



City of Duluth

411 West First Street
Duluth, Minnesota 55802

Meeting Agenda

Planning Commission.

Tuesday, April 14, 2020

5:00 PM

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

Call to Order and Roll Call

Public Comment

Approval of Planning Commission Minutes

Consent Agenda

1. [PL 19-175](#) Vacation of Portion of Winnipeg and Water Streets Near 12901 Water Street for Brian and Ann Smith
Attachments: [Staff Report with Attachments](#)
2. [PL 20-020](#) Variance for Lot Area and Setbacks at 518 and 526 N 6th Avenue E by Jayson Sundvall
Attachments: [Staff Report with Attachments](#)
3. [PL 20-021](#) Minor Subdivision at 518 and 526 N 6th Avenue E by Jayson Sundvall
Attachments: [Staff Report with Attachments](#)
4. [PL 20-033](#) Variance for Dormers at 5802 London Road by Dean Jablonsky
Attachments: [Staff Report with Attachments](#)
5. [PL 20-030](#) Variance to Corner Side Yard Setback at 4931 Dodge Street by Sandra Jungers
Attachments: [PL 20-030 Staff Report Packet](#)

Public Hearings

6. [PL 20-022](#) MU-I Planning Review for Accessory Parking Lot at 916 E 3rd Street by Jefferson School, LLC
Attachments: [Staff Report with Attachments](#)
7. [PL 20-035](#) Preliminary Plat for London East at upper side of the 3700-3800 Block of London Road by TJS Construction, LLC
Attachments: [PL 20-035 Staff Report with attachments](#)

8. [PL 20-016](#) Variance to reduce Rear Yard Setback from 25 feet to 20 feet for twin homes in the London East plat by TJS Construction, LLC
- Attachments:** [PL 20-016 Staff Report with attachments](#)
9. [PL 20-027](#) Vacation of Utility Easement in former 38th Avenue East by TJS Construction, LLC for London East replat
- Attachments:** [PL 20-027 Staff Report with attachments](#)

Communications

Land Use Supervisor Report

Joint Airport Zoning Board Report

Duluth Midway Joint Powers Zoning Board Report

NOTICE: The Duluth Planning Commission will be holding its April 14, 2020 Special Meeting by other electronic means pursuant to Minnesota Statutes Section 13D.021 in response to the COVID-19 emergency. Some members of the Commission will be participating through video conference. Due to the COVID-19 emergency and the closure of City facilities, public comment will not be taken in person. However, members of the public can monitor the meeting and provide public comment on agenda items through WebEx Events. Visit <https://duluthmn.gov/live-meeting> to access the meeting. The public is also encouraged to submit written comment to planning@duluthmn.gov prior to the meeting. Please include "Planning Commission Agenda" in the subject line, and include your name and address and the agenda item you are speaking to. Please note that all public comment is considered Public Data. The public is also encouraged to watch the meeting by tuning into Public Access Television, Channel 180.



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 19-175	Contact	Chris Lee, cleee@duluthmn.gov	
Type	Vacation of Right-Of-Way	Planning Commission Date	April 14, 2020	
Deadline for Action	Application Date	March 24, 2020	60 Days	May 23, 2020
	Date Extension Letter Mailed	March 24, 2020	120 Days	July 22, 2020
Location of Subject	Portion of Winnipeg and Water Street near 12901 Water Street			
Applicant	Brian & Ann Smith	Contact		
Agent	Chris Dahlberg	Contact	Chris Dahlberg Law Office	
Legal Description	See Attached			
Site Visit Date	February 29, 2020	Sign Notice Date	March 31, 2020	
Neighbor Letter Date	February 25, 2020	Number of Letters Sent	6	

Proposal

The applicant is requesting to vacate a portion of Winnipeg Street and Water Street adjacent to 12901 Water Street.

Staff is recommending approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Rural Residential
North	R-1	Residential	Rural Residential
South	R-1	Residential	Rural Residential
East	R-1	Undeveloped	Rural Residential
West	N/A	St. Louis River	N/A

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.

- Vacating right of way near this property is helping to correct a non-conforming structure and the subsequent easements protect the underlying utilities.

Future Land Use - Rural Residential - Areas of single-family lots of at least five acres. Limits the extension of municipal utilities for new development. Includes existing rural density areas with lots as small as an acre now served by municipal utilities but not planned for further subdivision.

Review and Discussion Items:

Staff finds that:

1. The applicant is requesting to vacate a portion of Winnipeg Street and Water Street near the address of 12901 Water Street as shown of the attached exhibit.
2. The proposed vacation of a portion of Winnipeg and Water Street is T-shaped and is approximately 10,700 square feet in size. The proposed area currently contains a 1,308 square foot home built in 1950 and a garage built in 2011. The two sheds are under the required size for building permits and it is unknown when they were built.
3. The City has determined that this portion of the right of way is not needed for street or pedestrian use. Vacating the right of way will not impact or deny access to other property owners. This road abuts the water line, but is not used for access to the St. Louis River and there is no public water access at this location due to the terrain of this area. City engineering has requested easements be placed on the neighboring properties in order to maintain access to the utilities that run parallel to Water Street. The easement agreements will need to be signed by the property owners before this application can go forward to City Council.
4. No other public or City comments have been received at the time of drafting this report.
5. 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 with the following conditions:

- 1.) Record the vacation shown on the attached exhibit dated March 19, 2020.
- 2.) The applicant and adjacent property owners sign the easement agreements for utilities prior to recording.
- 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.



Legend

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

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



Winnipeg Street and Water Street vacation

A vacation of the following portions of Winnipeg Street and Water Street, Fond Du Lac, St. Louis County, Minnesota, according to the recorded plat thereof:

Beginning at the northeast corner of Lot 38 Water Street, of said Fond Du Lac, on the westerly line of said Water Street; thence along the easterly extension of the north line of said Lot 38 North 71 degrees 13 minutes 40 seconds East 47.65 feet; thence South 21 degrees 39 minutes 40 seconds East 4.94 feet; thence South 36 degrees 29 minutes 29 seconds East 163.74 feet to the northeasterly extension of the southeast line of Lot 40 Water Street, of said Fond Du Lac; thence South 46 degrees 10 minutes 13 seconds West along said northeasterly extension of the southeast line of said Lot 40 a distance of 36.20 feet to the southwesterly line of said Water Street and the east corner of said Lot 40; thence North 43 degrees 49 minutes 47 seconds West along the southwest line of said Water Street 80.00 feet to the north corner of Lot 39 Water Street, of said Fond Du Lac; thence South 46 degrees 10 minutes 13 seconds West along the southeast line of said Winnipeg Street 36.00 feet to a survey line; thence North 34 degrees 35 minutes 05 seconds West along said survey line 60.79 feet to the northwest line of said Winnipeg Street; thence North 46 degrees 10 minutes 13 seconds East along said northwest line of Winnipeg Street 20.00 feet to the intersection of the northwest line of Winnipeg Street and the southwest line of said Water Street; thence north along the west line of said Water Street North 18 degrees 46 minutes 20 seconds West 52.05 feet to the Point of Beginning.

The southwesterly limit of said vacated Winnipeg Street is the northeast water edge of the St. Louis River, bounded by the southwesterly prolongation of the northwest line and the southeast line of said Winnipeg Street.

Basis of Bearing is the St. Louis County Transverse Mercator 1996 Coordinate System.

APPROVED BY:

CITY ENGINEER

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 : 3/19/2020



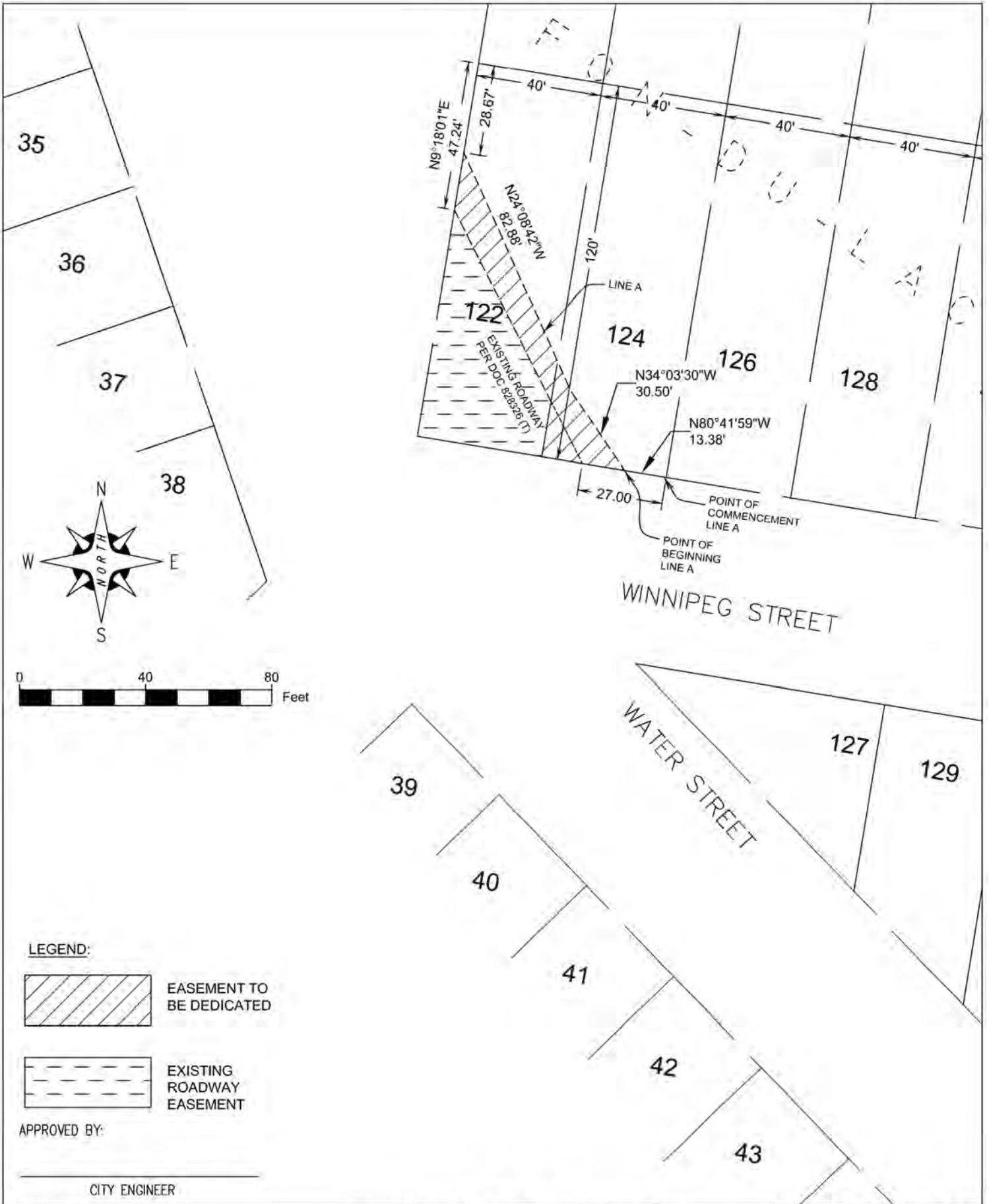
Greg Stoewer
MINNESOTA LICENSE NO. 21774



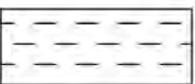
11 East Superior Street
Suite 420
Duluth, MN 55802
218-724-8578
tkda.com

Job Number: 15513.383

VACATION OF WINNIPEG
STREET &
WATER STREET
PAGE 2 OF 2



LEGEND:

-  EASEMENT TO BE DEDICATED
-  EXISTING ROADWAY EASEMENT

APPROVED BY: _____
CITY ENGINEER

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Date : 3/19/2020

Greg Stoewer
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Job Number: 15513.383

ROADWAY & UTILITY EASEMENT
WATER STREET
PAGE 1 OF 2

That part of said Lot 122 Winnipeg Street, Fond Du Lac, according to the recorded plat thereof, bounded on the southwest by the northeast line of an existing easement filed for record with St. Louis County Registrar of Titles as Doc. No. 828326, said northeast line described as follows:

Beginning at a point on the west line of said Lot 122, Fond Du Lac Winnipeg Street, 47.24 feet south of the north line of said Lot 122, to a point on the south line of Lot 124, of said Fond Du Lac Winnipeg Street, 27.00 feet west of the east line of said Lot 124, thereby terminating.

And on the northeast by a line described as follows (Line A):

Commencing at the southeast corner of said Lot 124; thence west 13.38 feet along the south line of said Lot 124 bearing North 80 degrees 41 minutes 59 seconds West to the point of beginning of said line; thence North 34 degrees 03 minutes 30 seconds West a distance of 30.50 feet; thence North 24 degrees 08 minutes 42 seconds West a distance of 82.88 feet to the west line of said Lot 122 at a point that is 28.67 feet south of the northwest corner of said Lot 122 and said line there terminating.

TOGETHER WITH that part of Lot 124, Winnipeg Street in said plat of Fond du Lac that lies southwesterly of said Line A.

Said easement is 1011.8 square feet more or less.

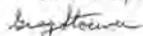
Basis of Bearing is the St. Louis County Transverse Mercator 1996 Coordinate System.

APPROVED BY:

CITY ENGINEER

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Date: 3/19/2020



Greg Stoewer
MINNESOTA LICENSE NO. 21774



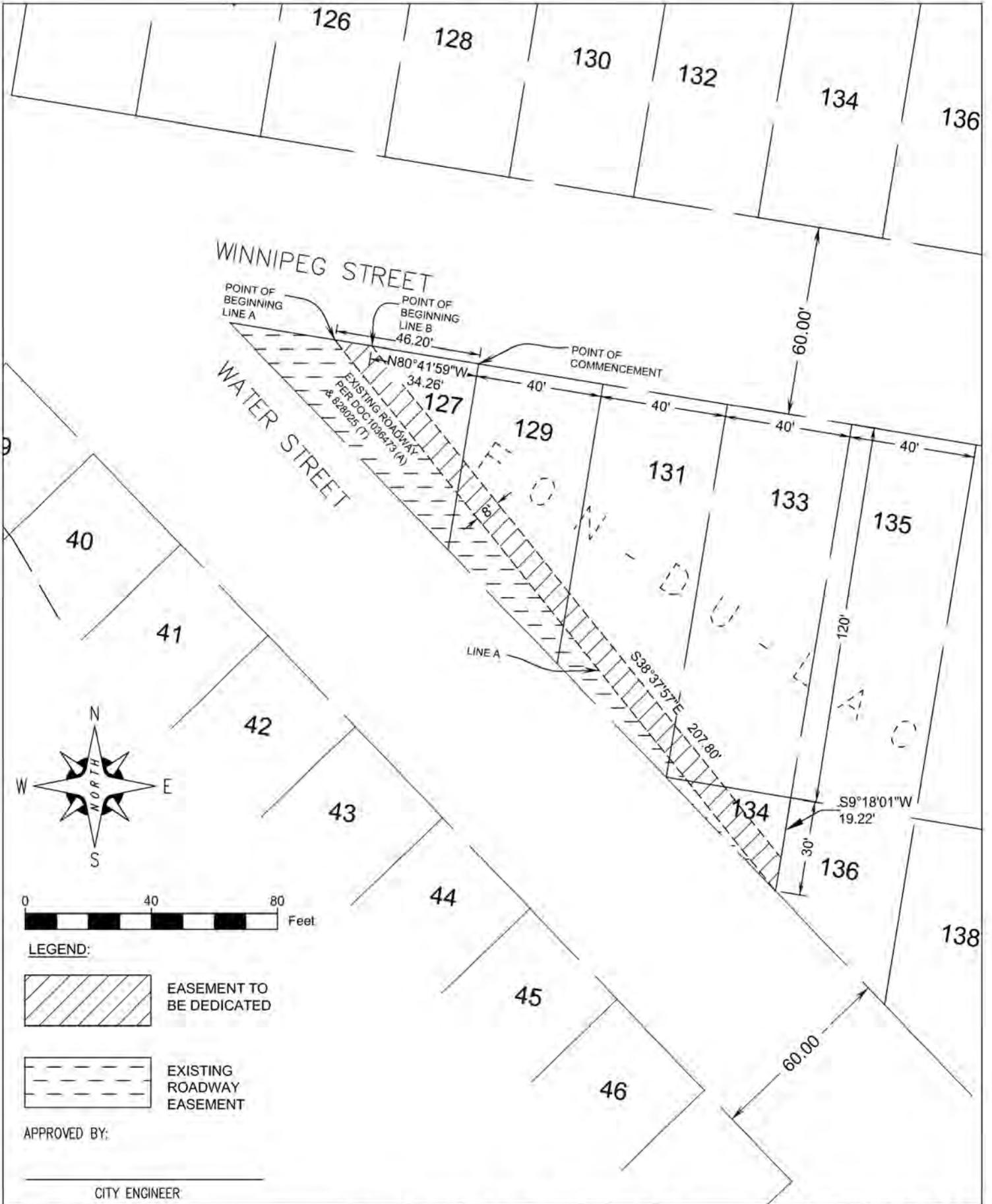
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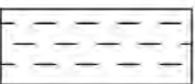
ROADWAY & UTILITY
EASEMENT
WATER STREET

PAGE 2 OF 2

Page 9 of 79



LEGEND:

-  EASEMENT TO BE DEDICATED
-  EXISTING ROADWAY EASEMENT

APPROVED BY: _____
 CITY ENGINEER

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 : 3/19/2020
Greg Stoewer
 Greg Stoewer
 MINNESOTA LICENSE NO. 21774

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 tkda.com
 Job Number: 15513.383

ROADWAY & UTILITY EASEMENT WATER STREET

PAGE 1 OF 2

That portion of Lots 127, 129, 131 and 133, Winnipeg Street, Fond Du Lac and Lot 134, Water Street, Fond Du Lac, according to the recorded plat thereof, lying between the following described lines:

Bounded on the southwest by the northeast line of an existing easement filed for record with the St. Louis County Recorder as Doc. No. 1036473 and St. Louis County Register of Titles as Doc. No. 828025, described as follows (Line A):

Beginning at a point on the north line of said Lot 127 that is 46.20 feet westerly of the northeast corner of said Lot 127 to a point on the east line of said Lot 134 distant 30.00 feet southerly of the northeast corner of said Lot 134 and said line there terminating.

And bounded on the northeast by a line (Line B) described as follows:

Commencing at the northeast corner of said Lot 127; thence west 34.26 feet along the north line of said Lot 127 bearing North 80 degrees 41 minutes 59 seconds West to the point of beginning of a line that is parallel with and distant 8.00 feet northeast of said Line A; thence South 38 degrees 37 minutes 57 seconds East along said parallel line 207.80 feet to the east line of said Lot 134 at a point that is 19.22 feet south of the northeast corner of said Lot 134, and said line there terminating.

Said easement is 1726.7 square feet more or less.

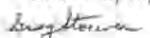
Basis of Bearing is the St. Louis County Transverse Mercator 1996 Coordinate System.

APPROVED BY:

CITY ENGINEER

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Date : 3/19/2020



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ROADWAY & UTILITY
EASEMENT
WATER STREET

PAGE 2 OF 2
Page 11 of 79



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 20-020	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Variance	Planning Commission Date	April 14, 2020	
Deadline for Action	Application Date	February 20, 2020	60 Days	April 20, 2020
	Date Extension Letter Mailed	March 13, 2020	120 Days	June 21, 2020
Location of Subject	518 North 6 th Avenue East & 526 North 6 th Avenue East			
Applicant	Jayson Sundvall	Contact	N/A	
Agent	N/A	Contact	N/A	
Legal Description	See attached			
Site Visit Date	April 3, 2020	Sign Notice Date	March 31, 2020	
Neighbor Letter Date	March 31, 2020	Number of Letters Sent	64	

Proposal

The applicant is seeking to create legally separate lots for two existing houses, and as such is requesting variances from the following UDC standards:

- Lot area variance for 518 and 526 North 6th Avenue East less than 4,000 square feet
- Front yard setback variance for 518 and 526 North 6th Avenue East less than 25 feet
- Rear yard setback variance 518 and 526 North 6th Avenue East less than 25 feet
- Side yard setback variance for 518 North 6th Avenue East

These variances would apply to the two existing houses. No new construction is proposed.

Recommended Action:

Approve variances with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N	Single-family Residential	Neighborhood Mixed Use
North	MU-N	Single-family Residential	Neighborhood Mixed Use
South	MU-N	Commercial	Neighborhood Mixed Use
East	MU-N	Commercial	Neighborhood Mixed Use
West	MU-N	Multi-family Residential	Neighborhood Mixed Use

Summary of Municipal Planning Act & City 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 Principle and/or Policies and Current History (if applicable):

Governing Principle #5 –Promote reinvestment in neighborhoods

The variances are consistent with promoting reinvestment in neighborhoods by allowing existing single-family dwellings to continue, and through a subdivision allow for the creation of a second lot. The new lot has an existing dwelling unit on the property, which will provide additional housing for the City of Duluth.

Future Land Use:

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

History:

526 North West 6th Avenue East (Parcel A) – The 1,280 square foot single-family dwelling was built in 1901.

518 North 6th Avenue East (Parcel B) – The 1,004 square foot single-family dwelling was built in 1904.

Review and Discussion Items

Staff finds that:

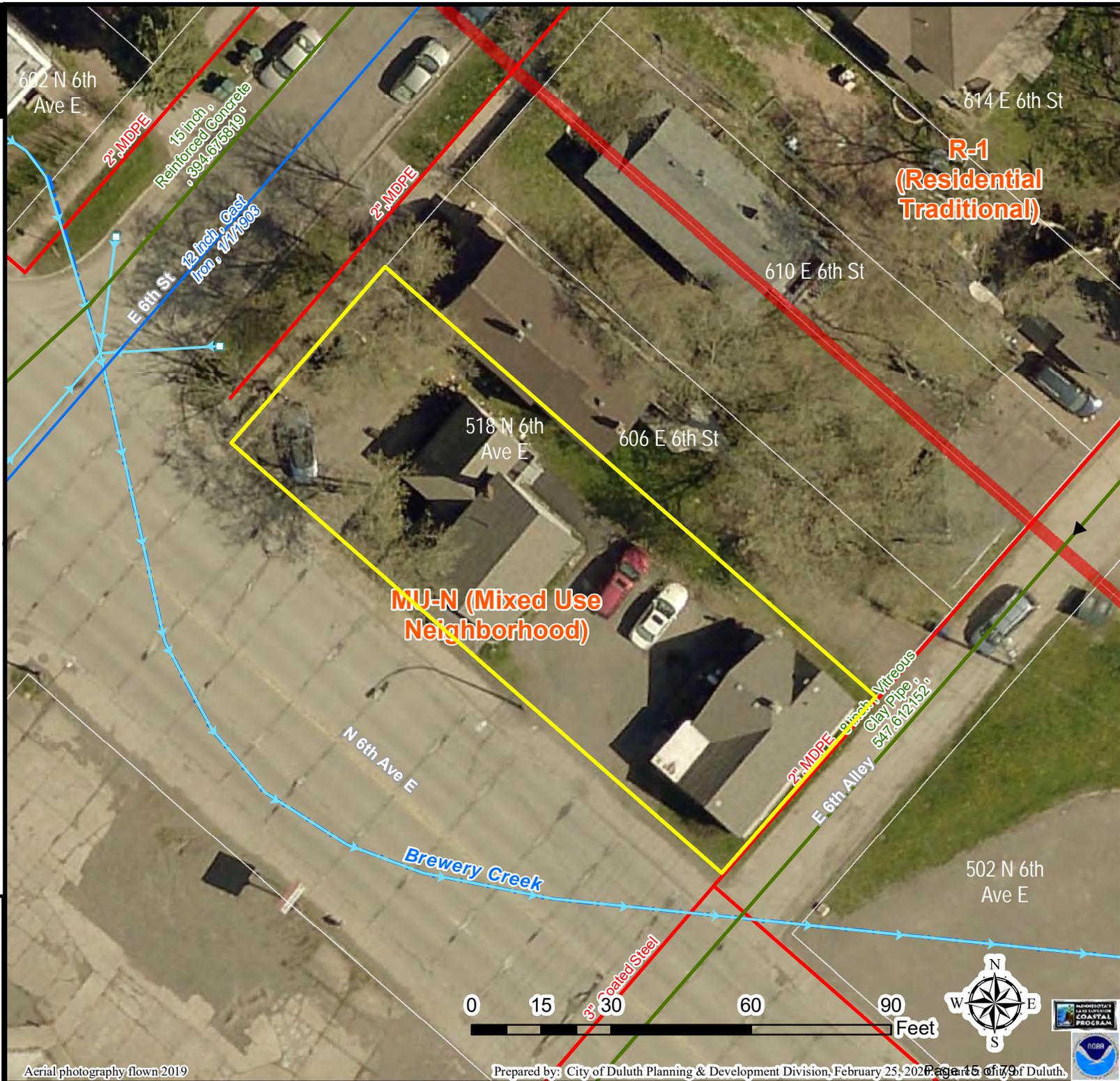
1. The applicant has submitted a companion application for a minor subdivision of the parent parcel into two separate lots each with single-family homes. Both homes are single-family and each has 3 bedrooms and 1 bathroom. The applicant is seeking a lot area variance for 526 North 6th Avenue East (Parcel A) and 518 North 6th Avenue East as both lots would be less than 4,000 square feet. The applicant is also seeking a variance from the front and rear yard setbacks for both Parcel A and Parcel B as both lots would be less than 25 feet in depth for front and 20 feet for the rear yard. A side yard setback variance is also necessary for Parcel B as the east side yard setback is less than 5 feet in the MU-N zone district.
2. The property and adjacent lots are a mix of 25-foot and 50-foot wide platted parcels.
3. Parcel A is seeking a lot area reduction from 4,000 sq. ft. to 3,685 sq. ft., a reduced front yard setback from the required 20 feet and a reduced rear yard setback from the required 25 feet.
4. Parcel B is seeking a lot area reduction from 4,000 sq. ft. to 3,333 sq. ft., a reduced front yard setback from the required 20 feet and a reduced rear yard setback from the required 25 feet, and reduction in side yard setback from 5 feet to less than 1-foot.
5. The applicant is proposing a reasonable use of the parcels for residential purposes in an R-1 zone district. The existing side by side houses appear as two individual lots with frontage on North 6th Avenue East. Relief is required from circumstances unique to the property with two houses on one parcel and was not created by the property owner.
6. The applicant has stated that by granting the minor subdivision and variances these actions will not change the current use of these homes. Additionally, the applicant has stated that the properties and dwelling units on them would remain the same and continue to be affordable single family homes.
7. Granting the variance will not alter the essential character of the area. The immediate area is zoned for mixed use to accommodate residential and commercial uses. This variance would not result in reductions of light and air to surrounding properties.
8. The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Neighborhood Mixed Use.

9. No other public, agency or City comments were received.
10. Per UDC Section 50-37.1. N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission approve the Variance, application PL 20-020, subject to the following conditions:

1. The project be limited to, and maintained according to the survey dated 02/26/2020 submitted with the application;
2. Variances are contingent upon approval of the minor subdivision application (PL 20-021).
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.



**R-1
(Residential
Traditional)**

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

- Legend**
- Gas Main
 - Water Main
 - Hydrant
 - Sanitary Sewer Mains
 - CITY OF DULUTH
 - WLSDD; PRIVATE
 - Sanitary Sewer Forced Main
 - Storage Basin
 - Pump Station
 - Storm Sewer Mains
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
 - Vacated ROW
 - Easement Type
 - Utility Easement
 - Other Easement
 - Zoning Boundaries
 - Zoning Boundaries
 - Shoreland (UDC)
 - Cold Water
 - Natural Environment
 - General Development
 - Streams (GPS)
 - 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.



PARENT LEGAL DESCRIPTION PER DOC. NO. 1366777

Lot 98, East Sixth Street, Duluth Proper, First Division, St. Louis County, Minnesota.

LEGAL DESCRIPTION FOR PARCEL A

Lot 98, East Sixth Street, DULUTH PROPER FIRST DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

Except: the Southeasterly 66.50 feet thereof.

Said parcel contains 3,685 Sq. Feet or 0.08 Acres.

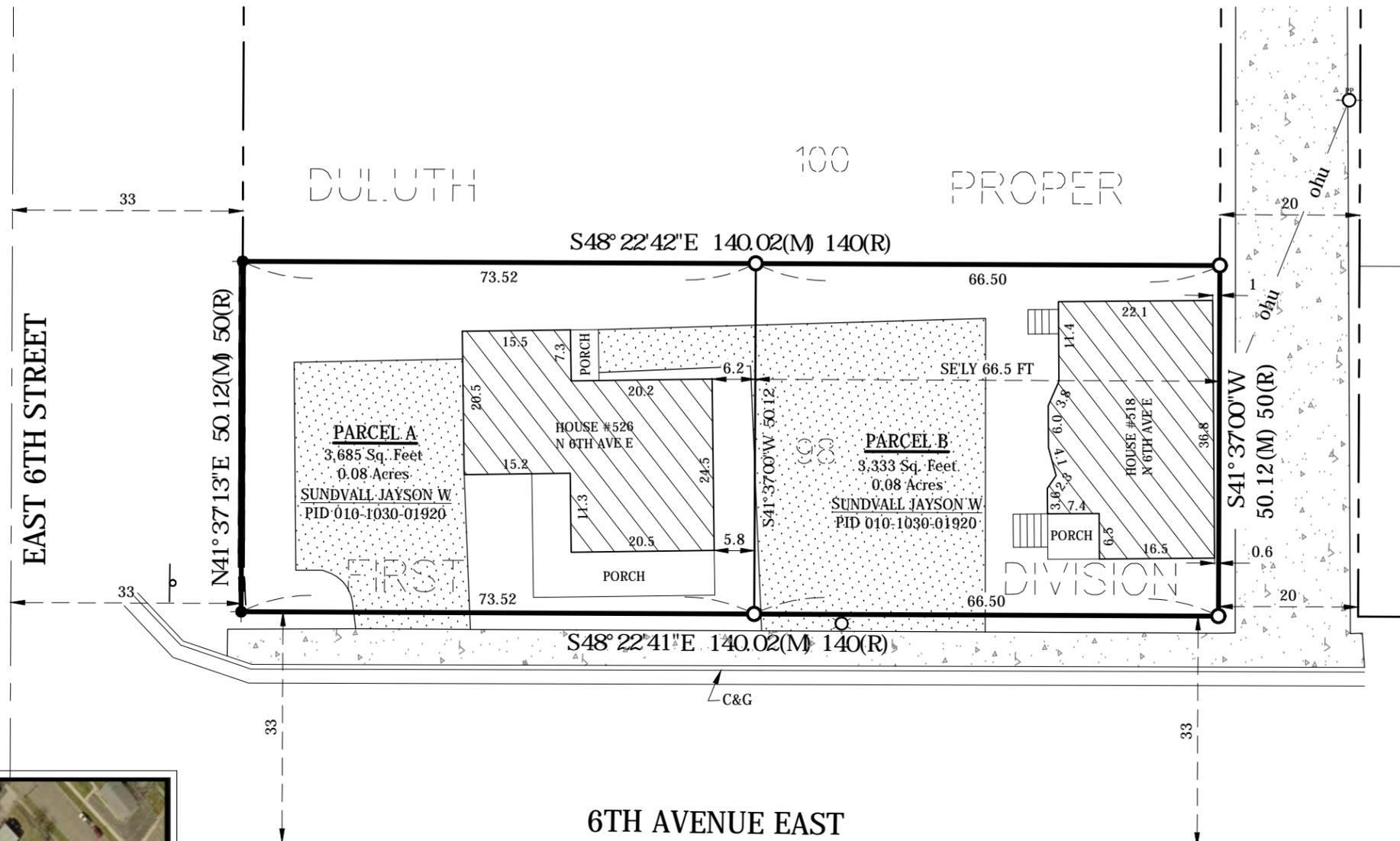
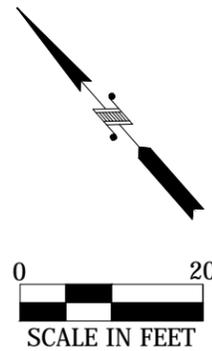
LEGAL DESCRIPTION FOR PARCEL B

The Southeasterly 66.50 feet of Lot 98, East Sixth Street, DULUTH PROPER FIRST DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

Said parcel contains 3,333 Sq. Feet or 0.08 Acres.

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. DUE TO SNOW AND ICE COVERAGE, SOME FEATURES MAY NOT HAVE BEEN VISIBLE DURING THE COURSE OF THIS SURVEY.



518 & 526 N 6TH AVE E,
DULUTH, MN 55805

VICINITY MAP



LEGEND

	CONCRETE SURFACE	(M)-FIELD MEASURED DIMENSION (R)-RECORD DIMENSION		LIGHT POLE
	BITUMINOUS SURFACE	C&G-CONCRETE CURB & GUTTER		SIGN
	EXISTING BUILDINGS			SET MAG NAIL
				SET CAPPED REBAR
				RLS. NO. 49505

CERTIFICATE OF SURVEY

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

David R. Evanson
David R. Evanson
Mn Lic. No. 49505

DATE:02-26-2020

CLIENT:JAYSON SUNDVALL

ADDRESS:518-526 N 6TH AVE E,
DULUTH, MN 55805

DATE:02-26-2020

REVISIONS:

JOB NO:20-026

SHEET 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 20-021	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Minor Subdivision	Planning Commission Date	April 14, 2020	
Deadline for Action	Application Date	February 20, 2020	60 Days	April 20, 2020
	Date Extension Letter Mailed	March 13, 2020	120 Days	June 21, 2020
Location of Subject	518 North 6 th Avenue East & 526 North 6 th Avenue East			
Applicant	Jayson Sundvall	Contact	N/A	
Agent	N/A	Contact	N/A	
Legal Description	See attached			
Site Visit Date	April 3, 2020	Sign Notice Date	N/A	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal

The applicant is requesting a Minor Subdivision of an existing single tax parcel with two single-family dwellings into two tax parcels, each retaining a single family dwelling. Access to the parcels will be along existing frontage on 526 North 6th Avenue East Street (Parcel A) and 518 North 6th Avenue East (Parcel B).

Recommended Action:

Approve Minor Subdivision with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N	Single-family Residential	Neighborhood Mixed Use
North	MU-N	Single-family Residential	Neighborhood Mixed Use
South	MU-N	Commercial	Neighborhood Mixed Use
East	MU-N	Commercial	Neighborhood Mixed Use
West	MU-N	Multi-family Residential	Neighborhood Mixed Use

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

The minor subdivision is consistent with promoting reinvestment in neighborhoods by allowing a large lot with two single-family dwellings to be subdivided and creating a second lot. The new lot has an existing dwelling unit on the property, which will provide additional housing and generate tax dollars for the City of Duluth.

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, neighborhood extensions, and new traditional neighborhood areas.

History:

526 North West 6th Avenue East (Parcel A) – The 1,280 square foot single-family dwelling was built in 1901.

518 North 6th Avenue East (Parcel B) – The 1,004 square foot single-family dwelling was built in 1904.

Review and Discussion Items

Staff finds that:

1. The property was originally platted as a 50’ x 140’ parcel. As noted above two detached single family houses were constructed on the parcel. Each house has 3 bedrooms and 1 bathroom.
2. The applicant is requesting a Minor Subdivision to divide the 7,000 square foot parcel into two parcels. Parcel A will be 50.12’ x 73.52’ and will be approximately 3,684 square feet with a 1,280 square foot house and a paved parking area. Parcel B will be 50.12’ x 66.50’ and contains approximately 3,333 square feet with a 1,004 square foot home with a paved parking area.
3. The applicant has also applied for variances to the minimum lot area, front, rear, and side yard setbacks to create the two parcels with single family houses to promote housing availability.
4. The applicant has stated that their intent is to leave the homes as they are for continued use as affordable housing.
5. Access to the parcels will be via frontage along North 6th Avenue East. Both house have paved off street parking.
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 20-021 subject to the following conditions:

1. Approval of Minor Subdivision is contingent upon the approval of the application (PL 20-020) for variances.
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.

PARENT LEGAL DESCRIPTION PER DOC. NO. 1366777

Lot 98, East Sixth Street, Duluth Proper, First Division, St. Louis County, Minnesota.

LEGAL DESCRIPTION FOR PARCEL A

Lot 98, East Sixth Street, DULUTH PROPER FIRST DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

Except: the Southeasterly 66.50 feet thereof.

Said parcel contains 3,685 Sq. Feet or 0.08 Acres.

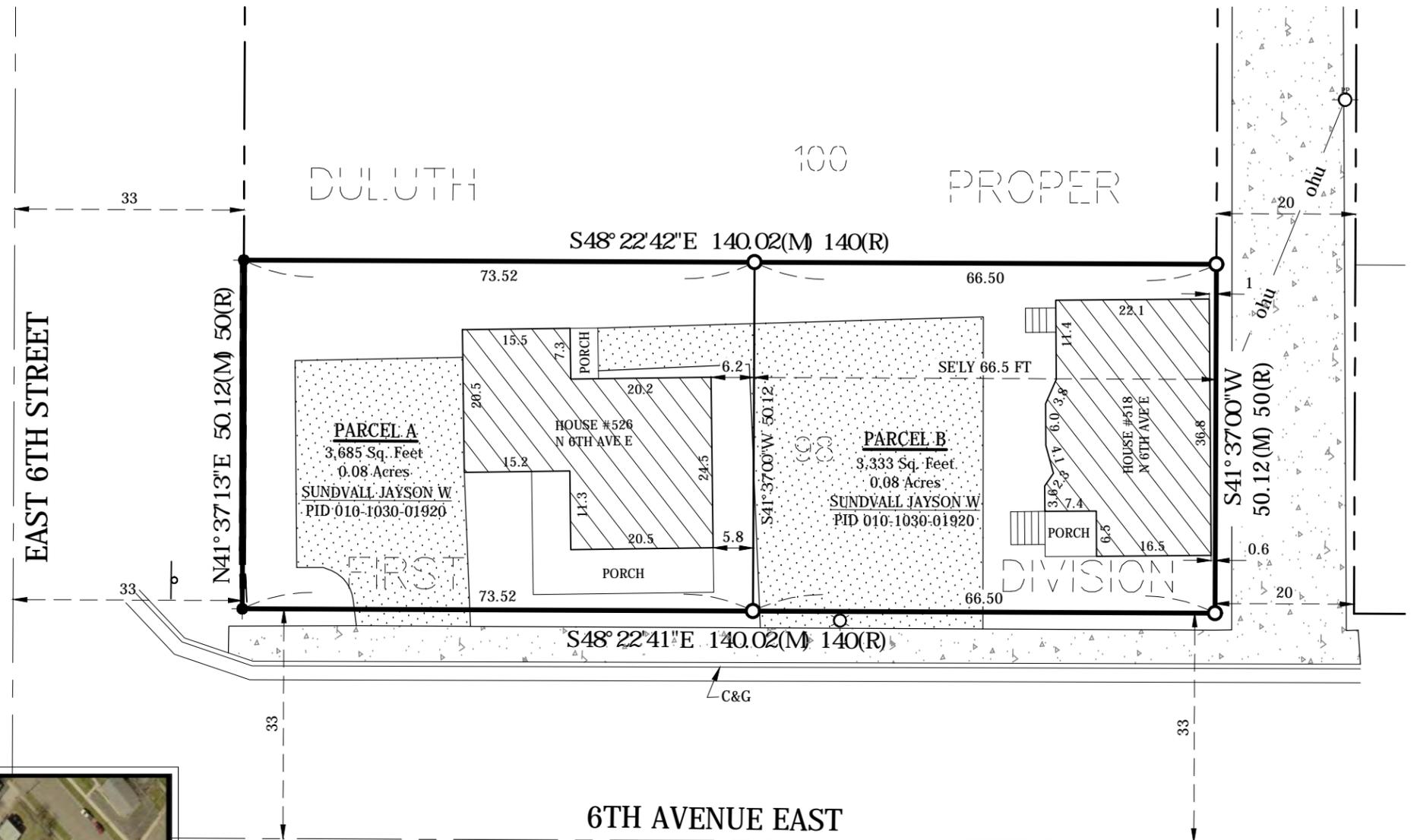
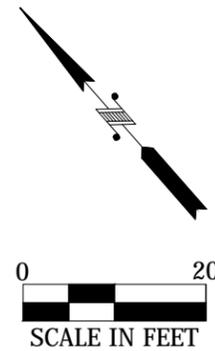
LEGAL DESCRIPTION FOR PARCEL B

The Southeasterly 66.50 feet of Lot 98, East Sixth Street, DULUTH PROPER FIRST DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

Said parcel contains 3,333 Sq. Feet or 0.08 Acres.

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. DUE TO SNOW AND ICE COVERAGE, SOME FEATURES MAY NOT HAVE BEEN VISIBLE DURING THE COURSE OF THIS SURVEY.



518 & 526 N 6TH AVE E,
DULUTH, MN 55805

VICINITY MAP



LEGEND

	CONCRETE SURFACE	(M)-FIELD MEASURED DIMENSION (R)-RECORD DIMENSION		LIGHT POLE
	BITUMINOUS SURFACE	C&G-CONCRETE CURB & GUTTER		SIGN
	EXISTING BUILDINGS			RETAINING WALL
				OVERHEAD UTILITIES
				CENTER LINE
				RIGHT OF WAY LINE
				PROPOSED PARCEL LINE
				BOUNDARY LINE AS SURVEYED

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.		CERTIFICATE OF SURVEY	
 David R. Evanson MN Lic. No. 49505		CLIENT: JAYSON SUNDVALL	REVISIONS:
		ADDRESS: 518-526 N 6TH AVE E, DULUTH, MN 55805	
DATE: 02-26-2020		DATE: 02-26-2020	JOB NO: 20-026 SHEET 1 OF 1

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



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 20-033	Contact	John Kelley, jkelly@duluthmn.gov	
Type	Variance – Shoreland structure addition setback	Planning Commission Date	April 14, 2020	
Deadline for Action	Application Date	March 16, 2020	60 Days	May 15, 2020
	Date Extension Letter Mailed	March 25, 2020	120 Days	July 14, 2020
Location of Subject	5802 London Road			
Applicant	Dean Jablonsky	Contact		
Agent		Contact		
Legal Description	See attached			
Site Visit Date	April 3, 2020	Sign Notice Date	March 31, 2020	
Neighbor Letter Date	March 31, 2020	Number of Letters Sent	28	

Proposal

The applicant is seeking a variance to renovate the second floor and add two dormers on the front and rear side of an existing single family dwelling within 50’ of the shoreline of Lake Superior.

Recommendation

Staff are recommending approval with conditions.

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

Summary of Code Requirements

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

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief 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 #1 - Reuse of previously developed lands, including adaptive reuse of existing building stock and historic resources, directs new investment to sites which have the potential to perform at a higher level than their current state. This strengthens neighborhoods and is preferred to a dispersed development pattern with associated alteration of natural landscapes and extensions of public services. Site preparation or building modification costs are offset by savings in existing public infrastructure such as streets and utilities, and transit, fire, and police services.

The property was converted into a home in 1937. The home was previously owned by Elisabeth Congden who was proposing to renovate the second floor of the dwelling. The current owner is proposing to complete the renovations and add two dormers, one on the front side and one on the rear side of the house.

Governing Principle 5 – Promote reinvestment in neighborhoods through land use and transportation that foster neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the neighborhood’s

The home owner will be reinvesting in their home in the Lakeside neighborhood by completing the proposed renovations to the dwelling.

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

History:

Building constructed in 1876 as water pumping station for Duluth

Building renovated into house in 1937

Interim Use Permit (PL 19-166) for a Vacation Dwelling Unit approved December of 2019

Review and Discussion Items

- 1) The applicant’s house was constructed in 1876 as the original water pumping station for Duluth and later converted into a home by Elisabeth Congdon in 1937. The applicant is proposing to add dormers on the upper floor to the front and rear sides of the home.
- 2) The home was constructed prior to the adoption of the UDC shoreland setback requirements. Due to the proximity of the house to the Lake Superior shoreline, it’s classified as general development waters and requires a 50’ setback from the shoreline’s Ordinary High Water Level (OHWL). Since the home was constructed within 50’ feet of the Lake Superior shoreline, a variance to shoreland setback standards is required to modify or expand the roof/second floor area by adding dormers.
- 3) The applicant is proposing a reasonable use by adding dormers onto the exterior of the existing home and not expanding the foot print of the structure. This will allow the applicant to complete renovations to the second floor and expand the living area of the home.
- 4) The special circumstances applying to the building is the previous use of the home as a water pumping station and the need for it to be located adjacent to the shoreline of Lake Superior.
- 5) The proposal will not alter the essential character of the area because the neighborhood has homes with similar architectural features and in proximity to the shoreline of Lake Superior.
- 6) Section 50-37.9.L of the UDC requires mitigation for shoreland variances; in this instance, no additional impervious surface or vegetation removal are occurring, so staff has determined that no mitigation is necessary.
- 7) No other public, private or City comments were received.
- 8) Per UDC Section 50-37.1. N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year

Staff Recommendation

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

- 1) The project be limited to, constructed, and maintained based on the site plan and drawings, VO.1 and V1.2 and dated 03/02/20 submitted with the application.
- 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.



13 S 58th Ave E

8 inch Vitreous Clay Pipe, 332.439715

8 inch Vitreous Clay Pipe, 366.146115

3" MDPE

8 inch Vitreous Clay Pipe, 367.448088

10 inch Polyethylene

London Road

12 inch Vitreous Clay Pipe, 431.596885

6 inch Cast Iron, 1/1/1888

10 inch Cast Iron, 1/1/1888

5820 London Rd

R-1 (Residential Traditional)

5808 London Rd

5802 London Rd

10 inch Cast Iron, 1/1/1888

10 inch Polyethylene, 7/1/2012

10 inch Cast Iron, 1/1/1888

58th Ave E Creek

5718 London Rd

5802 LONDON ROAD

VARIANCE APPLICATION

LIST OF DRAWINGS:

V 0.1	SITE PLAN/NOTES
V 1.1	FLOOR PLANS
V 1.2	EXTERIOR ELEVATIONS

PROJECT DESCRIPTION:

- STRUCTURAL MODIFICATIONS TO 2ND FLOOR AND ROOF FRAMING
- ADDITION OF DORMERS TO ROOF
- REMODEL OF 2ND FLOOR TO CREATE BEDROOM(S) + BATHROOM

ABBREVIATIONS:

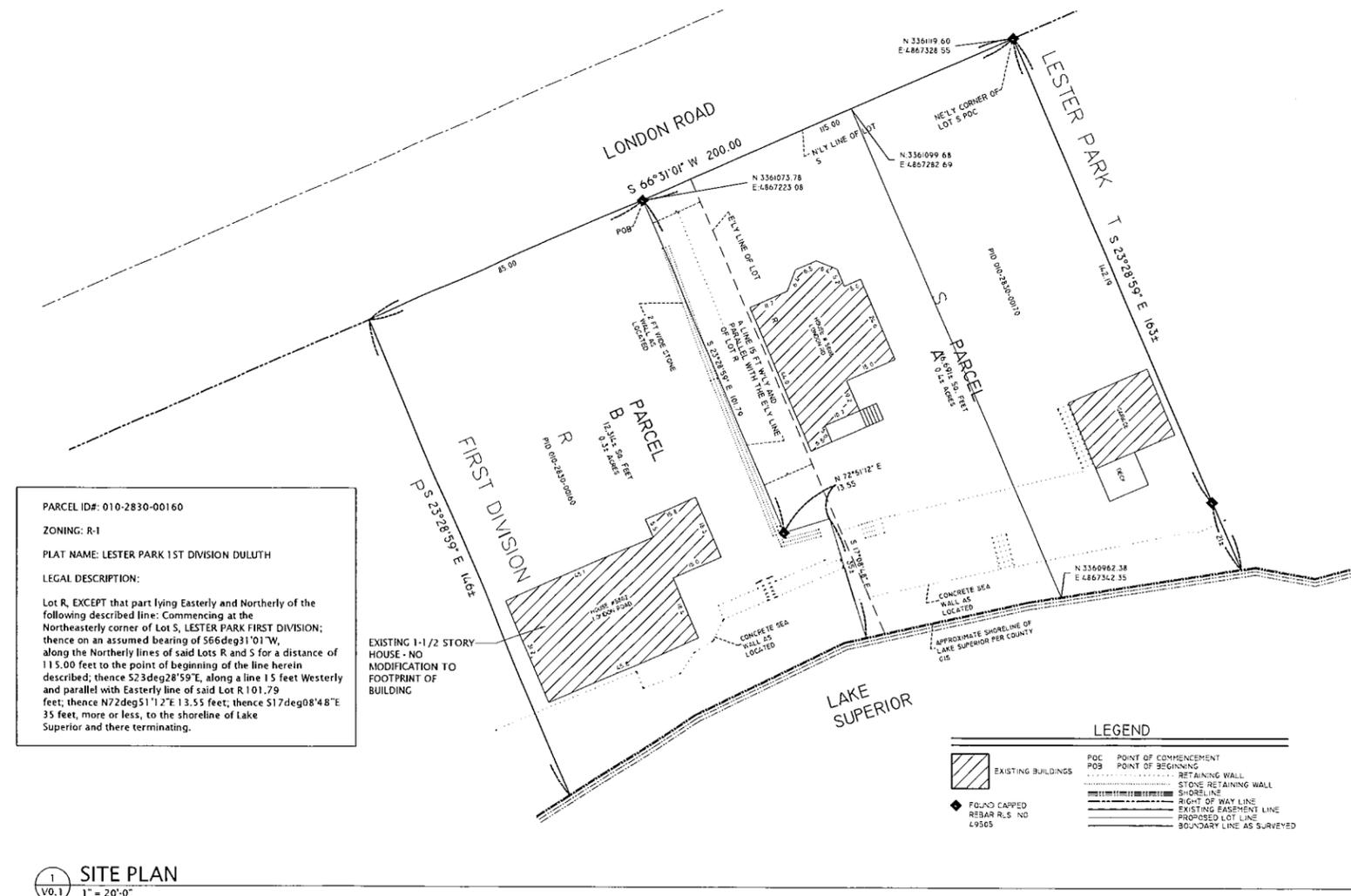
ACB	ACOUSTICAL CEILING BOARD	GWB	GYPSUM WALL BOARD
A.F.F.	ABOVE FINISHED FLOOR	MFR	MANUFACTURER OVER
B.O.	BOTTOM OF	O/	ON CENTER
CL	CENTER LINE	O.P.G.	OPENING
CONT.	CONTINUOUS	P.T.	PRESSURE TREATED
ELEV.	ELEVATION	R/W	REQUIRED WITH
ETR	EXISTING TO REMAIN	REQ.	REQUIRED
F.D.	FLOOR DRAIN	SIM.	SIMILAR
FDN.	FOUNDATION	TYP.	TYPICAL
F.F.	FINISHED FLOOR	V.B.	VAPOR BARRIER
F.F.E.	FINISHED FLOOR ELEVATION	W/	WITH
FIN.	FINISH OR FINISHED		
FL	FLOOR		
F.O.	FACE OF		
FTG.	FOOTING		

KEY:

	DRAWING NUMBER TYP.
	SECTION CUT
	SHEET NUMBER TYP.
	DETAIL CUT
	ELEVATION VIEW
	WINDOW
	DOOR
	WALL TYPE



3 W. Superior Street
Duluth, MN 55802
(218) 733-0690
www.wagnerzaun.com
dzaun@wagnerzaun.com
rwagner@wagnerzaun.com



1 SITE PLAN
V0.1 1" = 20'-0"

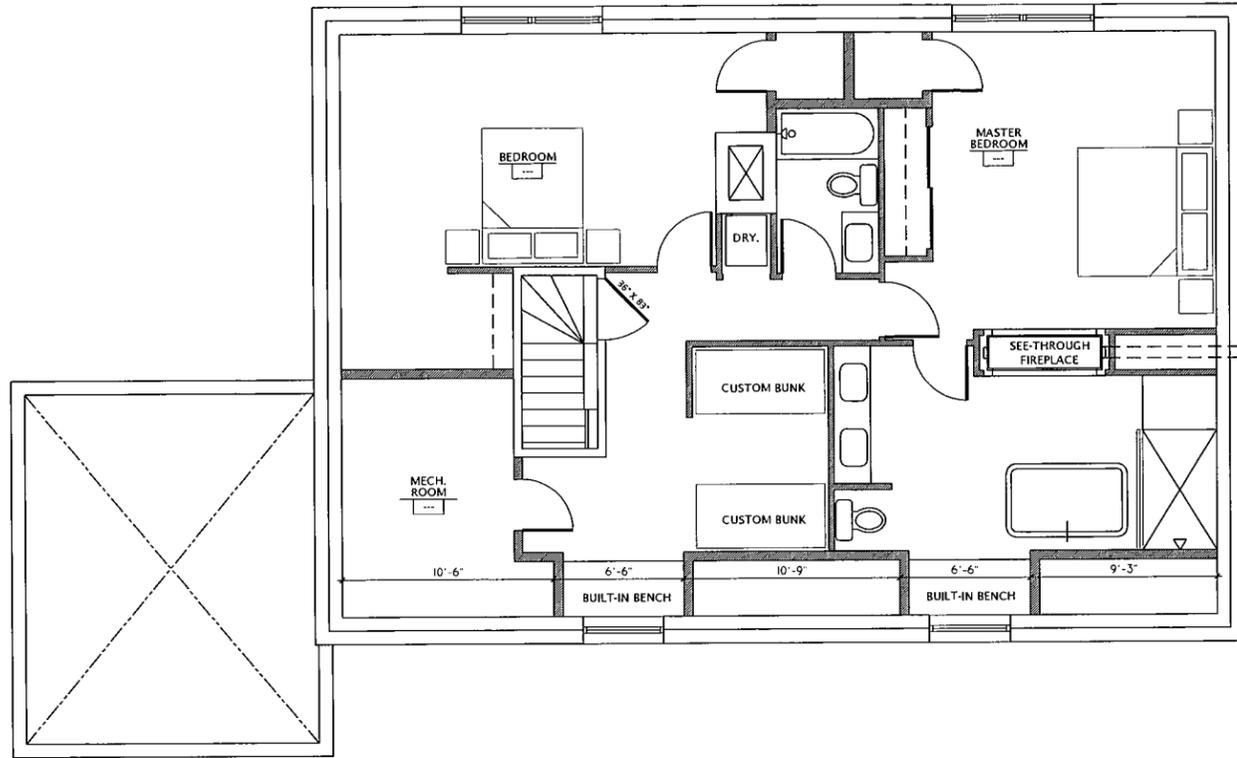
IF PRINTED TO SCALE
THIS LINE WILL BE 2" LONG

PROJECT #: 2002
JABLONSKY REMODEL
5802 LONDON ROAD
DULUTH, MN 55804

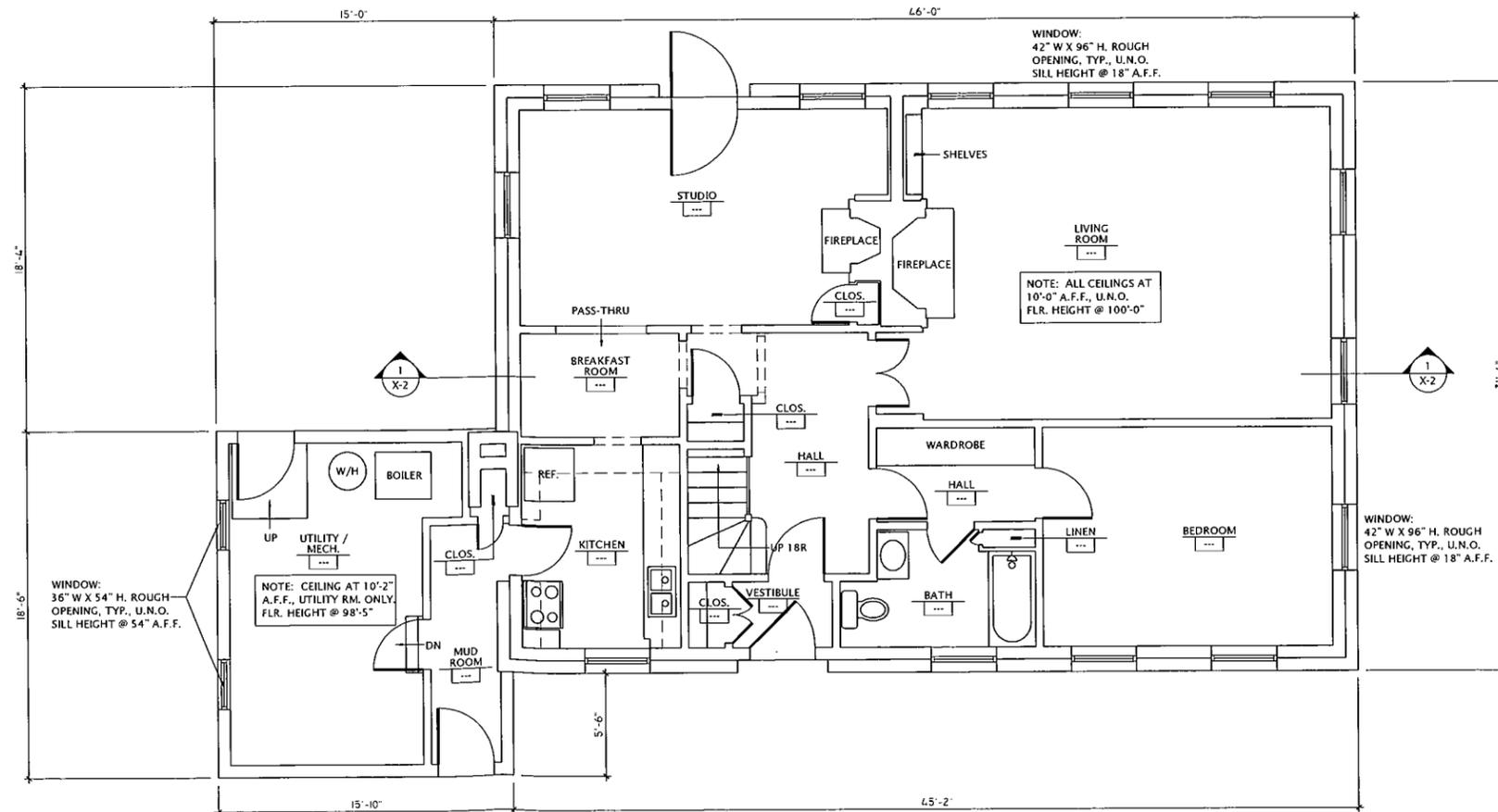
REVISION/ISSUE	DATE
VARIANCE APPLICATION	03/02/2020

SHEET NAME:
FLOOR PLAN,
EXTERIOR ELEVATIONS

SHEET #:
V 0.1



2
 VI.1
 PROPOSED SECOND FLOOR PLAN
 1/4" = 1'-0"



1
 VI.1
 EXISTING 1ST FLOOR PLAN (NO WORK)
 1/4" = 1'-0"

IF PRINTED TO SCALE
 THIS LINE WILL BE 2" LONG

PROJECT #: 2002
JABLONSKY REMODEL
 5802 LONDON ROAD
 DULUTH, MN 55804

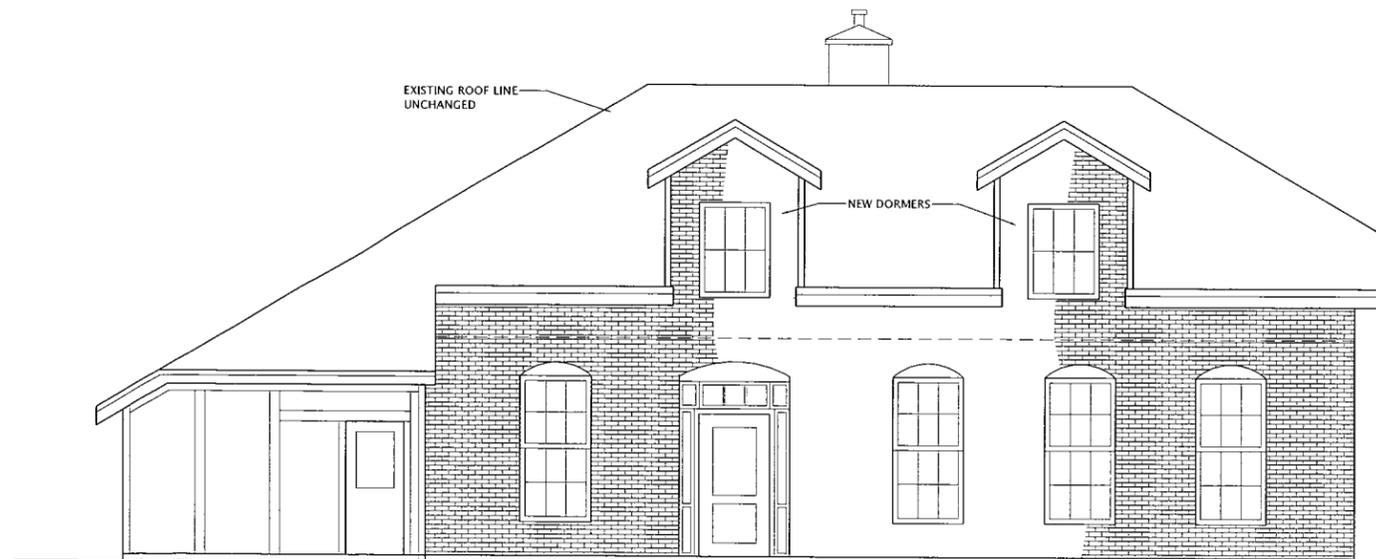
REVISION/ISSUE	DATE
VARIANCE APPLICATION	03/02/2020

SHEET NAME:
 FLOOR PLAN,
 EXTERIOR ELEVATIONS

SHEET #:
V 1.1



1 PROPOSED LAKESIDE (SOUTHEAST) ELEVATION
 V1.2 1/4" = 1'-0"



1 PROPOSED NORTHWEST ELEVATION
 V1.2 1/4" = 1'-0"

IF PRINTED TO SCALE
 THIS LINE WILL BE 2" LONG

PROJECT #: 2002
 JABLONSKY REMODEL
 5802 LONDON ROAD
 DULUTH, MN 55804

REVISION/ISSUE	DATE
VARIANCE APPLICATION	03/02/2020

SHEET NAME:
 FLOOR PLAN,
 EXTERIOR ELEVATIONS

SHEET #:
 V 1.2



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

File Number	PL 20-030	Contact	Chris Lee, clee@duluthmn.gov	
Type	Variance – Corner side yard structure setback	Planning Commission Date	April 14, 2020	
Deadline for Action	Application Date	March 11, 2020	60 Days	May 10, 2020
	Date Extension Letter Mailed	March 13, 2020	120 Days	July 9, 2020
Location of Subject	4931 Dodge Street			
Applicant	Sandra Jungers	Contact		
Agent	Edwin Brown	Contact	Brown Superior Construction, LLC	
Legal Description	010-3030-06810			
Site Visit Date	March 28, 2020	Sign Notice Date	March 31, 2020	
Neighbor Letter Date	March 30, 2020	Number of Letters Sent	53	

Proposal

A variance to construct a 6' x 20' addition to the existing home in the corner side yard setback on the property located at 4931 Dodge Street. The addition will be 3.5 feet from the property line and will encroach into the 15-foot corner front side yard setback by approximately 11.5 feet.

Recommended Action: Approve variance with conditions

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

Summary of Code Requirements

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

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

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.

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

Governing Principle #5 – Promote reinvestment in neighborhoods

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

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:

The property is a 930 sf single family home built in 1946 and contains 2 bedrooms and 1 bathroom.

Review and Discussion Items

Staff finds that:

- 1) The applicant's property is 75 feet by 140 feet in length with frontage along Dodge Street and corner side yard frontage along 50th Avenue East. The UDC requires a corner side yard setback of 15 feet for structures. The applicant is proposing to encroach into the corner side yard set back by approximately 11.5 feet to construct a 6 x 20 addition to the existing 8 x 9 bedrooms.
- 2) The applicant is proposing to use the property in a reasonable manner through reinvestment by constructing a reasonable addition to a modest home.
- 3) The applicant states that the intent of this variance is to construct the addition in the proposed location to allow for use of the rear and side yard area of the home and to minimize impacts to the adjacent neighbor to the west. The current layout of the home has both bedrooms on the north side of the home. In order to expand the bedrooms the addition has to be on the north side. The south and west sides of the home contain the living room and kitchen. Building on the west side would also impact drainage between the applicant's home and the neighboring property. The proposed addition will not impact the visibility from any street.
- 4) The proposed addition would be built in alignment with existing building lines along 50th Avenue East, so granting the variance will not alter the essential character of the area
- 5) . This variance would not result in reductions of light and air to surrounding properties.
- 6) The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Traditional Neighborhood.
- 7) No additional landscaping is recommended as mitigation for the reduced setback per Sec. 50-37.9. H.
- 8) No comments from citizens other than letters submitted with the application, City staff, or any other entity were received for the proposed variance.
- 9) 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 6 x 20 addition, be limited to, constructed, and maintained according to the site plan submitted on March 11, 2020;
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



4931 Dodge St

4922 Peabody St

4932 Peabody St

5002 Peabody St

8 inch, Vitreous Clay Pipe, 408.551963°

Peabody St Alley

4931 Dodge St

R-1 (Residential Traditional)

4923 Dodge St

5001 Dodge St

N 50th Ave E

8 inch, Vitreous Clay Pipe, 479.996987°

2" MDPE

8 inch, Polyvinyl Chloride, 455.393445°

Dodge St

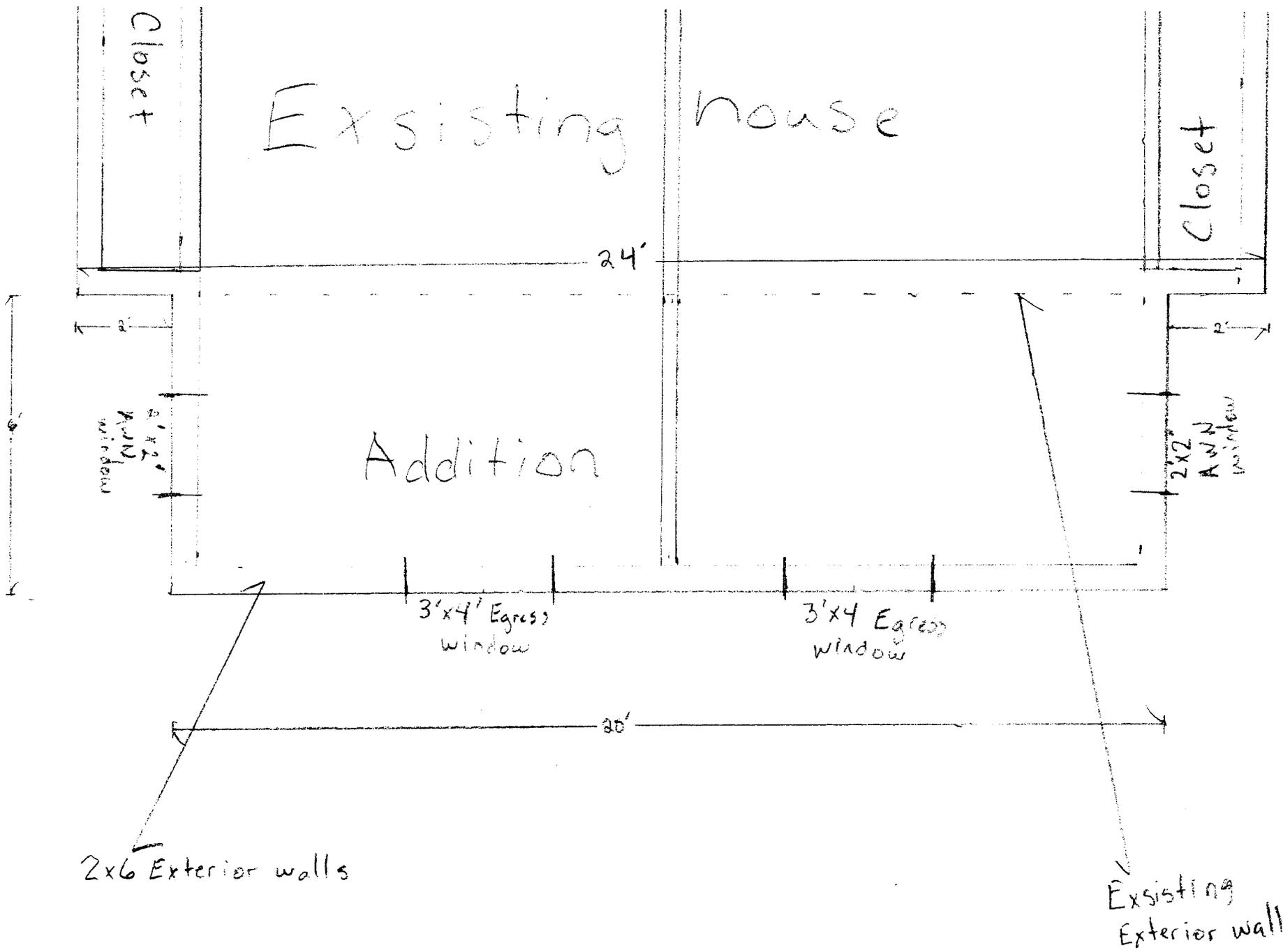
0 15th @ 30 60 90 Feet



Legend

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

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



Sandy Junger's

6' x 20' Addition

Floor Plan $\frac{3}{8}"$



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 20-022	Contact	Chris Lee, clee@duluthmn.gov	
Type	MU-I Planning Review: Accessory Parking Lot	Planning Commission Date		April 14, 2020
Deadline for Action	Application Date	March 19, 2020	60 Days	February 9, 2020
	Date Extension Letter Mailed	March 19, 2020	120 Days	April 9, 2020
Location of Subject	916 East 3 rd Street			
Applicant	Jefferson School, LLC	Contact	Christian Murphy	
Agent	Northland Consulting Engineers	Contact	Tom DesMarais	
Legal Description	See attached, PIN: 010-3830-07680, 010-3830-07692			
Site Visit Date	March 30, 2020	Sign Notice Date		March 31, 2020
Neighbor Letter Date	March 30, 2020	Number of Letters Sent		30

Proposal

The applicant is proposing to construct a new accessory parking lot to accommodate tenants in the building and their customers. This accessory parking lot will include a stormwater retention pond.

Recommendation

Staff recommends approval, subject to conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-I	Mixed Use Structure	Institutional
North	MU-N	Commercial/Vacant Lot	Neighborhood Mixed Use
South	MU-I	St. Luke's Parking	Institutional
East	MU-I	Parking Lot	Institutional
West	R-2	Commercial	Urban residential

Summary of Code Requirements

50-15.3 MU-I District – Planning review by the Planning Commission is required

50-18.1 Shoreland, Flood Plains, Wetlands, Stormwater

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

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

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

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

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

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

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

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

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

Governing Principle #1 – Reuse previously developed lands.

Economic Development Policy #3: Priority will be given to investment that reuses previously developed lands and limits increase in utility operation or maintenance costs.

Future Land Use – Institutional: Applicable to medical, university/college, public school, religious, or governmental campuses. Can include adjacent areas that support them, with related commercial and/or office uses, and residential uses in the fringe areas of the district.

Site history: The site is currently used as a multi-family dwelling and a daycare. The parking lots are used for residential tenants, daycare parking, and off-site parking for St. Luke's.

Review and Discussion Items

Staff finds that:

- 1) 50-15.3 (MU-I District) – Site plan shows that the parking lot is designed consistent with MU-I requirements. The parking lot is proposed to add 29 stalls and stormwater controls. The applicant will be reconstructing the existing parking lot on the site as part of this parking expansion. The new parking will serve the needs of the daycare facility in the building.
- 2) 50-18.1 (Stormwater Management) – The applicant will be required to submit a stormwater plan for review by the City's Engineering Department prior building permits approved. The applicant has proposed a swale for catching and filtering stormwater runoff for the new lots. This swale is located on the south corner of the property.
- 3) 50-23 (Connectivity) – The site will have internal connectivity from the building entrance to the parking lots. Existing sidewalks will remain in the adjacent rights-of-way.
- 4) 50-24 (Parking) – The site plan currently shows 8 parking stalls. The applicant is proposing an addition of 21 stalls for a total of 29 spaces. Access to the parking lots will be off 9th Avenue East. The number of stalls will be at the maximum allowed on the site and for this use.
- 5) 50-25 (Landscaping) – The landscape plan indicates 4 new maples trees for the required parking lot coverage, along with 16 new shrubs that comply with UDC requirements. The applicant will be removing 3 trees as part of the construction.
- 6) 50-26 (Screening) Not Applicable.
- 7) 50-27 (Signs) – Applicant will apply for sign permits separately from this application. Two signs are being removed as part of this development.
- 8) 50-29 (Sustainability) – Not Applicable.
- 9) 50-30 (Design Standards) – Not Applicable.
- 10) 50-31 (Exterior Lighting) – Not Applicable. Applicant is not proposing new lighting.

11) No public comments have been received on this project to date.

12) Per UDC 50-37.1.N, an approved Planning Review will expire if the project or activity authorized is not begun within one year, which may be extended for one additional year at the discretion of the Land Use Supervisor.

Staff Recommendation

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

- 1) The project be limited to, constructed, and maintained according to the construction and building plans drawn for this zoning application and included with this staff report on February 21, 2020.
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of UDC Chapter 50.



MU-I (Mixed Use Institutional)

R-2 (Residential Urban)

221 N 9th Ave E

825 E 2nd St

N 9th Ave E

E 2nd St

Grey's Creek

12 inch, Reinforced Concrete
567,852,067

12 inch, Polyvinyl Chloride
271,436,366

1" MDPE

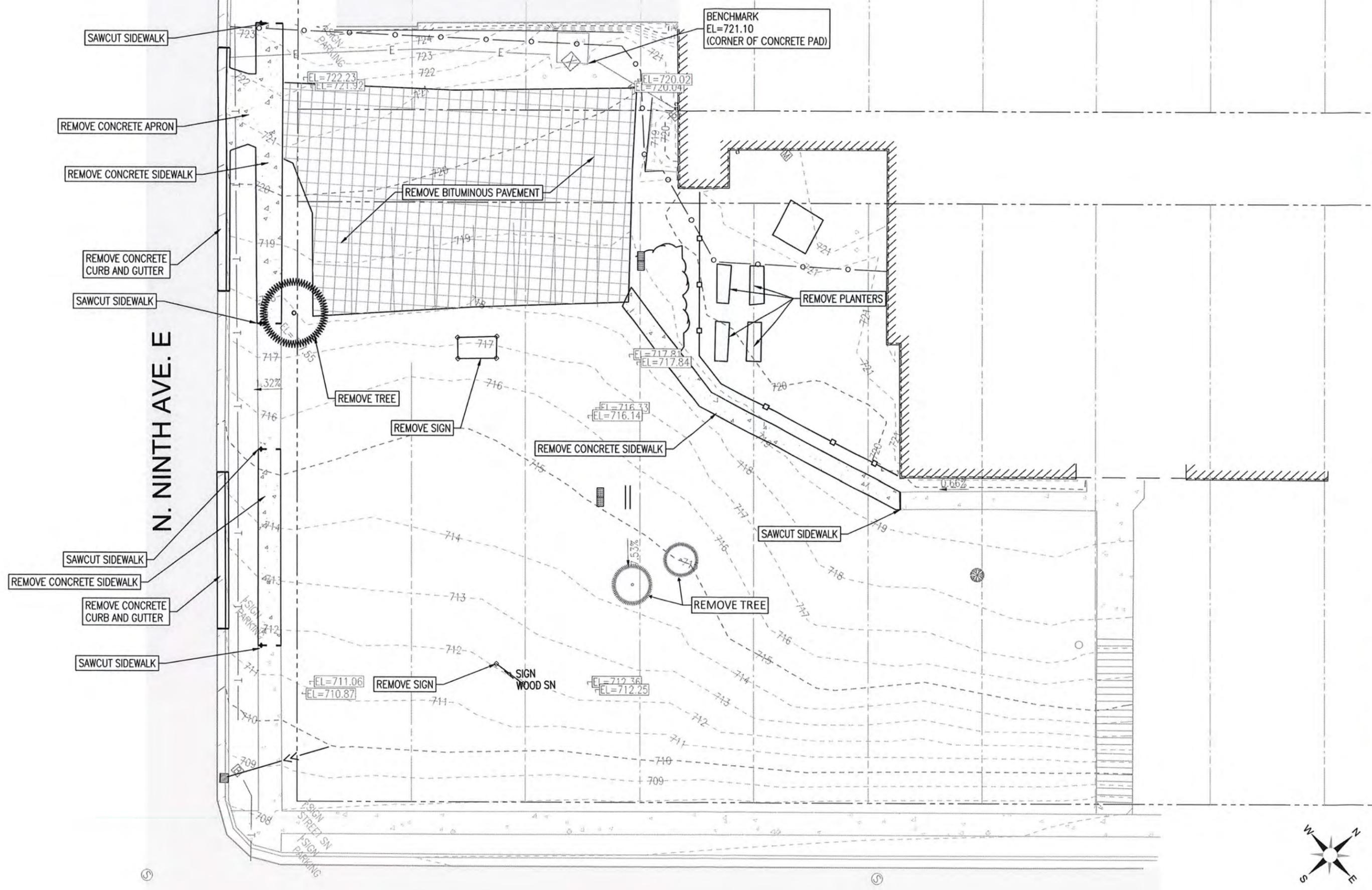
2" MDPE

9" Vitreous Clay Pipe
463,603,249

3 inch, Cast Iron
171,1688

12 inch, Cast Iron
171,1688

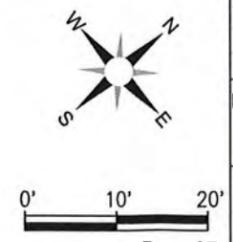
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I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer under the laws of the State of Minnesota.
 PRELIMINARY
 NOT FOR CONSTRUCTION
 Engineer: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

revision

 Proj: 18-221
 Date: XX/XX/XX
 Drawn: PMR
 Checked: TPD
 EXISTING AND REMOVALS
 Sheet Title
 Sheet Number
C3.0



E. SECOND STREET

N. NINTH AVE. E

E. SECOND STREET

EXISTING CATCH BASIN
RIM EL=708.13
INVERT EL=705.23

CORE AND BOOT
MANHOLE

BENCHMARK
EL=721.10
(CORNER OF CONCRETE PAD)

DETECTABLE
WARNING

NEENAH
R-4990-CX
TYPE D
SEE DETAIL

MATCH EXISTING

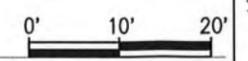
INFILTRATION SWALE
SEE DETAIL

2' WIDE
CURB CUT

2' WIDE
CURB CUT

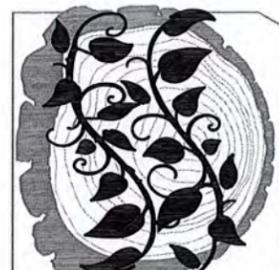
2' WIDE
CURB CUT

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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.
PRELIMINARY
NOT FOR CONSTRUCTION
XXXXXX
Lic. No: 40926
Engineer: David G. Bolf

revision	
Proj: 18-221	
Date: XX/XX/XX	
Drawn: PMR	
Checked: TPD	
SITE GRADING AND UTILITIES	
Sheet Title	
Sheet Number	
C5.0	



STINNETT
SITE DESIGNS

6000 Highway 53, Culver, MN
218-310-0121

I hereby certify that the plan, specifications, or drawings herein were prepared by me or under my direct supervision and that I am a duly Licensed Landscape Architect under the laws of the State of Minnesota.

Date
reg # 48524

Patricia Jean S. Crego
Landscape Architect

Jefferson Square Apartments

916 East 3rd Street
Duluth, Minnesota

project # 02001
date XX-XX-XXXX
drawn by Patricia Jean S. Crego

PRELIMINARY NOT FOR
CONSTRUCTION
FEBRUARY 7, 2020

mark revision/issue date

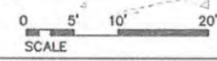
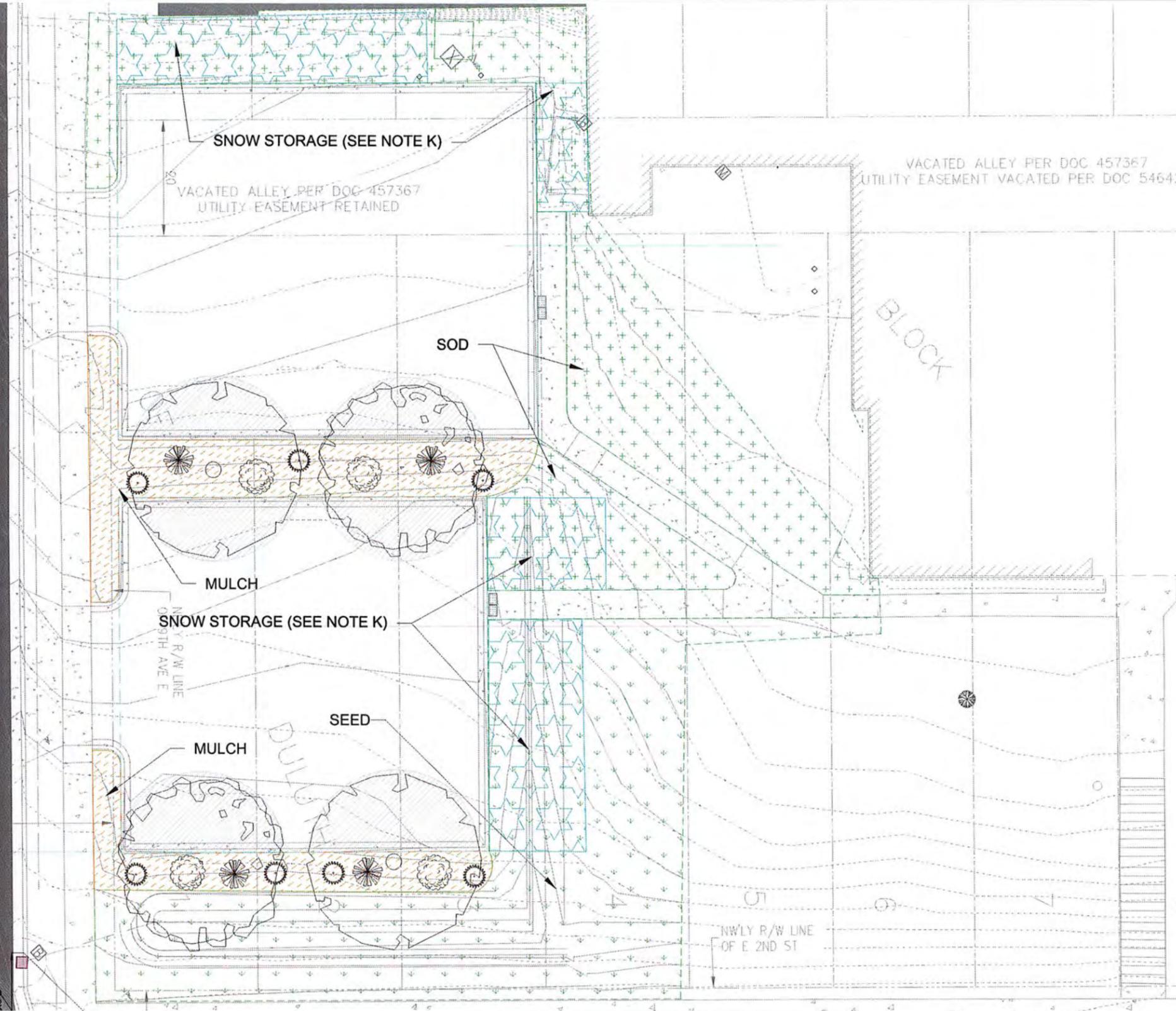
sheet title
sheet #
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SITE LANDSCAPE
PLAN

SITE LANDSCAPE NOTES:

- THE CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK. GOPHER STATE ONE CALL 811 CONTRACTOR AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGE WHICH MIGHT BE CAUSED BY THE CONTRACTOR'S FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UTILITIES.
- NO PLANTING SHALL BE INSTALLED UNTIL ALL GRADING AND CONSTRUCTION HAS BEEN COMPLETED
- CONTRACTOR SHALL PROVIDE ONE YEAR GUARANTEE OF ALL PLANT MATERIALS. THE GUARANTEE BEGINS ON THE DATE OF THE OWNERS WRITTEN ACCEPTANCE OF THE INITIAL PLANTING. REPLACEMENT PLANT MATERIALS SHALL ALSO HAVE A ONE YEAR GUARANTEE.
- ALL SUBSTATIONS MUST BE APPROVED BY THE LANDSCAPE ARCHITECT PRIOR TO SUBMISSION OF ANY BID AND/OR QUOTE BY LANDSCAPE CONTRACTOR.
- ALL PLANTS TO BE MINNESOTA NORTHERN-GROWN AND HARDY. GRADE SHALL ADHERE TO, BUT NOT BE LIMITED BY THE FOLLOWING STANDARDS:
 - FREE FROM DISEASE, PESTS, WOUNDS, SCARS, ETC.
 - FREE FROM NOTICEABLE GAPS, HOLES OR DEFORMITIES
 - FREE FROM BROKEN OR DEAD BRANCHES AND SHALL HAVE HEAVY, HEALTH BRANCHES
 - CONIFERS SHALL HAVE AN ESTABLISHED MAIN LEADER AND A HEIGHT TO WIDTH RATIO OF NO LESS THAN 5:3
- PLANTS TO BE INSTALLED AS PER STANDARD AAN PLANTING PRACTICES.
- PLANTS SHALL BE INSTALLED IMMEDIATELY UPON ARRIVAL TO THE SITE OR PROPERLY AND TEMPORARILY HEELED-IN.
- THE NEED FOR SOIL AMENDMENTS SHALL BE DETERMINED UPON SITE SOIL CONDITIONS PRIOR TO THE PLANTING. LANDSCAPE CONTRACTOR SHALL NOTIFY LANDSCAPE ARCHITECT FOR THE NEED OF ANY SOIL AMENDMENTS.
- CONTRACTOR SHALL PROVIDE NECESSARY WATERING OF PLANT MATERIALS UNTIL ESTABLISHMENT. OWNER WILL NOT PROVIDE WATER FOR CONTRACTOR.
- RESTORE ALL LAWN AREAS DISTURBED BY CONSTRUCTION ACTIVITIES WITH TOPSOIL AND SOD AS SPECIFIED.
- PLANT MATERIALS SHALL BE FROM THE CITY OF DULUTH'S APPROVED LANDSCAPING PLANT LIST AS SHOWN IN THE UDC APPLICATION MANUAL. ALL PLANT MATERIAL SHALL BE HARDY TO NORTHEAST MINNESOTA, SUITABLE FOR THE SITE, FREE OF DISEASE AND INSECTS AND CONFORM TO THE AMERICAN STANDARD FOR NURSERY STOCK OF THE AMERICAN NURSERY AND LANDSCAPE ASSOCIATION. (50.25.2.B)
- ALL REQUIRED LANDSCAPING SHALL BE PLANTED IN UNCOMPACTED SOIL WITH A MINIMUM DEPTH OF 2 FT. (50.25.2.F)
- IF INSTALLATION OF REQUIRED LANDSCAPING IS NOT POSSIBLE BY THE TIME CONSTRUCTION ON THE PARKING LOT HAS BEEN COMPLETED, THE CITY MAY AUTHORIZE A DELAY IN INSTALLATION UNTIL NO LATER THAN JUNE 30, 2020. AS A CONDITION OF AUTHORIZING A DELAY IN INSTALLATION, THE CITY OF DULUTH MAY REQUIRE THAT A SURETY OR OTHER GUARANTEE, IN A FORM ACCEPTABLE TO THE CITY OF DULUTH, IN THE ESTIMATED AMOUNT OF SUCH INSTALLATION BE PROVIDED, OR THE CITY OF DULUTH MAY ISSUE A TEMPORARY CERTIFICATE OF OCCUPANCY, WITH THE PERMANENT CERTIFICATE OF OCCUPANCY TO BE ISSUED FOLLOWING INSTALLATION OF ALL REQUIRED LANDSCAPING. (50.25.2.N)
- CONTRACTOR SHALL SPECIES SPACING REQUIREMENTS ACCORDING TO AMERICAN STANDARD FOR NURSERY STOCK OF THE AMERICAN NURSERY & LANDSCAPE ASSOC. TWO TREES CANNOT BE CLOSER THAN 25'. (50.25.2.B)
- SEE ARCHITECTURAL PLANS BUILDING LAYOUT AND DETAILS.
- SEE CIVIL PLANS FOR SITE LAYOUT AND GRADING.

SITE LANDSCAPE REQUIREMENTS:

- ZONED RESIDENTIAL MIXED-USE INSTITUTIONAL (MUI)
- DISTURBED AREA IS 8610SF
- MINIMUM LIVING MATERIAL IS 43%
- 0FT. IN FRONT STREET YARD
- 0 FT. IN SIDE STREET YARD
- 0 FT. ON REAR LOT LINES
- 20FT SITE LINE TRIANGLE
- LOT SIZE IS 97,260 SQFT. = 5FT LANDSCAPE REAR AND 10FT SIDE STREET MIN
- 1 TREE PER 35 FT. OF LINEAR FRONTAGE
4 TREES REQUIRED, 4 PROVIDED
- 3 LARGE SHRUBS PER 25 FT. OF LINEAR FRONTAGE 136LF.
15 REQUIRED, 15 PROVIDED.
- DESIGNATED SNOW STORAGE AREA 1825 = 22% OF IMPERVIOUS SURFACE
- 5 FT. MINIMUM PERIMETER SCREENING FROM PUBLIC STREET
- TOTAL PARKING LOT AREA 8436 SQFT. x 15% = 1265 SQFT. / 300 SQFT = 4 TREES.
4 TREES PROVIDED (1594SF) = 18% PARKING LOT COVERAGE



3 LANDSCAPE PLAN
L100 SCALE: 1"=10'-0"

- LEGEND**
- SNOW STORAGE (SEE NOTE K)
 - PARKING TREE SHADE AREA (SEE NOTE L)
 - SOD
 - 3"- 4" BARK MULCH
 - MN DOT 35-221 (Dry Prairie General Seed Mlx)
 - PROTECTIVE FENCE (SEE NOTE 12)

NOTE: All seed shall be broadcast at 200lbs per acre within hydra mulch

PLANTING PLAN LIST					
SYMBOL	SCIENTIFIC NAME	COMMON NAME	QNTY	SIZE	NOTES
	ACER RUBRUM	RED MAPLE	2	2.5" CAL	B&B
	BETULA PAPIRYFERA	PAPER BIRCH	2	2.5" CAL	B&B
	CORNUS SERICEA	RED OSIER DOGWOOD	4	3 GAL	6' O.C.
	SPIRAEA X BULMALDA 'GOLDFLAME'	GOLD FLAME SPIREA	4	3 GAL	5' O.C.
	JUNIPERUS SCOPULORUM 'BLUE ARROW'	BLUE ARROW JUNIPER	7	3 GAL	4' O.C.



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 20-035	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Preliminary Plat	Planning Commission Date	April 14, 2020	
Deadline for Action	Application Date	March 3, 2020	60 Days	May 2, 2020
	Date Extension Letter Mailed	March 30, 2020	120 Days	July 1, 2020
Location of Subject	Upper side of 3700-3800 Blocks of London Road (Condon Park)			
Applicant	TJS Construction, LLC	Contact	Ted Stocke	
Agent		Contact		
Legal Description	See attached			
Site Visit Date	April 1, 2020	Sign Notice Date	March 31, 2020	
Neighbor Letter Date	April 1, 2020	Number of Letters Sent	26	

Proposal

Re-plat of 18 existing lots (3.05 acres) into 26 lots to be developed with 13 twin homes (two unit structures that straddle a common lot line) located along a private access road parallel to London Road. A home owners association will manage the private road, parking, storm water treatment, and building exterior maintenance.

Staff recommends approval, with conditions

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Vacant/Undeveloped	Traditional Neighborhood
North	R-1	Railroad, Lakewalk	Traditional Neighborhood
South	R-1 and MU-N	Apartments, One-unit dwelling	Urban Residential
East	R-1	Vacant/Undeveloped	Traditional Neighborhood
West	R-1	One-unit dwelling	Traditional Neighborhood

Summary of Code Requirements

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

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

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

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

Governing Principle #12- Create efficiencies in delivery of public services.

Housing Policy #2 - Provide affordable, attainable housing opportunities

Strategy 4 – Foster opportunities for creative housing types and concepts including . . . townhomes

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

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

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

Related files: PL 20-016 Vacate utility easement in former 38th Ave. E.; PL 20-017 Wetland Replacement Plan; PL 20-027 Variance to rear yard setback

Review and Discussion Items

Staff finds:

- 1) The land was previously platted as 18 fifty-foot wide lots in Blocks 32, 33 and 34 of the Plat of Re-arrangement of Part of East Duluth and of First Addition to East Duluth by Chester and Clara Congdon in 1908. The applicant is submitting a preliminary plat to re-plat the 3.05 acres into 26 lots for the development of twin homes (two dwelling unit structures that straddle a common lot line). Lots range in size from 3,800 to 9,227 square feet. Lot frontage ranges from 30 feet to 82 feet.
- 2) The area to be re-platted is 140 feet deep and has 982 feet of frontage on London Road which is MN Trunk Highway 61 controlled by MN-DOT. Though all of the lots have London Road frontage, MN-DOT has directed the applicant to provide only two accesses to London Road. All lots will be accessed by a 22-26 foot wide private access road running parallel to London Road. There are two 50-66 foot wide “exceptions” to the plat along London Road for MN-DOT culverts.
- 3) The St. Louis and Lake County Regional Railroad owns the property to the north of the proposed plat with the railroad tracks 50 feet north of the plat boundary. The paved Lakewalk traverses the area of railroad-owned land north of the railroad tracks. To the east is additional undeveloped land and to the west is a single-family dwelling developed by TJS Construction, LLC in 2018. Lots 1 and 2 of the proposed plat are currently being developed with a twin home that is the prototype for rest of plat.
- 4) The property generally slopes downward toward the south and east dropping 6-12 feet over 140 feet. There are three unnamed drainages in ravines crossing the property from culverts under the railroad flowing to culverts under London Road. These drainages have Type 7 (hardwood swamp) wetlands associated with them. There are two other wetlands on the site (Type 6, alder thicket) for a total of 17,389 square feet (0.40 acres) of delineated wetlands (see attached). There are no shoreland or flood plain areas associated with these drainages; however, the entire site is within the 1,000-foot Lake Superior shoreland, but outside required setbacks.

- 5) The applicant has submitted a wetland replacement plan application to permanently impact 10,352 square feet (0.24 acres) of wetland. The application also includes temporary impacts to an additional 1,375 square feet (0.03 acres) for culvert installation. While the development will impact 67 % of the wetlands on the site this is only 8.8% of the entire site. Wetlands not impacted will be placed in a drainage easement and staff recommends that the Common Interest Community (CIC) Declaration associated with this project include a clause that requires the homeowners association to avoid altering the remaining wetlands. Staff further recommends that the applicant's engineer design the culverts near wetlands to handle surficial drainage only, in order to prevent the drainage of the saturated soils that create wetland conditions. And lastly, staff recommends that preserved wetlands be fenced during construction to prevent unintentional impacts during site clearing and grading. Staff recommends that, prior to tree removal and site grading, the applicant obtain required wetland permits and that evidence be provided showing required wetland mitigation.
- 6) The site is primarily forested and the applicant has submitted a tree inventory report showing white spruce, green ash, quaking aspen, and red pine as the predominant species. There are no trees greater than 20 inches trunk diameter. The applicant has proposed impacting 241 trees on the site and is in the process of preparing a tree replacement plan to mitigate the impact, in part, through preserving existing trees and the planting of replacement trees on site. Staff recommends that, prior to tree removal activities, the Land Use Supervisor approve the tree replacement plan and that trees to be preserved be fenced, including the area of the tree's dripline.
- 7) Existing City water, sanitary sewer, and gas pipes are found on the north side of London Road near the west end of the proposed plat. The applicant is proposing to extend these utilities eastward through the site with each dwelling unit having a private connection to public mains. There is an existing fire hydrant at the west edge of the proposed plat and three additional hydrants are proposed. The proposed plat includes a 70 foot wide utility easement on the southerly portion of the lots. Additionally, there are four utility easements at least 30 feet wide that extend to the north plat boundary for any future utility infrastructure needs. Staff recommends that the utility easement on Lots 14 and 15 be extended eastward at the north plat boundary to connect to the existing utility easement in former 38th Avenue East that extends northward to Jefferson Street.
- 8) In the area of the proposed re-plat is a utility easement in the formerly platted 38th Avenue East. This utility easement was retained when the street was vacated in 1925. The applicant has petitioned for vacation of the utility easement (PL 20-027). Staff recommends this utility easement be vacated prior to recording the final plat.
- 9) The storm water treatment system will consist of five linear basins along the London Road frontage that receive water from the development and release it into three MN-DOT culverts under London Road. The homeowners association will be responsible for all maintenance of the storm water treatment system. City Engineering makes the following comments: *"The proposed development's long linear layout can be challenging for stormwater management. The development will use a bio-detention swale that will run the length of the project down-gradient of the homes and driveway capturing the majority of the runoff. The bio-swale will provide water quality benefits by capturing sediment and debris. The bio-swale will also meet the City's stormwater rate/flood control requirements by not exceeding the discharge rate of the pre-development condition. This will minimize the risk of flooding down-gradient. The stormwater management plan will also include annual inspections of the bio-detention swale, and cleaning and maintenance as needed."* City Engineering recommends the following: no other public or private utilities (cable, fiber optics, communications or power) be allowed in the storm water treatment systems; storm water treatment facilities should be labeled private on all drawings; an operations and maintenance plan for the storm water treatment system, with an annual inspection, should be developed and reference to it included in the CIC Declaration (sections 2.4, 7.14, 9.1); wetland preservation language in CIC Declaration section 7.14 should be expanded to

include the requirement for wetland boundaries to be marked prior to all construction activities and that the wetlands be maintained post-construction; a full storm water management plan be approved by the City Engineer before approval of the final plat.

- 10) To meet connectivity requirements in UDC Section 50-23, the applicant is proposing a 5-foot wide public sidewalk be constructed in the London Road street easement along the entire length of the property and extending to the existing sidewalk network at 36th Avenue East. This will allow residents to access the Lakewalk at 36th Avenue East as crossing the railroad adjacent to the property is prohibited and a fence is in place along the Lakewalk to prevent it. The Lakewalk is an important multi-use path identified in the 2019 Duluth-Superior Metropolitan Bikeways Plan providing connectivity to Congdon Park Elementary School, East High School, the London Road and Lakeside business districts and downtown. There are no official "Safe Routes To School" routes in the vicinity of this project. In addition to the public sidewalk, the applicant is providing five private sidewalk connections across the storm water treatment basins to access the public walk as well as sidewalk connections between clusters of twin homes for resident circulation.
- 11) Though this application is for a preliminary plat review, and not a site plan review, it is still appropriate to consider availability of parking as the design of the private roadway and building placement are factors in how the land is subdivided and access is provided to each lot. Required resident parking (one space per dwelling unit) is provided within each dwelling unit's two-car garage. No parking is allowed on London Road, so consideration should be given to guest parking accommodations on site, though not specifically required by the UDC. Driveways for all dwelling units except two (Lots 1 and 2) are long enough to accommodate two guest vehicles each. Staff recommends that, prior to issuing grading plans for the private access road, the Land Use Supervisor approve the location of guest parking throughout the site.
- 12) Staff finds there are no adverse material impacts to surrounding properties that cannot be adequately mitigated by permits required by this development and appropriate site design. Storm water permits will require appropriate treatment and attenuation of storm water before discharge off site into culverts, wetland permit conditions will require wetland protection during site work and ongoing preservation of wetlands not permitted to be impacted, loss of tree cover will be mitigated through approval of tree preservation plans, potential traffic impacts have been mitigated by MN-DOT through limiting the site to two driveways onto London Road and allowing traffic flow to continue due to an existing dedicated left turn lane on London Road, pedestrian and bicycle connectivity limitations have been mitigated by the applicant construction more than 1,330 feet of sidewalk along the north side of London Road and extending to the existing sidewalk network at 36th Avenue East.
- 13) All of the lots except for Lot 2 exceed the minimum lot area requirement of 4,000 square feet. Staff recommends for the Final Plat that Lot 2 be increased in lot area to comply. Eighteen of 26 proposed lots are 30 feet in width, which does not comply with the 40 foot minimum lot frontage requirement for R-1 lots. The intended site development, twin homes that straddle a common lot line, when viewed as a traditional duplex, are each located on a pair of lots that, when combined, are 60 feet in width and, therefore, in compliance with the zoning frontage requirement. Therefore, staff recommends that the applicant record at the time of plat recording a restrictive covenant that limits development of the lots into twin homes and that proof of recording be provided to the Land Use Supervisor.
- 14) The preliminary plat is consistent with the comprehensive land use plan designation of this property "traditional neighborhood." The project will result in a townhome style development that is an extension of an existing neighborhood at 4-8 units per acre. The project implements Housing Policies #2 and #4 by fostering opportunities for creative housing types and concepts and improves the quality of the city's housing stock and neighborhoods. It also promotes reinvestment in neighborhoods and creates efficiencies in delivery of public services by developing housing in the area of existing transportation, utility, educational, and emergency

services.

- 15) The preliminary plat is located in an area with adequate police, fire and emergency facilities available to serve the projected population. Emergency services can be provided by the Lakeside fire station (#6) with station #4 near UMD providing backup. The additional dwelling units will not make it unreasonable to serve the area according to the City's Fire Marshall.
- 16) Staff finds that, other than the items addressed above, the preliminary plat conforms to the requirements of Sec 50-37.5. and is consistent with all applicable requirements of MSA 462.358 and Chapter 505.
- 17) No citizen or City comments have been received to date.

Staff Recommendation

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

1. The final plat be designed so that all of the lots are compliant with minimum lot area requirements.
2. The utility easement on Lots 14 and 15 be extended eastward at the north plat boundary to connect to the existing utility easement in former 38th Avenue East.
3. The utility easement in former 38th Avenue East covered by this re-plat be vacated by the City Council with the vacation resolution filed in the St. Louis County Auditor's office prior to recording the final plat.
4. Prior to recording the final plat, the Land Use Supervisor verify that the Common Interest Community (CIC) Declaration associated with this project includes a clause that requires the homeowners association to avoid altering wetlands identified as being preserved in the wetland replacement plan.
5. Immediately following recording of the plat in the St. Louis County Auditor's office, the applicant record a restrictive covenant that limits development of the lots into twin homes with proof of recording provided to the Land Use Supervisor.
6. The applicant obtain required permits from MN-DOT for the accesses to London Road, drainage and utility work, and work with the City Engineer on permits for sidewalk installation.
7. Prior to tree removal and site grading, the applicant obtain required wetland permits and that evidence be provided showing required wetland mitigation.
8. Prior to approving the storm water permit for the site that the applicant provide evidence to the City Engineer that the culverts near wetlands are place to handle surficial drainage only, in order to prevent the drainage of the saturated soils that create wetland conditions.
9. Prior to tree removal and site grading, the applicant provide photographic evidence to the Land Use Supervisor to verify that construction fence was installed around wetlands to be preserved.
10. Prior to tree removal activities, the applicant obtain from the Land Use Supervisor approval of a tree replacement plan and that trees to be preserved be protected with construction fence, including the area of the trees' dripline.
11. Prior to site grading activities, the City Engineer approves the storm water management plan including the placement of any needed conditions in the CIC Declaration.
12. Prior to issuing grading plans for the private access road, the Land Use Supervisor approve the location of guest parking throughout the site.

*LONDON EAST
PRELIMINARY PLAT
FOR: TJS CONSTRUCTION LLC*

EXISTING LEGAL DESCRIPTIONS:

LOTS 9 THROUGH 16, INCLUSIVE, BLOCK 32, ST. LOUIS COUNTY, MINNESOTA. ALL IN REARRANGEMENT OF PART OF EAST DULUTH AND OF FIRST ADDITION TO EAST DULUTH. PARCEL ID: 010-1370-05190

LOTS 10 TO 18 INCLUSIVE BLOCK 33 EXCEPT THAT SOUTHEASTERLY 40 FEET OF LOTS 10 AND 18, BLOCK 33, PLAT OF RE-ARRANGEMENT OF PART OF EAST DULUTH AND FIRST ADDITION TO EAST DULUTH, ACCORDING TO THE PLAT THEREOF ON FILE AND OF RECORD IN THE OFFICE OF THE COUNTY RECORDER IN AND FOR ST. LOUIS COUNTY, MINNESOTA. PARCEL ID: 010-1370-05360

LOTS 15 AND 16, BLOCK 34, ST. LOUIS COUNTY, MINNESOTA. PARCEL ID: 010-1370-5590

PROPOSED LEGAL DESCRIPTION:

THAT PART OF LOT 10 LYING NORTHEASTERLY OF THE SOUTHWESTERLY 10 FEET AND LOTS 11 THROUGH 18, BLOCK 33, EXCEPT THE SOUTHERLY 40 FEET OF LOTS 10 AND 18; LOTS 9 THROUGH 16, INCLUSIVE, BLOCK 32, AND THAT PART OF VACATED 38TH AVENUE EAST ACCRUING THERETO, PART OF EAST DULUTH AND OF FIRST ADDITION TO EAST DULUTH ACCORDING TO THE PLAT ON FILE AND OF RECORD IN THE OFFICE OF THE COUNTY RECORDER, ST. LOUIS COUNTY, MINNESOTA.

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LONDON EAST DEVELOPMENT
TJS CONSTRUCTION, TED STOCKE
LONDON RD, DULUTH, MN

LEGAL DESCRIPTION

PROJECT NO. 05331006
SHEET EX



London East
 3700-3800 Block of
 Upper Side of London Rd.
 TJS Construction, LLC

Area Map



Subject Property

Legend

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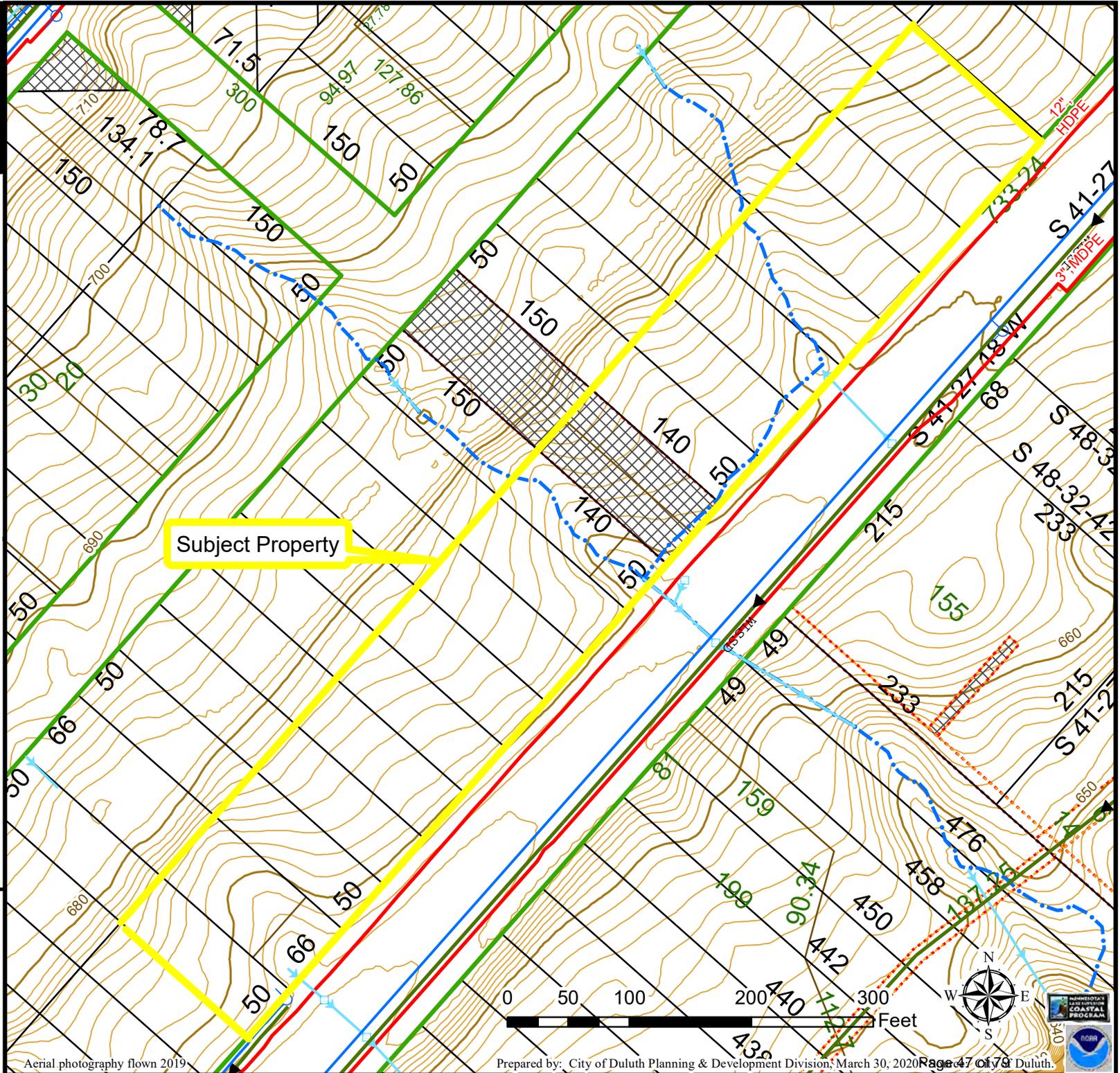
London East
3700-3800 Block of
Upper Side of London Rd.
TJS Construction, LLC

Site Map

Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
 - CITY OF DULUTH
 - WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
- 1 Ft contour
- 10 Ft contour
- Boundary Lines
 - Lot Line
 - Parcel Line
 - ROW (Road)
 - ROW (Not Road)
 - Subdivision Line
 - Water Line
 - Survey Line
 - Municipal Boundary
 - Vacated ROW
- Easement Type
 - Utility Easement
 - Other Easement
 - Trout Stream (GPS)
 - Other Stream (GPS)

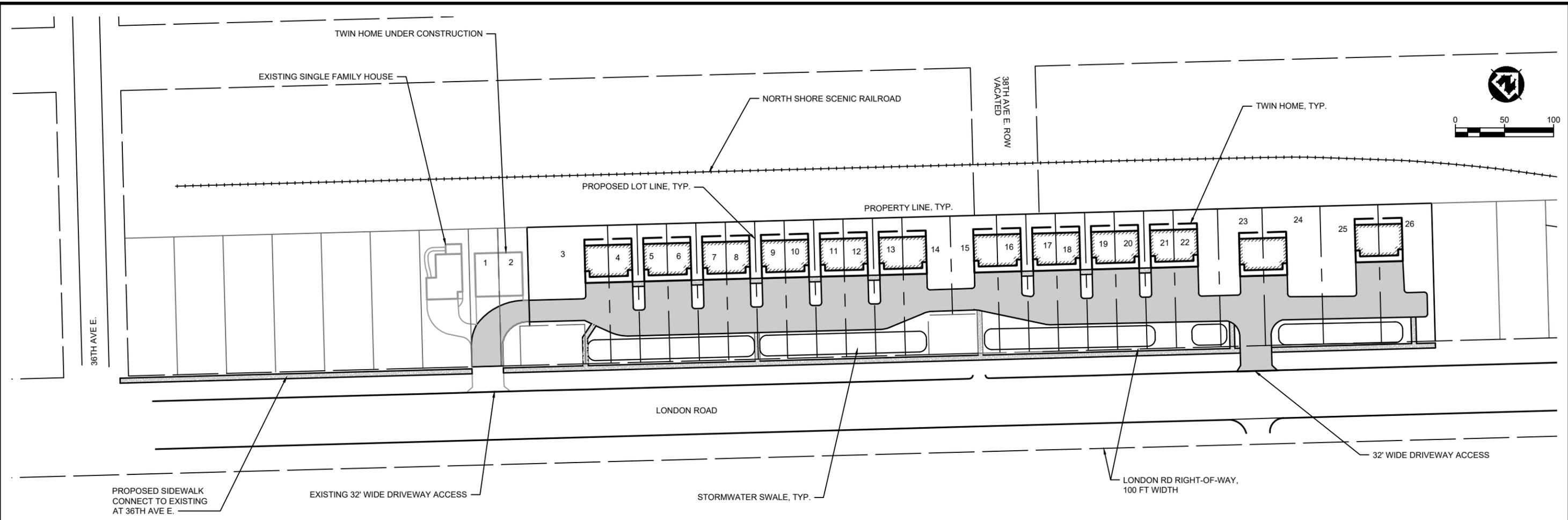
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Aerial photography flown 2019

Prepared by: City of Duluth Planning & Development Division, March 30, 2020 Page 47 of 76





PROJECT SUMMARY:

1. EXISTING PARCELS:

REARR PART EAST DULUTH & FIRST ADD TO EAST DU LOTS 10 THRU 18 BLK 33 INC W1/2 OF VACATED 38TH AVE E; EX SELY40 FT OF LOTS 10 AND 18,
 REARR PART EAST DULUTH & FIRST ADD TO EAST DU LOT 9 INC E1/2 OF 38TH AVE E VACATED & ALL OF LOTS 10 THRU 16,
 REARR PART EAST DULUTH & FIRST ADD TO EAST DU LOTS 8 & 9

PARCEL IDs:
 010-1370-05190, 010-1370-05360, 010-1370-5590

2. ZONING AND SETBACKS:

PROPERTY ZONING: R-1
 PROPOSED USE: TWIN-HOMES (NO CHANGE NEEDED)

	REQUIRED	PROVIDED
FRONT SETBACK:	25 FT	31 FT
REAR SETBACK:	25 FT	25 FT
SIDE YARD SETBACK:	6 FT	6 FT
MAXIMUM HEIGHT OF BUILDING:	30 FT	30 FT
MINIMUM LOT SIZE:	3000 SF	4200 SF

DEVELOPER HAS APPLIED FOR A REAR YARD SETBACK REDUCTION FROM 25 FT TO 20 FT DUE TO SITE CONSTRAINTS.

3. LAND USE BREAKDOWN:

TOTAL LOT AREA: 3.20 AC
 AREA IMPACTED FOR CONSTRUCTION: 3.0 AC

BUILDINGS: 0.58 AC
 PAVEMENT: 1.09 AC
 TOTAL IMPERVIOUS: 1.67 AC

TOTAL PERVIOUS: 1.68 AC

4. PARKING REQUIREMENTS:	REQUIRED	PROVIDED
DWELLING, ONE-FAMILY PER UNIT	1 SPACE	2 SPACES

5. LANDSCAPE/BUFFER REQUIREMENTS:

STREET FRONTAGE: ONE TREE PER 35 LF, ONE SHRUB PER 25 LF

TREE REPLACEMENT REQUIREMENTS: NOT MORE THAN 30% OF REPLACEMENT TREES SHALL BE THE SAME SPECIES WITHOUT APPROVAL FROM THE CITY FORESTER.

6. WETLAND DISTURBANCES:

13,613 SF - PERMANENT DISTURBANCE

952 SF - TEMPORARY DISTURBANCE

PROJECT DATE:	NO.	DATE	REVISION	BY
02/17/20	EDC			
	EDC			
	JJJ			

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LONDON EAST DEVELOPMENT
 TJS CONSTRUCTION
 DULUTH, MN

OVERALL SITE PLAN

PROJECT NO. 05331006
 SHEET G-1

LEGAL DESCRIPTION:

LOT 16, BLOCK 34, LOTS 11 THROUGH 18, BLOCK 33, EXCEPT THE SOUTHERLY 40 FEET OF LOTS 10 AND 18; LOTS 9 THROUGH 16, INCLUSIVE, BLOCK 32, AND THAT PART OF VACATED 38TH AVENUE EAST ACCRUING THERETO, PART OF EAST DULUTH AND OF FIRST ADDITION TO EAST DULUTH ACCORDING TO THE PLAT ON FILE AND OF RECORD IN THE OFFICE OF THE COUNTY RECORDER, SAINT LOUIS COUNTY, MINNESOTA

FLOOD ZONE:

BY GRAPHIC INTERPRETATION ONLY, THIS PROPERTY LIES IN ZONE C (AREAS OF MINIMAL FLOODING) PER NATIONAL FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 270421 0025 C. SAID RATE MAP HAS AN EFFECTIVE DATE OF APRIL 2, 1982. NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS ZONE.

ALSO, BY GRAPHIC INTERPRETATION ONLY, THIS PROPERTY LIES IN ZONES A AND C (A-AREAS OF 100-YEAR FLOOD; BASE FLOOD ELEVATIONS AND FLOOD HAZARD FACTORS NOT DETERMINED, C-AREAS OF MINIMAL FLOODING) PER NATIONAL FLOOD INSURANCE RATE MAP, COMMUNITY PANEL NO. 270421 0030 C. SAID RATE MAP HAS AN EFFECTIVE DATE OF APRIL 2, 1982. NO FIELD SURVEYING WAS PERFORMED TO DETERMINE THIS ZONE.

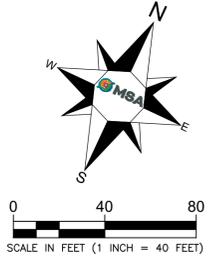
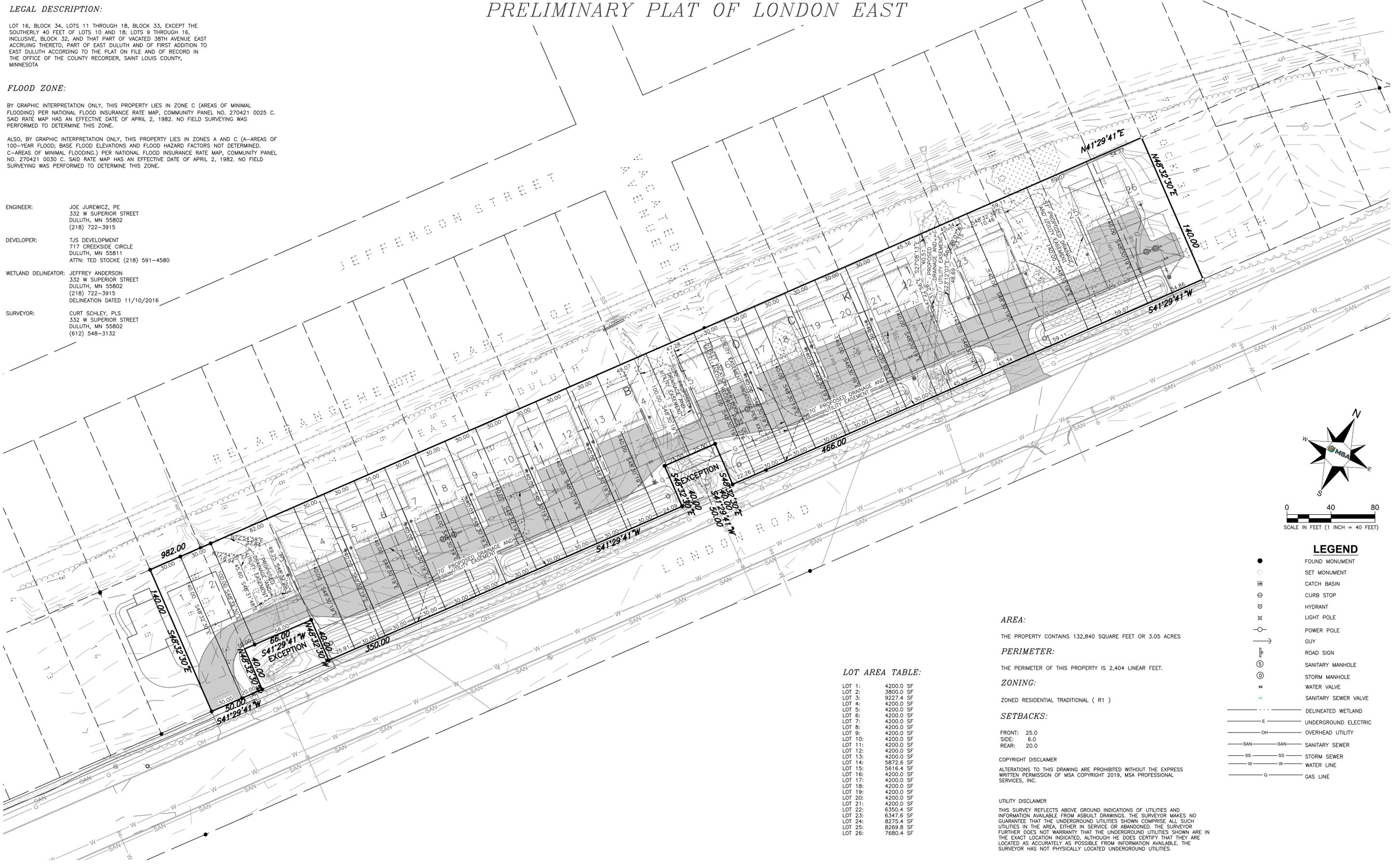
ENGINEER: JOE JUREWICZ, PE
332 W SUPERIOR STREET
DULUTH, MN 55802
(218) 722-3915

DEVELOPER: TJS DEVELOPMENT
717 CREEKSIDE CIRCLE
DULUTH, MN 55811
ATTN: TED STOCKE (218) 591-4580

WETLAND DELINEATOR: JEFFREY ANDERSON
332 W SUPERIOR STREET
DULUTH, MN 55802
(218) 722-3915
DELINEATION DATED 11/10/2016

SURVEYOR: CURT SCHLEY, PLS
332 W SUPERIOR STREET
DULUTH, MN 55802
(612) 548-3132

PRELIMINARY PLAT OF LONDON EAST



LEGEND

- FOUND MONUMENT
- SET MONUMENT
- ⊠ CATCH BASIN
- ⊙ CURB STOP
- ⊕ HYDRANT
- ⊗ LIGHT POLE
- POWER POLE
- GUY
- ⊥ ROAD SIGN
- ⊙ SANITARY MANHOLE
- ⊙ STORM MANHOLE
- ⊕ WATER VALVE
- ⊕ SANITARY SEWER VALVE
- DELINEATED WETLAND
- E— UNDERGROUND ELECTRIC
- OH— OVERHEAD UTILITY
- SAN— SANITARY SEWER
- SS— STORM SEWER
- W— WATER LINE
- G— GAS LINE

AREA:

THE PROPERTY CONTAINS 132,840 SQUARE FEET OR 3.05 ACRES

PERIMETER:

THE PERIMETER OF THIS PROPERTY IS 2,404 LINEAR FEET.

ZONING:

ZONED RESIDENTIAL TRADITIONAL (R 1)

SETBACKS:

FRONT: 25.0
SIDE: 6.0
REAR: 20.0

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UTILITY DISCLAIMER

THIS SURVEY REFLECTS ABOVE GROUND INDICATIONS OF UTILITIES AND INFORMATION AVAILABLE FROM ASBUILT DRAWINGS. THE SURVEYOR MAKES NO GUARANTEE THAT THE UNDERGROUND UTILITIES SHOWN COMPRISE ALL SUCH UTILITIES IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UNDERGROUND UTILITIES SHOWN ARE IN THE EXACT LOCATION INDICATED, ALTHOUGH HE DOES CERTIFY THAT THEY ARE LOCATED AS ACCURATELY AS POSSIBLE FROM INFORMATION AVAILABLE. THE SURVEYOR HAS NOT PHYSICALLY LOCATED UNDERGROUND UTILITIES.

LOT AREA TABLE:

LOT 1:	4200.0 SF
LOT 2:	3800.0 SF
LOT 3:	9227.4 SF
LOT 4:	4200.0 SF
LOT 5:	4200.0 SF
LOT 6:	4200.0 SF
LOT 7:	4200.0 SF
LOT 8:	4200.0 SF
LOT 9:	4200.0 SF
LOT 10:	4200.0 SF
LOT 11:	4200.0 SF
LOT 12:	4200.0 SF
LOT 13:	4200.0 SF
LOT 14:	5872.6 SF
LOT 15:	5618.4 SF
LOT 16:	4200.0 SF
LOT 17:	4200.0 SF
LOT 18:	4200.0 SF
LOT 19:	4200.0 SF
LOT 20:	4200.0 SF
LOT 21:	4200.0 SF
LOT 22:	6350.4 SF
LOT 23:	6347.6 SF
LOT 24:	8275.4 SF
LOT 25:	8269.8 SF
LOT 26:	7680.4 SF

PROJECT DATE:	5/31/2020	NO.	DATE	REVISION	BY
DRAWN BY:	KMH	-	-	-	-
DESIGNED BY:	INIT	-	-	-	-
CHECKED BY:	SJS	-	-	-	-

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CURTIS E. SCHLEY
Date: 12/05/2019
Registration No. 49907

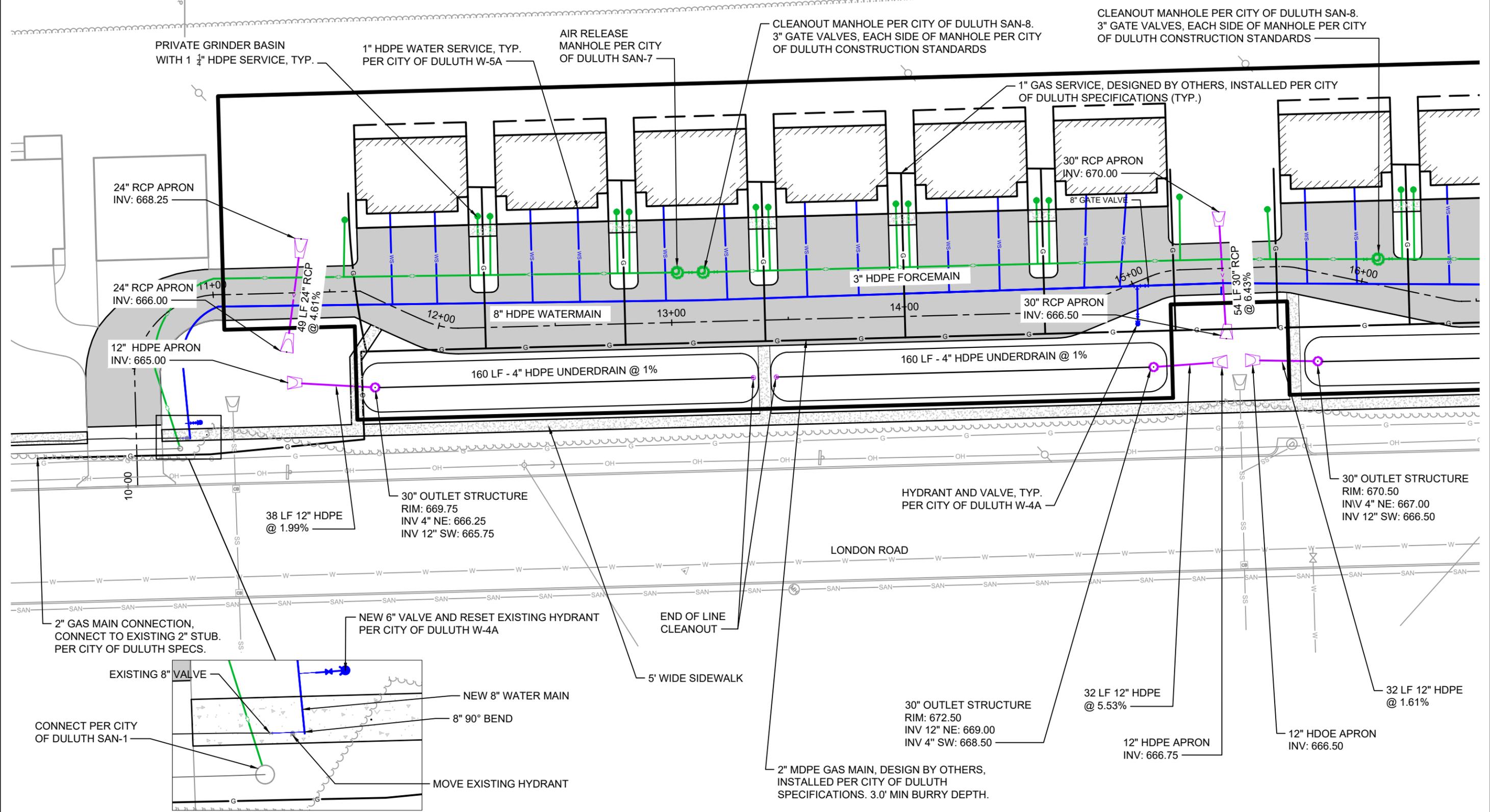
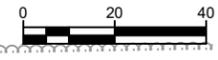
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TED STOCKE DEVELOPMENT PHASE 2
CITY OF DULUTH
ST. LOUIS COUNTY, MINNESOTA

PRELIMINARY PLAT

PROJECT NO. 5331006
SHEET 1 OF 1



NO.	DATE	REVISION	BY

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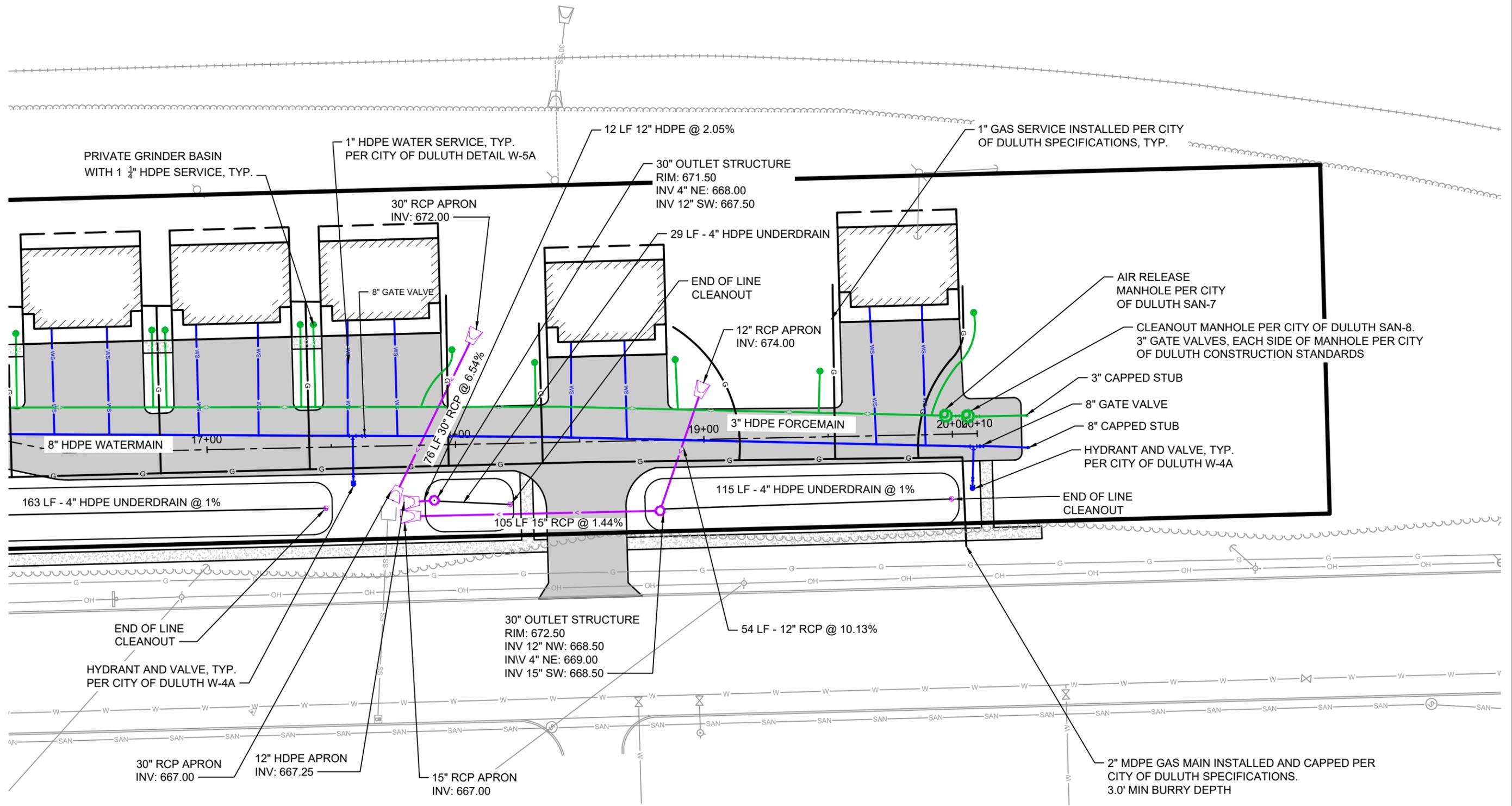
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LONDON EAST DEVELOPMENT
 TJS CONSTRUCTION
 DULUTH, MN

UTILITY PLAN STA 11+00 TO 16+00
 Page 50 of 79

PROJECT NO. 05331006
 SHEET S-7



PROJECT DATE:	DRAWN BY:	NO.	DATE	REVISION	BY
02/17/20	EDC				
	EDC				
	JJJ				

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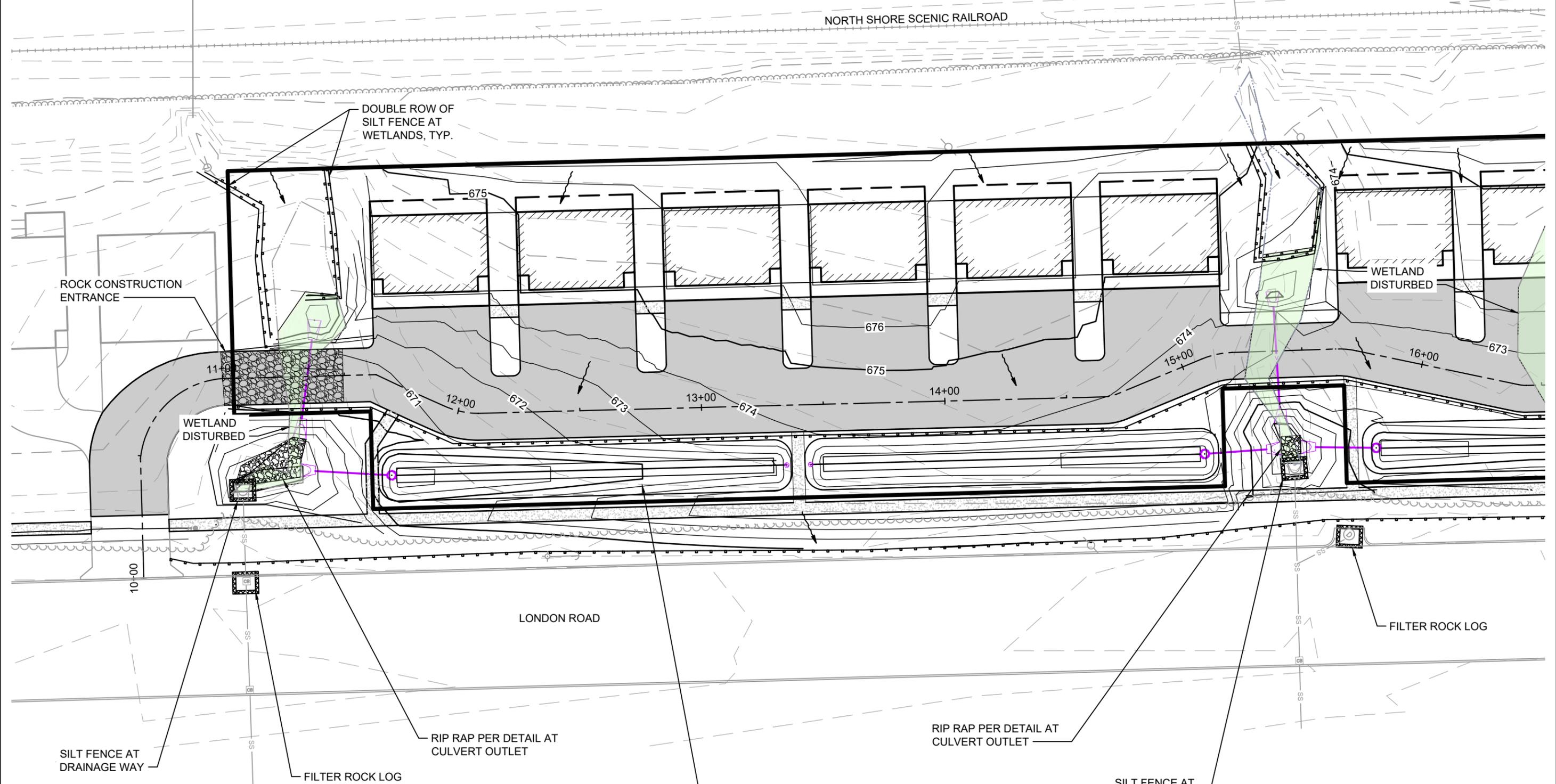
LONDON EAST DEVELOPMENT
 TJS CONSTRUCTION
 DULUTH, MN

UTILITY PLAN STA 16+00 TO 22+00

PROJECT NO. 05331006
 SHEET S-8

LEGEND:

— SILT FENCE



- GENERAL NOTES:
 1. ALL EROSION CONTROL ACTIVITIES SHALL ABIDE BY THE SWPPP.
 2. ANY DIRT TRACKED ONTO LONDON ROAD FROM THE PROJECT SITE SHALL BE SWEEPED CLEAN.

PROJECT DATE:	DRAWN BY:	NO.	DATE	REVISION	BY
02/17/20	EDC				
	DESIGNED BY: EDC				
	CHECKED BY: JJJ				

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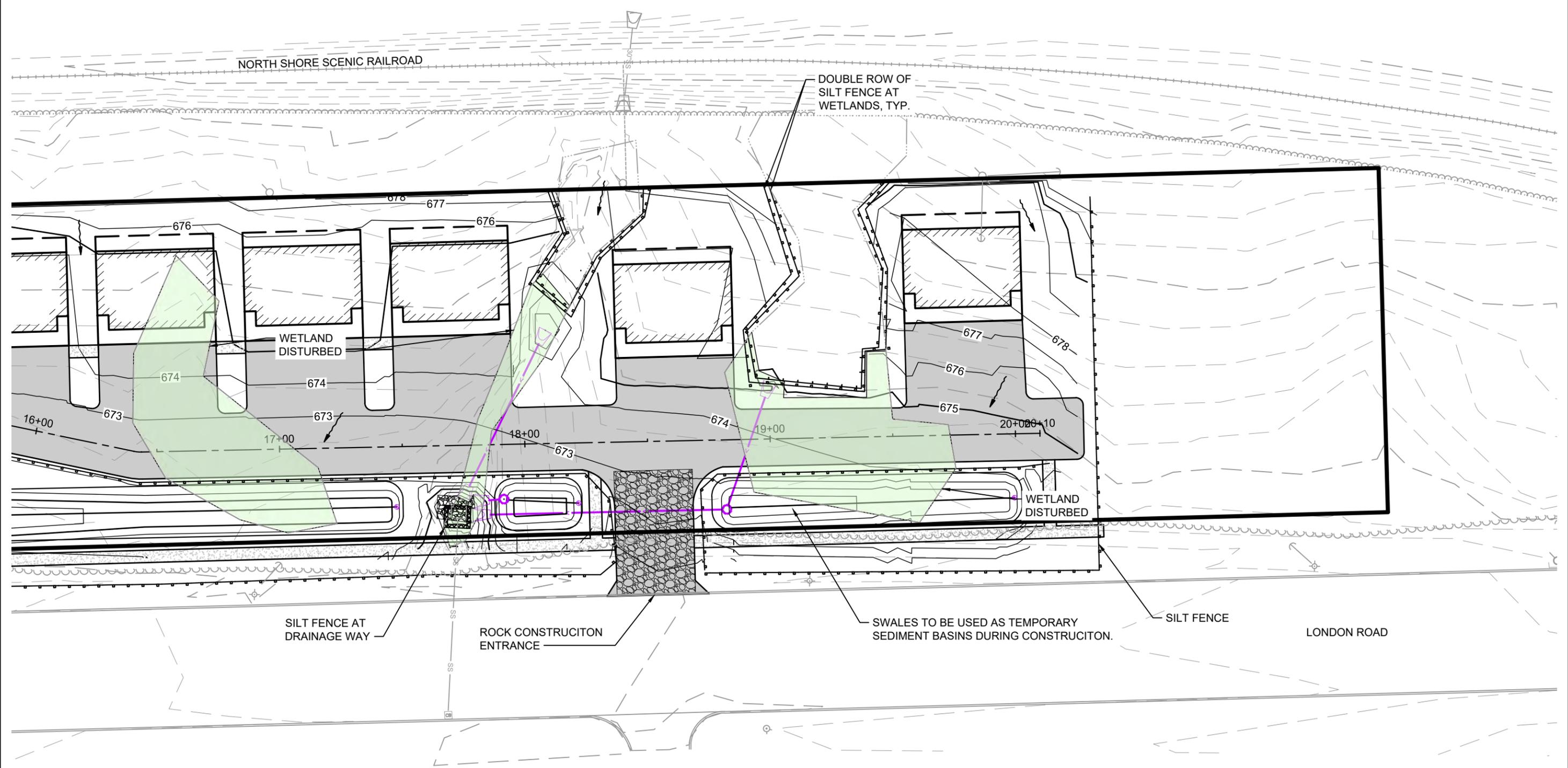
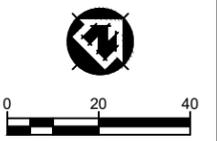
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LONDON EAST DEVELOPMENT
 TJS CONSTRUCTION
 DULUTH, MN

EROSION CONTROL PLAN STA
 11+00 TO 16+00
 Page 52 of 79

PROJECT NO. 05331006
 SHEET S-1



- GENERAL NOTES:
 1. ALL EROSION CONTROL ACTIVITIES SHALL ABIDE BY THE SWPPP.
 2. ANY DIRT TRACKED ONTO LONDON ROAD FROM THE PROJECT SITE SHALL BE SWEEPED CLEAN.

PROJECT DATE:	DRAWN BY:	NO.	DATE	REVISION	BY
02/17/20	EDC				
	DESIGNED BY: EDC				
	CHECKED BY: JJJ				

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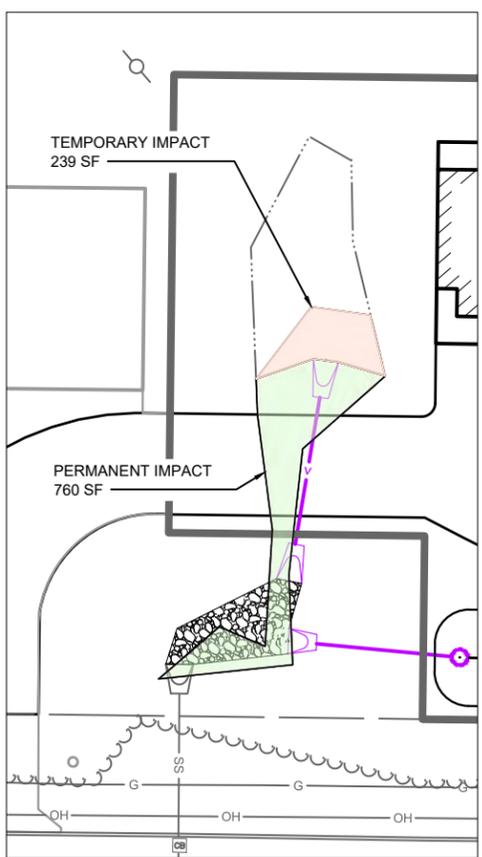
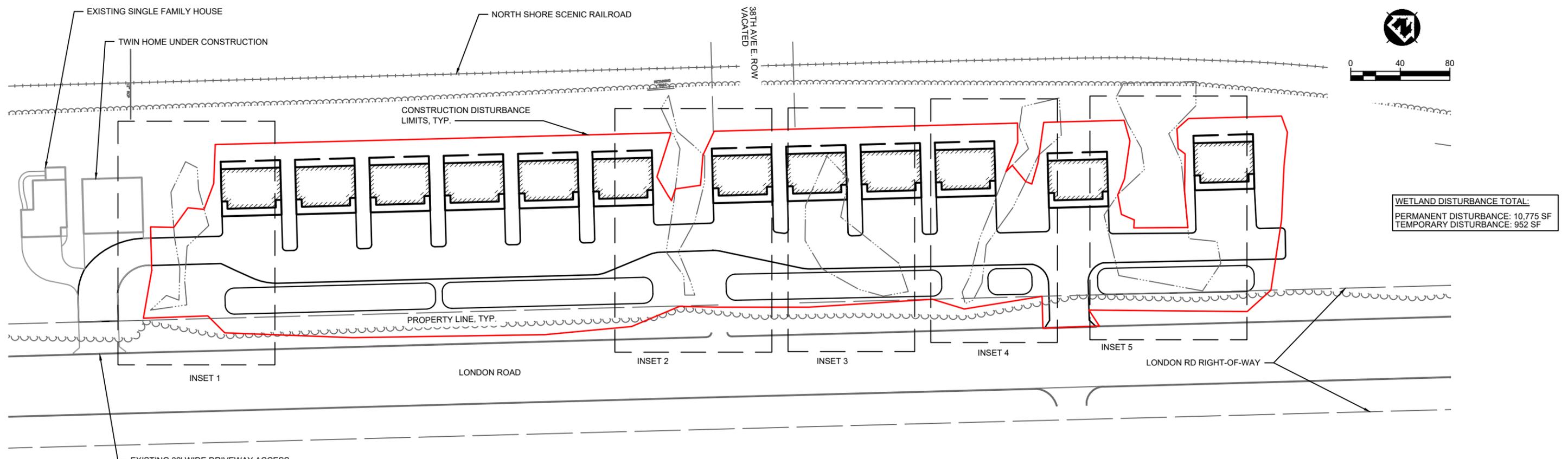
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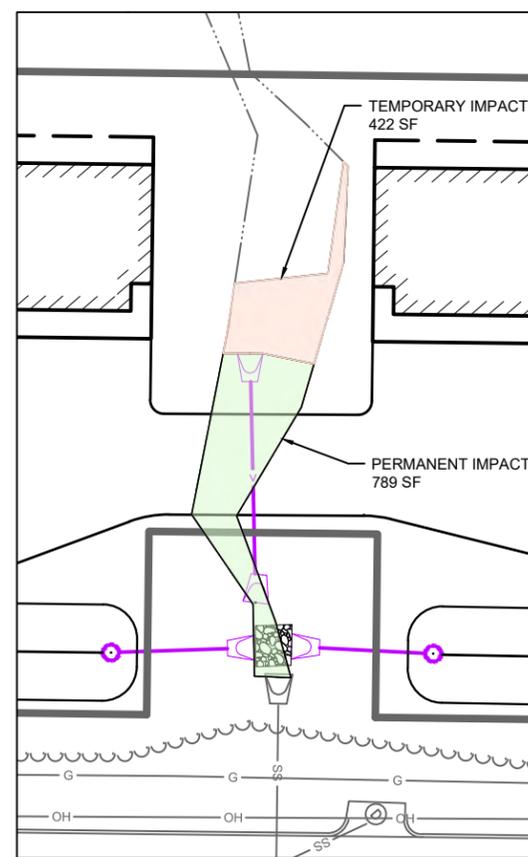
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 DULUTH, MN

EROSION CONTROL PLAN STA
 16+00 TO 22+00

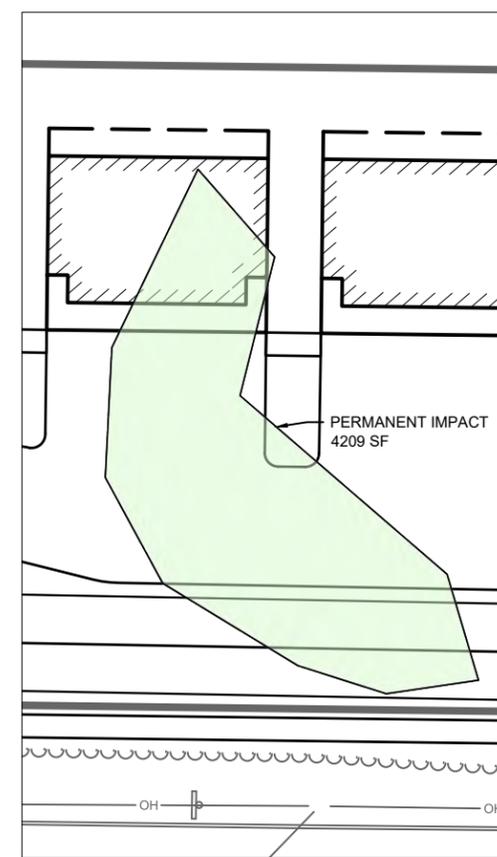
PROJECT NO. 05331006
 SHEET S-2
 Page 53 of 79



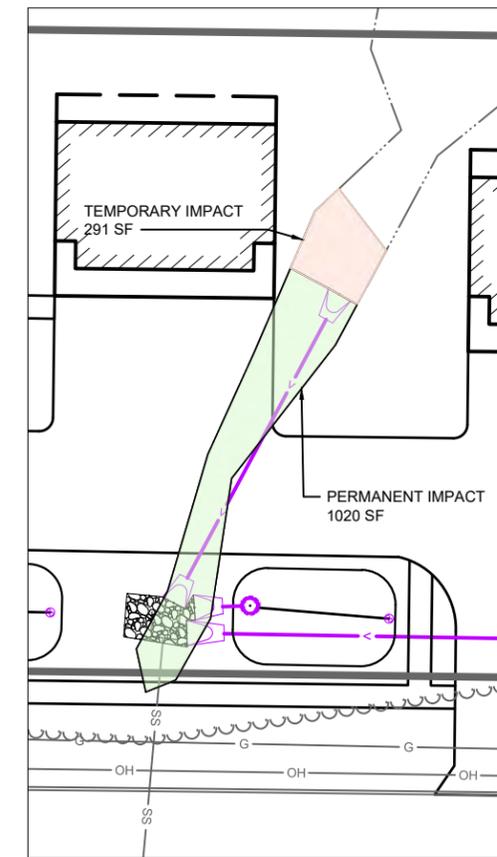
INSET 1
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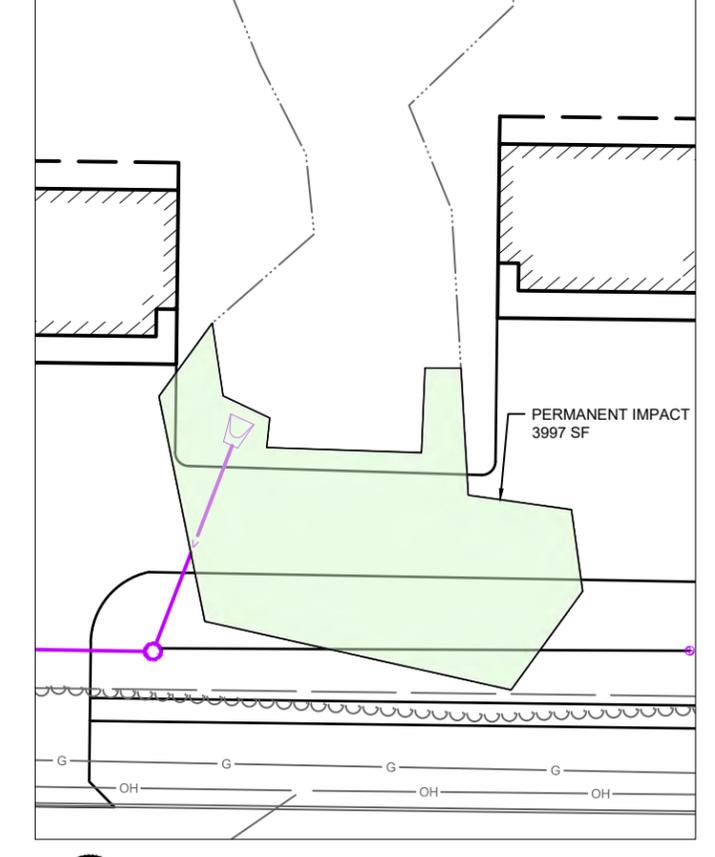
INSET 2
 0 20 40



INSET 3
 0 20 40



INSET 4
 0 20 40



INSET 5
 0 20 40

PROJECT DATE: 02/17/20	DRAWN BY: EDC	NO.	DATE	REVISION	BY
	DESIGNED BY: EDC				
	CHECKED BY: JJJ				

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LONDON EAST DEVELOPMENT
 TJS CONSTRUCTION
 DULUTH, MN

DISTURBANCE LIMITS

PROJECT NO. 05331006
 SHEET G-2

COMMON INTEREST COMMUNITY NUMBER _____
PLANNED COMMUNITY
LONDON EAST
DECLARATION

This Declaration is made in the County of St. Louis, State of Minnesota, on this _____ day of _____, 2020, by TJS Construction Limited Liability Company, a Minnesota limited liability company (the "Declarant"), pursuant to the provisions of Minnesota Statutes Chapter 515B, known as the Minnesota Common Interest Ownership Act (the "Act"), for the purpose of creating London East as a planned community under the Act.

WHEREAS, the Declarant is the Owner of certain real property located in St. Louis County, Minnesota legally described in Exhibit A, attached hereto, and Declarant desires to submit said real property and all improvements thereon (collectively the "Property") to the Act as a planned community, and

WHEREAS, the Declarant desires to establish on the Property, a plan for a permanent residential community to be owned, occupied and operated for the use, health, safety and welfare of its resident Owners and Occupants, and for the purpose of preserving the value, the structural quality, and the original architectural character of the Property, and

WHEREAS, the Property is not subject to an ordinance referred to in Section 515B.1-106 of the Act, governing conversions to common interest ownership; is not subject to a master association as defined in the Act; and does not include any shoreland, as defined in Minnesota Statutes Section 103F.205.

THEREFORE, the Declarant makes this Declaration and submits the Property to the Act as a planned community under the name "London East" consisting of the Units referred to in Section 2, declaring that this Declaration shall constitute covenants to run with the Property and that the Property shall be owned, used, occupied and conveyed subject to the covenants, restrictions, easements, charges and liens set forth herein, all of which shall be binding upon all Persons owning or acquiring any right, title or interest therein, and their heirs, personal representatives, successors and assigns.

SECTION 1
DEFINITIONS

The following words when used in the Governing Documents shall have the following meanings (unless the context indicates otherwise):

- 1.1 "Act" shall mean the Minnesota Common Interest Ownership Act, Minnesota Statutes Chapter 515B, as amended.
- 1.2 "Assessments" shall mean and refer to all assessments levied by the Association pursuant to Section 6 of this Declaration, including annual assessments, special assessments and limited allocation assessments.

- 1.3 "Association" shall mean the London East Homeowners Association, Inc., a nonprofit corporation which has been created pursuant to Chapter 317A of the laws of the state of Minnesota and Section 515B.3-101 of the Act, whose members consist of all Owners.
- 1.4 "Board" shall mean the Board of Directors of the Association as provided for in the Bylaws.
- 1.5 "Bylaws" shall mean the Bylaws governing the operation of the Association, as amended from time to time.
- 1.6 "City" shall mean the city of Duluth, Minnesota.
- 1.7 "Common Elements" shall mean all parts of the Property except the Units, including all improvements thereon, owned by the Association for the common benefit of the Owners and Occupants, if any. There are no Common Elements in this common interest community.
- 1.8 "Common Expenses" shall mean and include all expenditures made or liabilities incurred by or on behalf of the Association and incident to its operation, including Assessments and items otherwise identified as Common Expenses in the Declaration or Bylaws.
- 1.9 "Dwelling" shall mean a part of a building consisting of one or more floors, designed and intended for occupancy as a single family residence, and located within the boundaries of a Unit. The Dwelling includes any garage attached thereto or otherwise included within the boundaries of the Unit in which the Dwelling is located.
- 1.10 "Eligible Mortgagee" shall mean any Person owning a mortgage on any Unit, which mortgage is first in priority upon foreclosure to all other mortgages that encumber such Unit, and which has requested the Association, in writing, to notify it regarding any proposed action which requires approval by a specified percentage of Eligible Mortgagees.
- 1.11 "Governing Documents" shall mean this Declaration, the Articles of Incorporation and Bylaws of the Association, as amended from time to time, all of which shall govern the use and operation of the Property.
- 1.12 "Member" shall mean all persons who are members of the Association by virtue of being Owners as defined in this Declaration. The words "Owner" and "Member" may be used interchangeably in the Governing Documents.
- 1.13 "Occupant" shall mean any person or persons, other than an Owner, in possession of or residing in a Unit.
- 1.14 "Owner" shall mean a Person who owns a Unit, but excluding contract for deed vendors, mortgagees and other secured parties within the meaning of Section 515B.1-103(31) of the Act. The term "Owner" includes, without limitation, contract for deed vendees and holders of a life estate.

- 1.15 "Party Wall" shall mean the interior shared wall between two Dwellings.
- 1.16 "Plat" shall mean the recorded plat of LONDON EAST depicting the Property pursuant to the requirements of Section 515B.2-1101(d) of the Act, and satisfying the requirements of Minnesota Statutes Chapter 505, 508 or 508A, as applicable, including any amended or supplemental plat recorded from time to time in accordance with the Act.
- 1.17 "Person" shall mean a natural individual, corporation, limited liability company, partnership, trustee, or other legal entity capable of holding title to real property.
- 1.18 "Property" shall mean all of the real property submitted to this Declaration, now or in the future, including the Units and all structures and improvements located thereon. The Property is legally described in Exhibit A attached hereto.
- 1.19 "Rules and Regulations" shall mean the Rules and Regulations of the Association as approved from time to time pursuant to Section 5.6.
- 1.20 "Unit" shall mean a physical portion of the Property, designated for separate ownership, the boundaries of which are delineated on the Plat and described in Section 2.2.

Any terms used in the Governing Documents, and defined in the Act and not in this Section, shall have the meaning set forth in the Act.

SECTION 2

DESCRIPTION OF UNITS, BOUNDARIES AND RELATED EASEMENTS

- 2.1 Units. There are twenty-six (26) Units, all of which are restricted exclusively to residential use. Each Unit constitutes a separate parcel of real estate. No additional Units may be created by the subdivision or conversion of Units pursuant to Section 515B.2-112 of the Act. The Unit identifier for a Unit shall be its lot and block numbers and the subdivision name.
- 2.2 Unit Boundaries. The front, rear and side boundaries of each Unit shall be as shown on the Plat. The Units shall have no upper or lower boundaries. Subject to this Section 2 and Section 3.2, all spaces, walls, and other improvements within the boundaries of a Unit are part of the Unit.
- 2.3 Access Easements. Each Unit shall be subject to and shall be the beneficiary of a perpetual appurtenant easement for access to London Road on or across those portions of the Units improved for use as a private drive, subject to any restrictions set forth in the Declaration.
- 2.4 Stormwater and Retention Pond Easements. Each Unit shall be subject to and shall be the beneficiary of appurtenant easements for the stormwater and retention ponds servicing the Property, and for maintenance, repair and replacement as described in Section 13.

- 2.5 Parking Easements. Each Unit shall be subject to and shall be the beneficiary of appurtenant easements for the visitor parking spaces on the Property, and for maintenance, repair and replacement as described in Section 13.
- 2.6 Utility and Maintenance Easements. Each Unit shall be subject to and shall be the beneficiary of appurtenant easements for all services and utilities servicing the Units, and for maintenance, repair and replacement as described in Section 13.
- 2.7 Encroachment Easements. Each Unit shall be subject to and shall be the beneficiary of the appurtenant easements for encroachments as described in Section 13.
- 2.8 Recorded Easements. The Property shall be subject to such other easements as may be recorded against it or otherwise shown on the Plat.
- 2.9 Easements are Appurtenant. All easements and similar rights burdening or benefitting a Unit or any other part of the Property shall be appurtenant thereto, and shall be permanent, subject only to termination in accordance with the Act or the terms of the easement. Any recorded easement benefitting or burdening the Property shall be construed in a manner consistent with, and not in conflict with, the easements created by this Declaration.
- 2.10 Impairment Prohibited. No person shall materially restrict or impair any easement benefitting or burdening the Property, subject to the Declaration and the right of the Association to establish and enforce reasonable Rules and Regulations governing the use of the Property.

SECTION 3 COMMON ELEMENTS

There are no parts of the Property designated as Common Elements.

SECTION 4 ASSOCIATION MEMBERSHIP: RIGHTS AND OBLIGATIONS

Membership in the Association, and the allocation to each Unit of a portion of the votes in the Association and a portion of the Common Expenses of the Association, shall be governed by the following provisions:

- 4.1 Membership. Each Owner shall be a member of the Association by virtue of Unit ownership, and the membership shall be transferred with the conveyance of the Owner's interest in the Unit. An Owner's membership shall terminate when the Owner's ownership terminates. When more than one Person is an Owner of a Unit, all such Persons shall be members of the Association, but multiple ownership of a Unit shall not increase the voting rights allocated to such Unit nor authorize the division of the voting rights.
- 4.2 Voting and Common Expenses. Voting rights and Common Expense obligations are allocated equally among the Units, subject to Sections 6.4 and 6.7.

charges against the Unit. Notwithstanding the foregoing, if (1) a first mortgage on a Unit is foreclosed, (2) the first mortgage was recorded on or after the date of recording of this Declaration, and (3) no Owner redeems during the Owner's period of redemption provided by Minnesota Statutes Chapters 580, 581, or 582, then the holder of the sheriff's certificate of sale from the foreclosure of the first mortgage shall take title to the Unit subject to unpaid Assessments for Common Expenses levied pursuant to Sections 515B.3-115(a), (e)(1) to (3), (f), and (i) of the Act which became due, without acceleration, during the six (6) months immediately preceding the first day following the end of the Owner's period of redemption.

- 6.11 Voluntary Conveyances, Statement of Assessments. In a voluntary conveyance of a Unit, the buyer shall not be personally liable for any unpaid Assessments and other charges made by the Association against the seller or the seller's Unit prior to the time of conveyance to the buyer, unless expressly assumed by the buyer. However, the lien of such Assessments shall remain against the Unit until released. Any seller or buyer shall be entitled to a statement, in recordable form, from the Association setting forth the amount of the unpaid Assessments against the Unit, including all Assessments payable in the Association's current fiscal year, which statement shall be binding on the Association, seller and buyer.

SECTION 7 RESTRICTIONS ON USE OF PROPERTY

All Owners and Occupants, and all secured parties, by their acceptance or assertion of an interest in the Property, or by their occupancy of a Unit, covenant and agree that, in addition to any other restrictions which may be imposed by the Act or the Governing Documents, the occupancy, use, operation, alienation and conveyance of the Property shall be subject to the following restrictions:

- 7.1 General. The Property shall be owned, conveyed, encumbered, leased, used and occupied subject to the Governing Documents and the Act, as amended from time to time. All covenants, restrictions and obligations set forth in the Governing Documents are in furtherance of a plan for the Property, and shall run with the Property and be a burden and benefit to all Owners and Occupants and to any other Person acquiring or owning an interest in the Property, their heirs, personal representatives, successors and assigns.
- 7.2 Subdivision Prohibited. No Unit may be partitioned or subdivided without the prior written approval of the all Owners, all secured parties holding first mortgages on the Units and the City.
- 7.3 Residential Use. The Units shall be used by Owners and Occupants and their guests exclusively as private, single family residential dwellings, and not for transient, hotel, commercial, business or other non-residential purposes, except as provided in Section 7.4.
- 7.4 Business Use Restricted. No business, trade, occupation or profession of any kind, whether carried on for profit or otherwise, shall be conducted, maintained or permitted in any Unit, except an Owner or Occupant residing in a Unit may maintain a home occupation in such Unit and handle matters relating to such

home occupation by telecommunications or correspondence therefrom; provided, that such uses are incidental to the residential use; do not involve physical alteration of the Unit visible from the exterior; are in compliance with all governmental laws, ordinances and regulations; and do not involve any observable business activity such as signs, advertising displays, regular deliveries, or pedestrian or vehicular traffic to and from the Unit by customers or employees.

- 7.5 Leasing. Leasing of Units shall be allowed, subject to reasonable regulation by the Association, and subject to the following conditions: (i) that no Unit shall be leased for transient or hotel purposes; (ii) any lease must be for a minimum term of thirty (30) days (subject to waiver by the Board for emergencies or highly extenuating circumstances); (iii) that no Unit may be subleased, (iv) that all leases shall be in writing, and (v) that all leases shall provide that they are subject to the Governing Documents, the Rules and Regulations and the Act, and that any failure of the lessee to comply with the terms of such documents shall be a default under the lease. The Association may impose such reasonable Rules and Regulations as may be necessary to implement procedures for the leasing of Units, consistent with this Section.
- 7.6 Attached Garages, Driveways and Parking Areas. Attached garages, driveways and parking areas on the Property shall be used only for parking of vehicles owned or leased by Owners and Occupants and their guests, and such other incidental uses as may be authorized in writing by the Association. Attached garages shall not be converted to other uses or used for storage or other purposes which would prevent the parking of two automobiles in a garage. No persons, except guests on a temporary basis, shall be permitted to park any vehicles overnight in the designated visitor parking spaces on the Property. The use of attached garages, driveways and visitor parking areas on the Property, and the types of vehicles and personal property permitted thereon, shall be subject to regulation by the Association, including without limitation the right of the Association to tow illegally parked vehicles or to remove unauthorized personal property.
- 7.7 Pets. No animal may be bred, or kept or maintained for business or commercial purposes anywhere on the Property. Domestic house pets, such as dogs, cats, fish, birds and the like are permitted. All pets must be suitably housed in Dwellings and may not be housed or kept outside of a Dwelling. No pet shall be permitted to run free or to roam at large on the Property at any time. No pet shall be allowed to create a nuisance or unreasonable disturbance or noise. Subject to the right of the Association to impose such reasonable Rules and Regulations as may be necessary to regulate and control pets and animals on the Property, the provisions of this Section 7.7 may be amended only by unanimous approval of the Owners obtained in writing.
- 7.8 Quiet Enjoyment; Interference Prohibited. All Owners and Occupants and their guests shall have a right of quiet enjoyment in their respective Units. The Property shall be occupied and used in such a manner as will not cause a nuisance, nor unduly restrict, interfere with or impede the use and quiet enjoyment of the Property by other Owners and Occupants and their guests.

- 7.9 Compliance with Law. No use shall be made of the Property which would violate any then-existing municipal codes or ordinances, or state or federal laws, nor shall any act or use be permitted which could cause waste to the Property, cause a material increase in insurance rates on the Property, or otherwise cause any unusual liability, health or safety risk, or expense, for the Association or any Owner or Occupant.
- 7.10 Improvements. Except for those made by Declarant in consideration of its initial sale of a Unit, no Improvements (as defined in Section 8.1) shall be made, or caused or allowed to be made, in any part of the Unit which affects another Unit or which is visible from the exterior of the Unit, without the prior written authorization of the Board, or a committee appointed by it, as provided in Section 8.
- 7.11 Time Shares Prohibited. The time share form of ownership, or any comparable form of lease, occupancy rights or ownership which has the effect of dividing the ownership or occupancy of a Unit into separate time periods, is prohibited.
- 7.12 Access to Units. In case of emergency, all Units are subject to entry, without notice and at any time, by an officer or member of the Board, by the Association's management agents or by any public safety personnel. Entry is also authorized for maintenance purposes under Sections 9 and 13 and for enforcement purposes under Section 14.
- 7.13 Private Drive; Visitor Parking Spaces. No Persons shall be permitted to park any vehicles within the private drive established on the Property for access to London Road. Parking shall be permitted in designated visitor parking spaces adjacent to the private drive. Use of the private drive and adjacent visitor parking spaces shall be subject to regulation by the Association, including without limitation the right of the Association to tow illegally parked vehicles or to remove unauthorized personal property.
- 7.14 Stormwater Retention Ponds and Wetlands. Stormwater retention ponds and wetlands located on the Property, whether natural or otherwise, shall be maintained in substantially the same condition as originally established, subject only to (i) changes authorized by the Association consistent with all statutes, requirements, rules, ordinances and regulations imposed on such areas and items by governmental authorities having jurisdiction and (ii) the prior approval of any such governmental authorities, if required. No cutting, mowing, trimming, draining, dredging or other alteration of such areas and items shall be permitted, except as authorized by the Association.
- 7.15 Townhome Development. This common interest community is subject to the terms and conditions set forth in Resolution No. _____ adopted by the Duluth City Council on _____, 2020 approving the plat of London East for a townhome development. No use of the Property in contradiction of Resolution No. _____ shall be permitted without the written consent of the City.

- 7.16 Antennas. The installation, maintenance and use of satellite dishes, TV antennas, wireless cable antennas or any other type of over-the-air- reception devices on the Property is subject to the right of the Association to impose such reasonable Rules and Regulations on the installation of such over-the-air reception devices; provided, that such restrictions shall not delay use of the antenna, shall not increase the cost of service, and shall not interfere with signal quality.

SECTION 8 IMPROVEMENTS

- 8.1 Improvements. Except as permitted under applicable state or federal law or as otherwise provided in this Declaration, no alterations, improvements, repairs or replacements of any type, temporary or permanent, structural, aesthetic or otherwise (collectively, "Improvements"), including but not limited to, any structure, building, addition, deck, patio, fence, wall, enclosure, window, exterior door, color change, shrubbery, material topographical or landscaping change, shall be made, or caused or allowed to be made, by any Owner or Occupant, or their invitees, in any part of the Unit which affects the private drive, visitor parking spaces, stormwater retention ponds, wetlands, shared sewer lines or another Unit, or which is visible from the exterior of the Unit, without the prior written authorization of the Board, and compliance with the requirements of this Section.
- 8.2 Standards. The Board shall have authority to establish reasonable forms and procedures for applying for authorization for Improvements, and reasonable requirements for Improvements. The Board, in its sole discretion, may impose standards for design, appearance or construction which are greater or more stringent than standards prescribed by the Governing Documents or by building, zoning, or other governmental laws, codes, ordinances or regulations; provided that such standards shall be consistent with the architectural character and use of the Property. The Board shall be the sole judge of whether such criteria are satisfied, subject to any restrictions imposed by any applicable governmental laws, codes, ordinances or regulations, and shall have the right and authority to approve, conditionally approve or deny requests for Improvements in its sole discretion and its determination in this regard shall be final and binding upon the Owners, occupants and any other Person holding or acquiring any interest in the Unit.
- 8.3 Purpose. The purpose of the requirements established by the Board shall be (i) to preserve the architectural style, the quality and the value of the Property, and (ii) to protect the Association and the Owners from undue liability arising out of the Improvements or any construction activity in connection therewith.
- 8.4 Minor Encroachments. Approval of Improvements which cause a minor encroachment upon another Unit shall create an appurtenant easement for such encroachment in favor of the Unit with respect to which the Improvements are approved, notwithstanding any contrary requirement in the Governing Documents or the Act. A file of the Board resolutions approving or denying all proposed Improvements shall be maintained permanently as a part of the Association's records.

- 8.5 Antennas. Notwithstanding the foregoing provisions of this Section, the Association shall not require Owners to get approval before the installation of satellite dishes, TV antennas, wireless cable antennas or any other type of over-the-air- reception devices on the Owner's Unit, provided that any such over-the-air reception devices shall not be installed within any part of the private drive, designated visitor parking spaces, or stormwater retention ponds and wetlands located on the Property.

SECTION 9 MAINTENANCE

- 9.1 Maintenance by Association. The Association shall provide for all maintenance, repair or replacement (collectively, "maintenance") of the private drive, visitor parking spaces, stormwater retention ponds and wetlands and shared sewer lines on the Property. Maintenance of the private drive, and visitor parking spaces shall include snow removal. In addition, for the purpose of preserving the architectural character, quality, and uniform standards for appearance of the Property, the Association shall provide for exterior maintenance on the Dwellings, including maintenance of the driveways, roofs, gutters, downspouts, garage doors (except hardware), exterior siding and other building surfaces. The Association's obligations shall exclude entry doors, door hardware, air conditioning equipment, glass and window frames, foundations and foundation walls, structural members and any other items not specifically referred to in this Section, unless otherwise approved under Section 9.2. The Association shall have easements as described in Section 13 to perform its obligations under this Section 9.
- 9.2 Optional Maintenance by Association. In addition to the maintenance described in Section 9.1, the Association may, with the approval of eighty percent (80%) of votes cast in person or by proxy at a meeting called for such purposes, undertake to provide additional exterior maintenance to the Units or Dwellings.
- 9.3 Maintenance by Owner. Except for the exterior maintenance required to be provided by the Association under Section 9.1 or 9.2, all maintenance of the Dwellings and Units shall be the sole responsibility and expense of the Owners thereof. However, the Owners and Occupants shall have a duty to promptly notify the Association of defects in or damage to those parts of the Property which the Association is obligated to maintain. The Association may require that any exterior maintenance to be performed by the Owner be accomplished pursuant to specific uniform criteria established by the Association. The Association may also undertake any exterior maintenance which the responsible Owner fails to or improperly performs, and charge and assess the Unit for the cost thereof. Such cost shall be a personal obligation of the Owner and a lien against the Owner's Unit.
- 9.4 Damage Caused by Owner. Notwithstanding any provision to the contrary in this Section, if, in the judgment of the Association, the need for maintenance of any part of the Property is caused by the willful or negligent act or omission of an Owner or Occupant, or their guests, or by a condition in a Unit which the Owner or Occupant has willfully or negligently allowed to exist, the Association may cause such damage or condition to be repaired or corrected (and enter the yard

effect as Assessments under Section 6. The lien shall attach as of the date of imposition of the remedy, but shall not be final as to violations for which a hearing is held until the Board makes a written decision at or following the hearing. All remedies shall be cumulative, and the exercise of, or failure to exercise, any remedy shall not be deemed a waiver of the Association's right to pursue any others.

- 14.5 Costs of Proceeding and Attorneys' Fees. With respect to any collection measures, or any measures or action, legal, administrative, or otherwise, which the Association takes to enforce the provisions of the Act, Governing Documents or Rules and Regulations, whether or not finally determined by a court or arbitrator, the Association may assess the violator and his or her Unit with any expenses incurred in connection with such enforcement, including without limitation fines or charges previously imposed by the Association, reasonable attorneys' fees, and interest (at the highest rate allowed by law) on the delinquent amounts owed to the Association. Such expenses shall also include any collection or contingency fees or costs charged to the Association by a collection agency or other Person acting on behalf of the Association in collecting any delinquent amounts owed to the Association by an Owner or Occupant. Such collection or contingency fees or costs shall be the personal obligation of such Owner and shall be a lien against such Owner's Unit.
- 14.6 Liability for Owners' and Occupants' Acts. An Owner shall be liable for the expense of any maintenance, repair or replacement of the Property rendered necessary by such Owner's acts or omissions, or by that of Occupants or guests in the Owner's Unit, to the extent that such expense is not covered by the proceeds of insurance carried by the Association or such Owner or Occupant. However, any insurance deductible amount and/or increase in insurance rates, resulting from the Owner's acts or omissions may be assessed against the Owner responsible for the condition and against his or her Unit.
- 14.7 Enforcement by Owners. The provisions of this Section shall not limit or impair the independent rights of other Owners to enforce the provisions of the Governing Documents, the Rules and Regulations, and the Act as provided therein.

SECTION 15 AMENDMENTS

- 15.1 Approval Requirements. Except for amendments by Declarant pursuant to Section 515B.2- 112(c) of the Act, this Declaration may be amended only by the approval of:
- a. Owners of Units to which are allocated at least sixty-seven percent (67%) of the total votes in the Association.
 - b. The percentage of Eligible Mortgagees (based upon one vote per Unit financed) required by Section 16 as to matters prescribed by said Section.
 - c. Declarant as to certain amendments as provided in Section 17.7.

- 15.2 Procedures. Approval of the Owners may be obtained in writing or at a meeting of the Association duly held in accordance with the Bylaws. Consents of Eligible Mortgagees and Declarant shall be in writing. Any amendment shall be subject to any greater requirements imposed by the Act. The amendment shall be effective when recorded as provided in the Act. An affidavit by the President or Secretary of the Association as to the outcome of the vote, or the execution of the foregoing agreements or consents, shall be adequate evidence thereof for all purposes, including without limitation, the recording of the amendment.
- 15.3 Consent to Certain Amendments. The City's written consent shall be required for any amendment to the Governing Documents which would have the effect of permitting or authorizing any use of the Property that is incompatible with the terms and conditions of Resolution No. _____ adopted by the Duluth City Council on _____, 2020 approving the plat of London East for a townhome development.

SECTION 16 RIGHTS OF ELIGIBLE MORTGAGEES

Notwithstanding anything to the contrary in the Governing Documents, and subject to any greater requirements of the Act or other laws, Eligible Mortgagees shall have the following rights and protections:

- 16.1 Consent to Certain Amendments. The written consent of Eligible Mortgagees representing at least fifty-one percent (51%) of the Units that are subject to first mortgages held by Eligible Mortgagees (based upon one (1) vote per Unit financed) shall be required for any amendment to the Governing Documents which causes any change in provisions including the following: (i) voting rights; (ii) increases in Assessments over twenty-five percent (25%), Assessment liens, or priority of Assessment liens; (iii) responsibility for maintenance and repairs; (iv) redefinition of any Unit boundaries; (v) convertibility of Units into Common Elements; (vi) expansion or contraction of the Property or the addition, annexation or withdrawal of property to or from the Property; (vii) hazard or fidelity insurance requirements; (viii) imposition of restrictions on the leasing of Units; (ix) imposition of any restrictions on an Owner's right to sell or transfer his or her Unit; (x) restoration or repair of the Property (after a hazard damage or partial condemnation) in a manner other than that specified in the Governing Documents; (xi) any action to terminate the legal status of the common interest community after substantial destruction or condemnation occurs; or (xii) any provisions that expressly benefit Eligible Mortgagees, or insurers or guarantors of mortgages
- 16.2 Consent to Certain Actions. The written consent of Eligible Mortgagees representing at least fifty-one percent (51%) percent of the Units that are subject to first mortgages held by Eligible Mortgagees (based upon (1) one vote per Unit financed) shall be required to (i) abandon or terminate the common interest community; (ii) change the allocations of voting rights; (iii) partition or subdivide a Unit except as permitted by statute; or (v) use hazard insurance proceeds for other than the repair, replacement or reconstruction of the Property, except as otherwise provided by law.



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 20-016	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Variance – rear yard structure setback	Planning Commission Date		April 14, 2020
Deadline for Action	Application Date	March 8, 2020	60 Days	May 7, 2020
	Date Extension Letter Mailed	March 30, 2020	120 Days	July 6, 2020
Location of Subject	Upper side of 3700-3800 Blocks of London Road (Condon Park)			
Applicant	TJS Construction, LLC	Contact	Ted Stocke	
Agent		Contact		
Legal Description	See attached			
Site Visit Date	April 1, 2020	Sign Notice Date		March 32, 2020
Neighbor Letter Date	April 1, 2020	Number of Letters Sent		26

Proposal

A variance to reduce the rear yard setback from 25 feet to 20 feet to allow construction of 12 twin homes (24 dwelling units) in the London East plat.

Recommended Action: Approve variance with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Vacant/Undeveloped	Traditional Neighborhood
North	R-1	Railroad, Lakewalk	Traditional Neighborhood
South	R-1 and MU-N	Apartments, One-unit dwelling	Urban Residential
East	R-1	Vacant/Undeveloped	Traditional Neighborhood
West	R-1	One-unit dwelling	Traditional Neighborhood

Summary of Code Requirements

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

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

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

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

Governing Principle #12- Create efficiencies in delivery of public services.

Housing Policy #2 - Provide affordable, attainable housing opportunities

Strategy 4 – Foster opportunities for creative housing types and concepts including . . . townhomes

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

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

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

Related files: PL 20-016 Vacate utility easement in former 38th Ave. E.; PL 20-017 Wetland Replacement Plan; PL 20-035 Preliminary Plat review of London East plat

Review and Discussion Items

Staff finds that:

- 1) The applicant is proposing 12 twin homes (two-dwelling unit structures that straddle a common lot line) each with a two-car garage and driveway connected to a 22-26 foot wide private access road running parallel to London Road and connected to London Road at two access points. The project includes space for landscaping and linear storm water treatment basins along the London Road frontage.
- 2) The property is zoned R-1, Residential-Traditional, which requires a rear yard setback of 25 feet. The proposed 24 dwelling units are part of a project that includes an additional twin home that is currently under construction for a total of 26 dwelling units on 3.05 acres.
- 3) The applicant is proposing to use the property in a reasonable manner through development of twin homes that are otherwise consistent with zoning requirements. Each dwelling unit has a footprint of 912 square feet (24 feet wide by 38 feet deep). The first floor consists of a two-car garage and entry area, the second floor has living/dining/kitchen space, and the third floor has three bedrooms for a total living area of about 1,280 square feet, not including the garage. These are not extravagantly-sized dwelling units and are compactly arranged by utilizing a three-story configuration. Additionally, all parking needs must be met on site since there is no parking allowed on London Road. Therefore, it is reasonable to design the site so that each dwelling unit has a driveway long enough for two guest parking spaces and to design the street to be wide enough for parallel parking on one side for times when larger events or holiday gatherings are held by residents.
- 4) There are two factors causing the practical difficulty in meeting the rear yard setback requirement on this property. First, MN-DOT, owner of the London Road (MN Trunk Highway 61), has limited the subject property to only two vehicular access points, which causes the need to have an internal private access road running parallel to London Road. State Fire Code requires the road to be a minimum of 20 feet wide and wider (26 feet) around fire hydrants and in areas with parallel parking. Second, to convey drainage from the ravines on this property under London Road, MN-DOT has retained two parcels that are 50-66 feet wide by 40 foot deep each for culvert extensions. These pinch points reduce the depth of the lots available for twin home construction when combined with needed space for the 20-26 foot wide internal access road, storm water treatment system and landscaping.
- 5) The applicant considered developing the lots with the required 25 foot rear yard setback, but doing so resulted in three of the dwelling units having insufficient space for guest parking and reduces space for storm water treatment and needed landscaping.

- 6) Granting the variance will not alter the essential character of the area since reducing the distance between the proposed dwellings and the railroad tracks from 75 feet to 70 feet will not likely be noticeable. Additionally, each three-story twin home building (with two dwelling units) is proposed to be 48 feet wide by 38 feet deep which is similar in scale to many single-family dwellings in the Congdon Park neighborhood.
- 7) The variance, if granted, would not impair adequate light and air to surrounding properties as the three-story twin homes are proposed to be 20 feet from the rear property line and more than 80 feet from the front property line.
- 8) The variance, if granted, would not result in congestion on London Road as the 26 dwelling units are not expected to generate a significant amount of additional traffic. Furthermore, the existing dedicated left turn lane for eastbound vehicles will allow residents to make turns into the property without obstructing through traffic on London Road.
- 9) The variance, if granted, would not impair fire or emergency services provision since the building location five feet closer to the property line is still more than the distance required by building and fire codes.
- 10) The variance, if granted, would not impair established property values in the surrounding area. Allowing the buildings to be located five feet closer to the rear property line will not affect the functioning of the low traffic, slow speed railroad to the north.
- 11) The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Traditional Neighborhood and housing policy that seeks to foster opportunities for creative housing types and concepts.
- 12) No additional landscaping is recommended as mitigation for the reduced setback per Sec. 50-37.9. H.
- 13) No comments from citizens, City staff, or any other entity were received regarding the application.
- 14) Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

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

- 1) The project be limited to, constructed, and maintained according to Sheets S-3 and S-4 of the plans by MSA titled "London East Development" with a plot date of 4/6/2020;
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



London East
 3700-3800 Block of
 Upper Side of London Rd.
 TJS Construction, LLC

Area Map



Legend

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

Aerial photography flown 2019





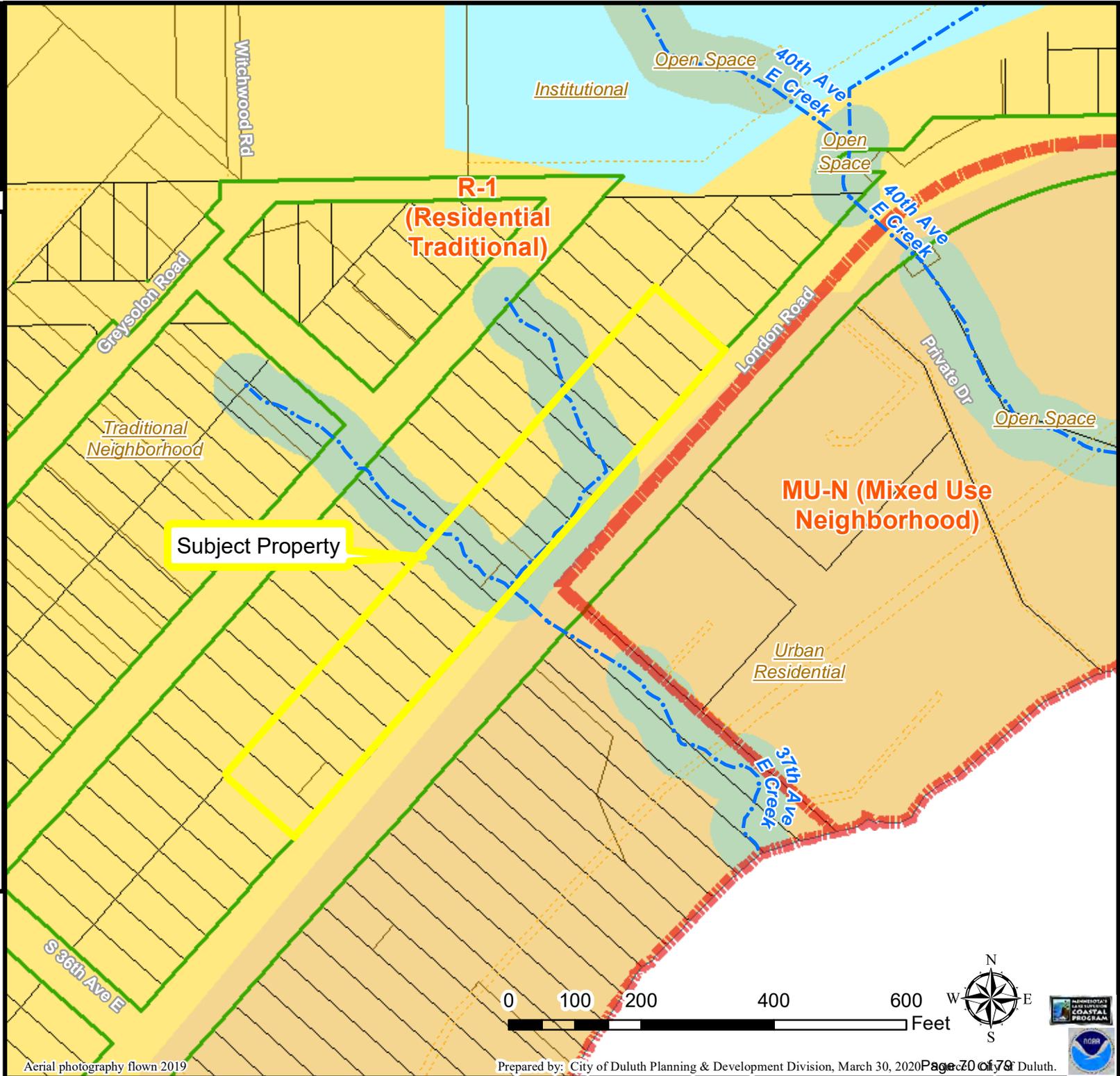
London East
3700-3800 Block of
Upper Side of London Rd.
TJS Construction, LLC

Future Land Use
and Zoning Map

Legend

- Boundary Lines
Subtype, ROW_TYPE
- Lot Line
 - Parcel Line
 - ROW (Road)
 - - - ROW (Not Road)
 - - - Subdivision Line
 - Water Line
 - - - Survey Line
 - Municipal Boundary
 - Zoning Boundaries
 - 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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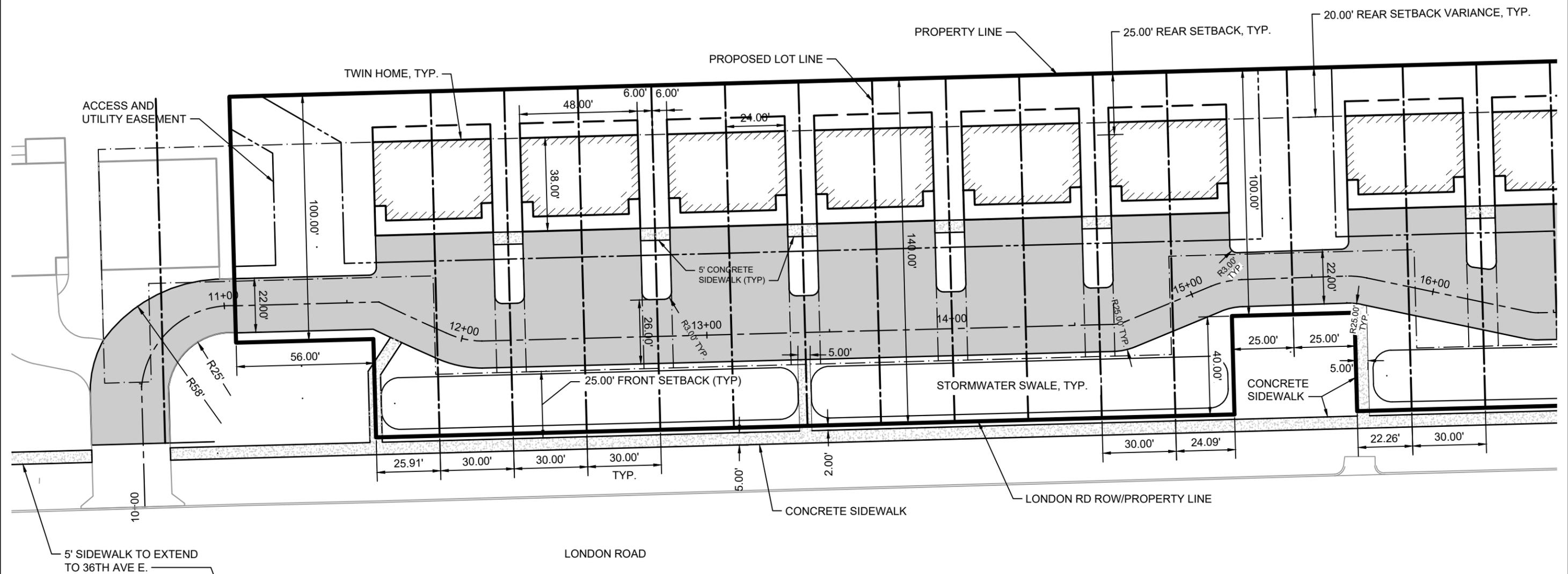


Aerial photography flown 2019





DULUTH NORTH SHORE SCENIC RAILROAD



PROJECT DATE:	DRAWN BY:	NO.	DATE	REVISION	BY
02/17/20	EDC				
	EDC				
	JJJ				

I HEREBY CERTIFY THAT THIS PLAN, REPORT, OR SPECIFICATION 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.

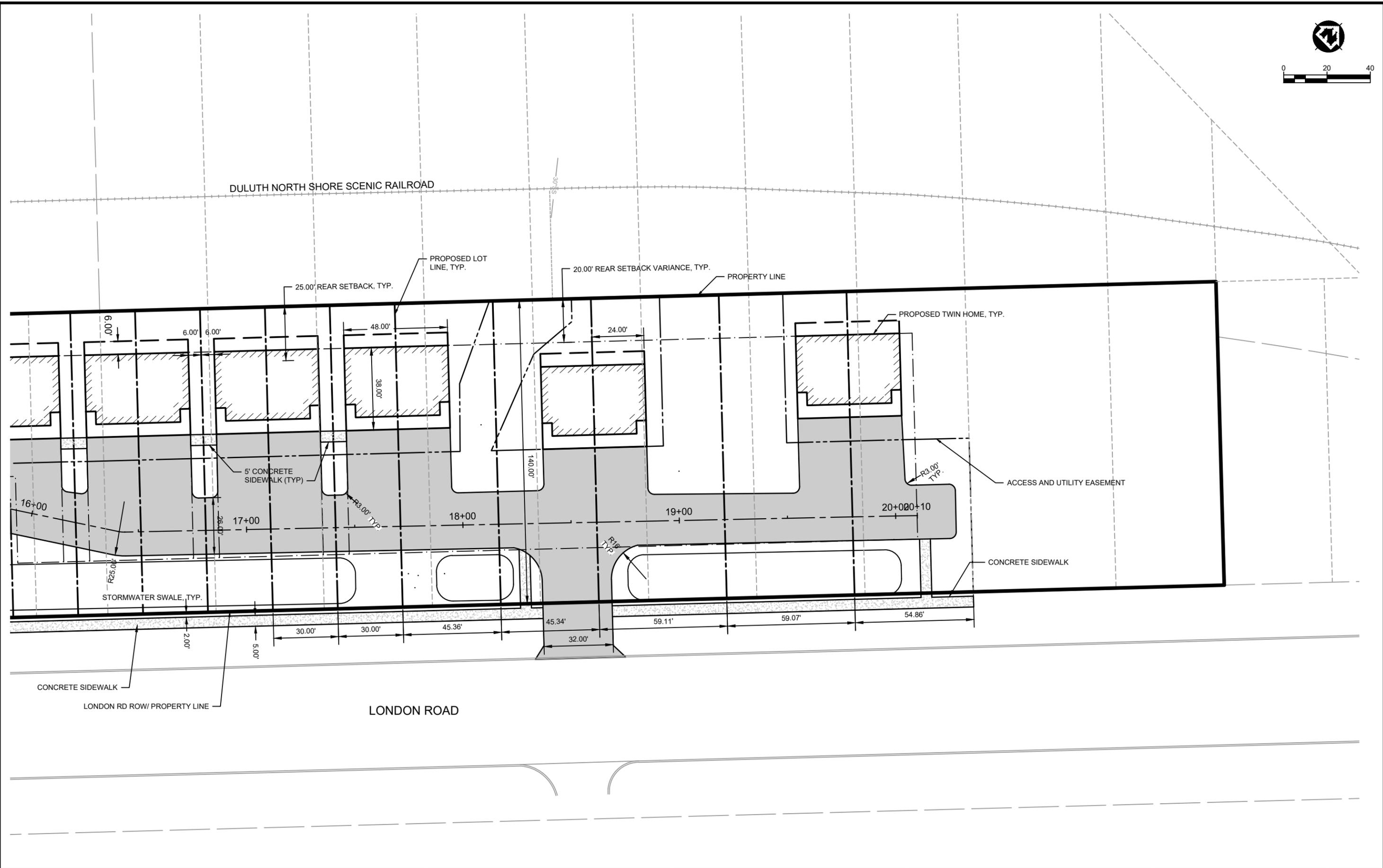
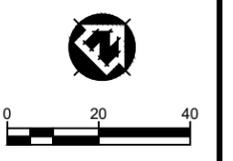
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LONDON EAST DEVELOPMENT
 TJS CONSTRUCTION
 DULUTH, MN

SITE PLAN STA 11+00 TO 16+00

PROJECT NO. 05331006
 SHEET S-3



PROJECT DATE:	DRAWN BY:	NO.	DATE	REVISION	BY
02/17/20	EDC	-	-	-	-
	DESIGNED BY:	EDC	-	-	-
	CHECKED BY:	JJJ	-	-	-

I HEREBY CERTIFY THAT THIS PLAN, REPORT, OR SPECIFICATION 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.

04/06/20 License No. 50396
 JOSEPH A. RYAN

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LONDON EAST DEVELOPMENT
 TJS CONSTRUCTION
 DULUTH, MN

SITE PLAN STA 16+00 TO 22+00

PROJECT NO. 05331006
 SHEET S-4
 Page 72 of 79





Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 20-027		Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Vacation of utility easement		Planning Commission Date	April 14, 2020	
Deadline for Action	Application Date	March 10, 2020	60 Days	May 9, 2020	
	Date Extension Letter Mailed	March 30, 2020	120 Days	July 8, 2020	
Location of Subject	Upper side of 3700-3800 Blocks of London Road (Condon Park)				
Applicant	TJS Construction, LLC		Contact	Ted Stocke	
Agent			Contact		
Legal Description	See Attached				
Site Visit Date	April 1, 2020		Sign Notice Date	March 31, 2020	
Neighbor Letter Date	April 1, 2020		Number of Letters Sent	26	

Proposal

Vacate the utility easement in former 38th Avenue East in preparation of re-platting 18 lots into the London East plat.

Staff recommends approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Vacant/Undeveloped	Traditional Neighborhood
North	R-1	Railroad, Lakewalk	Traditional Neighborhood
South	R-1 and MU-N	Apartments, One-unit dwelling	Urban Residential
East	R-1	Vacant/Undeveloped	Traditional Neighborhood
West	R-1	One-unit dwelling	Traditional Neighborhood

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. 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 a mix of activities, uses, and densities.

Governing Principle #12- Create efficiencies in delivery of public services.

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

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

History: 38th Avenue East, as well as 30th, 33rd, and 35th Avenues East, from Jefferson Street to London Road were vacated on December 2, 1925, and a utility easement was retained for the full length and width of each street.

Related files: PL 20-016 Variance to rear yard setback; PL 20-017 Wetland Replacement Plan; PL 20-035 Preliminary Plat review for London East re-plat

Review and Discussion Items:

Staff finds that:

1. The applicant is requesting to vacate a portion of the utility easement in former 38th Avenue East that was retained when the section from Jefferson Street to London Road was vacated in 1925.
2. The purpose is to remove the easement in preparation for re-platting of the surrounding 18 lots into the London East plat (see PL 20-035) and a residential development.
3. There are no utilities installed in the easement and no utilities are expected to be needed in this corridor according to the City Engineering office.
4. The proposed London East plat is proposing a 30-foot wide utility easement in the area adjacent to the existing utility easement proposed for vacation. To retain continuity of the utility easement a connection to the remaining utility easement in 38th Avenue East is recommended in the London East plat in case it is needed in the future.
5. No other public or City comments have been received at the time of drafting this report.
6. 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 with the following conditions:

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



London East
3700-3800 Block of
Upper Side of London Rd.
TJS Construction, LLC

Site Map



Subject Property

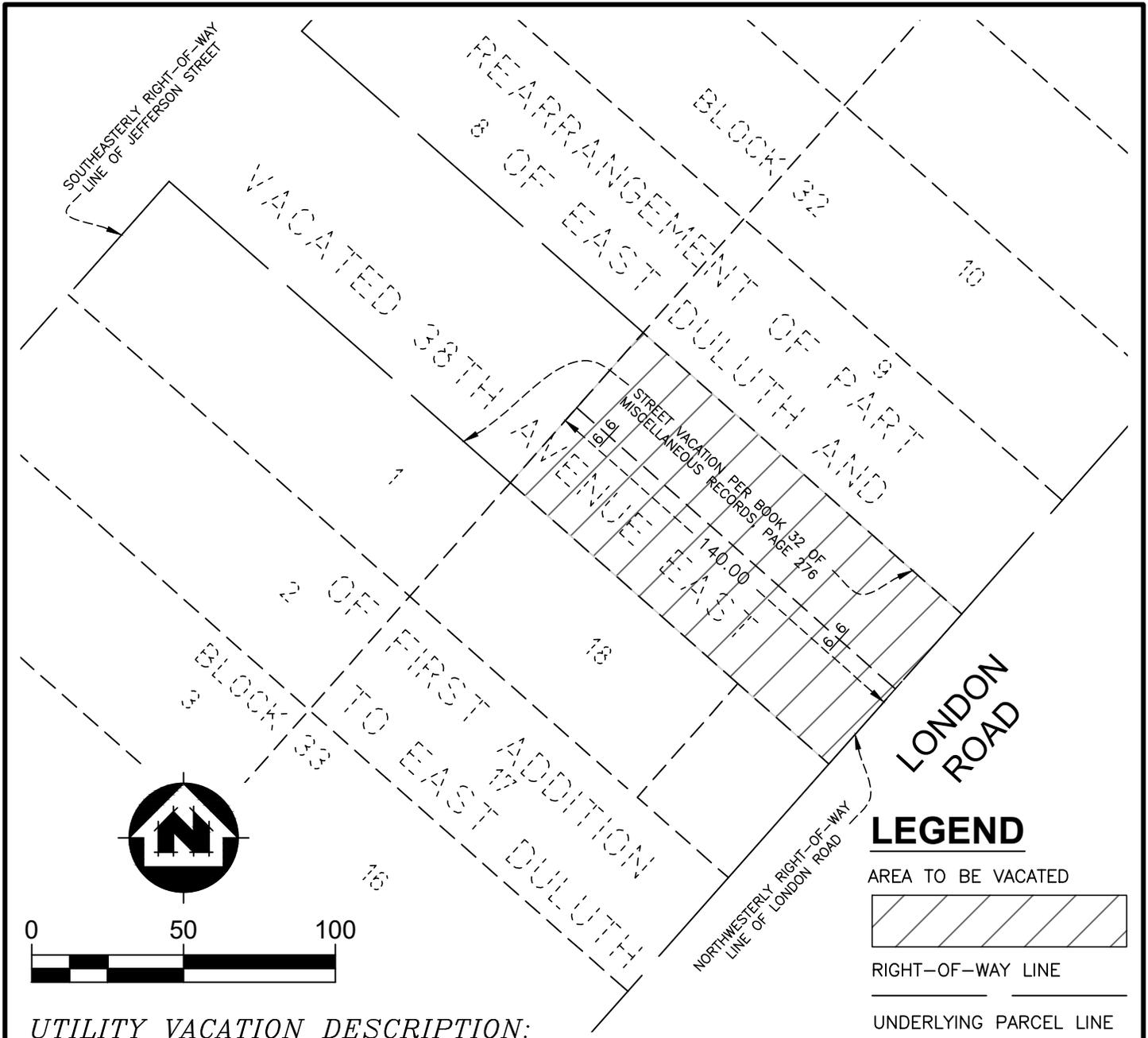
Legend

- Easement Type
- Utility Easement
- Other Easement

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

Aerial photography flown 2019





LEGEND

- AREA TO BE VACATED
- RIGHT-OF-WAY LINE
- UNDERLYING PARCEL LINE

UTILITY VACATION DESCRIPTION:

ALL THAT PART OF THE SOUTHEASTERLY 140.00 FEET OF VACATED 38TH AVENUE EAST LYING NORTHWESTERLY OF LONDON ROAD AND SOUTHEASTERLY OF JEFFERSON STREET AS DEDICATED PER THE PLAT OF REARRANGEMENT OF PART OF EAST DULUTH AND OF FIRST ADDITION TO EAST DULUTH, ST. LOUIS COUNTY, MINNESOTA.

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

_____ 4/3/2020 49907
 CURTIS E. SCHLEY DATE REGISTRATION NO.

CITY ENGINEER:
 APPROVED BY THE CITY ENGINEER OF THE CITY OF DULUTH, MINNESOTA THIS _____ DAY
 OF _____ 20____.

BY _____

PROJECT NAME: LONDON RD PHASE 2 PROJECT NO: 5331006 SHEET NO: 1 OF 1 DATE: 4/3/2020



LONDON RD-PHASE 2
 TJS DEVELOPMENT
 ST. LOUIS COUNTY, MN

UTILITY VACATION

PROJECT NO.
 5331006
 SHEET
 1 OF 1

By Mayor Snively:

Resolved, That all that part of Thirtieth, Thirty-third, Thirty-fifth and Thirty-eighth avenues east, which lie between the north line of London road and the south line of Jefferson street, be and the same are hereby vacated.

Resolved further, That the city of Duluth does hereby reserve right of way through said property for easements for sewer, water and gas and

other public utilities.

Mayor Snively moved the adoption of the resolution and it was declared adopted upon the following vote:

Yeas—Commissioners McCormick, Phillips, Tischer, Wheeler, Mayor Snively—5.

Nays—None.

Adopted Dec. 2, 1925.

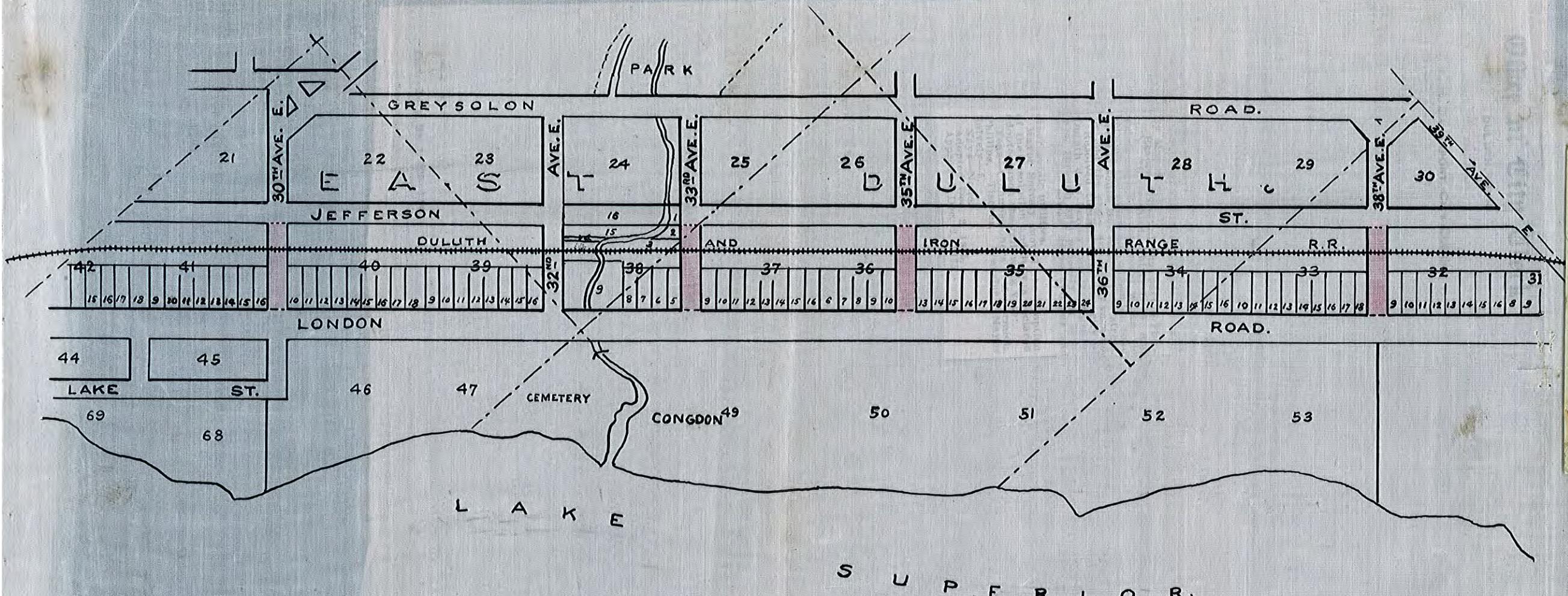
Approved Dec. 2, 1925.

I, A. H. Davenport, City Clerk of the City of Duluth, in the State of Minnesota, do hereby certify that I have compared the annexed copy of Resolution passed by the City Council of the City of Duluth, on the 2nd day of Dec 19 25, with the original document and record thereof on file and of record in my office, and in my custody as City Clerk of said city, and that the same is a true and correct copy thereof, and the whole thereof, and a true and correct transcript therefrom.

In Witness Whereof, I have hereunto set my hand and affixed the corporate seal of said City of Duluth, this 11th day of Dec 19 25.

A. H. Davenport

City Clerk, City of Duluth, Minn.



Vacation Plat

I hereby certify this to be a correct plat of the Vacation of 30th - 33rd 35th and 38th Avenues East which lie between the north line of London Road and the south line of Jefferson Street.

Vacated by the City Council of the City of Duluth on the 2nd day of December A.D. 1925.

City Clerk.