



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

Planning Commission Agenda
 City Council Chambers, 3rd Floor Duluth City Hall
 Tuesday, August 13, 2019 – 5:00 PM

Call to Order and Roll Call

Presentations

1. Zenith Awards

Approval of Planning Commission Minutes (July 9, 2019)

Consent Agenda

2. PL 19-093 Interim Use Permit for a Vacation Dwelling Unit (Renewal of Existing Permit) at 1210 South Lake Avenue by Steve and Heather Pitschka
3. PL 19-094 Interim Use Permit for a Vacation Dwelling Unit (Renewal of Existing Permit) at 1535 South Lake Avenue by Steve and Heather Pitschka
4. PL 19-095 Interim Use Permit for a Vacation Dwelling Unit (Renewal of Existing Permit) at 1302 Minnesota Avenue by Steve and Heather Pitschka
5. PL 19-091 Minor Subdivision Dock 7 Lesure Street by Hallett Railroad Storage and Services LLC
6. PL 19-092 Minor Subdivision at 4215 Trinity Road by Michael Simonson
7. PL 19-097 Minor Subdivision at 1317 Minnesota Avenue by 1 LLC
8. PL 19-101 Concurrent Use Permit for a Monitoring Well at 4609 Grand Avenue

Public Hearings

9. PL 19-072 Spirit Lake Sediment Remediation Project Environmental Assessment Worksheet (EAW) – Public Comment
10. PL 19-103 Variance from Form District Standards (Occupied Space for Parking Ramps/Areas) for a New Structure at 2102 West Superior Street by Rachel Development

11. UDC Map Amendments to Rezone into Conformance with Imagine Duluth 2035
-PL 19-109 Rezone from Rural Residential 1 (RR-1) to Mixed Use Business Park (MU-B)
-PL 19-110 Rezone from Rural Residential 1 (RR-1) and Residential Traditional (R-1) to Mixed Use Business Park (MU-B)
12. PL 19-100 Mixed Use-Commercial Planning Review for a New Retail (Liquor) Store at 202 North Central Avenue by Miners Incorporated
13. PL 19-082 Special Use Permit at 1028 E. 8th St. by Therese E. Gruba/New Hope for Families
14. PL 19-096 Interim Use Permit for a Vacation Dwelling Unit (New) at 5801 Grand Avenue by Tanya and Ryan Templer
15. PL 19-070 Vacation of Right of Way along Bessemer St. by the City of Duluth
17. PL 18-133 Shoreland Variance at 2512 Providence Rd. by Aaron and Lori Davis
18. PL 19-087 Variance to Rebuild Damaged Structure in Rear Yard Setback in an R-1 Zone District at 1509 99th Avenue West by Betty Knapp (Norton)
19. PL 19-098 Variance from Front Yard Structure Setback in an R-1 Zone District at 1030 South 71st Avenue West by Richard Erickson
20. PL 19-099 Variance from Front Yard Parking Standards at 4002 London Road by Ecumen Lakeshore

Other Business

Discussion - UDC (Unified Development Chapter) Text Amendments

- PL 19-107 Tiny Houses and Small Lot Development
- PL 19-108 Tree Preservation, Craft Brewing and Distilleries, Temporary Structures and Shipping Containers

Communications

- Manager's Report (Verbal)

Reports of Officers and Committees

- Heritage Preservation Commission Representative
- Joint Airport Zoning Board
- Midway-Duluth Joint Planning & Zoning Commission

Adjournment

City of Duluth
 Planning Commission
 July 9, 2019 Meeting Minutes
 Council Chambers - Duluth City Hall

Call to Order

President Janet Kennedy called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, July 9, 2019, in city hall council chambers.

Roll Call

Attending: Jason Crawford, Gary Eckenberg, Janet Kennedy, Margie Nelson, Michael Schraepfer, Andrea Wedul, Sarah Wisdorf, and Zandra Zwiebel (left after item 12)

Absent: Tim Meyer

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

Approval of Planning Commission Minutes

June 11, 2019, Regular Meeting

MOTION/Second: Zwiebel/Wisdorf approve the minutes

VOTE: (8-0)

Consent Agenda

1. PL 19-075 Interim Use Permit for a Vacation Dwelling Unit (Renewal of Existing Permit) at 13402 W. 3rd St. by Matthew Evingson
2. PL 19-080 Interim Use Permit for a Vacation Dwelling Unit (Renewal of Existing Permit) at 611 W. Skyline Parkway by Connie and Lee Hoffman
3. PL 19-083 Interim Use Permit for a Vacation Dwelling Unit (Renewal of Existing Permit) at 10 Industrial Avenue by Riverside Retreat
4. PL 19-089 Minor Subdivision at 425 East Superior Street by Essentia Health and MnDOT

Staff: Steven Robertson gives an overview. A utility easement condition is included in the minor subdivision. Chair Kennedy asks if there are changes to the vacation renewals. Robertson and Lee state the site plans and the applications are the same. There have been no police calls. Andrea Wedul asks about item PL 19-075 and the trailer on site. She would like clarification that it will remain unoccupied. Lee affirms, it is strictly there for parking purposes.

Applicant: N/A

Public: Susan Walty, 230 W. Superior St. Ste. 800, attorney representing Essentia addresses the commission. She questions when the easement conditions need to be met for item PL 19-089. Robertson states before or at the same time the deeds are recorded. Walty states the engineers are working on it. Robertson notes there are many moving parts.

Commissioners: Chair Kennedy would like item # PL 19-089 pulled from the consent agenda. Sarah Wisdorf suggests keeping it on the agenda and having staff clarify Chair Kennedy's questions. Chair Kennedy agrees and asks staff to clarify the subdivision. Robertson shares a map of the area and notes there needs to be a utility easement. Essentia has no problem agreeing to the utility easement, but they would like the item

to move through. Wedul asks what is the risk if this isn't recorded at the time of sale. In reality Walty states there is no risk. The subdivision needs to go through, they may need extra time to record the easement. Robertson states staff is fine with this. Deputy Director Fulton reiterates there are many moving parts and building permits are needed. MOTION/Second: Zwiebel/Crawford recommend approval of the consent agenda items as per staff's recommendations.

VOTE: (8-0)

Old Business

5. PL 19-074 Redevelopment of the Board of Trade Building TIF Conformity with Comp Plan

Staff: Deputy Director Adam Fulton gives an overview.

Applicant: N/A

Public: N/A

Commissioners: Zwiebel appreciates the additional information staff included

MOTION/Second: Eckenberg/Nelson TIF is in conformity with the Comp Plan

VOTE: (8-0)

Public Hearings

6. PL 19-073 MU-C Planning Review for new multi-family development at 2215 South Street by Launch Properties

Staff: Chris Lee introduces the applicant's proposal to construct a multi-family dwelling that will be four stories in height; however, because of the topography, to six floors high, depending on grade. The structure will contain 98 units along with other amenities. The ground floor will provide space for operations (leasing, maintenance, and other functions) of the building with parking provided on the interior of the second level. Staff recommends approval with the conditions listed in the staff report. Zwiebel asks if 125% escrow retainer is now standard. Lee confirms. Wedul asks if there will be overhead utilities. There are existing overhead utilities which will be used.

Applicant: Scott Moe, Senior Vice-President of Launch properties addresses the commission. Brian Wurdeman of Kimley-Horn and John Erickson of DSGW address the commission. Wedul asks if the possibility of moving the overhead utilities underground. Per Wurdeman they are working with Minnesota Power on the utility location. Zandra Zwiebel asks about the building height. Per, Erickson due to bedrock they want to keep as low as possible. This configuration minimizes bedrock blasting.

Public: Mark Zmudy, 2219 South Street, he has lived there for five years. He wants to ensure the project is done in an environmentally friendly way. They had a lot of styrofoam debris from the Endion project. He lives in a 2-bedroom apartment, which has off-street parking and a fire ring in the back yard. He notes his current affordable rent, and would like to see additional affordable housing. He would like to live there until May, and is extremely sad to see this area go. It is the last original stretches over London Rood overlooking the lake. David Ross, Duluth Area Chamber of Commerce representing the board, addresses the commission. He notes this would bring 98 housing units. This is a privately funded project. He is in support. Brian Liberty, 2230 London Rd., addresses the commission. He is against it with conditions. He is concerned about traffic flow and possible accidents that occur along 22nd Ave E. and Wendy's. He notes the trees between the buildings. During construction of Endi heavy trucks were bringing in heavy materials which created some damage on South Street.

Commissioners: Michael Schraepfer asks the applicant about the square footage of the units. Moe notes 690 square feet is well-designed and are the first to go in other communities. They are efficient and popular. They are along the rear of the building, and won't have a lake view, but will enjoy the amenities. Pricing will be competitive. Micro units will be around 500 square feet. Gary Eckenberg asks what type of bed is in a micro unit. Per Moe, the micro units have murphy beds. All units will include laundry facilities. This is a high-quality project that Duluth will be proud of. Wedul asks about the building height. Why should they grant the variance? Moe states they are limited to the contour of the land. He notes they are not seeking public money. He notes the dental clinic will lose their view, but it's a dental office, not a hotel or restaurant. The height is needed for economic factors. Crawford asks about the deterioration of the road. Deputy Director Fulton notes there may be impacts to the road, but engineering will work with the developers to minimize the impact. Chair Kennedy confirms there was a traffic study. Lee affirms. There will be some increase in traffic during peak hours. Wedul notes the traffic study was for both London Road and 22nd Avenue East. Deputy Director Fulton notes the road has been reconstructed post Endi. 23rd Avenue East may need additional work, but it is not adjacent to the construction site, and city engineering will be involved in the evaluation of the road condition.

MOTION/Second: Eckenberg/Zwiebel approved as per staff's recommendations.

VOTE: (8-0)

7. PL 19-065 Concurrent Use Permit for Parking in the Public Right of Way of South Street by Launch Properties at 2215 South Street

Staff: Chris Lee introduces the applicant's proposal for a concurrent use permit to construct 19 parking stalls for a multi-family development over the public right of way for South Street. Staff recommends approval with the conditions listed in the staff report. Wedul asks if this area is reflected in the project's landscape requirements. Per Lee, landscaping in the right of way is tricky. Some landscaping is located close to the right of way. Underneath utilities need to be protected.

Applicant: Scott Moe, Senior Vice-President of Launch properties addresses the commission. This will be overflow parking for visitors during certain times including holidays.

Public: Brian Liberty asks the applicant about the parking stalls. Do they expect renters to be parking on the street and avenues? Moe states the intent of the parking stalls is to remove the need for renters and visitors to park on the street.

Commissioners: Margie Nelson asks in the memorandum of understanding from engineering needs to be included. Deputy Director Fulton notes it will be added before it goes to the city council.

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

VOTE: (8-0)

8. PL 19-090 Variance from Multi-Family Structure Height Limits with 500' of Residential Zone Districts for Launch Properties

Staff: Chris Lee introduces the applicant's proposal for a variance from the height requirements in the MU-C district for a multi-family apartment building. The MU-C district allows heights of 75 feet, except within 500 feet of R-1 and R-2 districts, where the height restriction is 45 feet. The proposed building is 253 feet from an R-2 district and 250 feet from an R-1 district. The proposed structure is 66 feet in height, though

the overall height varies due to topography. The practical difficulty includes the steep slope of the hillside, the shallowness of the bedrock, and the location of the freeway. Staff recommends approval with the conditions listed in the staff report. There was a neighbor letter received opposing the variance from Robert and Ann LaCosse (owners of the Lake Dental Building at 2200 Ave. South and London Road), which was shared with the commissioners. Eckenberg asks if Endi needed the same height variance. Per Lee the Endi building was different. It did not require a height variance. Deputy Director Fulton notes the 34 feet difference between London Road and South Street. The height is taken from the front. Endi was based on London Rd. Zwiebel affirms the main entrance of this building will be on South Street.

Applicant: Scott Moe, Senior Vice-President of Launch properties addresses the commission. He knows the dental office's view will be blocked. Their view will be blocked regardless. Their building isn't any higher than Endi. From a practical standpoint there are just semantics involved. He urges commissioners to be practical. Wedul asks if there is a reason the building needs to be this high.

Public: Robert LaCosse of dental building and office building addresses the commission. He opposes the variance. They moved their business for the view. They will now be looking at a brick wall. He thinks it will dramatically reduce their property value. He doesn't believe there is a proven hardship. He urges commissioners to oppose. Eckenberg asks Dr. LaCosse, how it will effect his business. LaCosse states the view is not worthless. People come to their building because of the view and other tenants are involved. Eckenberg asks if he has tried to protect that view. 2 properties between them. It was his understanding that his view would not be effected. Shraepfer asks if his view would go away completely if they built within standards. LaCosse states no. Ann LaCosse, 2200 London Rd., addresses the commission. She is part owner of the building. This dental office means everything to them. They have been in the community for 30 years. This is a significant business to them and they have two tenants. DSGW designed their own building and made sure they built to restrictions. She feels they can build this building according to restrictions. If you grant this, you are opening the possibility that everyone can build higher. Endi stayed within the law. This variance would be setting an incorrect precedence. Moe notes there is lot of emotion involved. If he was in their shoes he would feel the same way. It is a fact that if they go without the variance they will still block their view. 21 more feet will not take away their sky. That is an emotional response. They need the extra level for financial reasons. Chair Kennedy wants this to be a welcoming environment and would like people to be respectful of one another.

Commissioners: Schraepfer notes it isn't fair to small business owners. He appreciates looking at the lake while having dental work done. He owns property with views which have been obstructed. Wedul doesn't feel economics are part of a practical hardship. Wisdorf struggles with the financial aspect. She is concerned about setting a precedent. Eckenberg made a motion, but more discussion continues. Eckenberg lots of discussion about views. He thinks the dental owner did not try to purchase the land that was for sale, and therefore was not proactive in protecting his view. Shraepfer is not opposed to the housing development, but they should acquire a lot on London Road, which is available. He doesn't feel it's fair to effect the LaCosse's property value. Zwiebel would like staff to weigh in. She feels this is a slippery slope. Deputy Director Fulton notes there are three factors noted in the staff report which state practical difficulty. Lee goes over them again. Fulton notes if they didn't have parking, the building could be built lower. The code is in conflict with itself. He feels this project matches the character of the neighborhood. It is an imperfect situation which calls for a variance, which is allowed. Nelson is torn between the need for housing and this variance. Per Deputy

Director Fulton, if one floor is taken out, the applicant would not proceed. Schraepfer doesn't think they would be having this conversation if Endi wasn't already built. He would like to see an agreement between parties. Chair Kennedy notes their work on the comprehensive plan. She is torn, and would like to hear more discussion. Wisdorf doesn't feel 45' is warranted. She notes it's a slippery slope, and doesn't want to set an unrealistic precedent. Wedul would like to know how low this can go and still satisfy all parties. Eckenberg has a process question. If the vote is a tie, or it fails. Does the developer have the opportunity to bring it to the city council. Per city attorney Robert Asleson, a tie is a fail, and it is allowed to be brought before the city council. Jason Crawford asks the applicant if lowering the building would be possible. Per Erickson, lowering it would require additional rock removal. Losing the top floor of housing wouldn't make the project feasible. Zwiebel asks about the exterior of the building. Per Erickson it will be masonry, and will have windows.

MOTION/Second: Eckenberg/Crawford approved as per staff's recommendations.

VOTE: (7-1, Wedul Opposed)

Chair Kennedy asked staff what the recourse is for the opposition. Per Deputy Director Fulton, the opposing party has ten days to appeal the planning commission's decision, which would then be heard by the city council.

9. PL 19-081 Special Use Permit for Middle/High School at 2430 W. 3rd Street by Holy Family Church

Staff: John Kelley introduces the applicant's proposal to operate an educational center for home-schooled middle school/high school grade students in the basement of the existing Holy Family Church located in the Lincoln Park neighborhood. The special use permit is needed to operate the middle/high school in the MU-N Zoning District. Staff recommends approval with the conditions listed in the staff report. Zwiebel notes the lack of installing of the landscaping and that there won't be an escrow required. Per Deputy Director Fulton staff judgement is called upon. The commission can make a condition.

Applicant: Mary Mullen, director, Mater Dei Apostolate New Education Center addresses the commission. Zwiebel asks the applicant if a set aside escrow would be feasible. Deputy Director Fulton notes this is an educational facility and not a commercial project. Eckenberg asks about the school. Mullen states they are a hybrid educational program for home-schooled students. They anticipate 10 students will start in the fall. There is no catholic high school currently offered in Duluth. Students will come from all over Duluth, and this is a good central location.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Nelson/Wisdorf approved as per staff's recommendations.

VOTE: (8-0)

10. PL 19-076 Special Use Permit at 2302 W. 3rd St. for a Restaurant (under 5,000 square feet) by Bob Bagley

Staff: John Kelley introduces the applicant's proposal to operate a restaurant (less than 5,000 square feet) in an MU-N district. A restaurant in an MU-N district requires a Special Use Permit. Staff recommends approval with the conditions listed in the staff

report. Zwiebel refers to the letter they received from a neighbor about parking. Per Deputy Director Fulton using church overflow parking is welcomed. This is a viable addition, which can be used by residents. Zwiebel asks if the church has any historic significance. Kelley is not aware of a historic designation. Wedul asks about hours of operation, and will it be appropriate for the neighborhood. Kelley defers to the applicant.

Applicant: Bob Bagley, addresses the commission. Wedul asks about hours of operation. Bagley notes it would be similar to Pickwick or Blackwoods. The hours would be between late morning into the evening, but it is not set in stone yet.

Public: Mike Casey of Smithville addresses the commission. He is a bike advocate. As a pedestrian advocate, his is concerned about snow removal of sidewalks. He likes to see reuse of buildings and shared parking.

Commissioners: Zwiebel thinks this could be quite a positive destination. Chair Kennedy is concerned about the neighbors and wants to make sure the impact of the community is positive. This is a church which is being reused, but could this have been new housing? Kennedy questions how will the impact the neighbors. This is a low income area. She doesn't know what the restaurants prices will be, but she notes the need for equity and fairness. Wedul would like to see the exploration of alternative landscaping plan to ensure efficient snow removal.

MOTION/Second: Zwiebel/Nelson approved as per staff's recommendations.

VOTE: (8-0)

11. PL 19-077 Special Use Permit at 2302 W. 3d St. for Urban Agriculture by Bob Bagley
Staff: John Kelley introduces the applicant's proposal to operate a 5,000 square foot indoor urban agriculture facility in the basement of a former church in an MU-N district. Urban Agriculture in an MU-N district requires a Special Use Permit. Staff recommends approval with the conditions listed in the staff report.

Applicant: Bob Bagley addresses the commission and welcomes questions. Wisdorf asks what they are going to grow. Bagley states leafy vegetables and herbs, and at some point they hope to expand to indoor trees: lime, lemon and fig. Wisdorf asks about Community outreach, for example, gardening classes. Bagley would like to hire local labor. He grew up in the area. Zwiebel asks if they will be growing just for their business. Bagley states at this time, but they are open to the idea.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Zwiebel/Wedul approved as per staff's recommendations.

VOTE: (8-0)

12. PL 19-079 Interim Use Permit for a Vacation Dwelling Unit (New) at 702 S. Lake Avenue by Jeff Huotari
Staff: Steven Robertson introduces the applicant's proposal to use a dwelling unit with three bedrooms as a vacation rental property. A vacation dwelling unit allows for periods of occupancy of 2 to 29 days, with a minimum of 2 nights. Staff recommends approval with the conditions listed in the staff report, including the removal of the shed and the fence which is located on city park property (created by previous owner) before rented or by 9/1/19 whichever occurs first. Nelson asks staff about the noise ordinance which is included at the end of the staff report. Per Robertson, it's for reference, this document should be available to all vacation dwelling's. Chair Kennedy asks about the rule against burning garbage. Per Robertson, it's still a municipal rule, but not included in the staff

report. Wisdorf would like a clarification on the 60 limit number. This is new application. Staff notes this was drawn from the original drawing they had. Eckenberg asks about traffic flow in and out of the property. Per Robertson, they don't usually support tandem parking, but this is for individual use parking, and the occupants will know each other. Applicant: Jeff Huotari addresses the commission. He is from Michigan, but will hire a local property management firm to oversee the property in case of emergencies.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Wisdorf/Nelson recommend approval as per staff's recommendations.

VOTE: (8-0)

(Commissioner Zwiebel left before the next agenda item.)

13. PL 19-085 Variance to Allow Expansion of a Legal Non-Conforming Structure at 3158 Vernon Street by Gary Fick and Juanita Puglisi (Mitchell)

Staff: Kyle Deming introduces the applicant's proposal for a variance to construct roof eaves extending 12 inches from the wall of their house with the ends of the eaves 9.6 inches from the east property line and 18 inches from the west property line. Staff recommends approval with the conditions listed in the staff report. Nelson clarifies the neighbors are in support. Deming affirms.

Applicant: Present, but did not speak.

Public: No speakers.

Commissioners: N/A

MOTION/Second: Wisdorf/Crawford approved as per staff's recommendations.

VOTE: (7-0)

Wedul recused herself for the next agenda item due to a conflict of interest.

Other Business

14. PL 19-072 Review for Completeness for Spirit Lake Sediment Remediation Project Environmental Assessment Worksheet (EAW)

Staff: Kyle Deming gives an overview. 226 acres will be effected. This is proposed in conjunction with the DNR and the MPCA. The planning commission will vote on if an EIS is needed at their September meeting. Tonight the commission is tasked with determining if the EAW is complete and ready for distribution. Chair Kennedy asks about the finished project. Deming affirms the train track will be put back, and this is a different area than Mud lake. The public hearing for the EAW will be next month. Per Deputy Director Fulton, this item before the planning commission determines the readiness of document, and not the content of the document.

Public: (Public Hearing next month, but audience is invited to comment). Mike Casey notes the track will not be removed, but there will be two crossings, and it will effect the railroad's run time during this process. He is happy US Steel is doing this and notes this is the super fund site. Fulton comments, they will check with PCA why the name changed.

MOTION/Second: Nelson/Schraepfer the EAW is complete and ready for distribution.

VOTE: (6-0, Wedul abstained)

Communications

Manager's Report

- June 25, 2019, Public Information Meeting on Proposed UDC Text Changes
- Brown Bag Lunch Meeting, Wednesday, July 17, 12:00 pm, 4th Floor Large Admin Conference Center to discuss handout on tiny houses. LMSR was heard by city council for 1st reading. There will be an open house for the Capstone Development on July 16th. The commissioners are invited to attend. The First Street open house which is the 2nd meeting will be on 7/25/19.

Reports of Officers and Committees

- Heritage Preservation Commission Representative – Commissioner Wisdorf gives an update. Lincoln park improvements are underway and the pavilion has been historically designated. Pastoret Terrace – They are waiting on a mitigation plan, and there is pending litigation.

Adjournment

Meeting adjourned at 8:40 p.m.

Respectfully,

Adam Fulton – Deputy Director
Planning and Economic Development



Planning & Development Division
 Planning & Economic Development Department

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File Number	PL 19-093	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Interim Use Permit Renewal – Vacation Dwelling Unit	Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date	July 8, 2019	60 Days	September 6, 2019
	Date Extension Letter Mailed	August 6, 2019	120 Days	November 5, 2019
Location of Subject	1210 S. Lake Ave. (Park Point)			
Applicant	Steve and Heather Pitschka	Contact	hpitschka@yahoo.com	
Agent		Contact		
Legal Description	Lot 135, Upper Duluth, Lake Ave. Division (010-4380-00680)			
Site Visit Date	August 5, 2019	Sign Notice Date	July 30, 2019	
Neighbor Letter Date	August 2, 2019	Number of Letters Sent	16	

Proposal

This is a renewal for permit PL 13-031. Applicant proposes to continue to rent out the 2-bedroom house to groups in size up 5 people.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	One-Family Dwelling	Traditional Neighborhood
North	R-1	One-Family Dwelling	Traditional Neighborhood
South	R-1	Park	Open Space
East	R-1	Park	Open Space
West	R-1	Park	Open Space

Summary of Code Requirements:

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

UDC Sec. 50-37.10.B . . . Council shall make, a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The . . . Council may impose appropriate conditions and safeguards, including but not limited to financial security pursuant to Section 50-37.1.P, a development agreement regarding the design, construction, and operation of the special use, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the special use permit will continue to meet.

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

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

requested use in that location or to allow the city time to develop a regulation addressing the potential longer term impacts of the requested use in that location; 2. The applicant agrees to sign a development agreement with the city confirming that (a) approval of the permit will not result in increased costs to the city if the property is later acquired by the city through eminent domain; (b) the use will be terminated at the applicant's expense on the date(s) stated in the permit, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures or improvements related to the use, and (d) the applicant agrees to all conditions imposed by the city. No interim use permit shall be issued until a development agreement confirming these points is executed.

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

Governing Principle #5 - Strengthen neighborhoods

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

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

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

The site is developed consistent with the future land use as described and the applicant is not proposing alterations to the use.

Review and Discussion Items:

- 1) Applicant's property is located at 1210 S. Lake Ave. The proposed vacation dwelling units contains 2 bedrooms, which would allow for a maximum of 5 guests. This 788 square foot traditional home was constructed in 1921.
- 2) The applicant lives within the required distance and has notified the owners within 100 feet with their contact info.
- 3) The site has room for the required 1 of-street parking spaces in the garage and driveway. The applicant has indicated they will direct guests to park up to one motorhome or RV trailer on the street, which is allowed by the UDC, or in the 31-foot-long driveway.
- 4) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 5) Applicant has obtained the City of Duluth Tourism Tax license, the Minnesota Department of Health Lodging License, Fire Department Operational Permit, have a Tax ID number, and a Hotel/Motel License.
- 6) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 7) No comments from citizens, City staff, or any other entity were received regarding the application.

Staff Recommendation:

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

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation; and
- 2) The applicant must provide a written disclosure to all guests stating that quiet hours shall be observed between the hours of 10 p.m. and 8 a.m. and the location of the nearest legal access to the Lake Superior beach; and
- 3) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit document and provide evidence of compliance, which will be included in the resolution, and any modifications deemed necessary by the Land Use Supervisor, provided that no such administrative approval shall constitute a variance from Chapter 50.



1210 S. Lake Ave.
Vacation Dwelling Unit
Renewal
Steve and Heather Pitschka

PC Packet 08-13-19



Legend

- 1 Ft contour
- 10 Ft contour
- Vacated ROW

Easement Type

- Utility Easement
- Other Easement
- Zoning Boundaries

Floodplain (UDC)

- General Flood Plain
- Flood Way
- Flood Fringe
- 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.

Aerial photography flown 2016





1210 S. Lake Ave.
Vacation Dwelling Unit
Renewal
Steve and Heather Pitschka



Legend

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

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1210 S. Lake Ave.
Vacation Dwelling Unit
Renewal
Steve and Heather Pitschka

PC Packet 08-13-19



Legend

- 1 Ft contour
- 10 Ft contour
- Vacated ROW
- Easement Type**
- ⋯ Utility Easement
- ⋯ Other Easement
- + Zoning Boundaries
- Floodplain (UDC)**
- General Flood Plain
- Flood Way
- Flood Fringe
- Trout Stream (GPS)
- Other Stream (GPS)

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CERTIFICATE OF SURVEY FOR: STEVEN PITTSCHKA

LEGEND

These standard symbols will be found in the drawing.



CONCRETE

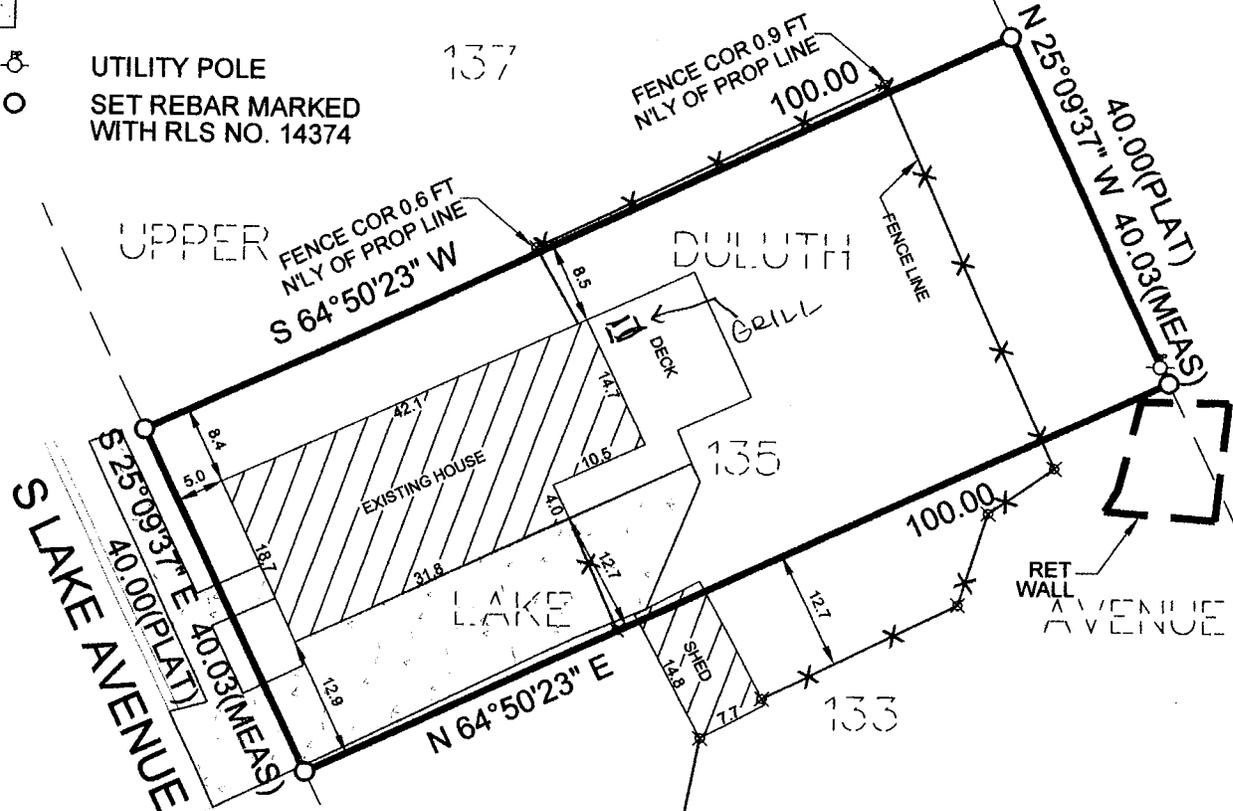


UTILITY POLE



SET REBAR MARKED WITH RLS NO. 14374

1210 S LAKE AVE
DULUTH, MN 55802
PARCEL: 010-4380-00680



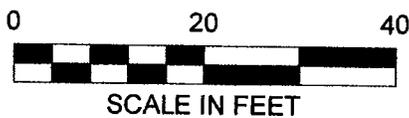
LEGAL DESCRIPTION PER TAX STATEMENT

Lot 135, UPPER DULUTH LAKE AVENUE, according to the recorded plat thereof, St. Louis County, Minnesota.

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

Date: 9-27-12

Ronald L. Krueger MN License No. 14374



NOTES

BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996.

BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY.

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 SURVEY COMPANY, INC.

DATE: 9-27-12
SCALE: 1 IN = 20 FEET
PROP ADD: 1210 LAKE AVE S
PROJECT NO: 12-179

ALTA
SURVEY COMPANY, INC.
Residential/Commercial Land Surveying-Land Development-Legal Descriptions
P.O. BOX 161138 Duluth, MN 55806
Phone: 218-727-5211 Fax: 218-727-3798



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 19-094		Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Interim Use Permit Renewal – Vacation Dwelling Unit		Planning Commission Date		August 13, 2019
Deadline for Action	Application Date		July 8, 2019	60 Days	September 6, 2019
	Date Extension Letter Mailed		August 6, 2019	120 Days	November 5, 2019
Location of Subject		1535 S. Lake Ave. (Park Point)			
Applicant	Steve and Heather Pitschka		Contact	hpitschka@yahoo.com	
Agent			Contact		
Legal Description		Lot 62, Upper Duluth, Lake Ave. Division (010-4380-01530)			
Site Visit Date	August 5, 2019		Sign Notice Date		July 30, 2019
Neighbor Letter Date	August 2, 2019		Number of Letters Sent		25

Proposal

This is a renewal for permit PL 13-029. Applicant proposes to continue to rent out the 4-bedroom house to groups in size up 9 people.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	One-Family Dwelling	Traditional Neighborhood
North	R-1	One-Family Dwelling	Traditional Neighborhood
South	R-1	One-Family Dwelling	Traditional Neighborhood
East	R-1	Park	Open Space
West	R-1	One-Family Dwelling	Traditional Neighborhood

Summary of Code Requirements:

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

UDC Sec. 50-37.10.B . . . Council shall make, a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The . . . Council may impose appropriate conditions and safeguards, including but not limited to financial security pursuant to Section 50-37.1.P, a development agreement regarding the design, construction, and operation of the special use, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the special use permit will continue to meet.

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

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location or to allow the city time to develop a regulation addressing the potential longer term

impacts of the requested use in that location; 2. The applicant agrees to sign a development agreement with the city confirming that (a) approval of the permit will not result in increased costs to the city if the property is later acquired by the city through eminent domain; (b) the use will be terminated at the applicant's expense on the date(s) stated in the permit, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures or improvements related to the use, and (d) the applicant agrees to all conditions imposed by the city. No interim use permit shall be issued until a development agreement confirming these points is executed.

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

Governing Principle #5 - Strengthen neighborhoods

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

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

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

The site is developed consistent with the future land use as described and the applicant is not proposing alterations to the use.

Review and Discussion Items:

- 1) Applicant's property is located at 1535 S. Lake Ave. The proposed vacation dwelling units contains 4 bedrooms, which would allow for a maximum of 9 guests. This 1,316 square foot traditional home was constructed in 1923.
- 2) The applicant lives within the required distance and has notified the owners within 100 feet with their contact info.
- 3) The site has room for the required 3 of-street parking spaces in the garage and driveway. The applicant has indicated they will direct guests to park up to one motorhome or RV trailer on the street, which is allowed by the UDC.
- 4) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 5) Applicant has obtained the City of Duluth Tourism Tax license, the Minnesota Department of Health Lodging License, have a Tax ID number, and a Hotel/Motel License. A City Fire Department inspection has been conducted, but an Operational Permit won't be issued until City Council has approved the Vacation Dwelling Unit Interim Use Permit and, therefore, this is recommended to be a condition of approval
- 6) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 7) No comments from citizens, City staff, or any other entity were received regarding the application.

Staff Recommendation:

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

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation; and
- 2) The applicant must provide a written disclosure to all guests stating that quiet hours shall be observed between the hours of 10 p.m. and 8 a.m. and the location of the nearest legal access to the Lake Superior beach; and
- 3) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit document and provide evidence of compliance, which will be included in the resolution, and any modifications deemed necessary by the Land Use Supervisor, provided that no such administrative approval shall constitute a variance from Chapter 50.



1535 S. Lake Ave.
Vacation Dwelling Unit
Renewal
Steve and Heather Pitschka

PC Packet 08-13-19



Legend

- 1 Ft contour
- 10 Ft contour
- Vacated ROW
- Easement Type**
- ⋯ Utility Easement
- ⋯ Other Easement
- + Zoning Boundaries
- Floodplain (UDC)**
- General Flood Plain
- Flood Way
- Flood Fringe
- Trout Stream (GPS)
- Other Stream (GPS)

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1535 S. Lake Ave.
Vacation Dwelling Unit
Renewal
Steve and Heather Pitschka

PC Packet 08-13-19

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



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Aerial photography flown 2016





1535 S. Lake Ave.
Vacation Dwelling Unit
Renewal
Steve and Heather Pitschka



PC Packet 08-13-19

1526
Minnesota
Ave

1220 S
Lake Ave

610

610

1534
Minnesota
Ave

1531 S
Lake Ave

**R-1
(Residential
Traditional)**

1535 S
Lake Ave

1540
Minnesota
Ave

16th St S

1601 S
Lake Ave



Legend

- 1 Ft contour
- 10 Ft contour
- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- Zoning Boundaries
- Floodplain (UDC)**
- General Flood Plain
- Flood Way
- Flood Fringe
- Trout Stream (GPS)
- Other Stream (GPS)

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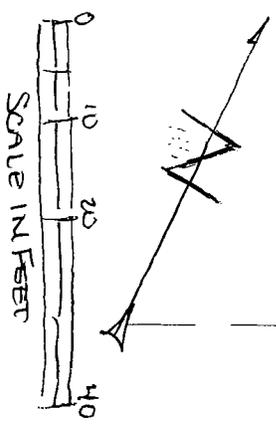
LAKE AVE
(PAPER STREET)

FOUND T-STAKE WITH CAP INSCRIBED "RLS 7404"
(SOUTHEAST 0.11' AND NORTHEAST 0.09')

FOUND T-STAKE WITH CAP INSCRIBED "RLS 7404"
(SOUTHEAST 0.23' OF WEST PROPERTY LINE
AND 5.07' NORTHEAST OF SOUTH PROPERTY LINE)

NORTHEASTERLY EDGE OF FENCE IS
0.11' NORTHEASTERLY OF THE SOUTH
WESTERLY LINE OF LOT 62

NORTHEASTERLY EDGE OF FENCE IS
0.11' NORTHEASTERLY OF THE SOUTH
WESTERLY LINE OF LOT 62



UPPER

LILAC

LILAC

N 25° 08' 10" E 100.05' (R=100.00')

S 25° 08' 10" E 40.04' (R=40.00')

N 25° 09' 20" W 40.04' (R=40.00')

S 62° 15' 05" E 100.05' (R=100.00')

FENCE

SEE DETAIL "A"

16th STREET

60'

SITE PLAN
1535 LAKE AVE SOUTH
DULUTH, MN 55802
STEVEN PITTSCHKA
PARCEL 010-4380-01530

LEGEND

S 62° 15' 05" E
100.05'
100.00'

59

60



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 19-095	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Interim Use Permit Renewal – Vacation Dwelling Unit	Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date	July 8, 2019	60 Days	September 6, 2019
	Date Extension Letter Mailed	August 6, 2019	120 Days	November 5, 2019
Location of Subject	1302 Minnesota Ave. (Park Point)			
Applicant	Steve and Heather Pitschka	Contact	hpitschka@yahoo.com	
Agent		Contact		
Legal Description	Lot 119, Upper Duluth, Minnesota Ave. Division (010-4390-00650)			
Site Visit Date	August 5, 2019	Sign Notice Date	July 30, 2019	
Neighbor Letter Date	August 2, 2019	Number of Letters Sent	27	

Proposal

This is a renewal for permit PL 13-030. Applicant proposes to continue to rent out the 3-bedroom house to groups in size up 7 people.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	One-Family Dwelling	Traditional Neighborhood
North	R-1	Park	Open Space
South	R-1	One-Family Dwelling	Traditional Neighborhood
East	R-1	One-Family Dwelling	Traditional Neighborhood
West	R-1	One-Family Dwelling	Traditional Neighborhood

Summary of Code Requirements:

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

UDC Sec. 50-37.10.B . . . Council shall make, a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The . . . Council may impose appropriate conditions and safeguards, including but not limited to financial security pursuant to Section 50-37.1.P, a development agreement regarding the design, construction, and operation of the special use, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the special use permit will continue to meet.

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

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location or to allow the city time to develop a regulation addressing the potential longer term

impacts of the requested use in that location; 2. The applicant agrees to sign a development agreement with the city confirming that (a) approval of the permit will not result in increased costs to the city if the property is later acquired by the city through eminent domain; (b) the use will be terminated at the applicant's expense on the date(s) stated in the permit, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures or improvements related to the use, and (d) the applicant agrees to all conditions imposed by the city. No interim use permit shall be issued until a development agreement confirming these points is executed.

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

Governing Principle #5 - Strengthen neighborhoods

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

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

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

The site is developed consistent with the future land use as described and the applicant is not proposing alterations to the use.

Review and Discussion Items:

- 1) Applicant's property is located at 1302 Minnesota Ave. The proposed vacation dwelling units contains 3 bedrooms, which would allow for a maximum of 7 guests. This 1,716 square foot traditional home was constructed in 1957.
- 2) The applicant lives within the required distance and has notified the owners within 100 feet with their contact info.
- 3) The site has room for the required 2 of-street parking spaces in the garage at the rear of the property. Additionally, there is room to park on the applicant's half of 13th Street, which has been paved, though this space does not meet UDC qualifications for being located on the applicant's property. The applicant has indicated they will direct guests to park up to one motorhome or RV trailer on the street, which is allowed by the UDC.
- 4) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 5) Applicant has obtained the City of Duluth Tourism Tax license, the Minnesota Department of Health Lodging License, have a Tax ID number, a fire operational permit, and a Hotel/Motel License.
- 6) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 7) No comments from citizens, City staff, or any other entity were received regarding the application.

Staff Recommendation:

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

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation; and
- 2) The applicant must provide a written disclosure to all guests stating that quiet hours shall be observed between the hours of 10 p.m. and 8 a.m. and the location of the nearest legal access to the Lake Superior beach; and
- 3) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit document and provide evidence of compliance, which will be included in the resolution, and any modifications deemed necessary by the Land Use Supervisor, provided that no such administrative approval shall constitute a variance from Chapter 50.



1302 Minnesota Ave.
Vacation Dwelling Unit
Renewal
Steve and Heather Pitschka



Legend

- 1 Ft contour
- 10 Ft contour
- ⊠ Vacated ROW
- Easement Type**
- ⋯ Utility Easement
- ⋯ Other Easement
- ⊠ Zoning Boundaries
- Floodplain (UDC)**
- ▭ General Flood Plain
- ▭ Flood Way
- ▭ Flood Fringe
- ▭ Trout Stream (GPS)
- ▭ Other Stream (GPS)

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1302 Minnesota Ave.
Vacation Dwelling Unit
Renewal
Steve and Heather Pitschka

PC Packet 08-13-19 1220 S
Lake Ave



Legend

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

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1302 Minnesota Ave.
Vacation Dwelling Unit
Renewal
Steve and Heather Pitschka

PC Packet 08-13-19

Legend

- 1 Ft contour
- 10 Ft contour
- Vacated ROW

Easement Type

- Utility Easement
- Other Easement
- Zoning Boundaries

Floodplain (UDC)

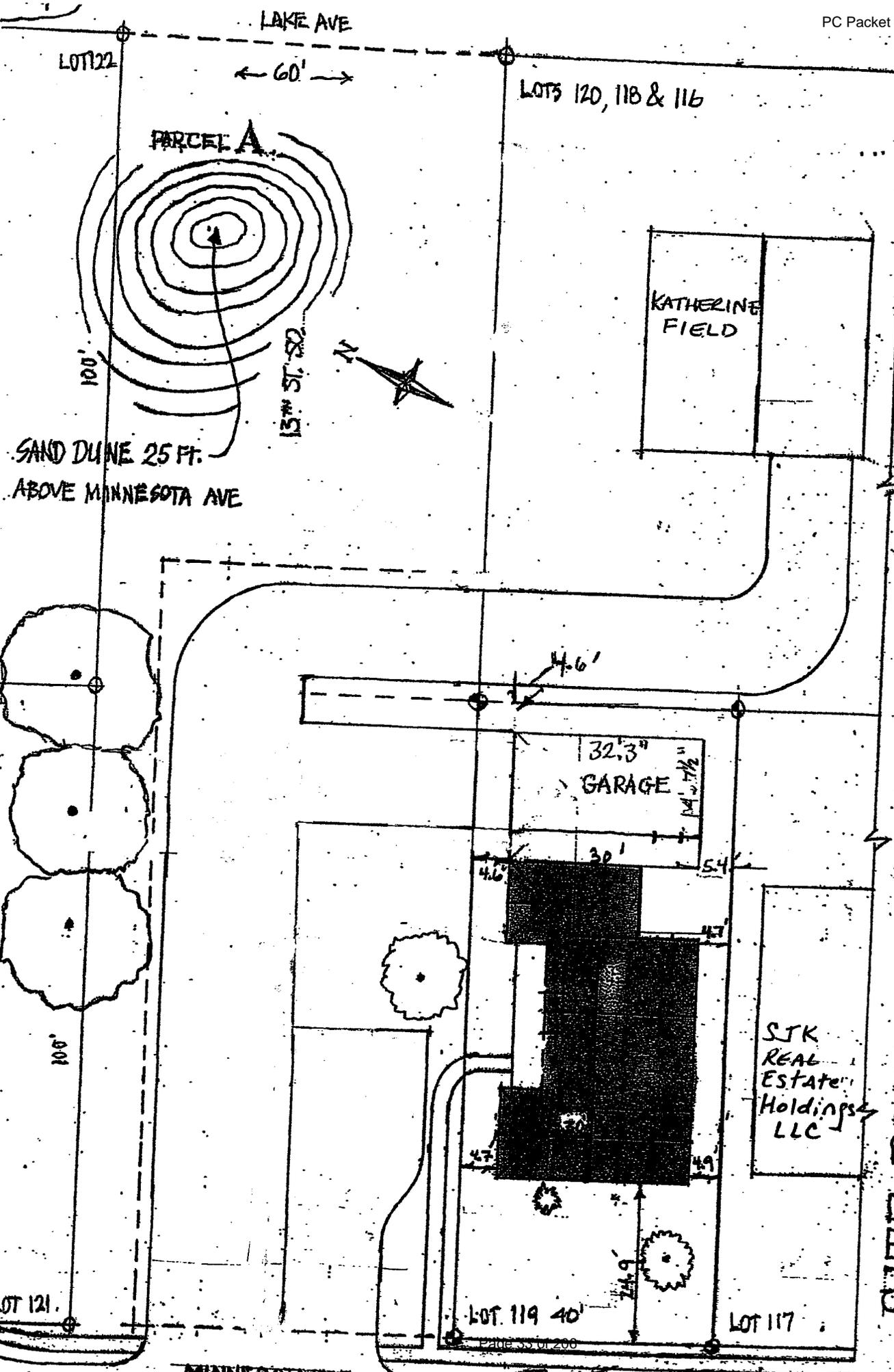
- General Flood Plain
- Flood Way
- Flood Fringe
- Trout Stream (GPS)
- Other Stream (GPS)

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Aerial photography flown 2016





1302 MINNESOTA AVE., DULUTH, MN 55802
 STEVEN PITSCHEKA PARCEL 4390-00650

SITE PLAN SCALE: 1" = 20'



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

☎ 218-730-5580
 ✉ planning@duluthmn.gov

File Number	PL19-091		Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Minor Subdivision		Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date	July 3, 2019	60 Days	September 1, 2019	
	Date Extension Letter Mailed	August 6, 2019	120 Days	October 31, 2019	
Location of Subject	Hallett Dock 7 south of Waseca Industrial Rd. and Lesure St. (West Duluth)				
Applicant	Hallett Railroad Storage and Service LLC		Contact	Jeff Heller	
Agent	Johnson, Killen, & Seiler, PA		Contact	Amanda Mangan, Attorney	
Legal Description	Outlot S, Rearrangement of Auditor's Plat of West Duluth Outlots				
Site Visit Date			Sign Notice Date	NA	
Neighbor Letter Date	NA		Number of Letters Sent	NA	

Proposal
 The applicant is requesting a Minor Subdivision to divide Outlot S into two lots to allow the sale of the easterly lot to a new owner.

Recommended Action:
 Approve Minor Subdivision with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	I-G, I-W	Vacant	General Mixed Use, Open Space
North	I-G	Railroad yard	General Mixed Use, Open Space
South	None	St. Louis River	None
East	I-W	Dock and vacant	General Mixed Use, Open Space
West	I-G	Vacant	General Mixed Use, Open Space

Summary of Municipal Planning Act & City Code Requirements

50-33.1 General: All subdivision plats and replats, and all registered land surveys, shall create lots, streets and walkways and open spaces consistent with the requirements of the zone district within which the land is located.

50-37.5, D 1. The planning commission shall approve the application if it determines that the application:

(a) The lot or lots to be subdivided or combined have frontage on an improved public street;

(b) Each proposed lot meets the minimum zoning requirements of the district that it is in.

(c) If an existing structure on a lot complies with the requirements of this Chapter, then after the minor subdivision structures on each of the resulting lots will still comply with the requirements of this Chapter; and

(d) If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any existing nonconformity between the requirements of this Chapter.

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

Governing Principle #5 – Promote reinvestment in neighborhoods
 Governing Principle #8 - Encourage mix of activities, uses, and densities
 Governing Principle #9 - Support private actions that contribute to the public realm

Future Land Use:

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. FAR: 0.3 to 0, pedestrian circulation and open space amenities should be provided for larger sites, master planning for large sites

History:

Easterly portion of the site has been Hallett Dock 7 for many years
 Westerly portion of the site was restored as part of the XIK Superfund Site cleanup.

Review and Discussion Items

Staff finds that:

1. The applicant is requesting a Minor Subdivision to divide a single lot into two parcels. The current parcel is 85.77 acres and the division would separate the easterly 500 feet from the rest of the parcel.
2. The easterly parcel is zoned I-W and the westerly parcel is zoned I-G. The zoning requirements for both zone districts are the same with the exception that I-W uses are limited to those requiring access to the water for transportation. Front setback is 25 feet, side and rear setbacks are 0 feet.
3. The existing property is not served by municipal utilities and the subdivision of the land does not affect the need for utilities should either of the parcels be proposed for buildings requiring utilities.
4. No public, agency, or City comments were received.
5. Lesure St. and Waseca Industrial Rd. are located in roadway easements across the north end of the parcel. No change to the easements are being proposed.
6. The attached exhibit demonstrates compliance with Minnesota statutes 462.358 and 505 or 508, as applicable.
7. Approval of this Minor Subdivision signifies that City of Duluth UDC standards are met. St. Louis County may have additional requirements. This subdivision approval lapses if deeds are not recorded with St. Louis County within 180 days. Applicant must provide the City with proof of recording.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission approve the Minor Subdivision application PL 19-091 subject to the following conditions:

1. Appropriate deeds be filed with St. Louis County within 180 days. Prior to recording the deed that results from this adjustment, the Planning Division will need to stamp the deed, indication compliance with the local zoning code; and
2. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

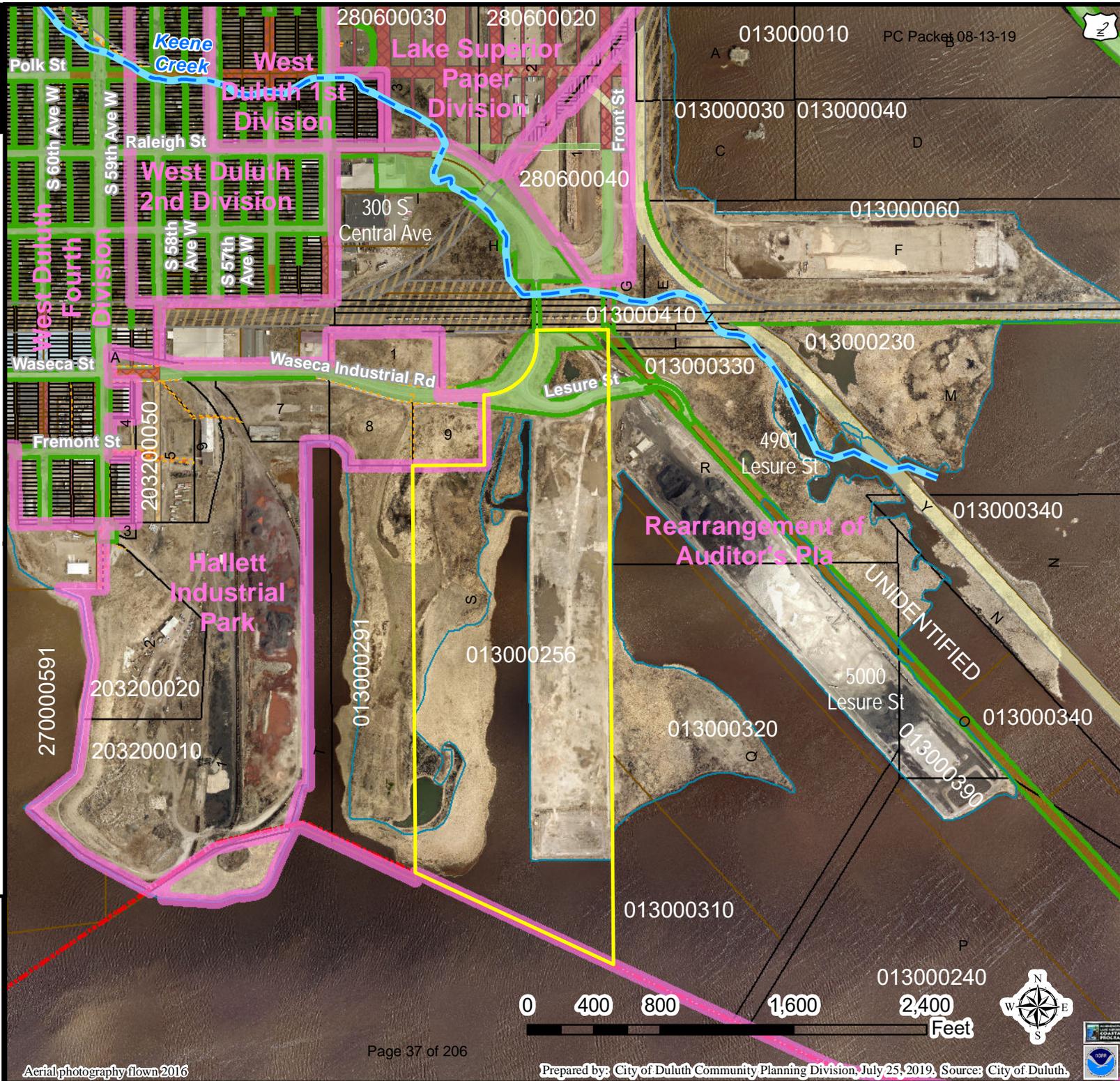


PL 19-091

Minor Subdivision
Outlot S, Rearr. of Auditor's Plat
of West Duluth Outlots
Hallett Dock 7



013000010 PC Packet 08-13-19



Legend

- Lots**
- ROW <all other values>
 - 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
- Subdivision Boundaries**
- Boundary Lines**
- <all other values>
 - Subtype, ROW_TYPE
 - Lot Line
 - Parcel Line
 - ROW (Road)
 - ROW (Not Road)
 - Subdivision Line
 - Water Line
 - Survey Line
 - Municipal Boundary
 - Vacated ROW
 - Trout Stream (GPS)
 - Other Stream (GPS)

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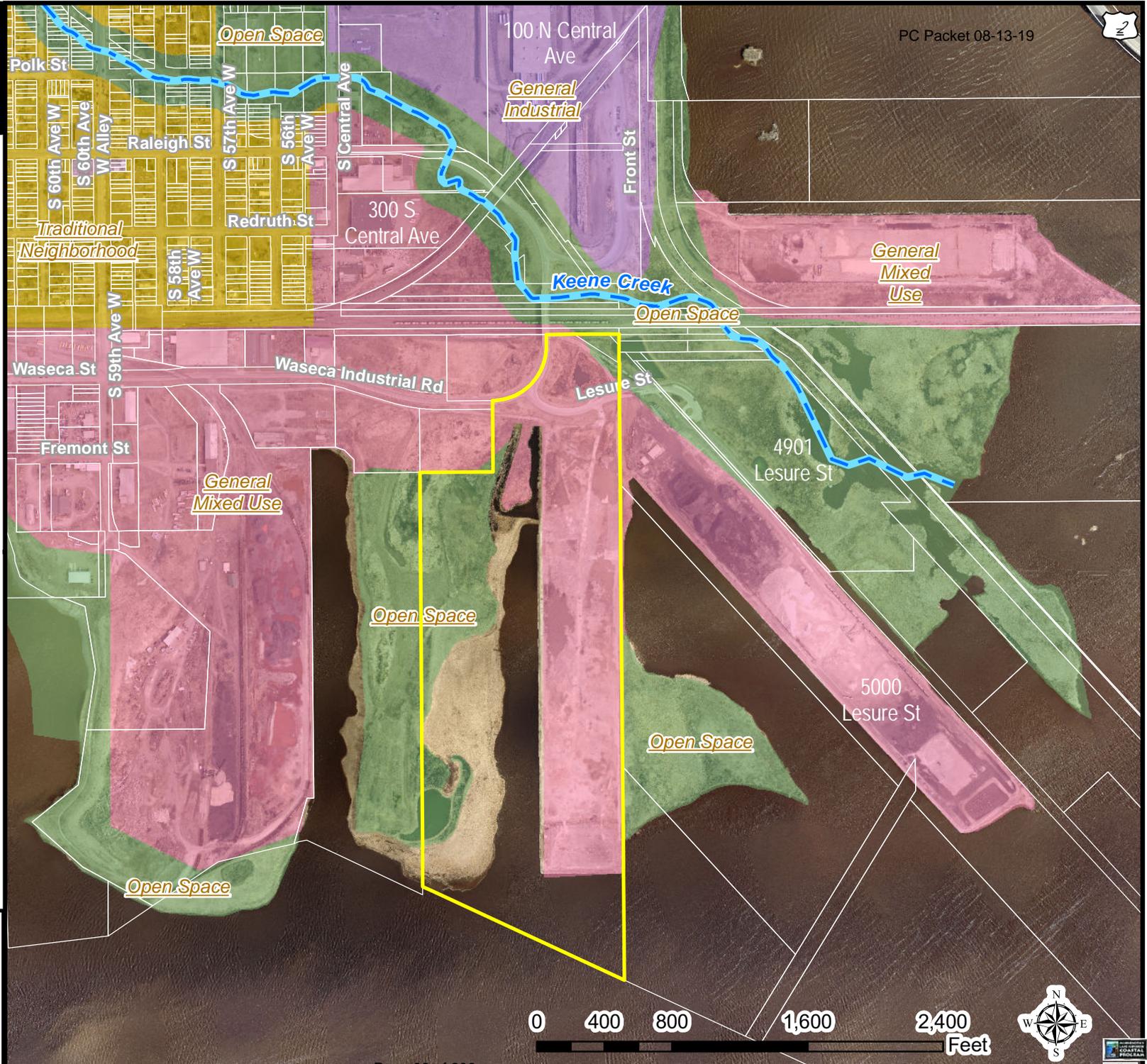




PL 19-091

Minor Subdivision
Outlot S, Rearr. of Auditor's Plat
of West Duluth Outlots
Hallett Dock 7

PC Packet 08-13-19



Legend

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

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EXHIBIT A**Legal Description of Parent Parcel PIN 010-0130-00256**

All that tract or parcel of land and land covered by water, including all riparian rights, lying within the following-described boundary lines, to-wit:

That part of Outlot S in the REARRANGEMENT OF AUDITOR'S PLAT OF WEST DULUTH OUTLOTS, according to the recorded plat thereof, on file and of record in the office of the Register of Deeds in and for said County of St. Louis and State of Minnesota, described as follows, to-wit:

Beginning on a line which is drawn 75 feet South of and parallel with the centerline of the main track of Northern Pacific Railway Company, extending from Duluth to Superior across St. Louis Bay, said point of commencement being at the intersection with the centerline of 50th Avenue West, produced South; thence South on said produced line of 50th Avenue West, for a distance of 3187.12 feet, more or less, to the United States Government Dock Line; thence SW'ly along the United States Government Dock Line to it's intersection with the State Boundary Line as located and established between Minnesota and Wisconsin; thence NW'ly along said State Boundary Line a distance of 32.69 feet, more or less, to it's intersection with a line parallel with the produced centerline of Central Avenue, now known as 55th Avenue West and 500 feet in a right angle distance East therefrom; thence North on a line parallel with said produced centerline of Central Avenue 500 feet East therefrom a distance of 2494.04 feet; thence South 90 degrees 00 minutes 00 seconds East a distance of 431.39 feet; thence North 00 degrees 00 minutes 00 seconds West a distance of 420.00 feet to the centerline of Waseca Street; thence E'ly, NE'ly and N'ly along the centerline of Waseca Street on an arc length 502.65 feet, radius 320.00 feet, chord bearing North 45 degrees 00 minutes 00 seconds East, concave to the NW; thence North 00 degrees 00 minutes 00 seconds West a distance of 68.70 feet to the point of intersection with the above-mentioned line which is drawn 75 feet South of and parallel with the centerline of the main track of said Northern Pacific Railway Company; thence East along the last mentioned line parallel with and 75 feet South of the centerline of said main track to the point of beginning. The expression -centerline of the main track- which is used in the description above, refers to the centerline of the main track of said Northern Pacific Railway Company, extending from Duluth to Superior across St. Louis Bay, as said centerline of the main track is located and established on the 15th day of June, 1938, being the date of the entry of the Order and Decree of Registration affecting said descriptions, said centerline of the main track being identical with the centerline of the main track of Duluth Short Line Railway Company which is shown on the aforesaid recorded REARRANGEMENT OF AUDITOR'S PLAT OF WEST DULUTH OUTLOTS as being seventy-five feet North of the North line of the aforesaid Outlot S.

Legal Description of Proposed Parcel (Hallett Railroad Storage & Services)

The E'ly 500 feet of that tract or parcel of land and land covered by water, including all riparian rights, lying within the following-described boundary lines, to-wit:

That part of Outlot S in the REARRANGEMENT OF AUDITOR'S PLAT OF WEST DULUTH OUTLOTS, according to the recorded plat thereof, on file and of record in the office of the

Register of Deeds in and for said County of St. Louis and State of Minnesota, described as follows, to-wit:

Beginning on a line which is drawn 75 feet South of and parallel with the centerline of the main track of Northern Pacific Railway Company, extending from Duluth to Superior across St. Louis Bay, said point of commencement being at the intersection with the centerline of 50th Avenue West, produced South; thence South on said produced line of 50th Avenue West, for a distance of 3187.12 feet, more or less, to the United States Government Dock Line; thence SW'ly along the United States Government Dock Line to it's intersection with the State Boundary Line as located and established between Minnesota and Wisconsin; thence NW'ly along said State Boundary Line a distance of 32.69 feet, more or less, to it's intersection with a line parallel with the produced centerline of Central Avenue, now known as 55th Avenue West and 500 feet in a right angle distance East therefrom; thence North on a line parallel with said produced centerline of Central Avenue 500 feet East therefrom a distance of 2494.04 feet; thence South 90 degrees 00 minutes 00 seconds East a distance of 431.39 feet; thence North 00 degrees 00 minutes 00 seconds West a distance of 420.00 feet to the centerline of Waseca Street; thence E'ly, NE'ly and N'ly along the centerline of Waseca Street on an arc length 502.65 feet, radius 320.00 feet, chord bearing North 45 degrees 00 minutes 00 seconds East, concave to the NW; thence North 00 degrees 00 minutes 00 seconds West a distance of 68.70 feet to the point of intersection with the above-mentioned line which is drawn 75 feet South of and parallel with the centerline of the main track of said Northern Pacific Railway Company; thence East along the last mentioned line parallel with and 75 feet South of the centerline of said main track to the point of beginning. The expression -centerline of the main track- which is used in the description above, refers to the centerline of the main track of said Northern Pacific Railway Company, extending from Duluth to Superior across St. Louis Bay, as said centerline of the main track is located and established on the 15th day of June, 1938, being the date of the entry of the Order and Decree of Registration affecting said descriptions, said centerline of the main track being identical with the centerline of the main track of Duluth Short Line Railway Company which is shown on the aforesaid recorded REARRANGEMENT OF AUDITOR'S PLAT OF WEST DULUTH OUTLOTS as being seventy-five feet North of the North line of the aforesaid Outlot S.

Legal Description of Proposed Parcel (XIK)

All that tract or parcel of land and land covered by water, including all riparian rights, lying within the following-described boundary lines, to-wit:

That part of Outlot S in the REARRANGEMENT OF AUDITOR'S PLAT OF WEST DULUTH OUTLOTS, according to the recorded plat thereof, on file and of record in the office of the Register of Deeds in and for said County of St. Louis and State of Minnesota, described as follows, to-wit:

Beginning on a line which is drawn 75 feet South of and parallel with the centerline of the main track of Northern Pacific Railway Company, extending from Duluth to Superior across St. Louis Bay, said point of commencement being at the intersection with the centerline of 50th Avenue West, produced South; thence South on said produced line of 50th Avenue West, for a distance of 3187.12 feet, more or less, to the United States Government Dock Line; thence SW'ly along the United States Government Dock Line to it's intersection with the State Boundary Line as located and established between Minnesota and Wisconsin; thence NW'ly along said State

Boundary Line a distance of 32.69 feet, more or less, to its intersection with a line parallel with the produced centerline of Central Avenue, now known as 55th Avenue West and 500 feet in a right angle distance East therefrom; thence North on a line parallel with said produced centerline of Central Avenue 500 feet East therefrom a distance of 2494.04 feet; thence South 90 degrees 00 minutes 00 seconds East a distance of 431.39 feet; thence North 00 degrees 00 minutes 00 seconds West a distance of 420.00 feet to the centerline of Waseca Street; thence E'ly, NE'ly and N'ly along the centerline of Waseca Street on an arc length 502.65 feet, radius 320.00 feet, chord bearing North 45 degrees 00 minutes 00 seconds East, concave to the NW; thence North 00 degrees 00 minutes 00 seconds West a distance of 68.70 feet to the point of intersection with the above-mentioned line which is drawn 75 feet South of and parallel with the centerline of the main track of said Northern Pacific Railway Company; thence East along the last mentioned line parallel with and 75 feet South of the centerline of said main track to the point of beginning. The expression -centerline of the main track- which is used in the description above, refers to the centerline of the main track of said Northern Pacific Railway Company, extending from Duluth to Superior across St. Louis Bay, as said centerline of the main track is located and established on the 15th day of June, 1938, being the date of the entry of the Order and Decree of Registration affecting said descriptions, said centerline of the main track being identical with the centerline of the main track of Duluth Short Line Railway Company which is shown on the aforesaid recorded REARRANGEMENT OF AUDITOR'S PLAT OF WEST DULUTH OUTLOTS as being seventy-five feet North of the North line of the aforesaid Outlot S.

EXCEPT

The E'ly 500 feet thereof.



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 19-092	Contact	John Kelley	
Type	Minor Subdivision	Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date	July 3, 2019	60 Days	September 1, 2019
	Date Extension Letter Mailed	July 18, 2019	120 Days	October 31, 2019
Location of Subject	4215 Trinity Road			
Applicant	Michael Simonson	Contact		
Agent	Brian Tikka	Contact		
Legal Description	See Attached			
Site Visit Date	August 2, 2019	Sign Notice Date	N/A	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal

Applicant is requesting a Minor Subdivision to divide one platted lot into two lots. The current parcel is approximately 28,700 square feet and the division will create a two lots. Parcel A will be 14,152 sqft and Parcel B will be 13,853 sqft.

Recommended Action:

Staff recommends approval of the Minor Subdivision.

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

Summary of Code Requirements

50-33.1 General: All subdivision plats and replats, and all registered land surveys, shall create lots, streets and walkways and open spaces consistent with the requirements of the zone district within which the land is located.

50-37.5, D 1. The planning commission shall approve the application if it determines that the application:

- (a) The lot or lots to be subdivided or combined have frontage on an improved public street;
- (b) Each proposed lot meets the minimum zoning requirements of the district that it is in.
- (c) If an existing structure on a lot complies with the requirements of this Chapter, then after the minor subdivision structures on each of the resulting lots will still comply with the requirements of this Chapter; and
- (d) If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the

requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any existing nonconformity between the requirements of this Chapter. PC Packet 08-13-19

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

Governing Principle #1 - Reuse previously developed lands. Directs investment to sites, which have the potential to perform at a higher level than their current state.

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

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

History: The current lot is 28,700 square feet and contains a 784 square foot single-family residence built in 1942.

Review and Discussion Items

1. Applicant is requesting a Minor Subdivision to divide a single lot into two lots. One lot will contain the existing home. The lots will be set aside for future development of single family homes. Both parcels are zoned R-1, which has a minimum lot size of 4,000 square feet and have the required Street frontage along Trinity Road. The proposed subdivision, if approved, would not make the parcels non-conforming due to lot frontage, lot area, or similar bulk standard.
2. No public, agency, or City comments were received.
3. No existing platted right of way is being proposed to be vacated with this proposal.
4. The attached exhibit demonstrates compliance with Minnesota statutes 462.358 and 505 or 508, as applicable.
5. Approval of this Minor Subdivision signifies that City of Duluth UDC standards are met. St. Louis County may have additional requirements. This subdivision approval lapses if deeds are not recorded with St. Louis County within 180 days. Applicant must provide the City with proof of recording.

Staff Recommendation

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

- 1) Applicant shall construct and maintain the project as identified in the attached exhibits.
- 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 approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



MU-C (Mixed Use Commercial)

PC Packet 08-13-19

Legend

Lots
 Parcels

ROW
 <all other values>

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

Subdivision Boundaries

Boundary Lines
 <all other values>

Subtype, ROW_TYPE

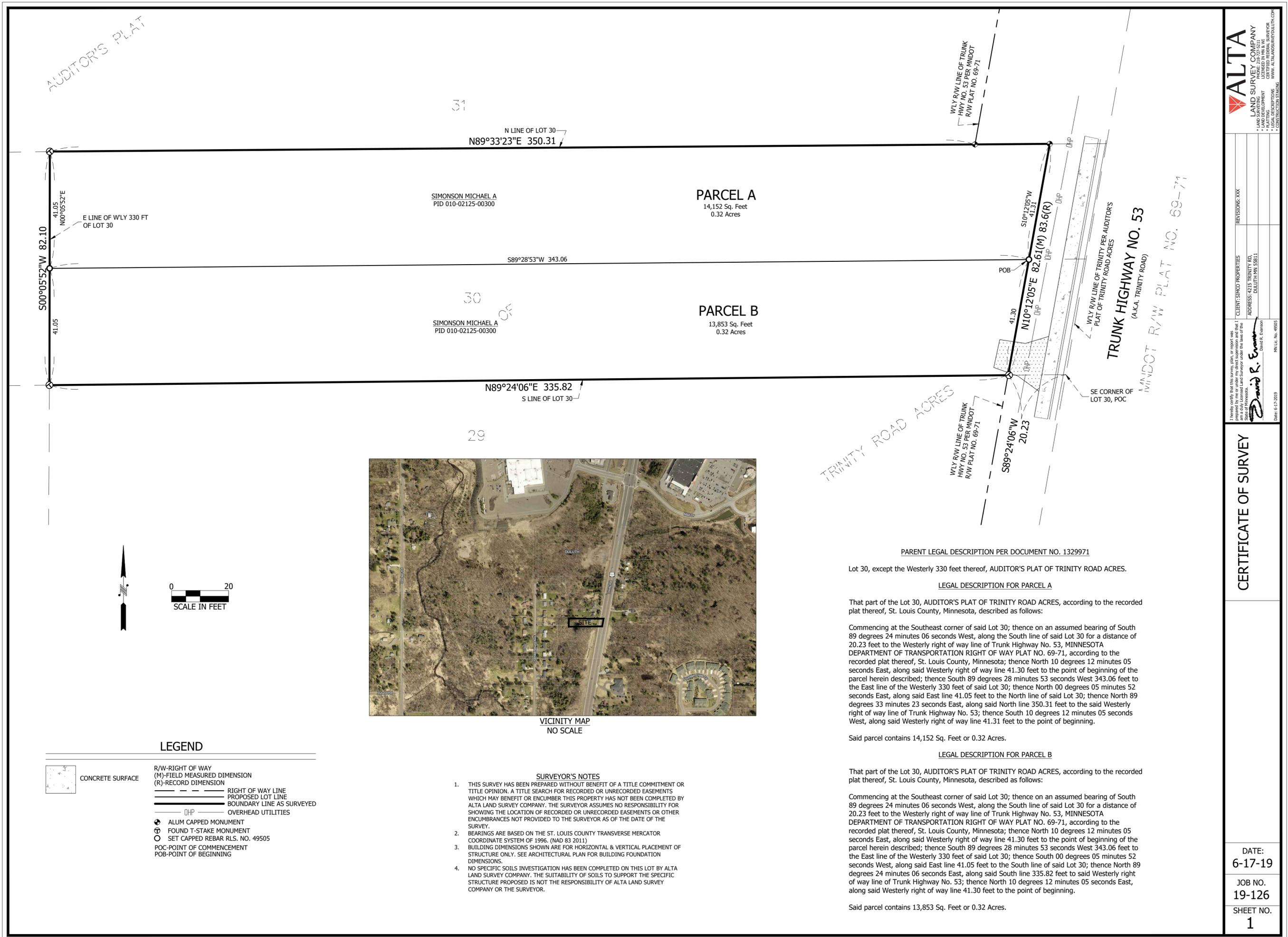
- Lot Line
- Parcel Line
- ROW (Road)
- ROW (Not Road)
- Subdivision Line
- Water Line
- Survey Line
- Municipal Boundary

Zoning Boundaries



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LEGEND

- CONCRETE SURFACE
- R/W-RIGHT OF WAY
- (M)-FIELD MEASURED DIMENSION
- (R)-RECORD DIMENSION
- RIGHT OF WAY LINE
- PROPOSED LOT LINE
- BOUNDARY LINE AS SURVEYED
- OHP --- OVERHEAD UTILITIES
- ⊕ ALUM CAPPED MONUMENT
- ⊕ FOUND T-STAKE MONUMENT
- SET CAPPED REBAR RLS. NO. 49505
- POC-POINT OF COMMENCEMENT
- POB-POINT OF BEGINNING

SURVEYOR'S NOTES

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

PARENT LEGAL DESCRIPTION PER DOCUMENT NO. 1329971

Lot 30, except the Westerly 330 feet thereof, AUDITOR'S PLAT OF TRINITY ROAD ACRES.

LEGAL DESCRIPTION FOR PARCEL A

That part of the Lot 30, AUDITOR'S PLAT OF TRINITY ROAD ACRES, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the Southeast corner of said Lot 30; thence on an assumed bearing of South 89 degrees 24 minutes 06 seconds West, along the South line of said Lot 30 for a distance of 20.23 feet to the Westerly right of way line of Trunk Highway No. 53, MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT NO. 69-71, according to the recorded plat thereof, St. Louis County, Minnesota; thence North 10 degrees 12 minutes 05 seconds East, along said Westerly right of way line 41.30 feet to the point of beginning of the parcel herein described; thence South 89 degrees 28 minutes 53 seconds West 343.06 feet to the East line of the Westerly 330 feet of said Lot 30; thence North 00 degrees 05 minutes 52 seconds East, along said East line 41.05 feet to the North line of said Lot 30; thence North 89 degrees 33 minutes 23 seconds East, along said North line 350.31 feet to the said Westerly right of way line of Trunk Highway No. 53; thence South 10 degrees 12 minutes 05 seconds West, along said Westerly right of way line 41.31 feet to the point of beginning.

Said parcel contains 14,152 Sq. Feet or 0.32 Acres.

LEGAL DESCRIPTION FOR PARCEL B

That part of the Lot 30, AUDITOR'S PLAT OF TRINITY ROAD ACRES, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the Southeast corner of said Lot 30; thence on an assumed bearing of South 89 degrees 24 minutes 06 seconds West, along the South line of said Lot 30 for a distance of 20.23 feet to the Westerly right of way line of Trunk Highway No. 53, MINNESOTA DEPARTMENT OF TRANSPORTATION RIGHT OF WAY PLAT NO. 69-71, according to the recorded plat thereof, St. Louis County, Minnesota; thence North 10 degrees 12 minutes 05 seconds East, along said Westerly right of way line 41.30 feet to the point of beginning of the parcel herein described; thence South 89 degrees 28 minutes 53 seconds West 343.06 feet to the East line of the Westerly 330 feet of said Lot 30; thence South 00 degrees 05 minutes 52 seconds West, along said East line 41.05 feet to the South line of said Lot 30; thence North 89 degrees 24 minutes 06 seconds East, along said South line 335.82 feet to said Westerly right of way line of Trunk Highway No. 53; thence North 10 degrees 12 minutes 05 seconds East, along said Westerly right of way line 41.30 feet to the point of beginning.

Said parcel contains 13,853 Sq. Feet or 0.32 Acres.



CLIENT: SIMKO PROPERTIES	REVISIONS: XXX
ADDRESS: 4215 TRINITY RD, DULUTH MN 55811	
DATE: 6-17-2019	
DRAWN BY: David R. Evans	
MIN. LIC. NO. 49925	

CERTIFICATE OF SURVEY

DATE: 6-17-19
JOB NO. 19-126
SHEET NO. 1



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL19-097		Contact	Mollie Hinderaker mhinderaker@duluthmn.gov	
Type	Minor Subdivision		Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date	July 09, 2019		60 Days	Sept. 07, 2019
	Date Extension Letter Mailed			120 Days	November 06, 2019
Location of Subject	010-4390-01870 at 1317 Minnesota Avenue and adjacent lots 109, 111, and 113				
Applicant	1 LLC, Josh Macinnes		Contact	201 S. Central Ave Duluth, MN 55807	
Agent	N/A		Contact	N/A	
Legal Description	Lots 109, 110, 111, 112, 113, and 114 of Upper Duluth				
Site Visit Date	N/A		Sign Notice Date	N/A	
Neighbor Letter Date	N/A		Number of Letters Sent	N/A	

Proposal

The applicant is requesting a Minor Subdivision to divide parcel 010-4390-01870 into two parcels labeled Parcel B and Parcel C with 5,780 square feet and 6,232 square feet respectively. In addition, the applicant is requesting to combine adjacent lots 109, 111, and 113 to make Parcel A with 12,012 square feet. The proposed parcels that are vacant, A and B, are intended for single-family or townhome development.

Recommended Action:

Approve Minor Subdivision with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Single-family Residential	Traditional Neighborhood
North	R-1	Single-family Residential	Traditional Neighborhood
South	R-1	Single-family Residential	Traditional Neighborhood
East	R-1	Single-family Residential	Traditional Neighborhood
West	P-1	Park	Open Space

Summary of Municipal Planning Act & City Code Requirements

50-33.1 General: All subdivision plats and replats, and all registered land surveys, shall create lots, streets and walkways and open spaces consistent with the requirements of the zone district within which the land is located.

50-37.5, D 1. The planning commission shall approve the application if it determines that the application:

- (a) The lot or lots to be subdivided or combined have frontage on an improved public street;
 - (b) Each proposed lot meets the minimum zoning requirements of the district that it is in.
 - (c) If an existing structure on a lot complies with the requirements of this Chapter, then after the minor subdivision structures on each of the resulting lots will still comply with the requirements of this Chapter;
- and

(d) If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any existing nonconformity between the requirements of this Chapter.

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

- Governing Principle #5 – Promote reinvestment in neighborhoods
- Governing Principle #8 - Encourage mix of activities, uses, and densities
- Governing Principle #9 - Support private actions that contribute to the public realm

Future Land Use:

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

Future Land Use – Open Space – High natural resource or scenic value, with substantial restrictions and development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: city parks and recreation areas, primary viewsheds, shorelands of the lake and streams, wetlands and floodplains, and high-value habitat.

History:

Parcel 010-4390-01870 is 12,012 square feet and has a primary structure (single-family home) that was built in 1896 with a garage. The other lots, 109, 111, and 113, are undeveloped.

Review and Discussion Items

Staff finds that:

1. The applicant is requesting a Minor Subdivision to divide parcel 010-4390-01870 into two parcels labeled Parcel B and Parcel C with 5,780 square feet and 6,232 square feet respectively. In addition, the applicant is requesting to combine adjacent lots 109, 111, and 113 to make Parcel A with 12,012 square feet. The proposed parcels that are vacant, A and B, are intended for single-family or townhome development.
2. Proposed Parcel B and Parcel C are located in an R-1 zoning district where they would conform to the specific district requirements as per UDC Section 14.5 in addition to the existing structure requirement laid out under UDC Section 37.5.D.1, pertaining to Minor Subdivisions
3. Proposed Parcel A is also located in an R-1 district where its dimensions would conform to the zoning district requirements laid out in Section 14.5. Additionally, proposed Parcel A has frontage on St. Louis Avenue, which causes concern over Part A of UDC Section 37.5.D.1, “frontage on an improved street”. St. Louis Avenue is currently a gravel street maintained by the city of Duluth. Any future development on proposed Parcel A shall require street improvements on St. Louis Avenue.
4. No public, agency, or City comments were received.
5. No existing platted right of way is being proposed to be vacated with this proposal.
6. The attached exhibit demonstrates compliance with Minnesota statutes 462.358 and 505 or 508, as applicable.
7. Approval of this Minor Subdivision signifies that City of Duluth UDC standards are met. St. Louis County may have additional requirements. This subdivision approval lapses if deeds are not recorded with St. Louis County within 180 days. Applicant must provide the City with proof of recording.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission approve the Minor Subdivision application PL 19-097 subject to the following conditions:

1. Any future development on proposed Parcel A shall require street improvements on St. Louis Avenue to adhere to Minor Subdivision provisions in the UDC Section 37.5.D.1 Part A, frontage on an improved street.

2. Appropriate deeds be filed with St. Louis County within 180 days. Prior to recording the deed that results from this adjustment, the Planning Division will need to stamp the deed, indicating compliance with the local zoning code.
3. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



1317 Minnesota Ave

Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main

Storage Basin

PS Pump Station

Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin

Zoning Boundaries



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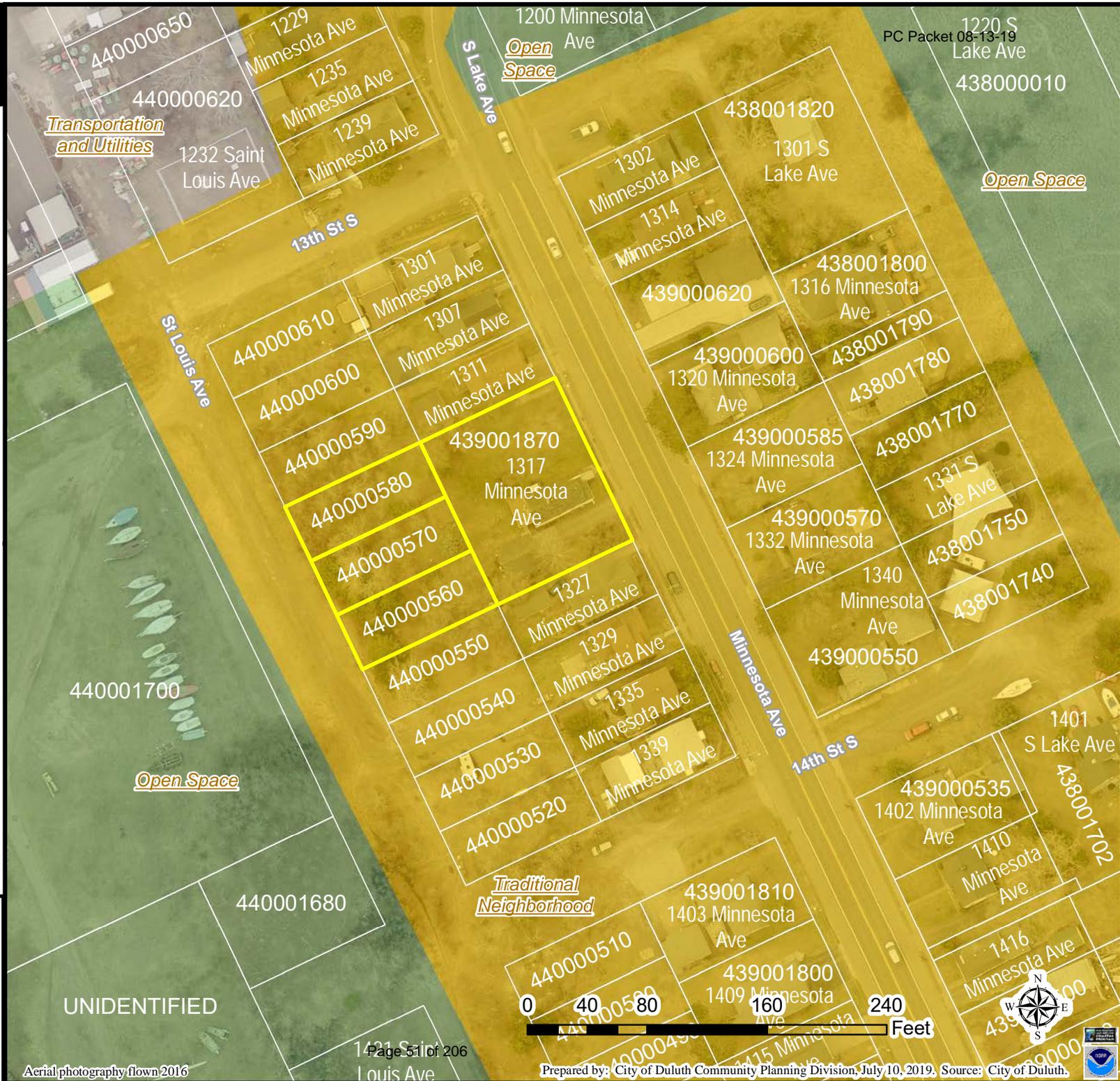


1317 Minnesota Ave

PC Packet 08-13-19

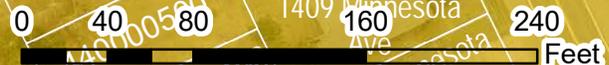
Legend

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



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UNIDENTIFIED





Engineering
Land Surveying
Economic
Development

JPJ Engineering, Inc.
5670 Miller Trunk Hwy
Suite A
Duluth, MN 55811
Phone: 218-720-6219
www.jpjeng.com

OVERALL DESCRIPTION:

Lots 109, 110, 111, 112, 113 and 114, UPPER DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

PROPOSED DESCRIPTIONS:

PARCEL A:
Lots 109, 111 and 113, UPPER DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

PARCEL B:
Lot 114 and the northwesterly 17.76 feet of Lot 112, UPPER DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

PARCEL C:
Lot 110 and that part of Lot 112, lying southeasterly of the northwesterly 17.76 feet of said Lot 112, UPPER DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

NOTES:

Orientation of this bearing system is based on the northeasterly line of Lots 110, 112 and 114, UPPER DULUTH, to have an assumed bearing of S25°09'13"E.

Overall area of this property is 24,024 square feet or 0.55 acres.

Lots 110, 112 and 114 have a PID Number of 010-4390-01870.
Lot 109 has a PID Number of 010-4400-00560.
Lot 111 has a PID Number of 010-4400-00570.
Lot 113 has a PID Number of 010-4400-00580.

LEGEND:

- Denotes iron monument found
- Denotes 1/2 inch iron monument set, marked "JPJ ENG 21401"
- ⊙ Denotes light pole
- ⊕ Denotes hydrant
- ⊗ Denotes power pole
- x— Denotes fence line
- OE— Denotes overhead electric line
- ▭ Denotes concrete surface
- ▨ Denotes bituminous surface
- ▩ Denotes gravel surface



SCALE: 1 INCH = 30 FEET



CERTIFICATION:

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

Signed this 1st day of July 2019. For: JPJ Engineering, Inc.

By:
Randy M. Morton, Land Surveyor, License No. 21401
Revised July 16, 2019
Revised July 26, 2019

CERTIFICATE OF SURVEY

For: 1LLC, Inc.

201 South Central Avenue, Duluth, Minnesota 55807
Lots 109, 110, 111, 112, 113 and 114, UPPER DULUTH, St. Louis County, Minnesota.

SURVEY BY :	DRS
DRAWN BY :	RMM
DESIGNED BY :	
APPROVED BY :	RMM
DATE:	7/01/19
PROJECT NUMBER	
	19-620
SHEET NUMBER	
	1 OF 1



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 19-101	Contact	John Kelley	
Type	Concurrent Use Permit	Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date	July 9, 2019*	60 Days	September 7, 2019
	Date Extension Letter Mailed	July 18, 2019	120 Days	November 6, 2019
Location of Subject	Approx. 4609 Grand Avenue (north side of Grand Avenue if front of 4609 Grand Ave.)			
Applicant	Cooper Industries, LLC/Eaton Corporation	Contact	Jeff Tracy	
Agent	Geosyntec	Contact	Jeff Tracy	
Legal Description	See Attached			
Site Visit Date	August 2, 2019	Sign Notice Date	June 25, 2019	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal

The applicant is seeking a concurrent use permit to install, maintain, and sample a groundwater monitoring well associated with the former Diamond Tool and Horseshoe Site.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-B	Commercial	Neighborhood Commercial
North	MU-C	Residential	Trad. Nghbhd/Neighborhood Commercial
South	MU-C	Commercial	Neighborhood Commercial
East	MU-B	Commercial	Neighborhood Commercial
West	R-1	Commercial	Gen Mixed Use/Neighborhood Commercial

Summary of Code Requirements

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

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

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

Principle #5 - Promote reinvestment in neighborhoods.

Duluth is strongly defined by its neighborhoods. This system should be supported through land use and transportation that foster neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the neighborhood's character.

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

Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide.

Principle #10 - Take actions that enhance the environment, economic, and social well-being of the community. Initiate land use, site design, transportation, building design, and materials policies which reduce consumption of finite resources, generation of solid waste, and introduction of toxic materials to land, air, or waters. Also implement resiliency in design and operation with City systems and infrastructure that serve both public and private land uses.

Future Land Use

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

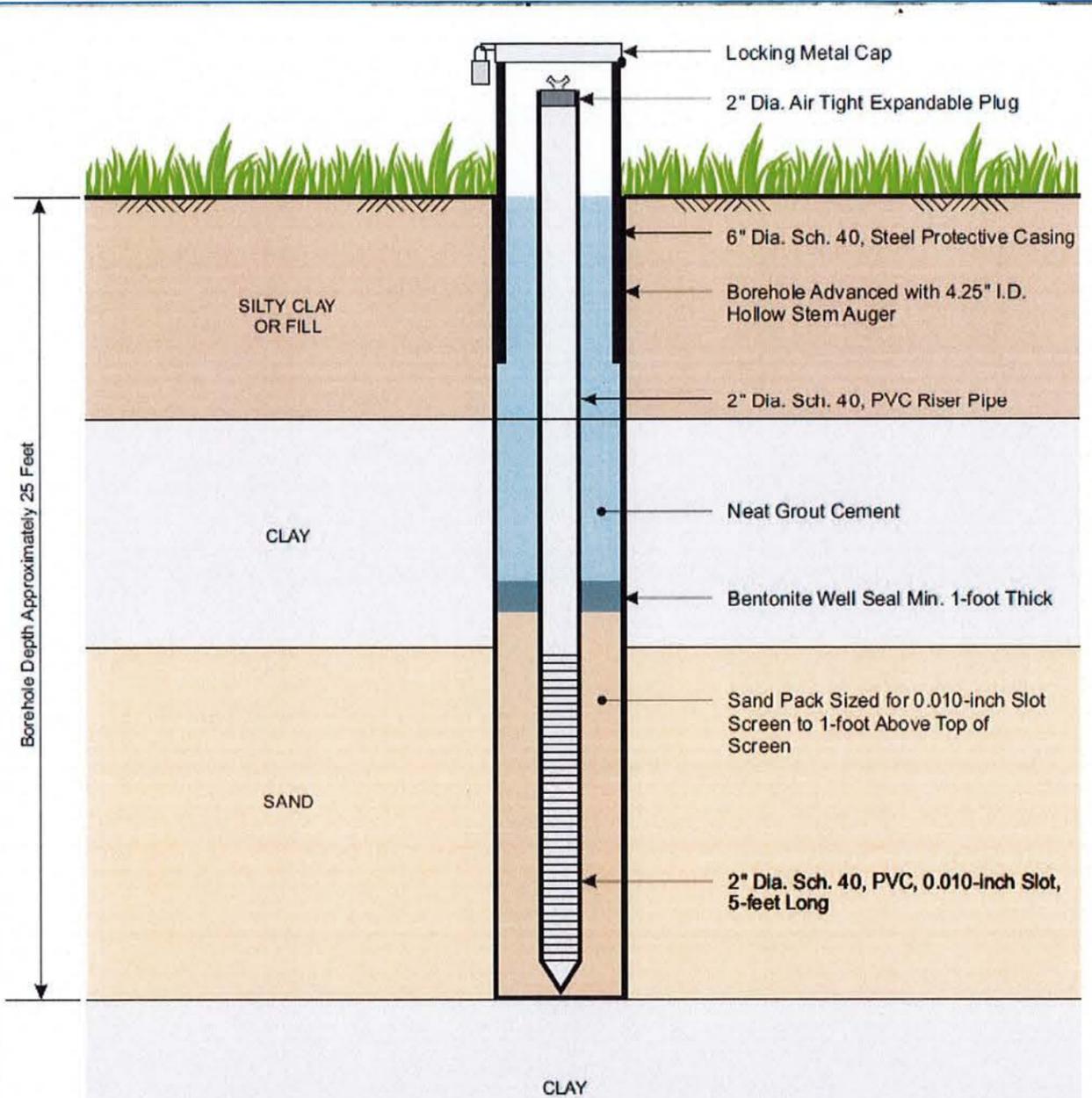
Review and Discussion Items

- 1) The applicant is seeking a concurrent use permit to permit to install, maintain, and sample a groundwater monitoring well associated with the former Diamond Tool and Horseshoe Site.
- 2) The monitoring well will be located within the Grand Avenue right-of-way (ROW) west of the existing sidewalk and on a grassy area between the sidewalk and edge of the ROW. The well protective casing will be elevated above grade level. The area proposed for the concurrent use permit will not take away from the public's ability to use the public right-of-way, nor will it harm or inconvenience the health, safety and general welfare of the city.
- 3) Concurrent use permits are approved by the City Council via an ordinance. Unlike street right-of-way vacations, concurrent use permits are not recorded at with St. Louis County as they are voidable agreements between the City and property owners.
- 4) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against all occurrences in the right-of-way. Other protections for the city and the public are typically included in the ordinance that is submitted for the City Council's review. The applicant is working to comply with the insurance requirements.
- 5) The City Engineering Department has stated that they are okay with the monitoring well concurrent use permit as proposed. No comments were received from the public or other government agencies at the time this staff report was written.
- 6) Per UDC Sec. 50-37.1.N, approved concurrent use permits lapse if the project or activity authorized by the permit has not begun within one-year.

Staff Recommendation

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

- 1) Applicant shall construct and maintain the project as identified in the attached exhibits.
- 2) Applicant shall provide annual proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit.
- 3) Applicant must remove the obstructions at the applicant's expense if directed to by the City with appropriate notice.
- 4) The structure will need to comply with any applicable engineering standards, or building or fire code requirements.
- 5) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

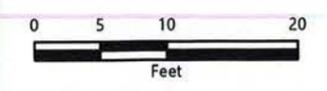


Conceptual Cross Section of Proposed Groundwater Monitoring Well



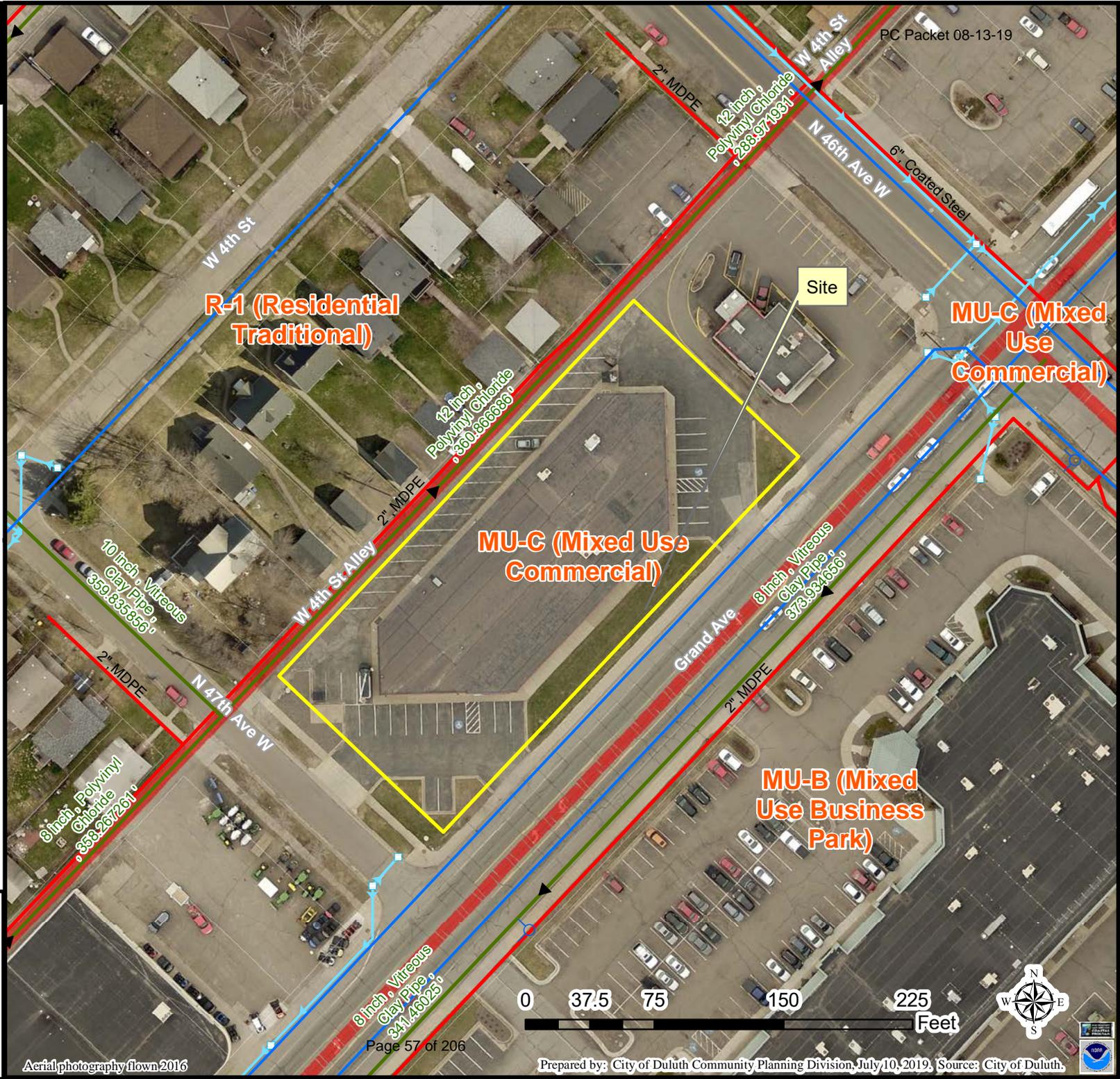
- Proposed Ground Monitoring Well
- Buried Fiber Line #1
- Buried Fiber Line #2
- Buried Power Line
- Communication Bank
- Water Line
- St. Louis County Parcel Boundary
- Proposed Area of Concurrent use of Street

Note: All locations approximate, see survey for locations and dimensions.



PROPOSED WELL LOCATION
Former Diamond Tool Facility
Duluth, Minnesota



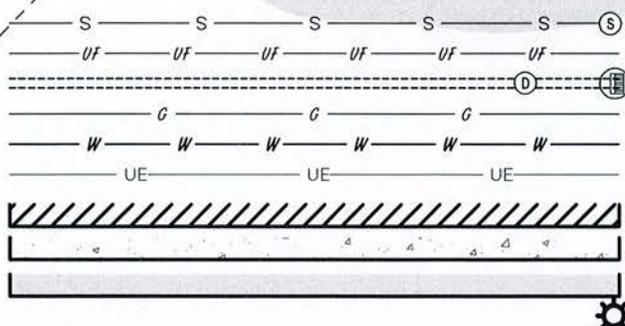
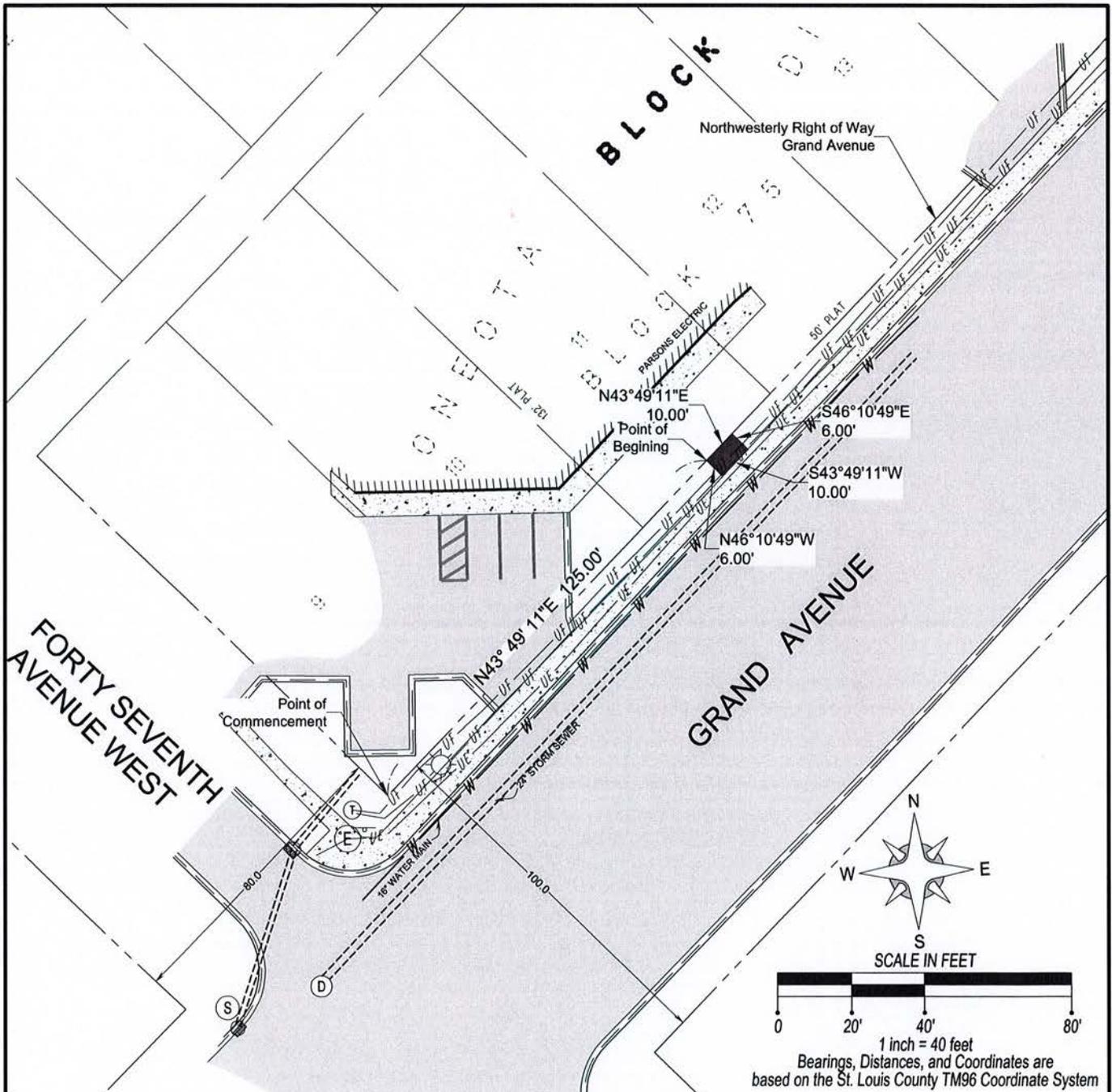


Legend

- 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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I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA. *Jon Loye* Date: 7/8/2019
 MINNESOTA LICENSE NO. 52222

TKDA 11 East Superior Street
 Suite 420
 Duluth, MN 55802
 218-724-8578
 tkda.com
 Job Number: 15513.361

A description for a parcel of land for a concurrent use permit for a groundwater monitoring well in a public right of way.

That part of Grand Avenue (platted as Sixth Street) as platted in the plat of ONEOTA described as follows:

Commencing at the southwest corner of Lot 9, Block 75, ONEOTA: thence N43° 49' 11" E along the northwesterly Right of Way of said Grand Avenue, 125.00 feet to the point of beginning of the parcel to be described; thence N43° 49' 11" E, continuing along the northwesterly Right of Way of said Grand Avenue, 10.00 feet; thence S46° 10' 49" E, 6.00 feet; thence S43° 49' 11" W, 10.00 feet; thence N46° 10' 49" W, 6.00 feet to the point of beginning and there terminating.

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF MINNESOTA. *[Signature]* MINNESOTA LICENSE NO. 52222

Date : 7/8/2019



11 East Superior Street
Suite 420
Duluth, MN 55802
218-724-8578
tkda.com
Job Number: 15513.361

Sheet 2 of 2 Sheets

John Kelley

From: Peggy Billings
Sent: Tuesday, July 23, 2019 8:25 AM
To: John Kelley
Subject: Monitoring Well concurrent use permit

John,

All parties are okay with the monitoring well concurrent use permit as proposed, no changes requested.

Peggy Billings

Engineering Technician
411 W 1st St, Room 211
Duluth, MN 55802
218-730-5068



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
planning@duluthmn.gov

File Number	PL19-103	Contact	John Kelley, jkelly@duluthmn.gov	
Type	Variance – variance from occupied space setback for a multi-family apartment building	Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date	July 15, 2019	60 Days	September 13, 2019
	Date Extension Letter Mailed	July 23, 2019	120 Days	November 12, 2019
Location of Subject	2012 West Superior Street			
Applicant	Rachel Development	Contact	952-454-1799	
Agent	Patrick Cruikshank	Contact	612-408-0754	
Legal Description	010-1120-02740, 010-1120-02750, 010-1120-02760, 010-1120-02770, 010-1120-02780			
Site Visit Date	August 2, 2019	Sign Notice Date	July 30, 2019	
Neighbor Letter Date	July 29, 2019	Number of Letters Sent	29	

Proposal

A variance from the occupied space setback for a multi-family apartment building in an F-5 (Mid-Rise Community Shopping and Office) zone district.

Recommended Action: Approve variance with conditions

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-5	Vacant Building	Central Business Secondary
North	F-5	Commercial	Central Business Secondary
South	MU-C	Lower Michigan Street	Central Business Secondary
East	F-5	Commercial	Central Business Secondary
West	F-5	Commercial	Central Business Secondary

Summary of Code Requirements

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

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

Sec. 50-22.12 Corridor building II, C. Occupied Space 30' depth space required on ground floor facing Primary Street, D. Street Facade Requirements, No. of Entrances: 1 per 75' of Front Façade

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

Governing Principle #1 – Reuse previously developed lands

Governing Principle #5 – Promote reinvestment in neighborhoods

Governing Principle #8 – Encourage mix activities, uses, and densities

Governing Principle #9 – Support private actions that contribute to the public realm

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

Future Land Use

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

History:

1890-1901 – Buildings were constructed.

1979 – Buildings were combined with a single metal front façade.

The property was rezoned from MU-N to F-6 in 2011 (11-068)

Most recently occupied by Roberts Home Furnishings

Review and Discussion Items

Staff finds that:

- 1) The applicant is requesting a variance from the building standards of a Corridor Building II in the F-5 Form District. The applicant is proposing to use the ground floor for parking spaces and drive aisles, whereas the code requires the first 30 feet of the ground floor to be occupied space. For Corridor Building II (Parking Within Building), parking is allowed in the rear of the ground floor, and fully in any other floor.
- 2) Multifamily residential buildings are permitted uses in the F-5 district. The existing 38,000 square foot two story structure will be demolished to accommodate the apartment complex.
- 3) The applicant intends to construct a new four story tall, 75-unit apartment building. The apartment building will primarily be studio and one-bedroom apartments. The first floor area of the building at the corner of West Superior Street and South 21st Avenue West will have the lobby, common area, fitness center and management office. The remaining portion of the first floor along West Superior Street will be parking behind the front building facade with windows and entry doors.
- 4) The base principle of form based coding is that design is more important than use. Simple and clear graphic prescriptions for building height, how a building is placed on site, and building elements are used to control development". In other words, how the buildings are sited on the lot and how they related to the street frontage is more relevant to the neighborhood than the land use within the structure. The requirement for "occupied space" on a portion of the ground floor facing the street is to promote active use of the street frontage (such as restaurant, retail, etc.) where it interfaces with the sidewalk and public realm, and to promote the appearance and vitality of the neighborhood.
- 5) The applicant has stated that they cannot create the underground parking access due to site constraints with having to excavate into and below the Michigan Street right-of-way to achieve the proper descent for underground Parking. There are also a number of utilities within the Michigan Street ROW that would need to be relocated to allow for the excavation of the underground parking. Additionally, if underground parking were possible, the site would need to have sheet pile driven deep into the ground on three sides of the project site, contending with an anticipated high water table, adding significant costs to the construction of the project.
- 6) The requirement for occupied space on the ground floor facing the street is to promote active use such as retail, office or restaurant. The applicant has stated that adding expensive retail space to a market place that has a glut of existing retail and office space is impractical and not financially feasible. Any new retail, office or

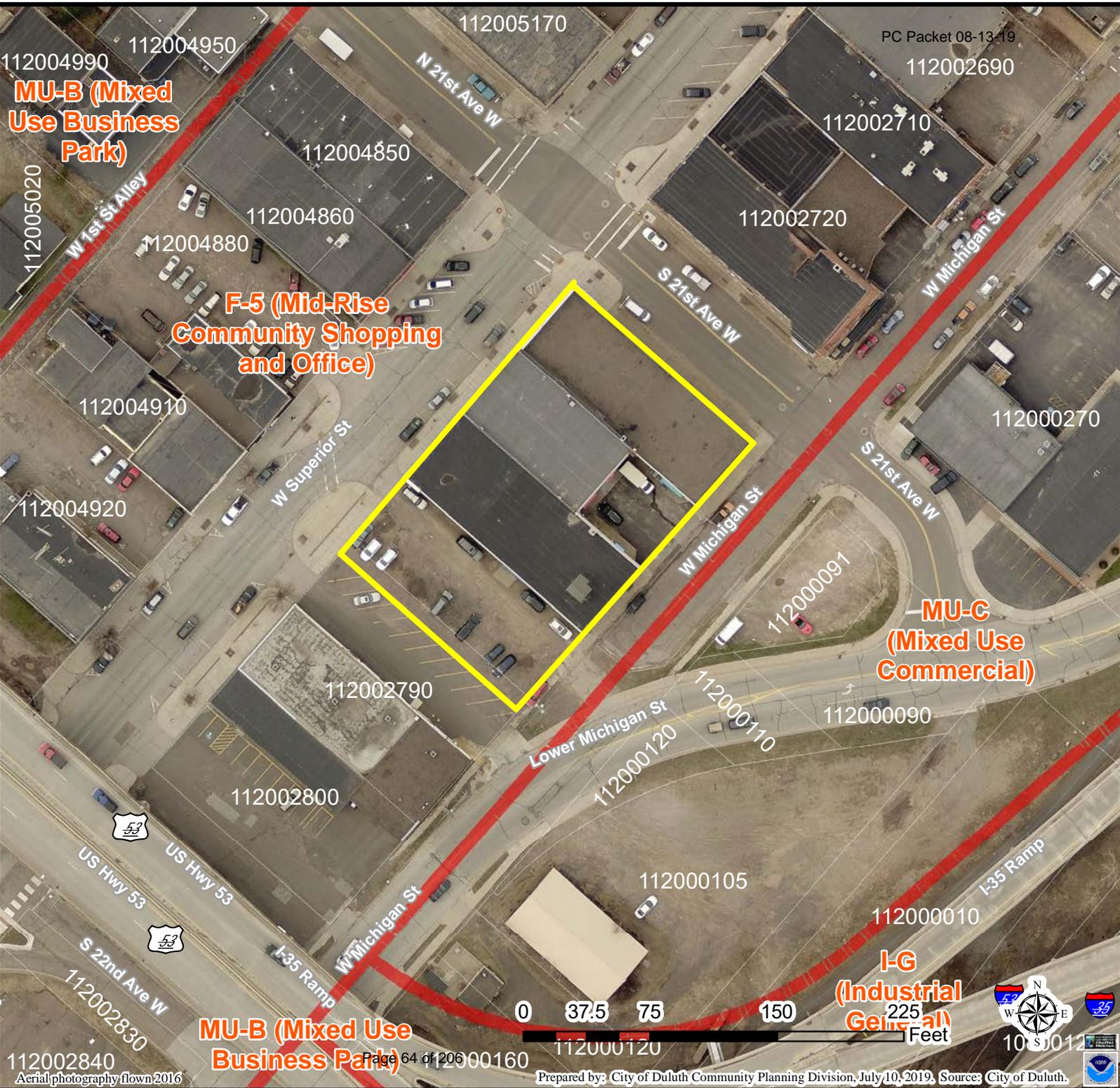
commercial space would be far more expensive per square foot than what is existing in the Lincoln Park commercial area today per square foot.

- 7) The applicant is willing to increase the size of the active space horizontally along West Superior Street where the proposed lobby, management office and fitness center would be located. This will reduce the number of parking spaces that the developer would like to achieve for compliance with financing requirements.
- 8) Granting this variance would not impact the supply of light or air to adjacent properties or unreasonably increase the congestion in public streets, nor would it impair the intent of the zoning code.
- 9) The applicant is providing for an attractive facade on the ground floor facing the street. The building facade will be of brick and wood to complement existing structures in the immediate area. It will meet transparency requirements and the number of required building access points. There will be no parking access from West Superior Street and the facade will have a retail "look" all along the span of the street frontage.
- 10) Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

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

- 1) The project be limited to, constructed, and maintained substantially according to the plans submitted with this application.
- 2) The facade, as indicated on north elevation, shall not be amended or changed, except by express consent of the Land Use Supervisor,
- 3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.
- 4) UDC 50-37.1.N, an approved variance will expire if the project or activity authorized is not begun within 1 year.



MU-B (Mixed Use Business Park)

F-5 (Mid-Rise Community Shopping and Office)

MU-C (Mixed Use Commercial)

MU-B (Mixed Use Business Park)

I-G (Industrial General)

Legend
Zoning Boundaries



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WEST SUPERIOR STREET APARTMENTS DULUTH MINNESOTA



COLE GROUP
ARCHITECTS

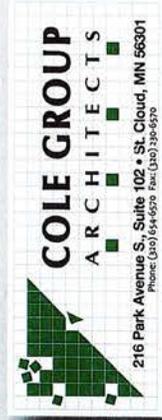
216 Park Avenue S., Suite 102 • St. Cloud, MN 56301
Phone: (320) 864-6576 Fax: (320) 730-6576



Page 06 of 206

WEST SUPERIOR STREET APARTMENTS

DULUTH MINNESOTA



PC Packet 08-13-19





WEST SUPERIOR STREET APARTMENTS

DULUTH
MINNESOTA



COLE GROUP
ARCHITECTS

216 Park Avenue S., Suite 102 • St. Cloud, MN 56301
Phone: (320) 654-6570 Fax: (320) 730-6570



NORTH ELEVATION
SCALE: 3/32" = 1'-0"



EAST ELEVATION
SCALE: 3/32" = 1'-0"



SOUTH ELEVATION
SCALE: 3/32" = 1'-0"



WEST ELEVATION
SCALE: 3/32" = 1'-0"

COLE GROUP ARCHITECTS LLC
 214 Park Avenue South
 Saint Cloud, MN 56301
 (320) 454-4570
 www.colegrouparchitects.com

DEVELOPER:
Coalition
 DEVELOPMENT

PROPOSED 75 UNIT:
WEST SUPERIOR STREET
APARTMENTS
 DULUTH, MN

REVISIONS COMMENTS
 REVISIONS COMMENTS
 REVISIONS COMMENTS

PLOTTED: 7-8-19 FILE: 19024E COM: 4

Project No.
 19024
 Submittal Date:
 Document Set:
PRELIMINARY

A501



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

 218-730-5580

 planning@duluthmn.gov

File Number	PL 19-109	Contact	Steven Robertson	
Type	Rezone from RR-1 to MU-B	Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date		60 Days	N/A City Application
	Date Extension Letter Mailed	N/A	120 Days	N/A
Location of Subject				
Applicant	City of Duluth	Contact	Planning and Development	
Agent		Contact		
Legal Description	See Attached Map			
Site Visit Date	July 30, 2019	Sign Notice Date	July 30, 2019	
Neighbor Letter Date	July 30, 2019	Number of Letters Sent	25	

Proposal

The City is proposing to rezone property from the current zoning of Rural Residential 1 (RR-1) and Residential-Traditional (R-1), to Mixed Use Business Park (MU-B).

Staff Recommendation

Staff is recommending approval of the proposed rezoning to MU-B.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1,R-1	Residential, Undeveloped	Business Park
North	I-G,MU-B	Industrial	General Industrial
South	R-1	Undeveloped, Residential	Open Space, Traditional Neighborhood
East	I-G	Undeveloped	Open Space, General Industrial
West	RR-1	Undeveloped	Open Space

Summary of Code Requirements

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

- UDC Sec. 50-37.3.B.3 Where a proposed amendment to the zoning map would change any property from a residential district to a mixed use, form or special purpose district, a planning commission hearing and a notice of three weeks shall be required. In addition, the affirmative vote of 2/3 of the council shall be required The city has not received the written consent of the owners of 2/3 of those properties located wholly or partially within 100 feet of the property proposed to be rezoned;

- UDC Sec. 50-37.3.C: The Planning Commission shall review the application, and Council shall approve the application or approve it with modifications, if it determines that the application:

1. Is consistent with the Comprehensive Land Use Plan;
2. Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use; 3. Is

required by public necessity, convenience, or general welfare, or good zoning practice;

4. Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

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

Governing Principles

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

Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide

Future Land Use

Business Park- Primarily office and light industrial areas developed in a unified manner, with standards for site design and circulation patterns, signage, landscaping, and building design.

Site History or Previous Studies

The Gary New Duluth Small Area Plan was completed in May 2014. Goal 2 of the plan is to “change zoning map designation to better reflect existing land use while minimizing potential negative impacts to surrounding area”. This specific subject area was not addressed in the plan, however.

The Imagine Duluth 2035 Comprehensive Land Use Plan was adopted on June 25, 2018. The plan recommended 21 changes to the future land use plan. This area is addressed as Becks Road (Site 2) “The area along Becks Road is changed from Preservation to Business Park. Much of this area is currently owned by the State of Minnesota due to tax forfeiture. It is in close proximity to the demolition landfill and has good access to Becks Road, as well as water and sewer infrastructure.”

Review and Discussion Items:

1) The City is proposing to rezone property from the current zoning of Rural Residential 1 (RR-1) to Mixed Use Business Park (MU-B).

2) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan, and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or be considered arbitrary and capricious. Good zoning practice requires that zone districts be consistent with the future land use category identified for the area.

3) Prior to the adoption of the Imagine Duluth 2035 Plan, the future land use designation of this area was preservation. Areas with a future land use designation of preservation generally have a zoning designation of R-C or RR-1.

4) State Statute requires that a community’s zoning map implement the general objectives of the Comprehensive Plan. The future land use category of Business Park is most commonly reflected in the City’s zoning map as MU-B. Other criteria for zoning include considering existing land use patterns and if the rezoning is related to the needs to the community or existing land use. The current land use of the subject area is undeveloped, with a major road to the north, waterway to the south, and a demolition landfill to the east.

5) The purpose of the MU-B district is to accommodate modern light industrial and technology-based developments of attractive integrated design and function. The development standards for this district are intended to ensure that projects minimize adverse impacts on surrounding uses and neighborhoods, reduce impacts on the natural environment, enhance the visual quality of development and ensure the provision of adequate and cost-efficient public facilities. Intended uses include wholesaling, industrial services, research laboratories, and light manufacturing needed to support the community and region at large.

6) Based on the development pattern of adjacent areas and the purpose statement of MU-B zone districts, rezoning as proposed in the attached map is appropriate for this area.

7) No written correspondence has been received as of the date that this memo was printed (August 5, 2019).

Staff Recommendation:

Based on the above findings, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning as shown on the map titled Proposed Rezoning Area Map.

1) The proposed zone districts are the most reasonably able to implement the objectives of the Comprehensive Plan related to the land use for this area.

2) Material adverse impacts on nearby properties are not anticipated.

Uses Allowed in Mixed Use-Business Park (MU-B) Zone District Revised January 2019

Permitted Uses

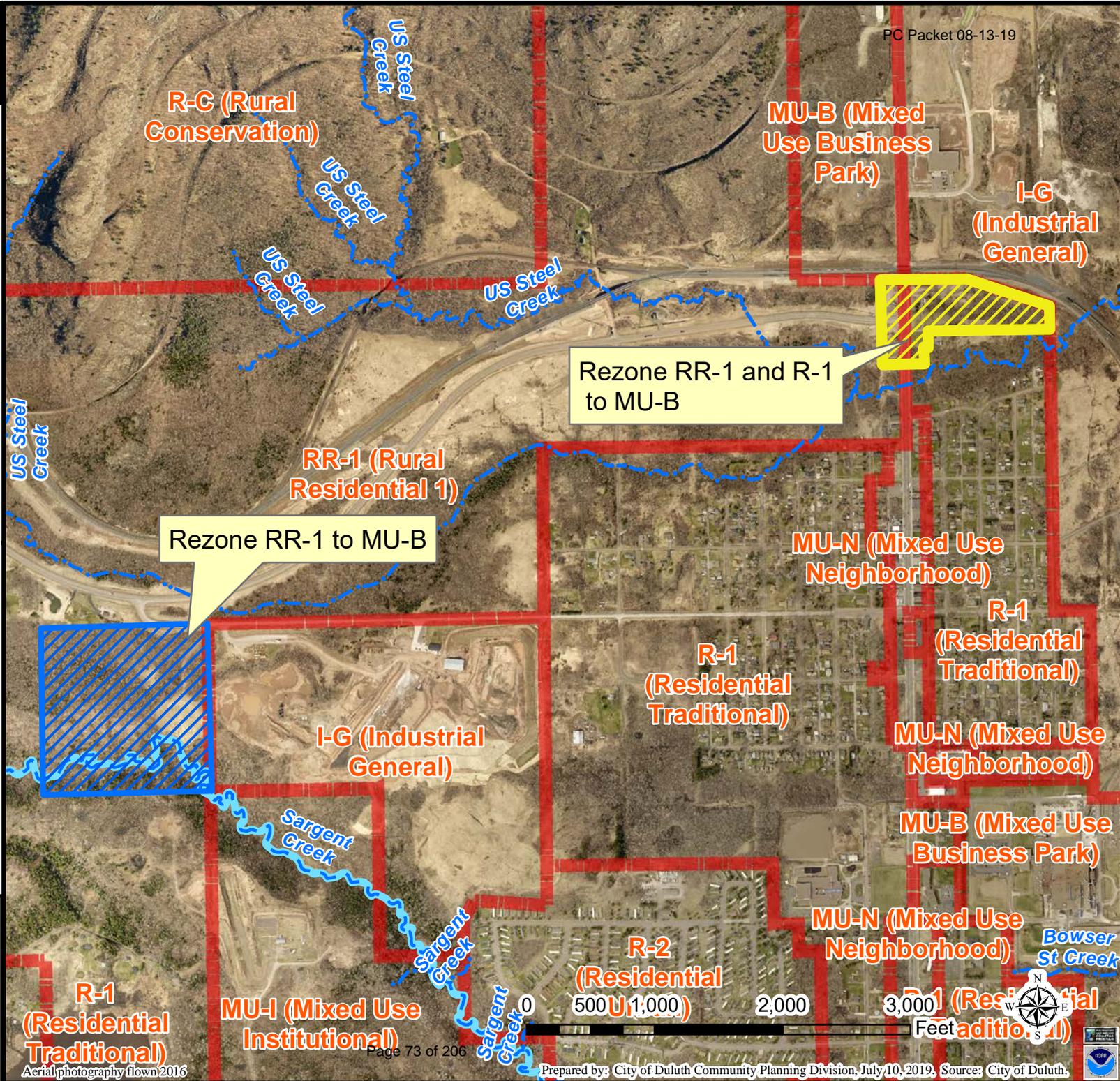
- | | |
|---|--|
| <ul style="list-style-type: none"> - Bus or rail transit station - Government building or public safety facility - Business art or vocational school - Medical or dental clinic - Kennel - Veterinary or animal hospital - Convention or event center - Indoor entertainment facility - Restaurant (less than 5,000 sq. ft.) - Restaurant (5,000 sq. ft. or more) - Hotel or motel - Bed and breakfast - Bank - Office - Data center - Business park support activities - Funeral home or crematorium - Mini-storage facility - Personal service and repair, small (less than 10,000 sq. ft.) - Personal service and repair, large (10,000 sq. ft. or more) | <ul style="list-style-type: none"> - Building material sales - Automobile and light vehicle repair service - Automobile and light vehicle sales, rental or storage - Filing station - Parking lot (primary use) - Parking structure - Truck or heavy vehicle sales, rental, repair and storage - Contractor's shop and storage yard - Dry cleaning and laundry plant - Research laboratories - Industrial services - Manufacturing, craft artisan studio - Manufacturing, craft brewery - Manufacturing, light - Truck freight or transfer terminal - Solar, geothermal, or biomass facility (primary use) - Storage warehouse - Wholesaling |
|---|--|

Special Uses

- | | |
|---|---|
| <ul style="list-style-type: none"> - Cemetery or mausoleum - Museum, library or art gallery - Religious assembly, small (less than 50,000 sq ft) - Religious assembly, large (50,000 sq. ft. or more) - Other outdoor entertainment or recreation use not listed - Electric power transmission line or substation | <ul style="list-style-type: none"> - Major utility or wireless telecommunication facility - Radio or television broadcast tower - Water or sewer pumping stations/reservoirs - Wind power facility (primary use) - Recycling collection point (primary use) - Solid waste disposal or processing facility |
|---|---|

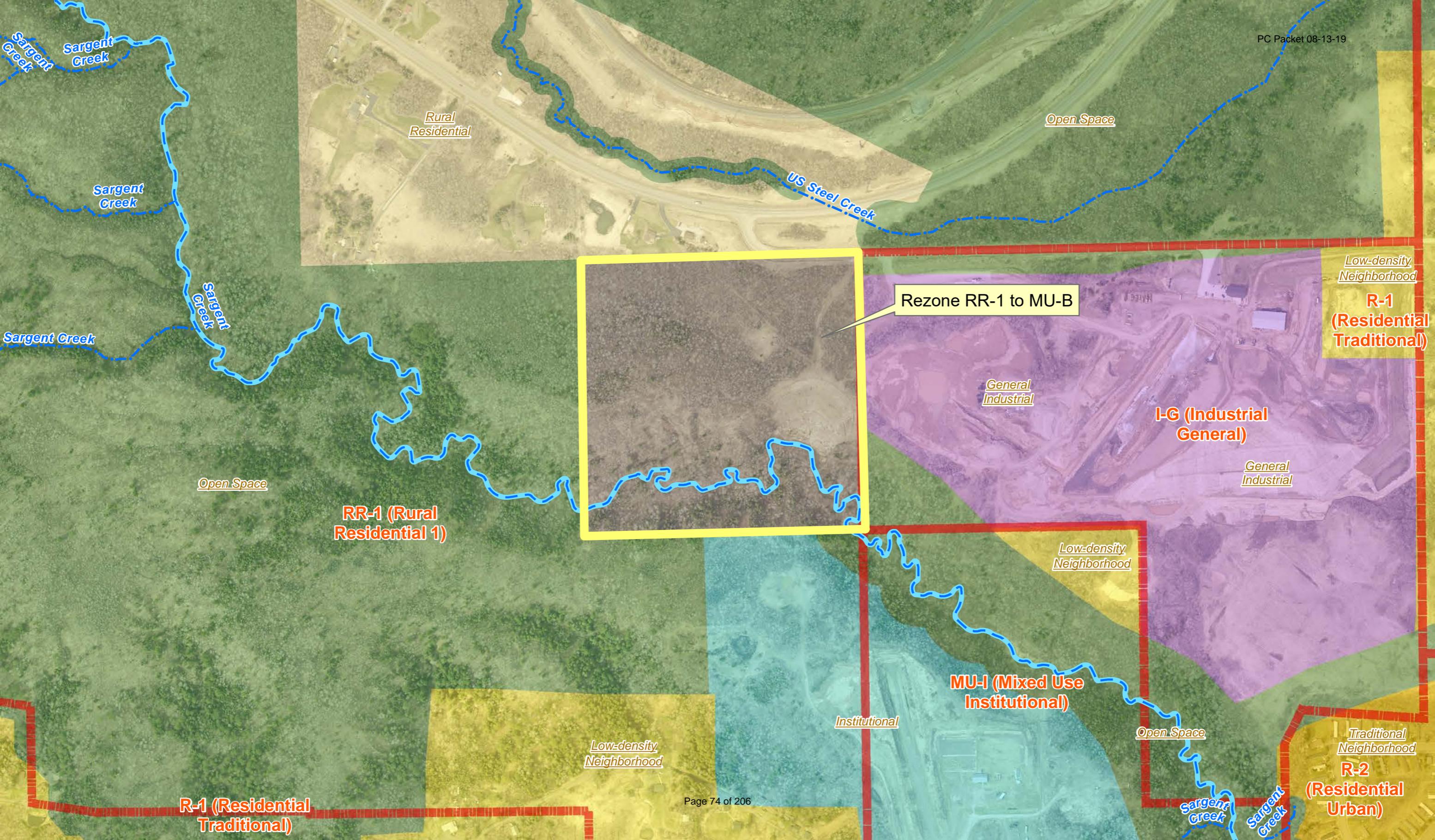
Interim Uses

- | | |
|--|---|
| <ul style="list-style-type: none"> - Medical cannabis distribution facility | <ul style="list-style-type: none"> - Medical cannabis laboratory |
|--|---|



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Rezone RR-1 to MU-B

RR-1 (Rural Residential 1)

Low-density Neighborhood
R-1 (Residential Traditional)

I-G (Industrial General)

MU-I (Mixed Use Institutional)

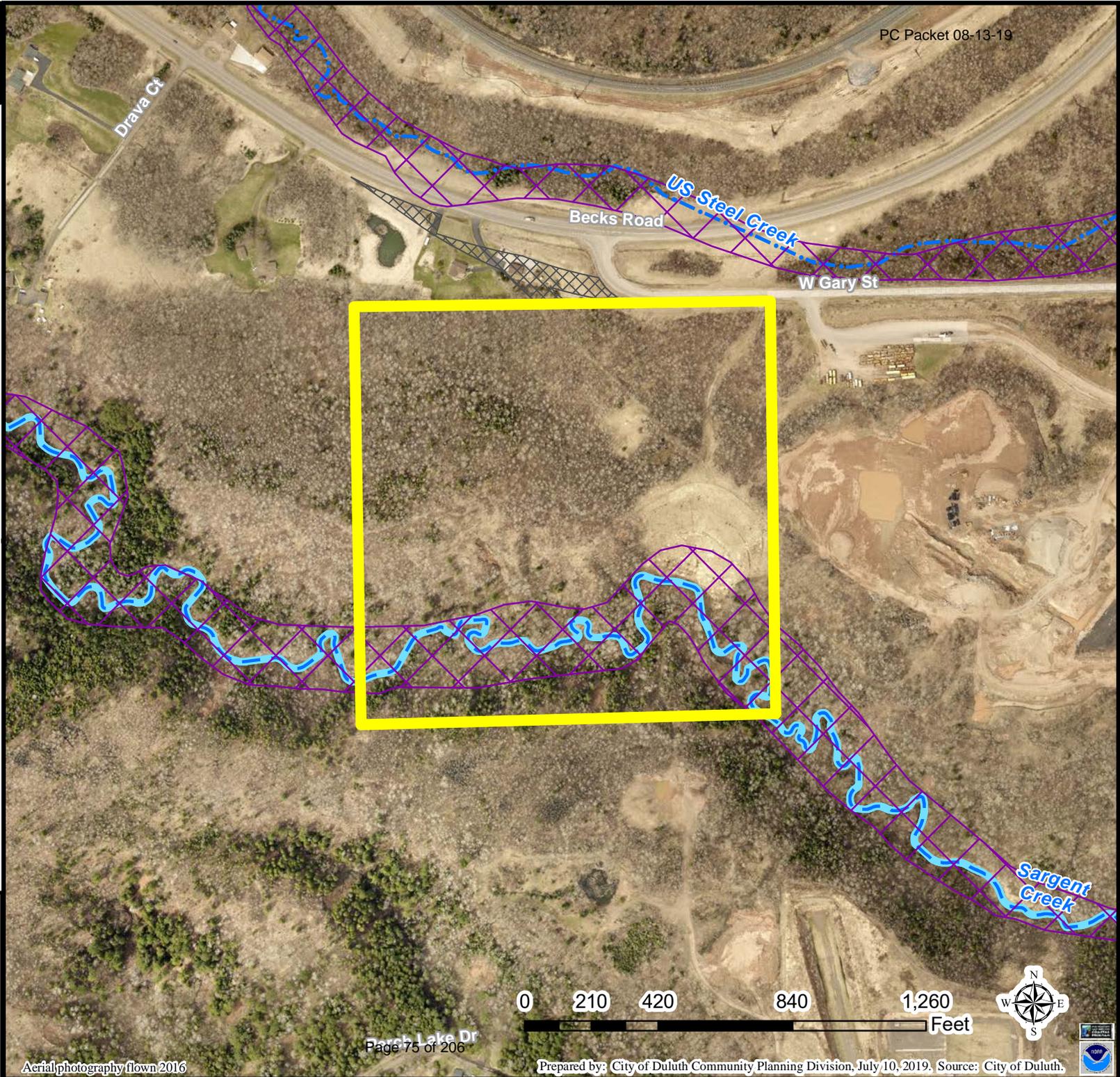
R-1 (Residential Traditional)

Traditional Neighborhood
R-2 (Residential Urban)



Legend

- Vacated ROW
- Floodplain (UDC)**
 - General Flood Plain
 - Flood Way
 - Flood Fringe
 - Trout Stream (GPS)
 - Other Stream (GPS)



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waterfront-related uses. Given these similarities, in the future these categories should be evaluated to determine if combining them is desirable. The boom in craft manufacturing and artisan spaces further supports a blending of industrial and commercial areas. The resulting land use category should encourage a variety of water dependent uses, preserve necessary industrial areas, and promote public water access.

Form Districts—The 2006 Comprehensive Land Use Plan called for form-based guidelines in the Central Business Primary and Central Business Secondary areas, as well as in some Urban Residential and Traditional Neighborhood areas. The study done as part of the UDC creation in 2009-2010 further defined and mapped form district areas, including some (but not all) of the Central Business Primary and Central Business Secondary areas, and Neighborhood Commercial and Mixed Use Neighborhood. The Future Land Use categories and map should be amended to clarify those areas designated for form districts and to better align with the UDC. In addition, it should include an analysis of streetscape and form type that is being identified for the area.

Map Amendments

In addition to changes to the categories as mentioned above, Imagine Duluth 2035 amends the Future Land Use Map as follows:

Midway Annexation (Site 1)

The areas subject to this change were brought into the city from Midway Township as part of the City and Township's orderly annexation agreement. The majority of the lands are in public ownership and are designated Open Space. Lands along Becks Road, which provides a strong connection to Interstate 35, are designated General Industrial. This reflects existing heavy industrial land uses, including gravel mining and cement and asphalt production.

Becks Road (Site 2)

The area along Becks Road is changed from Preservation to Business Park. Much of this area is currently owned by the State of Minnesota due to tax forfeiture. It is in close proximity to the demolition landfill and has good access to Becks Road, as well as water and sewer infrastructure.

Becks Road & Commonwealth Ave Intersection (Site 3)

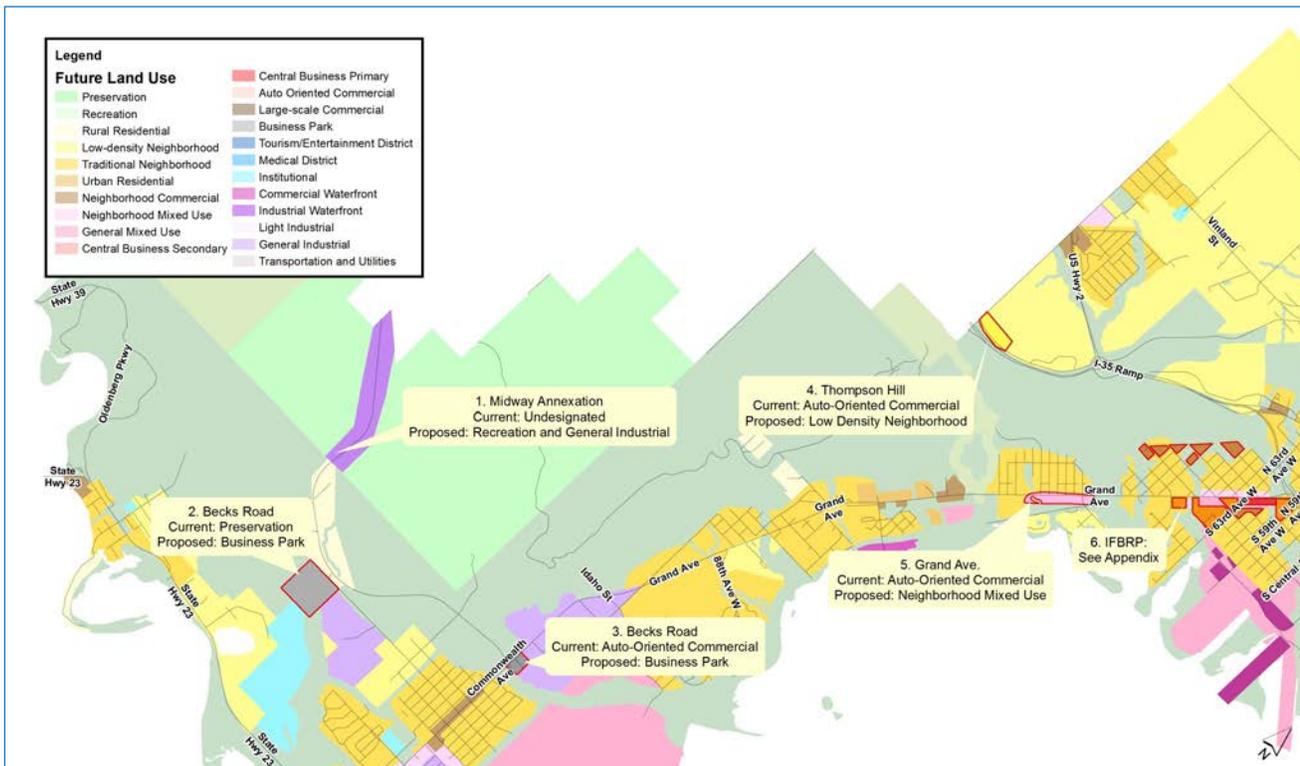
In this location, lands were previously designated for Auto-Oriented Commercial uses. This area is now designated for Business Park development, which is intended for job-intensive uses.

Thompson Hill (Site 4)

This site changes from Auto-Oriented Commercial to Low Density Neighborhood. The change is based on the availability of utilities and consistency between this area and other lands immediately to the north. This area of the city is part of the Kingsbury Creek and Knowlton Creek watersheds; low intensity uses are appropriate.

Grand Avenue (Site 5)

This changes from Auto-Oriented Commercial to Neighborhood Mixed Use. Change to neighborhood oriented commercial activities will allow for redevelopment of sites serving the residential area on the uphill side of Grand Avenue. Neighborhood oriented uses are most appropriate, allowing higher intensity commercial activities to be located in the Core Investment Areas to the east and west of this area of the city.





Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 19-110	Contact	Steven Robertson	
Type	Rezone from RR-1 and R-1, to MU-B	Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date		60 Days	N/A City Application
	Date Extension Letter Mailed	N/A	120 Days	N/A
Location of Subject				
Applicant	City of Duluth	Contact	Planning and Development	
Agent		Contact		
Legal Description	See Attached Map			
Site Visit Date	July 30, 2019	Sign Notice Date	July 30, 2019	
Neighbor Letter Date	July 30, 2019	Number of Letters Sent	25	

Proposal

The City is proposing to rezone property from the current zoning of Rural Residential 1 (RR-1) and Residential-Traditional (R-1), to Mixed Use Business Park (MU-B).

Staff Recommendation

Staff is recommending approval of the proposed rezoning to MU-B.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1,R-1	Residential, Undeveloped	Business Park
North	I-G,MU-B	Industrial	General Industrial
South	R-1	Undeveloped, Residential	Open Space, Traditional Neighborhood
East	I-G	Undeveloped	Open Space, General Industrial
West	RR-1	Undeveloped	Open Space

Summary of Code Requirements

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

- UDC Sec. 50-37.3.B.3 Where a proposed amendment to the zoning map would change any property from a residential district to a mixed use, form or special purpose district, a planning commission hearing and a notice of three weeks shall be required. In addition, the affirmative vote of 2/3 of the council shall be required The city has not received the written consent of the owners of 2/3 of those properties located wholly or partially within 100 feet of the property proposed to be rezoned;

- UDC Sec. 50-37.3.C: The Planning Commission shall review the application, and Council shall approve the application or approve it with modifications, if it determines that the application:

1. Is consistent with the Comprehensive Land Use Plan;
2. Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use; 3. Is

required by public necessity, convenience, or general welfare, or good zoning practice;

4. Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

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

Governing Principles

Principle 5 -Promote reinvestment in neighborhoods.

Duluth is strongly defined by its neighborhoods. This system should be supported through land use and transportation that foster neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the neighborhood's character.

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

Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide

Future Land Use

Business Park- Primarily office and light industrial areas developed in a unified manner, with standards for site design and circulation patterns, signage, landscaping, and building design.

Site History or Previous Studies

The Gary New Duluth Small Area Plan was completed in May 2014. Goal 2 of the plan is to "change zoning map designation to better reflect existing land use while minimizing potential negative impacts to surrounding area". This specific subject area was not addressed in the plan, however.

The Imagine Duluth 2035 Comprehensive Land Use Plan was adopted on June 25, 2018. The plan recommended 21 changes to the future land use plan. This area is addressed as Becks Road & Commonwealth Ave Intersection (Site 3). "In this location, lands were previously designated for Auto-Oriented Commercial uses. This area is now designated for Business Park development, which is intended for job-intensive uses."

Review and Discussion Items:

1) The City is proposing to rezone property from the current zoning of Rural Residential 1 (RR-1) and Residential-Traditional (R-1), to Mixed Use Business Park (MU-B).

2) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan, and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or be considered arbitrary and capricious. Good zoning practice requires that zone districts be consistent with the future land use category identified for the area.

3) Prior to the adoption of the Imagine Duluth 2035 Plan, the future land use designation of this area was auto-orientated commercial, which translates to a zoning designation of Mixed Use Commercial (MU-C). The MU-C zone district allows a wide variety of commercial and related land uses, but single and two family dwellings and townhomes are considered non-conforming uses. The auto-oriented commercial future land use designation was not carried forward into the Imagine Duluth 2035 plan.

4) State Statute requires that a community's zoning map implement the general objectives of the Comprehensive Plan. The future land use category of Business Park is most commonly reflected in the City's zoning map as MU-B. Other criteria for zoning include considering existing land use patterns and if the rezoning is related to the needs to the community or existing land use. The current land use of the subject area includes residential (several single-family homes), but otherwise is generally either vacant or uses related to the railroad which runs along the north and east perimeter.

- 5) The purpose of the MU-B district is to accommodate modern light industrial and technology-based developments of attractive integrated design and function. The development standards for this district are intended to ensure that projects minimize adverse impacts on surrounding uses and neighborhoods, reduce impacts on the natural environment, enhance the visual quality of development and ensure the provision of adequate and cost-efficient public facilities. Intended uses include wholesaling, industrial services, research laboratories, and light manufacturing needed to support the community and region at large.
- 6) Based on the character of this neighborhood, the development pattern of adjacent neighborhoods, and the purpose statement of MU-B zone districts, rezoning as proposed in the attached map is appropriate for this area.
- 7) No written correspondence has been received as of the date that this memo was printed (August 5, 2019).

Staff Recommendation:

Based on the above findings, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning as shown on the map titled Proposed Rezoning Area Map.

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

Uses Allowed in Mixed Use-Business Park (MU-B) Zone District Revised January 2019

Permitted Uses

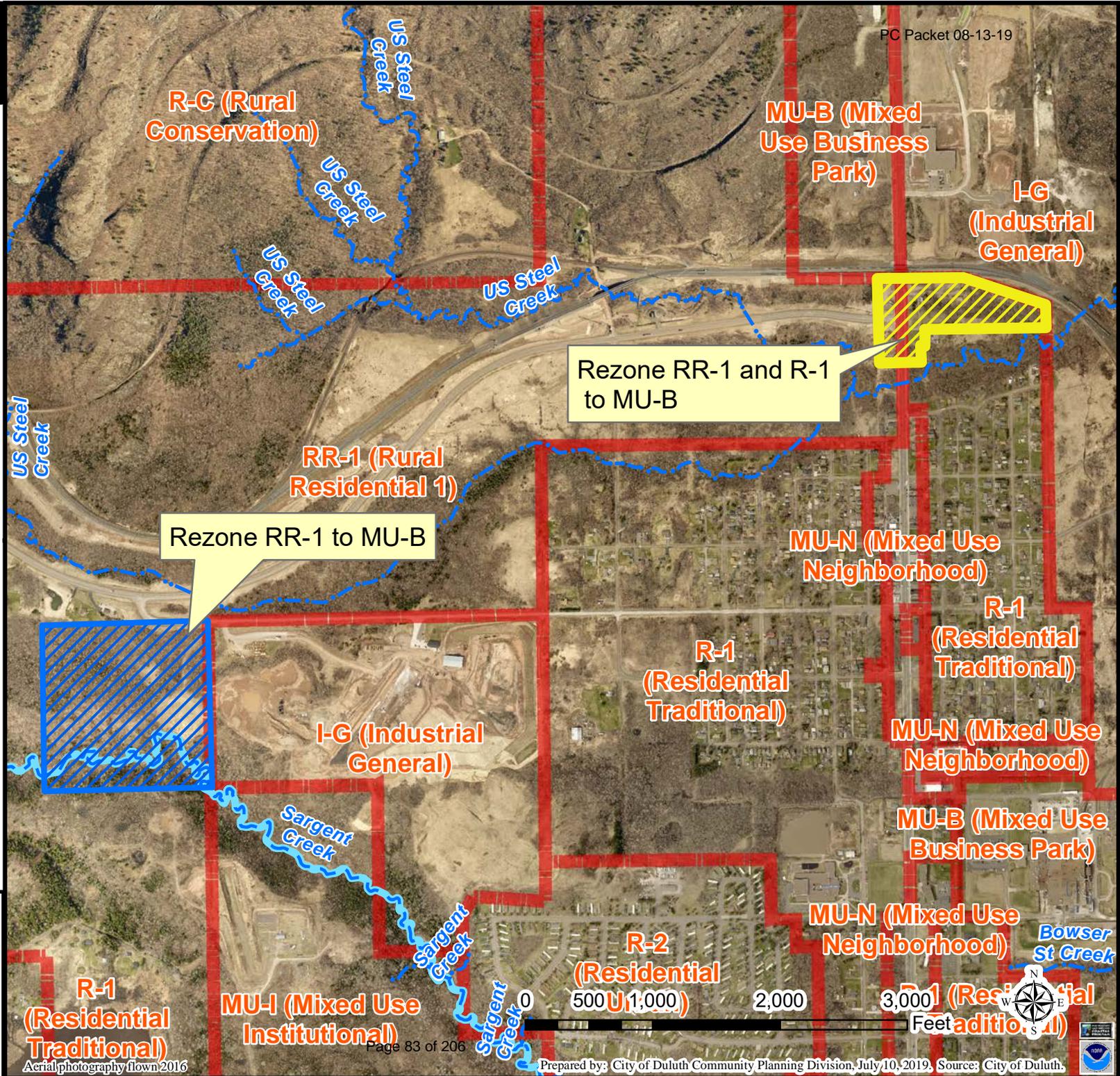
- Bus or rail transit station
- Government building or public safety facility
- Business art or vocational school
- Medical or dental clinic
- Kennel
- Veterinary or animal hospital
- Convention or event center
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- Restaurant (5,000 sq. ft. or more)
- Hotel or motel
- Bed and breakfast
- Bank
- Office
- Data center
- Business park support activities
- Funeral home or crematorium
- Mini-storage facility
- Personal service and repair, small (less than 10,000 sq. ft.)
- Personal service and repair, large (10,000 sq. ft. or more)
- Building material sales
- Automobile and light vehicle repair service
- Automobile and light vehicle sales, rental or storage
- Filing station
- Parking lot (primary use)
- Parking structure
- Truck or heavy vehicle sales, rental, repair and storage
- Contractor's shop and storage yard
- Dry cleaning and laundry plant
- Research laboratories
- Industrial services
- Manufacturing, craft artisan studio
- Manufacturing, craft brewery
- Manufacturing, light
- Truck freight or transfer terminal
- Solar, geothermal, or biomass facility (primary use)
- Storage warehouse
- Wholesaling

Special Uses

- Cemetery or mausoleum
- Museum, library or art gallery
- Religious assembly, small (less than 50,000 sq ft)
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Interim Uses

- Medical cannabis distribution facility
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2299
Commonwealth
Ave

2299
Commonwealth
Ave

**MU-B (Mixed Use
Business Park)**

*General
Industrial*

*General
Mixed Use*

Business Park

**I-G (Industrial
General)**

1598 101st
Ave W

Open Space

Rezone RR-1 and R-1
to MU-B

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

**R-1 (Residential
Traditional)**

1598 101st
Ave W

*General
Mixed Use*

**R-1 (Residential
Traditional)**

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

*Traditional
Neighborhood*

102nd
Ave W
Alley Private Dr

99th Ave W

99th Ave W Alley

98th Ave W

98th Ave W Alley

97th Ave W

1540
97th
Ave W

97th Ave W Alley

96th Ave W

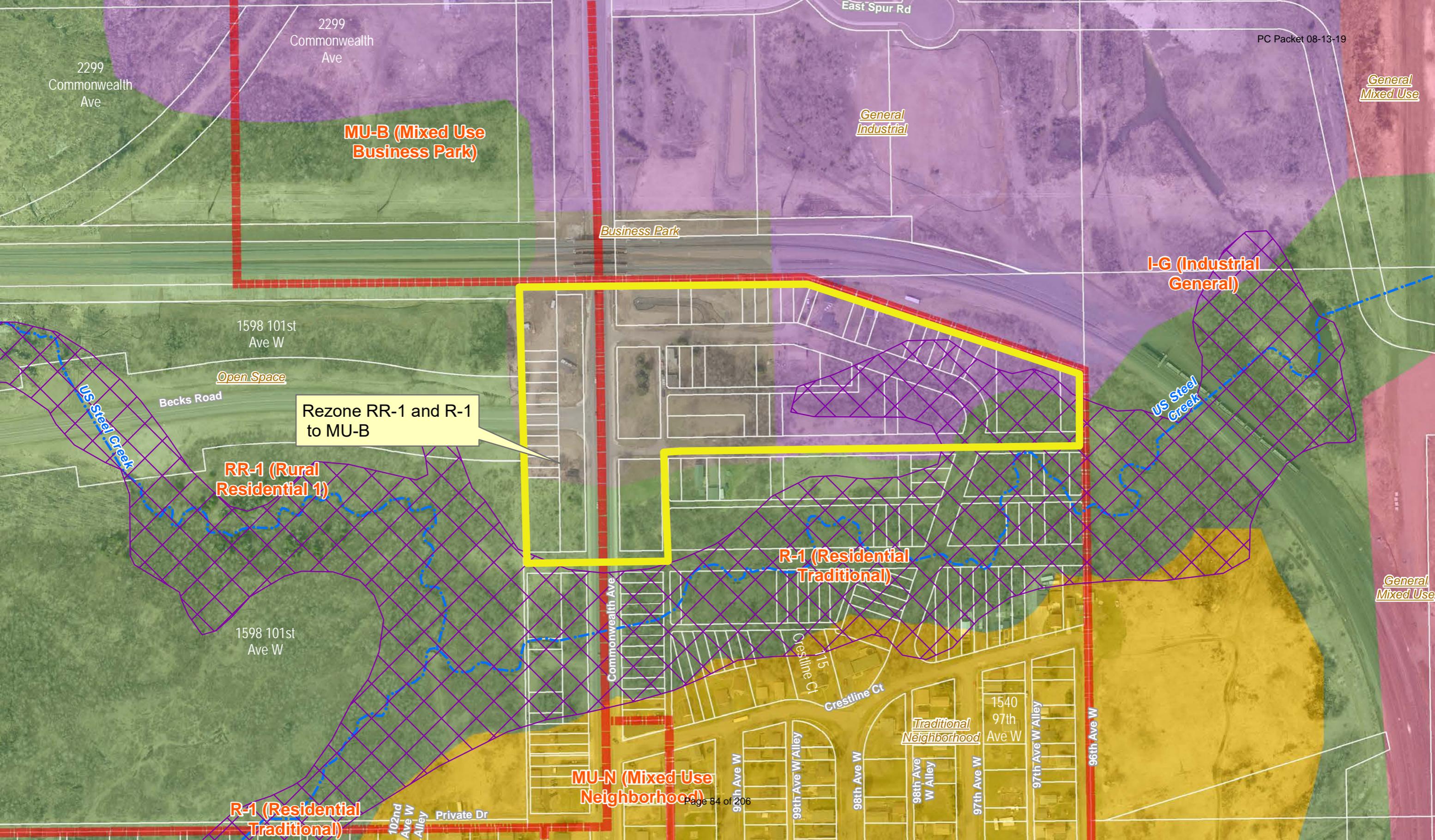
Crestline Ct

Crestline Ct

US Steel Creek

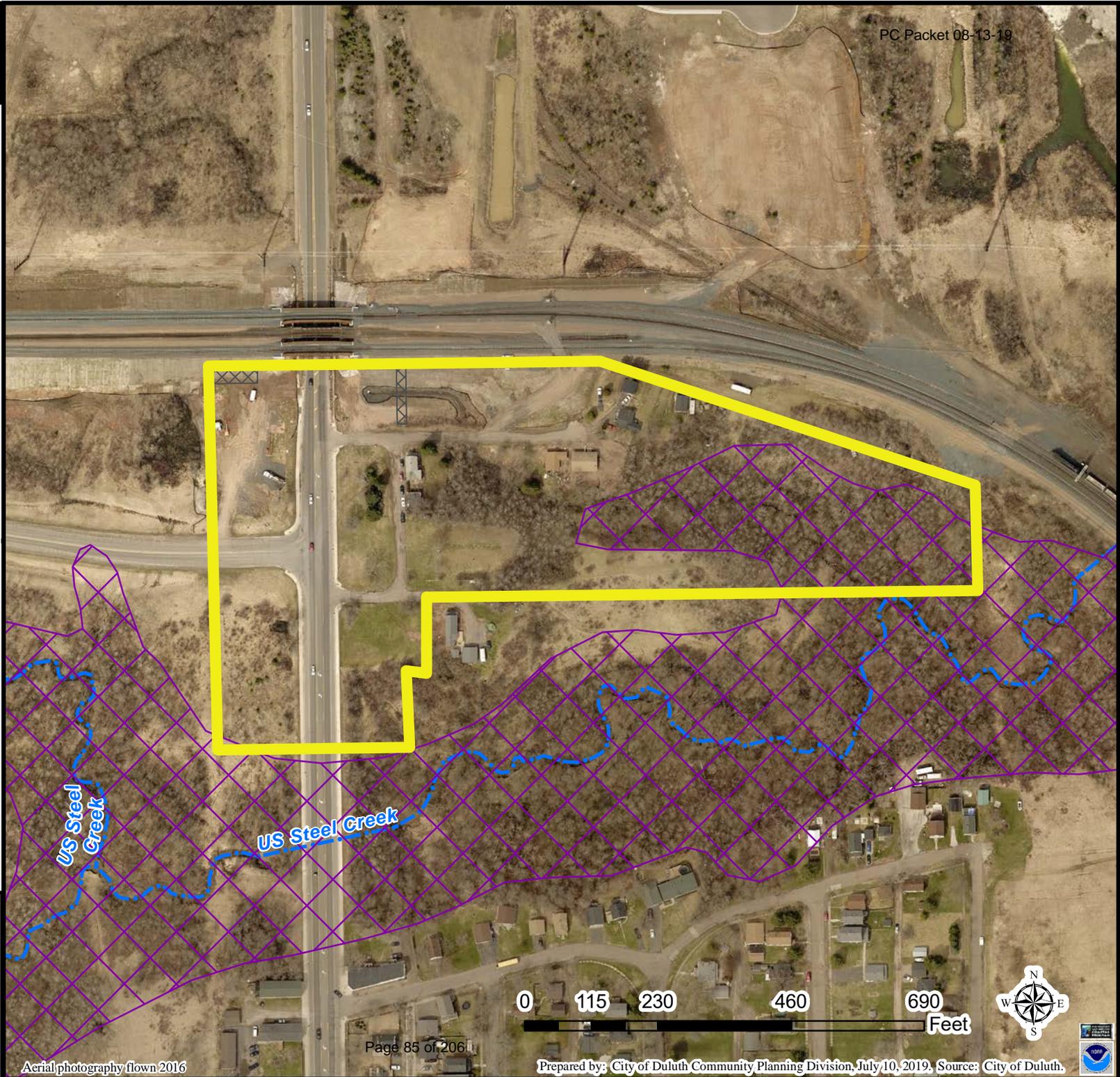
Becks Road

US Steel Creek



Legend

-  Vacated ROW
- Floodplain (UDC)**
-  General Flood Plain
-  Flood Way
-  Flood Fringe
-  Trout Stream (GPS)
-  Other Stream (GPS)



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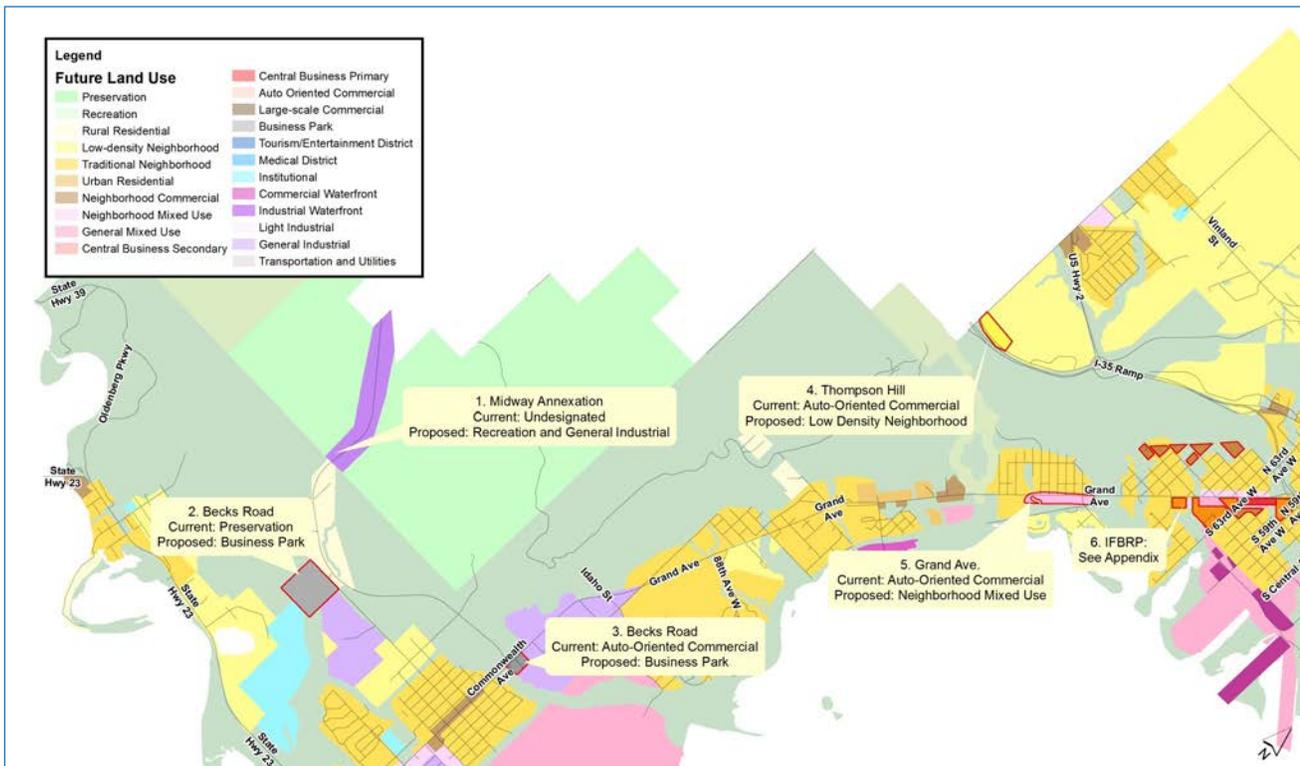
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Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 19-100	Contact	Chris Lee	
Type	Planning Review for Liquor Store	Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date	July 9, 2019	60 Days	September 9, 2019
	Date Extension Letter Mailed	July 12, 2019	120 Days	November 11, 2019
Location of Subject	202 North Central Entrance			
Applicant	Miner's Inc. (Super One)	Contact	Matt Miner	
Agent	DSGW Architects	Contact	John Geissler	
Legal Description	See Attached			
Site Visit Date	August 1, 2019	Sign Notice Date	July 30, 2019	
Neighbor Letter Date	August 1, 2019	Number of Letters Sent		

Proposal

The applicant proposes construction a new 11,280 square foot liquor store in the location of an existing liquor store and office building. Both existing buildings will be razed.

Recommended Action

Staff recommends approval of the proposed liquor store, subject to the conditions proposed by staff.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-C	Commercial	Central Business Secondary
North	MU-C	Commercial	Central Business Secondary
South	MU-C	Highway	General Industrial
East	F-4	Commercial	Central Business Secondary
West	MU-C	Commercial	Central Business Secondary

Summary of Code Requirements

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

50-18.1.E Storm Water Management – Addresses water runoff quality and quantity pre- and post-construction.

50-20.3 Use Specific Standards for Commercial Uses – Delineates use specific standards.

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

50-24 Parking and Loading – Addresses required minimum and maximum parking spaces and loading docks, dimensional standards, snow storage, and pedestrian circulation.

50-25 Landscaping and Tree Preservation – Landscaping standards such as materials, plant size, location, and tree preservation.

50-26 Screening, Walls, and Fences – Screening of mechanical equipment, loading areas, and commercial containers, plus regulations regarding fences and retaining walls.

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

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

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

Governing Principle #4 – Support economic growth sectors.

Governing Principle #5 – Promote reinvestment in neighborhoods.

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

Governing Principle #9 – Support private actions that contribute to the public realm.

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

Site History – The site currently contains 2 structures that will be demolished.

The site was recently rezoned to MU-C, which allows for uses such as large-format grocery stores.

Review and Discussion Items

Staff finds that:

- 1) 50-15.3 (MU-C District) – The site plan and building elevations show that the building will meet MU-C structure setbacks. Because the proposed height is 35 feet and adjacent properties are commercial uses, the structure setbacks are zero feet.
- 2) 50-18.1.E (Storm Water Management) – The proposed structure will cause a slight increase the site's impervious surface area. The new building must meet storm water requirements as stipulated in the UDC.
- 3) 50-20.1 C (Use Specific Standards) – There are no applicable use specific standards for this MU-C Planning Review.
- 4) 50-23 (Connectivity) – The site plan indicates that there will be connectivity around the building using sidewalks. At time of future renovation of the parking lot, Staff recommends the applicant shows and build connectivity from the proposed liquor store to the existing grocery store along with connections to the existing sidewalk.
- 5) 50-24 (Parking and Loading) – The standard off-street parking requirement for a retail is 3 spaces per 1,000 square feet of retail feet. The 11,280 square foot retail store requires 33 off-street parking spaces. The site plan indicates that there will be 28 spaces for automobiles. Due to the proximity to a transit line and the ability to share parking with the grocery store, the parking is compliant with 28 spaces provided.
- 6) 50-25 (Landscaping and Tree Preservation) –The site plan indicates 6 trees and 16 shrubs on the site. 3 trees will provide the parking lot canopy coverage. Staff recommends a condition for landscape escrow prior to building permit issuance to insure survival of required plantings.

- 7) 50-26 (Screening, Walls, and Fences) – The applicant is proposing screening on the south-east side around the trash and loading areas. All rooftop mechanical equipment will be screened from view by parapets as part of the exterior.
- 8) 50-31 (Exterior Lighting) – No lighting plan has been submitted with the original site plans. A lighting plan must be submitted prior to issuing the building permit. Staff recommends a light temperature of 2700K, but included a condition for light temperatures below 3000K for all lights on the site. All fixtures must be downcast and full cut-off.
- 9) To date, no City, public, or agency comments have been received.
- 10) Per UDC 50-37.1.N, an approved Planning Review will expire if the project or activity authorized is not begun within one year, which can be extended for one additional year at the discretion of the Land Use Supervisor.

Staff Recommendation

Based on the above findings, staff recommends approval of the Planning Review, subject to the following conditions:

- 1) The project be limited to, constructed, and maintained according to the site plans, landscaping plans, and exterior elevations provided with this application and on July 9, 2019;
- 2) The applicant must provide a photometric plan for all new and updated exterior lighting (indicating 3000K maximum color temperature) at the time of application for a building permit and comply with UDC lighting criteria in 50-31;
- 3) The applicant will submit a landscape escrow or letter of credit based on the total cost of landscaping installation to insure landscape survival;
- 4) Any alterations to the approved plans that do not alter major elements of the plans 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 UDC Chapter 50.

Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main

Storage Basin

- Storage Basin

Pump Station

- PS Pump Station

Storm Sewer Mains

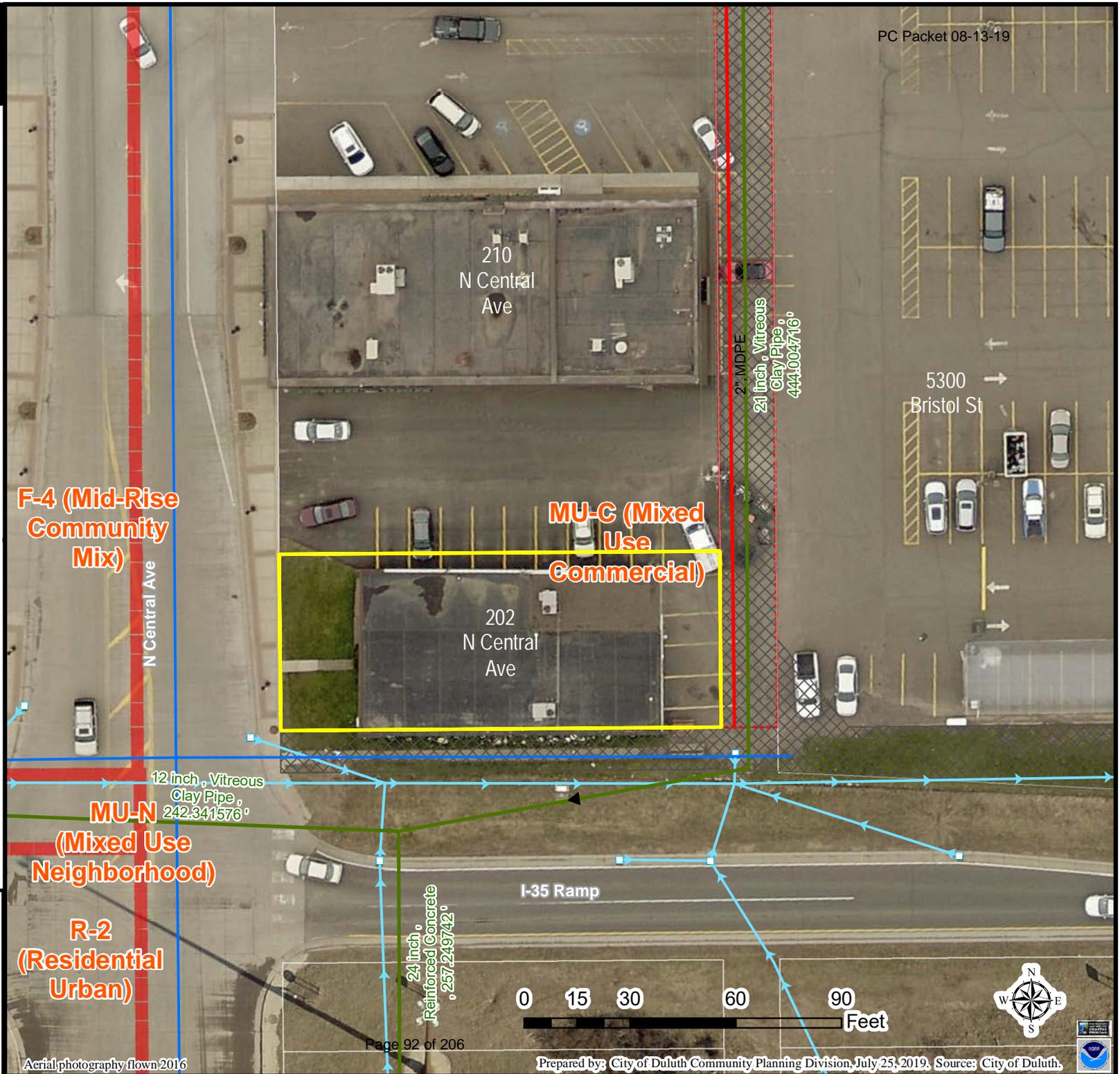
- Storm Sewer Pipe
- Storm Sewer Catch Basin

Vacated ROW

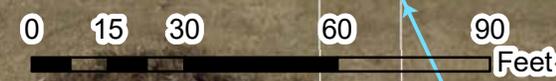
- Vacated ROW

Easement Type

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



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Super One #811 Liquor Store

Duluth, MN

project #: 18-545

date:

drawn by: KLM

checked by: JPJ

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

signature: John P. Jammick

typed/printed name: JOHN P. JAMNICK, P.E.

reg #: 19907

sign date: 7-9-19



Engineering Land Surveying Economic Development JPJ ENGINEERING, INC

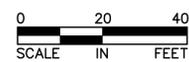
5670 Miller Trunk Hwy, Suite A
Duluth, MN 55811
Phone: (218) 720-6219
www.jpjeng.com
Hibbing, MN Duluth, MN

revision/issue no. date

sheet title: GRADING PLAN

sheet number:

C3



ELEVATION NOTES

- BT - FINISHED BITUMINOUS
- TC - TOP BACK OF CURB
- C - FINISHED CONCRETE
- FL - FLOW LINE
- (TC=X") - CURB HEIGHT
- (a) - MATCH EXISTING

SWPPP LEGEND

- STORM INLET PROTECTION OR CULVERT END PROTECTION
- SILT FENCE
- STORM WATER FLOW DIRECTION

UTILITY NOTES:
FOR ALL UTILITIES LOCATED OUTSIDE BUILDING SHALL BE AS FOLLOWS:
THE WATER SERVICE LINES SHALL BE DUCTILE IRON PIPE, MEETING THE REQUIREMENTS OF AWWA C151, CLASS 52
ALL WATER SERVICE LINES AND WATER MAIN SHALL HAVE A MINIMUM OF 8' BURY AND SHALL BE INSTALLED AT LEAST 10' HORIZONTALLY FROM ANY MANHOLES, CATCH BASINS, OR OTHER POTENTIAL SOURCE OF CONTAMINATION, MEASURED FROM OUTER EDGE OF PIPE TO OUTER EDGE OF CONTAMINANT SOURCE
THE SANITARY SEWER SERVICE SHALL BE PVC MEETING ASTM D3034 SDR 26. INSTALLATION SHALL COMPLY WITH ASTM D2321
THE STORM SEWERS SHALL BE HDPE PIPE MEETING ASTM F2306 WITH ASTM D3212 FITTINGS. INSTALLATION SHALL COMPLY WITH ASTM D2321
STORM SEWERS INSTALLED ABOVE WATER MAINS AND WATER SERVICE LINES SHALL BE HDPE PIPE MEETING ASTM F714 OR PVC (SCHEDULE 40) MEETING ASTM D 1785
FLEXIBLE COMPRESSION JOINTS SHALL BE USED TO MAKE WATER TIGHT CONNECTIONS TO SANITARY MANHOLES AND STORM SEWER STRUCTURES, PER MINNESOTA PLUMBING CODE, MN RULES, CHAPTER 4714, SECTION 719.60

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

NOTE:
ANY PUBLIC UTILITIES SHOWN ON THIS PLAN ARE ONLY APPROXIMATE IN DEPTH AND LOCATION AND MUST BE VERIFIED BY THE CONTRACTOR.
OTHER UTILITIES MAY EXIST AND IT SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR TO OBTAIN THE LOCATION OF SUCH.
NOTE:
THE SUBSURFACE UTILITY INFORMATION IN THIS PLAN IS UTILITY QUALITY LEVEL D. THIS QUALITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF C/ASCE 38-02, ENTITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA."

CENTRAL AVE ALSO KNOWN AS 56TH AVENUE WEST

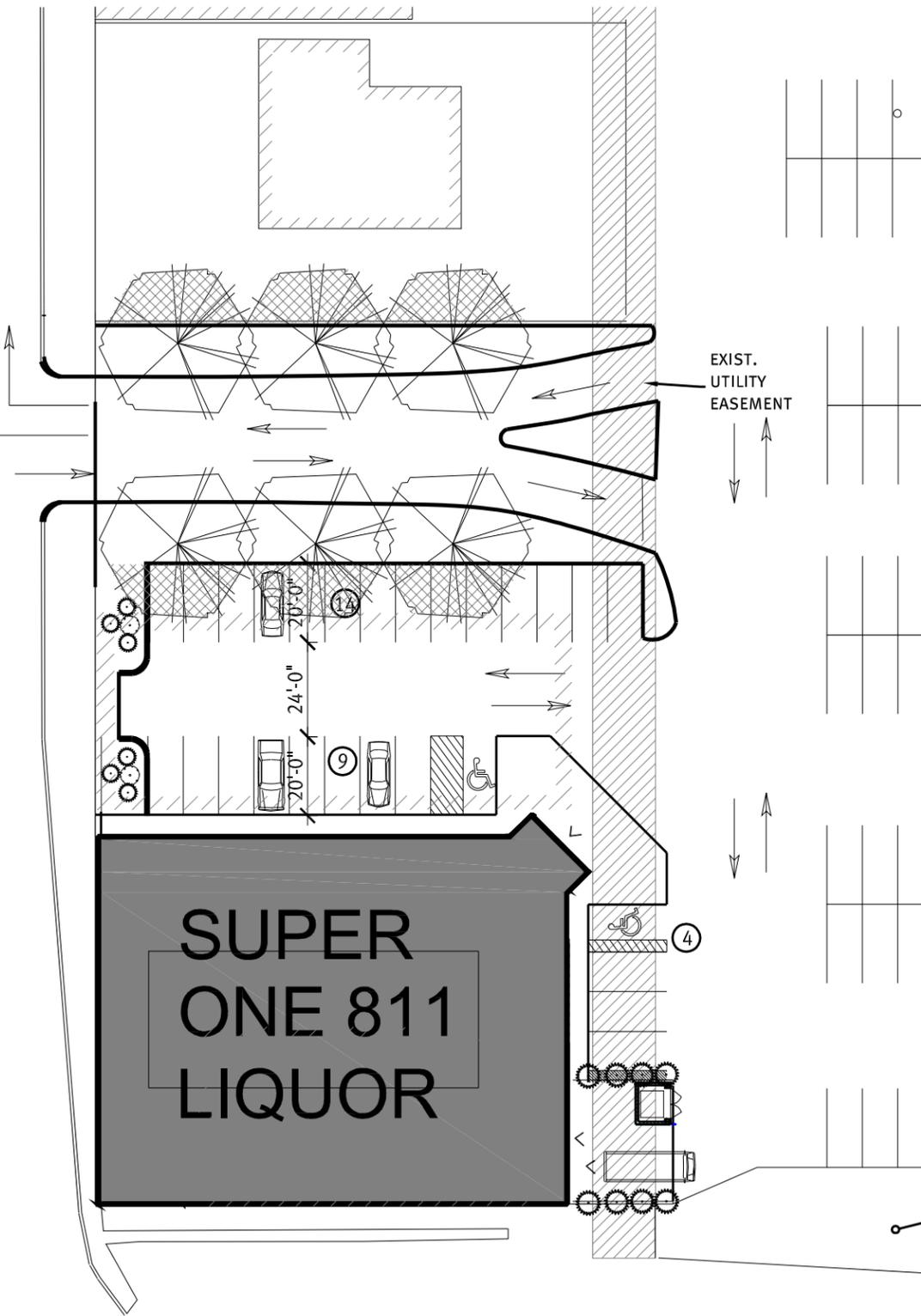


Point #	Row Description	Elevation	Northing	Easting
2000	BT/C (a)	631.178	3324876.9349	4828335.0275
2001	FL (a)	631.110	3324866.9117	4828335.0398
2002	FL	630.101	3324866.9838	4828429.5948
2003	FL	630.400	3324874.9455	4828472.5594
2004	BT (a)	630.523	3324877.1334	4828502.8987
2005	FL	630.700	3324857.9644	4828475.2150
2006	FL	630.600	3324843.7991	4828475.0398
2007	FL	630.500	3324850.9720	4828450.7085
2008	BT	630.420	3324850.6216	4828440.0852
2009	FL (TC=0")	630.920	3324834.9119	4828335.2397
2010	FL (TC=6")	630.880	3324834.9158	4828340.2551
2011	FL	631.110	3324834.9844	4828429.0654
2012	FL	630.254	3324820.2724	4828479.7699
2013	FL	629.870	3324806.1149	4828479.1784
2014	FL	630.100	3324806.2395	4828467.3457
2015	FL	630.000	3324825.6336	4828466.7658
2016	FL	629.900	3324825.5430	4828347.7523
2017	FL	630.054	3324806.8843	4828347.2665
2018	FL	630.120	3324805.5369	4828339.7676
2019	FL	630.380	3324779.5369	4828339.7874
2020	FL	630.456	3324776.5430	4828347.7896
2021	FL (TC=6")	630.550	3324764.4719	4828347.8019
2022	FL (TC=0")	630.600	3324759.5430	4828347.8069
2023	C (a)	630.600	3324759.5329	4828335.1726
2024	C	630.600	3324754.5329	4828335.1788
2025	BT/C	630.600	3324759.5977	4828419.8060

Point #	Row Description	Elevation	Northing	Easting
2026	BT/C	630.600	3324759.6115	4828437.8026
2027	BT/C	630.400	3324779.6115	4828437.7873
2028	BT/C	630.400	3324779.6206	4828449.7873
2029	BT (a)	630.000	3324771.1994	4828502.9161
2030	BT (a)	629.920	3324751.6571	4828502.9193
2031	BT (a)	629.903	3324751.5273	4828512.8267
2032	BT/C	630.500	3324748.2275	4828481.2283
2033	BT/C	630.400	3324736.7887	4828481.2370
2034	BT/C	630.600	3324736.7735	4828461.2370
2035	BT/C	630.600	3324690.6293	4828461.2721
2036	BT/C	630.200	3324690.6446	4828481.2721
2037	BT/C	630.200	3324660.6445	4828481.2949
2038	BT	629.507	3324659.6609	4828502.8338
2039	BT (a)	629.329	3324662.4710	4828502.8540
2040	BT (a)	629.276	3324662.7719	4828512.7037
2041		630.700	3324660.6255	4828456.2950
2042		630.700	3324660.5342	4828336.2762
2043	C (a)	629.900	3324653.6086	4828335.7626
2044		630.700	3324754.5342	4828336.2234
2045		630.700	3324753.9764	4828456.0083
2046	BT (a)	630.240	3324806.0131	4828502.9104
2047	BT (a)	630.500	3324877.0969	4828472.0072
2048	BT (a)	630.606	3324877.0590	4828440.0052
2049	BT (a)	631.145	3324876.9734	4828367.6303
2050	FL	630.400	3324828.5597	4828468.1153

N. CENTRAL AVE

LEGEND	
	RED MAPLE * 2" B&B * 40 FT DIAMETER AT MATURITY
	TECHY ARBORVITAE * 6' B&B
	LARGE CONIFEROUS SHRUB * 5 GALLON
	LARGE DECIDUOUS SHRUB * 5 GALLON
*ALL SHRUB PLANTING AREAS TO INCLUDE 3"-4" HARDWOOD MULCH OVER ENTIRE PLANTING BED	



A LANDSCAPE PLAN
1:40

revision/issue
LDSC
sheet number
1
of ALL

project # 04062
date JULY 2, 2019
dwg file LANDSCAPE

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Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 19-082	Contact	Chris Lee	
Type	Special Use Permit for a Daycare, Preschool, and Assembly Uses	Planning Commission Date	August 12, 2019	
Deadline for Action	Application Date	July 22, 2019	60 Days	September 20, 2019
	Date Extension Letter Mailed	June 18, 2019	120 Days	November 19, 2019
Location of Subject	1028 East 8 th Street			
Applicant	New Hope FOR Families	Contact	Therese Gruba	
Agent		Contact		
Legal Description	Lots 10 thru 16 of the Portland Division of Town of Duluth			
Site Visit Date	July 15, 2019	Sign Notice Date	July 30, 2019	
Neighbor Letter Date	August 1, 2019	Number of Letters Sent	93	

Proposal

Applicant is proposing to open a new daycare and preschool in a former church building. The daycare will provide space for up to 8 infants and 14 toddlers while the pre-school will house up to 20 students. There will also be assembly space to allow the Ministry to provide faith-based services that include counseling and visitation for foster families among other accessory uses.

Recommendation

Staff are recommending approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Church/Pre-School	Traditional Neighborhood
North	R-1	Single Family Home	Traditional Neighborhood
South	R-1	Single Family Home	Traditional Neighborhood
East	R-1	Single Family Home	Traditional Neighborhood
West	R-1	Single Family Home	Traditional Neighborhood

Summary of Code Requirements

UDC Section 50-37.10. Special Use Permits: Planning Commission shall approve the planning review or approve it with modifications, if it is determined that the application complies with all applicable provisions of this Chapter.

- 1) The application is consistent with the Comprehensive Land Use;
- 2) The application complies with all applicable provisions of this Chapter; including without limitations to any use-specific standards applicable to the proposed use, development or redevelopment, and is consistent with any approved district plan for the area.
- 3) Without limiting the previous criteria, the Commission may deny any application that would result in a random pattern of development with little contiguity to existing or programmed development or would cause anticipated

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

Principle 5 -Promote reinvestment in neighborhoods.

Duluth is strongly defined by its neighborhoods. This system should be supported through land use and transportation that foster neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the neighborhood's character.

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

Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide

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

The former uses of this structure were as a church (St. Anthony's) and a pre-school. New Hope FOR Family LLC purchased the property in early 2019. The proposed uses are not out of the norm for what has historically existed in the neighborhood.

Review and Discussion Items

- 1) Applicant proposes to open a new daycare and pre-school for 22 infants and toddlers and 20 students, respectively. There will also be faith-based services as part of the ministry at this location.
- 2) A daycare, preschool, and church require a special use permit to operate in an R-1 district. The property currently includes a fenced in play area that is approximately 3,000 square feet in size, located between the structure and East 8th Street.
- 3) UDC Sec. 50-20.2 (Use Specific Standards). The applicant is not proposing any new buffer or similar screening around the structure as this use will be primarily on the interior of an existing building. This daycare and pre-school will not have a visible impact on adjacent properties as these uses have historically been in place at the church.
- 4) UDC Sec. 50-24 (Parking and loading). The site provides 20 parking spaces, an ample supply for the proposed uses (1 space per 5 person in care capacity). The applicant has estimated that parking demand for pick up and drop off is highest during the hours of 7 to 8 am, and 4 to 5 pm, and has existing parking and circulation sufficient for those times of day.
- 5) UDC Sec. 50-25 (Landscaping and Tree Preservation). No specific standards applicable.
- 6) UDC Sec. 50-26 (Screening, Walls and Fences). The applicant not proposing any new screening, walls or fences.
- 7) UDC Sec. 50-29 (Sustainability Standards) and 50-30 (Building Design Standards). These requirements do not apply for this project.
- 8) UDC Sec. 50-31 (Exterior Lighting). The site has several down cast lights on the building. No new lighting will be installed as part of this project
- 9) No citizen or city departments comments were received at the time that this report was written (August 1, 2019).

Staff Recommendation

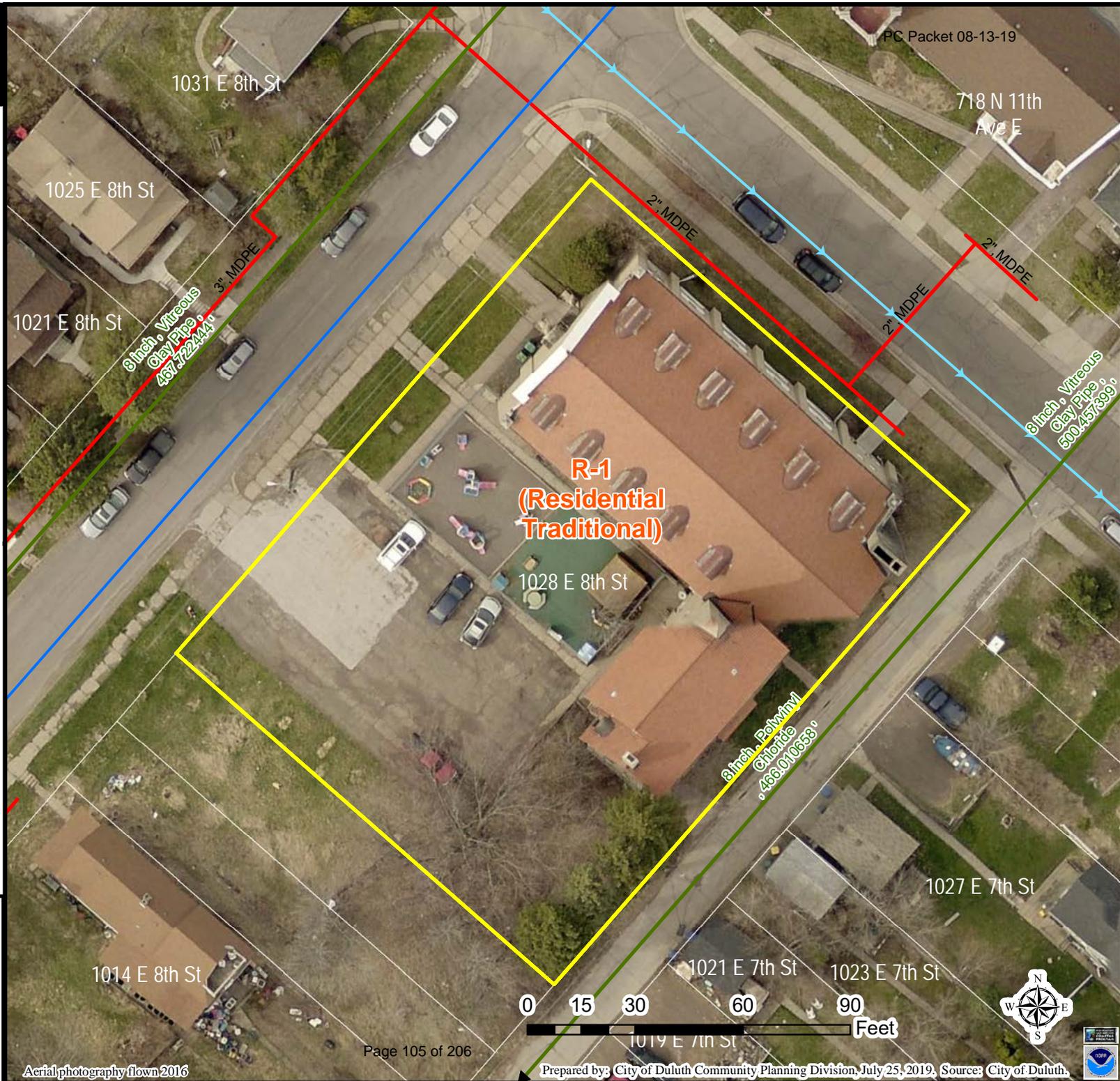
Based on the above findings, Staff recommends that Planning Commission approve the special use permit subject to the following conditions:

- 1) The proposal is limited to the site plan and documents submitted with this application; and
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission review; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



1028 E 8th Street

PC Packet 08-13-19



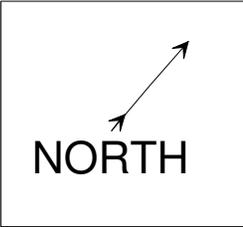
Legend

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

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Aerial photography flown 2016





Sheet Notes:

2 additional New Hope for Families lots



1

New Hope for Families

Street 1028 East 8th Street
City Duluth, MN

DESIGN BY: Bruce N

Date: 27 July, 2019

Revised:





Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 19-096		Contact	John Kelley, jkelley@duluthmn.gov	
Type	Interim Use Permit – Vacation Dwelling Unit		Planning Commission Date		August 13, 2019
Deadline for Action	Application Date	July 9, 2019	60 Days	September 7, 2019	
	Date Extension Letter Mailed	June 10, 2019	120 Days	November 6, 2019	
Location of Subject	5801 Grand Avenue				
Applicant	Tanya & Ryan Templer		Contact		
Agent			Contact		
Legal Description	010-4510-02350				
Site Visit Date	August 2, 2019		Sign Notice Date	July 30, 2019	
Neighbor Letter Date	July 29, 2019		Number of Letters Sent	46	

Proposal

The applicant proposes to use the upper floor of an existing commercial building with two apartments as a vacation rental property. Each apartment contains 1 bedroom. A vacation dwelling unit allows for periods of occupancy of 2 to 29 days, with a minimum stay of 2 nights.

Recommended Action: Recommend to City Council approval of an Interim Use Permit – Vacation Dwelling Unit

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-3	Commercial	General Business Secondary
North	MU-C	Residential	General Business Secondary
South	F-4	Commercial	General Business Secondary
East	F-3/MU-C	Commercial	General Business Secondary
West	R-1	Residential	General Business Secondary

Summary of Code Requirements:

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

UDC Sec. 50-37.10.B . . . Council shall make, a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The . . . Council may impose appropriate conditions and safeguards, including but not limited to financial security pursuant to Section 50-37.1.P, a development agreement regarding the design, construction, and operation of the special use, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the special use permit will continue to meet.



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

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location or to allow the city time to develop a regulation addressing the potential longer term impacts of the requested use in that location; 2. The applicant agrees to sign a development agreement with the city confirming that (a) approval of the permit will not result in increased costs to the city if the property is later acquired by the city through eminent domain; (b) the use will be terminated at the applicant's expense on the date(s) stated in the permit, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures or improvements related to the use, and (d) the applicant agrees to all conditions imposed by the city. No interim use permit shall be issued until a development agreement confirming these points is executed.

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

Governing Principle #5 - Strengthen neighborhoods
 Governing Principle #8 - Encourage mix of activities, uses, and densities

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

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

The site is developed consistent with the future land use as described and the applicant is not proposing alterations to the use.

Review and Discussion Items:

- 1) Applicant's property is located at 5801 Grand Avenue. The proposed vacation dwelling units contain 1 bedroom each, which would allow for a maximum of 3 guests. This 2,500 square foot two story building was constructed in 1886.
- 2) The property is in an F-3 mid-rise community shopping Form District. All form districts are exempt from the number permitted Interim Use Permits for Vacation Dwelling Units, on-site parking, and minimum night stay requirements.
- 3) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. Applicant has listed Jen McPherson to serve as the managing agent.
- 4) There will not be any campers or trailers parked on the property.



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 Duluth, Minnesota 55802

 218-730-5580

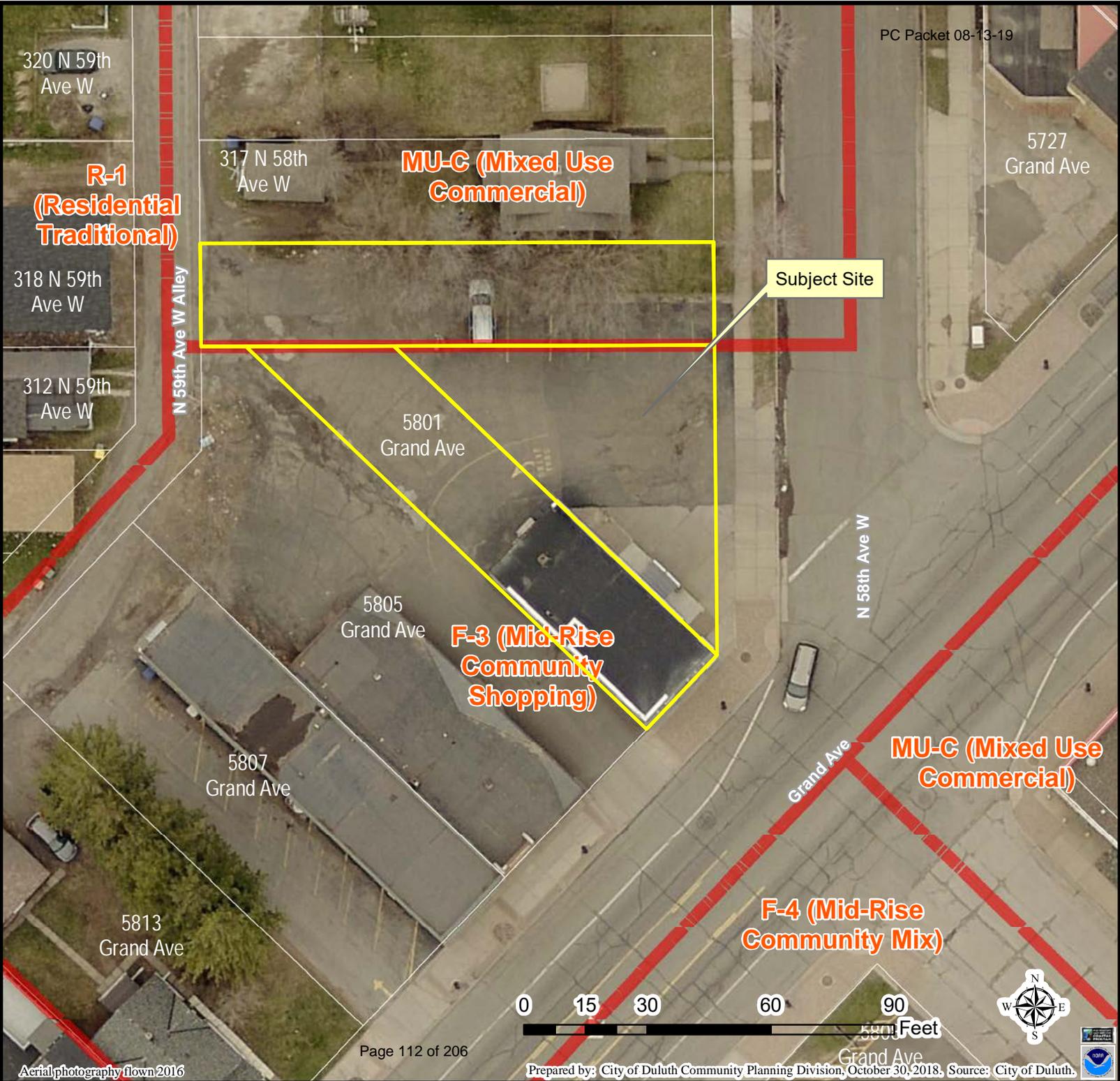
 planning@duluthmn.gov

- 5) The applicant has indicated that there are no additional outdoor amenities.
- 6) A dumpster is located in the northwest portion of the property adjacent to a single-family dwelling. The dumpster must be screened properly meeting the requirements of Section 50-26.3 screening and location of commercial containers of the Unified Development Chapter. The dumpster enclosure will create a buffer between the adjacent residential property.
- 7) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 8) Applicant is in the process of obtaining the City of Duluth Tourism Tax license, the Minnesota Department of Health Lodging License, have a Tax ID number, a fire operational permit, and a Hotel/Motel License.
- 9) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 10) No comments from citizens, City staff, or any other entity were received regarding the application.

Staff Recommendation:

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

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant must provide a written disclosure to all guests stating that quiet hours shall be observed between the hours of 10 p.m. and 8 a.m.
- 3) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit document and provide evidence of compliance, which will be included in the resolution.



320 N 59th Ave W

**R-1
(Residential
Traditional)**

318 N 59th Ave W

312 N 59th Ave W

317 N 58th Ave W

**MU-C (Mixed Use
Commercial)**

5727 Grand Ave

Subject Site

5801 Grand Ave

5805 Grand Ave

**F-3 (Mid-Rise
Community
Shopping)**

N 58th Ave W

5807 Grand Ave

**MU-C (Mixed Use
Commercial)**

5813 Grand Ave

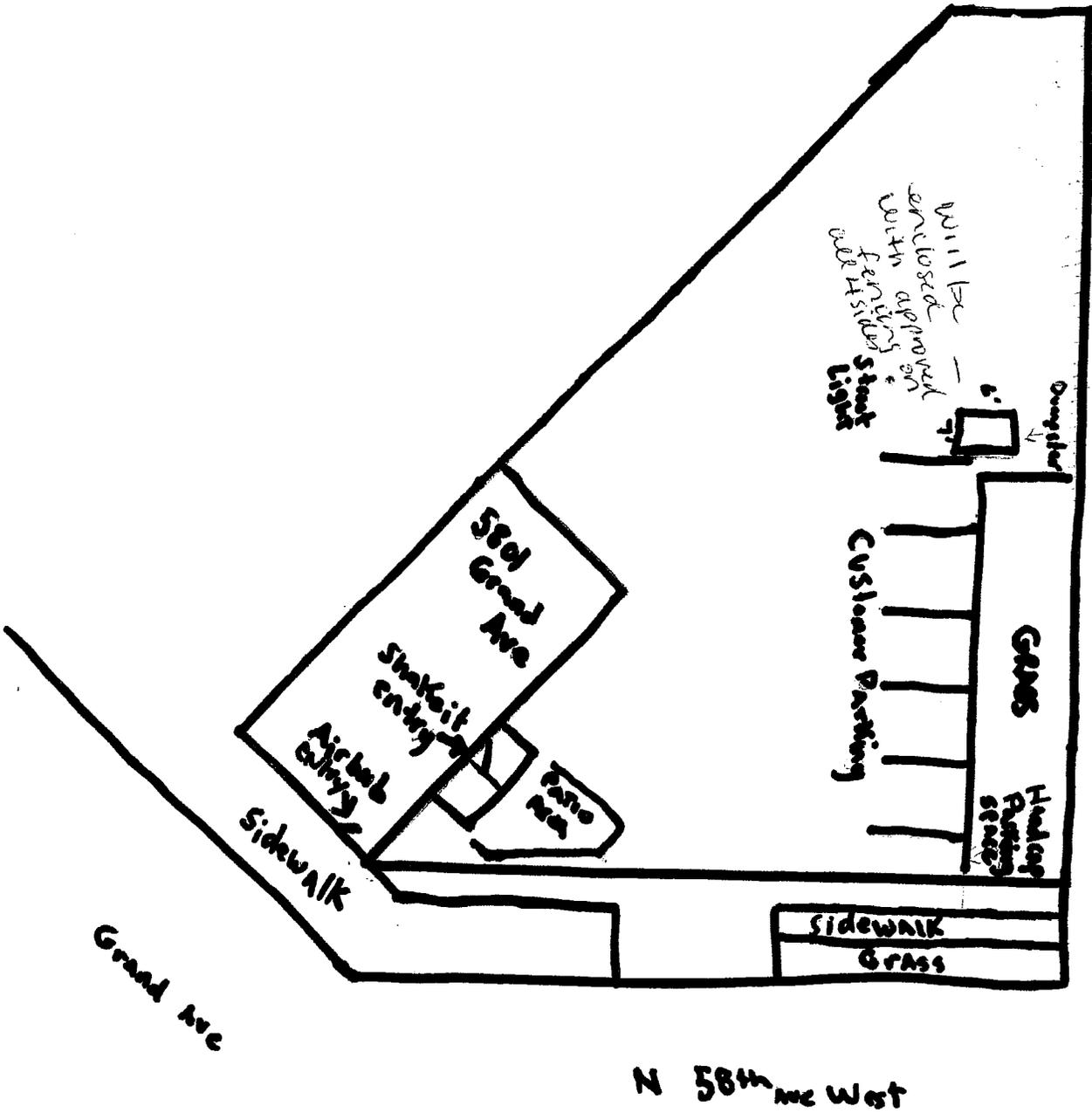
**F-4 (Mid-Rise
Community Mix)**

0 15 30 60 90 Feet



Legend
Zoning Boundaries

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CITY OF DULUTH
 Planning and Development Division

411 W 1st St, Rm 110 * Duluth, Minnesota 55802-1197
 Phone: 218/730.5580

File Number	PL 19-070	Contact	John Kelley	
Type	Vacation of portions of unimproved street and alley with retention of pedestrian and utility easement over part of vacation area	Planning Commission Date	May 14, 2019	
Deadline for Action	Application Date	May 16, 2019	60 Days	July 15, 2019
	Date Extension Letter Mailed	May 2, 2019	120 Days	September 13, 2019
Location of Subject	Oakland Avenue between Gold Street and Maryland Street			
Applicant	City of Duluth, Parks Department	Contact	Jim Shoberg	
Agent		Contact		
Legal Description	See attached			
Site Visit Date	June 4, 2019	Sign Notice Date	May 28, 2019	
Neighbor Letter Date	May 31, 2019	Number of Letters Sent	12	

Proposal

The applicant is requesting to vacate portions of the platted right-of-way of 84th Avenue West, 85th Avenue West, Bessemer Street and Alley's while retaining a pedestrian and utility easement over a portion of the vacated area of 85th Avenue West.

Recommended Action: Recommend to City Council approval of the Vacation and retention of a Trail Easement

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Urban Residential/Open Space
North	R-1/P-1	Grand Avenue Nordic Center	Open Space
South	R-2	Residential	Urban Residential
East	R-2/P-1	Vacant land/Grand Avenue	Open Space/Neighborhood Commercial
West	P-1	Vacant land/Park land	Open Space

Summary of Code Requirements

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

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

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

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

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

Governing Principle #10 – Take actions that enhance the environment, economic, and social well-being of the community.

Policy #2 – Reduce infrastructure costs through innovation and wholesale design change

S-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.

Review and Discussion Items

Staff finds that:

- 1) The applicant is requesting to vacate portions of the platted right-of-way of 84th Avenue West, 85th Avenue West, Bessemer Street and Alley's while retaining a public recreational walkway and utility easement over a portion of the vacation area of 85th Avenue West. The utility easement to be retained is for an existing natural gas, water and sewer lines. The public recreational walkway easement will provide neighborhood access to the Grand Avenue Nordic Center. public recreational walkway
- 2) The City of Duluth is the owner of land on the north, east and west sides of the proposed vacation area and has trails on the lands associated with the Grand Avenue Nordic Center and Spirit Mountain recreation. Single-family homes are adjacent to the proposed vacation areas. These property owners have signed the required petition for a vacation of right-of-way.
- 3) The right-of-way will not be needed by the City for the safe and efficient circulation of automobiles or trucks. The new Grand Avenue Nordic Center north of the existing neighborhood precludes any new development from occurring.
- 4) There are no plans at this time to improve the proposed trail easement.
- 5) Aside from the natural gas, water and sewer pipes located in the right-of-way of 85th Avenue West, there are no other public improvements in the proposed vacation areas and there are no plans to extend road or utility improvements in the proposed vacation area. The other vacation areas are not needed for the efficient supply of utilities or public services in the city, nor for the promotion of public health, safety, or welfare of the citizens of Duluth.
- 6) No additional private development is planned in the area as the City is the owner of the property on to the north, east and west sides of the vacation area. Additionally, street extensions are not planned. There is existing unimproved platted ROW to the south to allow future roads to be constructed should the area be developed.
- 7) No public or agency comments have been received to date.
- 8) Vacations of rights of way and easements lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

Staff Recommendation

Based on the above findings, staff recommends that Planning Commission recommend approval of the vacation of the street and retention of a pedestrian and utility easement as shown in the attached vacation exhibit, subject to the following condition:

- 1) The vacation and pedestrian and utility easement retention will lapse if the vacation is not recorded in the office of the Saint Louis County Recorder within 90 days of City Council approval of the vacation.



Warwick St

Trail easement

Vacate

Vacate

Vacate

Vacate

Bessemer St

Grand Ave

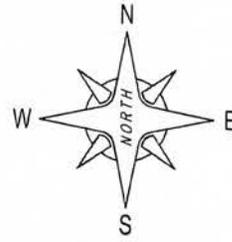
Legend

- Road or Alley ROW
- Easement Type**
- Utility Easement
- Other Easement

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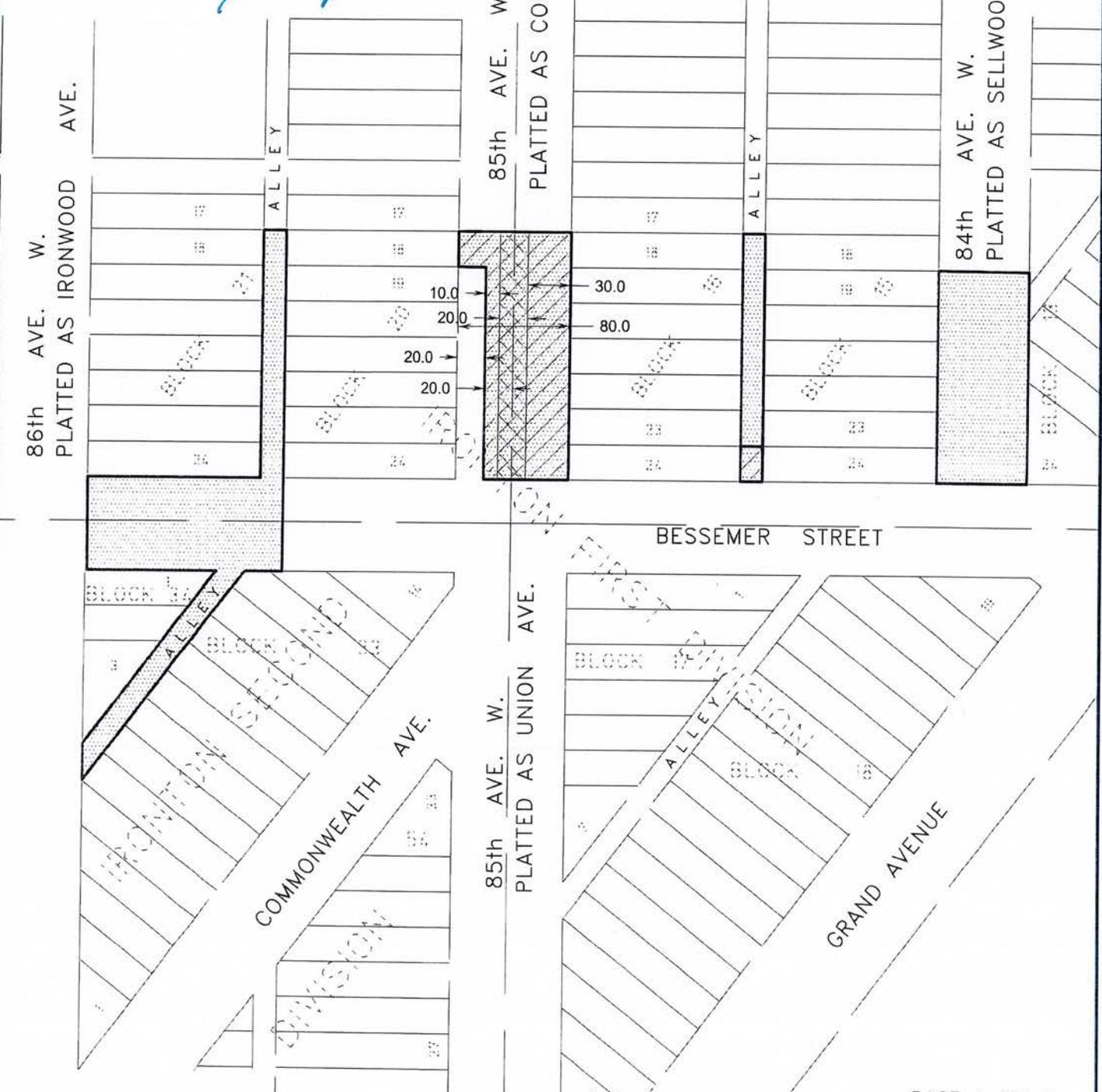
-  RIGHT OF WAY TO BE VACATED
-  UTILITY EASEMENT RETAINED
-  PUBLIC RECREATIONAL WALKWAY & TRAIL & UTILITY EASEMENT RETAINED

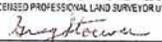


SCALE: 1" = 100'

APPROVED BY THE CITY ENGINEER OF DULUTH, MN

DATE: 8/16/19 BY: 



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

 Greg Stoewer
 SIGNATURE PRINTED NAME

06/13/2019	1		
DATE	2		
21774	3		
REG. NO.	NO.	DATE	

STREET & ALLEY VACATION & EASEMENT RETENTION EXHIBIT IN PART OF IRONTON FIRST DIVISION & IRONTON SECOND DIVISION



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 110 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-133	Contact	Chris Lee, clee@duluthmn.gov	
Type	Variance from Shoreland Setbacks	Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date	July 15, 2019	60 Days	September 13, 2019
	Date Extension Letter Mailed	July 25, 2019	120 Days	November 12, 2019
Location of Subject	2512 Providence Road			
Applicant	Aaron and Lori Davis	Contact		
Agent		Contact		
Legal Description	PID 010-0405-00170			
Site Visit Date	July 30, 2019	Sign Notice Date	July 30, 2019	
Neighbor Letter Date	July 31, 2019	Number of Letters Sent	31	

Proposal

The applicant is requesting a variance from UDC requirements which mandate a 150' structure setback for construction in proximity to a branch of Miller Creek. The applicant is proposing to reconstruct an existing deck to 12' x 16' to their single family house. They are requesting to reduce the setback from 150' to approximately 93'.

Recommended Action

Staff is recommending Planning Commission approve the Shoreland variance.

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

Summary of Code Requirements

Sec. 50-18.1.D-1 – Minimum Shoreland Area Standards: for Coldwater Rivers, maintain a minimum structure setback of 150 feet.

Sec. 50-37-9.B – Variance Procedures: “The Planning Commission shall... make a decision on the application based on the criteria in subsections 50-37.9.C – 50.37.9.M...”

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

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

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

Future Land Use – Open Space - High natural resource or scenic value, with substantial restrictions and development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: city parks and recreation areas, primary viewsheds, shorelands of the lake and streams, wetlands and floodplains, and high-value habitat.

The current house was built in 1990. It contains 1,578 square feet, 3 bedrooms, and 3 bathrooms.

Review and Discussion Items

Staff finds that:

- 1) Applicant is seeking a shoreland setback variance to replace an existing 10' x 10' deck with 12' x 16' deck to the south side of their single family home. The proposed rebuilt deck would be entirely within the 150-foot structure setback for the Miller Creek, a designated cold water river. The proposal would allow for use of the property in a reasonable manner consistent with the general intent of the Comprehensive Plan and the UDC.
- 2) The parcel and the existing house are both located entirely within the 150-foot structure setback for Miller Creek. The closest corner of the deck will be approximately 93' from the creek. Because the parcel is completely within the 150-foot structure setback, it would be impossible for the owners to build any addition (deck or otherwise) whatsoever without requesting a shoreland variance, which constitutes a practical difficulty not created by the property owners. The house as it currently sits is approximately 105' from the creek.
- 3) Variances to shoreland setbacks require mitigation. The applicant has provided a landscaping/mitigation plan describing existing landscaping and additional landscaping that they will provide including rain gardens, pollinator gardens, trees, and shrubs/bushes. The applicant is proposing to retain existing trees on the site.
- 4) Certain other homes in the neighborhood also have some overlap with the 150-foot shoreland structure setback. The proposed variance will allow for use of the property in a manner consistent with the neighborhood character.
- 5) The current single family home complies with the site’s current zoning designation. The proposed deck would not be sized beyond the range currently found in the neighborhood; as such, the essential character of the neighborhood would be unchanged.
- 6) The addition would not impair light or air to neighbors, increase congestion in the neighborhood, create fire danger, or otherwise imperil public safety.
- 7) To date, no public, agency, or City comment has been received.
- 8) Per UDC Section 50-37.1.N, approved variances shall lapse if the project or activity authorized by the permit or variance is not begun within one year of the permit date.

Staff Recommendation

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

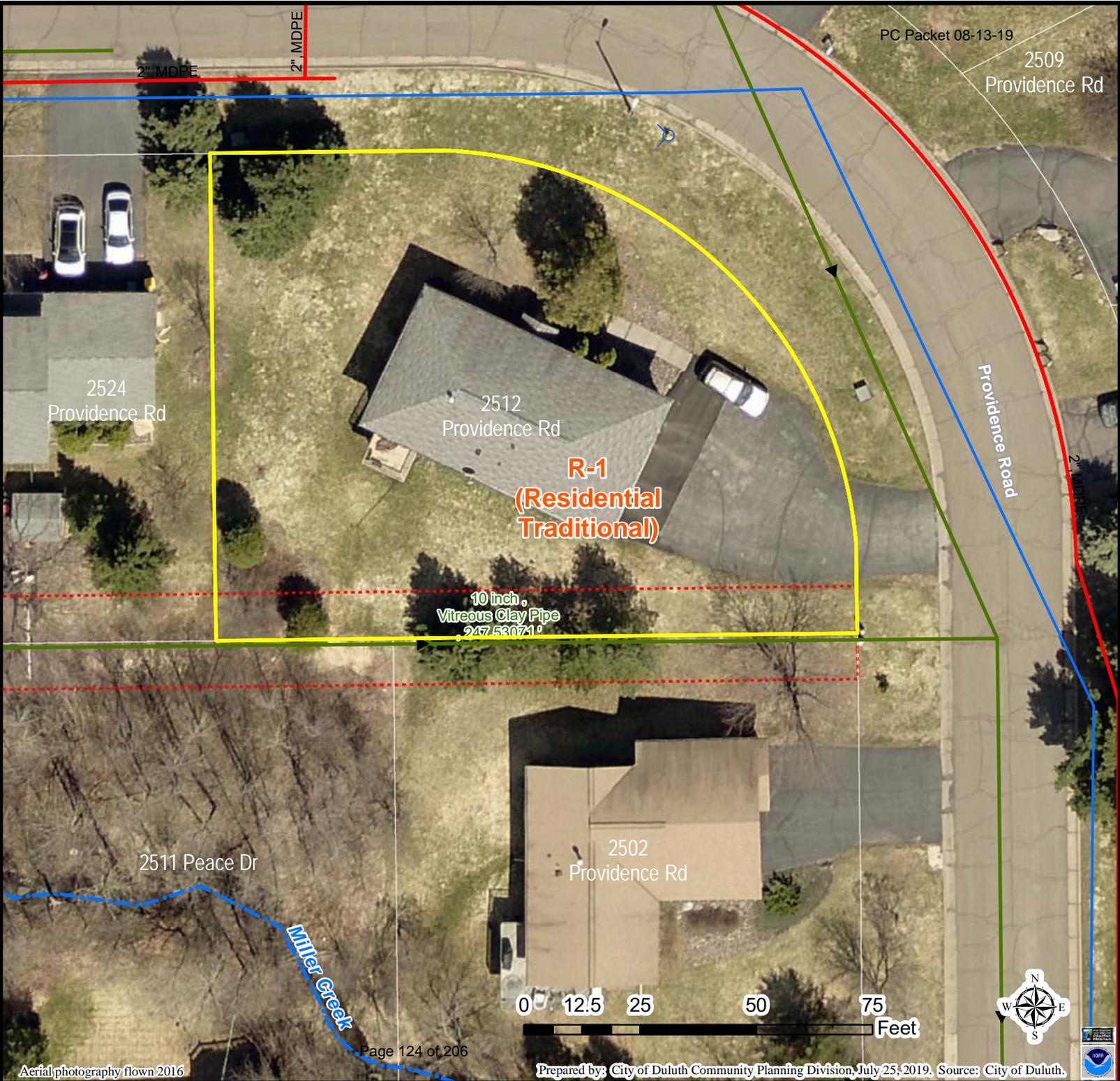
- 1) The project be limited to, constructed, and maintained according to the site map and landscaping/mitigation plan submitted with the application;
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning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



PL 18-133

PC Packet 08-13-19

2509 Providence Rd



Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- PS Pump Station

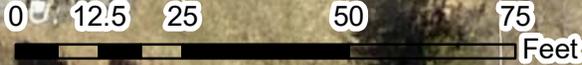
Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Vacated ROW

Easement Type

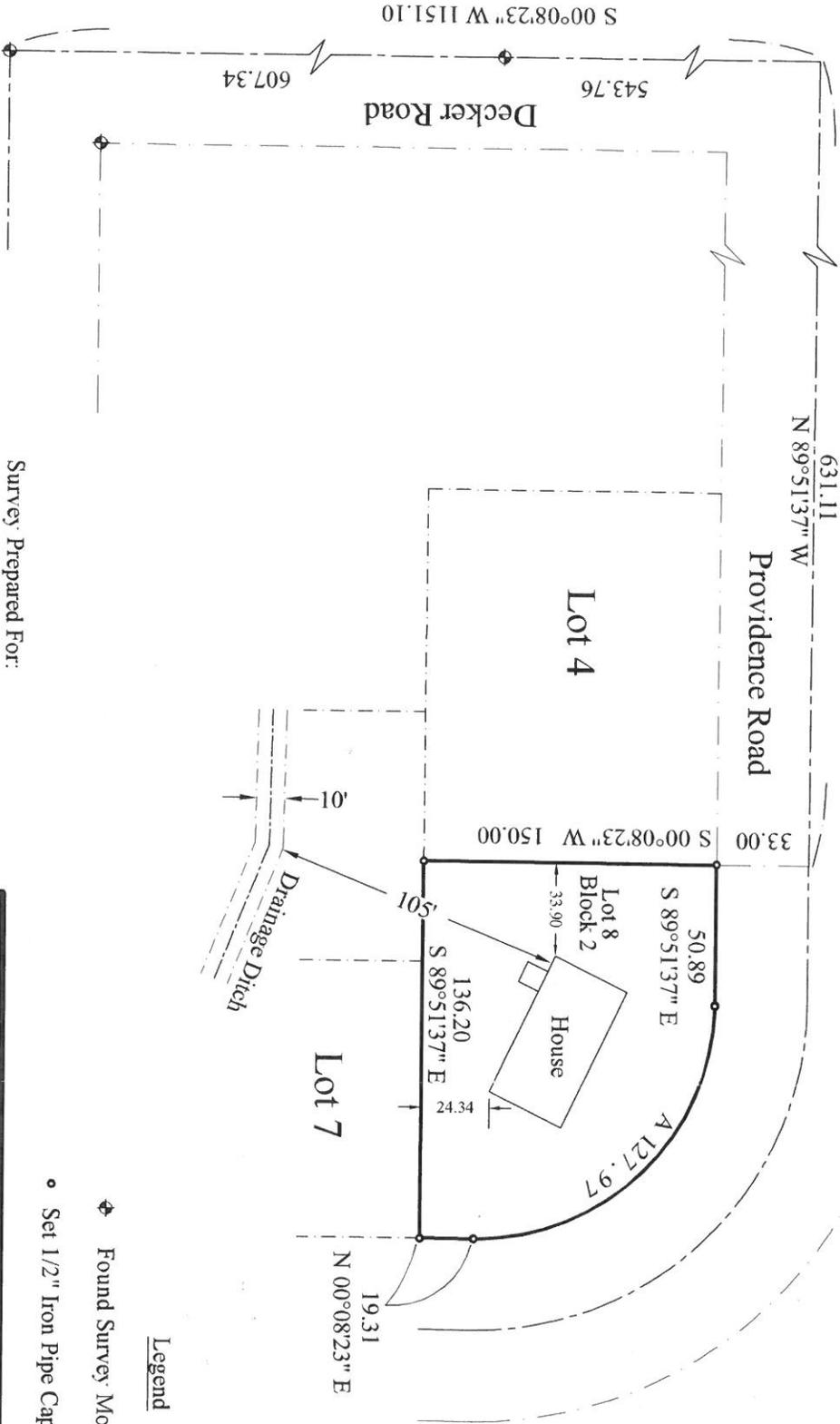
- Utility Easement
- Other Easement
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)

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Boundary of Survey

Lot 8 Block 2 Central Baptist Division of Duluth
 Section 30 Twn 50 N Rng 14 W
 St. Louis County, Minnesota



Legend

- ◆ Found Survey Monument
- Set 1/2" Iron Pipe Cap No. 15294

Survey Prepared For:

Arton Davis

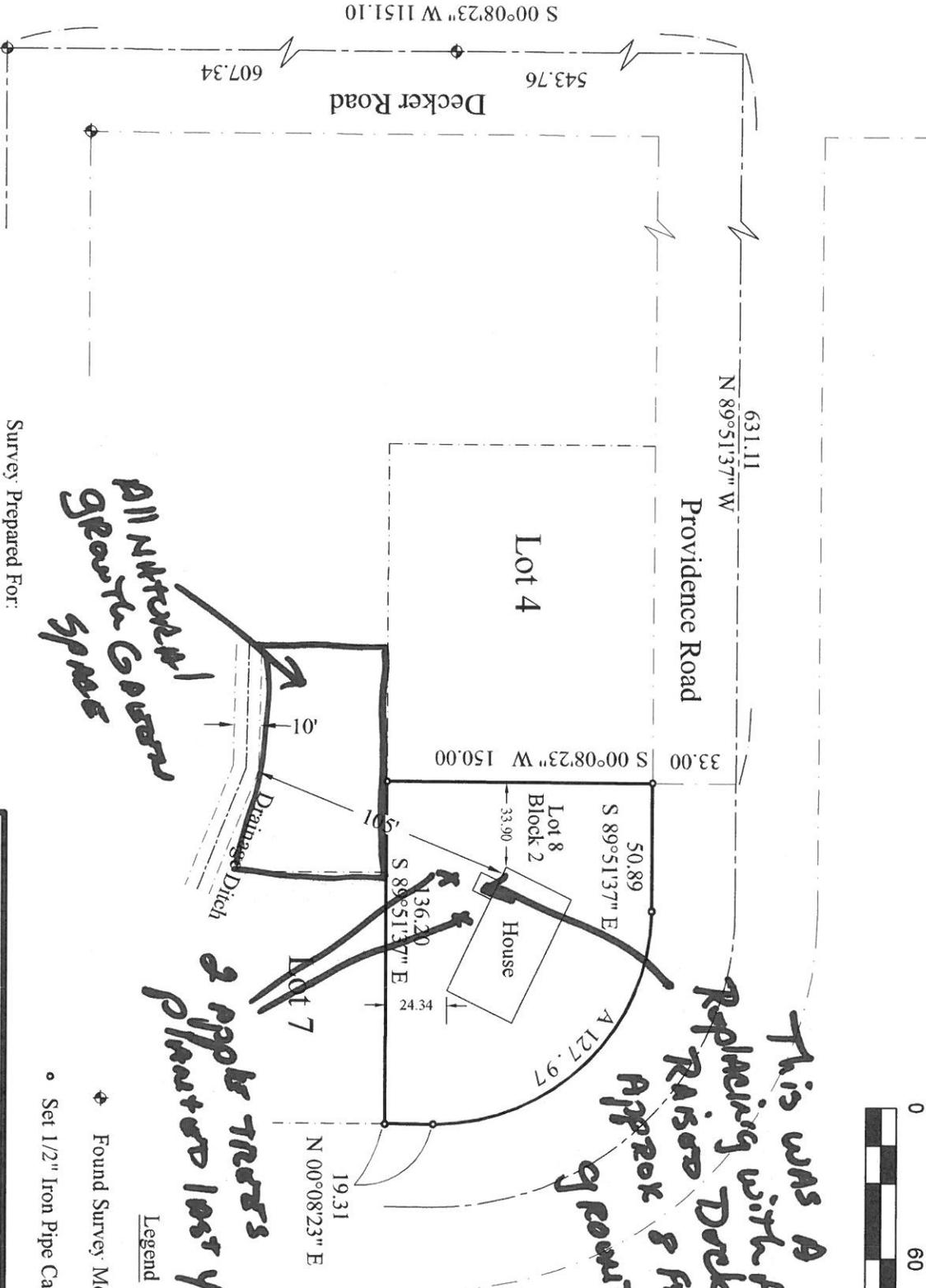
I hereby certify that this survey was completed by me or under my direct supervision and that I am a duly licensed land surveyor of the state of Minnesota.

Signature: *John A. Hildebrand Jr.*
 Date: 05/28/2019
 John A. Hildebrand Jr., Registration No. 15294

Land Design Solutions
 Computer Aided Land Surveying Systems

Boundary of Survey

Lot 8 Block 2 Central Baptist Division of Duluth
Section 30 Twn 50 N Rng 14 W
St. Louis County, Minnesota



Survey Prepared For:

AIRON DAVIS

- Found Survey Monument
- Set 1/2" Iron Pipe Cap No. 15294

Legend

I hereby certify this survey was completed by me or under my direct supervision and that of a fully licensed land surveyor of the state of Minnesota.

Surveyor *John A. Hildebrand Jr.* Registration No. 15294 Date 05/28/2019





May 2019 Aerial





Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL19-087	Contact	Kaleb Montgomery, kmontgomery@duluthmn.gov	
Type	Variance – Rear yard structure setback	Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date	June 18, 2019	60 Days	August 17, 2019
	Date Extension Letter Mailed	July 9, 2019	120 Days	October 16, 2019
Location of Subject	1509 99 th Avenue West			
Applicant	Betty Knapp (Norton)	Contact	N/A	
Agent		Contact		
Legal Description	Gary First Division; Block 7, Lots 25, 26, and 27			
Site Visit Date	July 22, 2019	Sign Notice Date	July 30, 2019	
Neighbor Letter Date	July 18, 2019	Number of Letters Sent	43	

Proposal

A rear yard setback variance to rebuild the interior of a nonconforming structure from recent fire damage where rear yard setback requirements are 25 ft and the proposed setback is 7.21 ft from the Northwest corner to the rear property line and 7.38 ft from the Southwest corner to the rear property line.

Recommended Action: Approve variance with conditions

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Home with detached garage	Traditional Residential
North	R-1	Home with detached garage	Traditional Residential
South	R-1	Home with detached garage	Traditional Residential
East	R-1	Home with detached garage	Traditional Residential
West	MU-N	Home with detached garage	Traditional Residential

Summary of Code Requirements

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

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

Sec. 50-37.9.M – A variance may be granted to permit reconstruction of a nonconforming building that has been damaged to the extent of more than 60% of its assessed market value as determined by the city assessor.

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

Governing Principle #5 – Promote reinvestment in neighborhoods

Governing Principle #6- Reinforce the place-specific

Governing Principle #9 – Support private actions that contribute to the public realm

Governing Principle #10 – Take actions that enhance the environment, economic, and social well-being of the community.

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

Future Land Use – Traditional Neighborhood - Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth’s older neighborhoods, infill projects, neighborhood extensions, and new traditional neighborhood areas. 4-8 units/acre, conservation development an option, mix of housing types (i.e. town homes and 4-plexes) at corners, limited commercial uses (i.e. ‘corner store’) serving neighborhood market

History:

- 1918 - Building constructed
- 2/17/2018 – The property experienced an interior fire.
- The applicant has \$39,895.79 in fire escrow

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

- 1) The existing 48 ft by 28 ft, two-story structure is located at the rear lot line with distances to the rear lot lines of only 7.21 feet on one side and 7.38 feet on the other side, indicated in Exhibit A. The applicant does not intend to extend the existing structure in any way.
- 2) Rear yard setbacks are written into the UDC to provide space for light and air circulation around buildings as well as fire safety.
- 3) The existing building is a nonconforming structure that was subject to an interior fire prompting the applicant to rebuild the damaged interior.
- 4) The damages from the fire are to the extent of more than 60% of its assessed market value which is reflected in Sec. 50-37.9.M. of the UDC. The interior fire ensued on February 7th, 2018 and was officially deemed condemned for habitation.
- 5) The structure’s assessed value is \$96,400 and the applicant has \$39,895.79 in fire escrow through the City of Duluth Construction Services & Inspections Division to help pay for the damages to the property. This escrow value is determined by 25% of the total assessed damages.
- 6) The landowner is proposing to use the property in a reasonable manner, as the home is currently condemned due to the damages from the fire and the applicant wishes to restore the home in order to make it habitable again.
- 7) The applicant exhibits practical difficulty in that, the current nonconformity was not created by the landowner and that the home is condemned.
- 8) Granting the variance will not alter the essential character of the area as the exterior of the home will not be altered.
- 9) The Applicant received a letter from Sarah Benning of the City of Duluth Fire Department – Life Safety Division (Exhibit D). To date, three (3) public comments have been received by staff, exhibiting opposition to the variance being approved (Exhibit E).
- 10) Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

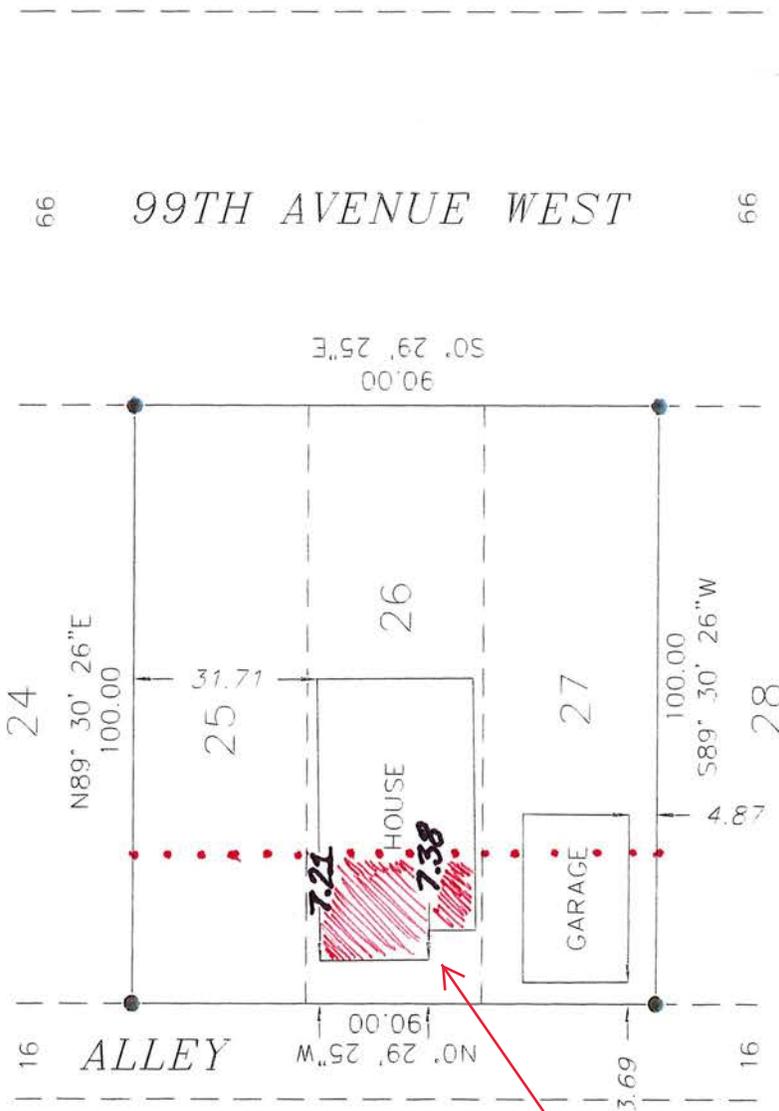
Based on the above findings, Staff recommends that Planning Commission grant the Variance with the following conditions:

- 1) The 48 ft by 28 ft two story house, be limited to, constructed, and maintained no more than 7.21ft from the Northwest corner of the house to the rear property line and 7.38ft from the Southwest corner of the house to the rear property line and be limited to the existing building footprint, indicated on the site survey, dated June 24th, 2019, and
- 2) The applicant apply for and be granted a building permit for the reconstruction of the home's interior accepted by the Building Official, and Building Permit shall not be granted until property is compliant and free of debris, rubbish, abandoned property, and abandoned vehicles.
- 3) Property must be kept clear of debris, rubbish, abandoned property and non-compliant vehicles (vehicles must have current registration and be operable to be compliant) during and after construction, compliant with the requirements of the UDC and City Code.
- 4) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.

CERTIFICATE OF SURVEY
 SECTION 3, TOWNSHIP 48 NORTH, RANGE 15 WEST
 ST. LOUIS COUNTY, MINNESOTA

LEGAL DESCRIPTION AS PROVIDED:

Lots 25, 26, and 27, Block 7, GARY
 FIRST DIVISION DULUTH, St. Louis
 County, Minnesota.



● SET IRON REBAR WITH PLS (CAP STAMPED "STANG 52591")



BETTY KNAPP
 SEC.3-748N-R15W
 ST. LOUIS COUNTY, MN

JOB#	19546	ORIGIN BY:	TUR
CLIENT	19546-04	DESCRIPTION	DATE

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

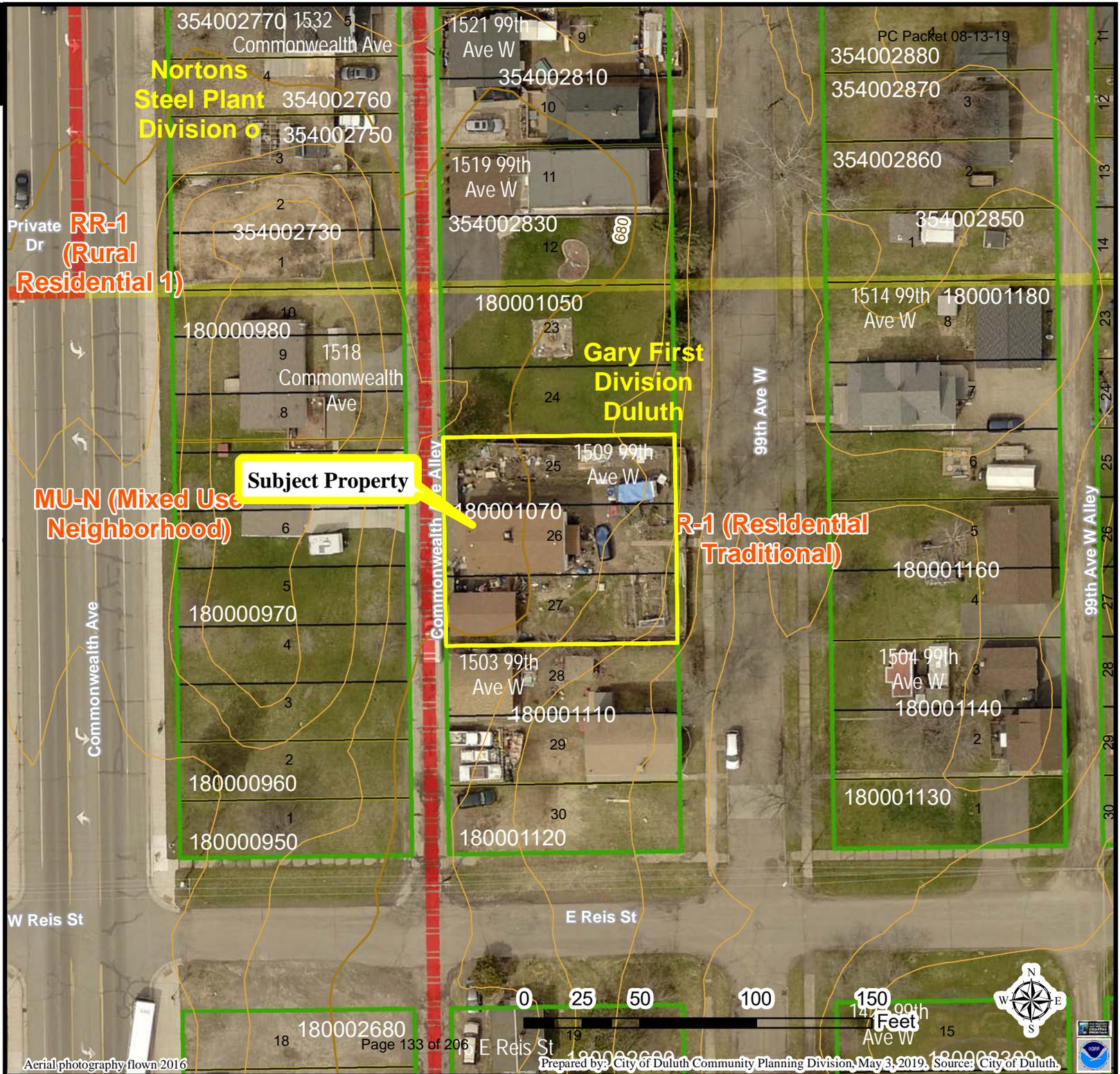
Michael A. Stang
 MICHAEL A. STANG (L.S. NO. 13281)

DATE: 6/24/2019

48' x 28' ft - Two Story House Encroachment in 25 Ft Rear Yard Setback



PL 19-087
1509 99th Ave W.
Rear Yard Setback Variance



Legend

- Lots
- Parcels
- 1 Ft contour
- 10 Ft contour
- Subdivision Boundaries

Boundary Lines

- <all other values>

Subtype, ROW, TYPE

- Lot Line
- Parcel Line
- ROW (Road)
- ROW (Not Road)
- Subdivision Line
- Water Line
- Survey Line
- Municipal Boundary
- Vacated ROW
- Zoning Boundaries

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**City of Duluth
Fire Department - Life Safety Division**

615 West First Street • Duluth, Minnesota • 55802-1194
218-730-4380 • Fax: 218-730-5902 • www.duluthmn.gov

An Equal Opportunity Employer



06/05/2019

KNAPP B JOSEPHINE TRUSTEE
70471 MICHAEL RD N
FINLAYSON, MN 55735

Parcel ID: 010-1800-01070
Property Address: 1509 99TH AVE W

1509 99th Ave West

LSV-02999 - INSPECTOR'S NOTE
(6/5/2019 9:51 AM SB)
Betty,

Since our pre-applicaion meeting on the 21st of May we have recived mulitple compliants of people living at the property.
This is a condemned property and no one can be living there.

You have until Friday June 21st, 2019 to apply for the variance otherwise the house will be condemned for Demolition.

Sarah Benning

Respectfully,

Sarah Benning
Lead Housing Inspector
Division of Life Safety
(218)-730-5156
sbenning@duluthmn.gov

Any owner or occupant who wishes to appeal a decision of the inspector's office shall serve written notice of appeal upon the building official, located in the Construction Services Office, Room 100, City Hall, within 15 days after receiving notice of such decision. Appeals must be accompanied by a \$127 appeal filing fee. The notice of appeal shall contain a complete statement of the matter in controversy and relief requested. (Duluth Legislative Code Section 10-5)

Kaleb Montgomery

From: Merling, Steve <Steve.Merling@SAPPI.COM>
Sent: Tuesday, July 30, 2019 8:20 AM
To: Kaleb Montgomery
Cc: 'magicmerl65@yahoo.com'
Subject: 1509 99th Avenue West (PL 19-087)

Mr. Montgomery;

This stated property has been nothing but a burden to our neighborhood, I can not believe it has not been cited as inhabitable and condemned and tore down by now, as we could at least than sell the partial and build something that brings value to our neighborhood.

Yet there are still people that live there and or "squat" on the property.

My guess is the owner received some monies from the insurance, which would of brought many red flags on this particular fire if I was the insurance adjuster and now to receive what is left in escrowed monies is to rebuild or remodel.

We all know this will never happen, they have done nothing since the fire last winter and for that matter since I've lived here.

I can tell you that from living here for about 10 years, there is nothing but some very shady dealings and characters that hang out there as could be attested from the properties closest neighbors.

I for one will not be giving my signature of approval on any of this going forward.

We have a great neighborhood and people that take pride in what we have, and this one property brings us all down.

How many nays does this variance need to be denied?

And if denied will this unsafe structure finally be tore down and when?

Thank you for your time in this matter.

Steven D. Merling
 17 Crestline Ct
 Duluth, MN 55808
 218-348-9768
 magicmerl65@yahoo.com

Steve Merling
 Sappi NA Cloquet Operations
 Machinist/Millwright
 218-879-2300 ext. 2120
 "Performing Miracles Everyday"

 Inspired by life	<p>Steve Merling Machinist Sappi North America 2201 Avenue B PO Box 511 Cloquet, MN 55720 Tel +1 218 879 2300 Steve.Merling@sappi.com www.sappi.com</p>
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Duluth Planning Commission
 411 West First Street, Rm 110
 Duluth, MN 55802

ATTN: Kaleb Montgomery
 Planning Technician

Date: July 28, 2019

Re: Variance for 1509 99th Avenue West (PL 19-087).

From: Robert + Roberta Bourassa
 1518 Commonwealth Ave.
 Duluth, MN 55808

To Whom It May Concern:

This letter is in reference to the variance request at 1509 99th Ave. West (PL-087). Our house is across the alley from 1509 99th Ave West. We Do Not want this variance granted.

The fire at this property will be 3 years ago this winter. Us and our neighbors are tired of the eye sore + mess that comes with this place. I have supplied pictures of this property. We see this on a daily basis.

This place was condemned but the owner's son + girlfriend still live there. We are witness to this. We've also witnessed screaming matches,

burning of filthy garbage + stinky moldy wood from this house. I myself have found used syringe needles by their doorway just thrown on the ground. They park, plugging up the alley, there's constant paounding on their doors + fences all hours of the day + night. Owner's son has a stereo speaker that covers his whole trunk, last time I seen it. Sometimes it blasts so loud it vibrates my house.

I have witnessed verbal attacks on one of my neighbors plus I heard him say he'd burn her house down. She's scared to death of him.

Police have been called many, many times to no avail. Its like living by some kind of compound of some sort.

There's people coming + going day + night. They have no respect for anyone or anything. No one in our neighborhood wants this variance granted. The pictures dont show half of the mess we put up with.

My husband and I are handicapped +

don't get out much at night so I hope
this letter + pictures will help to turn
down this variance.

Thank You,

Concerned citizens of Gary New Duluth

signed

Roberta Baurassa

Robert Baurassa

attachments: 7 pictures

PS: They have no electricity, no water so no
plumbing. Where do they go to the bathroom?!

DESANKA BERICH AND JUDITH PECORE

1519 99th Ave W Duluth, MN 55808 | (218) 626-3286



08/03/2019

The Duluth Planning Commission
411 West First Street
Room 110
Duluth, MN 55802

To whom it may concern:

I am writing in response your letter dated 07/18/2019. Your letter stated that the property owners of 1509 99th Ave W, are requesting a variance from the rear yard setbacks. I appreciate the opportunity to respond to this proposal.

Please accept this letter as my formal **objection** to the above proposed matter. I ask that you take the following examples into consideration when reviewing their case.

Listed below are some of the behavior seen:

- There are multiple verbal fights including the use of inappropriate language
- There are multiple visitors coming and going during all hours of the day and night
- There are multiple vehicles always parked in the alley behind the house, which blocks other vehicles from driving through
 - One of these parked vehicles has very large speakers in the trunk that they play music on as loud as it can go
- There are multiple fires burning during the day and night that have a chemical smell

Myself and roommate are 2 elderly ladies right next door. With this seen behavior, we are fearful of sitting outside or even cooking out on the grill. The loud music and commotion are enough to rattle our dishes inside the house. We have filed multiple complaints with the

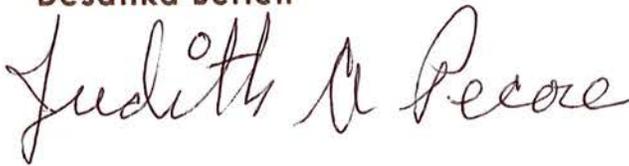
Duluth Police Department, however, they either just drive by or don't show up at all. We understand that there will always be some noise but we are fearful that these behaviors will escalate to undesirable conditions.

In addition, there was a fire within the last year. They were advised the house was condemned with no water or electricity. However, they still continued to live in their home to this date with merely plastic covering the broken windows. This could not be considered sanitary and safe living conditions. Therefore, taking all this information into consideration, we ask that you **decline** their request to rebuild with their rear yard setbacks. Thank you for your time and consideration.

Sincerely,



Desanka Berich



Judith Pecore





Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL19-098		Contact	Kaleb Montgomery, kmontgomery@duluthmn.gov	
Type	Variance – Front yard structure setback		Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date	July 9, 2019	60 Days	September 7, 2019	
	Date Extension Letter Mailed	July 12, 2019	120 Days	November 6, 2019	
Location of Subject	1030 South 71 st Avenue West				
Applicant	Richard Erickson		Contact		
Agent	John Hall		Contact	218-591-1783	
Legal Description	Hunter and Markell's Grassy Ad; Block 36, Lots 17, 18, 19, and 20. Including part of vacated Milford St. Adjacent				
Site Visit Date	July 22, 2019		Sign Notice Date	July 30, 2019	
Neighbor Letter Date	July 12, 2019		Number of Letters Sent	8	

Proposal

A variance to rebuild the front porch. The front yard setback requirement is 25 ft, while the proposed setback would be 13 ft from the home to the front property line. According to the applicant it "would extend the roof line from the primary gable to the front façade of the home in order to increase bedroom square footage for standing room without adding to the impervious area of the property."

Recommended Action: Approve variance with conditions

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Home with detached garage	Low-density Neighborhood
North	R-C	Open Space	Open Space
South	R-1	Undeveloped	Low-density Neighborhood
East	R-C	Open Space	Open Space
West	R-1	Home with detached garage	Low-density Neighborhood

Summary of Code Requirements

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

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

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

Governing Principle #5 – Promote reinvestment in neighborhoods

Governing Principle #6- Reinforce the place-specific

Governing Principle #9 – Support private actions that contribute to the public realm

Governing Principle #10 – Take actions that enhance the environment, economic, and social well-being of the community.

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

Future Land Use

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

Open Space – High natural resource or scenic value, with substantial restrictions and development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls. Examples include: city parks and recreation areas, primary viewsheds, shorelands of the lake and streams, wetlands and floodplains and high-value habitat.

History:

1909 – Home was constructed.

8/24/2000 – Permit to install 100 amp service.

7/13/2001 – Permit to construct 24x24 Detached garage and wiring/Water management use permit

10/15/2008 – Permit for new gas service, gas pipe to furnace

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

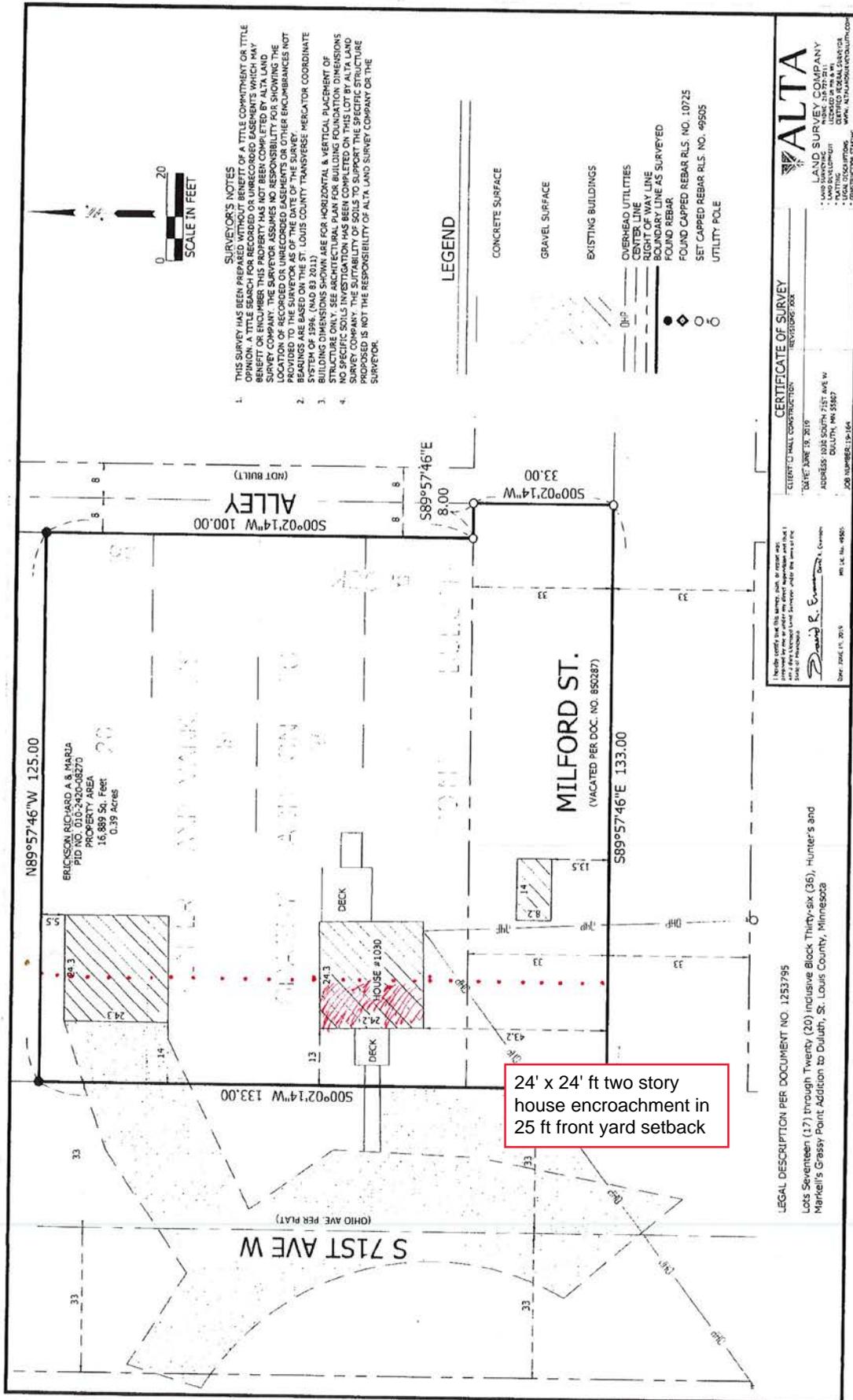
- 1) The existing 24-foot wide by 24-foot deep two story, single family home is a nonconforming structure, located at the front lot line with distances to the front lot lines of only 13 feet. The applicant does not intend to encroach into the setback any further.
- 2) The landowner is proposing to use the property in a reasonable manner, as it is currently zoned R1 and the existing nonconformity was not created by the landowner. Additionally, it is reasonable for the applicant to want to the increase livable space of their 576 sq ft house, without adding to the impervious surface of the property.
- 3) Granting the variance will not alter the essential character of the neighborhood, as the current configuration of homes in this neighborhood exhibits irregularity of placement within their lots.
- 4) The house is smaller than the average single family home in Duluth and exhibits practical difficulty, where building to either side would be impractical due to the current pitch of the roof, and building to the rear is not possible due to the current floor plan of the home, where the kitchen is located in the rear.
- 5) The applicant stated in the supplemental form that the home was built prior to the area being platted and that the shape of the road is unique to the area.
- 6) Four recommendations for the approval of this variance have come from the applicant’s neighbors and exhibit good reference to their history of making improvements to the property and neighborhood overall. Additionally, the applicant has a history of obtaining proper permitting for alterations to the property.
- 7) Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

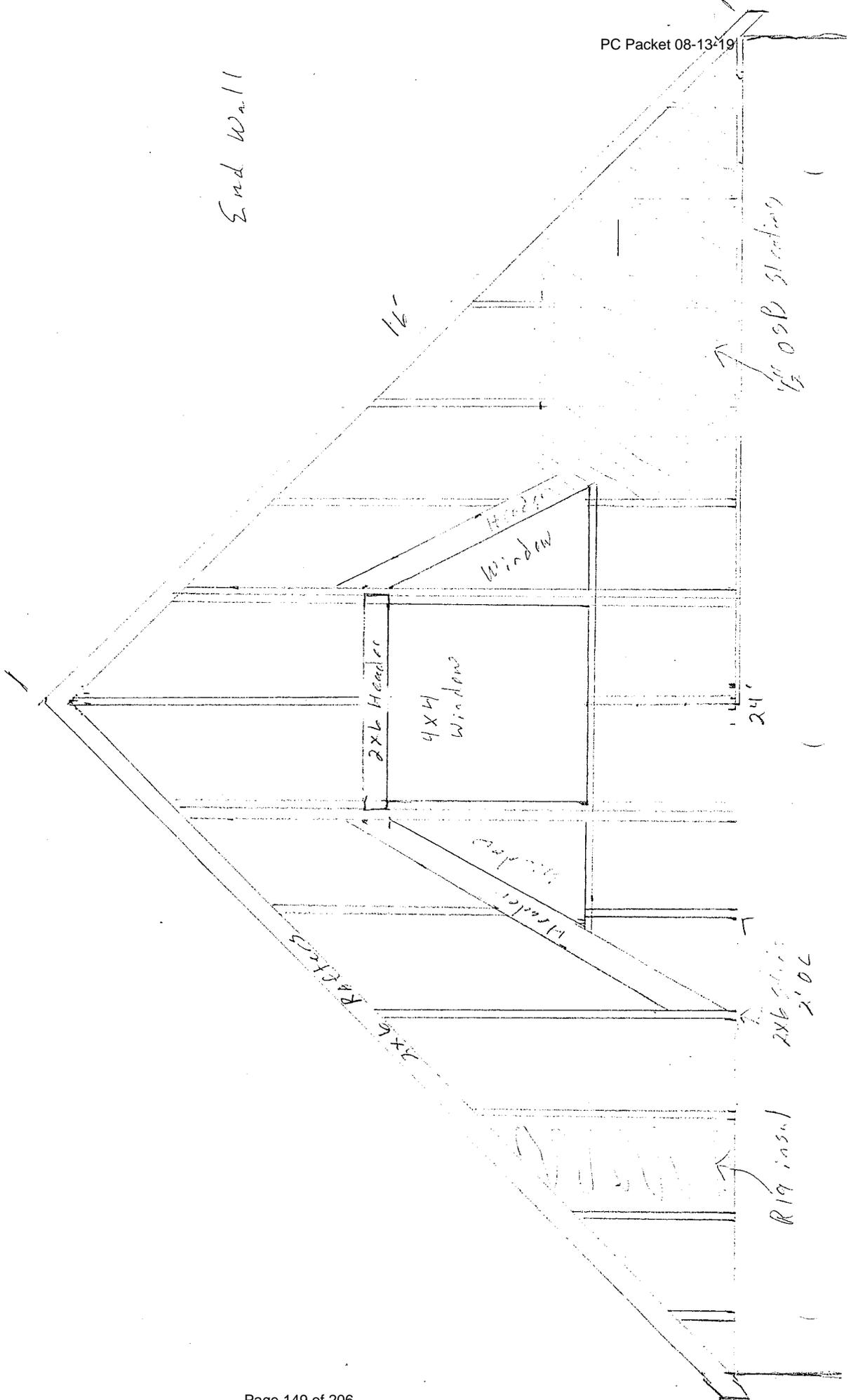
Based on the above findings, Staff recommends that Planning Commission grant the Variance with the following conditions:

- 1) The 24-foot wide by 24-foot deep two story home's project be limited to, constructed, and maintained no more than 13 feet from the front façade of the house to the front property line and be limited to the existing building footprint, indicated on the site survey, dated June 19th, 2019, and
- 2) The applicant apply for and be granted a building permit for the reconstruction of the home's front porch and extension of the roof line by the Building Official, and
- 3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.

Exhibit A



End Wall



1050

1050 S 715 PVE W



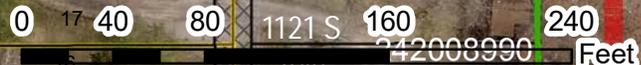
PL 19-098
1030 S 71st Ave W.
Variance - Front Yard Setback

Legend

- Lots
- Parcels
- Subdivision Boundaries
- Boundary Lines**
- <all other values>
- Subtype, ROW_TYPE
- Lot Line
- Parcel Line
- ROW (Road)
- ROW (Not Road)
- Subdivision Line
- Water Line
- Survey Line
- Municipal Boundary
- Road or Alley ROW
- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)



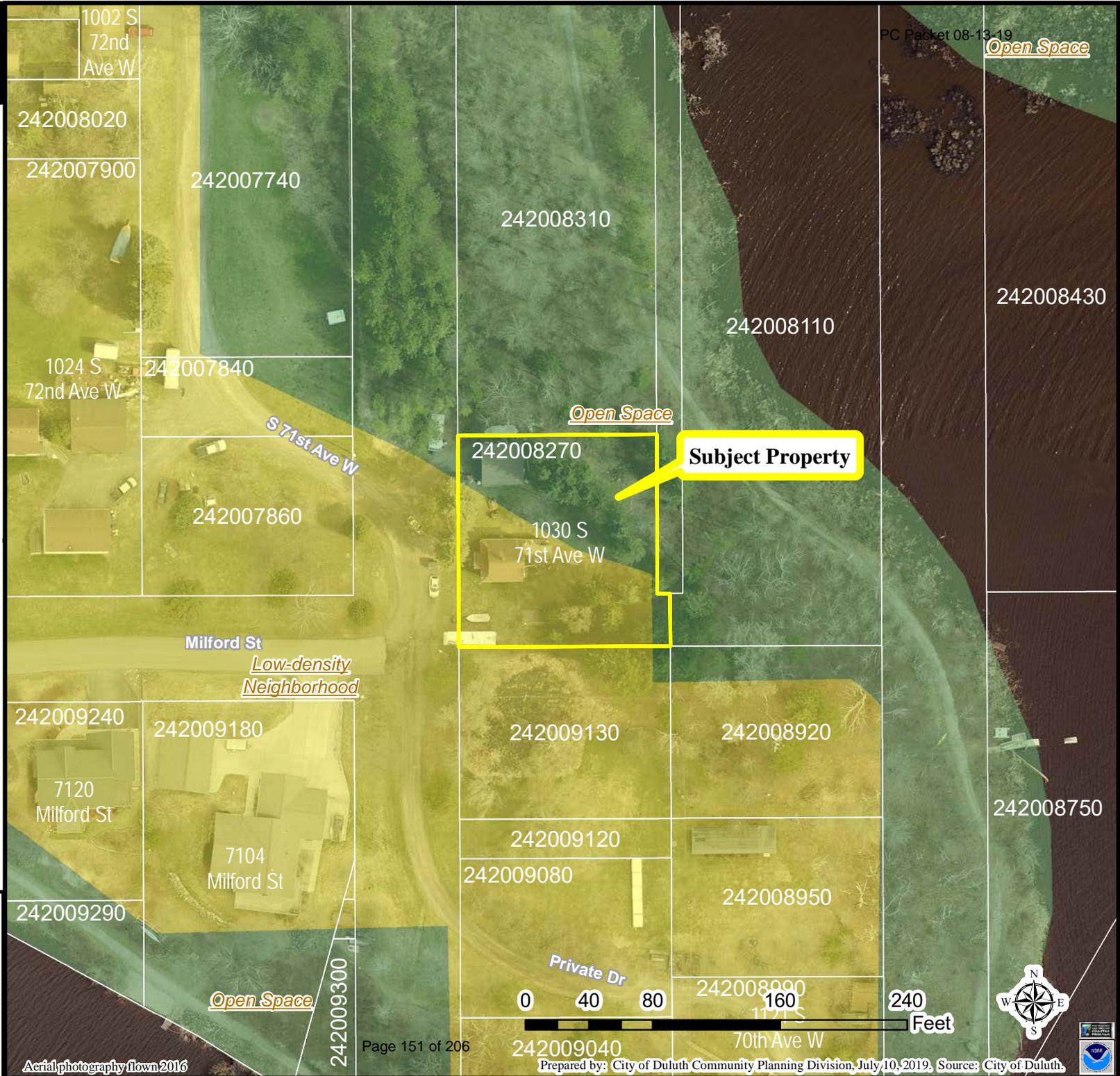
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Legend

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



Subject Property

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8 July 2019

To whom it may concern:

This letter is in reference to the variance request by Rick and Maria Erickson at their residence 1030 S 71st Ave W. I have no concerns with this request and I recommend approval. Rick and Maria are great neighbors and even better people who have worked very hard for their home and should be allowed to improve it with this variance request. I look forward to seeing the progress with this renovation.

Sincerely,



Kyle Pederson

7/8/19

To Whom It May Concern:

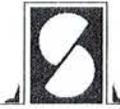
The Neighbors at 1030 S 71st Ave West, Rick and Maria Erickson are remodeling their house.

We think their plan is ok, we are not against them improving thier home.

Thank you.

Reiner Nelson *Randi Nelson*

Randi and Reiner Nelson
1024 S 72nd Ave West
Duluth, MN 55807



DWIGHT SWANSTROM COMPANY
SPIRIT VALLEY AGENCY

31 N. 21st Avenue West ■ Duluth, MN 55806
INSURANCE ■ BONDS ■ REAL ESTATE

Greg Brisky
7104 Milford Street
Duluth, MN 55807
218-348-0358

Rick and Maria Erickson
1030 South 71st Ave West
Duluth, MN 55807

July 8, 2019

To the City of Duluth,

Gentleman, I'm writing this letter in reference to the variance that Rick and Maria Erickson are requesting to remodel their home. Primarily bringing the gable end to the wall perimeter of the house and any other modifications. I highly recommend approving the remodel project. Rick and Maria have worked very hard in the past and continue to improve their property and the overall neighborhood. In my opinion there is no negative effect to this remodel. I would very much look forward to you granting them the easements.

Sincerely,

Greg and Mary Brisky

Peter Senich
1121 S. 70th Ave. W.
Duluth, MN 55812
(218) 624-0189

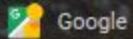
To whom it may concern:

I have no objections to my neighbors,
Rick and Maria Erickson, proposed plans for
expanding their living space for their home
at 1030 S. 71st Ave. W.

Peter Senich

1030 S 71st Ave W

Duluth, Minnesota



Google

Street View - Sep 2012

Exhibit D

PC Packet 08-13-19





Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL19-099	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Variance – front yard parking	Planning Commission Date	August 13, 2019	
Deadline for Action	Application Date	July 9, 2019	60 Days	September 7, 2019
	Date Extension Letter Mailed	August 6, 2019	120 Days	November 6, 2019
Location of Subject	4002 London Rd. (Lakeside-Lester Park)			
Applicant	Ecumen Lakeshore	Contact	Blaine Gamst, Executive Director	
Agent	Northland Consulting Engineers, LLP	Contact	Tom DesMarais, Civil Engineer	
Legal Description	Tract A, RLS No. 64			
Site Visit Date	August 5, 2019	Sign Notice Date	July 30, 2019	
Neighbor Letter Date	August 2, 2019	Number of Letters Sent	33	

Proposal

A variance to construct 24 off-street parking spaces between the principle structure and London Rd.

Recommended Action: Approve variance with conditions

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2, Residential, Urban	Transitional Care (Nursing Home)	Urban Residential
North	R-1, Residential, Traditional	Detached Homes	Traditional Residential
South	R-2, Residential, Urban	Independent Living	Urban Residential
East	R-1, Residential, Traditional	Detached Homes	Traditional Residential
West	R-2, Residential, Urban	Assisted Living	Urban Residential

Summary of Code Requirements

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

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

Sec. 50-37.9.G.1 – Standards for variances in Residential districts:

(a) A variance may be granted to allow parking on a portion of a lot in a residential district where parking is not permitted by Section 50-24.6.B for lots meeting all the following:

(i) The distance between the dwelling and the public right of way exceeds 18 feet; and

- (ii) The position of the principle structure on the lot does not permit access to the side or rear yard; and
- (iii) There is no improved alley or street providing access to the side or rear yard; and
- (iv) There is no permitted overnight parking on any street within 150 feet of the property;
- (b) The variance shall be subject to the following conditions, and any other conditions determined by the commission to be reasonable and necessary to protect the interests of the abutting property owners and the residential character of the surrounding neighborhood:
 - (i) The maximum variance that can be granted shall not exceed 55% of the lot width;
 - (ii) A paved walkway at least 3 feet wide shall be provided that links the front entrance of the dwelling and the street;
 - (iii) A wall, fence or dense vegetative screen at least 3 feet tall and at least 75% opaque must be provided to screen parked vehicles from view of abutting properties and the street, where screening the street view is possible;
 - (iv) Barriers must be installed to prevent vehicles from overrunning the parking and driveway areas; such barrier may be a fence, wall or raised curbing (or concrete parking bumpers when secured to the underlying pavement);
 - (v) A placard with a diagram no less than 5 inches by 7 inches showing the location and arrangement of parking spaces shall be visible at all times from the exterior of the dwelling; such placard shall be on all-weather media and installed on the front exterior door at an elevation of between 2 feet and 6 feet above the threshold;

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

Governing Principle #5 – Promote reinvestment in neighborhoods

Governing Principle #6- Reinforce the place-specific

Governing Principle #9 – Support private actions that contribute to the public realm

Governing Principle #10 – Take actions that enhance the environment, economic, and social well-being of the community.

Governing Principle #13 – Develop a healthy community.

Future Land Use – Urban Neighborhood - Greatest variety of residential building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers, and waterfront residential areas. May include student housing areas, live/work units, and limited neighborhood retail. Connected or adjacent to parks and open space. 8 units/acre and up, design standards ensure pedestrian orientation and mix of housing, commercial uses that serve neighborhood, waterfront areas with access to docks or landings

History:

2005 – “The Shores” section of Ecumen was constructed consisting of 40 units of assisted living apartments and 20 units of memory care apartments. “The Fountains,” a skilled nursing facility (60 units), was constructed.

2007 – “The Crest” constructed consisting of 98 units of independent living apartments.

Review and Discussion Items

Staff finds that:

- 1) The Ecumen Lakeshore campus has evolved over the past 15 years to include independent living apartments (102 units), long-term assisted living (60 beds), short-term/transitional rehab care (60 beds), and associated support services (23,592 sq. ft.). According to UDC Sec. 50-24 these uses require 217 off-street parking spaces.
- 2) Ecumen has 222 parking spaces on their campus, 100 spaces under the buildings and 122 surface spaces.
- 3) The applicant has identified a limited parking availability at the site along with an increased need for the 2,000 clients they serve each year as “a growing safety concern for those who reside on the campus.” The fire department has confirmed the situation and noted their concerns about parking in fire lanes and driveways at the property despite signage and ticketing enforcement efforts.
- 4) The Ecumen campus’ location doesn’t allow for use of surrounding public streets for overflow parking as they are signed “Residential Permit Parking” due to proximity to East High School, limiting on-street parking to residents only.
- 5) The applicant is proposing a reasonable use of the site by adding 24 perpendicular parking spaces along an existing driveway in one of the few parts of the site away from surrounding residential uses and away from Lake Superior. The proposal is consistent with parking rules in the UDC since the additional 24 spaces will bring the site total to 246 spaces which is between the 217 minimum parking required and 325 maximum parking allowed.
- 6) Combining the location of large buildings on the lakeside of the site with the parking regulations prohibiting parking between the buildings and London Rd. presents a practical difficulty in putting the site to a reasonable use and solving a parking supply problem.
- 7) This site development is consistent with the purpose statement of the R-2 zone district which allows for multifamily and group living arrangements in proximity to mixed use activity centers and the associated parking, landscaping, and storm water treatment areas.
- 8) This location will allow the runoff from the parking to be directed to the existing private storm sewer pipes. Current storm water rules require the applicant to treat the new impervious surfaces, however, they will be installing a sediment control structure at the end of the storm water pipe (see attached drawing titled Permanent Sediment Control, Sheet 7) receiving both the new runoff and existing paved surfaces on the east half of the site, which goes beyond the requirements.
- 9) Part of the reason for requiring parking to the side or rear of the building is to reduce the amount of automobile infrastructure visible in residential districts and, thereby, improving street frontage aesthetics. The applicant will “notch” the parking spaces into the natural slope of the site and plant shrubs on top (see attached drawing titled Site and Screening Plan, Sheet 1). This will further reduce the visibility of the cars from the street and homes across the street preserving the essential character of the area.
- 10) The proposal complies with limitations in Sec. 50-37.9.G.1 (see “Code Requirements” above) for sites eligible for parking variance because the building is more than 18 feet from London Rd. and the position of the building does not provide for side or rear yard parking. The 24 parking spaces will result in 216 feet of parking across the 880 feet of London Rd. frontage owned by Ecumen. This is 25% of the frontage which is less than the 55% limitation of front yard parking. There is an existing sidewalk that provides access to the main entrance to the building. Parking spaces are “notched” into the landscape as described above, complying with the requirement for 75% opaque screening and curbing will be installed to protect landscaping.
- 11) The applicant’s project will not result in additional adverse consequences from traffic congestion in the area as the additional parking is only an 11% increase over the existing number of spaces and it’s likely that some of those vehicles are already visiting the campus and parking illegally. Granting the variance will improve access to the site by emergency vehicles since fewer or no more vehicles will be parking in required fire access ways. Existing and proposed landscaping around the parking spaces will help improve aesthetics and should result in no effect to surrounding property values.
- 12) Comment from Marnie Grondahl, Interim Deputy Fire Chief: “Ecumen has continually had issues with parking and we do send people to write tickets when we can. I would definitely be in favor of them adding parking as 6Engine goes there often for medicals and have difficulties getting to the building because of illegal parking either in the fire lane or on the sides where they are also not supposed to park.” No neighbor comments.
- 13) Per UDC Section 50-37.1. N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

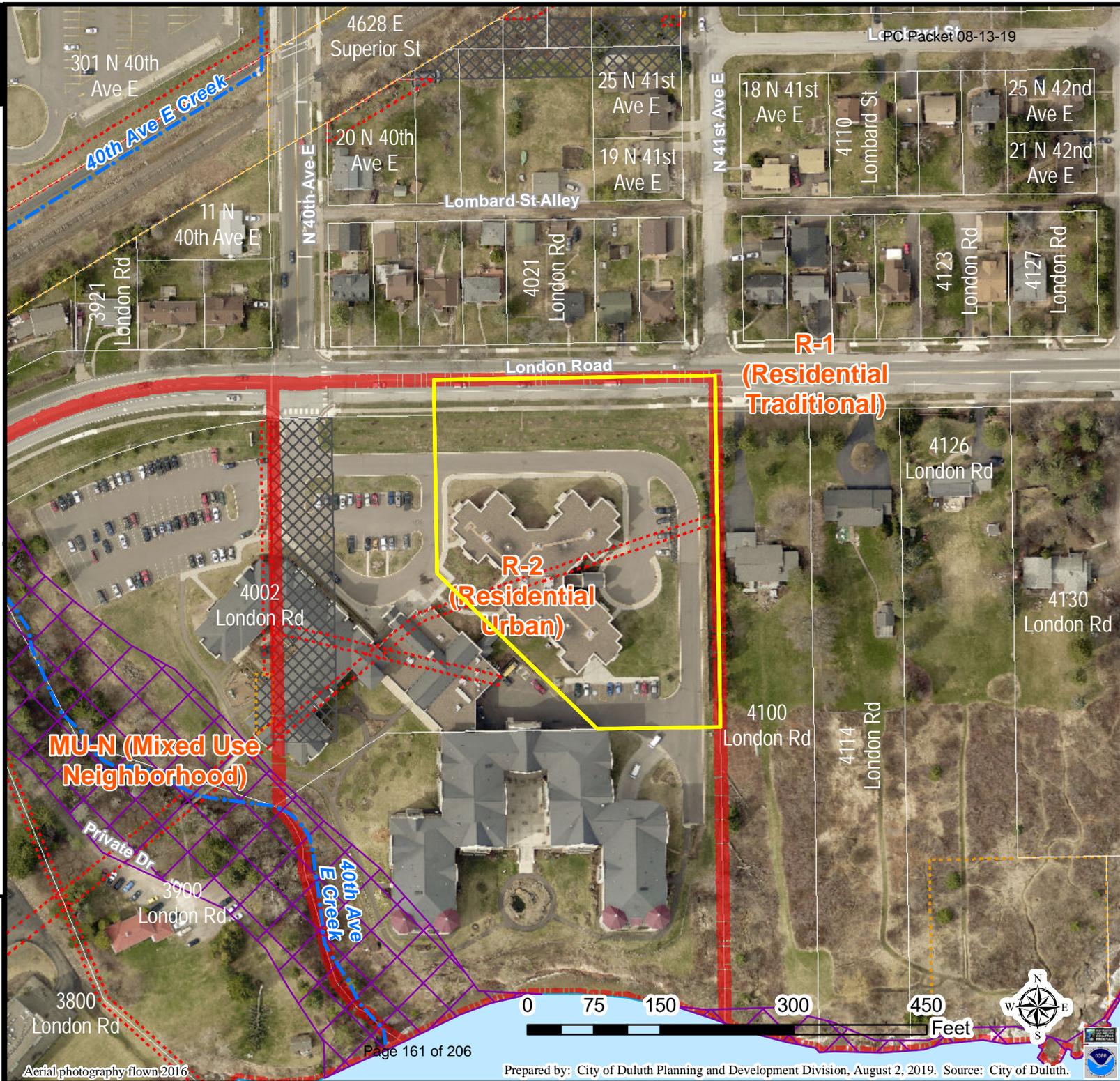
Staff Recommendation

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

1. The project be limited to, constructed, and maintained according to "Site and Screening Plan, Sheet 1," dated 7/9/2019, and "Permanent Sediment Control, Sheet 7," dated 8/5/2019, both from the project titled "Ecumen Duluth Co-Op Additional Parking" drawn by Northland Consulting Engineers; and
2. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 19-099
4002 London Rd.
Ecumen Lakeshore
Parking Variance



LPD Packet 08-13-19

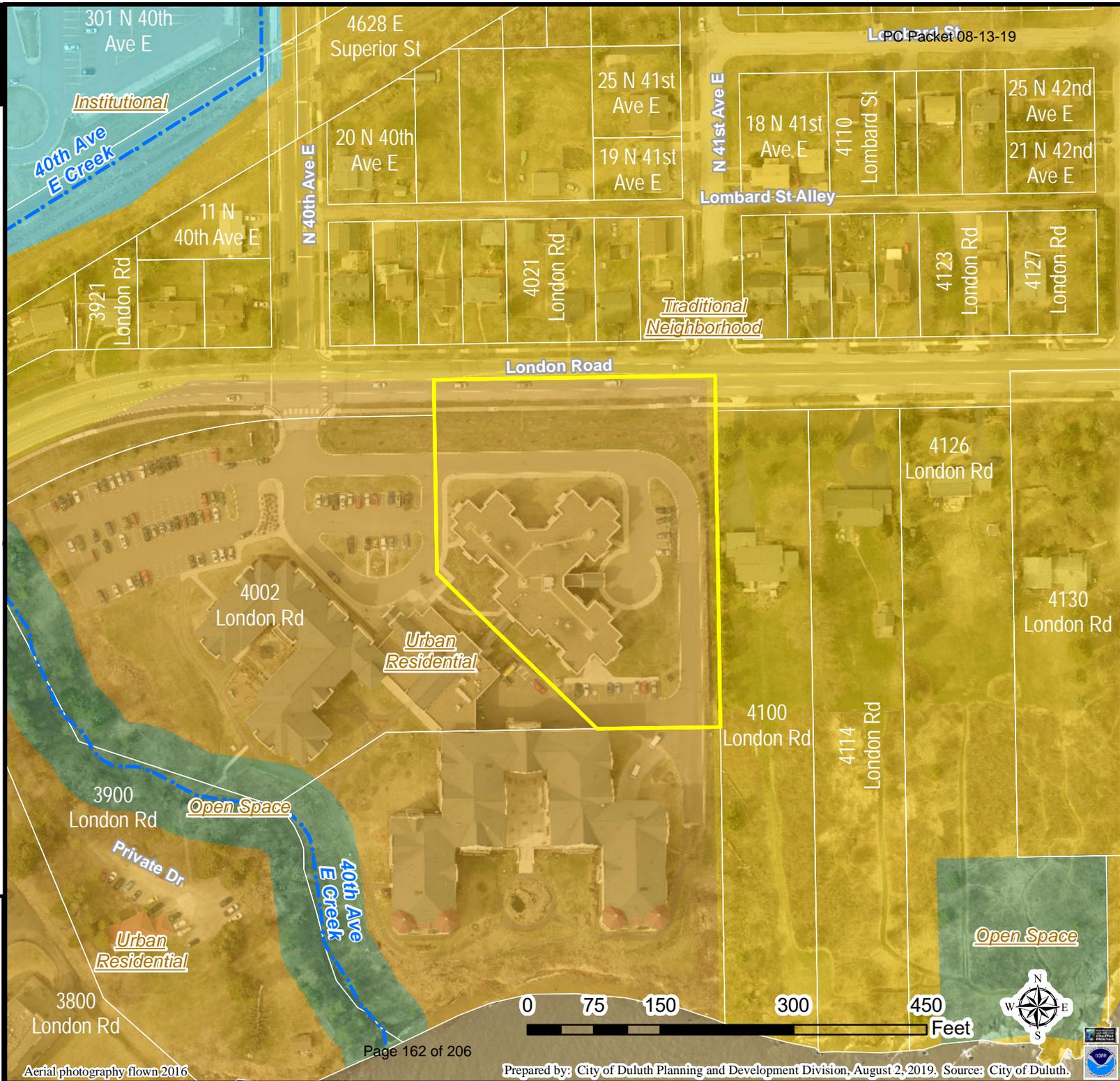
Legend

- Lake Superior
- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- Zoning Boundaries
- Floodplain (UDC)**
- General Flood Plain
- Flood Way
- Flood Fringe
- Trout Stream (GPS)
- Other Stream (GPS)

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PL 19-099
4002 London Rd.
Ecumen Lakeshore
Parking Variance



Legend

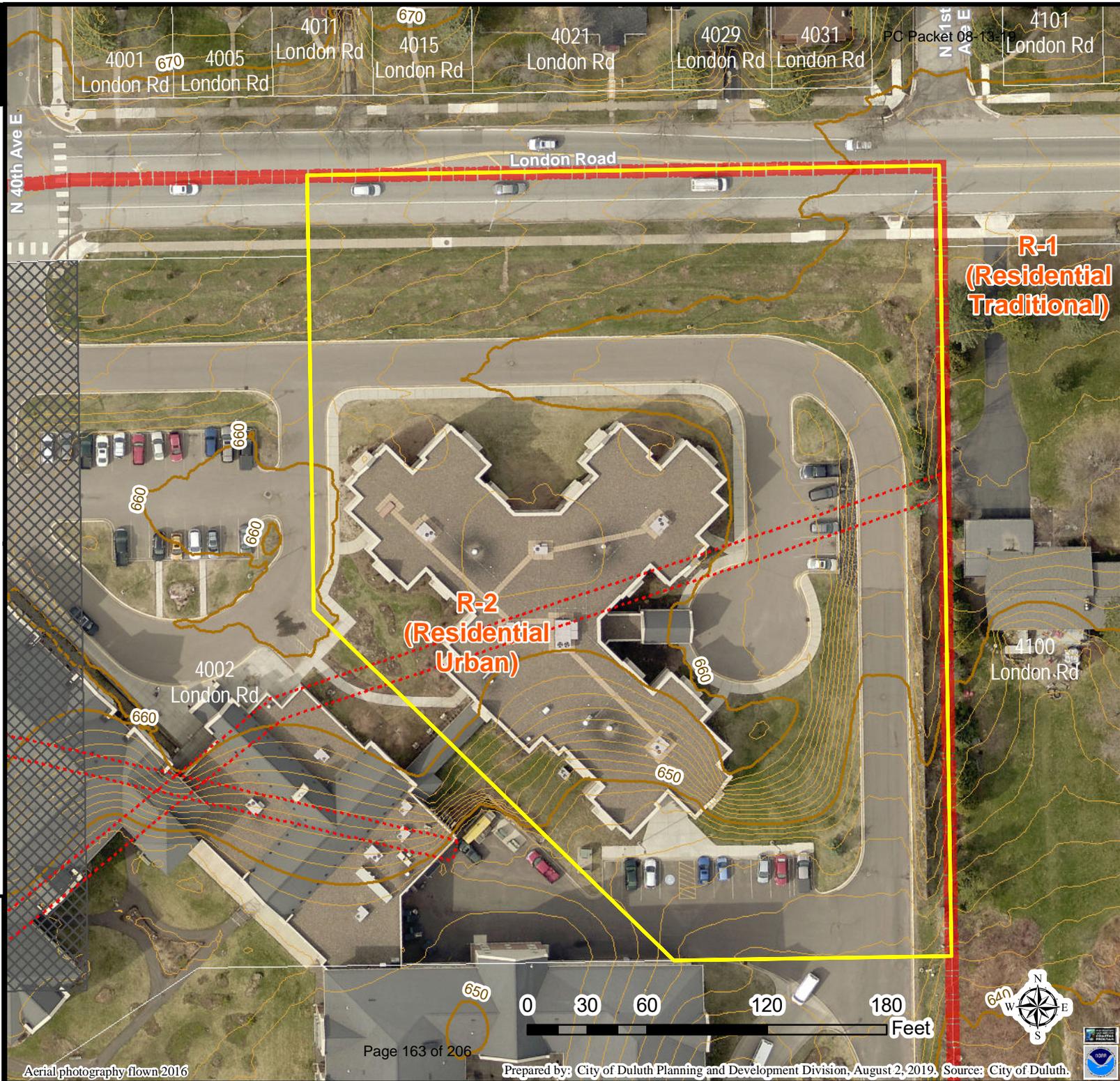
- Trout Stream (GPS)
- - - Other Stream (GPS)
- Open Space
- Open Space/Outside Duluth
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Central Business Secondary
- Central Business Primary
- Large-scale commercial
- Tourism/Entertainment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

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PL 19-099
4002 London Rd.
Ecumen Lakeshore
Parking Variance



Legend	
Elevation	
	1 Ft contour
	10 Ft contour
	Lake Superior
	Vacated ROW
Easement Type	
	Utility Easement
	Other Easement
	Zoning Boundaries
Floodplain (UDC)	
	General Flood Plain
	Flood Way
	Flood Fringe
	Trout Stream (GPS)
	Other Stream (GPS)

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Ecumen Lakeshore Parking Study 7/30/19

Area	Use	Requirement	SF or Units	Stalls Required
Fountains	Transitional Care (Nursing Home)	1 per 6 beds	60 Beds	10
Plaza/Office/Admin/Commons	Admin	2.5 per 1,000 SF	23,592 SF	59
Shores	Assisted Living	1 per 3 habitable units	60 Units	20
Crest	Independent Living (Multi Family)	1.25 per dwelling units	102 Units	128

Total Required	217
Total Max Allowed (+50%)	325

Existing Provided	
Surface	122
Garage	100

Proposed New	24
---------------------	-----------

Total Proposed Provided	246
--------------------------------	------------

N 40TH AVE EAST

SOUTHBOUND HIGHWAY 61
LONDON ROAD

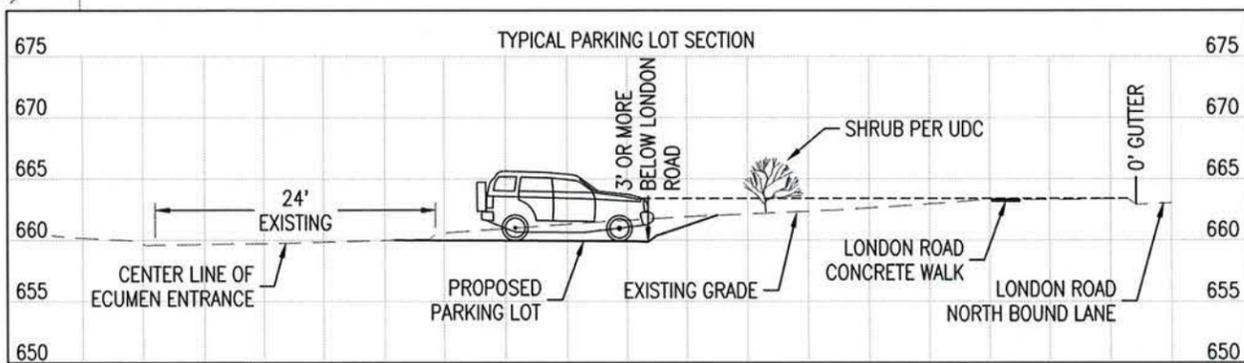
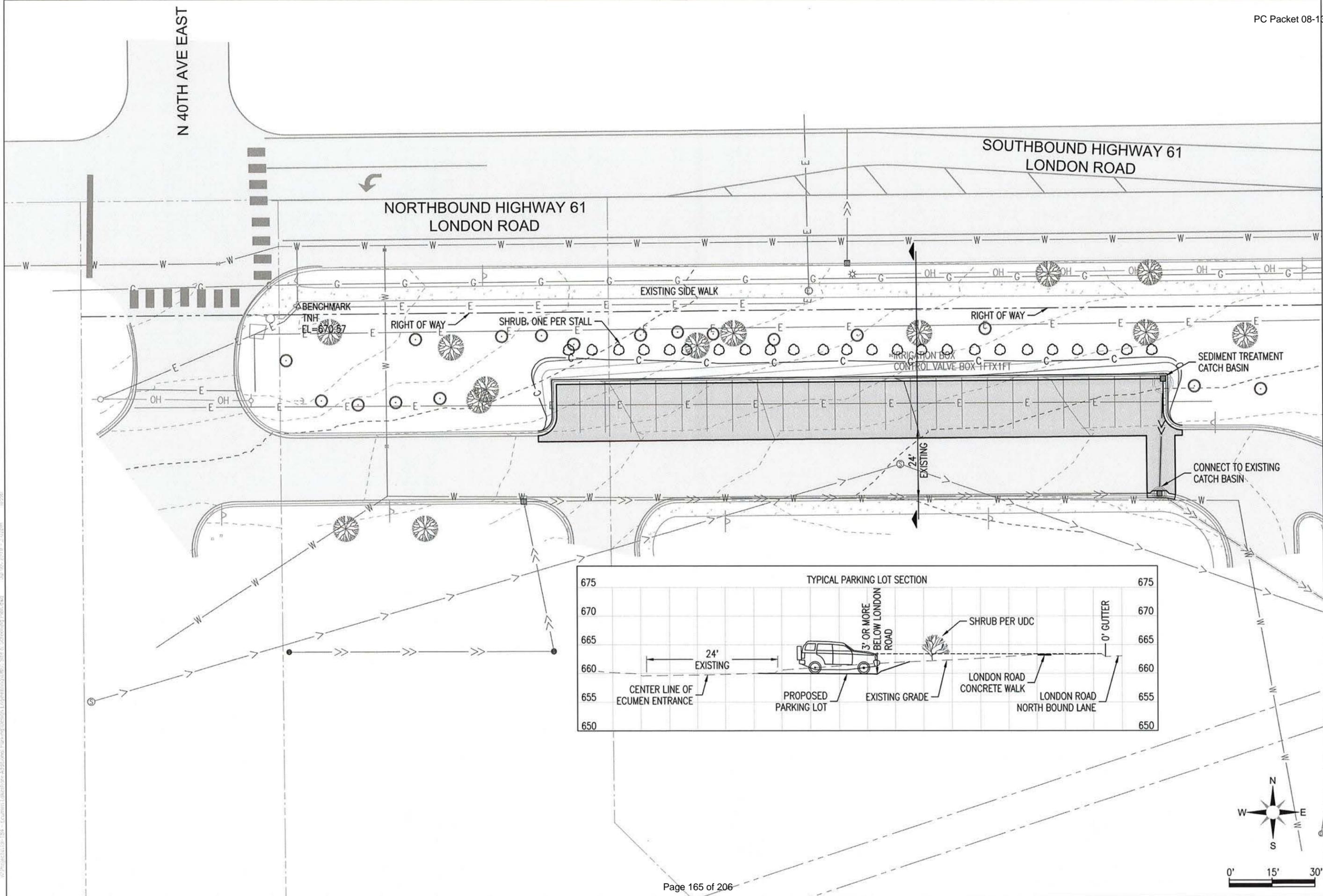
NORTHBOUND HIGHWAY 61
LONDON ROAD

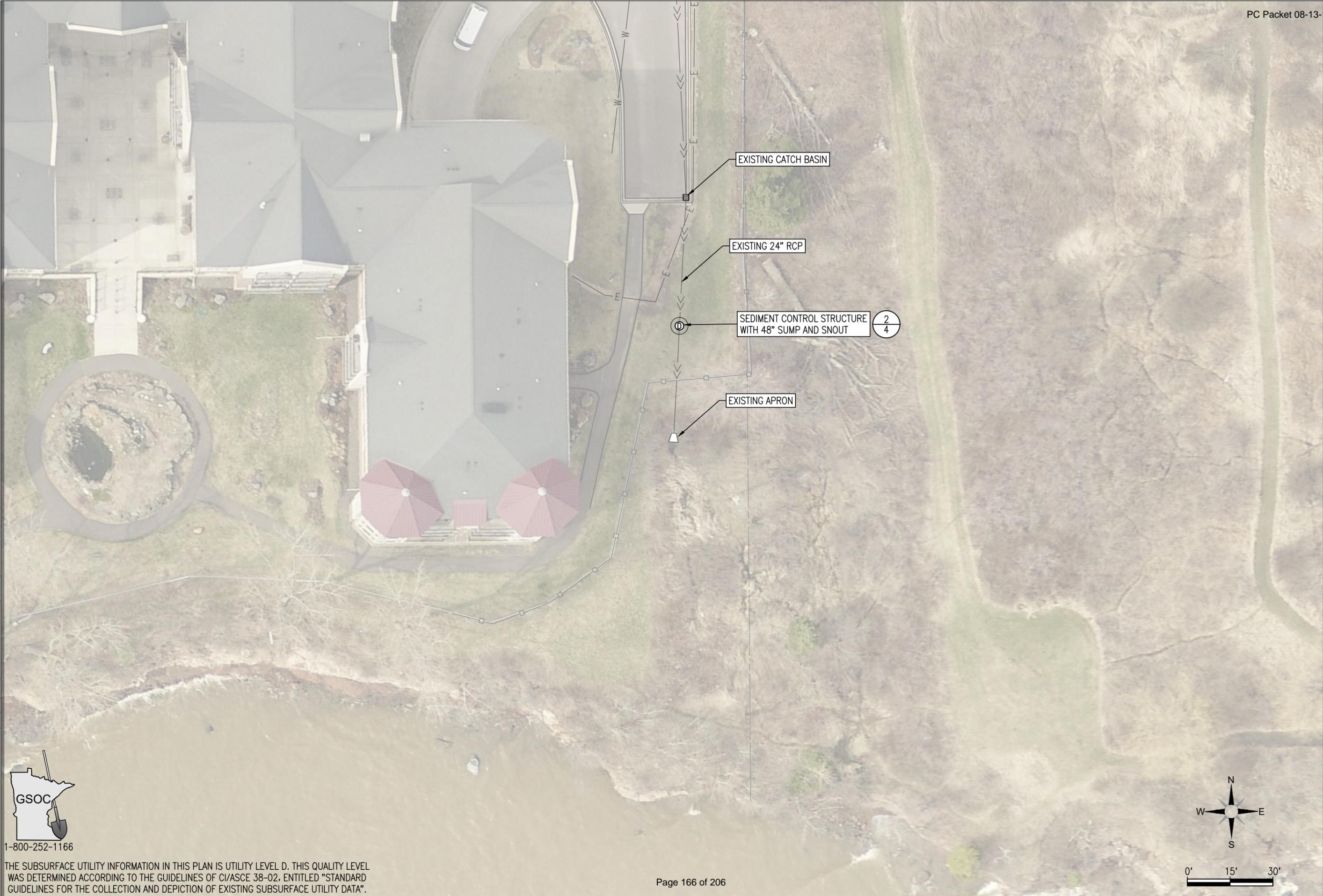


ECUMEN DULUTH CO-OP
ADDITIONAL PARKING
3900 LONDON RD., DULUTH, MN 55804

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer under the laws of the State of Minnesota.
PRELIMINARY
NOT FOR CONSTRUCTION
Lic. No: 40926
Engineer: David C. Bolf

revision
Proj: 19-184
Date: 07/09/19
Drawn: JDO
Checked: TPD
SITE & SCREENING PLAN
Sheet Title
Sheet Number
1





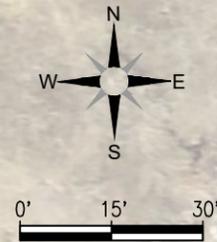
ECUMEN DULUTH CO-OP
ADDITIONAL PARKING
 3900 LONDON RD., DULUTH, MN 55804

I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer under the laws of the State of Minnesota.
PRELIMINARY
NOT FOR CONSTRUCTION
 Engineer: David G. Bolf
 Lic. No: 40926
 08/02/2019

revision	
REV 1	
Proj: 19-184	
Date: 08/02/19	
Drawn: JDO	
Checked: TPD	
PERMANENT	
SEDIMENT	
CONTROL	
Sheet Title	
Sheet Number	7



THE SUBSURFACE UTILITY INFORMATION IN THIS PLAN IS UTILITY LEVEL D. THIS QUALITY LEVEL WAS DETERMINED ACCORDING TO THE GUIDELINES OF CI/ASCE 38-02, ENTITLED "STANDARD GUIDELINES FOR THE COLLECTION AND DEPICTION OF EXISTING SUBSURFACE UTILITY DATA".



V:\Projects\19-184 - Ecumen Lakeshore Additional Parking\Design\Engineering\DWG\Storm Set\Manhole.dwg Aug 05, 2019 - 4:07pm jacob



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

Date: August 5, 2019
 To: Planning Commission
 From: Emilie Voight and Steven Robertson, Planning Team
 RE: PL 19-107 & PL 19-108: UDC Text Amendments Pertaining to Temporary Structures, Shipping Containers, Tree Preservation, Craft Brewing and Distilleries, and Tiny Houses and Small Lot Development

Subsequent to the memo provided to the Planning Commission on June 5th, the City of Duluth Planning & Development Division held a public meeting on June 25th to gather public input on the topics of temporary structures and shipping containers, tree preservation, craft brewing and distilling, and tiny houses and small lot development.

Based on the collected feedback from that meeting and the Planning Commission brownbag lunch held on July 17th, Planning Team staff are now proposing a number of updates to the UDC. These updates are delineated in the attached draft ordinances:

PL 19-107: Tiny Houses and Small Lot Development

PL 19-108: Tree Preservation, Craft Brewing and Distilleries, Temporary Structures and Shipping Containers

These draft ordinances are provided to the Planning Commission for first review and discussion. Comments and feedback received from Commissioners and/or members of the public before August 28, 2019 will be taken into consideration for the preparation of final drafts, which will be brought for a public hearing and vote at the September 10th Planning Commission meeting.

Planning Team staff can be reached at planning@duluthmn.gov.

..Title

AN ORDINANCE AMENDING SECTION 50-14, RESIDENTIAL DISTRICTS
And SECTION 50-19, PERMITTED USE TABLE
And SECTION 50-20, USE SPECIFIC STANDARDS
And SECTION 50-21, DEVELOPMENT STANDARDS
And SECTION 50-41, DEFINITIONS

..Body

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-14.5 of the Duluth City Code, 1959, as amended, be amended as follows:

50-14.5 Residential-Traditional (R-1).

A. Purpose.

The R-1 district is established to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots. This district is intended to be used primarily in established neighborhoods. Many of the dimensional standards in this district require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas. Uses are allowed as shown in Table 50-19.8;

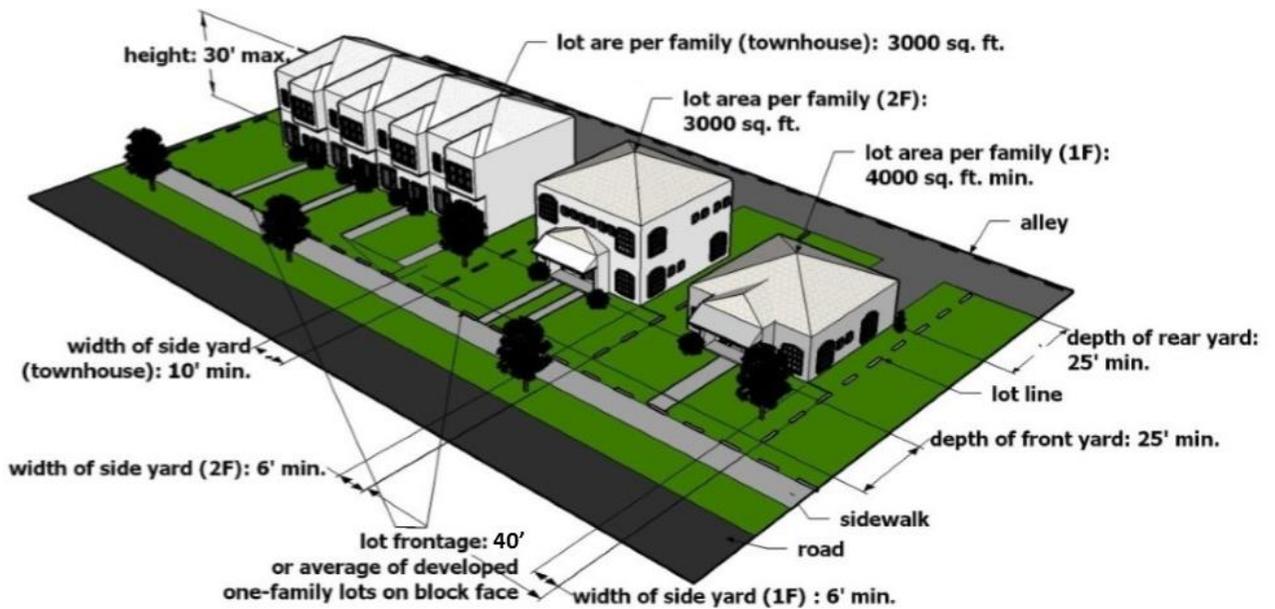
TABLE 50-14.5-1 R-1 DISTRICT DIMENSIONAL STANDARDS		
LOT STANDARDS		
Minimum lot area per family (One-family) ^{[1][2]}		The smaller of 4,000 sq. ft. or average of developed 1-family lots on the block face
Minimum lot area per family (Two-family) ^{[1][2][3]}		The smaller of 3,000 sq. ft. or average of developed 2-family lots on the block face
Minimum lot area per family (Townhouse) ^[1]		3,000 sq. ft.
Minimum lot frontage (one-family) ^[1]		The smaller of 40 ft. or average of developed lots with similar uses on the block face
Minimum lot frontage (two-family and townhouses) ^[1]		The average of developed lots with similar uses on the block face, but not less than 40 feet.
STRUCTURE SETBACKS		
Minimum depth of front yard		The smaller of 25 ft. or average of adjacent developed lots facing the same street
Minimum width of side yard (one- and two-family)	General	6 ft.
	Lots with less than 50 ft. <u>but more than 25 ft.</u> frontage and garage	Combined width of side yards must be at least 12 ft., <u>with no side yard less than 2 ft. wide</u>
	<u>Lots with 25 ft. or less frontage</u>	<u>Combined width of side yards must be at least 8 ft., with no side yard less than 2 ft. wide</u>
Minimum width of side yard (Townhouse)		10 ft. if adjacent to another lot
		25 ft. if adjacent to platted street
Corner Lot: width of front side yard	Dwelling	15 ft.
	Detached accessory building	<u>15</u> 20 ft.
	Permitted non-residential building	25 ft.
Minimum depth of rear yard		25 ft.
STRUCTURE HEIGHT		
Maximum height of building		30 ft.
^[1] Determined using "Lots on the block face" definition. When doing this calculation, exclude the subject lot from the calculation. ^[2] Lots without municipal sewer must also meet requirements of 50-21.2. ^[3] Existing structures that have a change of use from one-family to two-family must meet minimum lot area and frontage, but not setbacks. Section 50.21 <i>Dimensional standards</i> contains additional regulations applicable to this district.		

H. Example.



A. Illustration.

R-1 Example Lot Layout



(Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 7; Ord. No. 10225, 5-28-2013, § 1; Ord. No. 10337, 11-24-2014, § 1; Ord. No. 10421, 11-9-15, § 1.)

Section 2. That Section 50-14.6 of the Duluth City Code, 1959, as amended, be amended as follows:

50-14.6 Residential-Urban (R-2).

A. Purpose.

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

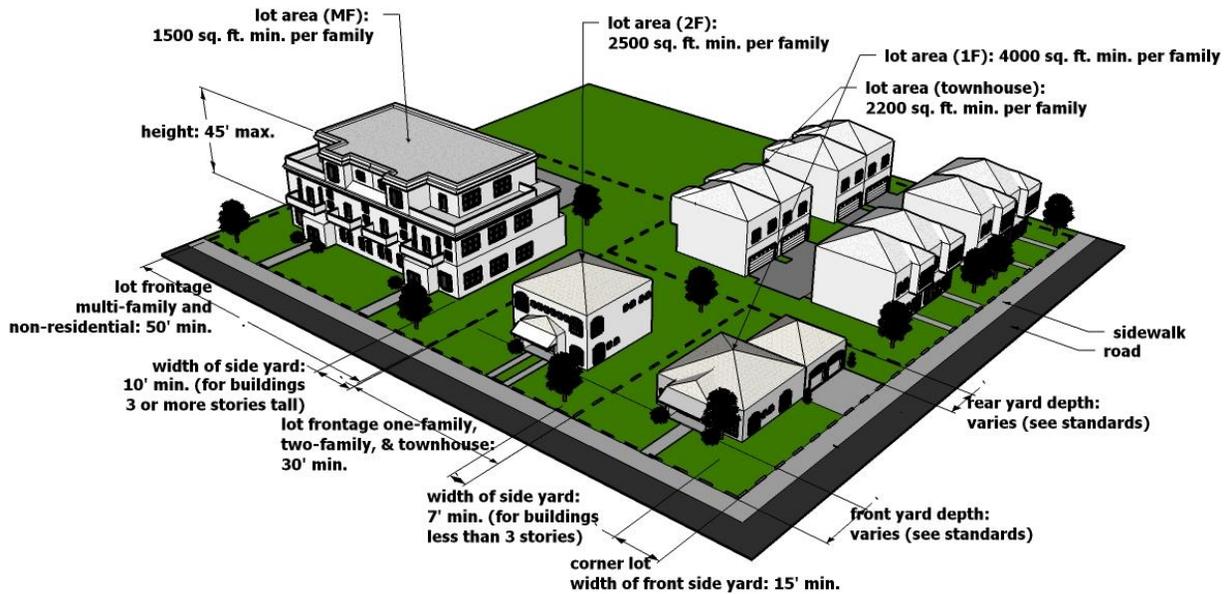
TABLE 50-14.6-1 R-2 DISTRICT DIMENSIONAL STANDARDS		
		LOT STANDARDS
Minimum lot area per family	One-family	4,000 sq. ft.
Minimum lot area per family	Two-family	2,500 sq. ft.
Minimum lot area per family	Multi-family	750 sq. ft.
Minimum lot area per family	Townhouse	2,200 sq. ft.
No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use.		
Minimum lot frontage	One-family, two-family, and townhouse	30 ft.
	Multi-family and non-residential	50 ft.
		STRUCTURE SETBACKS
Minimum depth front yard		The smaller of 25 ft. or average of adjacent developed lots facing the same street
Minimum width of side yard for buildings less than 3 stories <u>(two-family, multi-family, and townhouses)</u>		6 ft.
Minimum width of side yard for buildings less than 3 stories <u>(one-family)</u>		<u>Combined width of side yards must be at least 8 ft., with no side yard being less than 2 ft. wide</u>
Minimum width of side yard for building 3 stories or more		10 ft.
Corner Lot: width of front side yard	Dwelling	15 ft.
	Detached accessory building	<u>15</u> 20 ft.
	Permitted non-residential building	25 ft.
Minimum depth of rear yard		25 ft.
		STRUCTURE HEIGHT
Maximum height of building		45 ft.
Section 50.21 <i>Dimensional standards</i> contains additional regulations applicable to this district.		

A. Example.



B. Illustration.

R-2 Example Lot Layout



(Ord. No. 10042, 8-16-2010, § 1; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2-11, § 8; Ord. No. 10192, 12-17-2012, § 3.)

Section 3. That Section 50-19.8 of the Duluth City Code, 1959, as amended, be amended as follows:

(SEE ATTACHED USE TABLE)

Section 4. That Section 50-20.1 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.1 Residential uses.

A. Dwelling, two-family.

In the R-1, R-2 and R-P districts, two-family dwellings shall be designed to protect and reflect the character of one-family residences as set forth below:

- ~~1. Minimum size. A two family dwelling shall contain at least 1,800 square feet of floor area (not including garages or utility rooms or basement or attic space not used for living quarters);~~
- ~~1. 2-~~ Exterior stairways. No exterior stairways with a total vertical rise greater than five feet shall be permitted;
- ~~2. 3-~~ In the R-1 and R-2 districts, each unit in a two family dwelling must have a separate exterior entrance on the facade facing the front property line;

B. Dwelling, townhouse.

In the R-1 and R-2 districts, each dwelling shall exhibit the characteristics of a series of one-family dwellings that are arranged in an attached side by side fashion and shall be designed to protect the character of one-family residences as set forth below:

1. Dwelling fronting street. Townhouse dwellings shall be located on lots in such a way that each individual dwelling unit has a minimum of 20 feet of street frontage in the R-1 district, and a minimum of 15 feet of street frontage in the R-2 district;
2. Variation of exterior walls. No more than two adjacent townhouse units may have front facades in the same vertical plane. Where a variation in front façade plane is required, the variation shall be a minimum of three feet;
3. Landscaping. Prior to the occupancy and use of a townhouse dwelling, coniferous or evergreen trees meeting the minimum size requirements of Section 50-25.2 shall be planted in required front and back yard areas on an average spacing of 20 feet;
4. Screening of refuse areas. Where refuse storage areas are directly viewable from any exterior lot line at a height of six feet above grade, they shall be screened by wood, brick, or stone fences, or by vegetative materials, with a minimum height of six feet, designed so that at least 75 percent of the refuse area is obscured by opaque materials when viewed at an angle perpendicular to the screening materials;
5. Maximum number of units. In the R-1 district, townhomes constructed on the corners of blocks or adjacent to the intersections of two or more public or private road may have up to eight dwelling units, but townhomes constructed in the middle of a subdivision block may have no more than six dwelling units. In all other zone districts, townhomes may not exceed eight dwelling units;
6. Separate entrances. Each unit in a townhome must have a separate exterior entrance on the facade facing the front yard property line, or front side yard property line;
7. Design features. At least three of the following design features shall be provided for visual relief along all facades of each townhome structure:
 - (a) Roof dormers;
 - (b) Gables;
 - (c) Recessed entries;
 - (d) Covered porches;
 - (e) Cupolas;
 - (f) Pillars, pilasters or posts;
 - (g) Bay windows;
 - (h) Eaves of at least 12 inches beyond the building wall or a parapet wall with an articulated design (decorative cornice, etc.);
 - (i) Multiple windows with minimum four inches trim;
 - (j) Recesses/shadow lines;

C. Dwelling, multi-family.

In the F-2, F-4, F-5 and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

D. Residential care facility/assisted living.

In the F-2, F-4, F-5, and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

E. Rooming house.

In the F-2, F-4, F-5 and F-8 districts, this use is permitted on the ground floor of the corridor building type only. In other building types it is only permitted above the ground floor;

F. Manufactured home park.

1. New manufactured home parks, expansions to existing manufactured home parks, and new or replacement of manufactured home units on lots of record are prohibited in the floodway district. If allowed in the flood fringe district, these uses shall be subject to the requirements of Section 50-18.1 of this Chapter and the following standards;
2. Existing, new and replacement manufactured homes in the flood fringe district must comply with the following standards:
 - (a) All manufactured homes must be securely anchored to an adequately anchored foundation system that resists flotation, collapse, and lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable state anchoring requirements for resisting wind forces;
 - (b) New or replacement manufactured homes in existing manufactured home parks must have vehicular access at or above an elevation not more than two feet below the regulatory flood protection elevation, unless the property owner has a flood warning and emergency evacuation plan acceptable to the city council as specified in Section 50-18.1; ~~(Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 16; Ord. No. 10286, 3-10-2014, § 7.; Ord. No. 10421, 11-9-2015, § 2.)~~

G. Cottage housing development.

In the RR-1, RR-2, R-1, R-2, and MU-N districts, this use is allowed only upon approval of a special use permit as described in Section 50-37.10 and compliance with use-specific standards as set forth below:

1. Frontage. In any cottage housing development, each unit with a façade facing the street and subject to front yard setbacks must comply with regulations requiring each unit to have a principal entrance facing the front lot line;
 2. Common open space or amenity area. Cottage housing developments shall provide common open space or an amenity area which is centrally located, equally accessible from, and at the disposition of all dwelling units;
 3. Parking. Cottage housing developments shall be subject to off-street parking regulations for one-family dwellings. Shared garages shall be limited to **(XXX spaces?? Or dimensions??)** and shall not be located in the front yard;
 4. Connectivity and access. In any cottage housing development, sidewalks or multi-use paths must be provided to ensure pedestrian access from individual dwelling units to the street;
- (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 16; Ord. No. 10286, 3-10-2014, § 7.; Ord. No. 10421, 11-9-2015, § 2.)

Section 5. That Section 50-20.5 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.5 Accessory uses.

A. Accessory agriculture roadside stand.

Only one stand offering for sale farm products produced on the premises is permitted provided that such stand does not exceed an area of 200 square feet and that it is located not nearer than 25 feet to any street or highway;

B. Accessory bed and breakfast.

The owner and operator of an accessory bed and breakfast shall be required to live in the establishment. In addition, the use shall:

1. Have no more than five habitable units;
2. Appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;
3. Have no greater impact on surrounding public areas, infrastructure or natural resources than a fully occupied private home with house guests;
4. Be located on a lot or tract containing a minimum of 0.6 acre;
5. Contain a minimum of 1,500 square feet of area on the first floor of the main building;
6. Dining areas shall not exceed three seats per habitable unit in bed and breakfast inns. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;
7. Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days;
9. May be subject to other conditions deemed necessary by the city to ensure the use complies with the purpose of this subsection;

C. Accessory boat dock, residential.

This use shall comply with the following standards:

1. Dockage of boats owned and primarily used by a resident of the property is a permitted accessory use to the primary residential use and shall not be limited in number;
2. If there is a residential structure on the property and the property has frontage on an improved street, the owner of the residential structure may rent out boat dockage to a maximum of two boats owned by others. If the property does not have frontage on an improved street, the owner of the residential structure may not rent dockage space to others. Boat dockage use on a property that is not residentially developed is permitted as a principal use provided that the use is limited to one boat for each lot or group of contiguous lots in the same ownership, and the boat is owned and primarily used by the owner of the property;
3. For each new rental boat dock space created or made legal after April 14, 1974, one off street parking space shall be provided in addition to all other off street parking spaces required by other legal uses of the property, such spaces to be constructed in accordance with Section 50-24;
4. At the request of the building official, the owner of property shall provide boat registration or other documentary evidence to prove compliance with these standards;
5. No buildings other than residential or residential accessory structures, no winter storage of boats other than those owned by a resident of the property in question, no repair facilities, fuel sales, food or refreshment sales, rentals of boats, boat or parts sales or displays or other commercial uses shall be permitted;

D. Accessory dwelling unit.

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

1. Only one accessory dwelling unit may be created per lot;
2. No variances shall be granted for an accessory dwelling unit;

3. Only the property owner, which shall include title holders and contract purchasers, may apply for an accessory dwelling unit;
- ~~4. One off street parking space shall be provided in addition to off street parking that is required for the primary dwelling;~~
- ~~4. 5-~~ Accessory dwelling units shall contain no more than 800 square feet of floor space and shall be consistent in character and design with the primary dwelling;
- ~~5. 6-~~ If a separate outside entrance is necessary for an accessory dwelling unit located within the primary dwelling, that entrance must be located either on the rear or side of the building;
- ~~6. An accessory dwelling unit shall not exceed the floor area square footage of the principal structure and shall not exceed the height of the principal structure;~~
- ~~7. The creation of an accessory dwelling shall not create a separate tax parcel;~~
- ~~8. An accessory dwelling unit shall not be considered a principal one-family dwelling;~~
- ~~9. Except in the case of an accessory vacation dwelling unit, the minimum rental period for an accessory dwelling unit is 30 consecutive days;~~

E. Accessory heliport.

1. All accessory heliports shall have and maintain in effect at all times all required permits and approvals, if any, for the facility and operation required by the FAA, and shall design and maintain the facility and conduct operations in compliance with those permits and approvals;
2. In the R-C and I-G districts, this use shall be permitted only when it is accessory to an airport as a primary use;

F. Accessory home occupation.

All home occupations not listed separately in Table 50-19.8 must comply with the following standards:

1. The use must be conducted entirely in the residence or accessory buildings and not on outdoor portions of the lot, except that the growing of food crops or ornamental crops, to be sold or donated off-site, shall be exempt from this provision;
2. No business involving retail sales of goods from the premises is permitted;
3. No person not a member of the family residing on the premises shall work on the premises;
4. Not more than 25 percent of the floor area of one story of the dwelling shall be devoted to such home occupation and not more than 50 percent of an accessory structure may be devoted to such home occupation;
5. The home occupation shall not require external alterations that would change the residential character of the property;
6. No display pertaining to such occupation shall be visible from the street;
7. The use of the property for a home occupation shall not result in the number of client appointments at the property in excess of two appointments per hour and appointments shall be limited to the hours of 8 a.m. to 7 p.m. and not more than four clients shall be on site at the same time;
8. No equipment shall be used that creates offensive noise, vibration, sound, smoke, dust, odors, heat, glare, X-ray or electrical disturbance to radio or television or that otherwise constitutes a nuisance;
9. All home occupations that require a license from the state shall maintain a valid license at all times and shall operate in compliance with the terms of that license and all applicable regulations of the state at all times;
10. No motor vehicle repair is permitted as an accessory home occupation and repair of motor vehicles not registered to the owner or leaseholder of the property is prohibited regardless of whether the repair is being made for compensation;

G. Accessory Home Share

An accessory home share may be created within those districts shown where allowed by Table 50.19.8 provided these standards are met.

1. The rental or purchase period shall be for 29 days or less;
2. The maximum number of overnight guests allowed is 4 persons in addition to the owner occupants;
3. The property owner must obtain all permits from the City of Duluth and State of Minnesota required for guest occupancy on the property;
4. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, property use rules, taxation, and home share permit violations procedures;
5. The permit shall expire upon change in ownership of the property or one year from issuance date, whichever occurs first;
6. At least one permanent resident must be generally present on or about the premises at all times that the property is rented;
7. A permit holder may not advertise an accessory home share for an accessory structure that is a storage shed or garage;
8. A permit holder may not advertise an accessory home share in any area exterior to the dwelling unit or any lot without a principle dwelling.

H. Accessory sidewalk dining area.

In all districts, this use requires approval of a sidewalk use permit pursuant to Section 50-37.12;

I. Accessory solar or geothermal power equipment.

In all districts, other than building integrated solar collection systems, solar collection systems shall comply with the following requirements:

1. Ground-mounted solar system.
 - a) Solar collectors shall not be located in the front yard between the principal structure and the public right-of-way;
 - b) Solar collectors shall be located a minimum of six feet from all property lines and other structures;
 - c) Solar collector areas in any residential district shall not exceed the greater of one-half the footprint of the principal structure or 600 square feet, whichever is greater. The size of solar collector areas in all districts except residential districts shall not exceed one-half of the footprint of the principal structure;
 - d) Free-standing or ground-mounted solar installations shall not exceed 20 feet in height, when the system is oriented at its maximum design pitch;
2. Roof-mounted or wall-mounted solar system.
 - a) A solar collection system shall be located a minimum of six feet from all property lines and other structures except the structure on which it is mounted;
 - b) Notwithstanding the height limitations of the zoning district, building-mounted solar energy systems shall not extend higher than three feet above the ridge level of a roof on a structure with a gable, hip or gambrel roof and shall not extend higher than ten feet above the surface of the roof when installed on a flat or shed roof;
 - c) The solar collector surface and mounting devices for building-mounted solar energy systems shall be set back not less than one foot from the exterior perimeter of a roof for every one foot that the system extends above the parapet wall or roof surface, if no parapet wall exists, on which the system is mounted. Solar energy systems that extend less than three feet above the roof surface shall be exempt from this provision;
 - d) A solar collection system may be located on an accessory structure;

3. Solar easements.

A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall

record the easement with the county recorder. If no such easement is negotiated and recorded, the owner of the solar collector shall have no right to prevent the construction of structures permitted by this Chapter on nearby properties on grounds that the construction would cast shadows on the solar collection system;

J. Accessory uses or structures not listed elsewhere.

1. In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:
 - a) The construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory building;
 - b) Prior to issuance of a building permit for such accessory use, a building demolition bond shall be approved by the city and in an amount sufficient to demolish such accessory structure be filed with the building official;
 - c) The owner shall execute a license, in a form approved by the city, authorizing the city to enter upon the real property for the purpose of demolishing such accessory structure in the event a principal structure is not completed as required by this Section.
2. In the RR-2 district, business shall not be conducted from a garage;
3. In the R-2 district, accessory building includes a storage garage on a lot occupied by a multi-family dwelling, townhouse or rooming house;
4. In the MU-N district, accessory buildings shall be subject to the following restrictions:
 - a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
 - b) Storage of trailers and trucks or storage of goods within trailers and trucks shall not be a permitted accessory use unless (i) the primary use of the lot is a parking lot, parking garage, or filling station, or (ii) the truck or trailer is used on a regular basis for deliveries or the hauling of supplies to or from a business;
5. In the MU-C, MU-I and MU-W districts, accessory buildings shall be erected at the same time or after the construction of the principal building and subject to the following restrictions:
 - a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
 - b) The storage of trailers and trucks or the storage of goods within trailers and trucks shall not be a permitted use unless (i) the primary use of the lot is a parking lot, parking garage, filling station, automobile or light vehicle sales or service, or automobile or light vehicle storage, or (ii) the truck or trailer is used on a regular basis for deliveries or the handling of supplies to or from a business;
6. In the MU-B, I-G, and I-W districts, accessory buildings shall be erected at the same time or after the construction of the building for the principal use;
7. An accessory building may observe an equal or greater distance to the front property line as provided by a principal structure if the accessory building provides the front and side yards required for dwelling in that district as per Article II and Section 50-20;

K. Accessory wind power equipment.

In all districts, accessory wind power systems shall comply with the following requirements:

1. The base of the tower shall be set back from all property lines, public rights-of-way, and public utility lines a distance equal to the total extended height. A tower may be allowed closer to a property line than its total extended height if the abutting property owner(s) grants written

permission and the installation poses no interference with public utility lines or public road and rail right-of-ways;

2. Towers that are 50 feet or less in height are permitted by right. Towers exceeding 50 feet in height require approval of a special use permit, provided that in no case shall tower height exceed 130 feet;
3. Notwithstanding the provisions of subsection 2 above, no wind power facility shall be taller than 75 feet within any migratory bird flight path;
4. Sound produced by the turbine under normal operating conditions, as measured at the property line of any adjacent property improved with a dwelling unit at the time of the issuance of the zoning certificate, shall not exceed 55 dba for any period of time. The 55 dba sound level may be exceeded during short-term events out of the owner's control such as utility outages or severe wind storms;
5. The turbine and tower shall remain painted or finished in the color that was originally applied by the manufacturer;
6. The blade tip or vane of any small wind energy system shall have a minimum ground clearance of 15 feet as measured at the lowest point of the arc of the blades;
7. No sign that is visible from any public street shall be permitted on the generator, tower, building or other structure associated with a small wind energy system other than the manufacturer's or installer's identification and appropriate warning signs;
8. No illumination of the turbine or tower shall be allowed unless required by the FAA;
9. Any climbing feet pegs or rungs below 12 feet of a freestanding tower shall be removed to prevent unauthorized climbing. For lattice or guyed towers, sheets of metal or wood or similar barriers shall be fastened to the bottom tower section such that it cannot readily be climbed;
10. No part of this use may project above any of the imaginary airspace surfaces described in FAR Part 77 of the FAA guidance on airspace protection;
11. No small wind energy system shall be installed until evidence has been given that the utility company has been informed of the customer's intent to install an interconnected customer-owned generator. Off-grid systems shall be exempt from this requirement;

L. Minor utilities and accessory wireless antennas attached to existing structures.

The following standards apply to accessory wireless antennas that are attached to existing structures and to minor utilities regardless of whether they are attached to an existing structure:

1. A special use permit is required to allow any antenna to exceed 150 feet in height;
2. All building-mounted antennas shall meet or exceed current standards and regulations of the FAA, FCC and any other state or federal agency with the authority to regulate communications antennae and support structures;
3. The size, design and location of each attached antenna shall reduce visibility from surrounding buildings and from the public rights-of-way adjoining the property to the greatest extent feasible;
4. Building-mounted antennas or disguised antenna support structures shall be of a color identical to or closely compatible with the surface to which they are mounted;
5. Except when a support structure for a building-mounted antenna is an otherwise lawfully permitted sign, the placement of advertising on antennae is prohibited;

M. Accessory vacation dwelling unit.

An accessory vacation dwelling unit may be created within, or detached from, any one-family dwelling or vacation dwelling unit in those districts shown where allowed by Table 50-19.8, provided these standards are met:

1. Only one accessory vacation dwelling unit may be created per lot;
2. No variances shall be granted for an accessory vacation dwelling unit;
3. An accessory vacation dwelling unit shall contain no more than 800 square feet of floor area and shall be consistent in character and design with the primary dwelling;
4. If a separate outside entrance is necessary for an accessory vacation dwelling unit located within

- the primary building, that entrance must be located either on the rear or side of the building;
5. The minimum rental period shall be not less than two consecutive nights;
 6. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;
 7. Off-street parking shall be provided at the following rate:
 - (a) Accessory vacation dwelling units licensed on or before May 15, 2016, shall provide the following minimum number of off street parking spaces:
 - 1-2 bedroom unit, one space;
 - 3-4 bedroom unit, two spaces;
 - 5+ bedroom unit, three spaces;
 - (b) Accessory vacation dwelling units licensed after May 15, 2016, shall provide the following minimum number of off-street parking spaces:
 - 1-2 bedroom unit, one space;
 - 3 bedroom unit, two spaces;
 - 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.

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

8. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street;
9. The property owner must obtain all licenses and permits from the city of Duluth and State of Minnesota required for guest occupancy on the property for two to 29 days;
10. The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;
11. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbeque grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties;
12. Any accessory vacation dwelling unit that will be located in a multi-family structure that has nine or more dwelling units shall:
 - (a) Make available 24-hour staffing at a front desk that is accessible to all tenants;
 - (b) If determined applicable by the Land Use Supervisor, provide a letter from a duly established Home Owner's Association stating the support of the Home Owner's Association Board of Directors for the accessory vacation dwelling unit, and enumerating any Home Owner's Association rules to be incorporated into the interim use permit.
13. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.
14. An owner of an accessory vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as amended, for the remainder of the permit term. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 19; Ord. No. 10192, 12-17-2012, § 11; Ord. No. 10225, 5-28-2013, § 7; Ord. No. 10446, 4-11-2016, § 2; Ord. No. 10451, 5-23-2016, §2; Ord. No. 10514 6-12-17, §2)

Section 6. That Section 50-21.2 of the Duluth City Code, 1959, as amended, be amended as follows:

50-21.2 Special dimensional standards.

A. Lot without municipal sewer.

Lot areas for properties not provided with municipal sewer shall be at least two acres in size or the minimum lot area for the zone district, whichever is larger, and shall be subject to county ordinances and standards regulating individual sewage treatment systems. Lots with large wetlands or shallow bedrock may be required to be larger than two acres, and shall be determined on a case-by-case basis based on the area needed to fit a sewage treatment system on the site. Lots smaller than two acres may be allowed in areas zoned R-P based on soil and site conditions;

B. Front yards on double frontage lots.

On lots having double frontage and where the first and second frontages are on opposite lot lines, the required front yard shall be provided on the frontage that is the generally established frontage on the block, as determined by the building official;

C. Side yards.

1. Dwelling units above commercial uses.

In all residential and mixed use districts, where dwelling units are erected above commercial establishments, no residential side yard is required, except for any side yard required for the commercial building on the side of a lot adjoining a residential district. In form districts, no side yard is required even if the lot adjoins a residential district;

2. Attached and multi-family dwellings.

For the purpose of side yard regulations, a two-family dwelling, townhouse, or multi-family dwelling shall be considered as one building occupying one lot;

3. Driveways.

Where no garage facilities are provided and the alley is not developed for access at the time the dwelling is constructed in an R-1 or R-2 district, there shall be provided one side yard of a minimum of nine feet for a driveway and the other side yard shall have a minimum width of five feet;

D. Rear yards.

An accessory structure cannot exceed 20 feet in height, except in the case of an accessory dwelling unit, which may exceed 20 feet in height but shall not exceed the height of the principal residential structure. An accessory structure ~~and~~ may not occupy more than 30 percent of the rear yard area. All accessory structures on a lot may not occupy more than 60 percent of the rear yard area;

E. Street improvements in public right of way.

Except as provided in Section 50-37.1.L, for development or redevelopment proposed on 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.

F. Common Open Space

1. All structures intended to be owned and occupied by an individual unit owner of a Common Interest Community shall be constructed within the space allocated in the governing documents for that specific unit owner, except as allowed in section 2 below;
2. A Home Owner Association or other applicable governing body of the community may grant building easements, with city approval as provided for in this sub-paragraph below, to allow encroachments of structures into the common open space as platted in the Common Interest Community Plat. In such instances, the building easement shall be considered part of the adjacent building parcel or unit. Before constructing any such encroaching structure, the owner of said adjacent building parcel or unit shall file with the Planning Department a copy of a recorded easement and survey depicting same by the private landowner are required to verify the circumstances in each instance. The Land Use Supervisor may grant city approval for the proposed building easement(s) if they do not impact more than 10% of the common open space of the community; the Planning Commission may grant city approval for impacts more than 10%. In no event can more than 30% of the common open space of the community be impacted. The Land Use Supervisor or Planning Commission may require the CIC to be re-plated to reflect the change in the reduced common open space. Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 21; Ord. No. 10225, 5-28-2013, § 8; Ord. No. 10337, 11-24-2014, § 2; 10591, 9-24-18, § 1)

Section 7. That Section 50-41.1 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.1 Definitions: A

Accessory agriculture roadside stand. A structure erected for the display and sale of agriculture products grown on the premises and that is subordinate to the primary residential or agricultural use of the premises.

Accessory bed and breakfast. An owner-occupied building designed as a one-family dwelling that provides no more than five guest rooms for lodging accommodations by prior arrangements for compensation. The primary residence in the building or a separate, lawfully existing building located on the same site must be occupied by the building owner on a permanent basis. It may or may not include serving of meals to guests.

Accessory boat dock, residential. A personal use boating structure, subordinate to a primary residential use of property, that is built over or floats upon the water of a lake, river, or stream, and that serves one property owner for mooring boats or as a landing place for marine transport.

Accessory caretaker quarters. A subordinate dwelling unit intended for an employee or owner who looks after or takes charge of goods or property. The unit shall be either inside or attached to a main structure by a common wall. The unit is a complete, independent living facility with provisions for cooking, eating, sanitation and sleeping.

Accessory communications tower for private use. Any structure, subordinate to a primary use of land, that is designed and constructed primarily for the purpose of supporting one or more wireless analog or digital telecommunication facilities, that is located on the ground or anchored to the ground and exceeds 24 feet in height. Such a tower may have a variety of configurations, including a monopole, a lattice tower or a guyed tower.

Accessory day care facility. A private or public establishment licensed by the state that regularly provides one or more dependents with care, training, supervision, rehabilitation or developmental guidance on a regular basis, for periods less than 24 hours a day, for gain or otherwise, as a secondary and subordinate activity to a permitted or approved special use of the property.

Accessory dwelling unit. A subordinate dwelling unit added to, created within, or detached from a one single-family dwelling residence, but located on the same lot or parcel as a primary residential structure, and providing that provides basic requirements for living, sleeping, cooking, eating, and sanitation, that is not on a chassis, and that is placed on a permanent foundation that complies with the State Building Code.

Accessory heliport. An area used or intended to be used for the landing and takeoff of helicopters that is secondary and incidental to, and is operated in support of, a permitted or approved special use on the same property, including operations facilities, such as maintenance, loading, and unloading, storage, fueling or terminal facilities.

Accessory home occupation. A business or occupation incidental and subordinate to the principal residential use. All home occupations must comply with the conditions in Section 50-20.5.F. Examples include but are not limited to: artist's studio; dressmaking; accessory beauty salon or barber shop, office of a physician or dentist for consultation or emergency treatment but not for general professional practice, lawyer, engineer, architect or accountant; teaching, with instruction limited to not more than two pupils at the same time. A home occupation shall not be interpreted to include accessory bed and breakfast, restaurants or tea rooms.

Accessory home share. A habitable room or space in an owner-occupied dwelling offered for trade or sale, whether for money or exchange of goods or services, for periods of 29 days or less.

Accessory recycling collection point. A facility used for the collection and temporary storage of empty beverage containers, aluminum, glass, paper or clothing for recycling purposes conducted totally within an enclosed structure or container, and that is accessory to a permitted or approved special use in the zone district. This definition does not include processing except for can banks that crush cans as they are deposited.

Accessory sidewalk dining area. An outdoor eating and drinking area that is generally associated with and subordinate to a permitted or approved special use on the same property and that is, located on a public sidewalk. This use may include removable tables, chairs, planters, or similar features and equipment.

Accessory solar or geothermal power equipment. Accessory uses and structures that are clearly subordinate in size and use to the primary use and structure on the property, and that are used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. These structures and uses may include but are not limited to the following, and may be located at ground level or above or below ground unless specifically limited in this Chapter, provided that they meet all other applicable requirements of this Chapter: solar photovoltaic modules, solar thermal hot water collectors, solar arrays; and geothermal heat pumps, earth tubes, or downhole heat exchangers.

Accessory use or structure. A use or structure subordinate in use, area or purpose to the principal use or structure on the same lot and serving a purpose naturally and normally incidental to the principal use or structure and that is not included in a separate definition of an accessory use or structure in this Chapter. Where an accessory building is attached to the principal building in a substantial manner by a wall or a roof, it shall be considered part of the principal building. An accessory building or use may be permitted on a lot of record that abuts or is separated by a public easement of no more than 25 feet in width to another lot or lots on which the primary use is located, provided all lots are owned by the same owner and none of the parcels are severed, legally sold, conveyed, or used without the other parcels. Examples include but are not limited to: pet houses, storage sheds, swimming pools, garages, accessory uses and structures for energy conservation and renewable energy production, and accessory structures for stormwater management and water conservation.

Accessory vacation dwelling unit. An accessory dwelling unit as defined by this Chapter that is used as a vacation dwelling unit as defined by this Chapter for periods of occupancy from 2 to 29 days.

Accessory wind power equipment. A small scale accessory wind power generating or distribution system, that is clearly subordinate in size and use to the primary use and structure on the property, and that is used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. Accessory wind power equipment is designed to generate no more than 10Kw of energy.

Accessory wireless antenna attached to existing structure. Any wireless service antenna located in or on the roof or upper facade of a structure that is not a telecommunications tower, such as a building, water tower, steeple, silo or utility pole.

Adjacent developed lots facing the same street. Where a dimensional standard is related to dimensions on “adjacent developed lots facing the same street” the measurement shall only include those lots that contain a primary structure and that share a side lot line with the subject property and shall not include corner lots where the primary structure faces a different street. If there is only one adjacent developed lot that fronts the same street, the measure shall refer only to the dimension on that lot. For purposes of this measurement, all contiguous lots in common ownership shall be considered as a single lot, not as separate platted lots.

Adult entertainment establishment. See definition in Chapter 5 of the City Code.

Adult bookstore. See definition in Chapter 5 of the City Code.

Agriculture, community garden. A use in which land managed by a group of individuals is used to grow food or ornamental crops, such as flowers, for donation or for use by those cultivating the land and their households. Community gardens may be divided into separate plots for cultivation by one or more individuals or may be farmed collectively by members of the group and may include common areas maintained and used by group members.

Agriculture, farmers market. A recurring event, held outdoors or in another defined place, on designated days and times, where market vendors, consisting of agricultural producers, home processors, and craft producers that manufacture non-food goods by the force of their own labor, are organized for the purpose of selling their products directly to the public. A minimum of 30% of vendors shall be vendors selling food crops.

Agriculture, general. The production or keeping of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products. This definition includes all activities listed under “agriculture, urban.”

Agriculture, urban. An establishment where food or ornamental crops are grown that includes, but is not limited to, growing on the ground, on a rooftop or inside a building, aquaponics, and aquaculture.

Airport boundary. Those lands including the property owned by the city, state, and the United States, and their respective political subdivisions, that are used for aeronautical purposes and are contiguous with the runway and building area facilities. The Duluth International Airport boundaries are illustrated on Sheet 3, airport property map, of the approved set of airport layout plans on file in the offices of the Duluth Airport Authority. The Sky Harbor Municipal Airport boundaries are illustrated on Exhibit 50-18.2-2.

Airport elevation. The established elevation of the highest point on the usable landing area, which elevation is established to be 1,428 feet above mean sea level for Duluth International Airport and 610 feet above mean sea level for Sky Harbor Municipal Airport.

Airport hazard. Any structure, tree, or use of land that obstructs the air space required for, or is otherwise hazardous to, the flight of aircraft in landing or taking off at the airport; and any use of land that is hazardous to persons or property because of its proximity to the airport.

Airport and related facilities. An area of land that is used or intended for the landing and takeoff of aircraft, and includes its buildings and facilities, if any. Accessory uses may include but are not limited to: car rental, aircraft servicing, fueling, or leasing, private aviation clubs or associations, and hotels.

Alley. A dedicated public right-of-way not more than 30 feet wide affording a secondary means of access to abutting property and not intended for general traffic circulation.

Alley line. The established side line of an alley easement.

Antenna. A system of electrical conductors that transmit or receive electromagnetic waves or radio frequency or other wireless signals.

Apartment. A part of a building consisting of a room or suite of rooms intended, designed or used as a residence by an individual or a one-family, including full cooking and bathroom facilities for individual use.

Apartment hotel. A building designed for or containing not less than 20 apartments, individual guest rooms or suites and in which may be furnished services ordinarily furnished by hotels, such as drugstores, tea room, barbershop, cigar and newsstands when such uses are located entirely within the building with no separate entrance from the street, and having no sign or display visible from the outside of the building indicating the existence of such use.

Artisan production shop. A building or portion thereof used for the creation of original handmade works of art or craft items by no more than six artists or artisans, either as a principal or accessory use, where the facility includes an area for retail of the art/craft items being produced.

Artisan studio. A building or portion thereof used for the creation of original handmade works of art or craft items by no more than three artists or artisans, either as a principal or accessory use, where the facility includes an area for retail of the art/craft items being produced.

Automobile and light vehicle sales, rental, or storage. The sale, display, lease, rental, or storage of light motor vehicles, including automobiles, vans, light trucks, light trailers, boats, and recreational vehicles. This shall not include salvage operations, scrap operations, vehicle impound yards, or commercial parking lots available for short-term use.

Automobile, Repair. An establishment engaged in performing repairs of, automobiles, light vehicles, and small engines. Repair may include all activities or repair or servicing of automobiles allowed in "automobile service", rebuilding or reconditioning of passenger automobiles, body, frame or fender straightening, dent repair, replacement or repair, painting or rust-proofing, or other similar repair or servicing of automobiles. Such work excludes commercial wrecking or dismantling, scrap/salvage yards, tire recapping and truck-tractor repair.

Automobile, Service. An establishment engaged in performing servicing of automobiles, light vehicles, and small engines. Service may include muffler replacement, oil changing and lubrication, tire repair and replacement except tire recapping, wheel alignment, brake repair, suspension repair, transmission repair and replacement, flushing of radiators, servicing of air conditioners, audio installation, detailing, and other similar activities of light repair or servicing of automobiles. This shall not include car washes, retail sale of automotive supplies, tires, or parts unrelated to repairs being performed on the premises, the retreading or vulcanizing of tires, filling stations, or convenience stores that sell gasoline or lubricating oil.

Average lot depth. The average of the lengths of the two side lot lines of a platted lot. In the case of flag lots (lots where the buildable portion of the lot is connected to a public street by an access or driveway 20 feet wide or less), the length of the access or driveway portion of the lot shall be ignored in measuring either side lot line. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 58; Ord. No. 10204, 3-11-2013, § 4; Ord. No. 10225, 5-28-2013, § 12; Ord. No. 10414, 10-12-2015, § 5; Ord. No. 10446, 4-11-2016, §6; Ord. No. 10563, 4-9-18, § 3)

Section 8. That Section 50-41.3 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.3 Definitions: C

Cemetery or mausoleum. Land used or dedicated to the burial of the dead or the storage of cremated remains in a columbaria, and including necessary sales and maintenance facilities.

Channel. A natural or artificial depression of perceptible extent with a definite bed and banks to confine and conduct flowing water either continuously or periodically.

Club or lodge (private). A building or portion of a building or premises owned or operated by a corporation, association, person or persons for a social, educational or recreational purpose, but not primarily for profit or to render a service that is customarily carried on as a business. This category includes fraternities and sororities.

Co-housing facility. A residential development that combines individual owned dwelling units with smaller or partial kitchens and a larger community kitchen and dining room intended for communal use on a regular basis, and in which all residents agree to share in the provision of regular communal services such as cooking meals or providing child care.

Co-location. The use of an existing tower or structure to support antennae for the provision of wireless services. A replacement tower that is constructed on the same site as an existing tower will be considered a co-location as long as the new tower is no taller than the old tower and that the old tower is removed in a reasonably short time frame after the new tower is constructed.

Coldwater river. Rivers including trout streams and their tributaries.

Commercial impracticability or commercially impracticable. The inability to perform an act on terms that are reasonable in commerce; the cause or occurrence of which could not have been reasonably anticipated or foreseen and that jeopardizes the financial efficacy of the project. The inability to achieve a

satisfactory financial return on investment or profit, standing alone, shall not deem a situation to be commercial impracticable and shall not render an act or the terms of an agreement commercially impracticable.

Common open space. A portion of a development permanently set aside to preserve elements of the natural landscape for public or private use, which will not be developed or subdivided and is either owned in common by the individual owners in the development or by a permanently established management entity. Common open space does not include the area within 25 feet of any structure, any impervious surface, or the area between buildings within an individual cluster of buildings when the development is designed using clustered compact lots or clustered units or sites to create and preserve green space, such as in a conservation subdivision, planned unit development, or resort.

Common plan of development or sale. A contiguous area where multiple separate and distinct construction activities are planned to occur at different times on different schedules under one plan. For redevelopment projects, contiguous includes parcels separated by a right-of-way.

Composting. The controlled microbial degradation of organic waste to yield a humus-like product.

Confined animal feeding operation. A facility, area, or place where the feeding of livestock, poultry, pigs, or small animals takes place for commercial purposes in lots, pens, ponds, sheds or buildings where food is supplied primarily by means other than grazing, foraging, or other natural means.

Construction debris. Waste building materials, packaging and rubble resulting from construction, remodeling, repair and demolition of buildings and roads.

Contractor's shop and storage yard. A lot or portion of a lot or parcel used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor. This definition includes architects, engineers, surveyors' construction offices and shops, real estate sign placement service, and showroom and shops for the display and sale of electrical, plumbing, heating, air conditioning, sheet metal and other material in connection with contracting services.

Convention or event center. A facility specially designed to host conferences, exhibitions, events, large meetings, seminars and training facilities, which may be associated with a hotel or motel.

Cottage housing development. A residential development consisting of two or more cottage dwellings arranged around common open space or an amenity area.

Critical root radius. An area around a tree measured with a radius of one foot for every in. diameter of the tree, which is generally the area of soil that must remain undisturbed to ensure long-term viability of the tree.

Cutoff angle. For purposes of exterior lighting regulations, the angle formed by a line drawn from the direction of light rays at the light source and a line perpendicular to the ground from the light source above from which no light is emitted. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 58; Ord. No. 10204, 3-11-2013, § 4.)

Section 9. That Section 50-41.4 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.4 Definitions: D

Data center. An establishment primarily involved in the compiling, storage, conversion or analysis and maintenance of documents, records, and other types of information in digital form.

Daycare facility. A facility that provides accommodations for persons of any age who receive custodial care for less than 24 hours by individual other than parents or guardians, relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for.

Decorative fence. A powder coated steel fence, solid core ornamental fence, decorative wood fence, or fence of similar construction or appearance, but not including a snow fence, chain link or highway guard rail.

Demolition debris. Solid waste resulting from the demolition of buildings, roads and other man-made structures including concrete, brick, bituminous concrete, untreated wood, masonry, glass, trees, rock and plastic building parts. It does not include asbestos wastes, appliances, furniture or household refuse.

Dense urban screen. Continuous screening wall, berm, fence, or row of planting at least six feet tall, with screening material designed to provide 75 percent opacity one year after planting along the full required height and length of the screening buffer.

Design storm. A rainfall event used in the analysis and design of drainage facilities. See the engineering guidelines for the current rainfall data.

Detention. The temporary storage of drainage water.

Deteriorated. A building or component of a building shall be deemed to have deteriorated when its function has been so impaired by natural forces including but not limited to weathering or decay that it needs to be replaced to restore its functionality.

Developable area. All land within a zone district not occupied by streets and public rights-of-way.

Development. The construction of a building or structure, any clearing, grading, excavation or other movement of land, or the division of a parcel of land into two or more parcels. Within flood plain districts, development is defined as any manmade change to improved or unimproved real estate, including but not limited to: buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

Diameter at breast height (DBH). The primary method of measuring the diameter of a tree trunk.

Diameter is measured in inches 54 inches above the ground. If the tree splits into multiple trunks at a height below 54 inches, but above the ground, the diameter is measured at the highest point beneath the split.

Direct illumination. Illumination by light sources that are effectively visible, either directly or through a translucent material, as a part of the sign and illuminating outward.

Discharge. The discharge of any pollutant into the waters of the state from any point source.

Discharge rate. The rate at which drainage water is released from a specific site and expressed as a volume per unit of time, such as cubic feet per second.

Discharge volume. The volume of drainage water discharged from a site from a single rainfall event, expressed as cubic feet or acre-feet.

Distillery, craft. A facility that manufactures distilled spirits, as defined by Minn. Stat. § 340A.301, with a capacity to manufacture 40,000 or fewer proof gallons in a calendar year. A small craft distillery is one that contains less than 7,000 square feet of gross floor area. A large craft distillery is one that contains 7,000 square feet or more of gross floor area.

District. Any section of the city within which the zoning regulations are uniform.

DNR. Minnesota department of natural resources.

Drainage basin. The tributary area through which drainage water is collected, regulated, transported and discharged to receiving waters.

Drainage system. Any system that conveys stormwater or surface water including sewers culverts, ditches, and swales.

Drainage water. Stormwater, snow melt, surface and irrigation water, water from footing drains and sump pumps or other drains approved by the city.

Drip line. A vertical line extending from the outermost edge of a tree's canopy to the ground.

Dry cleaning or laundry plant. An establishment where laundry or dry cleaning is performed in bulk and primarily for commercial and institutional customers. This use does not include facilities where the public drops off or picks up dry cleaning or laundry that is cleaned off-site.

Dwelling. Any building or portion of a building that is designed for or used for residential purposes and that either (a) has a minimum width of 20 feet, or (b) has a principal entrance facing the front lot line.

Dwelling unit. A habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities designed for and occupied by one family only, occupied by the owner or by another family for periods of occupancy exceeding one week, and that is physically separated from any other habitable unit that may be located in the same building.

Dwelling unit, efficiency. A dwelling unit in a multi-family, townhouse, or two-family dwelling, which is not an accessory dwelling unit, and which consists consisting of one principal room, exclusive of bathroom, kitchen, hallway, closets or dining alcove directly off the principal room, providing that such dining alcove does not exceed 125 square feet in area.

Dwelling, cottage. A one-family dwelling unit which does not include any accessory dwelling units, which is placed on a permanent foundation that complies with the State Building code, and which is located in a cottage housing development.

Dwelling, live-work. A dwelling unit containing an integrated living and working space that is intended to function predominately as business workspace with incidental residential use. The unit typically has a store-front, with the workspace, public display area, or show-room on the ground floor of the unit and the majority of the residence located either on the upper floor if there are two floors, or the back of the unit if there is only one floor.

Dwelling, multi-family. A building containing three or more dwelling units, none of which are accessory dwelling units, that is not a townhouse.

Dwelling, one-family. A building containing one dwelling unit designed for exclusive occupancy by one family and occupied exclusively by one family, except that the structure may also contain an accessory dwelling unit where expressly authorized, having a minimum outside width of 20 feet measured at its narrowest point and that is placed on a permanent foundation that complies with the State Building Code. An accessory dwelling unit shall not be considered a one-family dwelling. This definition includes a manufactured or modular home that meets this definition and the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. Sections 5401 et. seq.).

Dwelling, townhouse. A structure containing three to eight dwelling units, none of which are accessory dwelling units, each sharing two vertical party or division walls, except that each end unit will have a single party or division wall, with no dwelling units sharing a common horizontal surface.

Dwelling, two-family. A building containing two dwelling units, neither of which is an accessory dwelling unit, designed for exclusive occupancy by two families and occupied exclusively by two families. A twin home is a two-family dwelling where each unit shares a common vertical wall and where a side lot line exists on the common wall extending to the front and rear lot lines, but is on two separate lots. (Ord. No. 10041, 8-16-2010, § 13; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 58; Ord. No. 10204, 3-11-2013, § 4; Ord. No. 10225, 5-28-2013, § 13; Ord. No. 10285, 3-10-2014, § 5; Ord. No. 10338, 11-24-2014, §4; Ord. No. 10414, 10-12-2015, § 7.)

Section 10. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: _____, 2019)

STATEMENT OF PURPOSE: This ordinance implements a minor text amendment related to residential districts, permitted uses, use specific standards, development standards, and definitions, regulated by chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP
RESIDENTIAL USES																										
Household Living																										
Dwelling, one-family	P	P	P	P	P	P ³	P					P ³	P	P	P	P	P	P	U	U	U					
Dwelling, two-family				P	P	P ³	P					P ³	P	P	P	P	P	P	U	U	U					Error! Reference source not found.
Dwelling, townhouse				S	P ²	P ³	P ²					P ¹	P ³													Error! Reference source not found.
Dwelling, multi-family					P ²	P ³	P ²	P ¹	P ¹		P ¹	P ³	P	P	P	P	P	P	U	P	P					50-20.1.C
Dwelling, live-work							P ²	P ¹	P ¹		P ¹	P ³	P	P	P	P	P	P		P	P					
<u>Cottage housing development</u>		<u>S</u>	<u>S</u>	<u>S</u>	<u>S</u>	<u>P³</u>	<u>S</u>																			<u>50-20.1.G</u>
Manufactured home park				S	S ²	P ³	S ²																			50-20.1.F
Group Living																										
Co-housing facility				S	S ²	P ³	P ²					P ³														
Residential care facility/assisted living (6 or fewer)		P	P	P	P ²	P ³	P ²					P ³	U	P	U	P	P	U	U	P	P					50-20.1.D
Residential care facility/assisted living (7 or more)				S	P ²	P ³	P ²	P ¹	P ¹		P ¹	P ³	U	P	U	P	P	U	U	P	P					50-20.1.D
Rooming house					S ²		P ²	P ¹	P ¹		P ¹	P ³	U	P	U	P	P	U	U	P	P					Error! Reference source not found..E

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form								Special				Use Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	

PUBLIC, INSTITUTIONAL AND CIVIC USES																																	
Community and Cultural Facilities																																	
Bus or rail transit station							P ²	P ¹	P ¹	P	P ¹	P ³	P	P	P	P	P	P	P	P	P	P	P	P	P	P	P						
Cemetery or mausoleum	S	S	S	S	S ²	P ³	S ²	S	S	S																				S			
Club or lodge (private)					S ²	P ³	P ²	P ¹	P ¹		P ¹	P ³	P	P	P	P	P	P	P	P	P	P	P	P	P	P			S				
Government building or public safety facility		P	P	S	P ²	P ³	P ²	P ¹	P	P	P ¹	P ³	P	P	P	P	P	P	P	P	P	P	P	P	P	P	S	S	S	P			
Museum, library or art gallery				S	S ²	P ³	P ²	P ¹		S	P ¹	P ³	P	P	P	P	P	P	P	P	P	P	P	P	P			S					
Park, playground or forest reserve	P	P	P	P	P ²	P ³	P ²	P ¹	P ¹		P ¹	P ³	P	P	P	P	P	P	P	P	P	P	P	P	P			P					
Religious assembly, small (less than 50,000 sq. ft.)		P	P	S	P ²	P ³	P ²	P ¹	P ¹	S	P ¹	P ³	P	P	P	P	P	P	P	P	P	P	P	P									
Religious assembly, large (50,000 sq. ft. or more)		S	S	S	S ²	P ³	P ²	P ¹	P ¹	S	P ¹	P ³	P	P	P	P	P	P	P	P	P	P	P	P									

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TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP
Educational Facilities																										
Business, art or vocational school							P ²	P ¹	P ¹	P	P ¹	P ³	P	P	P	P	P	P	P	P						
School, elementary		P	P	P	P ²	P ³	P ²	P ¹	P ¹			P ³	U	P	U	P	P	U	U	U						Error! Reference source not found..G
School, middle or high		S	S	S	S ²	P ³	S ²	S ¹	S ¹			P ³	U	P	U	P	P	U	U	U						Error! Reference source not found..G
University or college									P ¹			P ³			U	P	P	U	U	U						
Health Care Facilities																										
Hospital									P ¹																	
Medical or dental clinic					S ²	P ³	P ²	P ¹	P ¹	P	P ¹	P ³	P	P	P	P	P	P	P						50-20.2.E	
Nursing home					P ²	P ³	P ²	P ¹	P ¹		P ¹	P ³		P		P										
Medical cannabis distribution facility										I												I				50-20.2.B
Medical cannabis laboratory										I												I				50-20.2.C
Medical cannabis manufacturer																						I				50-20.2.D
Other institutional support uses not listed in this table									P ¹																	
COMMERCIAL USES																										
Agriculture and Animal-Related																										
Agriculture, community garden	P	P	P	P	P		P	P	P																	Error! Reference source not found..B

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards		
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP	
Agriculture, farmers market			S		S ²		S ²	S	S		S	P ³															Error! Reference source not found..B
Agriculture, general	P	P																									Error! Reference source not found..B
Agriculture, urban			P	S	S ²	P ³	S ²	S	S																		Error! Reference source not found..B
Kennel	S	S						S	S	P		P ³	S	S	S	S	S	S	S	S							50-20.3.T
Riding stable	S	S	S			P ³					S													S			
Veterinarian or animal hospital	S	S			P ²	P ³	P ²	P ¹	P ¹	P	P ¹	P ³	P	P	P	P	P	P									Error! Reference source not found..T
Food, Beverage and Indoor Entertainment																											
Adult entertainment establishment																								P			50-20.3.A
Convention or event center								P ¹		P	P ¹	P ³				P	P		P	P	P						50-20.3.H
Indoor entertainment facility								P ¹		P	P ¹	P ³		P		P	P		P	P	P						
Restaurant (less than 5,000 sq. ft.)					S ²	S ³	S ²	P ¹	P ¹	P	P ¹	S ³	P	P	P	P	P	P	P	P	P						50-20.3.Q
Restaurant (5,000 sq. ft. or more)						S ³		P ¹	P ¹	P	P ¹	S ³	P	P	P	P	P	P	P	P	P						50-20.3.Q
Theater							S ²	P ¹			P ¹	P ³		P	P	P	P		P	P	P						
Lodging																											
Hotel or motel							S ²	P ¹	P ¹	P	P ¹	P ³		P		P	P		P	P	P						
Bed and breakfast				S	P ²	P ³	P ²	P ¹	P ¹	P	P ¹	P ³		P		P		P									50-20.3.F

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards		
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP	
Seasonal camp or cabin	P	P				P ³					P ¹														S		50.20.3.S
Vacation dwelling unit		I	I	I	I ²	I ³	I ²						I	I	I	I	I	I	I	I	I						50-20.3.U

Offices																										
Bank							S ²	P ¹	P ¹	P	S	P ³	P	P	P	P	P	P	P	P	P					50-20.3.E
Office					S ²		P ²	P ¹	P ¹	P	P ¹	P ³	P	P	P	P	P	P	P	P	P				50-20.3.M	
Data center							S ²	P ¹	P ¹	P	S	P ³	U	U	U	U	U	U	U	U	U	P				
Outdoor Recreation & Entertainment																										
Golf course		S	S			P ³																		P		
Marina or yacht club											P ¹											S	S			
Recreational vehicle park	S	S	S								S												S	50.20.3.P		
Other outdoor entertainment or recreation use not listed		S						S		S	S													50.20.3.N		
Personal Services																										
Business park support activities											P	P ³														
Preschool		S	S	S	P ²	P ³	P ²	P ¹	P ¹	S	P ¹	P ³	P	P	P	P	P	P	S	P	S			50-20.3.I		
Daycare facility, small (14 or fewer)	P	P	P	P	P ²	P ³	P ²	P ¹	P ¹	S	P ¹	P ³	P	P	P	P	P	P	P	P	P			50-20.3.I		
Daycare facility, large (15 or more)		S	S	S	S ²	P ³	P ²	P ¹	P ¹	S	P ¹	P ³	P	P	P	P	P	S	P	S			50-20.3.I			
Funeral home or crematorium					S ²		S ²	P ¹	P ¹	P		P ³		P		P		P			P					
Mini-storage or self-service storage facility		S									P					P		P	P		P	P	50-20.3.L			
Personal service and repair, small (less than 10,000 sq. ft.)						P ³	P ²	P ¹	P ¹	P	P ¹	P ³	P	P	P	P	P	P	P	P	P					

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP
Personal service and repair, large (10,000 sq. ft. or more)							S ²	P ¹	P ¹	P	P ¹	P ³		P		P		P		P		P				

Retail Sales																										
Adult bookstore																										Chapter 5
Building materials sales								S		P		P ³														50-20.3.G
Garden material sales		S						P ¹				P ³				P										
Grocery store, small (less than 15,000 sq. ft.)						P ³	P ²	P ¹			P ¹	P ³		P		P	P	P	P	P						50-20.3.K
Grocery store, large (15,000 sq. ft. or more)								P ¹				P ³														50-20.3.K
Retail store not listed, small (less than 15,000 sq. ft.)						S ² P ³	P ²	P ¹	P ¹		P ¹	P ³	P	P	P	P	P	P	P	P	P					50-20.3.R
Retail store not listed, large (15,000 sq. ft. or more)								P ¹			P ¹	P ³		P		P	P		P	P						50-20.3.R
Vehicle Related																										
Automobile and light vehicle, service							S ²	P ¹		P		P ³		P		P	P	P								Error! Reference source not found..C
Automobile and light vehicle, repair								P ¹		P ¹		P ³														Error! Reference source not found..C
Auto. and light vehicle sales, rental, or storage								P ¹		P																Error! Reference source not found..D

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use						Form									Special				Use Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP	
Filling station (small)					S ²	P ³	S ²	P ¹		P	P ¹	P ³		P		P	P	P				P	P			50-20.3.J
Filling station (large)								P ¹		P	P ¹	P ³		P		P	P	P				P	P			50-20.3.J
Parking lot (primary use)					S		S	P ¹	P ¹	P	P ¹	P ³	S	S	S	S	S	S		S	S	P	P			50.20.3.O
Parking structure								P ¹	P ¹	P	P ¹	P ³					S		S			P	P			50.20.3.O
Truck or heavy vehicle sales, rental, repair or storage										P												P				

INDUSTRIAL USES																											
Industrial Service																											
Contractor's shop and storage yard											P	P ³					P					P	P			50-20.4.B	
Dry cleaning or laundry plant											P											P					
Research laboratories									P ¹	P	P ³											P	P				
Industrial services										P												P	P				
Manufacturing and Mining																											
Manufacturing, craft, artisan production shop or artisan studio											P				P	P	P		P							50-20.4.F	
Manufacturing, craft, brewery or distillery											P						P		P			P				50-20.4.F	
Manufacturing, light									P ¹	P	P ³						P					P				50-20.4.G	
Manufacturing, heavy																						P					
Manufacturing, hazardous or special																						S				50-20.4.H	

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP
Mining, extraction and storage		S																				S	S			50-20.4.I
Water-dependent manufacturing, light or heavy																							P			
Transportation-Related																										
Airport and related facilities	S																					P		P		50-20.4.A
Railroad yard or shipyard and related facilities																						P	P			
Truck freight or transfer terminal										P												P	P			
Utilities																										
Electric power or heat generation plant																						P	P			
Electric power transmission line or substation	S	S	S	S	S ²	P ³	S ²	S	S	S	S	P ³	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.C
Major utility or wireless telecommunication facility	S	S	S	S	S ²	P ³	S ²	S	S	S	S	P ³	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.E
Radio or television broadcasting tower		S								S												S	S			50.20.4.J
Solar, geothermal or biomass power facility (primary use)		S				P ³		S	S	P		P ³										P	S			
Water or sewer pumping stations/reservoirs	S	S	S	S	S ²	P ³	S ²	S	S	S	S	P ³	S	S	S	S	S	S	S	S	S	S	S	S	S	
Water or sewer treatment facilities																						P	P			
Wind power facility (primary use)		S							S	S												P	S			50-20.4.N
Waste and Salvage																										
Junk and salvage services																						S	S			50.20.4.D
Recycling collection point (primary use)								S	S	S												P	P			
Solid waste disposal or processing facility		S								S												S	S			50-20.4.K
Wholesale Distribution and Storage																										
Storage warehouse										P						P						P				50.20.4.L
Wholesaling										P						P						P				50-20.4.M
Bulk storage not listed elsewhere																						P				
Water-dependent bulk storage or wholesaling not listed elsewhere																							P			

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	

ACCESSORY USES																											
Accessory agriculture roadside stand	A	A																								A	50.20.5.A
Accessory bed and breakfast	A	A	A	A	A	A	A		A		A																50-20.5.B
Accessory boat dock, residential	A	A	A	A	A	A	A	A	A		A																50-20.5.C
Accessory caretaker quarters											A												A	A	A		
Accessory communications tower for private use	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
Accessory day care facility	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					
Accessory dwelling unit	A	A	A	A	A	A	A																				50-20.5.D
Accessory heliport	A								A		A												A				50-25.5.E
Accessory home occupation	A	A	A	A	A	A	A	A	A		A	A	A	A	A	A	A	A	A	A	A						50-20.5.F
Accessory home share	A	A	A	A	A	A	A				A	A	A	A	A	A	A	A	A	A	A						50-20.5.G
Accessory recycling collection point					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A				

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use						Form									Special				Use Specific Standards
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1	AP	
Accessory sidewalk dining area					A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					50-20.5.H
Accessory solar or geothermal power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.I
Accessory uses and structures not listed elsewhere	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.J	
Accessory vacation dwelling unit		I	I	I	I	I ³	I						I	I	I	I	I	I	I	I					50-20.5.M	
Accessory wind power equipment	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.K	
Minor utilities and accessory wireless antennas attached to existing structures	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	50-20.5.L	

TEMPORARY USES																													
Temporary construction office or yard	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		50-20.6.A
Temporary event or sales	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		50-20.6.B
Temporary farm stand	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A								
Temporary moveable storage container	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A			50-20.6.C
Temporary real estate sales office				A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A					50-20.6.D			
Temporary use not listed in this table	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A	A		
FORM DISTRICT BUILDING TYPES																													
Main Street Building I													P	P															
Main Street Building II															P	P	P	P											
Main Street Building III																			P	P									
Corridor Building I														P															

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form							Special				Use Specific Standards			
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G		I-W	P-1	AP
Corridor Building II															P	P										
Lakefront Corridor Building																					P					
Corridor Building III																				P						
Cottage Commercial I													P					P								
Cottage Commercial II															P											
Iconic Building												P		P	P	P				P						

(Ord. No. 10041, 8-16-2010, § 3; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 15; Ord. No. 10153, 5-14-2012, § 1; Ord. No. 10192, 12-17-2012, § 9; Ord. No. 10225, 5-28-2013, § 4; Ord. No. 10286, 3-10-2014, § 6; Ord. No. 10296, 5-27-2014, § 1; Ord. No. 10329, 10-13-2014, § 1; Ord. No. 10414, 10-12-2015, § 1; Ord. No. 10415, 10-12-2015, § 1; Ord. No. 10446, 4-11-2016, § 1; Ord. No. 10461, 7-11-2016, § 1; Ord. No. 10513, 6-12-2017; Ord. No. 10563, 4-9-2018, § 1, Ord. No. 10615, 3-25-2019, § 1)

..Title

AN ORDINANCE AMENDING SECTION 50-20 SHIPPING CONTAINERS

..Body

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-20.5.J of the Duluth City Code, 1959, as amended, be amended as follows:

J Accessory uses or structures not listed elsewhere.

1. In any residential district, any accessory building that is erected prior to the construction of the principal building shall comply with the following conditions:
 - a) The construction of the principal building shall be completed and the certificate of occupancy for such principal use issued within two years of issuance of the building permit for the accessory building;
 - b) Prior to issuance of a building permit for such accessory use, a building demolition bond shall be approved by the city and in an amount sufficient to demolish such accessory structure be filed with the building official;
 - c) The owner shall execute a license, in a form approved by the city, authorizing the city to enter upon the real property for the purpose of demolishing such accessory structure in the event a principal structure is not completed as required by this Section.
2. In the RR-2 district, business shall not be conducted from a garage;
3. In the R-2 district, accessory building includes a storage garage on a lot occupied by a multi-family dwelling, townhouse or rooming house;
4. In the MU-N district, accessory buildings shall be subject to the following restrictions:
 - a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
 - b) Storage of trailers and trucks or storage of goods within trailers and trucks shall not be a permitted accessory use unless (i) the primary use of the lot is a parking lot, parking garage, or filling station, or (ii) the truck or trailer is used on a regular basis for deliveries or the hauling of supplies to or from a business;
5. In the MU-C, MU-I and MU-W districts, accessory buildings shall be erected at the same time or after the construction of the principal building and subject to the following restrictions:
 - a) Except for truckload or trailer-load retail sales lasting less than 30 days, no accessory use shall be conducted in or out of a trailer or truck;
 - b) The storage of trailers and trucks or the storage of goods within trailers and trucks shall not be a permitted use unless (i) the primary use of the lot is a parking lot, parking garage, filling station, automobile or light vehicle sales or service, or automobile or light vehicle storage, or (ii) the truck or trailer is used on a regular basis for deliveries or the handling of supplies to or from a business;

6. In the MU-B, I-G, and I-W districts, accessory buildings shall be erected at the same time or after the construction of the building for the principal use;
7. An accessory building may observe an equal or greater distance to the front property line as provided by a principal structure if the accessory building provides the front and side yards required for dwelling in that district as per Article II and Section 50-20;

Section 2. That Section 50-20.6.B of the Duluth City Code, 1959, as amended, be amended as follows:

B Temporary moveable storage container.

1. Temporary moveable storage containers for residential uses in the RR-1, RR-2, R-1, R-2, and MU-N zone districts shall not be located on any public street, and shall not remain on any property in a residential zone district for more than 14 ~~consecutive days~~ in any calendar year;
2. Temporary moveable storage containers for non-residential uses shall not be located on any public street and shall not be located on private property for more than ~~90~~ 30 days during any calendar year except as provided below: unless located and buffered from adjoining property to the same extent required for primary or accessory structures; I-G, I-W, or MU-B zone districts.

Section 3. That Section 50- of the Duluth City Code, 1959, as amended, be amended as follows:

Temporary moveable storage container. A container designed for the storage of personal property that is typically rented to owners or occupants of property for their temporary use, and that customarily is delivered and removed by truck.

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: _____, 2019)

STATEMENT OF PURPOSE: This ordinance implements a minor text amendment related to vacation rental dwellings regulated by chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

..Title**AN ORDINANCE AMENDING SECTION 50-25.9, TREE PRESERVATION****..Body****CITY PROPOSAL:**

The city of Duluth does ordain:

Section 1. That Section 50-25.9 of the Duluth City Code, 1959, as amended, be amended as follows:

50-25.9 Tree preservation requirements.

A. Purpose.

The city recognizes that trees provide numerous benefits and services to city residents, including increased property values reduced stormwater runoff and soil erosion with associated cost savings, noise buffering, aesthetic value, reduced energy costs from shade in summer and windbreaks in winter, and removal of greenhouse gases and other pollutants from the air. The city seeks to maintain the tree cover that protects the city's water quality and gives the city its character, while recognizing the need to remove some trees for development, safety, view preservation and other purposes;

B. Tree replacement.**1. Exemptions.**

The following activities are not subject to the tree replacement requirement in this Section 50-25.9:

- (a) Forest management activities that maintain pre-existing tree canopy cover, such as minor thinning that eliminates no more than 25 percent of the canopy;
- (b) Forestry activities that disturb the canopy are exempt if covered by a current forest management plan approved by the city forester;
- (c) Removal of trees that are an obstruction to traffic or power lines or other utilities;
- (d) Removal of trees necessary for rescue in an emergency or for clean-up after a natural disaster;
- (e) Removal of public trees deemed hazardous by the city forester;
- (f) Removal of trees that are airport hazards;
- (g) Removal and trimming of trees along Skyline Parkway to preserve views from established or historic overlooks and viewpoints, with approval by the city forester;
- (h) Installation or replacement of city streets or utilities;

2. Replacement required.

(a) Tree replacement shall be required pursuant to Table 50-25-3;

Table 50-25-3: Tree Replacement Required				
Tree Type	Removal Threshold	Replacement Standards		
		% DBH to be Replaced	Replacement Ratio	
			If Replacing With Special Trees	If Replacing with <u>Trees of Interest</u> Other Tree Species
Special Tree > 20 in. DBH <u>or greater</u>	Prohibited unless approved pursuant to subsection (b) below	If approval received, 60 50% of DBH removed	1 inch DBH per 1.5 inch of DBH required to be replaced	1 inch DBH per 1 inch of DBH required to be replaced
Special Trees Between 8 and 20 in. DBH	10 or more	40-25% of DBH removed		
Other Significant Trees <u>Trees of Interest</u>	20 or more	20-40% of DBH removed		

(b) Removal of special tree species ~~over~~ 20 inches diameter at breast height (DBH) or greater is prohibited unless any of the following applies:

- (i) The city forester determines that the tree is dead, dying, diseased or a threat to public health or safety;
- (ii) The city engineer determines that the tree interferes with the provision of public services or is a hazard to traffic;
- (iii) The land use supervisor determines that the location of the tree is preventing development or redevelopment that cannot be physically designed to protect the tree;

(c) When ten or more replacement trees are required, not more than 30 percent shall be the same species without approval from the city forester;

(d) Replacement trees provided pursuant to this Section 50-25.9 shall count towards landscaping required under other portions of this Section 50-25.9 if they meet the size, type and location standards for the type of landscaping required;

(e) Replacement trees shall be considered significant trees in any future tree replacement plan;

(f) If any part of the property is permanently protected from development by a conservation easement or by transfer to a city park or other natural area or a private conservation organization, the combined diameter of the protected trees that meet the size requirement for a significant tree will count toward the replacement requirement;

(g) With the approval of the appropriate city staff (land use supervisor or city forester), developers should have the option of meeting the tree replacement requirements by putting equivalent funds into a dedicated city tree account. The amount of funds should be calculated based on the cost to the city of hiring contractors to plant the number of required replacement trees;

3. Calculation.

(a) If you meet the removal threshold:

$$\frac{\text{Inches removed(DBH)}}{\% \text{ DBH}} \times \% = \text{replacement requirement in inches}$$

(b) If replacing with special trees:

$$\text{Replacement requirement} \div 1.5 = \text{Total inches required}$$

(c) If replacing with other trees:

Replacement requirement = Total inches required;

4. Example.

Step 1: Removal of 12 10 ~~inch-in.~~ special trees = Total of 120 in. DBH

Step 2: 120 in. DBH x 25% = 30 ~~inch in.~~ replacement requirement

Step 3: If replacing with special tree species: 30 ~~inch in.~~ ÷ 1.5 = 20 ~~inch in.~~ total inches required to be planted;

5. Tree replacement plans.

Where this replacement requirement applies, the applicant shall submit a tree replacement plan prepared and certified by a certified forester, arborist or landscape architect. The tree replacement plan shall be part of and integrated with the landscaping plan for the site. No replacement shall occur until the city forester has approved the tree replacement plan, and all replacement shall be consistent with that approved plan. The plan shall meet all applicable requirements in the UDC application manual;

6. Calculation for developments exceeding five acres.

For development of forested acres over five acres, with the approval of the appropriate city staff, the total diameter of trees removed should be able to be estimated based on measuring the diameter of trees in representative sample plots. The plots should be scattered throughout the area to be cleared and should cover no less than ten percent of the entire area. All special tree species in the forest must be measured. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 35.)

Section 2. That Section 50-41 of the Duluth City Code, 1959, as amended, be amended as follows:

~~Significant tree~~ Tree of interest. All trees of more than ten inches DBH, and all special tree species of more than six inches DBH shall be considered ~~significant trees of interest~~, unless they are under power lines or deemed hazardous by a certified arborist or landscape architect or professional forester. In addition, any replacement tree planted as part of a tree replacement plan shall be considered ~~significant trees of interest~~, even if it does not meet the size definition above.

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: _____, 2019)

STATEMENT OF PURPOSE: This ordinance implements a minor text amendment related to vacation rental dwellings regulated by chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

TABLE 50-19.8: USE TABLE

	Residential						Mixed Use					Form									Special				Use Specific Standards		
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP	
INDUSTRIAL USES																											
Industrial Service																											
Contractor's shop and storage yard										P	P ³					P						P	P			50-20.4.B	
Dry cleaning or laundry plant										P												P					
Research laboratories									P ¹	P	P ³											P	P				
Industrial services										P												P	P				
Manufacturing and Mining																											
Manufacturing, craft, artisan production shop or artisan studio								P		P		P	P	P	P	P	P	P	P	P						50-20.4.F	
Manufacturing, craft, brewery or distillery								P		P				P	P	P		P				P				50-20.4.F	
Manufacturing, light									P ¹	P	P ³					P						P				50-20.4.G	
Manufacturing, heavy																						P					
Manufacturing, hazardous or special																						S				50-20.4.H	
Mining, extraction and storage		S																				S	S			50-20.4.I	
Water-dependent manufacturing, light or heavy																							P				
Transportation-Related																											
Airport and related facilities	S																					P			P	50-20.4.A	
Railroad yard or shipyard and related facilities																						P	P				
Truck freight or transfer terminal										P												P	P				
Utilities																											
Electric power or heat generation plant																						P	P				
Electric power transmission line or substation	S	S	S	S	S ²	P ³	S ²	S	S	S	S	P ³	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.C	
Major utility or wireless telecommunication facility	S	S	S	S	S ²	P ³	S ²	S	S	S	S	P ³	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.E	
Radio or television broadcasting tower		S								S												S	S			50.20.4.J	