty retail; community gathering businesses such as coffee shops or lower intensity entertainment; offices; studios or housing above retail (storefront retail with vertical mixed use). Typically situated in or adjacent to residential neighborhoods. May transition to neighborhood mixed use.

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

Future Land Use – Preservation. Lands with substantial restrictions. High natural resource or scenic value, or severe development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: most city parklands and primary viewsheds; shorelands of lake, rivers, streams; wetlands and floodplains; high-value habitat; low-intensity private or public uses.

Previous Actions:

- Riverside Small Area Plan was adopted on October 26, 2015. It addressed land use and other related topics for the Riverside area, which included much of the area being platted as Kayak Bay.
- Wetland delineation was approved on in November 2015, and a wetland replacement plan showing impacts of approximately 24,000 square feet on the 27-acre site was approved on May 31, 2018.
- Property was rezoned (PL 16-105) from R-1, R-2, MU-N and I-G, to MU-P (Mixed Use Planned); approved by the City Council on February 13, 2017, effective March 15, 2017. The rezoning included a concept plan, which showed the uses, height, and density of the proposed plan.
- A preliminary plat was approved by the Planning Commission (PL 17-028) with conditions, on March 14, 2017.
- An EAW was conducted for this project (PL 17-085). On January 9, 2018, the Planning Commission made a negative declaration and did not require the preparation of an EIS for the project.

Review and Discussion Items

- 1) The applicant is proposing to vacate existing platted, but unimproved, right of way in conjunction with replatting the property for future development. See attached exhibit and legal description.
- 2) The proposed “Kayak Bay” plat will create several lots that have frontage on Grand Avenue, or the proposed Kayak Bay Drive, while a few of the residential lots proposed in the SW corner of the development will be served by a private road. The streets proposed for vacation will not be needed to serve proposed future development of the land in the plat and are not required for connectivity to other streets in the area.
- 3) The streets proposed for vacation will not be needed for pedestrian connections. The Willard Munger Trail runs through the development, roughly parallel to Grand Avenue, providing cross access (at Kayak Bay Drive) for pedestrians.
- 4) The proposed plat dedicates a utility easement for some of the required public utilities needed for development and the applicant will dedicate any additional utility easements needed at the time of development. The streets proposed for vacation will no longer be needed for utility purposes.

- 5) None of the streets proposed for vacation are needed to provide public recreational access to water. The proposed Kayak Bay Drive will provide access to the water and a new public park.
- 6) The rights of way proposed for vacation will not otherwise be needed to promote the public health, safety, or welfare of the citizens of Duluth when the proposed replatting of the property into the "Kayak Bay" plat is completed.
- 7) City staff had comments (technical corrections) on both the plat exhibit and the vacation exhibits, which were still being made/corrected at the time that this staff report was written. No other comments were received from city, agency or public comments.
- 8) Vacations of streets lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

Staff Recommendation

Based on the above findings, staff recommends that Planning Commission recommend approval of the proposed Vacation of streets with the following conditions:

1. The vacations shall not be final until the plat of Kayak Bay is recorded in the office of the St. Louis County Recorder, such recording to be done concurrently with filing of the plat.
2. The vacations must be recorded within 90 days of final approval by City Council or such approval will lapse.



Grand Avenue Estates

Kayak Bay

Orchards of Morgan Park

Morgan Park Estates



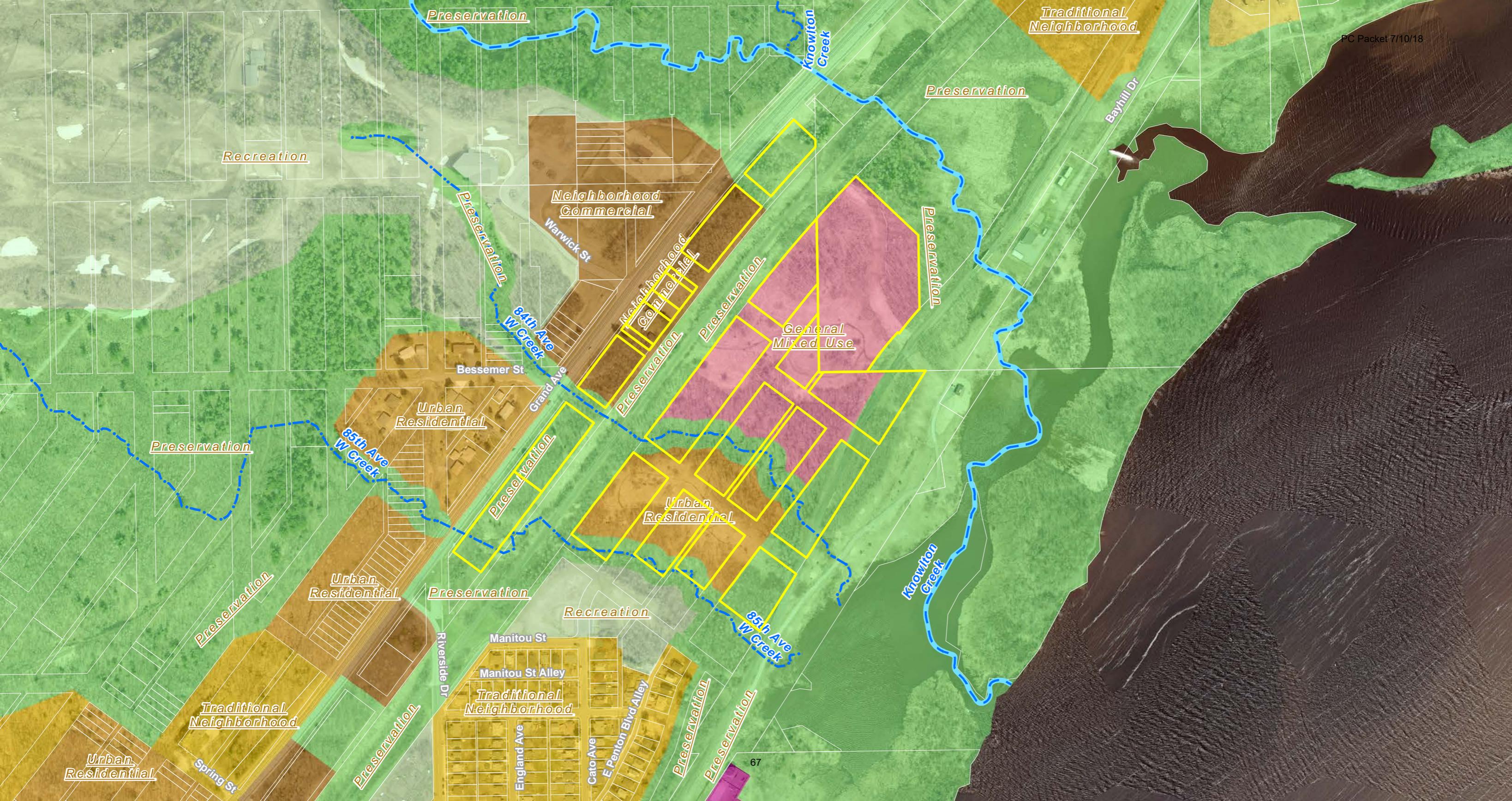


Legend

-  Zoning Boundaries
-  Trout Stream (GPS)
-  Other Stream (GPS)

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





Preservation

Traditional Neighborhood

Recreation

Preservation

Neighborhood Commercial

Warwick St

Neighborhood Commercial

84th Ave W Creek

Bessemer St

Grand Ave

General Mixed Use

Preservation

Bayhill Dr

Preservation

85th Ave W Creek

Urban Residential

Preservation

Urban Residential

Preservation

Urban Residential

Preservation

Recreation

85th Ave W Creek

Knowlton Creek

Traditional Neighborhood

Urban Residential

Spring St

Preservation

Manitou St

Manitou St Alley

Traditional Neighborhood

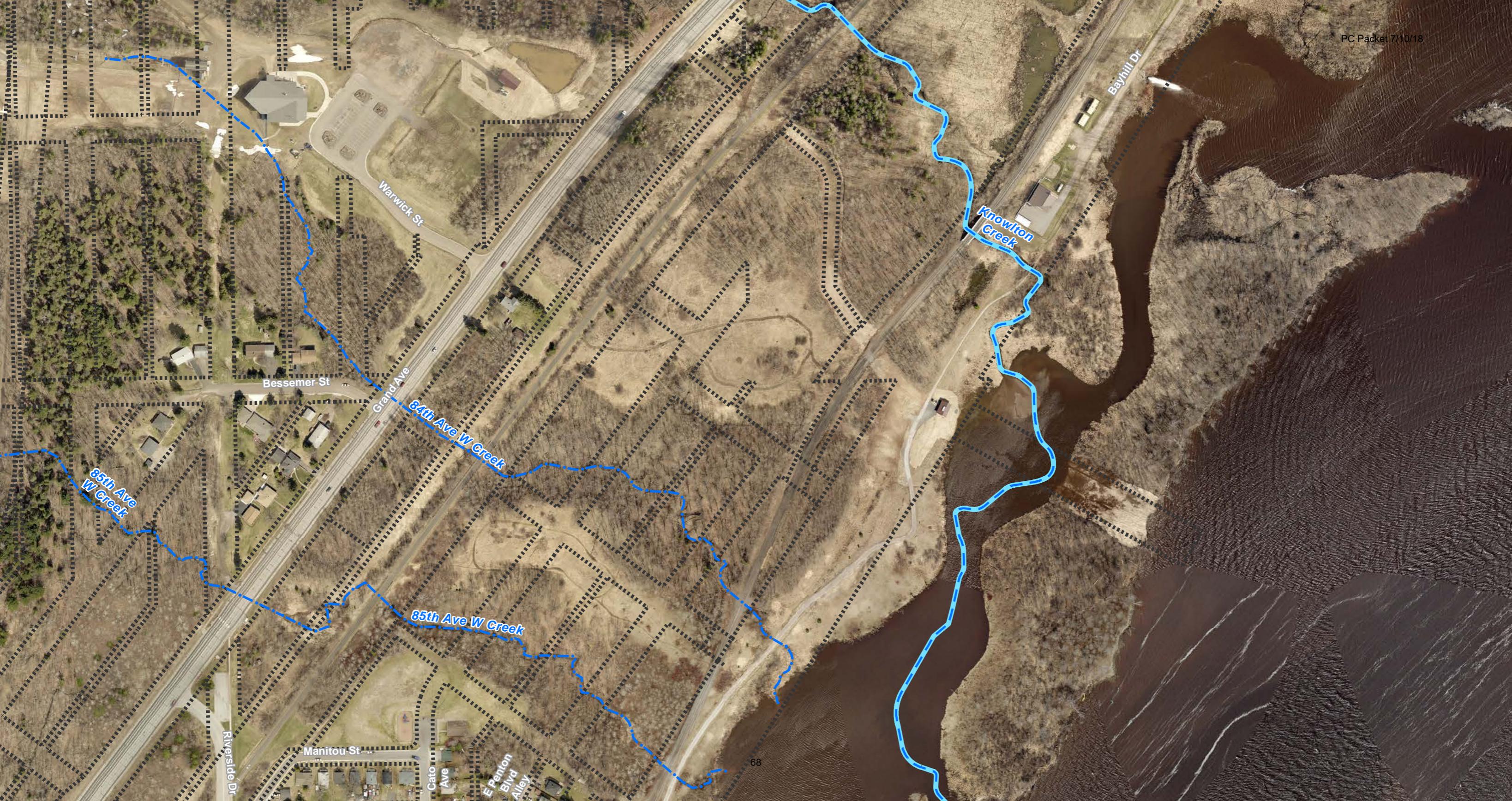
England Ave

Cato Ave

E Penton Blvd Alley

Preservation

Preservation





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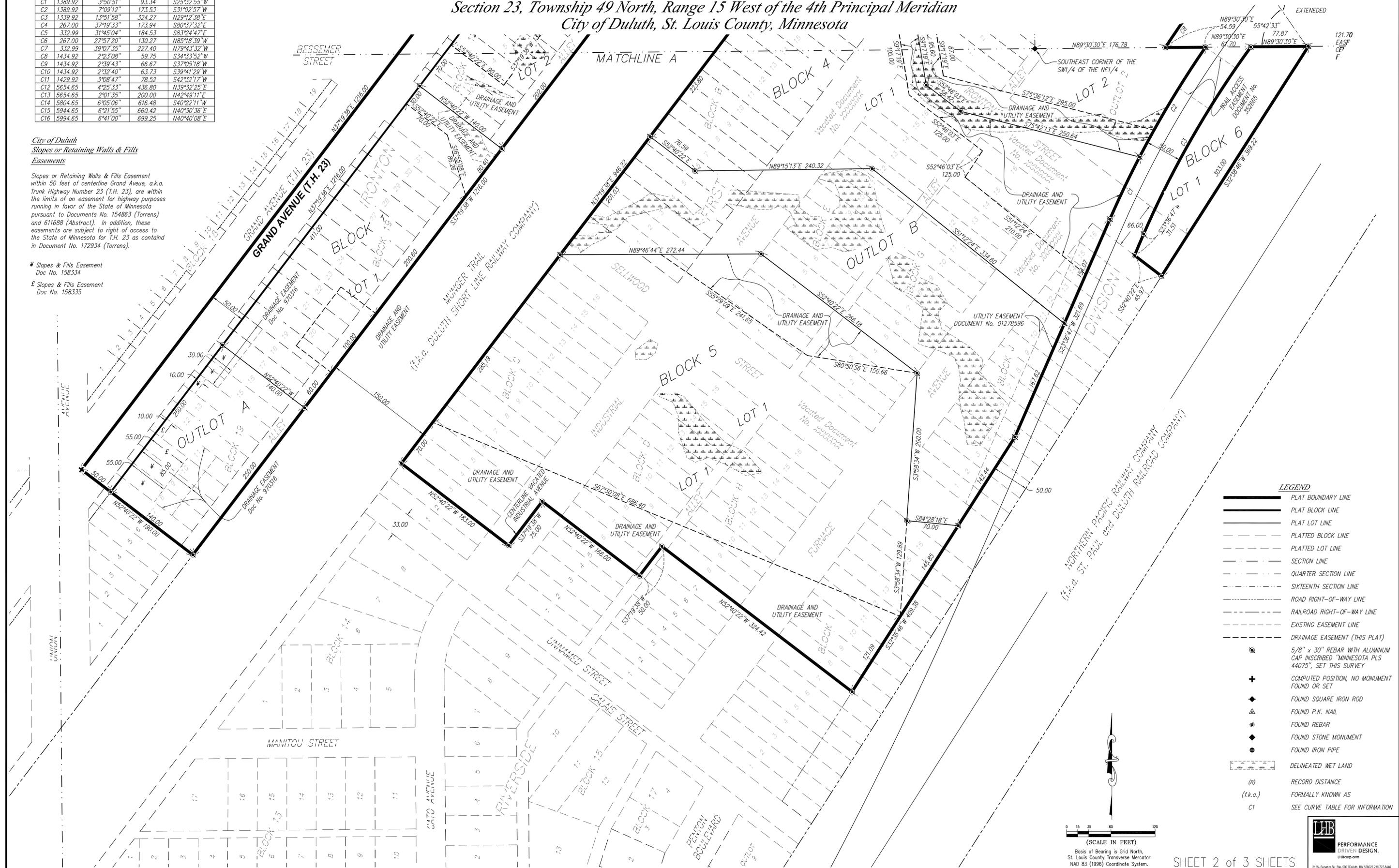
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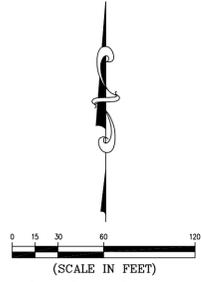
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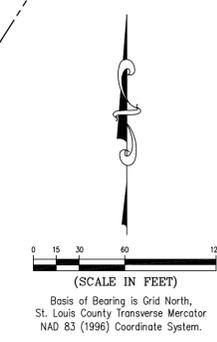
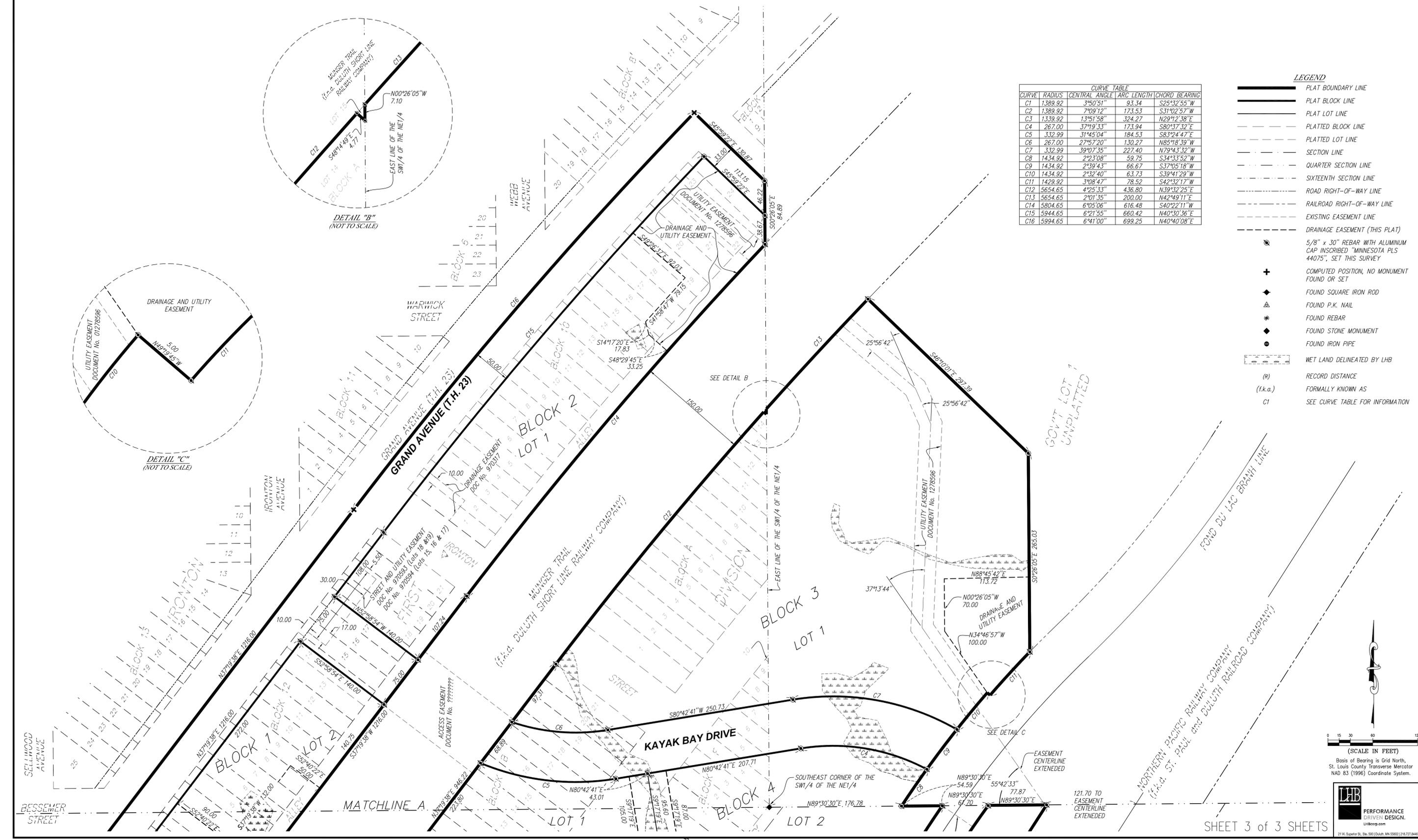
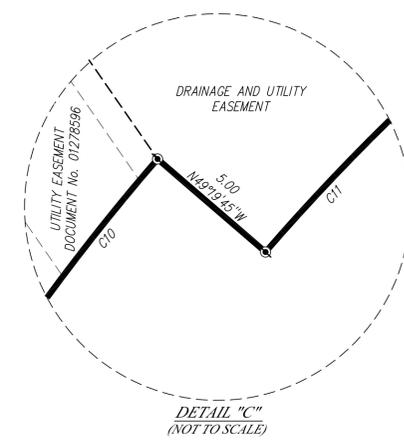
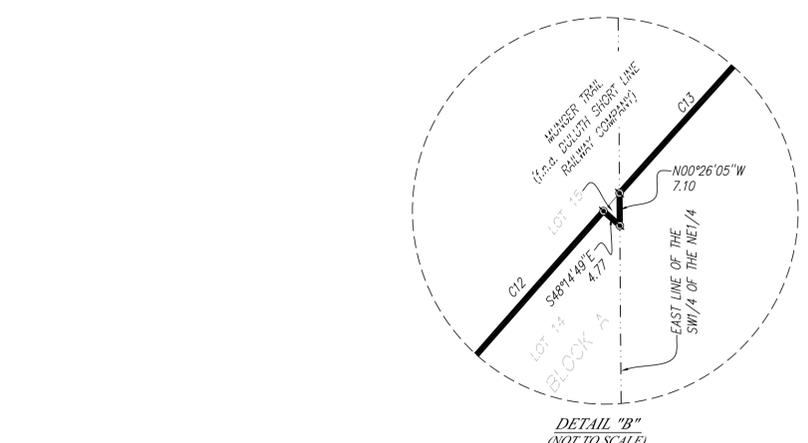
LHB
PERFORMANCE
DRIVEN DESIGN.
LHBcorp.com
21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.4468

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C1	1389.92	3°50'51"	93.34	S25°32'55"W
C2	1389.92	7°09'12"	173.53	S31°02'57"W
C3	1339.92	13°51'58"	324.27	N29°12'38"E
C4	267.00	37°19'33"	173.94	S80°37'32"E
C5	332.99	31°45'04"	184.53	S83°24'47"E
C6	267.00	27°57'20"	130.27	N85°18'39"W
C7	332.99	39°07'35"	227.40	N79°43'32"W
C8	1434.92	2°23'08"	59.75	S34°33'52"W
C9	1434.92	2°39'43"	66.67	S37°05'18"W
C10	1434.92	2°32'40"	63.73	S39°41'29"W
C11	1429.92	3°08'47"	78.52	S42°32'17"W
C12	5654.65	4°25'33"	436.80	N39°32'25"E
C13	5654.65	2°01'35"	200.00	N42°49'11"E
C14	5804.65	6°05'06"	616.48	S40°22'11"W
C15	5944.65	6°21'55"	660.42	N40°30'36"E
C16	5994.65	6°41'00"	699.25	N40°40'08"E

- LEGEND**
- PLAT BOUNDARY LINE
 - PLAT BLOCK LINE
 - PLAT LOT LINE
 - PLATTED BLOCK LINE
 - PLATTED LOT LINE
 - SECTION LINE
 - QUARTER SECTION LINE
 - SIXTEENTH SECTION LINE
 - ROAD RIGHT-OF-WAY LINE
 - RAILROAD RIGHT-OF-WAY LINE
 - EXISTING EASEMENT LINE
 - DRAINAGE EASEMENT (THIS PLAT)
 - 5/8" x 30" REBAR WITH ALUMINUM CAP INSCRIBED "MINNESOTA PLS 44075", SET THIS SURVEY
 - COMPUTED POSITION, NO MONUMENT FOUND OR SET
 - FOUND SQUARE IRON ROD
 - FOUND P.K. NAIL
 - FOUND REBAR
 - FOUND STONE MONUMENT
 - FOUND IRON PIPE
 - WET LAND DELINEATED BY LHB
 - (R) RECORD DISTANCE
 - (f.k.a.) FORMALLY KNOWN AS
 - C1 SEE CURVE TABLE FOR INFORMATION



(SCALE IN FEET)
Basis of Bearing is Grid North,
St. Louis County Transverse Mercator
NAD 83 (1996) Coordinate System.





CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL18-086		Contact	Adam Fulton, afulton@duluthmn.gov	
Type	Variance, Minimum Lot Frontage		Planning Commission Date	July 10, 2018	
Deadline for Action	Application Date	June 22, 2018	60 Days	August 21, 2018	
	Date Extension Letter Mailed	June 29, 2018	120 Days	October 20, 2018	
Location of Subject	10013 W. Skyline Pkwy				
Applicant	Edward Barbo Jr. & Candace Barbo		Contact	4202 N. 100 th Ave. W., Duluth, MN 55810	
Agent	Greg Gilbert, Attorney		Contact	11 E. Superior St. Duluth, MN 55802	
Legal Description	SE1/4 OF SW1/4 EX NLY 660 FT OF WLY 330FT & EX PART E OF WLY 330 FT, T22N-R49W-Section15 (010-2746-00120)				
Site Visit Date	July 3, 2018		Sign Notice Date	June 26, 2018	
Neighbor Letter Date	June 28, 2018		Number of Letters Sent	2	

Proposal
Requested is a variance to reduce the required minimum lot frontage from 250 feet to 0 feet to construct a single family dwelling in the RR-1 zone district. The lot has no frontage on a City street.

This request mirrors a request by Applicant in 2017, and is made based on new information and determinations by the City related to site access.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1	Horse Barn and pasture	Open Space
North	RR-1	Vacant land/Forest	Open Space
South	RR-1	Magney-Snively Natural Area	Open Space
East	RR-1	Vacant land/Forest	Open Space
West	RR-1	Spirit Mountain Rec. Area	Open Space

Summary of Municipal Planning Act & City Code Requirements

50-7.1 Compliance Required. No land shall be used and no structure shall be erected . . . except in accordance with all provisions of this ordinance that apply in the zone district where the property is located and to the type of use, structure or development in question.

50-14.3. RR-1 District Dimensional Standards: Minimum lot frontage is 250 feet.

50-41.12. Definition of Lot frontage. Frontage shall be the dimension of the lot line at the street.

50-37.9.C.- General Variance Criteria (paraphrased): The Planning Commission must find the following for a variance to be granted: a) That they are 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 or a predecessor-in-interest, 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):**History:**

1982 – The subject 5-acre parcel was created from a surrounding parcel. Approval of the subdivision was granted by St. Louis County without City of Duluth review for compliance with local rules and regulations.

1991 – Building permit granted for 36 foot by 45-foot pole building for horses with reference to the requirement for a future improved street to allow residential home construction and letter by Mr. Barbo acknowledging the street requirement.

2017 – The City of Duluth Planning Commission denies a variance request for elimination of minimum lot frontage on a public street.

Governing Principles: Principle #9 - Support private actions that contribute to the public realm, Principle #10 - Take sustainable actions

Future Land Use: Future Land Use – Open Space – “...Primarily public lands, but limited private use is anticipated subject to use and design controls. Examples include: city parks and recreation areas, primary viewsheds, shorelands of the lake and streams, wetlands and floodplains, and high-value habitat.”

Review and Discussion Items

Staff finds that:

- 1) Applicant requests a variance to allow a reduction in minimum lot frontage requirement from 250 feet to 0 feet, for a reduction of 250 feet. If the variance is granted, Applicant intends to construct a single family home on the site.
- 2) The entire contents of PL 17-082, including the staff report, Action Letter, and all exhibits and other documentation, are herein incorporated by reference. The staff report for PL 17-082 is attached to this report for reference by Planning Commissioners.
- 3) The parcel is isolated and without public access. Site access is via easement across neighboring property (“Access Easement”). If the variance is granted, Applicant will access the site using the Access Easement, and the lot will remain as a de facto flag shaped lot with access via Access Easement rather than via land owned by Applicant in fee.
- 4) Applicant’s current request is made based on new information provided by the City, namely a memo dated January 3, 2018, from Danielle Erjavec, Property Services Specialist, to Cindy Voigt, City Engineer (“January 3 Memo”). The memo indicates that no public lands adjacent to Applicant’s lot could be used for a new public road, because such lands are part of the Magney-Snively Natural Area, part of the Duluth Natural Areas Program (“DNAP”). The memo is attached as an exhibit to the report.
- 5) The subject property is remote. No municipal utilities are planned to be provided in this area.
- 6) Applicant obtained a building permit in 1991 to erect a 30 foot by 45-foot horse pole barn. Access to the pole barn is via the Access Easement.
- 7) Applicant’s request is based on changed circumstances related to the subject property and the proximity to the Magney-Snively DNAP. In PL 17-082, Staff found that the circumstances related to the project were not unique to the site. Per the January 3 Memo, these circumstances have changed and it is now possible to determine that Applicant is correct in asserting that the property is unique in its proximity to the Magney-Snively DNAP and because of topography and natural bedrock conditions that make extension of Gogebic Street infeasible.
- 8) Extension of Gogebic Street, or dedication of public access to this site in any other method or form, would contradict a directive of the Imagine Duluth 2035 Comprehensive Plan, which calls for elimination of public streets in low density areas of the city because such streets cannot be maintained at a reasonable cost to the public. *Policy #2 – Reduce infrastructure costs through*

innovation and wholesale design change; Strategy 4: Evaluate streets in low density areas that could be replaced, reduced, removed, or made private to more effectively utilize maintenance budgets and long-term capital replacement funds. (See Imagine Duluth 2035, Ch. 10: Transportation, p. T-27)

- 9) Staff determined in PL 17-082 that the current use of the property is reasonable. This determination is continued in PL 18-086. Applicant asserts that the current use of property is not reasonable, and that a reasonable use of the subject property would include construction of one single family house. The RR-1 Zoning District allows for construction of one single family house on a lot as a permitted use subject to minimum lot size and other development performance standards of the UDC.
- 10) Granting the variance will not alter the essential character of this area of the city.
- 11) If the variance is granted, subject property will constitute a flag lot with access via the Access Easement. During the evaluation of PL 17-082, the Duluth Fire Department indicated that access via the Access Easement for public safety reasons would be acceptable.
- 12) The subject property could not be created today based on the adopted UDC standards for property subdivision.
- 13) Two letters in opposition to granting the variance were received by the City and are attached.
- 14) No comments or other correspondence were received from agencies of other city staff.

Staff Recommendation

Based on the findings of fact of PL 18-086, staff recommends approval of the Variance to eliminate minimum lot frontage requirements, subject to the following conditions:

- 1) The development of one single family house on the subject property shall be subject to all other requirements of the UDC. The front yard, for purposes of interpreting UDC requirements for building setbacks in the RR-1 Zoning District, is determined to be the subject property's east property line.
- 2) Prior to issuance of a building permit, the Access Easement driveway surface and design type shall be evaluated and modified or improved by Applicant as required by the City Engineer or Fire Marshal to maintain public safety to the subject property.
- 3) Prior to issuance of a building permit, the site shall be evaluated for presence of wetlands, and a wetland delineation completed, if required by the Land Use Supervisor.
- 4) Prior to issuance of a building permit, Applicant shall provide a current copy of property title, easement documentation, and any other agreements for maintenance of Access Easement, to the Community Planning office, to be incorporated into the file for PL 18-086.
- 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 action by the Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL17-082	Contact	Kyle Deming, 218-730-5329	
Type	Variance, Minimum Lot Frontage	Planning Commission Date	July 11, 2017	
Deadline for Action	Application Date	May 25, 2017	60 Days	July 24, 2017
	Date Extension Letter Mailed	May 25, 2017	120 Days	Sept. 22, 2017
Location of Subject	10013 W. Skyline Pkwy			
Applicant	Edward Barbo Jr. & Candace Barbo	Contact	4202 N. 100 th Ave. W., Duluth, MN 55810	
Agent	Greg Gilbert, Attorney	Contact	11 E. Superior St. Duluth, MN 55802	
Legal Description	SE1/4 OF SW1/4 EX NLY 660 FT OF WLY 330FT & EX PART E OF WLY 330 FT, T22N-R49W-Section15 (010-2746-00120)			
Site Visit Date	June 6, 2017	Sign Notice Date	May 30, 2017	
Neighbor Letter Date	June 1, 2017	Number of Letters Sent	13	

Proposal

Requested is a variance to reduce the required minimum lot frontage from 250 feet to 0 feet to construct a dwelling in the RR-1 zone district. The lot has no frontage on a City street. If the variance is approved the applicants will petition the City to convert an existing easement to an official Cartway, a 1,700-foot (0.32 mile) private road under MN Statute 435.37, Easement for Cartway.

Please see attached the applicant's drawings and statements regarding the proposed variance's purpose and need.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1	Horse Barn and pasture	Preservation
North	RR-1	Vacant land/Forest	Preservation
South	RR-1	Magney-Snively Natural Area	Preservation
East	RR-1	Vacant land/Forest	Preservation
West	RR-1	Spirit Mountain Rec. Area	Preservation

Summary of Municipal Planning Act & City Code Requirements

50-7.1 Compliance Required. No land shall be used and no structure shall be erected . . . except in accordance with all provisions of this ordinance that apply in the zone district where the property is located and to the type of use, structure or development in question

50-14.3. RR-1 District Dimensional Standards: Minimum lot frontage is 250 feet.

50-41.12. Definition of Lot frontage. Frontage shall be the dimension of the lot line at the street.

50-21.2.E Special Dimensional Standards. Street Improvements. Except as provided in Section 50-37.1.L, for lots without a principle structure:

1. The street shall be improved to the most current standards on file in the office of the city engineer and shall be designed for the road classification within the zone in which the property is located;
2. The street shall be improved across the entire frontage of the lot proposed to be developed and all other contiguous property owned by the owner of the subject lot;

3. Any street improvement that results in a dead-end street that is greater than 150 feet in length shall require construction of a turn-around for emergency and maintenance vehicles approved by the city fire marshal.

For lots developed with an existing legal principle structure, the street improvement requirements need not be met when the landowner proposes an expansion of the existing legally constructed structure or a replacement principle structure, if the landowner provides evidence of a perpetual easement to access the property from an improved street of a distance not greater than 150 feet, and such access shall be improved to meet Fire Code standards.

Minn. Stat. § 462.357, subd. 6(2) (Variances) – “Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant . . . establishes that there are practical difficulties in complying with the zoning ordinance. ‘Practical difficulties,’ as used in connection with the granting of a variance, means that[:]

- [1] the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;
- [2] the plight of the landowner is due to circumstances unique to the property not created by the landowner; and
- [3] the variance, if granted, will not alter the essential character of the locality.

Economic considerations alone do not constitute practical difficulties.”

Accord 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 practical difficulties or hardship. The Planning Commission must find the following for a variance to be granted: a) That they are 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 or a predecessor-in-interest, 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):
History:**

1982 – The subject 5-acre parcel was created from a surrounding parcel. Approval of the subdivision was granted by St. Louis County without City of Duluth review for compliance with local rules and regulations.
1991 – Building permit (attached) granted for 36 foot by 45 foot pole building for horses with reference to the requirement for a future improved street to allow residential home construction and letter by Mr. Barbo acknowledging the street requirement.

Governing Principles: Principle #7 - Create and maintain connectivity, Principle #9 - Support private actions that contribute to the public realm, Principle #10 - Take sustainable actions, Principle #12 - Create efficiencies in delivery of public services.

Future Land Use: Preservation: Lands with substantial restrictions. High natural resource or scenic value, or severe development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: most city parklands and primary viewsheds; shorelands of lake, rivers, streams; wetlands and floodplains; high-value habitat; low-intensity private or public uses; low intensity uses such as trails predominate, viewshed protection and access, water access for passive use (fishing, canoe/kayak with limited parking)

Review and Discussion Items

Staff finds that:

- 1) The applicant purchased the 5-acre parcel lacking street frontage after it was subdivided from a larger parcel.
- 2) Minimum lot frontage requirements are established to promote the orderly development of the city. Together, with other zoning tools, they direct development to places where streets can be extended as development occurs. These streets maintain the health, safety, and welfare of the community by limiting development to those areas where the government can efficiently and safely provide sanitation, public safety, and other services. Without street access, the City cannot safely provide public services to the proposed development site.
- 3) The subject property is one of the most remote areas of the city. It is bordered on the south by the Magney-Snively Natural Area and on the west by the Spirit Mountain Recreation Area. The property is at the end of a 1,700-foot (0.32 mile) private driveway connected to the end of 100th Ave. W. which is connected to Skyline Pkwy. From the property to Boundary Avenue is 2.6 miles. From November to April of each year, Skyline Parkway is closed 1/3 mile west of 100th Ave. W., further limiting access to the area. No municipal utilities are provided or planned to be provided in this area of the City.
- 4) The applicant currently has legal access to the property via easement. One easement, running 700 feet north and west of 100th Ave. W. is 20 feet wide with an approximately 14- to 18-foot-wide gravel surface with no ditches to control drainage. The second easement is 1,000 feet west of the first segment and is 40 feet wide with an approximately 22- to 24-foot-wide gravel surface with ditches. A map depicting the easements to the property is attached. If the applicant's request for a variance from minimum lot frontage requirements is granted, the applicant plans to petition the City Council for establishment of a cartway pursuant to Minn. Stat. §§ 435.37 and 164.07 in the location of the existing easements
- 5) The applicants obtained a building permit in 1991 to erect a 30 foot by 45 foot horse pole barn.
- 6) The 1991 building permit (copy attached) for the horse barn made clear that an improved street was required to allow a house to be constructed on the parcel. A letter from Mr. Barbo (attached) that was attached to the building permit acknowledged the need for a street prior to building a house.
- 7) The circumstances causing the need for the variance are not unique to the property nor beyond the landowner's control. The requirement to extend a public street for construction of a house as a principal use was created and understood at the time of the earlier subdivision creating the lot, and by the Applicant at the time he was granted a building permit for a pole barn. The circumstances resulting in this application were created when the parcel was severed by a predecessor-in-interest from a larger parcel that had frontage on Gogebic Street.
- 8) Applicant states in the variance application that *"the conditions that create a need for a variance are that the applicants' lot is surrounded by City of Duluth lots, private lots and rocky terrain so streets for purposes of complying with minimum lot frontage requirements cannot be constructed adjacent to the applicants' lot."* Respectfully, planning staff disagree. Future street improvements are possible, but the location and terrain make such improvements costly. Economic factors alone, however, do not constitute a practical difficulty.
- 9) The property has been put to a reasonable use (a horse barn), given the lack of street access. The applicant is proposing to use the property in a manner that is a permitted use in the RR-1 zone district, but is nevertheless inconsistent with orderly development principles supported by minimum lot frontage requirements in the code.
- 10) Granting the variance could result in additional landowners in the area requesting similar variances and cartway extensions. There are 40 acres of privately-owned RR-1-zoned land north of Gogebic Street and west of 100th Ave. W.
- 11) One email was received concerning this proposed variance and is attached.

Staff Recommendation

Based on the findings of fact and discussion above, staff recommends denial of the variance.

Staff concludes that the request is not in harmony with the purposes and intent of the zoning code that relate to the encouragement of planned and orderly development within the city, as reflected by the minimum lot frontage requirements on public rights of way in RR-1 zones. These requirements are to ensure safe and efficient provision of city services and limitation of development in areas lacking adequate current or future infrastructure to support increased public or private use. Similarly, staff concludes that the request is not consistent with the comprehensive plan (Preservation future land use), which calls for low-intensity private or public uses subject to sufficient use and design controls (such as, e.g., minimum lot frontage requirements).

Staff further concludes that the applicant has not established practical difficulty. While the applicant is proposing to use the property in a permitted and reasonable manner (i.e., single-family home in an RR-1 district on a five-acre parcel), staff concludes, however, that the plight of the landowner is not due to topographic or geographic conditions unique to the property, and that applicant's predecessors bear responsibility for the present need for the variance. Current or future street access or improvement is possible, but it is costly given the nature and location of the proposed use. Although this is admittedly a difficulty in developing the property, staff views the difficulty as more economic than practical in nature, which, standing alone, does not constitute practical difficulty.

Staff also notes that previous parcel subdivisions within the larger tract in question – away from readily available street frontage or access to city infrastructure – created the need for the variance presented here. Although the facts reflect that it was not the current applicant who created the challenges pertaining to street access, the facts further reflect that the lack of street frontage (and resulting limitations related to future development) have been historically contemplated and understood by the current applicant and predecessors-in-interest.

Ultimately, staff is not unsympathetic to applicant's request. It is unlikely that the proposed use would change the essential character of the locality (although the potential for increased residential development in this area of the city – without adequate street access or infrastructure – is concerning to staff). Nevertheless, staff concludes that the request is not in harmony with the general purposes or intent of either the City's zoning code or comprehensive plan, and for all the reasons previously stated, recommends denial.

If the Planning Commission decides, however, to grant the variance, staff recommends conditioning approval on the applicant petitioning for, and obtaining, approval of a cartway serving the property in accordance with all applicable State and local laws.

EXHIBIT A



CITY OF DULUTH
 Department of Public Administration
 Property & Facilities Management

INTRA-DEPARTMENTAL CORRESPONDENCE

TO: Cindy Voigt, City Engineer
FROM: Danielle Erjavec, Property Services Specialist
DATE: January 3, 2018
SUBJECT: Parcel Nos. 010-2746-00860 and 010-2746-00870

Purpose

The purpose of this memo is to provide ownership information for Parcel Nos. 010-2746-00860 and 010-2746-00870, which are legally described as:

The North Half of Northeast Quarter of Northwest Quarter (N ½ of NE ¼ of NW ¼), Section Twenty-seven (27), Township Forty-nine (49), Range Fifteen (15)

(the "Property").

The Property has two separate parcel numbers because each parcel number represents an undivided one-half interest in the Property.

Ownership and Acquisition

A. The City acquired title to the Property through two deeds, which are further described as follows:

(1) Conveyance of Forfeited Lands from the State of Minnesota to the City of Duluth dated May 27, 1943, and filed for record with the St. Louis County Register of Deeds on May 29, 1943 in Book of Deeds 738, Page 625. This deed was for a one-half (1/2) interest in the Property and exclusively for "public park, boulevard and municipal forest purposes."

(2) Conveyance of Forfeited Lands from the State of Minnesota to the City of Duluth dated March 23, 1973, and filed for record with the St. Louis County Register of

Deeds on April 11, 1973 as Document No. 173858. This deed was for a one-half interest (1/2) in the Property and exclusively for “a buffer zone and for future development for park and recreational purposes in connection with the proposed ‘Spirit Mountain’ Ski and Recreation Area.”

B. Minn. Stat. § 282.01, Subd. 1d(d) states that “property conveyed under a conditional use deed executed under this section by the commissioner of revenue, regardless of when the deed for the authorized public use was executed, is released from the use restriction and reverter . . . is nullified on the later of (1) January 1, 2015; (2) 30 years from the date the deed was acknowledged. . . .” Presumably, under this statute, the Property was released from the conditional use restrictions contained within the two deeds described above expired on January 1, 2015.

Zoning

The Property is zoned RR-1 (Rural Residential 1). Section 50-14.3(A) of the UDC describes the purpose of a RR-1 district as “to accommodate large-lot, single-family detached residential uses, typically surrounded by significant open space, on lots of at least 5 acres each. The district encourages distinctive neighborhoods with a semi-rural character. Complimentary uses such as limited agriculture, small-scale institutional uses, parks, minor utilities and certain temporary uses are allowed.”

Additional Considerations

The Property was included in the Magney-Snively Natural Area on December 1, 2003 under Resolution No. 03-0843. The Property was also designated as a part of the Magney-Snively Forest Preserve on March 12, 2012 under Resolution No. 12-0129. The departments of Community Planning and Parks should be consulted to determine if any potential uses of the Property are consistent with the management plans, if any, for these designations. Additionally, the City Attorney’s office can advise on permitted or prohibited uses of the Property.

Further consultation finds that the Magney-Snively Natural Area is a part of the Duluth Natural Areas Program (“DNAP”). The DNAP is a protective covenant placed on carefully selected properties to preserve the integrity of native ecosystems with minimal to no disturbance. The Property contained in this memo is a part of the DNAP, and the Dept. of Parks and Recreation believes any encroachment upon a DNAP-protected area poses an unacceptable impact to the native communities that the DNAP was designated to protect. Therefore, Parks and Recreation Department opposes the granting of any public or private road, driveway, or related type of construction on the Property.

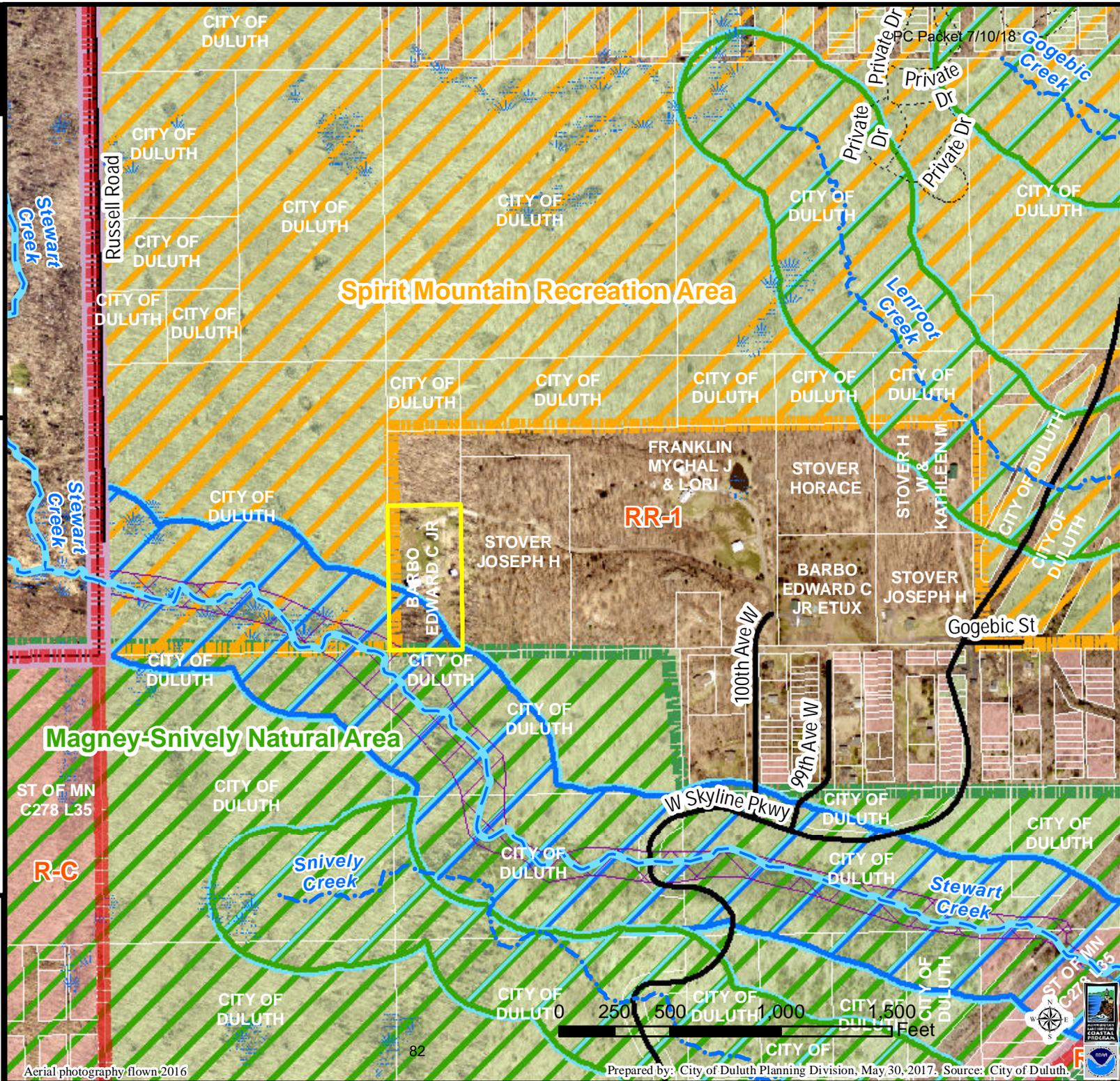


City Planning

PL 17-082

10013 W. Skyline Pkwy.
Street Frontage Variance

PC Packet 7/10/18



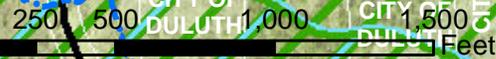
Legend

-  Trout Stream (GPS)
-  Other Stream (GPS)
-  Spirit Mountain Rec. Area
-  Magney-Snively Natural Area
-  Zoning Boundaries
-  Municipal Boundary
- Shoreland Overlay Zone**
-  Cold Water
-  Natural Environment
-  General Development
- Floodplain Type**
-  General Flood Plain
-  Flood Way
-  Flood Fringe
-  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 2016

82



Prepared by: City of Duluth Planning Division, May 30, 2017. Source: City of Duluth.

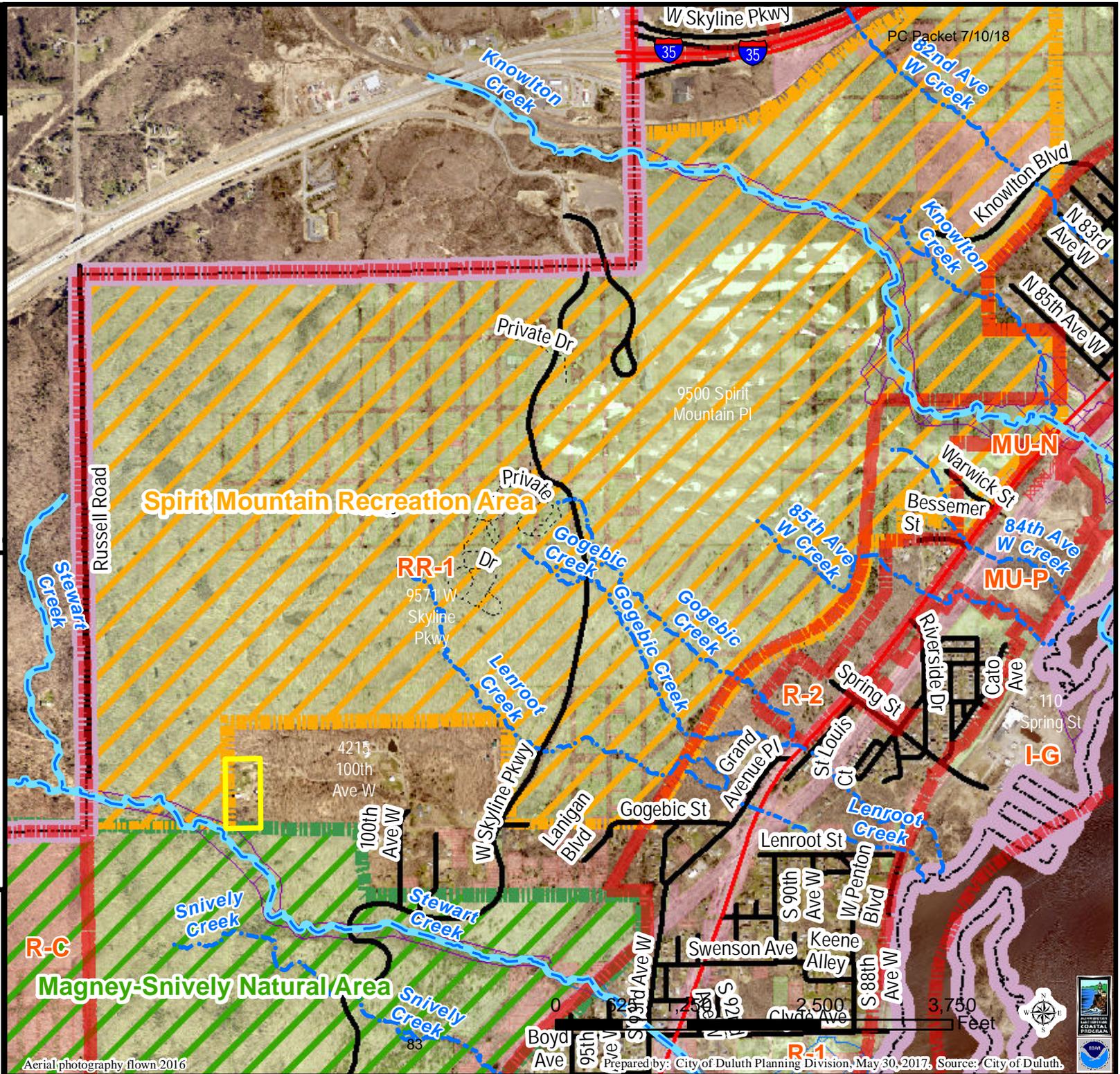


City Planning

PL 17-082

10013 W. Skyline Pkwy.
Street Frontage Variance

PC Packet 7/10/18



Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- Spirit Mountain Rec. Area
- Magney-Snively Natural Area
- Zoning Boundaries
- Municipal Boundary
- Floodplain Type**
- General Flood Plain
- Flood Way
- Flood Fringe

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Aerial photography flown 2016

Prepared by: City of Duluth Planning Division, May 30, 2017. Source: City of Duluth.





City Planning

PL 17-082
10013 W. Skyline Pkwy.
Street Frontage Variance

PC Packet 7/10/18
DULUTH

Spirit Mountain Recreation Area



Legend

- 10' Contour (elev. change)
- Trout Stream (GPS)
- Other Stream (GPS)
- Spirit Mountain Rec. Area
- Magney-Snively Natural Area
- Zoning Boundaries
- Subdivision Boundaries
- Blocks
- Parcels
- ROW**
- SUBTYPE, ROW_STATUS**
- Utility, Active
- Railroad, Active
- Access, Active - currently in use
- Access, Vacated - vacated via recorded document
- Road, Active - currently in use
- Utility, Vacated - vacated via recorded document
- Road, Vacated - vacated via recorded document
- Conservation, Vacated - vacated via recorded document
- Conservation, Active - currently in use
- Railroad, Inactive - Dedicated, but not built
- Municipal Boundary

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Aerial photography flown 2016

Prepared by: City of Duluth Planning Division, May 30, 2017. Source: City of Duluth.





City Planning

PL 17-082

10013 W. Skyline Pkwy.
Street Frontage Variance

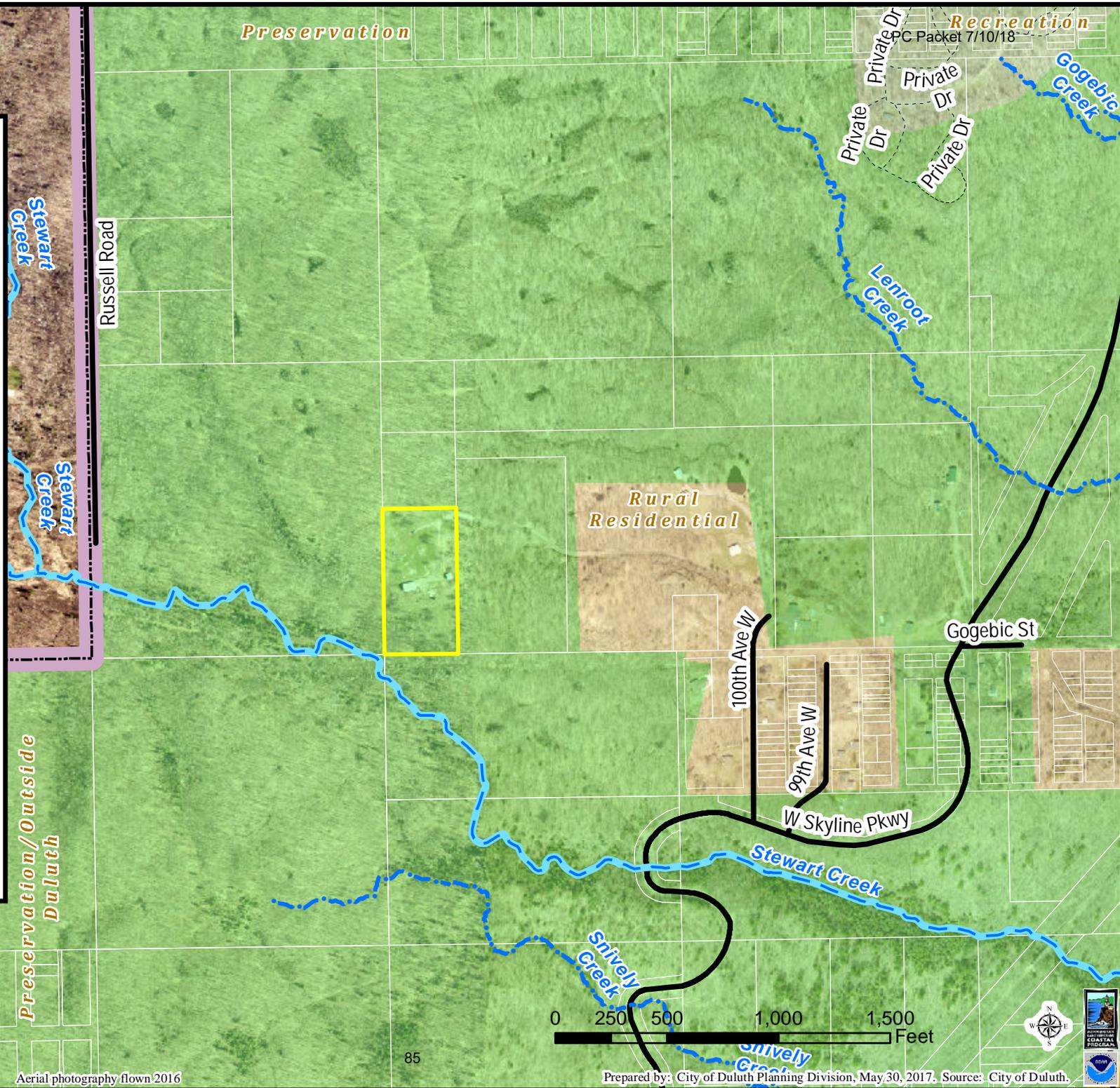
Recreation
PC Packet 7/10/18

Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- Municipal Boundary

Future Land Use

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation & Utilities



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July 2nd, 2018

To whom it may concern,

This letter is in response to a variance request by Ed and Candy Barbo at 10013 W Skyline Parkway.

As a resident on N 100th Ave W, I do not support the City approving a variance to minimum lot frontage. The driveway to the property mentioned is physically off of N 100th Ave W, not W Skyline Parkway. N 100th Ave W is mostly a non-paved road that is frequently washed out during rainfall and spring snow melt. The City road crew does not/can not keep N 100th Ave W in good driving condition. It erodes too often! Allowing this variance will only increase traffic on multiple roads that are already in poor driving condition...N 100th Ave W and W Skyline Parkway.

Allowing this variance will also open the possibility for future expansion of at least 2 additional homes at this location. There are 3 total buildable sites in this area. These additional building sites will only compound and already concerning area of roadway!

We already face increased horse and vehicle traffic since there is horse boarding activity in this immediate area. Other concerns are increased horse feces running into Stewart creek (which is a designated Trout Stream) and the inability for Emergency Services to access property that only has a 20' easement.

This request has already been denied; please do not overturn previous rulings.

Thank you for your time and attention to this very sensitive issue.

Todd and Diana Mc Fadden

4129 N 100th Ave W

June 7, 2017 and again on July 1, 2018

To Whom it may concern,

I received a letter from the city stating that the owners of a home on our block intend to build a second home on their property and we are not in favor of it.

At the present time 100th Avenue West is a non-paved road that suffers from extreme erosion during rainfalls at times making it almost impassable. The City "fixes" it but it deteriorates as soon as it rains again.

Those who are indicating their intention to build already create an excessive amount of traffic on the road stemming from the large horse boarding business they currently operate on their property. In addition, traffic on the road from snowmobiles and 4wheelers frequently visiting their home uses the deteriorating passageway.

Unless the road is paved and ditches are made, we have great concerns that the additional usage by the large equipment needed to build the home along with the addition of more traffic by allowing an additional family to move into the existing home will create too much damage to N 100th Avenue West and make it unsafe and unusable.

We are also concerned that building in that location will create even more run off of debris, horse feces, and whatever else may flow down from that area into Stewart Creek and the roads and water areas below than the current barn and horses already does.

In addition, if this variance request is approved it will set a precedent for future requests and that the current 20' easement does not allow for proper emergency services to the property.

Below you will find photos of the road just after it was "fixed" by the city from erosion after a rain. As you can see, it continues to erode, and this is minimal compared to what it was last week.

We do not want any contact from the Barabos at any time regarding this. Our neighbors and we have been harassed by them enough already over this or other matters.

Thank you

Wayne and Eve Graves

4109 N 100th Ave West



