



City of Duluth

411 West First Street
Duluth, Minnesota 55802

Meeting Agenda Planning Commission.

Tuesday, November 10, 2020

5:00 PM

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

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

Call to Order and Roll Call

Public Comment on Items Not on Agenda

Approval of Planning Commission Minutes

[PL 20-1013](#) Minutes 10/13/20

Attachments: [10-13-20 PC Minutes for packet](#)

Consent Agenda

[PL 20-169](#) Shoreland Variance at 41 E St Marie Street by Ashley Wilcox

Attachments: [PL 20-169 Staff Report and Attachments](#)

[PL 20-149](#) Minor Subdivision at 2535 Nanticoke Street by Neil Cole and Jacarla Hughes

Attachments: [PL 20-149 Staff Report and Attachments](#)

[PL 20-153](#) Minor Subdivision at 1508 E Skyline Parkway by Ryan Jones-Casey, Kelsey Jones-Casey, Anthony Hoff, and Kjerstin Anderson

Attachments: [PL 20-153 Staff Report and Attachments](#)

[PL 20-164](#) Vacation of a Portion of 21st Avenue W at 102 S 21st Avenue W by Jon Aamodt

Attachments: [PL 20-164 Staff Report and Attachments](#)

[PL 20-145](#) Vacation of Wicklow Street at 645 Atlantic Avenue by Blake Shippee

Attachments: [PL 20-145 Staff Report and Attachments](#)

Public Hearings

[PL 20-160](#) Variance to Front Yard Setback at 316 Mygatt Avenue by Jean Sramek and John Bankson

Attachments: [PL 20-160 Staff Report and Attachments](#)

[PL 20-155](#) Variance from Shoreland Setback at 740 S Lake Avenue

Attachments: [PL 20-155 Staff Report - final with attachments](#)

[PL 20-172](#) UDC Text Changes Related to Floodplains, Solar, and Dwellings in the Context of Primary Uses and Accessory Structures and Uses, and Administration of Vacations and Concurrent Use Permits, Heritage Preservation, Circulation, and Land Use Supervisor Interpretations

Attachments: [PL 20-172 Memo](#)

[PL 20-173](#) UDC Text Changes Related to Form Districts

Attachments: [PL 20-173 Memo](#)

Communications

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

NOTICE: The Duluth Planning Commission will be holding its November 10, 2020 Special Meeting by other electronic means pursuant to Minnesota Statutes Section 13D.021 in response to the COVID-19 emergency. Some members of the Commission will be participating through video conference. Due to the COVID-19 emergency and the closure of City facilities, public comment will not be taken in person. However, members of the public can monitor the meeting and provide public comment on agenda items through WebEx Events. Visit <https://duluthmn.gov/live-meeting> to access the meeting. The public is also encouraged to submit written comment to planning@duluthmn.gov prior to the meeting. Please include "Planning Commission Agenda" in the subject line, and include your name and address and the agenda item you are speaking to. Please note that all public comment is considered Public Data. The public is also encouraged to watch the meeting by tuning into Public Access Television, Channel 180.

City of Duluth Planning Commission

**October 13, 2020
Meeting Minutes**

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

Call to Order

President Margie Nelson called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, October 13th, 2020.

Roll Call

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

Members Present: Jason Crawford*, Gary Eckenberg*, Tim Meyer*, Margie Nelson*, Michael Schraepfer*, Sarah Wisdorf*, and Zandra Zweibel*

Member Absent: Eddie Ratnam, and Andrea Wedul

Staff Present: Adam Fulton*, Robert Asleson*, John Kelley*, Kyle Deming*, Chris Lee, and Kris Liljeblad*

Public Comment on Items Not on Agenda

Jay Duncan asked about item 16-055. Deputy Director Fulton noted the item will be discussed during the Land Use Supervisor Report later in the meeting.

Approval of Planning Commission Minutes

Planning Commission Meeting – September 8, 2020

MOTION/Second: Eckenberg/Wisdorf approved the minutes

VOTE: (7-0)

Consent Agenda

PL 20-139 Interim Use Permit for Vacation Dwelling Unit at 5330 E Superior St by Sarah and Seth Maxim

PL 20-140 Interim Use Permit for Vacation Dwelling Unit at 11 S 54th Ave E by Sarah and Seth Maxim

PL 20-142 Interim Use Permit for Vacation Dwelling Unit at 409 S 19th Ave E by Nola Wick

PL 20-141 Variance for Front Yard Parking at 1400 and 1420 London Road by Andrew Baertsch

PL 20-146 Variance for a Deck at 4 Lakeside Court by Andrew Sternberg

PL 20-147 Variance to Side Yard Setback at 2835 Minnesota Avenue by Patrick and Heather Sims

PL 20-161 Variance from Shoreland Setback at 2835 Minnesota Avenue by Patrick and Heather Sims

Staff: N/A

Public: PL 20-141: Bill Burns addressed the commission. He is representing the applicant and noted they are working with city engineering on driveway entrance details and are not in agreement with the city engineer's proposed distance request for the driveway.

Commissioners: PL 20-141: Zandra Zwiebel asked about the driveway concerns. Deputy Director Adam Fulton noted the location of the driveway onto London Road. They want to ensure traffic safety, and will be adding landscaping to a corner to meet the intent of the code for the form district, but must coordinate right of way access with the city engineer.

PL 20-142: Gary Eckenberg noted Commissioner Michael Schraepfer is the property manager of this property, and asked how should they proceed to vote on all items. Schraepfer affirmed that he was going to ask the same question. City Attorney Robert Asleson suggested the make a motion to remove the item from the consent agenda. Schraepfer volunteered to abstain from the vote for all consent items, to move things along.

MOTION/Second: Wisdorf/Crawford to approve the consent agenda items as per staff recommendations.

VOTE: (6-0, Schraepfer Abstained)

Old Business

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

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

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

Staff: Chris Lee gave an overview. The applicant has provided a landscaping plan, which shows more buffering. Staff recommends approval.

Applicant: James Talago noted they are providing five parking spaces, which exceeds the minimum standards. In regards to the building's aesthetics, it will have a brick façade. He shared his computer screen, which showed the buildings brick essence. He feels it does fit into the neighborhood surroundings.

Public: Re-opened (also public comment period last month) and there were no speakers.

Commissioners: Eckenberg will be voting against this item. He thinks it will impair the surrounding lighting and increase congestion. It is incredibly intrusive. Tim Meyer agrees. He noted the Jefferson neighborhood is historic in nature. He doesn't feel the design fits the neighborhood. He is opposed. Eckenberg asked if the applicant was also a resident. Chris Lee verified he was the owner, but was unsure of his residency status. Deputy Director Fulton stated the applicant communicated in the web-ex chat bar that the applicant does live on site.

MOTION/Second:

PL 20-120 Crawford/Wisdorf motion to approve the variance as per staff recommendations.

VOTE: (3-4, Nelson, Eckenberg, Meyer and Zwiebel Opposed) – Variance fails and is denied

MOTION/Second:

PL 20-121 Eckenberg/Meyer motion to deny the variance which is on opposition of staff recommendations.

VOTE: (4-3, Crawford, Schraepfer and Wisdorf Opposed) – Motion to deny is approved

Chair Nelson noted the applicant has the opportunity to appeal these decisions to the city council.

Public Hearings

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

Staff: John Kelley gave an overview. The applicants are proposing to rezone the subject property from the current zoning district of Residential-Rural 1 (RR-1) to Residential-Rural 2 (RR-2). This proposed rezoning would allow the applicant to sell the northern portion of the property for possible development of a new single-family home. The applicant has also submitted a companion application for a boundary line adjustment to make the northern parcel into a 2-acre lot, which is compliant with RR-2 parcel size. Staff recommends approval based on findings listed in the staff report.

Applicant: No comments.

Public: No speakers.

Commissioners: No comments.

MOTION/Second: Zwiebel/Eckenberg recommend approval as per staff recommendations.

VOTE: (6-0, Wisdorf Abstained due to technical issues)

(Commissioner Schraepfer Abstained from the next agenda item.)

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

Staff: Chris Lee gave an overview. The applicant is proposing a new interim use permit for a vacation dwelling. The permit would be good for a four-bedroom home with nine occupants. The proposed IUP for a vacation dwelling is associated with an application that was part of the eligible applicants list and is subject to the 60-unit cap on vacation dwelling units. Lee noted there is a Homeowners Association Group for a property located across the street in opposition to the IUP. The Homeowners Association is concerned that the owner doesn't live there, and

cannot monitor the property. They are concerned about parties, and it appeared there were rentals already in progress. Staff noted the applicant meets all the requirements for the interim use permit. Staff recommends approval with the conditions listed in the staff report. Zwiebel asked if there was evidence to believe there was short-term rental behavior. Lee noted they did not receive complaints, and the owner does have an existing long-term rental license.

Applicant: Candace Allender and Kevin Groenevelt addressed the commission. They have an annual renter currently. Allender noted the property will be well monitored. There will be a visitor book and rules. The managing agent will oversee and enforce the rules. Eckenberg asked about where the applicants live now. Allender stated they have a cabin in Michigan and plan to eventually purchase a home in Stillwater. She feels she can keep a close handle on this, and noted Heirloom Property is their local property managing agent.

Public: Susan Halverson, president of the Homeowners Association, addressed the commission. They live across from the property and noted people park in front of her window. She is concerned about the escalation of carousing, the increased traffic, and noise. She asked who was responsible now. The applicant confirmed it was Heirloom Properties. Deputy Director Fulton noted rental rules can vary between long-term and short-term designations. The applicant noted there has never been a formal complaint made to her, or to Heirloom. Halverson stated they didn't previously know who to call if there were management issues or immediate concerns. Now they do.

Commissioners: Zwiebel noted there are more stringent rules for short-term rentals.

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

VOTE: (6-0, Schraepfer Abstained)

PL 20-138 Variance from Shoreland Setback for a Garage at 2511 W. 13th Street by Kevin Heaslip

Staff: John Kelley gave an overview. The applicant is seeking a variance to construct a new 20' x 26' garage within the 150' shoreland setback of Miller Creek. The applicant stated there is approximately a 20 foot elevation change from their house to the proposed garage site. Alternative locations for the garage were considered, but would also have 20-foot elevation change and would require significant excavation, loss of trees, and more impervious surface areas that could impact the stream. Staff received a petition in support from the neighbors, which was included in the commissioners' packet. Based on the findings, staff recommends approval with the conditions listed in the staff report. Eckenberg asked if the garage was at an angle because of the steepness. Kelley affirmed, and noted the applicant's proposal is the most appropriate location on the property.

Applicant: Kevin Heaslip addressed the commission, and welcomed questions.

Public: No speakers.

Commissioners: Zwiebel would like more details on the rain garden. She states that ten feet away seems like a long distance. Kelley noted staff did not receive details and deferred to the applicant. Heaslip stated the rain garden will be down hill on a natural slope. Drainage would not be a problem.

MOTION/Second: Zwiebel/Meyer approved as per staff recommendations.

VOTE: (7-0)

PL 20-151 Variance for a Fence in Skyline Parkway Overlay at 460 Jean Duluth Road by Paul Miner

Staff: Kyle Deming gave an overview. The applicant is proposing three variances be granted for the infilling of a legal, non-conforming fence along the street easement for Skyline Parkway. 1) Transparency - fences that exceed the elevation of Skyline Parkway plus three feet must be at least 75% transparent and the propose fence infill is to be 100% opaque like the existing fence. 2) Setback – fences are to be three feet back from the street easement line and the proposed fence infill is to be at the easement line in alignment with the existing fence. 3) Height – opaque fences between the house and the street are required to be less than four feet tall and the proposed fence infill is to match the existing fence at that location, which is 5 feet – 8 inches tall. Staff received one neighbor comment, which was in support. Staff recommends approval based on the findings, and recommends approval with the conditions listed in the staff report.

Applicant: Bill Burns who represents the applicant addressed the commission. This property has been there for 50 years. There is no view from Skyline to protect in this area; the fence will not change views; and the variance is a simple matter.

Public: No speakers.

Commissioners: Zwiebel is very familiar with the property and has no issues.

MOTION/Second: Zwiebel/Wisdorf approved as per staff recommendations.

VOTE: (5-0, Eckenberg and Schraepfer Abstained due to technical issues)

Communications

Land Use Supervisor (LUS) Report – Deputy Director Fulton introduced Kris Liljeblad who is a senior transportation planner with the city. Liljeblad addressed the commission, and shared with them an update on the Street Preservation Program utilizing the one half percent sales tax that became effective for 2020 and generates approximately \$7 million per year. A program of projects for 2020 and 2021 was prepared by Public Works and Planning staffs with input from 10 City Hall in the City public meetings. Public input to the program is on a continuous basis, inviting residents to identify streets in need of repairs. The prioritization of projects has included Core Investment Areas, Safe Routes to Schools, and geographic distribution to fix streets in a fair and effective manner.. The challenge is to get as many miles repaired as possible with the available funds. Staff is now sharing the proposed project list for the 2021 construction season in order to identify issues to be addressed in the coming design process. They will be meeting the disabilities commission. Liljeblad will forward the 2021 project list to the planning commission including three maps showing projects in the east, west and central areas of Duluth. The maps also show the 2020 Sales Tax Street projects for reference.

PL 16-055: Deputy Director Fulton gave an overview. They received supplemental correspondence from Jay Duncan. In discussing the city's next steps, City Attorney Asleson noted they are seeking reasonableness of approach with progressive enforcement. They will commence with drafting a written warning, with citations on certain aspects of the violation to follow; including possible revocation the special use permit. They will pursue all reasonable actions and demonstrate citation process which may lead them to the result of revocation. City Councilor Janet Kennedy asked for a timeline. Deputy Director Fulton stated the written warning will be coming soon. This is a multiple step process, and ultimately the city is seeking voluntary compliance. Jay Duncan noted the findings in 2016, which stated if not done in one year the permit would be revoked. Three years seems like a long time. He doesn't understand why the city is dragging their feet. Deputy Director Fulton stated they are proceeding with an abundance

of caution as they work with the property owner. Councilor Kennedy asked again for an estimate of timeline. Commissioner Jason Crawford stated he understands the neighbors' frustration. He doesn't see any efforts being made by the owner. Councilor Kennedy also hears the community's frustration. She was on the planning commission when this item was approved, and believed in good faith the applicant would comply. How much of a timeline? One year – four years? Deputy Director Fulton can't provide a specific timeline, but they will send a final notice by the end of the week. The applicant will then have two weeks to comply, and then administration citations can be issued. The applicant has some rights as the business owner. Kennedy stated as planning commissioners and city councilors they really need to be involved to enforce future issues. Deputy Director Fulton stated there will be modifications and stronger parameters in the future to prohibit auto sales uses from becoming junk yards. Duncan asked if Witt was the property owner. Lee confirmed Jesse Witt is the taxpayer, and has some level of ownership. Commissioner Eckenberg asked if Witt is selling cars, and if this was against the law. Deputy Director Fulton stated this property is MU-C, but partially zoned R-1. He has not seen any documents showing grand-fathered rights to sell cars. Sales are allowed in MU-C under certain parameters. Sales are not permitted in any case in a public right of way.

Heritage Preservation Commission – Commissioner Sarah Wisdorf stated there is no new business. Their next meeting is scheduled for November.

Joint Airport Zoning Board – No report.

Duluth Midway Joint Powers Zoning Board – No report.

Adjournment

Meeting adjourned at 6:58 p.m.

Respectfully,

Adam Fulton – Deputy Director
Planning and Economic Development



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580
 planning@duluthmn.gov

File Number	PL 20-169	Contact	Chris Lee, clee@duluthmn.gov	
Type	Variance – Shoreland structure setback	Planning Commission Date	November 10, 2020	
Deadline for Action	Application Date	October 13, 2020	60 Days	December 12, 2020
	Date Extension Letter Mailed	October 14, 2020	120 Days	February 10, 2021
Location of Subject	41 E. St. Marie St.			
Applicant	Ashley Wilcox	Contact		
Agent		Contact		
Legal Description	See attached			
Site Visit Date	October 30, 2020	Sign Notice Date	October 27, 2020	
Neighbor Letter Date	October 28, 2020	Number of Letters Sent	27	

Proposal:

The applicant is seeking a variance to construct a 40' x 12' deck within the 150' shoreland setback of Tischer Creek. A previous deck in this location was removed due to rotting and being a safety concern.

Recommended Action:

Staff recommends approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Single Family Homes	Open Space
North	R-1	Single Family Homes	Open Space
South	MU-N	Shopping Center	Open Space
East	R-1	Single Family Homes	Open Space
West	R-1	Single Family Homes	Open Space

Summary of Code Requirements

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

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

11-10-2020 Staff report packet
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. The applicant is proposing to construct the deck in a location where an existing deck was located.

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

Future Land Use: Open Space: High natural resource or scenic value, with substantial restrictions and development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls.

History: House constructed in 1960 and is 1,690 square feet. The property previously had a deck in this location, but it was removed due to rotting. The applicant added gutters to the roof to prevent future degradation on a new deck.

Review and Discussion Items

- 1) The applicant is requesting a shoreland variance to construct a 12’ x 40’ deck within the 150’ setback of Tischer Creek, a cold-water stream. The proposed deck would be approximately 98 feet from Tischer Creek and located on the north side of the existing house.
- 2) The applicant states that due the location of the house directly between the creek and the proposed deck, there will be no adverse effects on the creek. The previously deck was in a similar location. The entire property is located within the shoreland setbacks for the creek.
- 3) The home was built in the 1960s prior to shoreland requirements. Other homes are located in similar proximity to Tischer Creek on East St. Marie Street.
- 4) Locating the deck in a different part of the site would constitute a practical difficulty. The existing house was sited to accommodate a deck in this location, and it is not feasible to move the house’s location in regard to proximity to the creek.
- 5) The proposed deck would meet general setback requirements for structures by being about 38’ from the rear property line.
- 6) The applicant is proposing a reasonable use by rebuilding a deck attached to a single family home.
- 7) The proposal will not alter the essential character of the neighborhood as adjacent homes are in proximity to or within the shoreland setback from Tischer Creek.
- 8) Section 50-37.9.L of the UDC requires mitigation for shoreland variances; the applicant has installed gutters on the home with all roof runoff being directed towards existing rain gardens and rock gardens. The property also contains a number of trees and natural areas.
- 9) No other public, private or City comments were received.
- 10) Per UDC Section 50-37.1. N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year

Staff Recommendation

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

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



30 Bruce St

28 Bruce St

26 Bruce St

1735
Wallace
Ave

41 E Saint
Marie St

Subject Property

Legend

-  Zoning Boundaries
- Floodplain (UDC)**
-  General Flood Plain
-  Flood Way
-  Flood Fringe
-  Trout Stream (GPS)
-  Other Stream (GPS)
-  Floodplain (FEMA)

31 E Saint
Marie St
29 E Saint
Marie St

**R-1 (Residential
Traditional)**

1711
Wallace
Ave

Tischer Creek

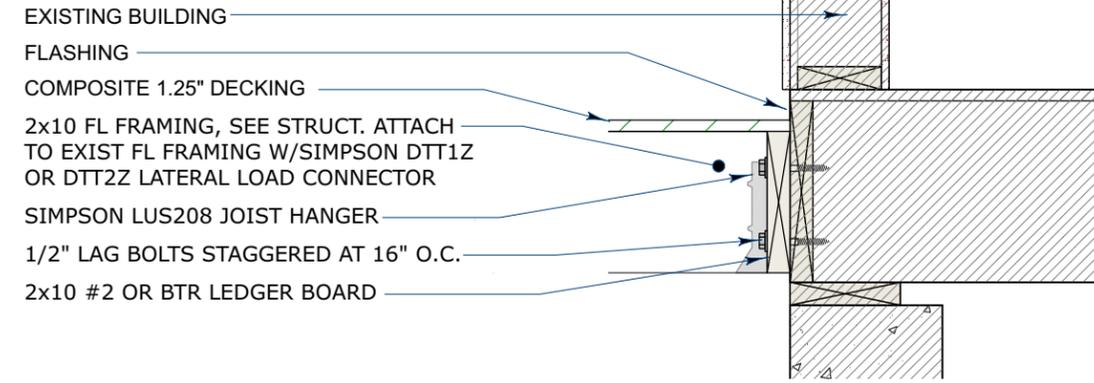
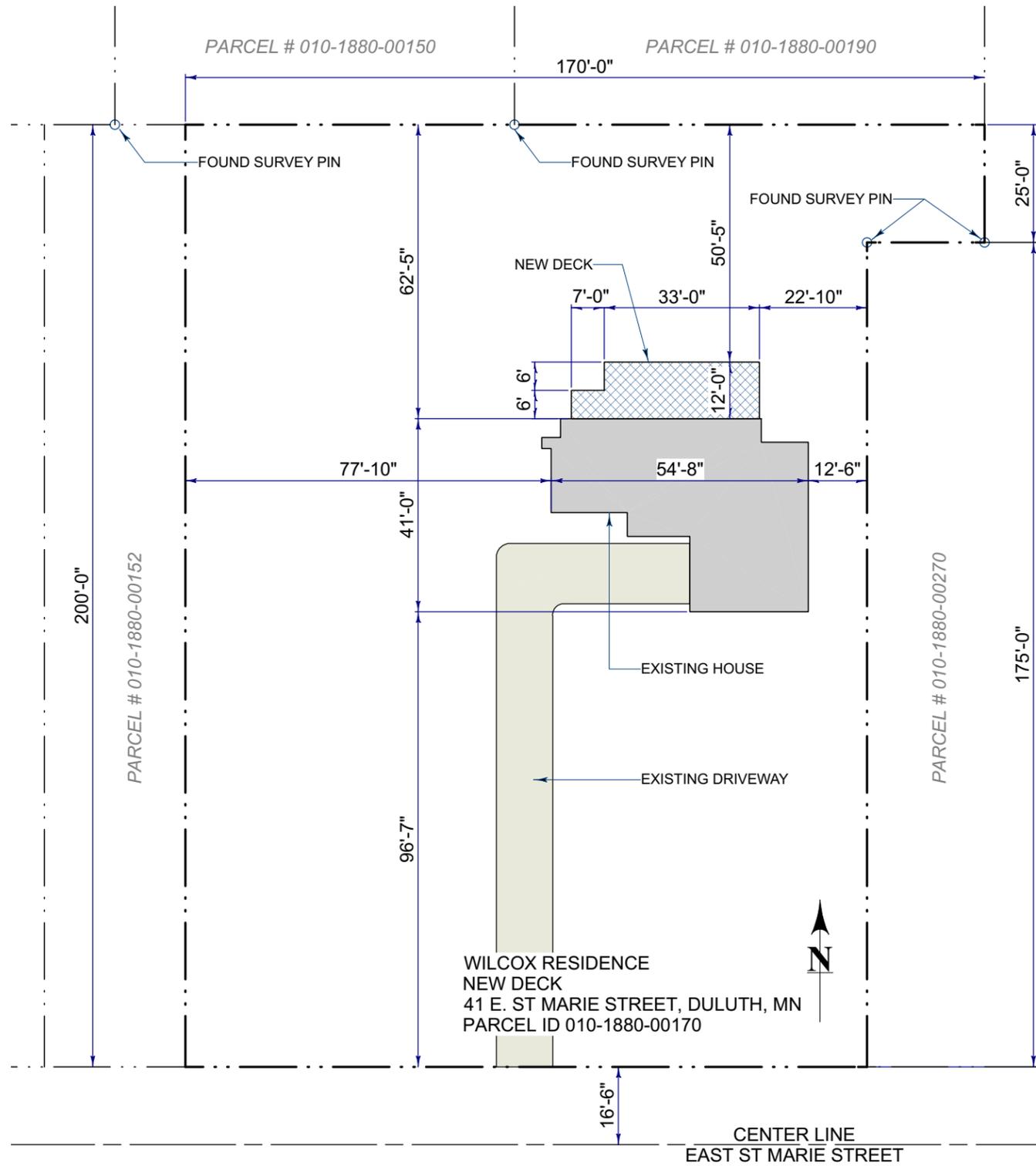
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used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

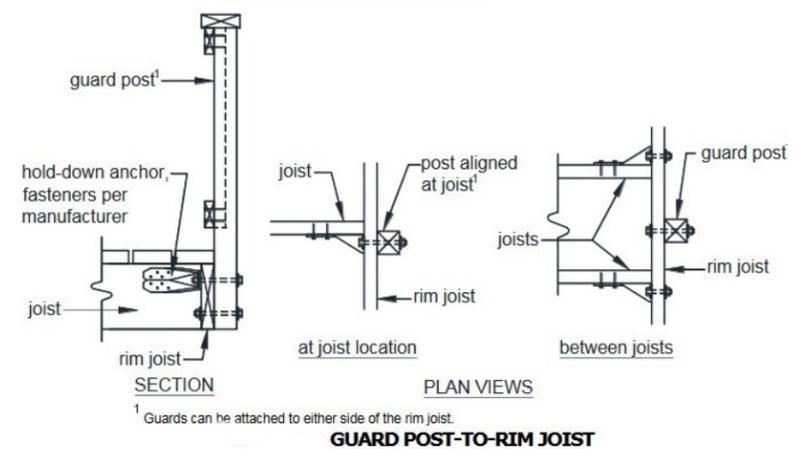
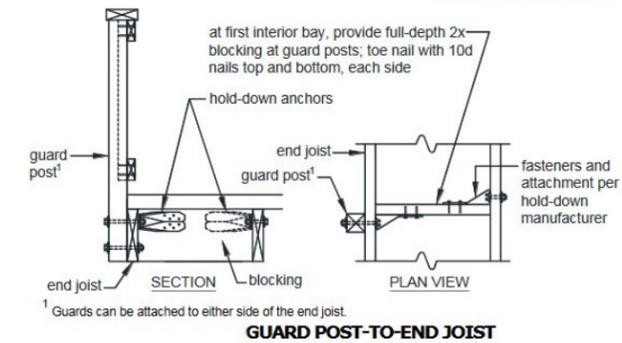
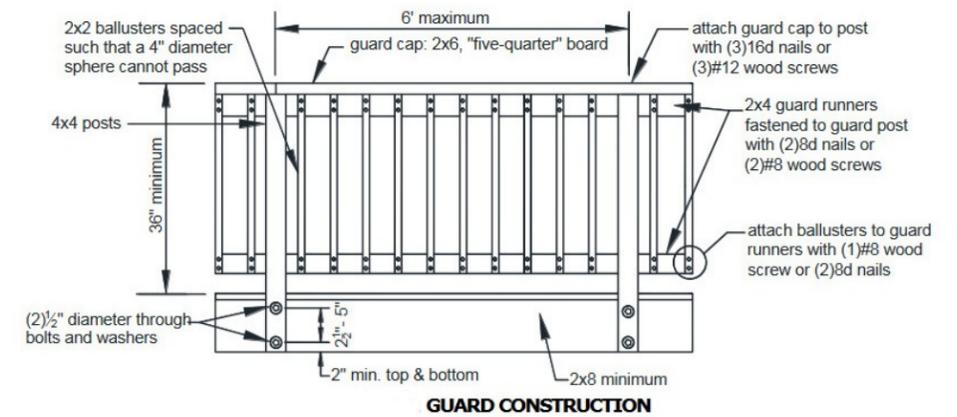
0 15 30 60
**MU-N (Mixed Use
Neighborhood)**
1600
Woodland
Ave

90
Moun
Royal
Shopping Cir
Feet





1
A2 **DETAIL AT HOUSE TO DECK CONNECTION**
SCALE 1" = 1'-0"



1
A2 **SITE PLAN**
SCALE 1" = 30'-0"

NORTHERN TRENDS BUILDING AND DESIGN
606 GARFIELD AVE., SUITE 100
DULUTH, MN 55802
OFFICE: (218) 727-0778
FAX: (218) 727-2818

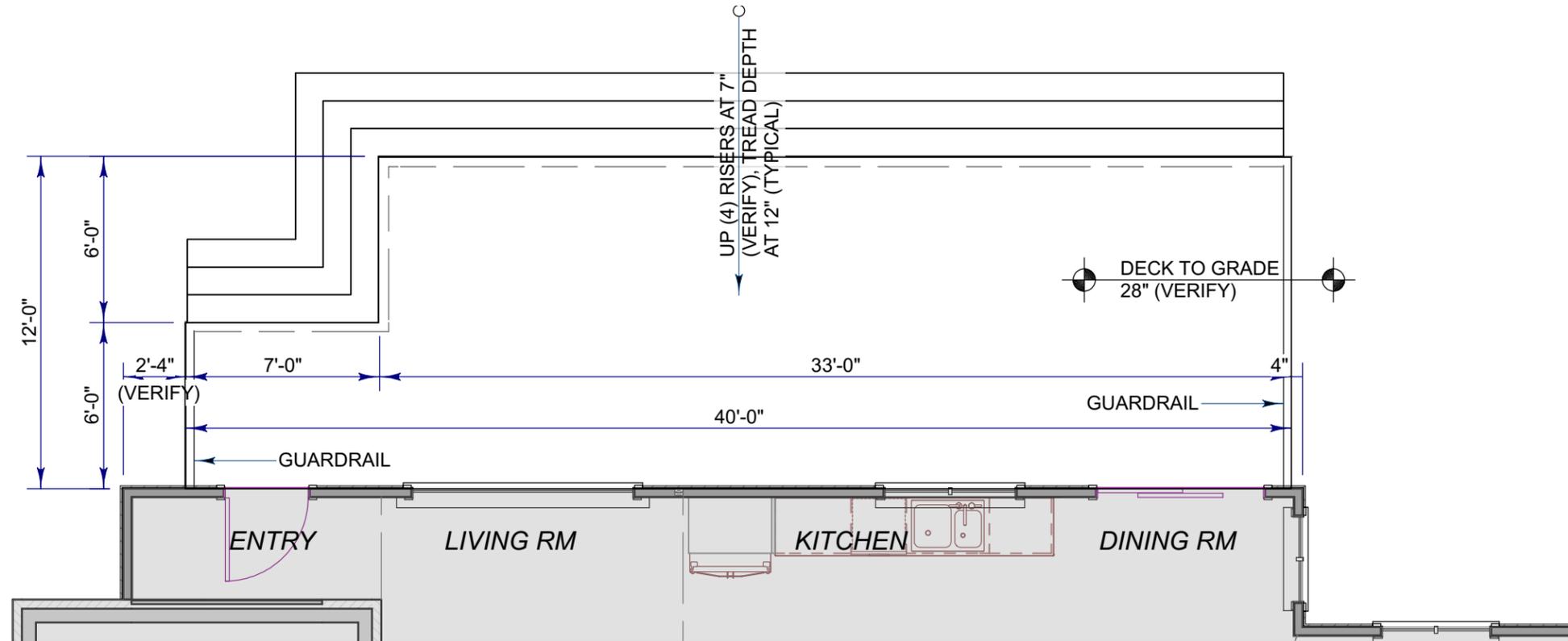
DRAWN BY:
CHAD A.

ASHLEY WILCOX RESIDENCE
NEW DECK
41 E. ST MARIE STREET, DULUTH, MN
PARCEL ID 010-1880-00170

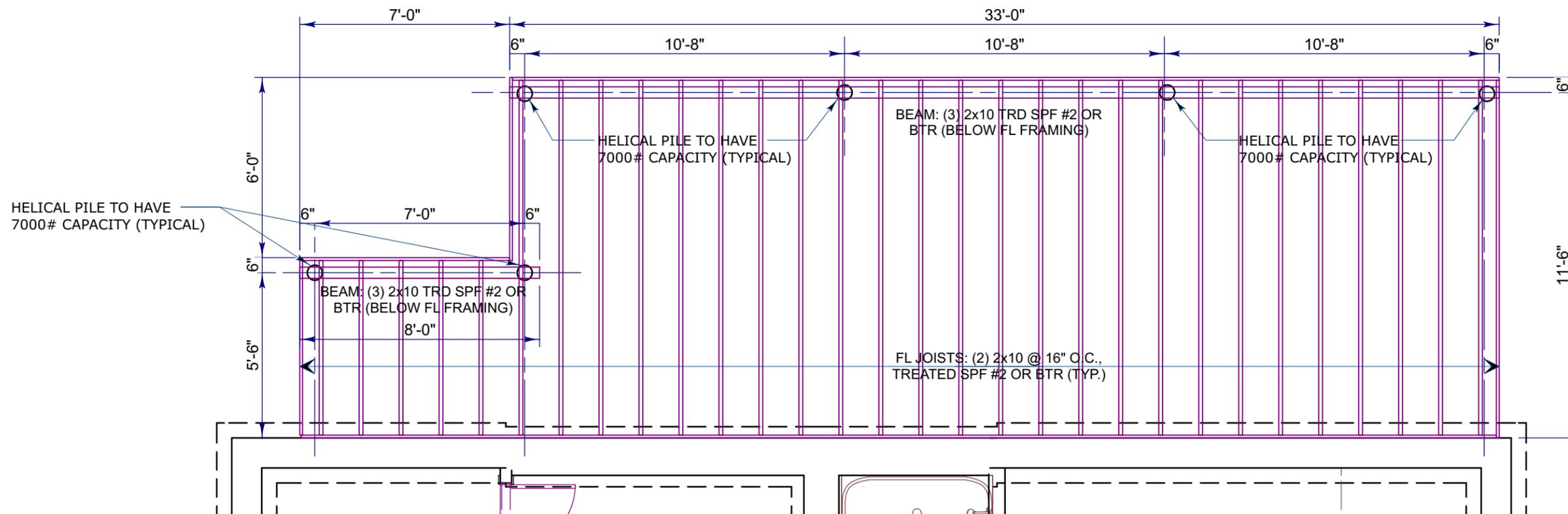
STRUCT. ENGINEERING, QUALITY OF CONST. & EXISTING CONDITIONS ARE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR. NORTHERN TRENDS DRAFTING DEPT. WILL NOT BE HELD RESPONSIBLE FOR DAMAGES (INCLUDING STRUCTURAL FAILURE) DUE TO ERRORS, OMISSIONS OR DEFICIENCIES IN THE DESIGN.

DATE:
9/17/2020

SHEET:
A-2



1 DECK PLAN
A1 SCALE 3/16" = 1'-0"



2 DECK FRAMING PLAN
A1 SCALE 1/4" = 1'-0"

NORTHERN TRENDS BUILDING AND DESIGN
606 GARFIELD AVE., SUITE 100
DULUTH, MN 55802
OFFICE: (218) 727-0778
FAX: (218) 727-2818

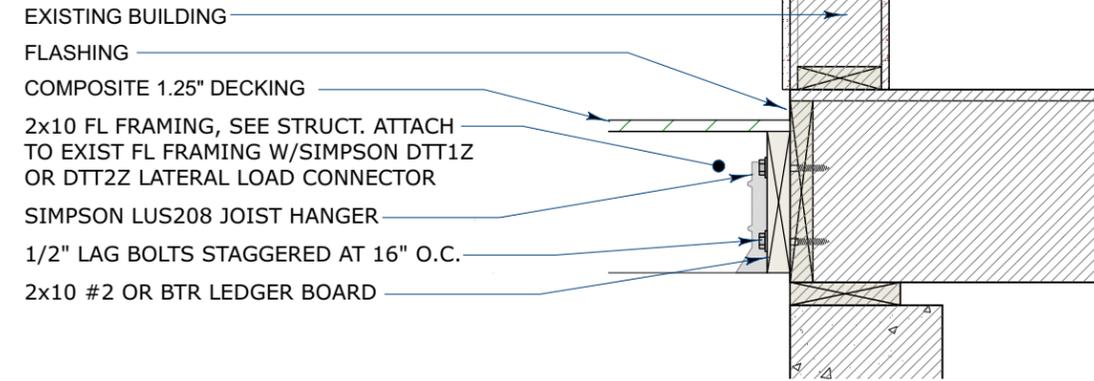
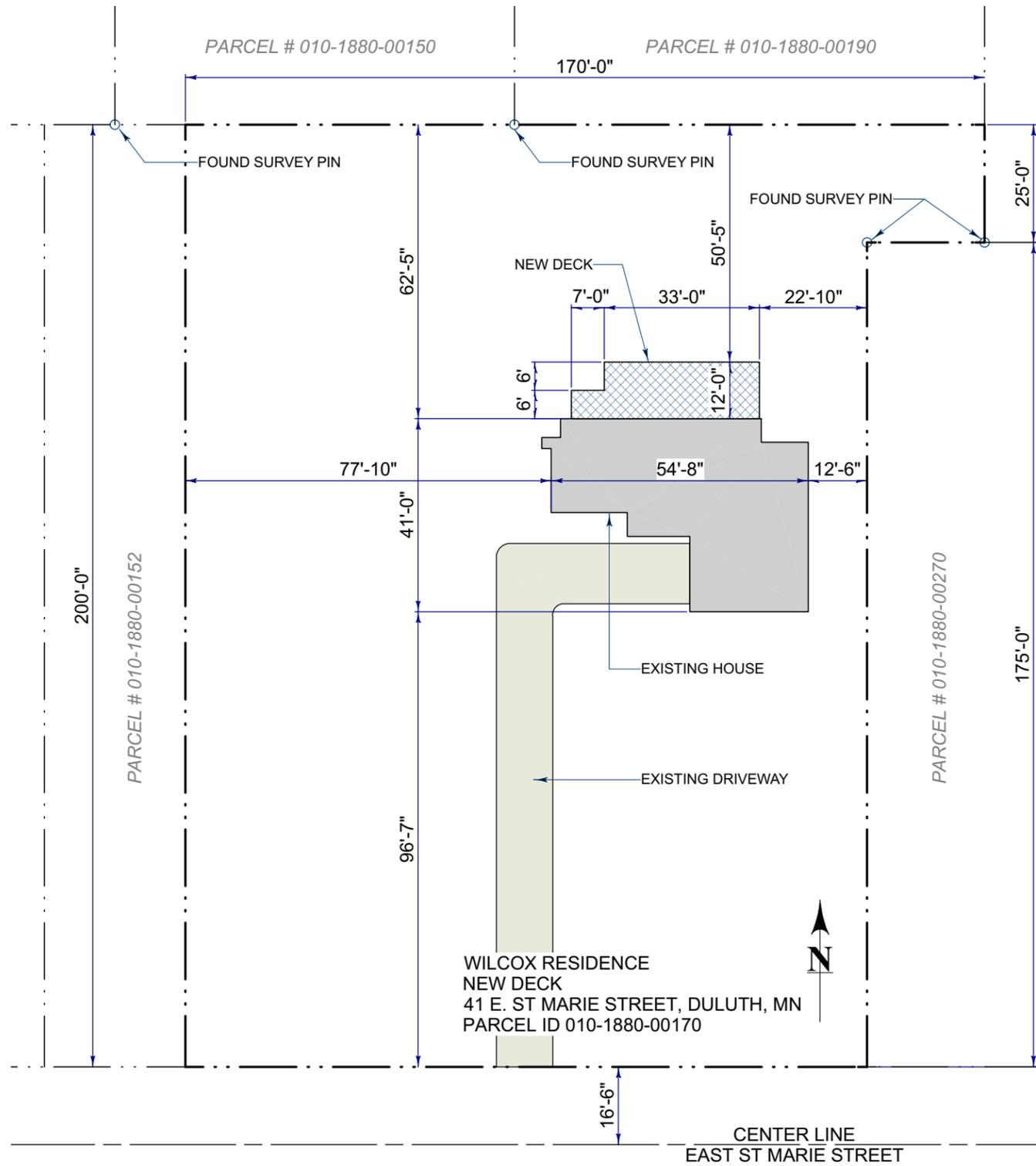
DRAWN BY:
CHAD A.

ASHLEY WILCOX RESIDENCE
NEW DECK
41 E. ST MARIE STREET, DULUTH, MN
PARCEL ID 010-1880-00170

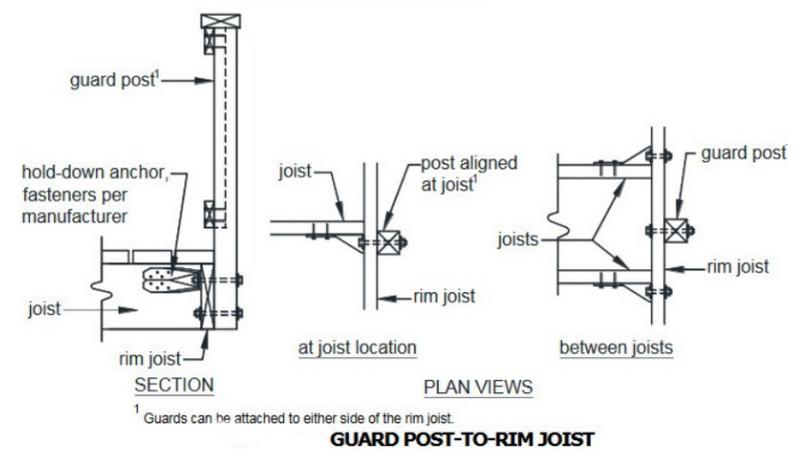
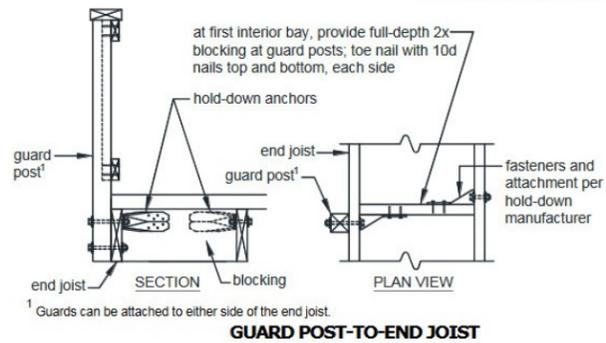
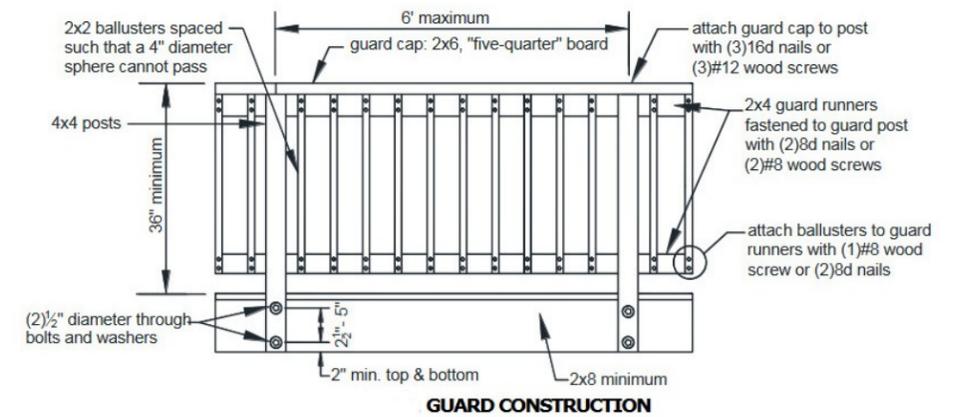
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DATE:
9/17/2020

SHEET:
A-1



1
A2 **DETAIL AT HOUSE TO DECK CONNECTION**
SCALE 1" = 1'-0"



1
A2 **SITE PLAN**
SCALE 1" = 30'-0"

NORTHERN TRENDS BUILDING AND DESIGN
606 GARFIELD AVE., SUITE 100
DULUTH, MN 55802
OFFICE: (218) 727-0778
FAX: (218) 727-2818

DRAWN BY:
CHAD A.

ASHLEY WILCOX RESIDENCE
NEW DECK
41 E. ST MARIE STREET, DULUTH, MN
PARCEL ID 010-1880-00170

STRUCT. ENGINEERING, QUALITY OF CONST. & EXISTING CONDITIONS ARE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR. NORTHERN TRENDS DRAFTING DEPT. WILL NOT BE HELD RESPONSIBLE FOR DAMAGES (INCLUDING STRUCTURAL FAILURE) DUE TO ERRORS, OMISSIONS OR DEFICIENCIES IN THE DESIGN.

DATE:
9/17/2020

SHEET:
A-2



Planning & Development Division
Planning & Economic Development Department

218-730-5580

planning@duluthmn.gov

Room 160
411 West First Street
Duluth, Minnesota 55802

Variance Application Supplemental Form

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

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

UDC Section 50.18.1.D - Shoreland Setbacks

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

Tischer Creek flows through front yard, with an approximate Center Line about 98 feet from closest edge of deck, which will be in the back yard, on back side of house and in the same location as old deck. Proposed new deck will be a slightly different shape and size of old deck. (please refer to Site Plan for details on shape and size)

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

Tischer Creek is a natural source of water that existed before the house was built (in the early 60's) and before I gained ownership. Previous owner never had gutters on the house, so the old deck was already rotting and getting moldy (along with siding) when I moved in. This is why the old deck was removed and why I invested in gutters. New deck will be made with composite materials so it will last longer and be more easily maintained than wood.

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

Streams and creeks most typically flow through people's back yards. In this situation, Tischer flows through the front yard and the property includes a large bridge as part of the driveway access to house from E. Saint Marie St. Proposed deck would be in back yard. A foundation company has been hired to add fill at back of house and grade away from house. This slope will ensure runoff under deck will flow out towards the grassy back yard.

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

The owner of the property simply wants to have a new deck where her old rotted deck once was. She'll use it to enjoy the outdoors, social distance with friends, and for grilling and outdoor dining.

With gutters and composite materials the deck will be built to last.
 *(See gutters in pictures I've included as supporting material)

The owner already has Rock Gardens and an area for a Rain Garden with new gutter. She plans to add another Rock Garden along East side of house. (See following pictures of Rock Gardens and Rain Garden on property)

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

The property is about 2 acres large, with plenty of space from proposed deck to all neighboring houses. It is a very wooded area with a variety of very large trees, smaller trees, shrubs, ferns, etc. between adjacent yards. The owner's property is plentiful with trees and shrubs and she has left both sides of the creek undisturbed with minimal landscaping to ensure heavy vegetation and mitigation of stormwater runoff into Fischer Creek.

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

If granted, this variance will not impair the zoning code. Most of the homes in the surrounding area have decks and it is typical of homes in Duluth to have decks in the back yard. Furthermore, this property is NOT considered to be in a Flood Plain. The back yard is very flat.

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

Yes No

Discuss what subsections are applicable and how this request meets those: UDC Section 50.18.1.D - regarding Shoreland Setbacks. My plan to mitigate stormwater runoff into Fischer Creek is to improve existing rock gardens and rain garden by adding more rocks and vegetation. I also plan to create a long, narrow rock garden along the East side of house and plant shrubs there to soak up water going towards creek. Also plan to plant shrubbery along sides of proposed deck. I really am excited to buy some rain barrels (there are really nice looking ones) to catch rain from gutters on the front of the house, and re-use to water my plants and shrubs.





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 20-149	Contact	Chris Lee, cleee@duluthmn.gov	
Type	Minor Subdivision	Planning Commission Date	November 10, 2020	
Deadline for Action	Application Date	September 15, 2020	60 Days	November 14, 2020
	Date Extension Letter Mailed	October 9, 2020	120 Days	January 13, 2020
Location of Subject	2535 Nanticoke Street			
Applicant	Neil Cole & Jacarla Hughes	Contact		
Agent		Contact		
Legal Description	See Attached			
Site Visit Date	October 26, 2020	Sign Notice Date	N/A	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal

Applicant is requesting a Minor Subdivision to divide one platted lot into two lots. The current parcel is approximately 63,005 square feet and the division will create two lots. Parcel A will be 31,817 square feet and Parcel B will be 31,188 square feet.

Recommendation

Approval with conditions

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

Summary of Code Requirements

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

11-10-2020 Staff report packet
requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any existing nonconformity between the requirements of this Chapter.

50-14.5.A. R-1 minimum lot area: 4,000 square feet; minimum lot frontage: 40 feet.

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

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

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

History: The current lot is approximately 63,000 square feet and contains a 1900 square foot single-family residence built in 1987. The property also contains 3 detached garages.

Review and Discussion Items

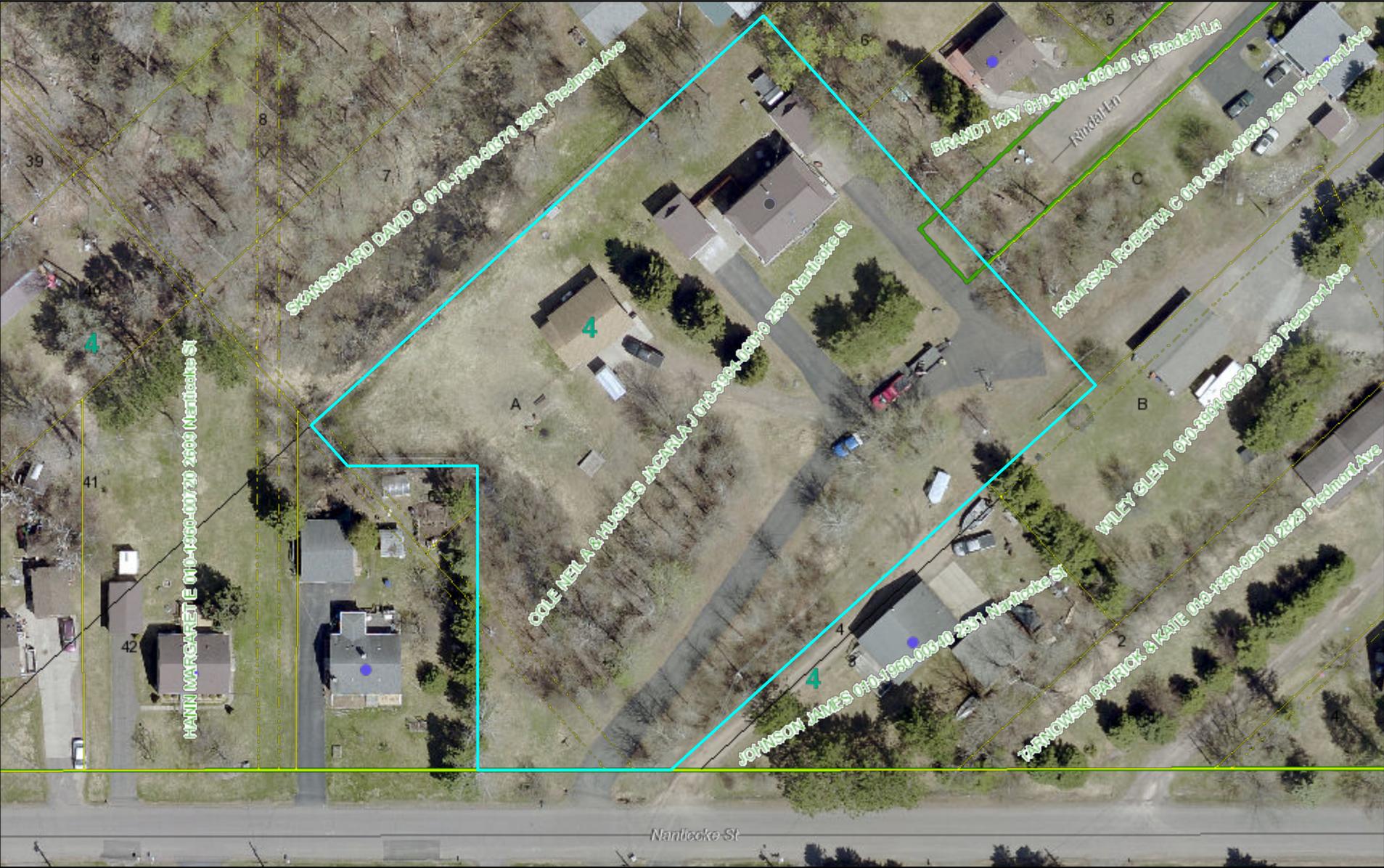
1. Applicant is requesting a Minor Subdivision to divide a single lot into two lots. Parcel A will be accessed via a driveway off Nanticoke Street and Parcel B will have frontage on Nanticoke Street.
2. Both parcels are zoned R-1, which has a minimum lot size of 4,000 square feet and both have the required Street frontage along Nanticoke Street. The proposed subdivision, if approved, would not make the parcels non-conforming due to lot frontage, lot area, or similar bulk standard.
3. Parcel B includes a small accessory structure. To avoid creation of any nonconformities, this structure must be removed or relocated off the parcel prior to the subdivision being recorded.
4. No public, agency, or City comments were received.
5. The attached exhibit demonstrates compliance with Minnesota statutes 462.358 and 505 or 508, as applicable.
6. 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 with the following conditions:

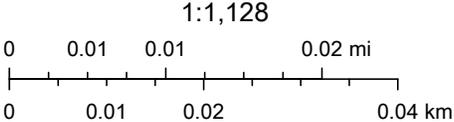
- 1) Appropriate deeds be filed with St. Louis County within 180 days. Prior to recording the deed that results from this adjustment, the Planning Division will need to stamp the deed, indicating compliance with the local zoning code.
- 2) Any accessory structures on Parcel B must be removed prior to recording to avoid creation of any nonconforming structures.
- 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.

Building Safety



10/20/2020, 3:05:16 PM

- Master Address Repository St Louis Cty
- <all other values>
- Active
- Retired
- Streets
- Unknown
- Freeway
- US Highway
- Major Highway
- State and County Highway
- Residential Street
- Local Road
- Highway Ramp
- Block
- Lots



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS,





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 20-153	Contact	Chris Lee, clee@duluthmn.gov	
Type	Minor Subdivision	Planning Commission Date	November 10, 2020	
Deadline for Action	Application Date	September 21, 2020	60 Days	November 14, 2020
	Date Extension Letter Mailed	October 9, 2020	120 Days	January 13, 2020
Location of Subject	1508 Skyline Parkway			
Applicant	Ryan Jones-Casey, Kelsey Jones-Casey, Anthony Hoff, Kjerstin Anderson	Contact		
Agent		Contact		
Legal Description	See Attached			
Site Visit Date	October 26, 2020	Sign Notice Date	N/A	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal

Applicant is requesting a Minor Subdivision to divide one platted lot into two lots. The current parcel is approximately 9,900 square feet and the division will create two lots. Both Parcel A and Parcel B will be equal size of 4,950 square feet.

Recommended Action: Approval with conditions

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

Summary of Code Requirements

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

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

- The lot or lots to be subdivided or combined have frontage on an improved public street;
- Each proposed lot meets the minimum zoning requirements of the district that it is in.
- 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
- 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.

50-14.5.A. R-1 minimum lot area: 4,000 square feet; minimum lot frontage: 40 feet.

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

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

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

History: The current parcel contains a 1,500 square foot single-family residence built in 1913.

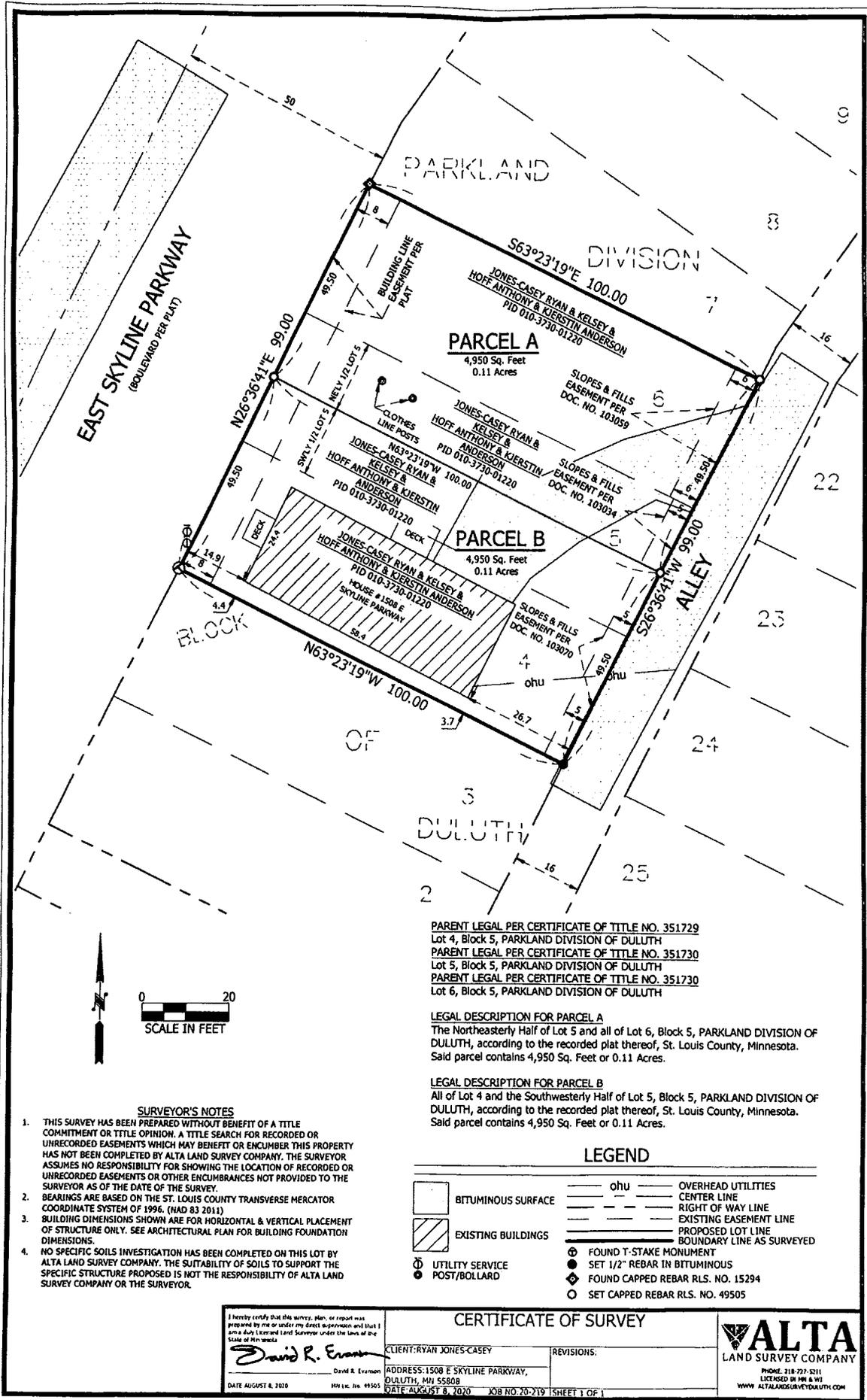
Review and Discussion Items

1. Applicant is requesting a Minor Subdivision to divide a single lot into two lots. Both parcels will have frontage on East Skyline Parkway.
2. The single family home will remain on parcel B and this subdivision will not create a non-conforming structure. No other structures exist on the parcels.
3. The current driveway spans both parcels, and will either need to be relocated to one parcel or a driveway easement created to have access across the parcel.
4. Both parcels are zoned R-1, which has a minimum lot size of 4,000 square feet and have the required street frontage along Skyline Parkway. The proposed subdivision, if approved, would not make the parcels non-conforming due to lot frontage, lot area, or similar bulk standard.
5. No public, agency, or City comments were received.
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 with the following conditions:

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

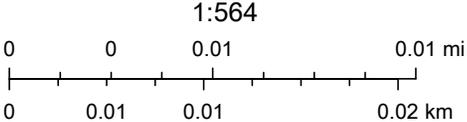


Building Safety



10/20/2020, 3:07:18 PM

- Master Address Repository St Louis Cty
- <all other values>
- Active
- Retired
- Streets
- Unknown
- Freeway
- US Highway
- Major Highway
- State and County Highway
- Residential Street
- Local Road



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS,





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 20-164	Contact	Jenn Moses, jmoses@duluthmn.gov	
Type	Vacation of Right-Of-Way	Planning Commission Date	November 10, 2020	
Deadline for Action	Application Date	October 8, 2020	60 Days	December 7, 2020
	Date Extension Letter Mailed	October 29, 2020	120 Days	February 5, 2021
Location of Subject	102 S 21 st Avenue W			
Applicant	Jon Aamodt	Contact		
Agent		Contact		
Legal Description	See Attached			
Site Visit Date	November 2, 2020	Sign Notice Date	October 20, 2020	
Neighbor Letter Date	October 29, 2020	Number of Letters Sent	21	

Proposal

The applicant is requesting to vacate an approximate 5' x 31' area that is occupied by their building.

Recommended Action

Staff recommends the Planning Commission recommend approval with conditions. Final action on vacations is by City Council.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-C	Commercial	Central Business Secondary
North	F-5	Commercial	Central Business Secondary
South	I-G	Roadway/freeway	Transportation and Utilities
East	MU-C	Parking lot	Central Business Secondary
West	MU-C	Undeveloped	Central Business Secondary

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 #3 – Support existing economic base. This commercial building was built in 1944 and currently houses an engineering firm.

Governing Principle #7 – Create and maintain connectivity. Vacations of streets should be supported only if the right of way or easement is not needed for connectivity.

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

Review and Discussion Items:

Staff finds that:

1. The applicant is requesting to vacate an approximate 5' x 31' space within the 21st Avenue W right-of-way; this area is currently occupied by the existing building, which was built in 1944.
2. The proposed vacation area was historically used as a railroad loading dock; it currently contains steps and a deck that provide access to the front door of the business.
3. Pedestrians, bicycles, and automobiles currently have efficient circulation within the remainder of the 21st Avenue W right-of-way, which includes a street with driving lanes and a sidewalk. This circulation and access will not be impeded by the proposed vacation. No separate bike facilities are in the long-range bikeways plan for this corridor.
4. No City utilities are located within the proposed vacation area.
5. This area is not needed for safe and efficient circulation, nor for the efficient supply of utilities or public services.
6. This area is not otherwise needed to promote the public health, safety, or welfare of Duluth citizens.
7. No public, agency, or City comments have been received.
8. Vacations of rights of way and easements lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

Staff Recommendation:

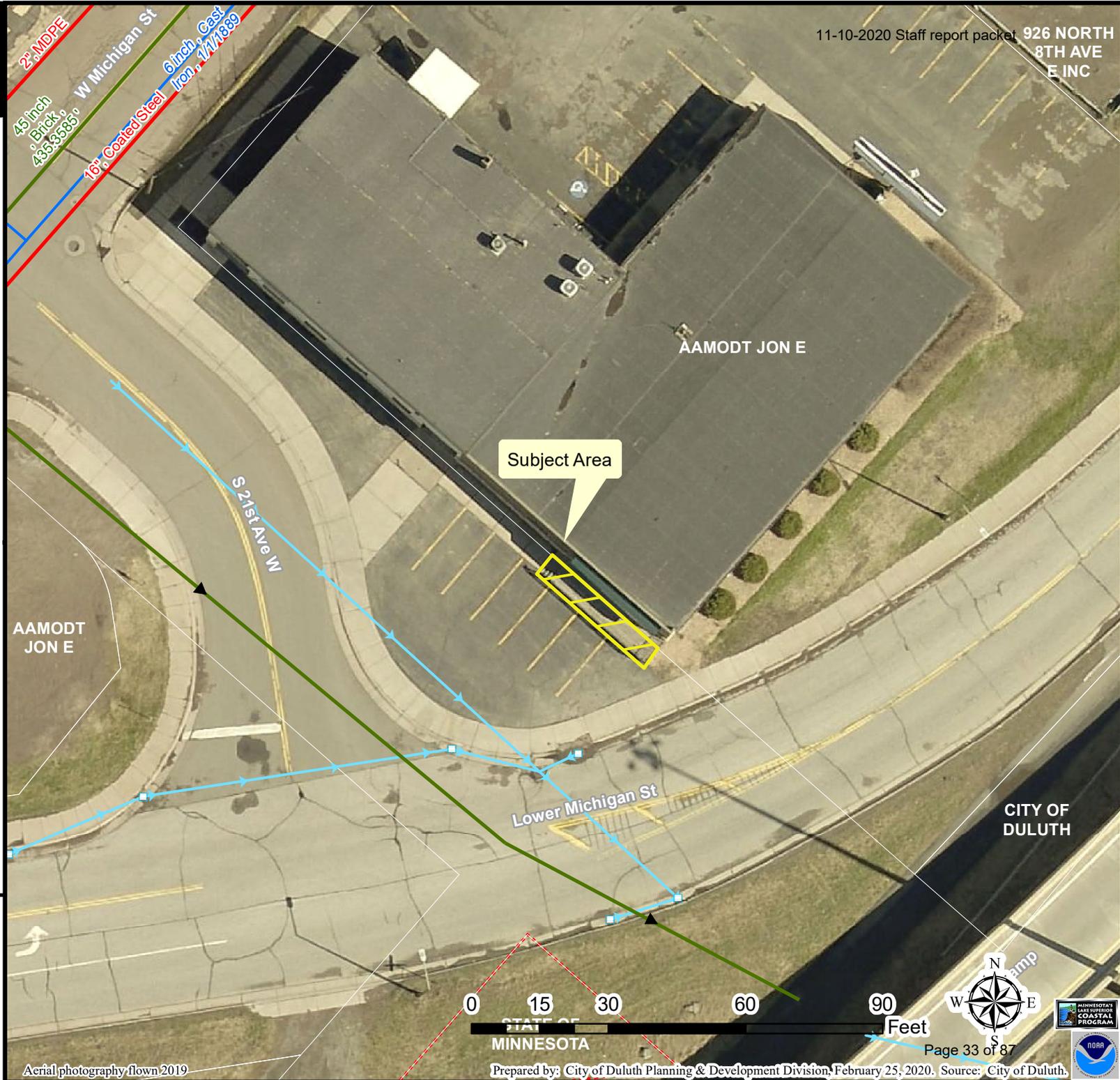
Based on the above findings, Staff recommends that Planning Commission recommend approval of the vacation with the following conditions:

- 1.) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



PL 20-164
Vacation of ROW
21st Ave W

11-10-2020 Staff report packet 926 NORTH
8TH AVE
E INC



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
- Vacated ROW
- 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



LEGAL DESCRIPTION OF VACATION OF TWENTY FIRST AVE. W.

All that part of Twenty First Ave. W. adjacent to and abutting Block 15, DULUTH PROPER SECOND DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota described as follows:
 Commencing at the West most corner of said Block 15; thence on an assumed bearing of South 48 degrees 20 minutes 20 seconds East, along the Southwesterly line of said Block 15 for a distance of 109.05 feet to the point of beginning of the vacation herein described; thence South 41 degrees 39 minutes 40 seconds West 5.50 feet to a line parallel with and distant 5.50 feet Southwesterly of the Southwesterly line of said Block 15; thence South 48 degrees 20 minutes 20 seconds East, along said parallel line 31.50 feet; thence North 41 degrees 39 minutes 40 seconds East 5.50 feet to the Southwesterly line of said Block 15; thence North 48 degrees 20 minutes 20 seconds West, along said Southwesterly line 31.50 feet to the point of beginning.

Said parcel contains 173 square feet.

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. NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.

Approved by the City Engineer of the City of Duluth, MN this 5th day of OCT 20 20

By [Signature]

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.

[Signature]
 David R. Evanson
 DATE: 09-24-2020 MN Lic. No. 49505

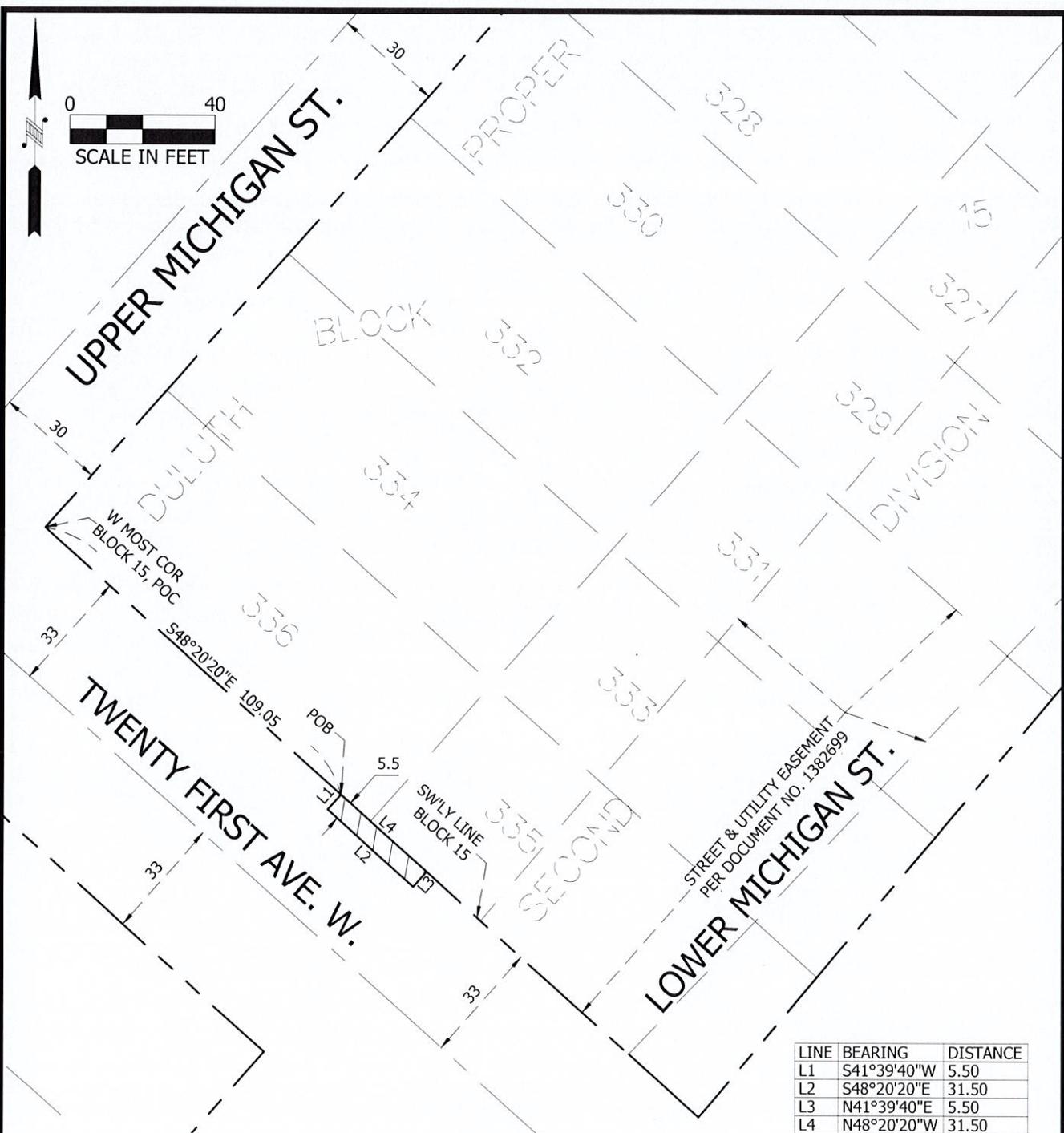
VACATION EXHIBIT

CLIENT: JON AAMODT
 ADDRESS: 102 S 21ST AVENUE WEST
 DULUTH, MN 55806
 DATE: 09-24-2020

REVISIONS:
 JOB NO: 20-305 SHEET 1 OF 2



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



LINE	BEARING	DISTANCE
L1	S41°39'40"W	5.50
L2	S48°20'20"E	31.50
L3	N41°39'40"E	5.50
L4	N48°20'20"W	31.50

LEGEND

- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- CENTER LINE
- EXISTING EASEMENT LINE
- RIGHT OF WAY LINE
- PLAT LINE
- VACATION OF TWENTY FIRST AVE. W.

VACATION EXHIBIT

CLIENT: JON AAMODT	REVISIONS:
ADDRESS: 102 S 21ST AVENUE WEST DULUTH, MN 55806	
DATE: 09-24-2020	JOB NO: 20-305 SHEET 2 OF 2

ALTA
 LAND SURVEY COMPANY
PHONE: 218-727-5211
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Street View of CUP Area





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 20-145	Contact	Jenn Moses, jmoses@duluthmn.gov	
Type	Vacation of Right-Of-Way	Planning Commission Date	November 10, 2020	
Deadline for Action	Application Date	September 9, 2020	60 Days	November 8, 2020
	Date Extension Letter Mailed	September 24, 2020	120 Days	January 21, 2021
Location of Subject	Unimproved Portion of Wicklow Street west of Atlantic Avenue and adjacent to 645 Atlantic Avenue (Applicant)			
Applicant	Blake Shippee	Contact		
Agent		Contact		
Legal Description	See Attached			
Site Visit Date	November 3, 2020	Sign Notice Date	September 29, 2020	
Neighbor Letter Date	October 29, 2020	Number of Letters Sent	21	

Proposal

The applicant is requesting to vacate an unimproved portion of Wicklow Street adjacent to their street frontage along Atlantic Avenue.

Recommended Action

Staff recommends a recommendation of approval with conditions. Final action on vacations is by the City Council.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Unimproved right of way	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1	Vacant land	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood
West	RR-1	School	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. 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 #7 – Create and maintain connectivity. Vacations of streets should be supported only if the right of way or easement is not needed for connectivity.

Governing Principle #12 – Create efficiencies in delivery of public services. The costs of public services must be included in land use decisions. This includes decisions about whether to build future infrastructure or convert rights of way to private 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 Parks and open space areas are scattered through or adjacent to the neighborhood.

Review and Discussion Items:

Staff finds that:

1. The applicant is requesting to vacate an unimproved portion of the platted right of way for Wicklow Street in proximity to their property located at 645 Atlantic Avenue as shown on the attached exhibit.
2. The proposed vacation of a portion of Wicklow Street is approximately 278 feet by 66 feet, and is 0.42 acres in size. The platted street ends at ISD 709 property to the west, so would not provide connectivity further west even if it was improved. ISD 709 has provided correspondence indicating support for the proposed vacation, attached.
3. The applicant owns all the property on the south side of the street. A majority of the property on the north side of the street has an owner who has signed the vacation petition, and who has access to the property from Atlantic Avenue and the Wellington Street Alley. The remaining two parcels are tax forfeit. An adjacent owner sale is anticipated for the two tax forfeit lots; if sold as stand-alone parcels, alternative access plans will necessitate construction of an extensive and engineered driveway system to overcome extreme topographic variation, which would be necessary whether or not the right-of-way were present.
4. 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.
5. There are utilities within the area to be vacated. The City Engineering office has reviewed the proposed vacation and has indicated that a utility easement shall be retained over the portion of the right of way with the storm sewer catch basins. This easement is shown in the attached exhibit.
6. No other public or City comments have been received at the time of drafting this report.
7. 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.) 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.

270000010

WINKLESKY
GARY F
034000200

JENSEN
ELIJAH J
034000235

JENSEN
ELIJAH J
034000280

PERFETTI
KAREN M
034000430

LINNELL
STEVEN L
034000460

INDEPENDENT
SCHOOL
DISTRICT #709

Wellington St Alley

11-10-2020 Staff report packet

Tax forfeit

PERFETTI
KAREN M
034000340

ST OF MN
C278 L35
034000380

PERFETTI
KAREN M
034000340

PERFETTI
KAREN M
034000340

Tax forfeit

ST OF MN
C278
L35
034000400

R-1 (Residential
Traditional)

LINNELL
STEVEN L
034000550

POSTAL
GERALD B
034000510

ROW to be vacated

RR-1 (Rural
Residential 1)

Atlantic Ave

Wicklow St

SHIPPEE
BLAKE M
034000600

POSTAL
GERALD B
034000700

034000700

LEGAL DESCRIPTION OF RIGHT OF WAY VACATION

All that portion of Wicklow Street adjacent to and abutting Block 3 and Block 5, BRYANT ADDITION TO DULUTH SECOND DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, lying between the extended East and West lines of said Blocks 3 and 5
Said right of way vacation contains 18,301 Sq. Feet or 0.42 Acres.

LEGAL DESCRIPTION OF RETAINED UTILITY EASEMENT

All that portion of Wicklow Street adjacent to and abutting Block 3 and Block 5, BRYANT ADDITION TO DULUTH SECOND DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota described as follows:

Commencing at the Southeast corner of said Block 3; thence South, along the Southerly extension of the East line of said Block 3 for a distance of 13.00 feet to a line parallel with and distant 13.00 feet South of the South line of said Block 3, said point being the point of beginning of said easement; thence West, deflecting 90 degrees 00 minutes 00 seconds to the right 10.00 feet to a line parallel with and distant 10.00 feet West of the Southerly extension of the East line of said Block 3; thence South, deflecting 90 degrees 00 minutes 00 seconds to the left 40.00 feet to a line parallel with and distant 13.00 feet North of the North line of said Block 5; thence East, deflecting 90 degrees 00 minutes 00 seconds to the left 10.00 feet to the Northerly extension of the East line of said Block 5; thence North, deflecting 90 degrees 00 minutes 00 seconds to the left, along the extended East lines of said Block 3 and said Block 5 for a distance of 40.00 feet to the point of beginning.

Said easement contains 400 square feet.

Approved by the City Engineer of the City of Duluth, MN this 26 day of OCT 20 20

By [Signature]

RIGHT OF WAY VACATION EXHIBIT

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.

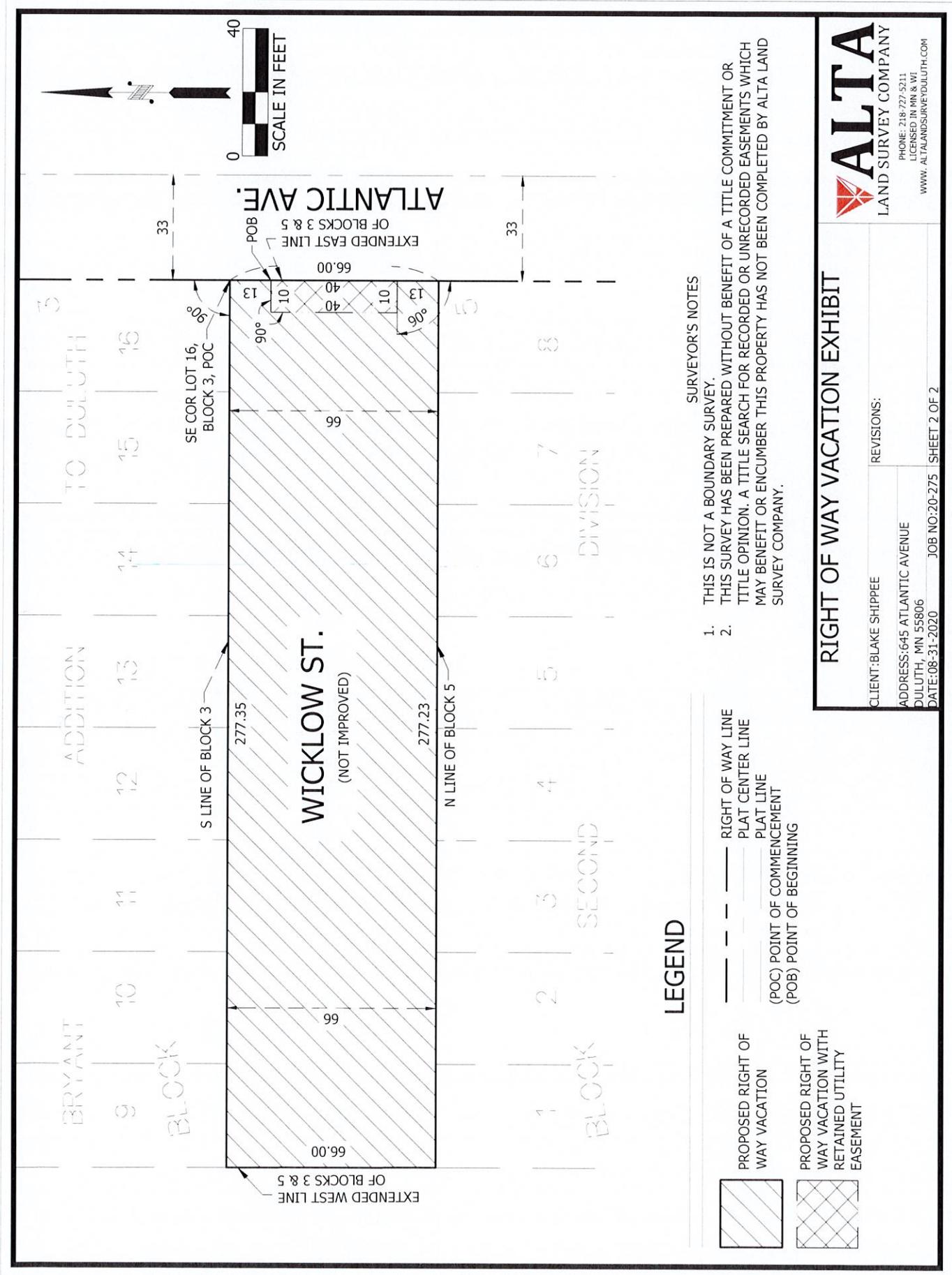
David R. Evanson David R. Evanson
DATE: 08-31-2020 MN Lic. No. 49505

CLIENT: BLAKE SHIPPEE REVISIONS:

ADDRESS: 645 ATLANTIC AVENUE
DULUTH, MN 55806
DATE: 08-31-2020

JOB NO: 20-275 SHEET 1 OF 2





LEGEND

-  PROPOSED RIGHT OF WAY VACATION
-  PROPOSED RIGHT OF WAY VACATION WITH RETAINED UTILITY EASEMENT
- RIGHT OF WAY LINE
- PLAT CENTER LINE
- PLAT LINE
- (POC) POINT OF COMMENCEMENT
- (POB) POINT OF BEGINNING

SURVEYOR'S NOTES

1. THIS IS NOT A BOUNDARY SURVEY.
2. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY.

RIGHT OF WAY VACATION EXHIBIT

CLIENT: BLAKE SHIPPEE
 ADDRESS: 645 ATLANTIC AVENUE
 DULUTH, MN 55806
 DATE: 08-31-2020

REVISIONS:
 JOB NO: 20-275 SHEET 2 OF 2





Blake Shippee <blakeshippee@gmail.com>

645 Atlantic Ave. - Lot purchase

David Spooner <david.spooner@isd709.org>

Mon, Aug 3, 2020 at 4:27 PM

To: Blake Shippee <blakeshippee@gmail.com>

Cc: Catherine Erickson <catherine.erickson@isd709.org>, Jacqueline Dolentz <jacqueline.dolentz@isd709.org>

Hello Blake,

As per our conversation, the District has no issue with your pursuit to purchase City of Duluth land adjacent to the District's property on the lower side of Lincoln Park Middle School.

Thanks!

Dave

David J. Spooner, C.P.E.

Manager of Facilities

Mail to: 215 North 1st Ave East, Duluth, MN 55802

Office: 730 East Central Entrance, Duluth, MN 55811

Phone: 218.336.8700 X-3232 - Cell: 218.343.0275



On Wed, Jul 29, 2020 at 12:30 PM Blake Shippee <blakeshippee@gmail.com> wrote:

Hi Dave -

As discussed we are looking to purchase a lot north of us from the city of Duluth so we can build a garage. This lot is an extension of Wicklow St. They explained that the first thing would be to reach out to any neighbors of the vacant lot to get their blessing. The school district has an adjacent lot on the west side. Just wanted to make sure there would be no objection from the district's end for our family to purchase this lot.

Thanks again for your time and consideration.

Regards,

Blake Shippee

cell: 218-310-3693

Confidentiality Notice: This E-mail message, including any attachments, is for the sole use of the intended recipient(s) and may contain confidential and privileged information. Any unauthorized review, use, disclosure or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply E-mail and destroy all copies of the original message.

View of Wicklow Street Looking West from Atlantic Avenue





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 20-160	Contact	Chris Lee, cleee@duluthmn.gov	
Type	Variance – front yard structure setback	Planning Commission Date	November 10, 2020	
Deadline for Action	Application Date	October 1, 2020	60 Days	November 30, 2020
	Date Extension Letter Mailed	October 15, 2020	120 Days	January 29, 2020
Location of Subject	316 Mygatt Avenue			
Applicant	Jean Sramek and John Bankson	Contact		
Agent		Contact		
Legal Description	See attached			
Site Visit Date	October 30, 2020	Sign Notice Date	October 27, 2020	
Neighbor Letter Date	October 28, 2020	Number of Letters Sent	44	

Proposal

A variance to the front yard setback from the required 25 feet to a distance of 15 feet to allow for the construction of an addition to the front of the existing house. The proposed variance, if granted, would apply to the addition only.

Recommended Action: Approve variance with conditions.

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

Summary of Code Requirements

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

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

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

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

Future Land Use – Traditional Neighborhood - Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys.

History: The property currently contains a 1,500 square foot, 3-bedroom residential structure constructed in 1924.

Review and Discussion Items

Staff finds that:

- 1) The applicant is proposing to construct an addition to increase the functional living space to the front of the existing home. The proposed addition will be 26’ x 12’. The current home is 27’ from the front property line.
- 2) A practical difficulty exists on the site related to topography and position of the house on the parcel. Alternate locations are either too steep to reasonably build an addition or too close to the neighboring property.
The proposed addition will be consistent with other houses on the block. This house is smaller than the average of the block and the addition will make the house comparable size to others on the block. The addition will not have an impact on neighborhood character.
- 3) The applicant is proposing to use the property in a reasonable manner through the addition of more entry space to a single-family home. This addition creates more livable space and will allow the applicant to age in place. The current entry space is restrictive in its size and does not allow for efficient movement in and out of the home.
- 4) The variance, if granted, would not impair adequate light and air to surrounding properties.
- 5) The variance, if granted, would not result in congestion on the surrounding streets, would not impair fire or emergency service access, and would not diminish established property values in the surrounding area.
- 6) The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property.
- 7) No comments from citizens, City staff, or any other entities were received during the drafting of this staff report.
- 8) Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

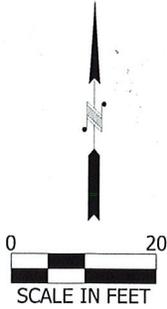
Staff Recommendation

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

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

MYGATT AVENUE STREET CURB

KENIL WORTH



PARK

BLOCK

ADDITION

TO DULUTH

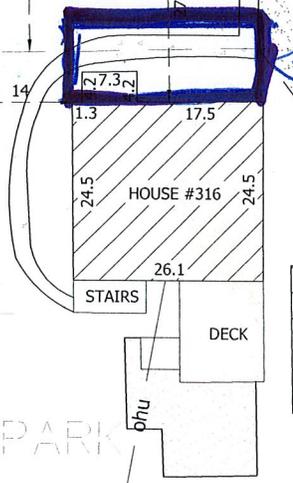
179.83(M) 180(R)

179.83(M) 180(R)

BANKSON JOHN D & SRAMEK JEAN M
 PID NO. 010-2610-00350
 PROPERTY AREA
 13,527 Sq. Feet
 0.31 Acres

S88°45'30"W 75.22

ALLEY
 (NOT IMPROVED)



proposed addition - 26' x 12'

LEGEND

	CONCRETE SURFACE	(M)-FIELD MEASURED DIMENSION
	BITUMINOUS SURFACE	(R)-RECORD DIMENSION
	C&G-CONCRETE CURB & GUTTER	ohu OVERHEAD UTILITIES
	CENTER LINE	--- RIGHT OF WAY
	BUILDING LINE PER PLAT	--- PLAT LINE
	BOUNDARY LINE AS SURVEYED	

SURVEYOR'S NOTES

- 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.
- BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR

Building Safety

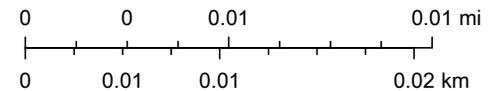
11-10-2020 Staff report packet



10/20/2020, 3:13:20 PM

- Master Address Repository St Louis Cty
- <all other values>
 - Active
 - Retired
 - Streets
 - Unknown
 - Freeway
 - US Highway
 - Major Highway
 - State and County Highway
 - Residential Street
 - Local Road

1:564



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS,

Variance Application Supplemental Form
 Jean Sramek and John Bankson, 316 Mygatt Avenue
 October 2020

List the UDC you are seeking relief from.

50-14.5 (front yard setback in an R-1). Our house is 27' from the front property line. The current enclosed mudroom is 23' feet from the front property line. We propose to replace the existing mudroom with an addition that is 26'x 12'. The finished structure would be 15' from the property line; our request is for relief from front setback requirements of 25' feet from the property line.

Statement on necessary permits.

We have not yet obtained permits or contracted design/build services for this proposed addition, as we have not yet obtained a variance for the setback requirements.

Need for the addition and long-term plans.

- Our house was built with a cramped entry inside the front door, and no storage space or closets. The stairs leading to the second floor are only 30 inches from the front door, which is on the NW corner of the house. (SEE PHOTOS #1 AND #2). Even for the able-bodied, navigating the entry is difficult.
- The existing mudroom (construction date unknown) will soon be beyond repairs and will need replacement.
- Like many people who enjoy the outdoors and our climate, we have a need for storage for seasonal outerwear and footwear, snowshoes and skis, and other gear, which most logically would be stored near the entrance to a house.
- We are in our late 50's and intend to "age in place" in our house for 20+ years or as long as possible. Among other accommodations, we would like to have a ground-floor bathroom; options for adding a bathroom on our first floor are limited, and a larger, 4-season mudroom addition would be an ideal place for a bathroom and sitting area. It would also allow for easier access for friends and family with mobility issues, which will soon enough describe the majority of people in our milieu.

Unique nature of the property and the lots on our street.

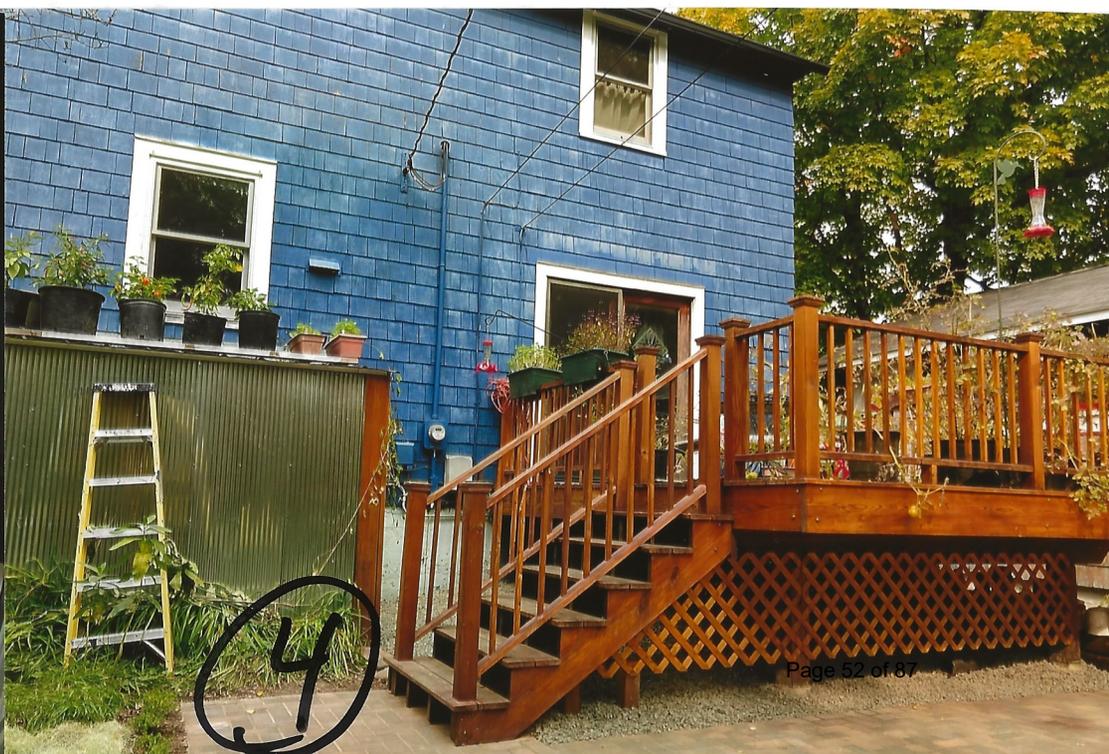
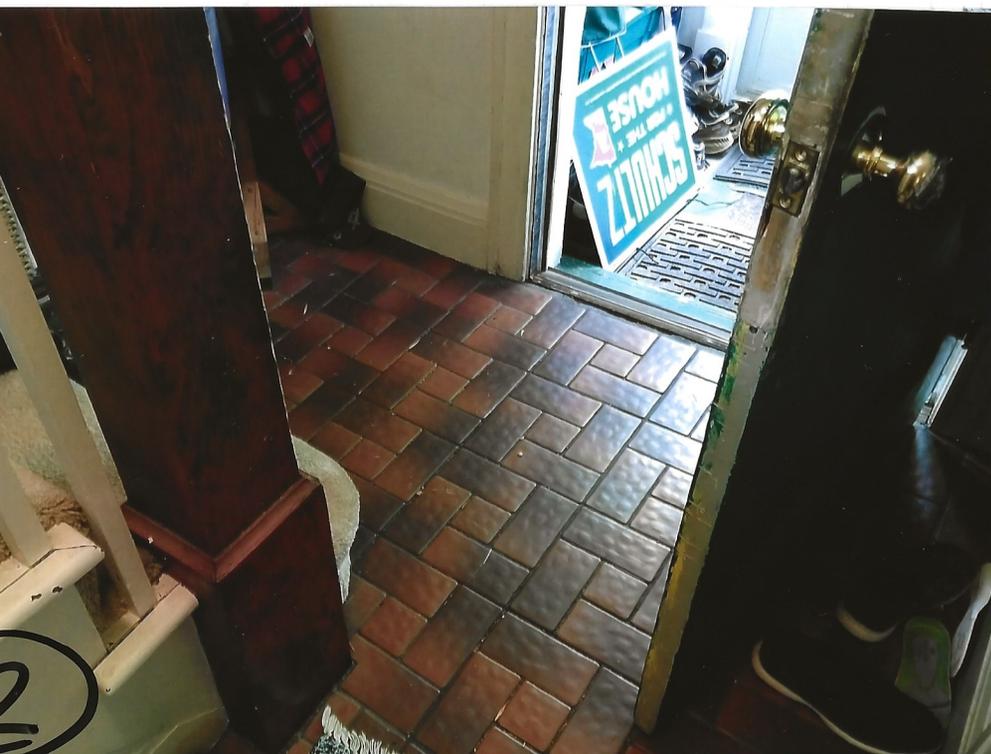
- Our lot(s) are large, but they slope downward from north to south. The flattest part of our property and the area which affords the most ease in construction is the front (north) side, facing the street.
- There are no alleys on our block, and the wooded areas at the south end of our lot and those of are neighbors are undeveloped. All the "action," garages, entrances, etc., are situated towards the front (north) side of the lots on the street
- Our house is 27' from the property line, but as our block does not have sidewalks, the right-of-way between the street/curb and our property line is quite generous, approximately 16', which means that our house is approximately 43' from the curb, and our proposed addition would be approximately 28' from the curb.
- Our house does not have a functional rear entrance. There is a covered entrance to the basement on the south side and there are doors leading to the deck from the dining room (SEE PHOTO #4), but the house's only practical entrance is on the NW corner.

Obstacles to building this addition on the South, East, or West sides of the house.

- South (back). Deck and patio are located here. (SEE PHOTO #4) Because of the slope of the back yard, an addition built here would mean extensive expense and remodeling, removing deck and patio, improving sidewalk to back of house, and installing a new back door with stairs leading up to ground level, which would defeat our desire for a ground-level entrance.
- East (SEE PHOTO #3) The garage and driveway are located on this side of the house. Building our proposed addition on this side would mean moving the garage or rebuilding it to be connected to our house, and having a new entrance to the house through the living room or dining room, both of which would be less than ideal. We have no need or desire to rebuild or expand our garage.
- West (SEE PHOTO #5). Although it might be possible to meet the setback requirements on this side of our lot, there are two other obstacles. The stairs to the second floor are located next to the West wall of the house, so an addition would have to include a second entrance towards the back of the house. In addition, the Taplett house (neighbor to the west) is of questionable structural integrity and we do not wish to be any closer to this house than we already are.

The addition will be used in a reasonable manner, will not impair the intent of zoning code, will not alter the essential character of the neighborhood, and will not cause any hazards or safety issues.

- We intend for the exterior of the addition to match the color, style and materials of our existing house.
- The addition will be used for everyday living and will not increase neighborhood noise or cause any other nuisances.
- Because the lots on our street are generously sized, and because the lots have ample right-of-way between the property lines and the street, our addition will not look out of place, unusual, or “too close to the street.” In photos #6, #7, and #8, I am standing on the curb in front of our house; #6 shows our house as is, #7 shows John standing 10’ from the house and #8 shows John standing 12’ from the house.
- This improvement on our property will enhance the aesthetics of our neighborhood and have a positive impact on our neighbors’ property values.







**ZONING
NOTICE**

Notice is hereby given that the following property is the subject of a proposed zoning change. The property is located at [address] and is currently zoned [zoning code]. The proposed zoning change is [proposed zoning code]. The zoning change is being proposed because [reasons for the change]. The zoning change will allow for [description of the proposed use]. The zoning change will be effective on [effective date]. The zoning change will be subject to a public hearing on [hearing date]. The zoning change will be subject to a final decision by the [decision-making body].



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 20-155	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Variance – Shoreland setback	Planning Commission Date		November 10, 2020
Deadline for Action	Application Date	September 22, 2020	60 Days	November 22, 2020
	Date Extension Letter Mailed	October 28, 2020	120 Days	January 20, 2021
Location of Subject	740 S. Lake Ave. (Minnesota Point)			
Applicant	Carolyn Shull	Contact		
Agent	AMI Consulting Engineers, P.A.	Contact	Ryan Dagger M.S., EIT	
Legal Description	Lot 221 and 223, Upper Duluth Lake Avenue (010-4380-01110 & 010-4380-01114)			
Site Visit Date	October 30, 2020	Sign Notice Date		October 27, 2020
Neighbor Letter Date	October 29, 2020	Number of Letters Sent		26

Proposal

Construct an 80 foot long by approximately 4 foot tall retaining wall along the rear property line to retain sand, trees, and beach grass, protecting the property from additional erosion by Lake Superior storms.

Recommended Action: Approve variance with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Dwelling	Traditional Neighborhood
North	R-1	Dwellings	Traditional Neighborhood
South	R-1	Dwellings	Traditional Neighborhood
East	None	Lake Superior beach	Open Space
West	MU-N	City pump station	Traditional Neighborhood

Summary of Code Requirements

Sec. 50-18.1.D.3 – Dimensional Standards. “(a) No shoreland permit shall be approved unless the standards in Table 50-18.1.D-1 are met or a variance obtained pursuant to Article V; Minimum structure setback from OHWL = 50 feet, Minimum width of naturally vegetative buffer = 50 feet.”

Sec. 50-37.9. B – Variance Procedures. “The Planning Commission shall...make a decision on the application based on the criteria in subsections 50-37.9.C – 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 ODC and the Comprehensive Plan. 11-10-2020 Staff report packet

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

Governing Principle #5 – Promote reinvestment in neighborhoods. Proposed wall can protect existing home and deck.

Governing Principle #6 – Reinforce the place-specific. Wall design can be an asset to the unique Park Point beach.

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

Fence can help retain beach grass and trees that are needed for the natural environment.

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

Open Space Policy #1 – Improve Duluth’s resiliency to flooding and natural disasters.

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).

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

Review and Discussion Items

Staff finds that:

- 1) The rear of the applicant’s 80 foot wide by 100 foot deep property abuts the Lake Superior beach. Due to abnormally high water levels, wave action during storms has caused significant erosion of the applicant’s private property. Please see images and description in the attached memo by AMI (subject line of “Shoreline Protection Narrative”) and attached plan Sheet C1.0. The applicant would like to prevent further erosion of their property, including the loss of trees and beach grass, by installing a retaining wall along the rear property line with the top of the wall at the same elevation as their yard.
- 2) The proposed retaining wall (shown on plan Sheets C2.0, C2.1, and C3.0) would consist of 10 foot long 4 inch x 12 inch timbers laying horizontally held in place by 20 foot long by 1 foot wide “H” piles driven into the ground leaving 4 feet exposed. The timbers would extend down 6 feet from the top of the piles, but with the backfilling of the sand, only 4 feet would be visible. With the recent placement of dredge material on the beach, the level of the sand is actually similar to the top of the proposed wall (elevation 612 feet).
- 3) The property is within the Lake Superior Shoreland which requires a 50 foot structure setback as well as a 50 foot naturally vegetated buffer from the ordinary high water level (OHWL). The MN Department of Natural Resources (DNR) determined the OHWL at this site to be elevation 610 feet, which is at approximately the rear property line. Therefore, in order to construct the wall at the rear property line a variance is necessary.

4. As the abnormally high water levels have persisted for several years, repeated storms have eroded the natural dune that previously protected the property from erosion. It is reasonable for the applicant to take steps to prevent further erosion of their property through constructing a retaining wall at their rear property line.

5. The required 50 foot Shoreland setback runs through the middle of the applicant’s house, which is legally

nonconforming since it pre-dates the Shoreland ordinance's 2010 revision adding the 50-foot setback. With the exception of a strip of beach grass and trees along the rear property line, the lack of a naturally vegetated buffer on this property also pre-dates the 2010 revision.

6. This residentially-developed property and the rest of those on the 5 block section of Lake Avenue from the Lift Bridge to the S-curve are unique to Duluth and Minnesota Point. They are positioned closer to Lake Superior in an area with a sand beach experiencing greater erosion impacts than those with larger natural buffers.
7. The need for the variance is not of the landowner's making, but is necessitated by the beach erosion and the need to protect their home approximately 30 feet landward of the rear property line.
8. While the applicant is requesting the maximum variance by seeking to position the retaining wall at roughly the OHWL, alternative means of controlling erosion would occupy more of the applicant's modest rear yard and would result in the destruction of more existing natural vegetation, including American Beachgrass, a State-listed Endangered Species. The required 50 foot structure setback presents a practical difficulty in establishing the retaining wall at the rear property line and preserving existing natural vegetation.
9. While granting the variance will allow the installation of a structure in an area that was previously a natural shoreline, the proposed retaining wall is the minimum height needed to accomplish the ceasing of erosion and will result in the wall being the same height as applicant's back yard (elev. 612 feet), which is only 2 feet higher than the OHWL. This is less of an impact to the essential character of the lakeshore of Lake Superior than properties within a few blocks of this that have erected taller walls.
10. Granting the variance won't affect access to light and air for surrounding properties due to the low height of the wall.
11. The variance, if granted, would not impair established property values in the surrounding area since its design by a professional coastal engineer should produce a structure that will stand against future storms. The design of the wall primarily using wood timbers and steel piles every 10 feet utilizes natural materials that have a softer appearance than a continuous steel sheet pile or cast concrete wall. Additionally, the wall has been designed to not affect surrounding properties by integrating with the wall to the north of the property (see plan Sheet C3.0) and, according to the applicant's engineer, "on the south end where there is some beach grass on the neighboring property, the wall will not effect that vegetation as no wave reflection or refraction can occur 50 feet from the water line in this location."
12. The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2 and Sec. 50-18.1.D. The variance is consistent with the Comprehensive Plan designation of the property as Traditional Neighborhood by allowing construction of a modest retaining wall protecting the property from additional erosion. Additionally, the variance will allow for the conservation of natural vegetation in the buffer behind the wall.
13. Adverse consequences to the environment are not expected with the granting of the variance since the resulting wall will retain the existing natural vegetation and protect it from further wave erosion in keeping with Sec. 50-37.9.L.
14. Mitigation for the variance is required by Sec. 50-37.9.L and the applicant is proposing an 8 foot wide natural buffer along the retaining wall (see plan Sheet C2.0) with the preservation and re-establishment of American Beach grass and other natural vegetation including four 12 foot tall trees to be planted next spring.
15. No neighbor, City staff, or any other comments were received regarding the application.
16. 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.

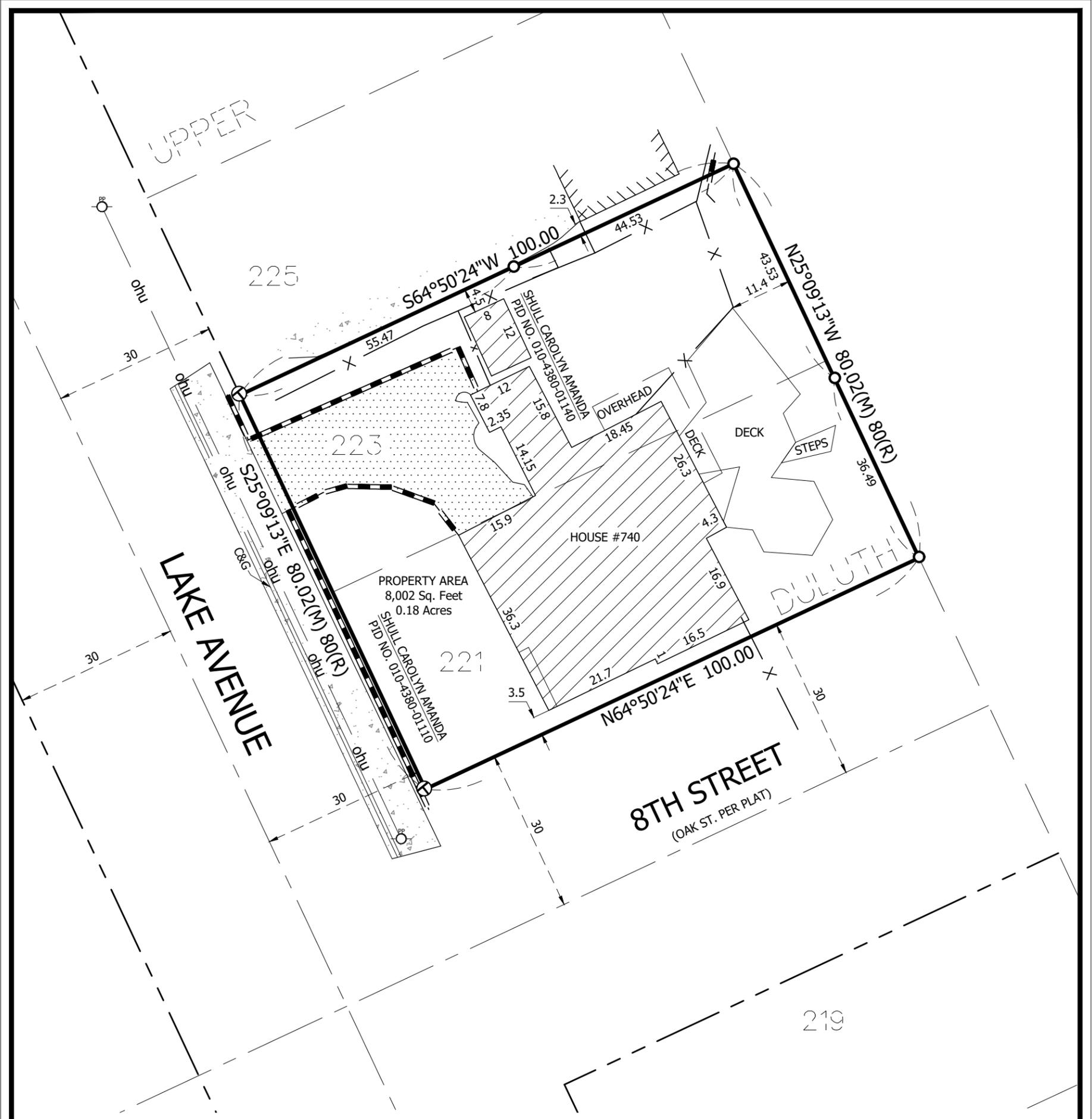
Staff Recommendation

That the Planning Commission approve the proposed variance subject to the following conditions:

1. The project be limited to, constructed, and maintained according to the plans submitted by AMI Consulting Engineers P.A. titled "Shoreline Protection" including Sheets C0.0, C2.0, C2.1, and C3.0.
2. The applicant provide, at time of application for building permit, evidence of any necessary permissions needed to access the site for construction from the City-owned beach.
3. If the applicant is not able to construct the project as designed and if the construction requires the additional disturbance of natural vegetation, that a plan for restoring the natural vegetation be submitted to the Land Use Supervisor for approval at time of building permit application.

4. At time of building permit, the applicant provide written documentation from the appropriate DNR official authorizing alteration of the beach grass, or expressing that no permission is needed for the planned work.
5. Prior to construction, the applicant must have property corners clearly identified with stakes which must be in place throughout the construction work.
6. At least 48 hours prior to the start of site work (demolition, grading, etc.) the applicant must notify the City's Property and Facilities Manager of the work start date.
7. No structures/fences/walls may be constructed in the street easement adjacent to this property without a Concurrent Use Permit.
8. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.





LEGEND

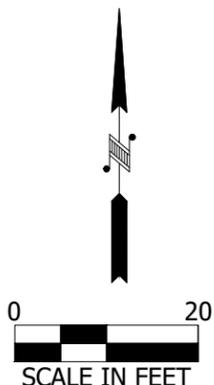
	CONCRETE SURFACE	(M)-FIELD MEASURED DIMENSION		FOUND T-STAKE MONUMENT
	BITUMINOUS SURFACE	(R)-RECORD DIMENSION		SET CAPPED REBAR RLS. NO. 49505
	EXISTING BUILDINGS	C&G-CONCRETE CURB & GUTTER		UTILITY POLE

LEGAL DESCRIPTION PER DOCUMENT NO. 1332710
 Lot 221 LAKE AVENUE, UPPER DULUTH

LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 345092
 Lot 223 LAKE AVENUE, UPPER DULUTH

SURVEYOR'S NOTES

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



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 MN Lic. No. 49505 DATE:06-14-2020	CERTIFICATE OF SURVEY		 ALTA LAND SURVEY COMPANY PHONE: 218-727-5211 LICENSED IN MN & WI WWW. ALTALANDSURVEYDULUTH.COM
	CLIENT: CAROLYN SHULL ADDRESS: 740 S LAKE AVENUE DULUTH, MN 55802 DATE: 06-14-2020	REVISIONS:	

September 14, 2020

City Hall Room 110
411 W. First St.
Duluth, MN 55802**Re: Shoreline Protection Narrative**

AMI Project # 191135

AMI Consulting Engineers (AMI) is working on installing a steel H-pile and timber lagging retaining wall as shoreline protection for 740 S. Lake Ave in Duluth, MN. The existing site has a large ground level deck that is 8 ft away from the edge of the sand bank (see Figure 1). There was a wooden stairway on the property that was used to access the beach but has since been destroyed. At the top of the slope there is native beach grasses that surrounds the deck and has almost all disappeared. The contractor is proposing to access the site through the public trail directly adjacent to the property. All permits have been approved for this work to the best of the homeowner's knowledge.



Figure 1. Existing Conditions – August 8th, 2020.

This site is unique in that the waves break well before the shoreline due to the shallow bathymetry, but because of the location on Lake Superior there is a high wave runup distance across the beach. As the waves role across the beach and hit the toe of the slope it continues to sluff and undermine the native grasses and vegetation (see Figure 2). Due to high water levels and increased erosion along Park Point, the Ordinary High Water Level (OHWL) has been determined by the MnDNR to be at elevation 610 ft.



Figure 2. Existing Conditions – July 17th, 2020.

Neighboring houses along Park Point have a similar shoreline erosion protection design which will make this retaining wall match the aesthetics of the beach and lakeshore homes (see Figure 3). To protect the existing vegetation during construction, steel piles are proposed to be driven along the back-property line instead of installing concrete piers. This wall design will protect the endangered grasses along the beach as well as promote more growth as it will be able to spread to the end of the wall. The proposed wall will be built to match the existing yard elevation of 612 ft.



Figure 3. Park Point Neighbor's Existing Shoreline Protection

Because this project will take place 50 ft from the water line, there should not be any impacts to Lake Superior. Best management practices will always be enforced and due to the constant variations of the sand beach, there will be minimal ground disturbance that will be noticeable. Any ground disturbance will be raked back to its existing state and all old timbers in front of the house will be removed.

If you have any questions or comments regarding this narrative, please contact me at (715) 718-5722.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Ryan Dagger".

Ryan Dagger M.S., EIT
Marine Civil/Coastal Engineer

SHORELINE PROTECTION

CAROLYN SHULL

740 S. LAKE AVE.

DULUTH, MN



PRELIMINARY
NOT FOR CONSTRUCTION



OWNER

OWNER CONTACT
JAMES BRAUNWARTH
JAMES.C.BRAUNWARTH@GMAIL.COM
740 S. LAKE AVE
DULUTH, MN

DESIGN TEAM

MARINE CIVIL/COASTAL ENGINEER
AMI CONSULTING ENGINEERS, P.A.
ZAC MORRIS, PE
ZAC.MORRIS@AMIENGINEERS.COM
3640 TALMAGE CIRCLE, SUITE 200
VADNAIS HEIGHTS, MN 55110
715-718-5721

MARINE CIVIL/COASTAL ENGINEER
AMI CONSULTING ENGINEERS, P.A.
RYAN DAGGER, EIT
RYAN.DAGGER@AMIENGINEERS.COM
91 MAIN STREET
SUPERIOR, WI 54880
715-718-5722

SHEET INDEX

T1.0	TITLE SHEET
C0.0	GENERAL PROJECT NOTES
C1.0	EXISTING CONDITIONS
C1.1	TYPICAL CROSS-SECTION
C2.0	PROPOSED CONDITIONS
C2.1	TYPICAL CROSS-SECTION
C3.0	TYPICAL LAYOUT DETAILS

Survey Layout Information
Coordinate System: US State Plane
1983 - MN North 2201
Datum: NAD 1983
Geoid: G12B-US

GOVERNING SPECIFICATIONS

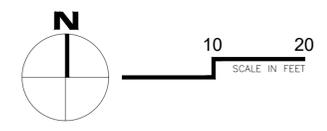
THE CURRENT EDITION OF THE MINNESOTA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR CONSTRUCTION AND THE CURRENT EDITION OF THE CITY OF DULUTH, MN CONSTRUCTION STANDARDS SHALL GOVERN.

REV. BY:	DESCRIPTION	DATE	REV.

SHORELINE PROTECTION CAROLYN SHULL 740 S. LAKE AVE DULUTH, MN	TITLE SHEET T1.0
--	---------------------

JOB No: 191135
DATE: XX/XX/XXXX
DRAWN BY: RRD
DESIGNED BY: RRD

SHEET:
T1.0



SITE LEGEND:

- FLOW ARROW AND GRADE
- EXISTING MINOR CONTOUR
- EXISTING MAJOR CONTOUR
- EXISTING SPOT ELEVATION
- APPROXIMATE USACE ORDINARY HIGH WATER MARK
- TOP OF SLOPE FAILURE
- LAKE WATERLINE
- APPROXIMATE PROPERTY LINE
- VEGETATION LINE
- OVERHEAD ELECTRICAL LINES

GENERAL PROJECT NOTES:

1. BIDDER WILL VISIT THE SITE TO UNDERSTAND THE SCOPE OF WORK. NO ADDITIONAL COMPENSATION WILL BE ALLOWED FOR ITEMS THAT COULD HAVE BEEN IDENTIFIED BY A SITE VISIT, STUDYING THE TOPOGRAPHIC SURVEY, THOROUGHLY REVIEWING ALL PLANS AND REPORTS, AND ADDITIONAL INFORMATION REQUESTED FOR CLARIFICATION PRIOR TO BIDDING.
2. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING ALL REQUIRED PERMITS PRIOR TO STARTING WORK. AMI CONSULTING ENGINEERS, PA WILL OBTAIN PERMITS FROM THE CITY OF DULUTH, MNDNR AND ARMY CORPS. OF ENGINEERS.
3. EXISTING TOPOGRAPHIC AND BOUNDARY INFORMATION TAKEN FROM SURVEY BY AMI CONSULTING ENGINEERS, PA DATED 07/15/2020. PROPERTY LINES AND SHOWN UTILITIES ARE SHOWN AS APPROXIMATE LOCATIONS ONLY AND SHALL BE FIELD VERIFIED PRIOR TO OR DURING CONSTRUCTION. CONTACT ENGINEER IMMEDIATELY IF ANY DISCREPANCIES ARE DISCOVERED.
4. BACKGROUND IMAGES CONSIST OF DRONE PHOTOS TAKEN BY AMI CONSULTING ENGINEERS, PA DATED 07/15/2020 AND GOOGLE EARTH IMAGERY DATED 05/2016.
5. THE LOCATIONS OF ALL EXISTING UTILITIES SHOWN ON THIS PLAN HAVE BEEN DETERMINED FROM THE BEST INFORMATION AVAILABLE AND ARE GIVEN FOR THE CONVENIENCE OF THE CONTRACTOR. THE ENGINEER ASSUMES NO RESPONSIBILITY FOR THEIR ACCURACY. PRIOR TO THE START OF ANY DEMOLITION ACTIVITY, THE CONTRACTOR SHALL NOTIFY THE UTILITY COMPANIES FOR ONSITE LOCATIONS OF EXISTING UTILITIES. THE CONTRACTOR IS REQUIRED TO TAKE DUE PRECAUTIONARY MEASURES TO PROTECT ANY EXISTING UTILITIES OR STRUCTURES LOCATED AT THE WORK SITE.
6. PROVIDE AND MAINTAIN TRAFFIC CONTROL DEVICES WHERE NECESSARY. PLACEMENT OF THESE DEVICES SHALL BE APPROVED BY THE CITY AND ENGINEER PRIOR TO PLACEMENT. TRAFFIC CONTROL DEVICES SHALL MEET THE REQUIREMENTS OF THE MUTCD, CURRENT ADDITION.
7. CONTRACTOR SHALL MAINTAIN FULL ACCESS TO ADJACENT PROPERTIES DURING CONSTRUCTION AND TAKE ALL PRECAUTIONS NECESSARY TO AVOID PROPERTY DAMAGE TO ADJACENT PROPERTIES.
8. ALL CONSTRUCTION WORK SHALL BE COMPLETED WITHIN CITY APPROVED WORKING HOURS.
9. INSTALL CONTROL FENCING AND BARRICADING AS NECESSARY TO PROTECT THE PUBLIC.



PRELIMINARY
NOT FOR CONSTRUCTION

REV.	DESCRIPTION

SHORELINE PROTECTION
CAYOLYN SHULL
740 S. LAKE AVE
DULUTH, MN

EXISTING CONDITIONS

JOB No: 191135
DATE: XX/XX/XXXX
DRAWN BY: RRD
DESIGNED BY: RRD

SHEET:
C1.0

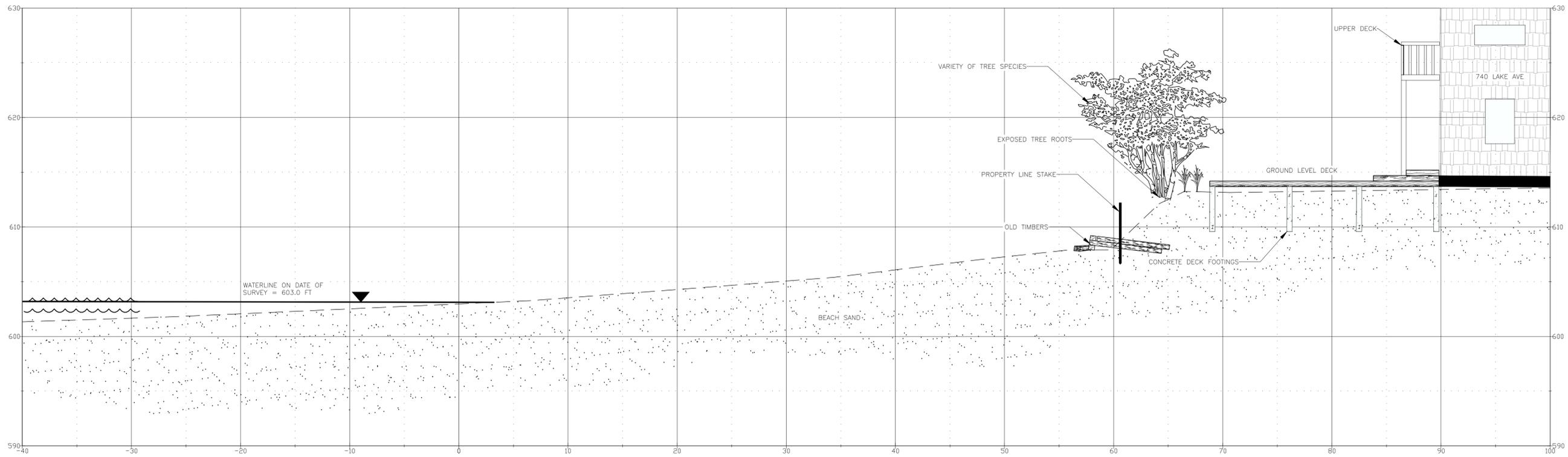


**Know what's below.
Call before you dig.**

STATE LAW: 48 HOURS BEFORE EXCAVATING OR DEMOLISHING BUILDINGS, CALL 811 FOR FIELD LOCATION OF UNDERGROUND UTILITY LINES. THIS SERVICE LOCATES UTILITY OWNED LINES BUT NOT PRIVATE LINES.

THE LOCATIONS OF UNDERGROUND UTILITIES ARE SHOWN IN AN APPROXIMATE WAY ONLY AND HAVE NOT BEEN INDEPENDENTLY VERIFIED. THE EXACT LOCATION OF ALL UTILITIES (PUBLIC AND PRIVATE) MUST BE DETERMINED BEFORE COMMENCING WORK.

LAKE SUPERIOR
ELEVATION ON DATE OF SURVEY : 603.2 FT
OHWM = 603.1 FT PER IGLD 1985 DATUM
OHWL = 610 FT PER PATTY FOWLER (MNDNR)



0+45.00

1
C1.1 EXISTING CONDITIONS CROSS-SECTION
SCALE: 1"=5'



EXISTING CONDITIONS
DATED: JULY 17, 2020
WATER ELEV. AT DATE OF PHOTO = 603.2 FT

AMI
Consulting Engineers P.A.
91 MAIN STREET SUPERIOR, WI
715-718-2193 - amiengeers.com
TWIN CITIES - IRON RANGE

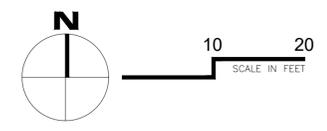
PRELIMINARY
NOT FOR CONSTRUCTION

REV. BY:	DESCRIPTION	DATE:	REV.:

SHORELINE PROTECTION CAYOLYN SHULL 740 S. LAKE AVE DULUTH, MN	TYPICAL CROSS-SECTION
--	-----------------------

JOB No: 191135
DATE: XX/XX/XXXX
DRAWN BY: RRD
DESIGNED BY: RRD

SHEET:
C1.1



SITE LEGEND:

- FLOW ARROW AND GRADE
- EXISTING MINOR CONTOUR
- EXISTING MAJOR CONTOUR
- PROPOSED MINOR CONTOUR
- PROPOSED MAJOR CONTOUR
- APPROXIMATE USACE ORDINARY HIGH WATER MARK
- WATERLINE
- APPROXIMATE PROPERTY LINE
- VEGETATION LINE
- CONSTRUCTION LIMITS
- EXISTING NATIVE BEACH SAND

GENERAL GRADING AND DRAINAGE NOTES:

1. ALL EROSION AND SEDIMENT CONTROL MEASURES SHALL BE IN PLACE BEFORE BEGINNING SITE GRADING ACTIVITIES.
2. CONTRACTOR SHALL BE RESPONSIBLE FOR DETERMINING QUANTITIES OF CUT, FILL AND WASTE MATERIAL TO BE HANDLED, AND FOR THE AMOUNT OF GRADING TO BE DONE. ALL COSTS ASSOCIATED WITH IMPORTING SUITABLE MATERIAL AND EXPORTING UNSUITABLE/EXCESS/WASTE MATERIAL SHALL BE INCLUDED IN THE BID PRICE.
3. CONTRACTOR SHALL DISPOSE OF ANY EXCESS SOIL MATERIAL UNLESS OTHERWISE DIRECTED.
4. MAINTAIN TEMPORARY PROTECTION MEASURES DURING CONSTRUCTION ACTIVITIES. PROVIDE ADDITIONAL PROTECTION AS NECESSARY AS WORK PROGRESSES.
5. PROPOSED CONTOURS AND SPOT ELEVATIONS ARE TO FINISHED SURFACE GRADE.
6. PROVIDE POSITIVE DRAINAGE AWAY FROM BUILDINGS AT ALL TIMES.
7. NO GRADED SLOPES SHALL EXCEED 3:1 (HORIZONTAL TO VERTICAL) UNLESS OTHERWISE NOTED.
8. UNIFORMLY GRADE AREAS WITHIN LIMITS OF GRADING AND PROVIDE A SMOOTH FINISHED SURFACE WITH UNIFORM SLOPES BETWEEN POINTS WHERE ELEVATIONS ARE SHOWN OR BETWEEN SUCH POINTS AND EXISTING GRADES.
9. LIMIT THE DISTURBED AREA AS MUCH AS POSSIBLE AND CONDUCT GRADING OPERATIONS IN A MANNER TO MINIMIZE THE POTENTIAL FOR EROSION.
10. CONDUCT GRADING PER MNDOT SPECIFICATIONS 2101, 2105 AND 2112.
11. CONTRACTOR SHALL REPLACES TREES GREATER THAN 8 INCHES IN DIAMETER REMOVED DURING CONSTRUCTION. LOCATIONS OF NEW TREES SHALL BE APPROVED BY THE OWNER.
12. SALVAGE ANY CUT MATERIAL FROM EXCAVATIONS TO BE STOCKPILED AND REUSED AS BACKFILL.

ESTIMATED QUANTITIES BREAKDOWN	
TIMBERS	700 LF
PILES	11 HP 12X53 @ 20 FT LONG
BACKFILL	50 CY 740 SF

LAKE SUPERIOR
 ELEVATION ON DATE OF SURVEY = 803.2 FT
 QHWM = 603.1 FT PER IGLD 1985 DATUM
 OHWL = 610 FT PER PATTY FOWLER (MNDNR)

AMI
 Consulting Engineers P.A.
 91 MAIN STREET SUPERIOR, WI
 715-718-2193 - amiengineers.com
 TWIN CITIES - IRON RANGE

PRELIMINARY
 NOT FOR CONSTRUCTION

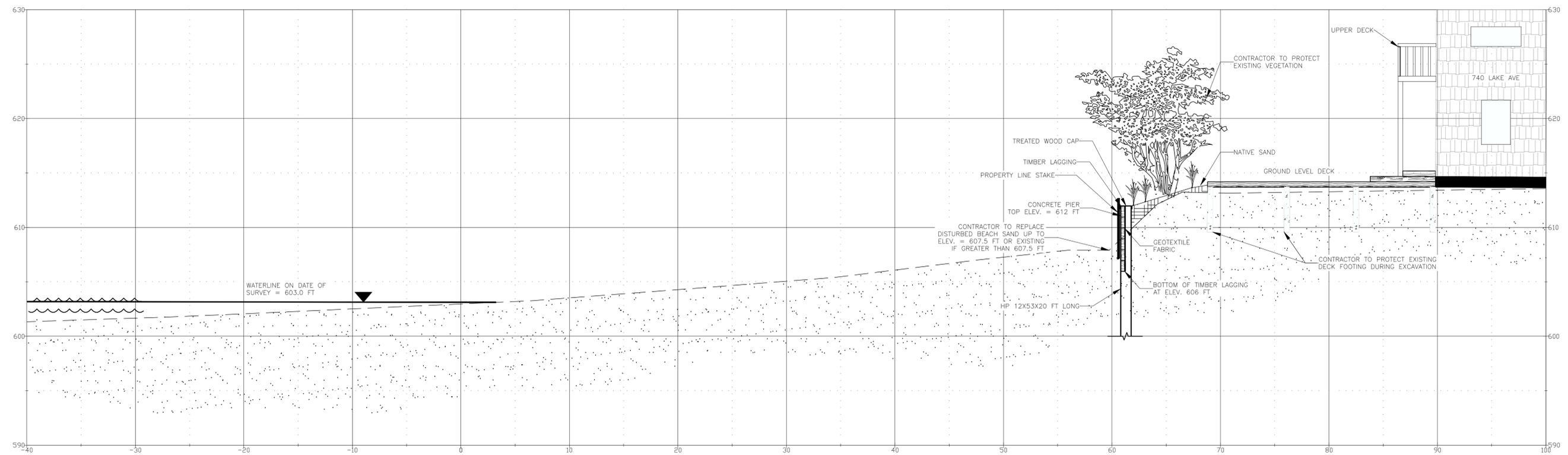
REV. BY:	DESCRIPTION	DATE:	REV:

SHORELINE PROTECTION
 CAYOLYN SHULL
 740 S. LAKE AVE
 DULUTH, MN

PROPOSED CONDITIONS

JOB No: 191135
 DATE: XX/XX/XXXX
 DRAWN BY: RRD
 DESIGNED BY: RRD

SHEET:
C2.0



0+45.00

1 TYPICAL RETAINING WALL DETAIL
C2.1 SCALE: 1"=5'



2 NEIGHBOR PROPERTY DESIGN
C2.1 PARK POINT - DULUTH, MN



3 EXAMPLE DESIGN
C2.1

AMI
Consulting Engineers P.A.
91 MAIN STREET SUPERIOR, WI
715-718-2193 - amiengeers.com
TWIN CITIES - IRON RANGE

PRELIMINARY
NOT FOR CONSTRUCTION

REV. BY:	DESCRIPTION

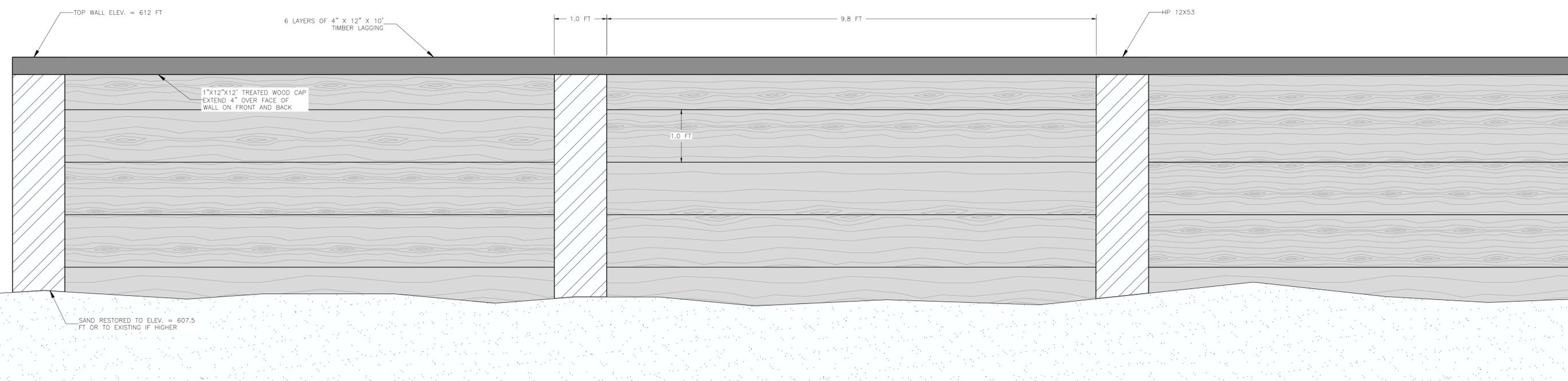
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REV:	
DESCRIPTION:	

SHORELINE PROTECTION
CAYOLYN SHULL
740 S. LAKE AVE
DULUTH, MN

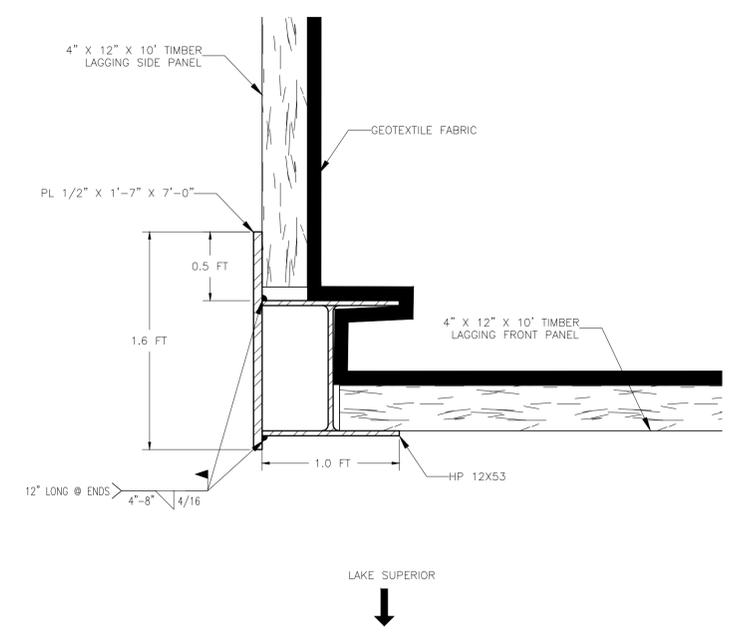
TYPICAL CROSS-SECTION

JOB No: 191135
DATE: XX/XX/XXXX
DRAWN BY: RRD
DESIGNED BY: RRD
SHEET:
C2.1
Page 70 of 87

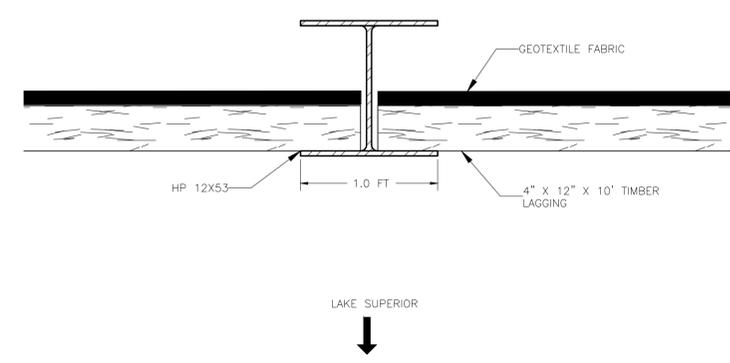
© COPYRIGHT - AM CONSULTING ENGINEERS P.A., 2006



1 TYPICAL RETAINING ELEVATION DETAIL
SCALE: 1"=1'-0"



2 TYPICAL CORNER PILE DETAIL PLAN VIEW
SCALE: 1"=1'-0"



3 TYPICAL CENTRAL PILE DETAIL PLAN VIEW
SCALE: 1"=1'-0"



4 NORTH PROPERTY CORNER DETAIL
SCALE: 1"=1'-0"

AMI
Consulting Engineers P.A.
91 MAIN STREET SUPERIOR, WI
715-718-2193 - amiangineers.com
TWIN CITIES - IRON RANGE

PRELIMINARY
NOT FOR CONSTRUCTION

REV. BY:	DESCRIPTION	DATE:

SHORELINE PROTECTION
CAYOLYN SHULL
740 S. LAKE AVE
DULUTH, MN

TYPICAL LAYOUT DETAILS

JOB No: 191135
DATE: XX/XX/XXXX
DRAWN BY: RRD
DESIGNED BY: RRD

SHEET:
C3.0

12/17/2018 11:27 AM c:\2018\191135\740 S. LAKE AVE SHORELINE PROTECTION\WORKS\CAD\191135_230.dwg



Planning & Development Division
 Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

Date: October 29, 2020
 To: Planning Commission
 From: Steven Robertson, Senior Planner
 RE: Proposed UDC Text Amendments for Consideration, PL 20-172

Planning Staff are proposing a number of changes to the Unified Development Chapter. The proposed changes reflect efforts at correcting identified errors or omissions, updating the code to reflect suggestions through Imagine Duluth 2035, and suggestions from city staff for improving the code. The proposed changes will be submitted as two separate ordinances, and summarized broadly below (noted that the proposed text change is highlighted in yellow in addition to the underline/strikeout format).

PL 20-172, Amending the UDC to Address Floodplains, Solar, and Dwellings in the Context of Primary Uses and Accessory Structures and Uses, and Administration of Vacations and Concurrent Use Permits, Heritage Preservation, Circulation, and Land Use Supervisor Interpretations

50-7.2. One principle structure per lot.

Except as specifically provided in this Chapter, every structure erected or altered after November 19, 2010, shall be located on a lot as defined in this Chapter. There shall be only one principle structure on one lot unless a specific exception is stated in this UDC.

Accessory structures shall not be constructed or occupied prior to the construction and occupation of the principle structure without prior written approval from the Land Use Supervisor. The Land Use Supervisor shall attach reasonable conditions to the approval, which shall include but is not limited to a financial security to guarantee removal of the accessory structure if the principle structure is not constructed within one year of the accessory structure's construction.

50-10 Interpretation.

1. The land use supervisor shall be authorized to interpret the provisions of this Chapter unless a different city official is specifically designated in this Chapter to make a particular interpretation. The decisions of the land use supervisor are subject to appeal as described in Article V, 50-37.1.L.
2. Land use supervisor interpretations affecting specific projects or property. Notice shall be provided by first class mail to owners of property located within 100 feet of any land use supervisor interpretations when the land use supervisor determination is limited in application to a specific project or property. The notice shall be mailed within 10 days of the date the interpretation is made. This requirement does not apply to land use supervisor determinations made under Section 50-37.1.L.
3. A notice of an interpretation of the land use supervisor that is not limited to any one subject property but applies to an area or region of the city such as all property within a specific zone district, shall be noticed in a newspaper of general circulation at least twice within 21 days of the date of the interpretation, and shall also be published on the City's website within 10 days of the date of the interpretation being made.

50-15.6.E Development standards.

All permitted development in the MU-W shall comply with the following development standards:

1. Proposed development shall be visually and functionally oriented toward the waterfront of Lake Superior, the harbor and the St. Louis River to the maximum extent possible so that users of buildings and associated outdoor areas have direct views and physical access to the waterfront;
2. To protect public views to the waterfront from the closest landward public street running approximately parallel to the water, all primary structures shall have a maximum width of 200 feet measured along the shoreline and shall be separated from other primary structures by a minimum of 50 feet. ~~These requirements shall not apply to portions of buildings that do not block public views of Lake Superior, the harbor and the St. Louis River from the closest landward public street running approximately parallel to the water due to topography or the location;~~
3. Buildings shall have a primary façade, with a functioning entrance for residents, employees or patrons facing the waterfront, and a second primary façade with a similar functioning entrance facing at least one of the adjacent streets, to the maximum extent feasible;
4. The quality of façade design and materials and the level of detail on the building façade facing the water shall be comparable to that on any other building façade containing a functioning entrance. The building façade facing the water shall have at least 40 percent transparency, measured as set forth in Section 50-22.5.D.1; no rectangular area greater than 30 percent of each story of the façade facing the water may be windowless, as measured from floor to floor, and no horizontal distance greater than 15 feet of each story of a facade facing the water may be windowless;
5. For any development, redevelopment, or expansion of an existing structure or use, the parking requirements in Section 50-24 shall be met without use of the reduction allowed by 50-24.3, adjustment to required off-street parking. However, the required parking may be reduced as allowed by 50-24.3 only if the applicant can demonstrate to the Land Use Supervisor's satisfaction that nearby properties provide sufficient supplemental off-street parking or that all the parking needs generated by the use can be met on site.

50-18.1.C Floodplain

1. Compliance.

Within the flood plain districts, no new structure or land shall be used and no structure shall be constructed, located, extended, converted or structurally altered without full compliance with the terms of this Section 50-18.1.C. Within the floodway, flood fringe and general flood plain districts, all uses not listed as permitted uses or special uses are prohibited;

2. Uses and special use permits – floodway.

(a) Permitted uses in floodway.

Only the following uses shall be permitted within the floodway, and only if the land use supervisor determines that (a) the use is shown as a permitted use in the underlying zone district in Table 50-19.8, (b) the use has a low flood damage potential, (c) the use will not obstruct flood flows or increase flood elevations, and (d) the use does not involve structures, fill, obstructions, excavations or storage of materials or equipment:

- (i) Agriculture;
- (ii) Industrial, commercial and mixed use loading areas, parking areas and airport landing strips;
- (iii) Outdoor open space, recreation, and entertainment facilities and structures;
- (iv) Residential lawns, gardens, parking areas and play areas;

(b) Special uses in floodway.

The following uses involving accessory structures or fill or storage of materials or equipment may be permitted only after the issuance of a special use permit pursuant to Article V:

- (i) Structures accessory to a permitted use **as listed in 50-18.1.C.2.a;**
- (ii) Mining, extraction and storage of sand, gravel and other materials;
- (iii) Marina or yacht club or accessory residential boat dock;
- (iv) Railroad yard or shipyard and related facilities, electric power transmission lines, major utilities or wireless communication towers and minor utilities and accessory wireless antennas attached to existing structures;
- (v) Bulk storage not listed elsewhere;
- (vi) Placement of fill or construction of fences;

- (vii) Road-ready recreational vehicles either on individual lots of record or in existing or new subdivisions or commercial or condominium type campgrounds, subject to the exemptions and provisions of Section 50-20;
- (viii) Structural works for flood control such as levees, dikes, and floodwalls constructed to any height where the intent is to protect individual structures;

Note: Change UDC Permitted Use Table to allow Solar as special use in R-C, RR-2, and P-1 zone district

50-20.5.I Accessory solar or geothermal power equipment.

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

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

3 Solar easements.

A property owner who has installed or intends to install a solar collection system shall be responsible for negotiating with other property owners in the vicinity for any necessary solar easement and shall record the easement with the county recorder. If no such easement is negotiated and recorded, the owner of the solar collector shall have no right to prevent the construction of structures permitted by this Chapter on nearby properties on grounds that the construction would cast shadows on the solar collection system;

50-23 CONNECTIVITY AND CIRCULATION.

50-20.3 General circulation requirements.

Applications for subdivision, replatting, RLS, development, or redevelopment shall meet the following standards:

Where adopted city plans show a bicycle or pedestrian path or trail or sidewalk, the site design shall provide connections to those paths or trails or sidewalks;

Any requests by the city for designation or dedication of land for bicycle or pedestrian trails within a proposed development shall comply with the provisions of Section 50-33.8, *Land for public purposes*;

Unless the city engineer waives the requirement in writing based on concerns of public safety, or due to site/ topography constraints:

Each proposed street within a new subdivision, regardless of zoning designation, shall be public and designed and constructed to city engineer construction standards.

Each proposed public or private street within the R-1, R-2, R-P, MU-P, MU-N, MU-C, MU-I or MU-W districts shall include a sidewalk at least five feet wide on **both at least one** side of the street **or a multi-use trail at least 8 feet wide, subject to the determination of the City Engineer.** Where appropriate in rural or suburban areas, the sidewalk or multi-use trail shall be set back from the edge of curb by at least four feet to allow room for snow storage and landscape features;

Each proposed public or private street within the MU-B, I-G or I-W districts shall include a sidewalk at least five feet wide on one side of the street;

Whenever cul-de-sac streets are created, one ten foot wide pedestrian access/public utility easement shall be provided, between the cul-de-sac head or street turnaround and the sidewalk system of the closest adjacent street or pedestrian sidewalk or pathway, unless the city engineer determines that public access in that location is not practicable due to site or topography constraints (refer to Figure 50-23-A);

A pedestrian way at least ten feet in width shall be provided near the middle of any block face longer than 800 feet in order to provide connections with streets on either side of the block;

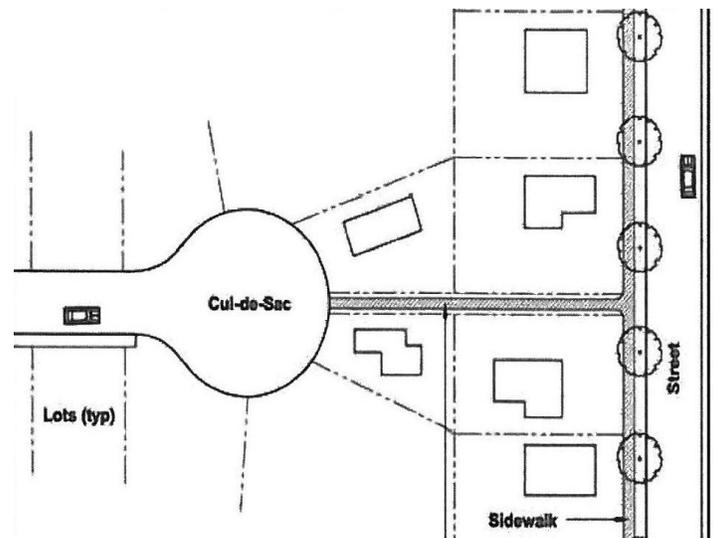


Figure 50-23-A: 10 ft. access easement from head of cul-de-sac to nearest street or path

50-37.1.L Appeals.

This Section is intended to comply with the provisions of MSA 462.357 and MSA 360.068 as amended, and shall be interpreted to comply with those provisions wherever possible.

1. General provisions for appeal to planning commission.

- (a) Except as noted in subsection 2, any person aggrieved by, or any department of the city affected by, any decision of any city official engaged in the administration or enforcement of this Chapter may appeal that decision to the planning commission. The appeal must be filed within ten days after the decision **has been noticed as set forth in 50-10 by filing with the land use supervisor building official** a written notice of appeal addressed to the commission and specifying the grounds of the appeal;
- (b) If the appeal relates to a decision regarding the zoning of an airport or the Airport Overlay district, any person aggrieved by the decision, any taxpayer affected by the decision and any governing body of a municipality, county or airport zoning board, that believes the decision is an improper application of this Chapter as it concerns that governing body or board may appeal that decision to the airport board of adjustment. The appeal must be filed within ten days after the decision by filing with the building official a written notice of appeal addressed to the board and specifying the grounds of the appeal. If the appellant is a person aggrieved or a taxpayer affected by the decision regarding the zoning of an airport or the Airport Overlay district, the applicant shall submit an appeal to the city clerk in the manner set forth in Minnesota Statutes 360.068, Subdivision 2. All appeals shall be pursuant to and consistent with the procedures in the Duluth International Airport Zoning Ordinance adopted by the city and four other jurisdictions, and in the event of an inconsistency between that Airport Zoning Ordinance and this Chapter, the provisions of the Airport Zoning Ordinance shall govern;
- (c) The **land use supervisor building official** shall promptly transmit to the commission, or to the airport board of adjustment, as applicable, the documents and records related to the decision being appealed;
- (d) A timely appeal shall stay all proceedings involved in the appeal; and no appeal shall be deemed to permit the appellant to do or to continue doing, directly or indirectly, any act or thing prohibited by the decision being appealed. However, if the **land use supervisor building official** notifies the planning commission in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the planning commission may order that proceedings not be stayed pending appeal;
- (e) The commission shall fix a time for a hearing on the appeal, shall provide notice of the hearing pursuant to Section 50-37.1.H, and shall hold a public hearing pursuant to Section 50-37.1.I;
- (f) Any party may appear at the hearing in person, by agent or by attorney. Notice of the decision of the board shall be mailed to the appellant;
- (g) If the appeal alleges that the boundaries of a wetlands or shorelands area on the Natural Resources Overlay map in Section 50-18.1 are in error, the appellant shall bear the burden of proving the map erroneous by the production of clear and convincing technical evidence;

2. Exceptions.

- (a) An appeal from any decision regarding the interpretation or application of sign regulations in subsections 50-27.1.I, *No safety obstructions*, 50-27.1.L, *Attachment to buildings*, 50-27.1.M, *Wind pressure design*, 50-27.1.N, *Electrical wiring*, or 50-27.1, *Certification of structural engineer*, must be taken to the state building official as provided in the State Building Code;
- (b) An appeal from a decision regarding a building permit must be taken to the building appeals board created in Article IV of Section 10 of the City Code or to the state building official;
- (c) An appeal from any decision under the housing code provisions in Section 50-32 of this Chapter must be taken to the building appeals board;
- (d) If an applicant believes that the decision of staff regarding compliance with the requirements of the SP-O zone district is incorrect or deprives the applicant of the reasonable use of his or her property, or is unreasonable given the size and shape of the property and its orientation to the protected views, the applicant may request review of the decision by the planning commission. The planning commission's review shall be based on the purpose and standards of this Section, but may authorize variations to those standards, in accordance with the procedures in Article V of this Chapter, if unusual site conditions not generally shared along Skyline Parkway make compliance with the standards unreasonable or ineffective to protect the intended views of Lake Superior, the St. Louis River and the harbor;

3. Powers of planning commission on appeal.
 - (a) The planning commission shall consider the record of the application and any testimony presented at the hearing regarding the application of this Chapter to the application and shall affirm, modify or reverse the decision appealed, and may make any orders, requirements, decisions or determinations that the ~~building official or~~ land use supervisor could have made regarding the application;
 - (b) In hearing permitted appeals of decisions regarding the sign regulations in Section 50-27, the planning commission shall have only the power to affirm, reverse or modify the decision of the ~~land use supervisor building official~~;
 - (c) In the case of an appeal regarding the application of the NR-O Natural Resources Overlay district, no relief shall be granted that violates the limitations on variances applicable to that district;
 - (d) The decision of the planning commission shall be final unless a further appeal is filed pursuant to subsection 4 below;
4. Appeals of planning commission decisions to council.
 - (a) Except as provided in subsection 5 below, any person aggrieved by, or any department of the city affected by, any decision of the planning commission ~~on an appeal~~ pursuant to subsection 1 above may appeal that decision to the council;
 - (b) Any appeal must be filed within ten days after the planning commission's decision by filing with the city clerk a written notice of appeal addressed to the council and specifying the grounds for the additional appeal;
 - (c) The filing of a notice of appeal shall stay all proceedings in furtherance of the decision appealed from. However, if the building official ~~or land use supervisor~~ notifies the council in writing that a stay would cause imminent peril to life or property, and provides written reasons for that opinion, the council may order that proceedings not be stayed pending appeal;
 - (d) The council shall hear the appeal at the next scheduled meeting with time available, and may affirm, modify or reverse the board's decision, and may make any orders, requirements, decisions, or determinations it deems appropriate regarding the appeal;
 - (e) No decision on an appeal or variance shall have the effect of allowing a use that is not a permitted or special use in the zone district where the property is located;
 - (f) If the appeal is regarding an application in any district where the approval of a district plan is required or requested prior to development, the council shall only approve development plans if it finds that the requirements for the district plan in that district will be satisfied;
5. Appeal of planning commission decisions to the courts.
 - (a) In the case of an appeal regarding the zoning of an airport or an Airport Overlay district, the appeal shall proceed pursuant to applicable state law and shall be perfected within 60 days after the decision appealed from is filed in the office of the planning commission;
 - (b) In case of decisions appealable to the district court pursuant to MSA 462.361, the appeal shall be perfected in 60 days after the decision appealed from is filed in the office of the planning commission;
 - (c) All other appeals not otherwise provided for above shall be pursuant to MSA 606.01;
6. Appeals of heritage preservation commission decisions to council.

Where applicable, subsection 50-37.1.O.4 shall apply of heritage commissions decisions, when appealable to city council;

50-37.6 Vacation of street.

This Section applies to all applications to vacate a public street, highway or utility easement. This Section is intended to comply with the provisions of City Charter Section 100.

A. Application.

1. An application for vacation of a public street, highway or utility easement must be accompanied by a petition of the person or persons who own a majority of the lineal frontage of the land abutting the portion of the street, highway or utility easement proposed to be vacated. **The City of Duluth may propose applications for vacations of a public street, highway, or utility easement on its own;**
2. The application shall be filed with the city and forwarded to the planning commission for review;
3. Other application provisions of Section 37.1.B shall apply to the extent they are consistent with subsections 1 and 2 above;

Procedure.

1. Review and recommendation. The city **assessor** shall review the application to determine the sufficiency of the signatures on the petition. The planning commission shall review the application, conduct a public hearing on the proposed vacation pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H and make a recommendation to council based on whether the petition meets the criteria in subsection C below;
2. Council decision. Upon receipt of the planning commission recommendation, and a copy of the vacation plat prepared by the applicant and approved by the city engineer, the council shall make a final decision by resolution pursuant to Section 100(b)5 of the City Charter. Failure to present a vacation plat meeting the city engineer's requirements to the land use supervisor within 90 days of the planning commission's recommendation shall result in the application being denied;
3. Recording. After approval of the vacation, the city clerk shall file the vacation plat and authorizing resolution in the office of the county recorder;

Criteria.

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. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10153, 5-14-2012, § 15.)

Vacation of Street



(P) Indicates Public Hearing Required

This Section applies to all applications for construction of a skywalk and to any other application requesting that the city approve the concurrent use of the street surface, right-of-way or the air rights above the street or the land beneath the street, but shall not apply to the following:

1. Use of a portion of a public sidewalk for a café, eating area, transit shelter or bench, or bicycle parking area, or
2. An awning, canopy, marquee or wall sign, including building mounted exterior lights that conform to the limits of 50-31 and that provide illumination to an awning, canopy, marquee, or wall sign, extending not more than 18 inches into the public street right-of-way, or an awning or canopy of canvas, canvas-like material, nylon or vinyl-coated fabric extending into the public street right-of-way, up to the limits established by Section 50-27, and
3. HVAC air ducts, vents, and related vent covers/hoods painted to match the color of the building where they are mounted, but not including mechanical units (ie. condensers) and motors, extending not more than 18 inches into a public alley right-of-way and having a vertical clearance of at least twelve feet six inches (12'6");

B. Application.

An application for concurrent use of streets shall be filed pursuant to Section 50-37.1.B;

C. Procedure.

1. Review and recommendation.
The planning commission shall review the petition, conduct a public hearing on the application pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H and make a recommendation to council based on whether the application meets the criteria in subsection C below;
2. Council decision.
Upon receipt of the planning commission recommendation, the council shall make a decision to approve, approve with modifications or deny the application, in whole or part, based on the criteria in subsection C below. The council action shall be by ordinance;

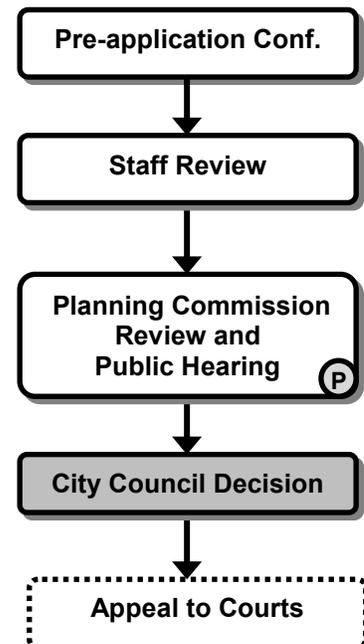
D. Criteria.

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

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.
4. For requests for off-street parking in a public street right of way, a concurrent use permit may be granted in the following circumstances:
 - (a) Where overnight on-street parking is prohibited within that portion of the street frontage abutting the property; and
 - (b) Where the distance between the principle structure and the public street right of way is 18 feet or less; and
 - (c) Where access to the side or rear yard is not possible due to the presence of the principle structure and the lack of an improved alley; and
 - (d) Where a site plan has been submitted showing the arrangement of parking, landscaping, and pedestrian access to the property meeting the following standards:

- (i) The parking area must be at least 9 feet wide by 17 feet deep, including any extension of the parking space from the public right of way into the abutting private property, and must not block existing or proposed public improvements such as sidewalks or streets;
- (ii) The parking area width must not exceed 55% of the lot width;
- (iii) The parking area must be improved with bituminous, concrete, or similar materials or pervious paving system;
- (iv) A paved walkway at least 3 feet wide must be provided that links the front entrance of the dwelling and the street;

Concurrent Use of Street Permit



(P) Indicates Public Hearing Required

- (v) A wall, fence or dense vegetative screen at least 3 feet tall and at least 75% opaque must be provided to screen parked vehicles from view of abutting properties;
- (vi) Barriers must be installed to prevent vehicles from overrunning the parking and driveway areas, such barrier may be a fence, wall or raised curbing (or concrete parking bumpers when secured to the underlying pavement);
- (e) A placard with a diagram no less than 5 inches by 7 inches showing the location and arrangement of parking spaces shall be visible at all times from the exterior of the dwelling; such placard shall be on all-weather media and installed on the front exterior door at an elevation of between 2 feet and 6 feet above the threshold;
- (f) The applicant must sign a document acknowledging that private improvements installed in the public right of way may be removed by the City if needed for installation or repair of public improvements or if the applicant violates the terms of the permit.

50-37.8 Historic resource designation.

A. Application.

1. The heritage preservation commission may, upon its own motion, propose and hear applications to designate a building, structure, site, or object as a local historic landmark. Any property owner or contract purchaser may petition the heritage preservation commission to designate their building, structure, site, or object as a local historic landmark;
2. The application provisions of Section 37.1.B shall apply to the extent they are consistent with subsection 1 above;

Procedure.

1 Review and recommendation by heritage preservation commission.

The heritage preservation commission shall review the application, submit the application to the planning commission, conduct an investigation and public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H, make a recommendation to council, and report on the historical, cultural and architectural significance of the buildings, structures, sites or objects proposed for designation. The report shall also attempt to determine the economic status of the property or properties by providing information such as assessed value, recent real estate transactions and other appropriate data. A copy of the report shall be sent to the state historic preservation officer for review and comment in accordance with MSA 471.193. Any comments made by the planning commission and state historic preservation officer regarding a proposed designation must be included in the commissioner's recommendation to the council;

2 Review and recommendation by planning commission.

The planning commission shall review the application and make a recommendation to the heritage preservation commission and council. In its review and recommendation, the commission shall consider potential effects on the surrounding neighborhood, economics, environment and other planning considerations;

3 Designation by council.

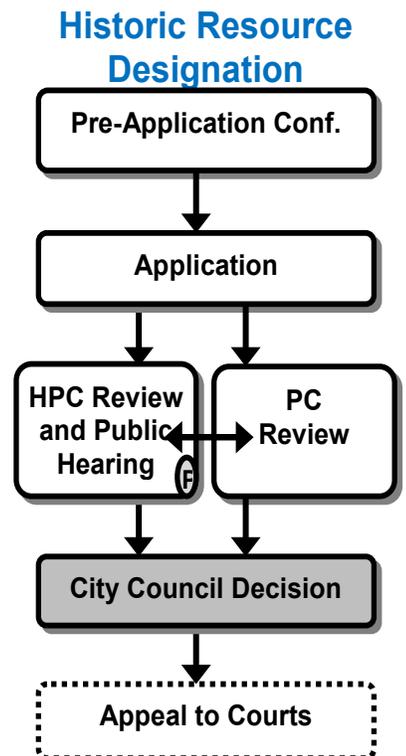
Upon receipt of the report and recommendation of the heritage preservation commission, the council shall make a decision to approve, approve with modifications or deny the designation, in whole or part, based on the criteria in subsection C below. The council action shall be by ordinance;

4 Preservation Plan.

Within one year of City Council approval of the designation, a preservation plan must be submitted to the Heritage Preservation Commission for review. The Heritage Preservation Commission may approve, approve with modifications, or deny the preservation plan;

5 Registration of historic sites.

The city clerk shall record or file with the county recorder the legal description of all properties affected by the council action that also have an approved preservation plan. The city clerk shall also distribute an official list of all locally designated historic preservation landmarks and districts to the land use supervisor and the state historic preservation officer;



(P) Indicates Public Hearing Required

TABLE 50-19.8: USE TABLE, REVISED JAN 2020

	Residential						Mixed Use					Form									Special				Use Specific Standards			
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP		
INDUSTRIAL USES																												
Industrial Service																												
Contractor's shop and storage yard										P		P ³						P					P	P			50-20.4.B	
Dry cleaning or laundry plant										P													P					
Research laboratories									P ¹	P		P ³											P	P				
Industrial services										P													P	P				
Manufacturing and Mining																												
Manufacturing, craft, artisan production shop or artisan studio								P		P			P	P	P	P	P	P	P	P	P						50-20.4.F	
Manufacturing, craft, brewery or distillery								P		P					P	P	P	P	P	P			P				50-20.4.F	
Manufacturing, light									P ¹	P		P ³						P					P				50-20.4.G	
Manufacturing, heavy																							P					
Manufacturing, hazardous or special																							S				50-20.4.H	
Mining, extraction and storage		S																					S	S			50-20.4.I	
Water-dependent manufacturing, light or heavy																								P				
Transportation-Related																												
Airport and related facilities	S																						P			P	50-20.4.A	
Railroad yard or shipyard and related facilities																							P	P				
Truck freight or transfer terminal										P													P	P				
Utilities																												
Electric power or heat generation plant																							P	P				
Electric power transmission line or substation	S	S	S	S	S ²	P ³	S ²	S	S	S	S	P ³	S	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.C	
Major utility or wireless telecommunication facility	S	S	S	S	S ²	P ³	S ²	S	S	S	S	P ³	S	S	S	S	S	S	S	S	S	S	S	S	S	S	50-20.4.E	
Radio or television broadcasting tower		S								S													S	S			50.20.4.J	
Solar, geothermal or biomass power facility (primary use)	S	S	S			P ³	S	S	P		P ³											P	S	S	S			



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

Date: October 29, 2020
 To: Planning Commission
 From: Steven Robertson, Senior Planner
 RE: Proposed UDC Text Amendments for Consideration, PL 20- 173

Planning Staff are proposing a number of changes to the Unified Development Chapter. The proposed changes reflect efforts at correcting identified errors or omissions, updating the code to reflect suggestions through Imagine Duluth 2035, and suggestions from city staff for improving the code. The proposed changes will be submitted as two separate ordinances, and summarized broadly below (noted that the proposed text change is highlighted in yellow in addition to the underline/strikeout format).

PL 20-173, Amending the UDC to Address Form Districts

50-20.C Dwelling, multi-family.

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

Every multi-family dwelling unit on or above the ground floor of a new multifamily structure shall have at least one exterior window that allows for the exchange of air and the admittance of daylight.

50-20.1.D Residential care facility/assisted living.

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

50-20.1.E Rooming house.

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

50-22.2.D Iconic building.

While the previously mentioned building types are intended to serve as the fabric buildings of the city, the iconic building is a unique civic or institutional building that has distinctive character and function within the community. The iconic building has more flexible requirements for building location and transparency than the other non-residential building types due to its unique nature and importance to the community.

The iconic building type is meant to house community, cultural, civic, educational or governmental uses (i.e. uses classified as "Community and Cultural Facilities" or "Educational Facilities" in Table 50-19.8). Properties that are designated as local historic landmarks may contain any land use allowed in 50-19.8 for the zone district that the property is located, and are not limited to only community and cultural facilities or educational facilities. ~~The iconic building has more flexible requirements for building location and transparency than the other non-residential building types due to its unique nature.~~

50-23.2.B Height.

1. Minimum and maximum overall height. (Refer to Figure 50-22.5-B)
2. A required minimum and maximum overall height is provided for all building types and is measured as follows:

Height in stories. The sum of a building's stories. Half stories are located either completely within the roof structure or in a visible basement exposed a maximum of one-half story above average finished grade;

Height in feet measured as follows:

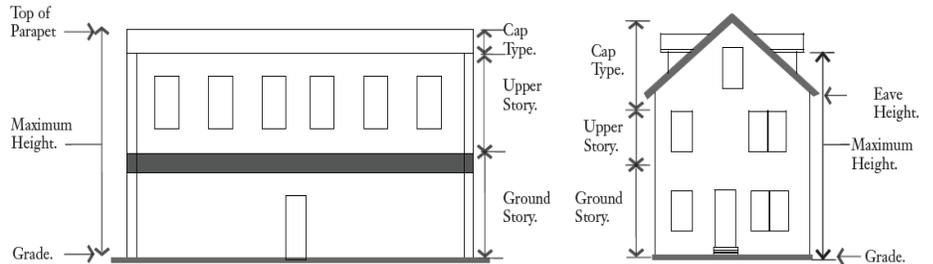


Figure 50-22.5-B: Measuring

Parapet cap type. Overall height is measured from the average finished grade of the building's front facade to the highest point of the parapet;

Pitched cap type. Overall height is measured from the average finished grade of the building's front facade to the midpoint of the highest roof slope;

Flat Roof cap type. Overall height is measured from the average finished grade of the building's front facade to the top of the highest eave;

Appurtenances. Chimneys, antennae and other similar appurtenances may exceed the overall building height by no more than 25 feet;

Towers. Maximum height, measured from the top of the upper story to the top of the tower, is the equivalent of the height of one upper floor of the building to which the tower is applied. This additional floor does not count toward the overall height of the building. Refer to Section 50-22.4 (E);

3. Ground story and upper story minimum and maximum height. (Refer to Figure 50-22.5-B.) Each building type includes a permitted range of height in feet for each story, which is measured as follows:
 - Floor height is measured in feet from the floor of a story to the floor of the story above it;
 - For single story buildings and the uppermost story of a multiple story building, floor to floor height shall be measured from the floor of the story to the tallest point of the ceiling;
4. Where a building spans a block, and the block is adjacent to two street frontages with different building height maximums, the maximum height is determined as follows:
 - Where a block is adjacent to two streets with different maximum building heights, the midpoint between those two streets is the point where the maximum building height transition occurs;
 - Where a block is between Superior Street and Michigan Street, the greater maximum building height allowed on Superior Street extends through the entire block to Michigan Street;
5. In the situation where a single party owns frontage along a street corner, the maximum height for corner parcels applies to lots with the same street frontage owned by the same property owner within 100 feet of the corner;
6. For structures within the downtown area of the Downtown and Canal Park Special Parking District as shown in 50-24.1, the maximum height for all building types may exceed the maximum height normally allowed for the specific building type as shown in 50-22.7 by 50% if the building's proposed use meets specific housing priorities of the City as described in the most recently adopted Comprehensive Plan, but may not exceed 200 feet in any event.

50-22.17 Iconic building.

A. Building Siting

1. Street Frontage

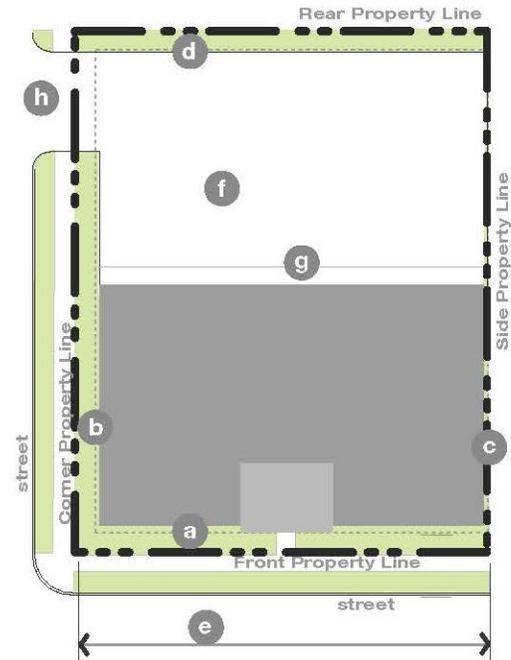
Multiple Principal Buildings	Permitted
Front Build-to Zone Coverage	Not Applicable
Occupation of Corner	Not Required
Front BTZ	5' (a)
Corner BTZ	5' (b)

2. Buildable Area

Side Yard Setback	5' (c)
Rear Yard Setback	5' (d)
Minimum Lot Width	50' (e)
Minimum Landscape Area	20%

3. Parking Lot, Loading & Access

Parking Lot Location	Rear Yard; Single aisle permitted in side yard (f)
Loading Facility Location	Rear building facade (g)
Access	1 driveway permitted per frontage; 2 driveways may be permitted through Land Use Supervisor approval if frontage exceeds 200' (h)



B. Height

Minimum Overall Height	1 story (i)
Maximum Overall Height	55' (j)

C. Uses

Ground & Upper Stories	Only Civic, Institutional, Utility, & Recreation uses are permitted in the Iconic Building Type. <u>Local designated historic landmarks are exempt from this requirement (see Article 3 permitted uses) (k)</u>
Parking within Building	Permitted in the rear of all floors and fully in any basement
Occupied Space	30' depth space facing Primary Streets or space on front façade