



# City of Duluth

## Meeting Agenda

### Planning Commission.

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Tuesday, April 13, 2021

5:00 PM

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

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

#### Call to Order and Roll Call

#### Approval of Planning Commission Minutes

[PL 21-0330](#) Planning Commission Minutes 3/30/21

**Attachments:** [03-30-21 PC Minutes \(not approved yet\)](#)

[PL 21-0309](#) Planning Commission Minutes 3/9/21

**Attachments:** [03-09-21 PC Minutes \(not approved yet\)](#)

#### Public Comment on Items Not on Agenda

#### Consent Agenda

[PL 20-195](#) Vacation of a Portion of 32nd Avenue W at 3204 Carlton Street by William Maney

**Attachments:** [PL 20-195 Staff report and attachments](#)

[PL 21-017](#) Concurrent Use Permit for Existing Building at 7 N 19th Ave W by Newcastle 8 LLC

**Attachments:** [PL 21-017 Staff report and attachments](#)

[PL 21-019](#) Vacation of an Alley at 930 Swan Lake Road by Alvin Berg

**Attachments:** [PL 21-021 Staff Report and Attachments](#)

[PL 21-022](#) Concurrent Use Permit for Utilities in the Right of Way of 4th Avenue E and E 2nd Street by Essentia Health East

**Attachments:** [PI 21-022 Staff Report and Attachments](#)

[PL 21-024](#) Variance from Setbacks for Additional Story at 1239 Missouri Avenue by RBI Group

**Attachments:** [PL 21-024 Staff report and attachments](#)

[PL 21-025](#) Minor Subdivision at 1239 Missouri Avenue by RBI Group

**Attachments:** [PL 21-025 Staff report and attachments](#)

[PL 21-026](#) Concurrent Use of Streets Permit for Underground Heating at 2727 E 5th Street by Ray E Ruoho, Beatrice D Ruoho, Clinton Ruoho, and Mats Hansen

**Attachments:** [PL21-026 Staff Report - final with attachments](#)

### Public Hearings

[PL 21-010](#) Interim Use Permit for Vacation Rental at 3031 Minnesota Avenue by Steven Sola

**Attachments:** [PL 21-010 Staff Report and Attachments](#)

[PL 21-020](#) Interim Use Permit for a Vacation Rental at 120 E Superior Street by Lillecorps One LLC

**Attachments:** [PL 20-020 Staff report and attachments](#)

[PL 21-021](#) Interim Use Permit for a Vacation Rental at 942 89th Avenue W by Ann VanRyswyk

**Attachments:** [PL 21-021 Staff Report and Attachments](#)

[PL 21-029](#) Interim Use Permit for a Vacation Rental at 1407 Morningside Avenue by Rebecca Orn

**Attachments:** [PL 21-029 Staff Report and Attachments](#)

[PL 21-028](#) Interim Use Permit for a Vacation Rental at 4931 E Superior Street by Endion Land Co., LLC

**Attachments:** [PL 21-028 Staff Report - final with attachments](#)

[PL 21-023](#) Variance for Building Height at 601 E 4th Street by Brewery Creek LLLP

**Attachments:** [PL 21-023 Staff Report - final with attachments](#)

[PL 21-042](#) UDC Text Amendments for Changes in the R-2 District by City of Duluth

**Attachments:** [PL 21-042 Staff Memo](#)

[PL 21-041](#) UDC Text Amendments for Historic Preservation by the City of Duluth

**Attachments:** [PL 20-041 Staff Memo and Attachment](#)

### Communications

Land Use Supervisor Report

Tax Forfeit Subcommittee 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 April 13, 2021 Regular 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](mailto: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

**March 30, 2021  
Special 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](mailto: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, March 30th, 2021.

### **Roll Call**

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

Members Present: Jason Crawford\*, Gary Eckenberg\*, Tim Meyer\*, Margie Nelson\*, Eddie Ratnam\*, Zandra Zwiebel\*, Sarah Wisdorf\* (Joined at 5:08), and Michael Schaefer\* (Joined at 5:10),

Members Absent: Andrea Wedul

Staff Present: Adam Fulton\*, Robert Asleson\*, Steven Robertson\*

### **PL 21-008 –Environmental Assessment Worksheet (EAW) 319-323 East Superior Street Redevelopment, Determination on Need For An Environmental Impact Statement (EIS)**

Senior Planner Steven Robertson gave an overview of the issue before the Planning Commission. He stated that the EAW is not meant to approve or disapprove a project, but it is simply a source of information to guide other approvals and permitting decisions. Robertson stated that the EAW process is supposed to determine if an EIS is needed, and how the project can be modified to lessen its environmental impacts. He noted that timeline for the EAW process, stating that the PC reviewed the draft EAW at their February 9<sup>th</sup> meeting and had an optional public hearing at their March 9<sup>th</sup> meeting. He added that there were seven citizen comments, one city comment, and one state agency comments, all recorded, with responses, in the staff review. Robertson concluded by stating that based on the information gathered in the EAW process, staff recommend a negative declaration on the need for an EIS.

**Commissioners:** Commission Zwiebel asked for clarification on what it means to be a contributing historic structure within a larger historic district. Deputy Director Fulton stated that the individual structures themselves do not qualify for national historic designation, but taken as a whole with many other structures, contribute to the historic character of the neighborhood. He stated that these structures are isolated and at the far eastern end of the district, and do not contribute to the district in the same way as buildings where there are other surrounding structures.

**MOTION/Second:** Zwiebel/Eckenberg to adopt the Record of Decision regarding the Environmental Assessment Worksheet for 319-333 East Superior Street, making a finding of no potential for significant environmental effects; a Negative Declaration and that preparation of an Environmental Impact Statement is not required; and adopting and incorporating the entirety of the City of Duluth Planning File PL21-008 as findings supporting the determination.

**VOTE: (8-0)**

**Adjournment**

Meeting adjourned at 5:15 p.m.

Respectfully,

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Adam Fulton – Deputy Director  
Planning and Economic Development

## City of Duluth Planning Commission

**March 9, 2021  
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](mailto: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, March 9th, 2021.

### **Roll Call**

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

Members Present: Jason Crawford\*, Gary Eckenberg\*, Tim Meyer\*, Margie Nelson\*, Eddie Ratnam\*, Michael Schaefer\*, Andrea Wedul, Sarah Wisdorf\*, and Zandra Zwiebel\*

Members Absent: N/A

Staff Present: Adam Fulton\*, Robert Asleson\*, Steven Robertson\*, Jenn Moses\*, John Kelley\*, and Cindy Stafford\*

**Public Comment on Items Not on Agenda** - City Councilor Zack Filipovich thanked the planning commissioners and staff for their input and continued help regarding vacation rental issues. He welcomes pc commissioners to reach out to the city councilors if they have more input.

**Approval of Planning Commission Minutes** - Gary Eckenberg appreciated the clarification to the minutes regarding the mention of vacation rental complaints that it was 1 party with complaints of 45 violations throughout the city. Eckenberg asked about the status of the Cody Street issuance of a ticket. Per Deputy Director Adam Fulton, planner Chris Lee delivered the administrative ticket himself without police escort. A second citation will be issued if the violations are not corrected.

Planning Commission Meeting – February 9, 2021

**MOTION/Second:** Eckenberg/Crawford approved

**VOTE: (9-0)**

### **Presentations**

**Imagine Duluth 2035 Annual Report** – Jenn Reed Moses gave an overview. This is the second report given since adoption in 2016. This version provides a quicker summary and is more graphical in nature. This report combines years 2019 and 2020. Topics included: energy and

conservation, Housing, Open Space, Transportation and Transformative Opportunities. Moses welcomed questions. Zandra Zwiebel asked about the Open Space segment as it applied to the Duluth Natural Areas Program (DNAP) and Hartley. Deputy Director Fulton noted the process is ongoing and they need to finalize their work plan for the upcoming year. If the planning commission approves the Imagine Duluth 2035 Annual Report, it will be submitted to the city council.

**MOTION/Second:** Zwiebel/Wisdorf report accepted as presented

**VOTE: (9-0)**

Highway 61 Revisited – Jordan Van der Hagen, lead for the Highway 61 Revisited initiative, gave an overview. They envision a unified downtown. Why are there so many traffic lanes? He noted the area's demographics: 32% of residents in the area do not own a vehicle. The infrastructure doesn't serve the people living in the area. They are proposing new traffic patterns, decreasing the speed limit, creating 20 acres of reclaimed land by displacing lanes of traffic, and creating green space. They would like to see more connections between downtown and Canal Park. The city has a real opportunity here. He thanked the commissioners and welcomed questions. Eckenberg asked what other groups has Van der Hagen talked to. He noted MIC, GDC, the Canal Park Business District and MN/Dot. Zwiebel noted the current system ended up being a freeway because of funding. She hopes to see the new plan happen. Andrea Wedul asked what the economic drivers are. Van der Hagen noted, housing needs, diversify ownership, and economic activity downtown. They want to urbanize and create more infrastructure to protect the long-term effect on the lake. It is asphalt now, they hope to create high-quality green spaces and stormwater plans. Wedul noted the snow removal component in regards to MN/Dot. Round-a-bouts are noted and they can be built to handle RV traffic. Wedul thanked Van der Hagen for his presentation.

### **Consent Agenda**

PL 21-009 Vacation of Utility Easement at 939 Idaho Street by Lutheran Social Services of Minnesota

PL 21-011 Minor Subdivision at 231 E Arrowhead Road by Amnicon LLC

PL 21-014 Minor Subdivision at 54xx Tioga Street by Jay Isenberg

PL 21-015 Vacation of One Foot of a Utility Easement at 2102 W Superior Street for a Building Foundation by Duluth Lincoln Park1, LLC

**Staff:** Deputy Director Fulton noted there is an additional condition for item PL21-009, as an easement is needed for sanitary sewer access, and will be added to the applicant's action letter. Wedul asked where it was on the map. John Kelley referred to the east/west dashed line and the area around the grinder pump which will need to be vacated.

**Public:** PL21-009 – Dean Minardi, present as a representative for Lutheran Social Services welcomed questions. There were none.

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

**VOTE: (9-0)**

**Public Hearings**

PL 21-008 Environmental Assessment Worksheet for the 319-333 East Superior Street Redevelopment

**Staff:** Steven Robertson introduced the project, which involves the demo of three building in downtown Duluth. The EAW is not meant to approve or disapprove a project. They are currently in the middle of a 30-day comment period. He welcomed comments.

**Applicant:** N/A

**Public:** No speakers.

**Commissioners:** Tim Meyer noted it is not practical to integrate old structures into a new building. He would like to see the facades replicated in the new building. Could the current facades be integrated? Deputy Director Fulton noted the façades have been discussed with the developer. They would like to retain elements of the façade for historic interpretation, perhaps on the building's interior. Meyer feels this gesture would be appreciated by the community. Sarah Wisdorf shared they had an HPC meeting yesterday. They briefly went over mitigation strategies. They are amenable to interpretive signage and maintaining the elements that they could.

**MOTION/Second:** N/A (Item open for public comment – action to determine whether an EIS is necessary will be held during a special meeting on March 30, 2021)

PL 21-004 Proposed UDC Text Changes Related to Self-Storage Facilities, Sober Houses, Use Table, and Signage Including Signage at Bus Shelters

**Staff:** Deputy Director Fulton noted this item was held over from last month. Steven Robertson gave an overview. The amendments are noted in red in the staff report. The language used for residential care facilities parrots Minnesota State Statute. Sober house language remains the same, except item 3 states there is a minimum distance of 350 feet from existing sober homes, and there is no treatment provided on site. Robertson welcomed comments, questions, and would appreciate an action tonight. Wedul asked about the reasoning not to include sober homes in a rural setting application. Robertson noted residents may not have a vehicle, and it needs to be on a transit route. Wedul referred to MU-C/MU-N/MU-B – access points on sides or rear of mini-storage. Would it be excluded if they had a front entry? Robertson noted pedestrian access is okay, but does not include loading docks. This mimics the other language. Eddie Ratnam noted DTA bus shelter signage. Robertson stated up until now, you couldn't have commercial messaging in the public right of way. Ratnam asked about storage facilities language. Does it specify the type of materials that can be kept inside? Robertson stated they don't call our materials inside the building. The fire department may, but it is not addressed in the zoning code.

**Applicant:** N/A

**Public:** Kellin Sybrant of U-Haul addressed the commission. They have a storage facility north of the mall. They would like to provide climate controlled areas for the customers. He thanked the commissioners for their time and consideration.

**MOTION/Second:** Wedul/Zwiebel recommended approval as per staff recommendations

**VOTE: (9-0)**

**Communications**

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview. He took a picture of the serving commissioners using the web-ex camera. This is commissioner Meyer's last meeting. Deputy Director Fulton thanked Meyer for his service and will forward him a

certificate of appreciation for his eight year commitment. Meyer thanked the commissioners and staff. He feels public service is important and likes to give back to the community. The commissioners individually thank Meyer and wish him well. Deputy Director Fulton noted there will be a special meeting on 3/30/2021 at 5:00 p.m. to consider the EAW for 319-333 E Superior Street. This is related to project schedule, to allow for timely HPC review of the historic demolition permit. He noted city hall is closed through the end of April. Staff continues to work on the vacation dwelling units program. The city council had a lot of ideas and he thanked Councilor Filipovich for his efforts. Deputy Director Fulton stated they now have a stronger sense of what the right answers may look like. The process is ongoing. He noted the MN Power Duluth Loop Project. He will email the commissioners more information. It is for the new transmission infrastructure. He asked for tax forfeit subcommittee volunteers. They will meet at 4:30 in advance of April's planning commission meeting. (Schraepfer, Wisdorf, Wedul, Eckenberg and Ratnam volunteered.) Deputy Director Fulton noted Core Investment Planning and will focus on Spirit Valley. He gave an update on the Central High School site. The school may apply for rezoning at the May planning commission meeting. There are 90 acres in the heart of the city, which has been vacant for ten years. Robertson noted they are accepting RFP's for design standards for a portion of downtown. The grant was approved last summer. It will be a guidebook to help fit into the character of the neighborhood.

Heritage Preservation Commission – Commissioner Wisdorf gave an overview. They met yesterday and approved the certificate of appropriateness for the old central building redevelopment.

Joint Airport Zoning Board – Commissioner Eckenberg is the new representative. Duluth is working on their own master plan. City attorney Steve Hanke is also involved.

Duluth Midway Joint Powers Zoning Board – No report.

### **Adjournment**

Meeting adjourned at 7:03 p.m.

Respectfully,

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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

<b>File Number</b>	PL 20-195	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Type</b>	Vacation of Street	<b>Planning Commission Date</b>	April 13, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	March 11, 2021	<b>60 Days</b>	June 10, 2021
	<b>Date Extension Letter Mailed</b>	March 16, 2021	<b>120 Days</b>	July 9, 2021
<b>Location of Subject</b>	North 32nd Avenue West between Carlton Street and West Superior Street			
<b>Applicant</b>	William Maney	<b>Contact</b>		
<b>Agent</b>	Michael Cooper	<b>Contact</b>		
<b>Legal Description</b>	See Attached			
<b>Site Visit Date</b>	April 2, 2021	<b>Sign Notice Date</b>	March 30, 2021	
<b>Neighbor Letter Date</b>	April 1, 2021	<b>Number of Letters Sent</b>	11	

**Proposal:** The applicant is requesting the vacation of a portion of North 32<sup>nd</sup> Ave West between Carlton Street and West Superior Street (see vacation exhibit) with retained utility easement to allow use of the area by Mid-State Truck Service.

**Staff Recommendation:** Staff is recommending that the Planning Commission approve the vacation with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-B	32 <sup>ND</sup> Avenue West	General Mixed Use
<b>North</b>	MU-B	Commercial	General Mixed Use
<b>South</b>	MU-B	Railroad/Vacant land	Transportation and Utilities
<b>East</b>	MU-B	ISD 709 Bus lot	General Mixed Use
<b>West</b>	MU-B	Railroad/vacant land	General Mixed Use

**Summary of Code Requirements:**

Vacation of public streets, highways, 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; DOES NOT APPLY
3. Is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.

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

Governing Principle #1 – Reuse of previously developed lands. The proposed street vacation allows for future investment to a site that has potential to perform at a higher level than its current state.

Governing Principle #5 – Promote reinvestment in neighborhoods. The proposed street vacation will allow the applicant to utilize an area between existing parcels occupied by the same business.

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

**Review and Discussion Items:**

Staff finds that:

1. The applicant is requesting to vacate a portion of 32nd Avenue West right-of-way between Carlton and Superior Streets while retaining a utility easement over the entire vacated area as shown in the attached exhibit.
2. The applicant owns the property on both sides of 32<sup>nd</sup> Avenue West. The applicant intends to use the vacated area for business purposes such as display area for Mid- State Truck Service.
3. There is an existing gas and water line within the street. The City Engineering office has reviewed the proposed vacation and has indicated that a utility easement shall be retained over the entire portion of area to be vacated.
4. City Engineer's stated that that any modifications to the vacated street and the area within the utility easement will need to be reviewed and approved by the engineering department prior to any disturbance.
5. 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.
6. No other public or City comments have been received at the time of drafting this report.
7. Vacations of streets 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.

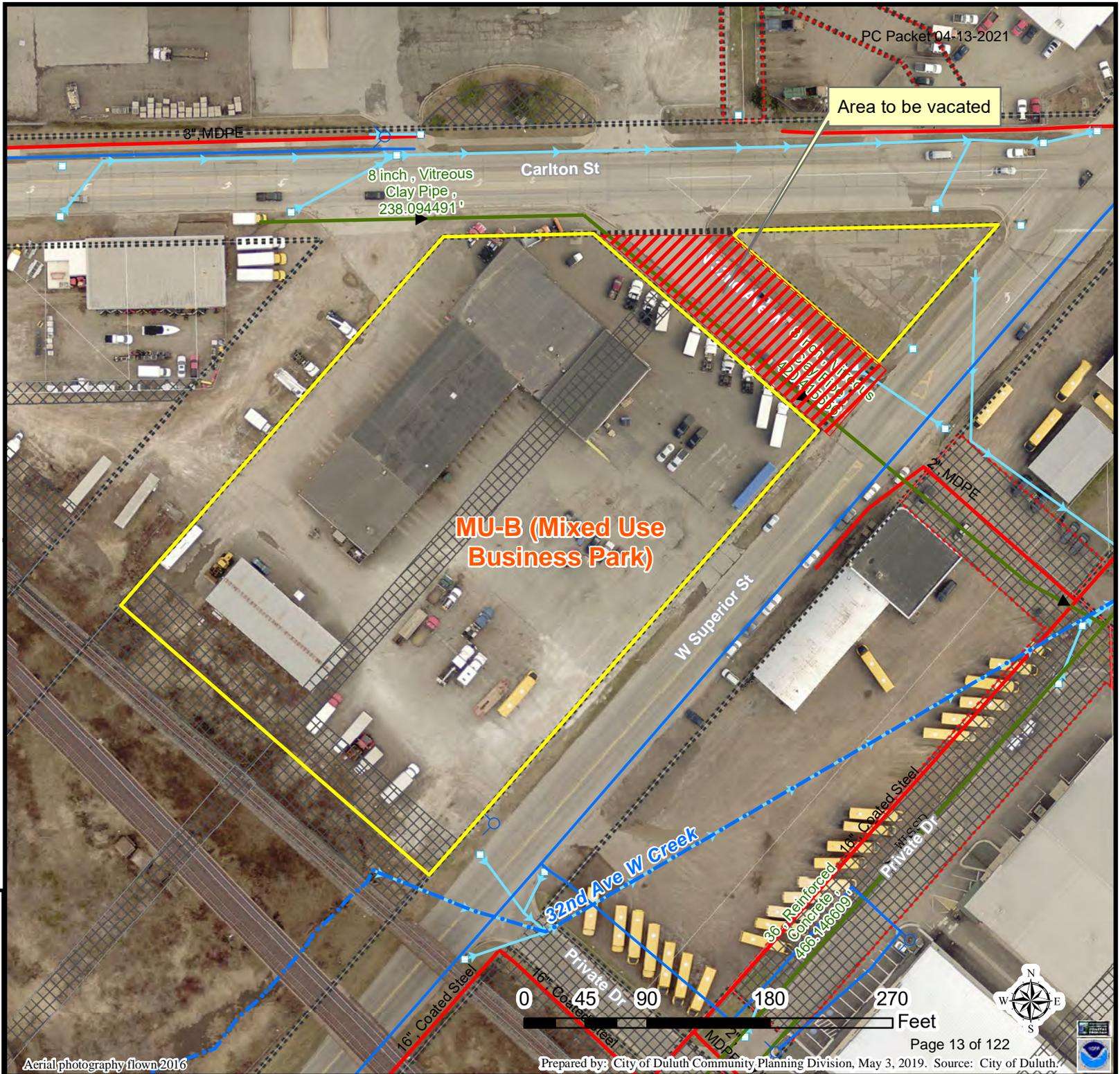
**Staff Recommendation:**

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

- 1.) A utility easement will be retained as shown in the attached exhibit.
- 2.) The vacation must be recorded within 90 days of final approval by City Council or such approval will lapse. The vacation shall not be final until the plat is recorded in the office of the St. Louis County Recorder.
- 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.



PL 20-195  
Vacation of right of way



**Legend**

- Gas Main
- Water Main
- Hydrant

**Sanitary Sewer Mains**

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

**Storm Sewer Mains**

- Storm Sewer Pipe
- Storm Sewer Catch Basin

**Easement Type**

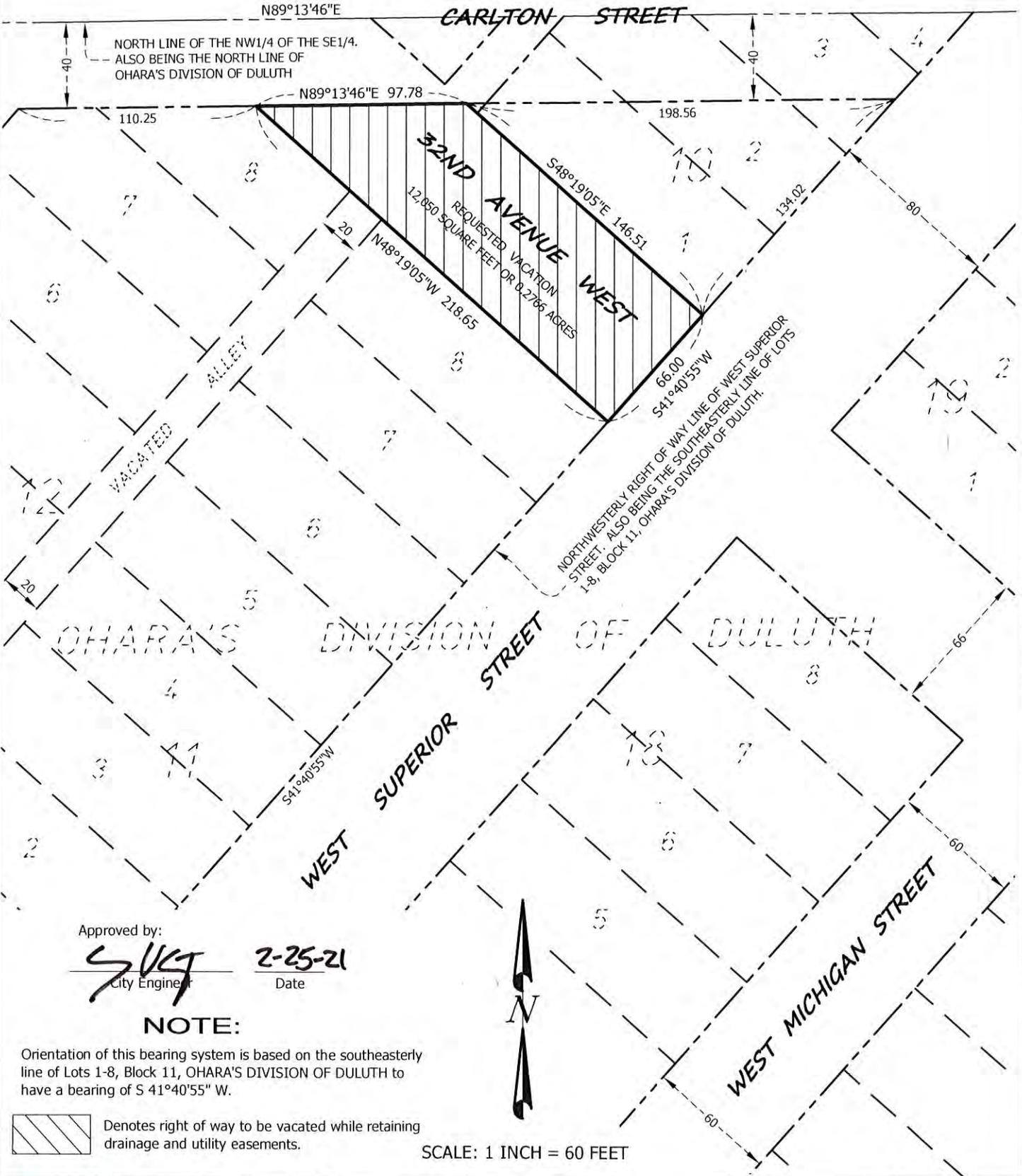
- Utility Easement
- Other Easement
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRR)

**Other Symbols**

- Storage Basin
- PS Pump Station
- Road or Alley ROW
- Vacated ROW

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

# VACATION



Approved by:

*SUKY*  
 City Engineer

2-25-21  
 Date

### NOTE:

Orientation of this bearing system is based on the southeasterly line of Lots 1-8, Block 11, OHARA'S DIVISION OF DULUTH to have a bearing of S 41°40'55" W.



Denotes right of way to be vacated while retaining drainage and utility easements.

SCALE: 1 INCH = 60 FEET

T:\Mid-State Truck Service\dwg\700\20-816 Mid-State Truck Vacation.dwg 2/26/2021 10:28 AM



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

## VACATION EXHIBIT:

For: Mid-State Truck Service, Duluth, MN

PROJECT NUMBER

20-816

SHEET NUMBER

2 of 2 Sheets

# VACATION

## VACATION DESCRIPTION:

That part of 32nd Avenue West as platted and dedicated in the plat of OHARA'S DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, lying southerly of the line drawn 40 feet southerly and parallel with the north line of the Northwest Quarter of the Southeast Quarter of Section 5, Township 49 North, Range 14 West, St. Louis County, Minnesota, also being the north line of OHARA'S DIVISION OF DULUTH, and lying northwesterly of the northwesterly right of way line of West Superior Street as platted and dedicated in said OHARA'S DIVISION OF DULUTH.

Reserving a drainage and utility easement over under and across the above described tract.

## SURVEYOR NOTES:

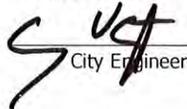
Orientation of the bearing system is based on the southeasterly line of Lots 1-8, Block 11, OHARA'S DIVISION OF DULUTH, to have a bearing of S 41°40'55" W.

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

Area of proposed vacation is 12,050 square feet or 0.2766 acres.

Parcel Identification Numbers for this property are 010-3590-00400 and 010-3590-00520.

Approved by:

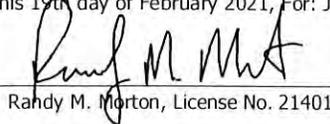
  
City Engineer

2-25-21  
Date

## CERTIFICATION:

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

Signed this 19th day of February 2021, For: JPJ Engineering

  
Randy M. Morton, License No. 21401

T:\Mid-State Truck Service\dwg\700\20-816 Mid-State Truck Vacation.dwg 2/19/2021 9:49 AM



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

## VACATION EXHIBIT:

For: Mid-State Truck Service, Duluth, MN

PROJECT NUMBER

20-816

SHEET NUMBER

1 of 2 Sheets





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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

 218-730-5580

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

<b>File Number</b>	PL 21-017		<b>Contact</b>	John Kelley, <a href="mailto:jkelley@duluthmn.gov">jkelley@duluthmn.gov</a>	
<b>Type</b>	Concurrent Use Permit		<b>Planning Commission Date</b>	April 13, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	February 16, 2021	<b>60 Days</b>	April 17, 2021	
	<b>Date Extension Letter Mailed</b>	March 16, 2021	<b>120 Days</b>	June 16, 2021	
<b>Location of Subject</b>	7 North 19th Avenue West				
<b>Applicant</b>	Newcastle 8 LLC		<b>Contact</b>	Eric Gunderson & Mike Sevcik	
<b>Agent</b>			<b>Contact</b>		
<b>Legal Description</b>	See attached				
<b>Site Visit Date</b>	April 2, 2021		<b>Sign Notice Date</b>	March 30, 2021	
<b>Neighbor Letter Date</b>	N/A		<b>Number of Letters Sent</b>	N/A	

**Proposal:** The purpose of this application is to obtain a Concurrent Use Permit (CUP) for the existing building that encroaches into the West 1<sup>st</sup> Street alley.

**Staff Recommendation:** Staff is recommends that Planning Commission recommend approval to City Council.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-5	Apartment Building	Central Business Secondary
<b>North</b>	MU-B	Commercial	Central Business Secondary
<b>South</b>	F-5	Commercial	Central Business Secondary
<b>East</b>	F-5	Commercial	Central Business Secondary
<b>West</b>	MU-B	Parking	Central Business Secondary

**Summary of Code Requirements:**

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

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city.
2. ... Not Applicable
3. No portion of a public easement proposed for use is being physically used or occupied by the public.
4. ...Not Applicable

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

Governing Principle #1 – Reuse previously developed lands: includes adaptive reuse of existing building stock and historic resources, as this strengthens neighborhoods. The applicant is proposing to use the existing building for vacation dwelling units and requires a concurrent use permit to renovate the building due to the encroachment into the alley.

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

**History:**

1891 – Building was constructed.

PL 20-189, 190, 191, 192 – Planning Commission approved 4 interim use permits for Vacation Dwelling Units within the building.

**Review and Discussion Items**

Staff finds that:

- 1.) The existing building located at 7 North 19th Avenue West was constructed 1891 and encroached into the West 1st Street alley.
- 2.) The concurrent use area consists of a 1.0 (one) foot wide by approximately 40 foot long area on the rear side of the building. The applicant will not be expanding the structure but will be renovating the interior of the building for vacation dwelling units.
- 3.) The building has been in this location since being constructed in 1891 and will not impact pedestrian or vehicular movement in the street right of way, nor will it impact the visual characteristics of the streets.
- 4.) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against occurrences in the right of way. Other protections for the city and the public are typically included in the ordinance that is submitted to City Council. The ordinance will state that the City is not responsible for removal/replacement of the applicant's infrastructure should the City need to access the right-of-way in the permitted area.
- 5.) The area proposed for the concurrent use permit will not diminish the public's ability to use the public right of way, nor will it harm or inconvenience the health, safety, and general welfare of the city.
- 6.) No other public, agency, or other comments have been received as of March 31, 2021.

**Staff Recommendation**

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

- 1.) Applicant shall maintain the project as identified in the attached exhibits.
- 2.) Applicant shall provide annual proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit.
- 3.) 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.



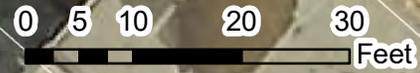
PL 21-017  
CUP Location Map

CUP Area

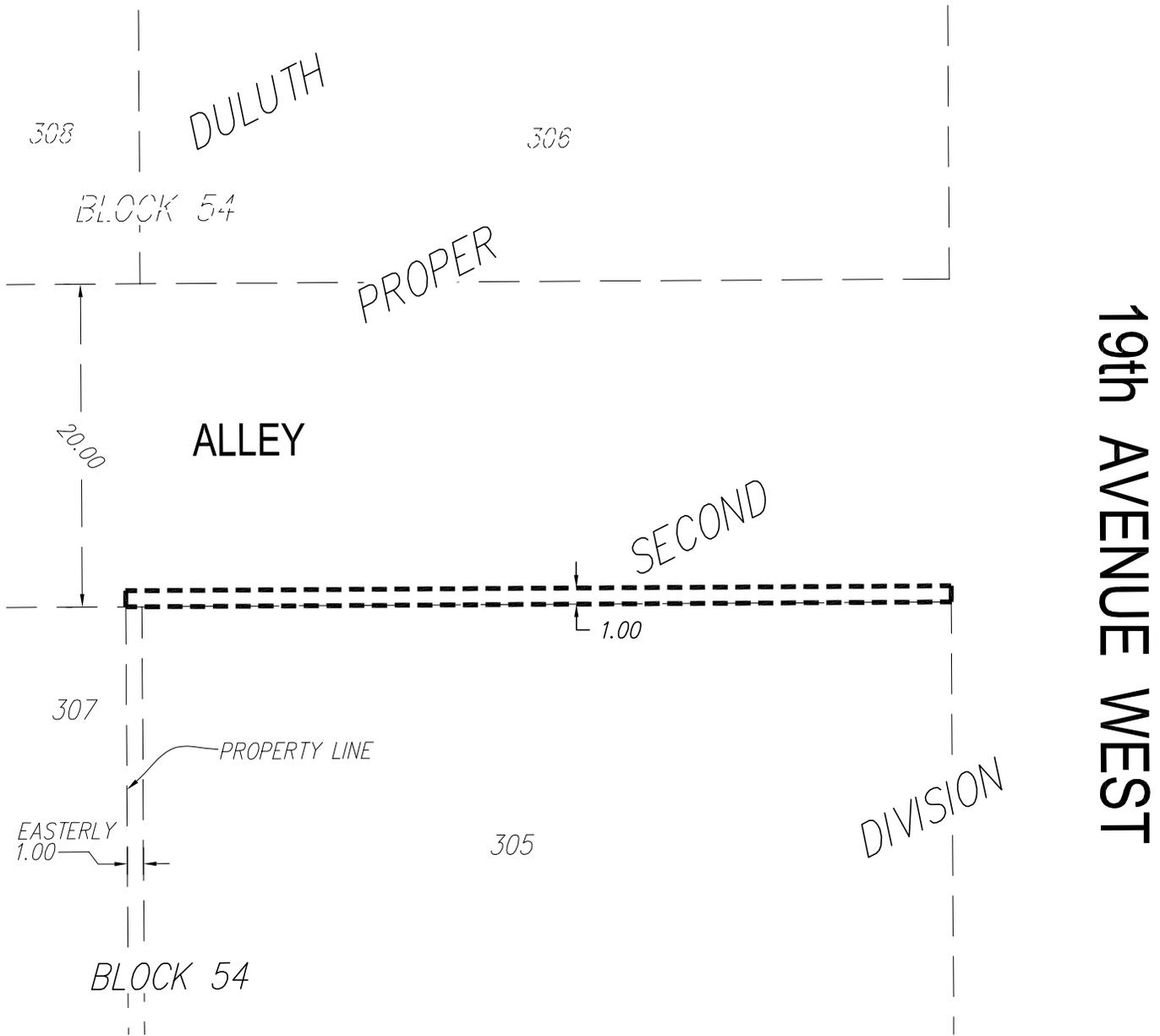
**Legend**

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
  - CITY OF DULUTH
  - WLS&D; PRIVATE
  - Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
- Road or Alley ROW
- Vacated ROW
- Easement Type
  - Utility Easement
  - Other Easement
  - Zoning Boundaries
- Shoreland (UDC)
  - Cold Water
  - Natural Environment
  - General Development
  - Trout Stream (GPS)
  - Other Stream (GPS)

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



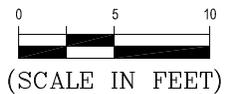
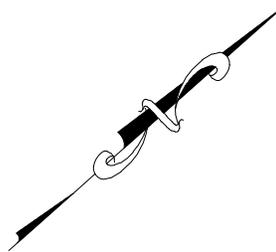
# EXHIBIT B



19th AVENUE WEST

= CONCURRENT USE PERMIT AREA

APPROVED BY: \_\_\_\_\_  
CITY ENGINEER



(SCALE IN FEET)  
Basis of Bearing is Grid North,  
St. Louis County Transverse  
Mercator 96 Coordinate System.

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

Print Name: Paul A. Vogel License # 44075

Signature: Date: 02/05/2021

DATE PREPARED: 2/05/21

PROJ NO: 210041

FILE: 210041.dwg

SHEET 1 of 1 SHEETS



PERFORMANCE  
DRIVEN DESIGN.  
LHBcorp.com

21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.8446



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

<b>File Number</b>	PL 21-019	<b>Contact</b>	Chris Lee, clee@duluthmn.gov	
<b>Type</b>	Vacation of platted alley	<b>Planning Commission Date</b>	April 13, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	March 5, 2021	<b>60 Days</b>	May 4, 2021
	<b>Date Extension Letter Mailed</b>	March 23, 2021	<b>120 Days</b>	July 3, 2021
<b>Location of Subject</b>	930 Swan Lake Rd			
<b>Applicant</b>	Alvin Berg	<b>Contact</b>		
<b>Agent</b>	Dave Evanson	<b>Contact</b>	ALTA Land Survey Company	
<b>Legal Description</b>	See Attached			
<b>Site Visit Date</b>	March 31, 2021	<b>Sign Notice Date</b>	March 30, 2021	
<b>Neighbor Letter Date</b>	March 31, 2021	<b>Number of Letters Sent</b>	22	

**Proposal**

Applicant requests vacation of a platted unimproved alley in the Duluth Heights Sixth Division located on the property at 930 Swan Lake Road in preparation for construction of a new single-family home.

Staff recommends approval with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Vacant/Undeveloped	Traditional Neighborhood
<b>North</b>	R-1	Vacant/Undeveloped	Traditional Neighborhood
<b>South</b>	R-1	Vacant/Undeveloped	Traditional Neighborhood
<b>East</b>	R-1	Vacant/Undeveloped	Traditional Neighborhood
<b>West</b>	R-1	Vacant/Undeveloped	Traditional Neighborhood

**Summary of Code Requirements:**

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

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

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles, or pedestrians or the efficient supply of utilities or public services in the city;
2. Is not otherwise needed to promote the public health, safety, or welfare of the citizens of Duluth.

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

Governing Principle #5 – Promote reinvestment in neighborhoods. Vacating this portion will allow previously unused property to be improved increasing the city’s tax base,

Zoning – Residential-Traditional (R-1): The R-1 district is established to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots.

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

History: The alley was part of the original plat in the area. The current road (Swan Lake) was built not with the intention of using a grid-like pattern of development. The alley is not needed for road purposes as the land here is generally not suitable for dense construction.

**Review and Discussion Items:**

Staff finds that:

1. The applicant is requesting to vacate the entire length of the 16-foot-wide alley running perpendicular to 930 Swan Lake Road. The alley was platted in the Duluth Heights Sixth Division but never utilized for its intended purpose.
2. The purpose is to vacate the alley in preparation for the construction of a new single-family home.
3. There are no utilities installed in the alley and no utilities are expected to be needed in this corridor according to the City Engineering office.
4. The alley will not be needed by the City for the efficient supply of utilities or public services in the City, nor for the promotion of public health, safety, or welfare of the citizens of Duluth.
5. No other public or City comments have been received at the time of drafting this report.
6. Vacations of rights of way and easements lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

**Staff Recommendation:**

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

1. The vacation must be recorded within 90 days of final approval by City Council or such approval will lapse.
2. 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.

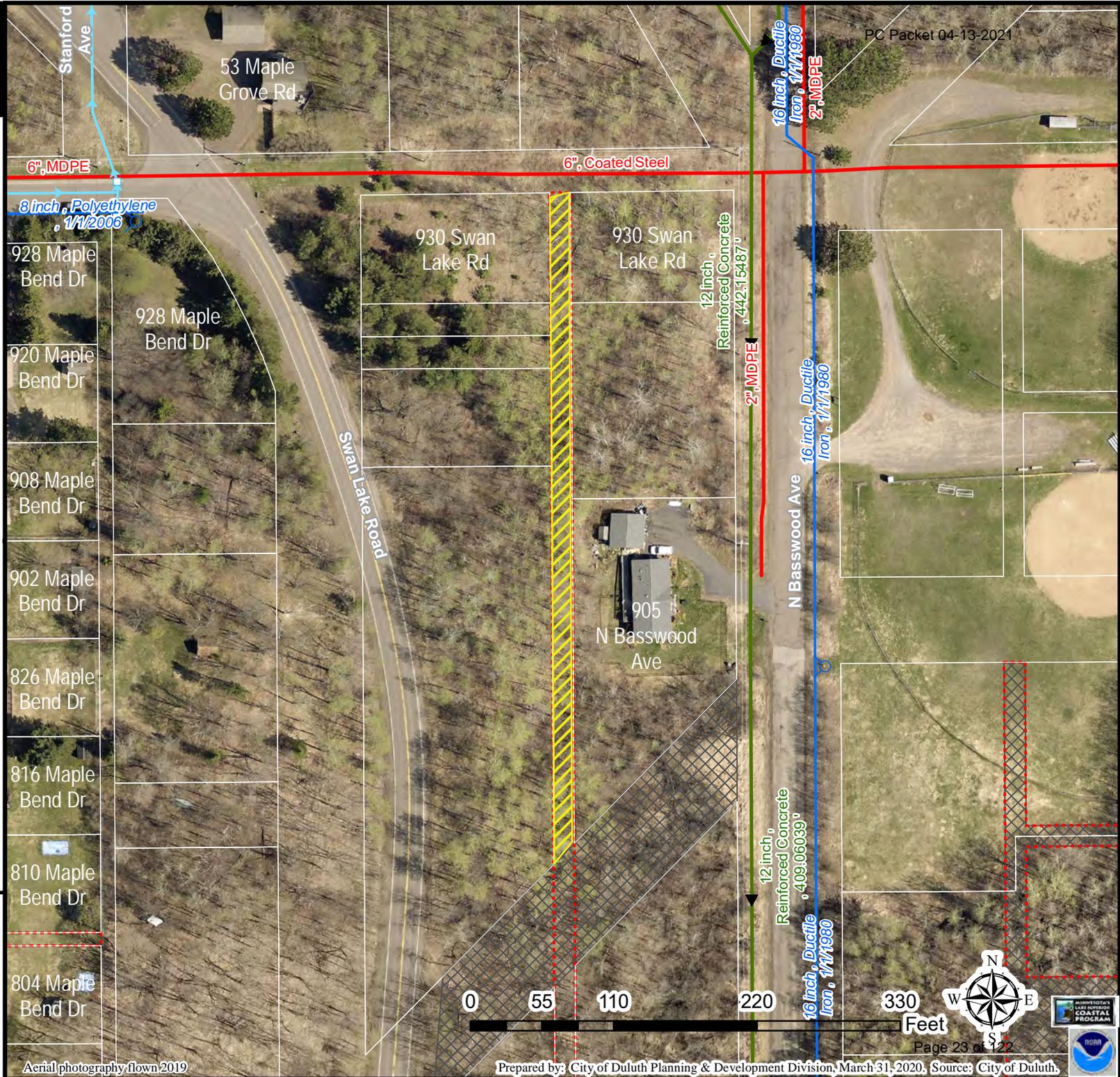


PL 21-019  
Vacation of Alley  
930 Swan Lake Rd

PC Packet 04-13-2021

**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



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Aerial photography flown 2019

Prepared by: City of Duluth Planning & Development Division, March 31, 2020, Source: City of Duluth.

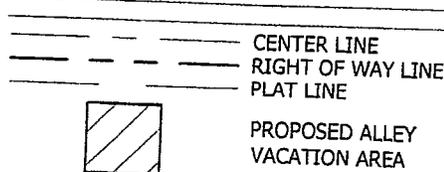


LEGAL DESCRIPTION OF VACATION OF ALLEY

All that part of the 16 foot wide Alley lying within Block 2, DULUTH HEIGHTS SIXTH DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

Said parcel contains 8,101 square feet or 0.19 acres.

**LEGEND**



**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. THIS IS NOT A BOUNDARY SURVEY.

Approved by the City Engineer of the City of Duluth, MN this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_

By \_\_\_\_\_

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:11-03-2020

MN Lic. No. 49505

**VACATION EXHIBIT**

CLIENT:ALVIN BERG

REVISIONS:

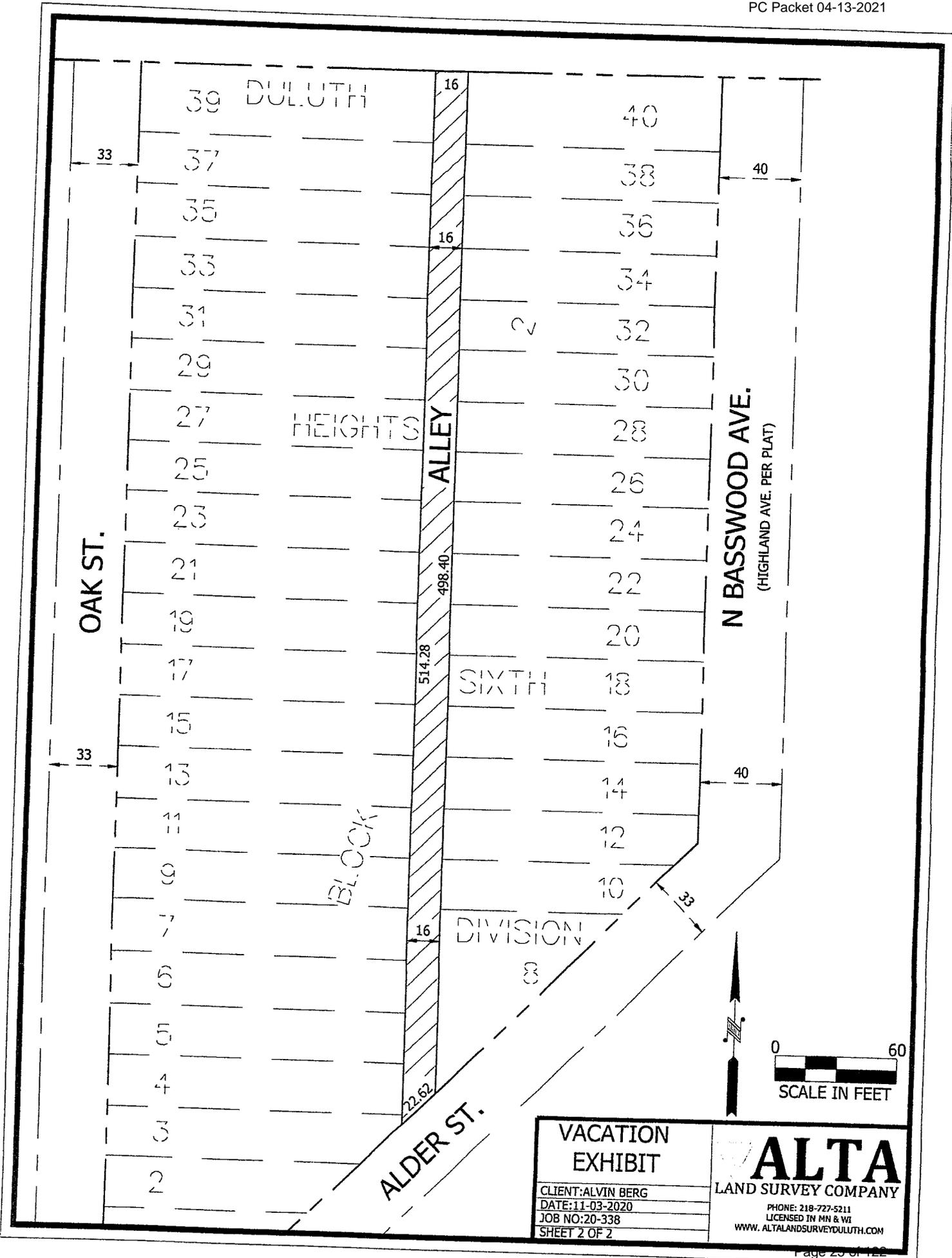
ADDRESS:XXX N BASSWOOD AVENUE  
DULUTH, MN 55811

DATE:11-03-2020

JOB NO:20-338 SHEET 1 OF 2

**ALTA**  
LAND SURVEY COMPANY

PHONE: 218-727-5211  
LICENSED IN MN & WI  
WWW.ALTALANDSURVEYDULUTH.COM



**VACATION EXHIBIT**

CLIENT: ALVIN BERG  
 DATE: 11-03-2020  
 JOB NO: 20-338  
 SHEET 2 OF 2

**ALTA**  
 LAND SURVEY COMPANY

PHONE: 218-727-5211  
 LICENSED IN MN & WI  
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**Planning & Development Division**  
 Planning & Economic Development Department

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 21-022	<b>Contact</b>	Steven Robertson	
<b>Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	April 13, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	March 9, 2021	<b>60 Days</b>	May 8, 2021
	<b>Date Extension Letter Mailed</b>	March 15, 2021	<b>120 Days</b>	July 7, 2021
<b>Location of Subject</b>	4 <sup>th</sup> Avenue East and East 2 <sup>nd</sup> Street			
<b>Applicant</b>	Essentia Health	<b>Contact</b>		
<b>Agent</b>	LHB	<b>Contact</b>	Evan Aljoe, Healthcare Studio Lead	
<b>Legal Description</b>	See Attached	<b>Sign Notice Date</b>	March 29, 2021	
<b>Site Visit Date</b>	Mach 14, 2021	<b>Number of Letters Sent</b>	N/A	

**Proposal**

The applicant is seeking a concurrent use permit to construct private underground utilities within the public right-of-way of 4th Avenue East and East 2nd Street, for private utility conduit (two, two-inch conduits) between Essentia Health’s new hospital to Essentia Health’s new security command center located in the Duluth Clinic 3<sup>rd</sup> Street Building.

**Staff Recommendation**

Staff is recommending Planning Commission recommend approval to the City Council.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-I	Medical	Medical District
<b>North</b>	MU-I	Medical	Medical District
<b>South</b>	MU-I	Medical	Medical District
<b>East</b>	MU-I	Medical	Medical District
<b>West</b>	MU-I	Medical	Medical District

**Summary of Code Requirements**

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

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

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

Governing Principle #4-Support economic growth sectors.

Emerging and growing economic sectors, including medical, add economic, cultural, and social diversity.

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

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

Economic Development Policy #2—Foster growth of existing employers and strategically recruit new employers to Duluth. Strategy #1- Prioritize redevelopment efforts in the Core Investment Areas. Encourage collaboration between existing businesses in individual Core Investment Areas to support increased business activity overall and to improve their aesthetic and social environments. Recognize Core Investment Areas as hubs of the sharing and remote-work economy (Hillside CIA/Downtown Duluth)

Future Land Use

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

**Review and Discussion Items:**

- 1) The applicant is seeking a concurrent use permit to construct private underground utilities within the public right-of-way of Fourth Avenue East and East Second Street, for private utility conduit (two, two-inch conduits) between Essentia Health's new hospital to Essentia Health's new security command center located in the Duluth Clinic 3rd Street Building.
- 2) The area proposed for the concurrent use permit will not take away from the public's ability to use the public right-of-way, nor will it harm or inconvenience the health, safety and general welfare of the city.
- 3) Concurrent use permits are approved by the City Council via an ordinance. Unlike street right-of-way vacations, concurrent use permits are not recorded at with St. Louis County as they are voidable agreements between the City and property owners. City engineering has reviewed and approved the exhibits (CUP exhibit, street cross-section, and legal description), and have indicated that they have no concerns with this proposal
- 4) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against all occurrences in the right-of-way. Other protections for the city and the public are typically included in the ordinance that is submitted for the City Council's review. The ordinance will require that the project proposer will locate any underground items in accordance with Gopher State One Call rules, and that the city will bear no responsibility for locating any facility related to the concurrent use permit except as it is legally responsible under the Gopher State One Call rules. A condition of earlier zoning applications was that Essentia Health locate any private improvements in accordance with Gopher State Once Call rules and that they or subsequent owner of the private improvements shall relocate any improvements found to be in conflict with existing or future city utility or street projects. On August 14, 2019, Essentia Health was enrolled in Gopher One as a provider (MN01741).
- 5) No comments were received from the public or other government agencies at the time this staff report was written.
- 6) Per UDC Sec. 50-37.1.N, approved concurrent use permits lapse if the project or activity authorized by the permit has not begun within one-year.

**Staff Recommendation**

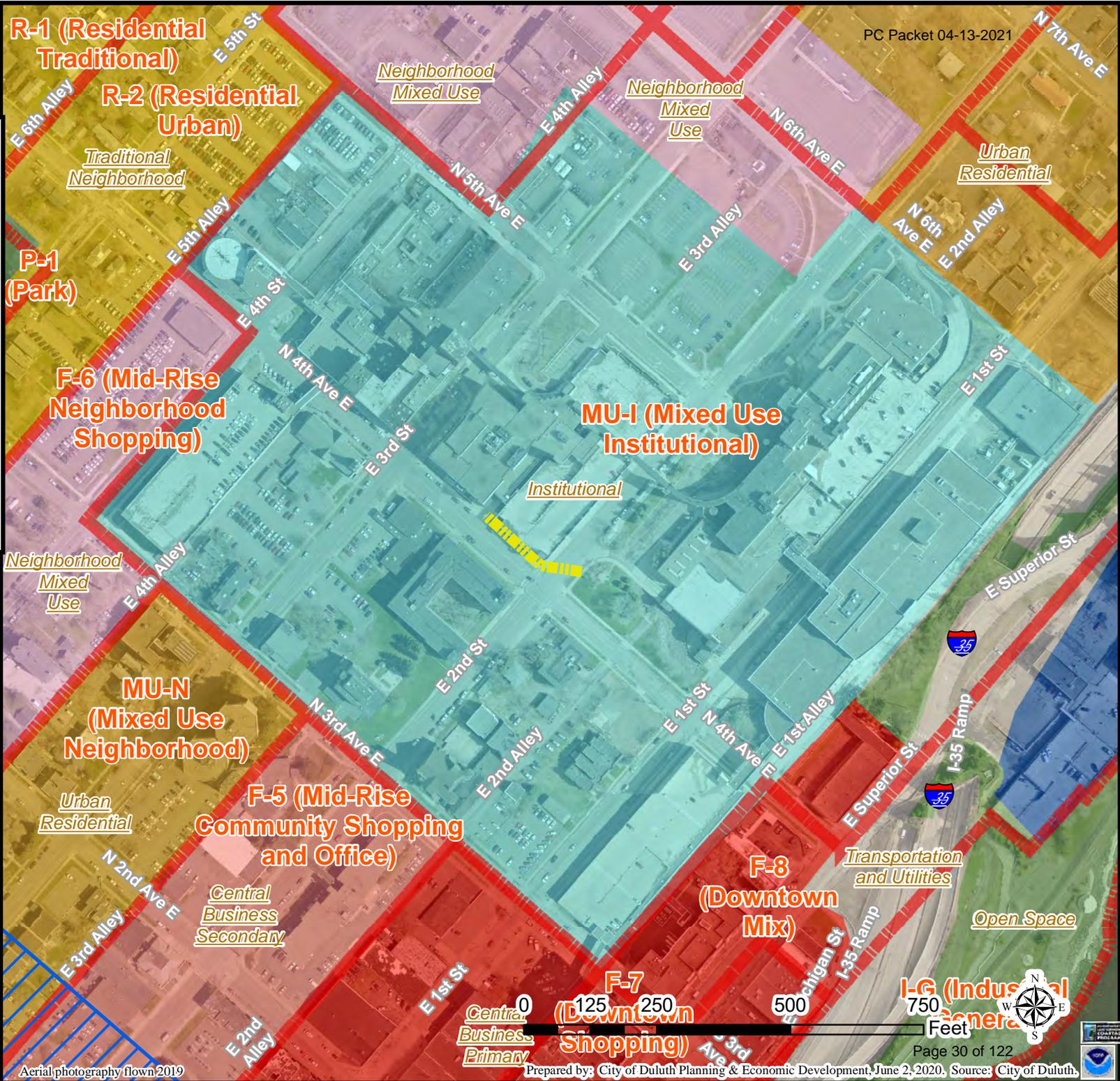
Based on the above findings, Staff recommends that Planning Commission approve the concurrent use permit with the following conditions:

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



### Legend

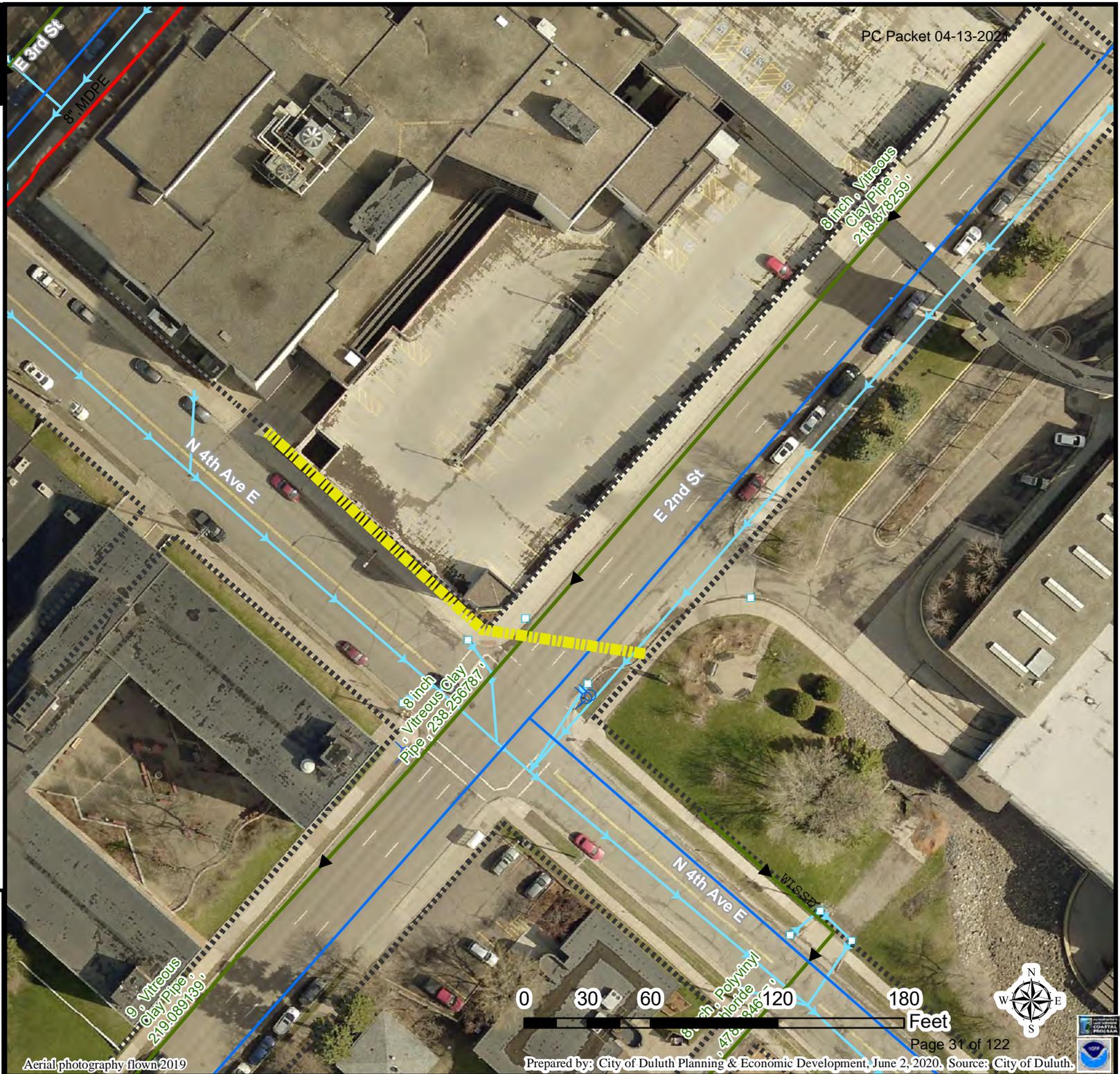
- Zoning Boundaries
- Open Space
- Open Space/Outside Duluth
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Central Business Secondary
- Central Business Primary
- Large-scale commercial
- Tourism/Entertainment District
- Commercial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



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### Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Road or Alley ROW



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March 09, 2021

Community Planning Division – City Hall  
c/o Adam Fulton  
411 West 1<sup>st</sup> Street  
Duluth, Minnesota 55802

RE: Concurrent Use Permit Application

Dr. Mr. Fulton,

On behalf of Essentia Health, attached please find our application for a Concurrent Use Permit to install private utility conduit in the ROW between Essentia Health's new hospital to Essentia Health's new Security Command Center located in the Duluth Clinic 3<sup>rd</sup> Street Building. The utilities consist of (2) 2" conduit for generator alarm, fire alarm, and medical gas alarm wiring. The Security Command Center will be a designated 24/7 monitoring location for these functions.

The conduit will originate within the new hospital and run on private property to the south side of 2<sup>nd</sup> street. It will then extend diagonally from the south side of 2<sup>nd</sup> street to near the corner of 2<sup>nd</sup> street and 4<sup>th</sup> avenue east, and then run parallel to the property line north until it gets past the north face of Essentia's parking structure. From there it will continue east on private property to a point where it will enter the 3<sup>rd</sup> Street clinic building. Our intent is to lay the conduit across 2<sup>nd</sup> street concurrent with road work scheduled for this year, and use a direction bore to extend the conduit from the corner north. The landscape strip along the west façade of the parking structure is intended to remain undisturbed.

If there is any additional information or clarifications that we may provide, please do not hesitate to contact me directly. Thank you for your consideration of our request.

LHB, INC.

Evan Aljoe, Healthcare Studio Leader

LHB Project No. 180203

\\LHBDLHW24\DLHProjects\18Proj\180203\400 Design\403 Regulatory\2nd street concurrent use\180203 Application - City of Duluth Cover Letter.docx



# Essentia Health

March 2, 2021

Community Planning Division – City Hall  
c/o Adam Fulton  
411 W 1<sup>st</sup> Street  
Suite 402  
Duluth, MN 55802

Re: Concurrent Use Permit Acknowledgement

Dear Mr. Fulton,

Pursuant to our Concurrent Use of Streets Application and the requirement of Section 50-37.7.C (f), we acknowledge that to the extent any of Essentia's private improvements are installed in the public right of way that they may be removed by the City of Duluth if needed for installation or repair of public improvements or if Essentia, as applicant, violates the terms of the permit granted.

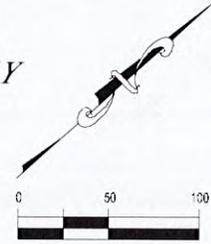
Please feel free to reach me by phone at (218) 786-4667 with any questions or concerns related to this correspondence.

Sincerely,

**John Vidmar**  
*Vice President Facilities*  
**Essentia Health-East Region**  
Facilities Department | 5AV2  
503 East Third Street  
Duluth, Minnesota 55805  
218-786-4667  
[John.Vidmar@EssentiaHealth.org](mailto:John.Vidmar@EssentiaHealth.org)

# EXHIBIT CONCURRENT USE

*PRIVATE ELECTRICAL CONDUIT IN CITY RIGHT-OF-WAY*  
*Part of Streets and Avenues*  
**PORTLAND DIVISION OF DULUTH  
AND  
DULUTH PROPER FIRST DIVISION**



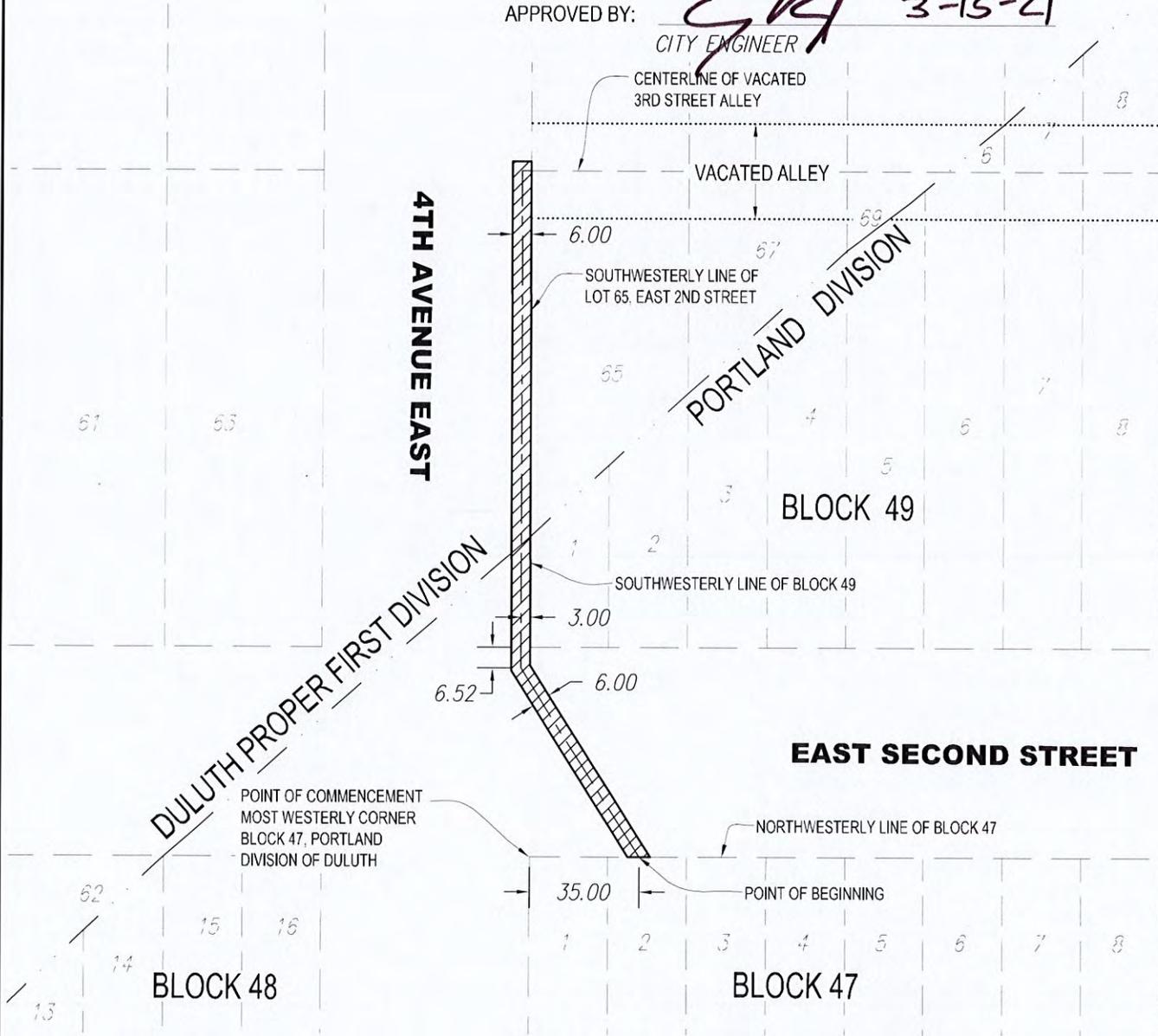
**LEGEND**

= CONCURRENT USE AREA

APPROVED BY:

*[Signature]*  
CITY ENGINEER

3-15-21



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

Print Name: Paul A. Vogel

License # 44075

Signature: *[Signature]*

Date: 03/08/2021

DATE PREPARED: 03/08/21

PROJ NO: 180203

FILE: 180203 Concu

SHEET 1 of 1 SHEETS



**PERFORMANCE  
DRIVEN DESIGN.**  
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21 W. Superior St. Ste. 500 | Duluth, MN 55802 | 218.727.3446

LEGAL DESCRIPTION:

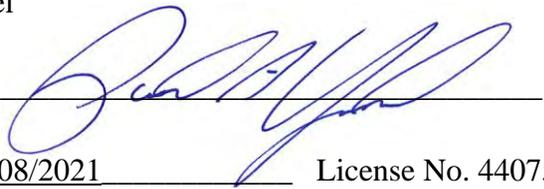
That part of Second Street and Fourth Avenue East, PORTLAND DIVISION OF DULUTH and DULUTH PROPER FIRST DIVISION; all in City of Duluth, St. Louis County, Minnesota; being a 6.00 foot wide corridor centered on the line described as follows:

Commencing at the most westerly corner of Block 47, said PORTLAND DIVISION OF DULUTH; thence northeasterly along the northwesterly line of said Block 47, a distance of 35.00 feet to the Point of Beginning of the centerline to be described; thence westerly to a point 6.52 feet southeasterly of, measured at right angles to, the southeasterly line of Block 49, said PORTLAND DIVISION OF DULUTH and 3.00 feet southwesterly of, and parallel with, the extended southwesterly line of said Block 49; thence northwesterly along said 3.00 foot parallel line to the extended centerline of vacated Third Street Alley adjacent to Lot 65, East Second Street, DULUTH PROPER FIRST DIVISION; thence northeasterly along said extended centerline of said vacated Alley, a distance of 3.00 feet to the northeasterly line of said Fourth Avenue East and said line there terminating.

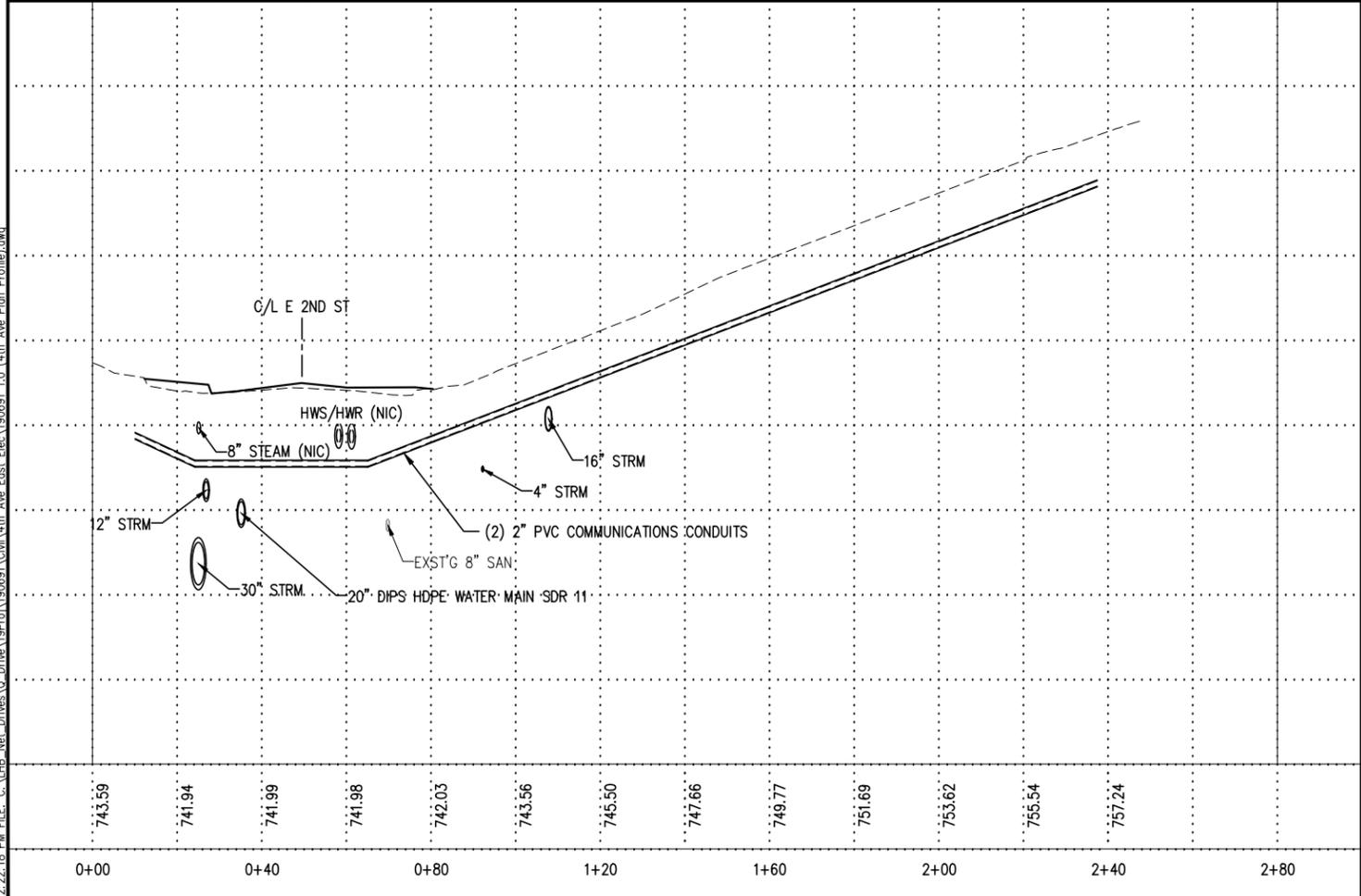
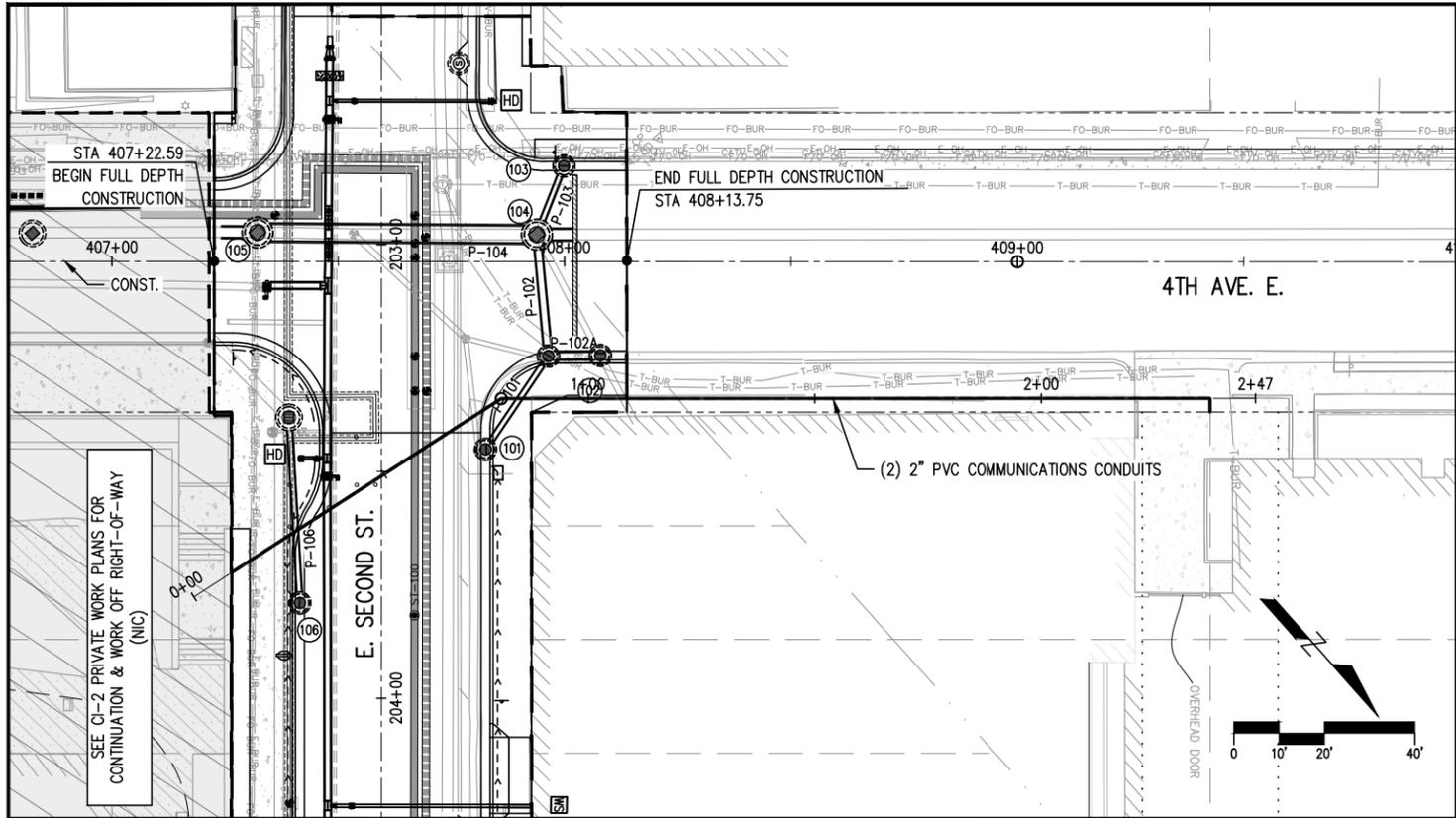
The sidelines of said corridor terminate on the southeasterly line of said East Second Street and the northeasterly line of Fourth Avenue East.

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.

Paul A. Vogel

Signed  \_\_\_\_\_

Date 3/08/2021 License No. 44075



LHB PROJECT NO. 190691

I HEREBY CERTIFY that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

ADAM BESSE  
 PRINTED NAME

*Adam Besse*  
 SIGNATURE

3/4/21  
 DATE

52597  
 LIC. NO.

2ND ST - 4TH TO 6TH AVE E.  
 CITY PROJECT NO. 1971

ELECTRICAL CONDUIT PLAN & PROFILE  
 SHEET 0101

PLOT DATE: 3/4/2021 2:22:18 PM FILE: C:\LHB\_Net\_Drives\Q\_Drive\BPro\190691\Civil\4th Ave East Elec\190691 1.0 (4th Ave Plan Profile).dwg



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 21-025	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Type</b>	Variance – non-conforming building	<b>Planning Commission Date</b>	April 13, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	March 9, 2021	<b>60 Days</b>	May 8, 2021
	<b>Date Extension Letter Mailed</b>	March 16, 2021	<b>120 Days</b>	July 7, 2021
<b>Location of Subject</b>	1239 Missouri Avenue			
<b>Applicant</b>	RBI Group	<b>Contact</b>	Josh MacInnes	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	See Attached			
<b>Site Visit Date</b>	April 2, 2021	<b>Sign Notice Date</b>	March 30, 2021	
<b>Neighbor Letter Date</b>	April 1, 2021	<b>Number of Letters Sent</b>	50	

**Proposal**

Applicant is requesting a variance to add a second story to a nonconforming dwelling unit. As constructed, the existing house does not meet the minimum front yard setback of 25 feet.

**Recommended Action:** Approval with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Traditional Neighborhood
<b>North</b>	R-1	Residential	Traditional Neighborhood
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	R-1	Residential	Traditional Neighborhood
<b>West</b>	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 Principle and/or Policies and Current History (if applicable):**

Governing Principle #5 – Promote reinvestment in neighborhoods. This variance would allow for the construction of a second story onto an existing single family dwelling in the Kenwood neighborhood.

Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods. The variance would allow for additional housing stock for the City.

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

History: The current parcel contains a 1,122 square foot single-family residence built in 1942.

**Review and Discussion Items**

1. Applicant is requesting a variance to increase the size of a nonconforming single family dwelling by adding a second story. The dwelling unit does not meet the required 25 foot side yard setback.
2. The home currently has an unfinished second floor (attic) and the proposal would be to increase the upper bulk dimensions of the nonconforming building to use as living space. The footprint of the house would not change. The proposal would not negatively impact any adjacent properties, nor negatively impact modify in any way the essential character of the neighborhood.
3. The applicant states that the current house, front of home, as built originally in 1942 sits crooked to the street. The house sits at 20.9 feet on the north corner of the home and 24 feet on the south corner as per the attached property survey.
4. The applicant is proposing to use the property in a reasonable manner by using the existing structure and footprint to vertically expand the nonconformity rather than tear down the home and construct a new dwelling unit.
5. The applicant exhibits practical difficulty in that the current nonconformity was not created by the landowner. The variance will not alter the essential character of the neighborhood as the proposed addition will resemble similar remodels and alterations to other homes in the area.
6. No public, agency, or other City comments were received.
7. Per UDC Section 50-37.1.N,. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

**Staff Recommendation**

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

- 1) The second floor addition, be limited to, constructed, and maintained according to the site plan submitted on March 9, 2021; and
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



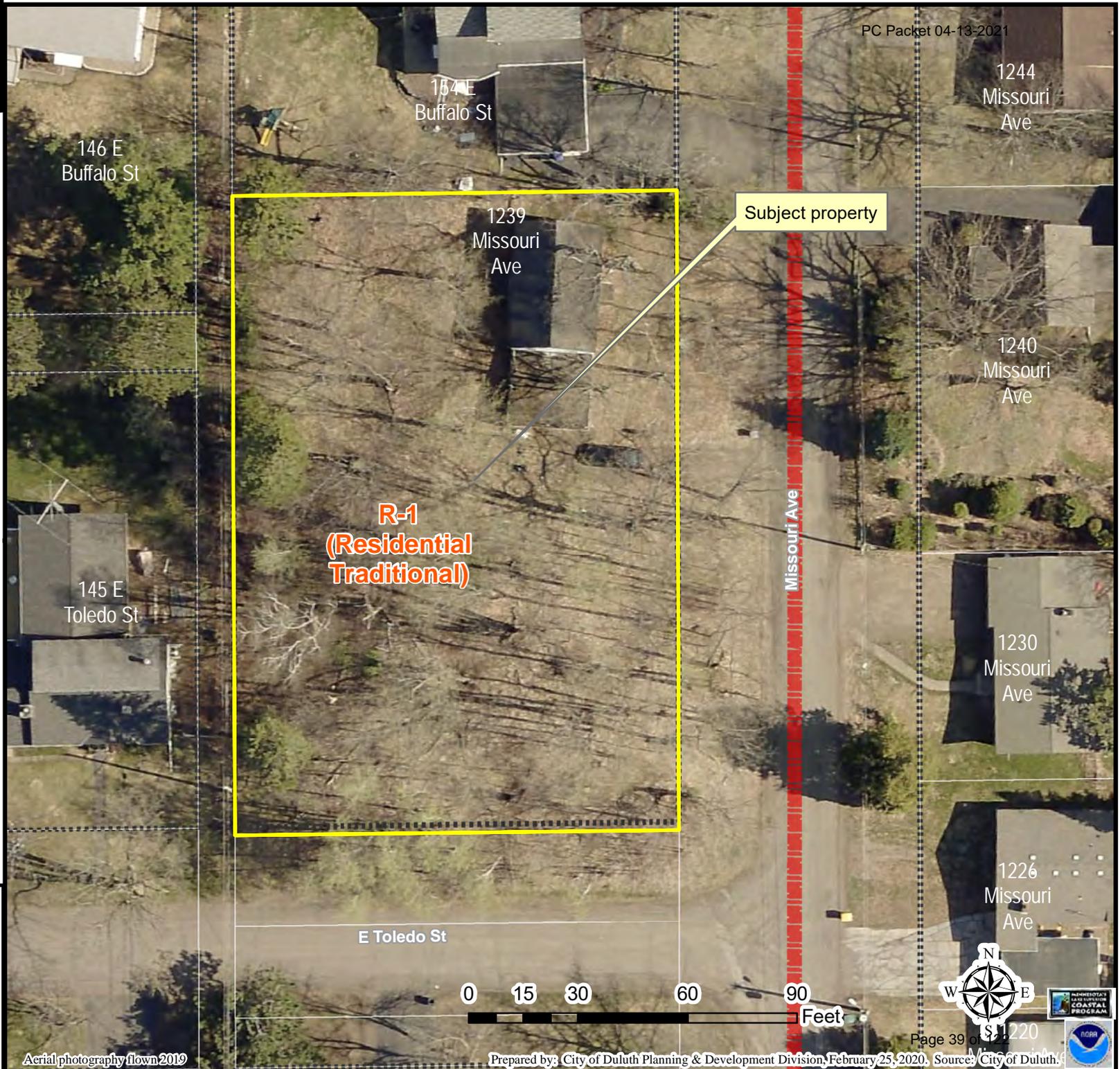
# PL 21-024 Variance Location Map

PC Packet 04-13-2021

**Legend**

- Road or Alley ROW
- ☒ Vacated ROW
- Easement Type
  - ⋯ Utility Easement
  - ⋯ Other Easement
- Zoning Boundaries
- Shoreland (UDC)
  - Cold Water
  - Natural Environment
  - General Development
- Trout Stream (GPS)
- Other Stream (GPS)

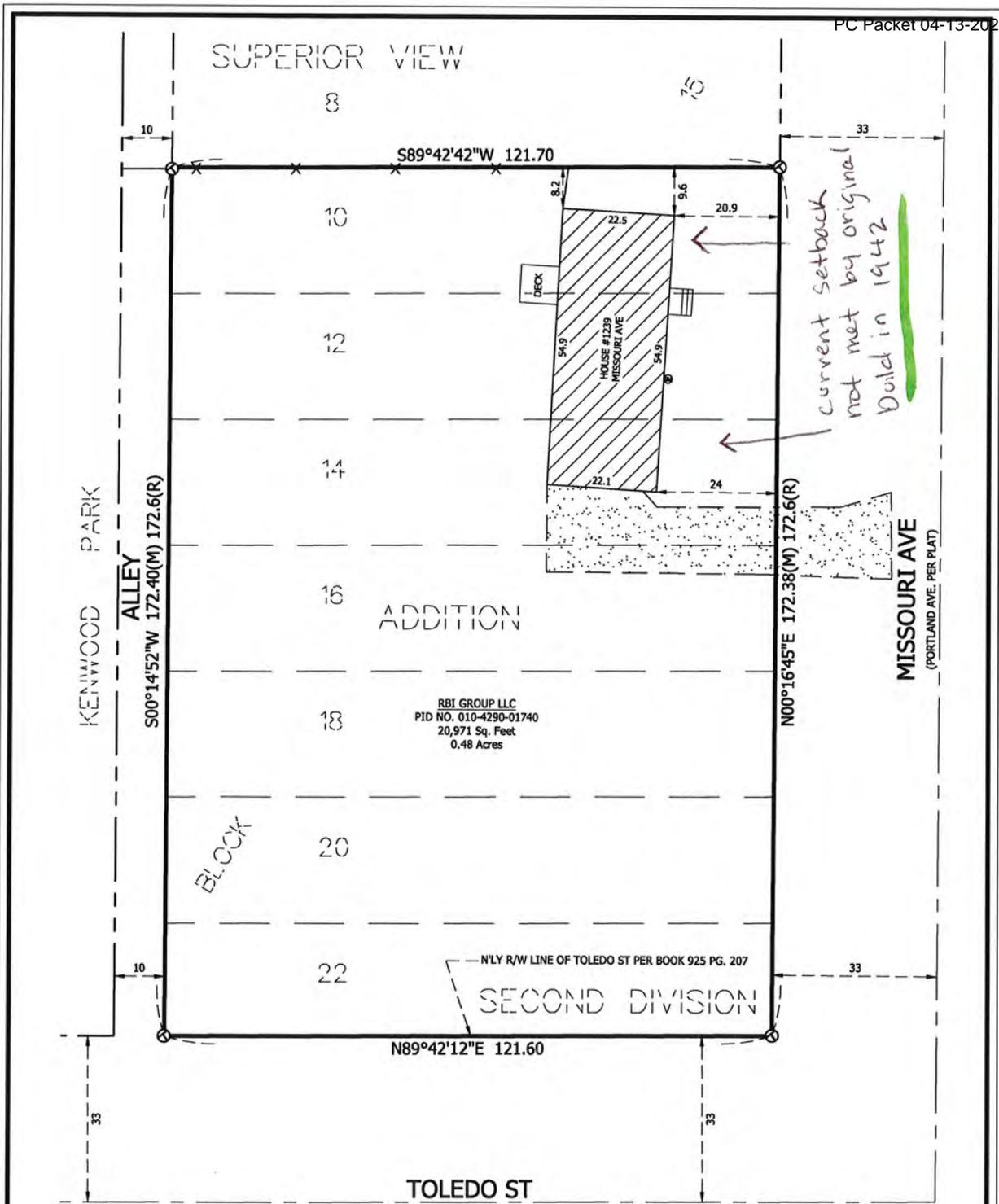
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used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



Aerial photography flown 2019

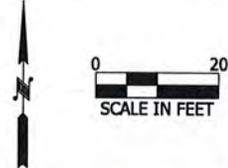
Prepared by: City of Duluth Planning & Development Division, February 25, 2020. Source: City of Duluth.





RBI GROUP LLC  
 PID NO. 010-4290-01740  
 20,971 Sq. Feet  
 0.48 Acres

current setback  
 not met by original  
 build in 1942



**LEGEND**

	GRAVEL SURFACE		R/W-RIGHT OF WAY
	EXISTING BUILDINGS		(M)-FIELD MEASURED DIMENSION
	⊗ GAS METER		(R)-RECORD DIMENSION
			FENCE LINE
			CENTER LINE
			RIGHT OF WAY LINE
			BOUNDARY LINE AS SURVEYED
			⊕ FOUND T-STAKE MONUMENT

**LEGAL DESCRIPTION PER DOC. NO. 1393071**  
 Lot 10 Block 15 Superior View Addition to Duluth Second Division  
 Lot 12 Block 15 Superior View Addition to Duluth Second Division  
 Lot 14 Block 15 Superior View Addition to Duluth Second Division  
 Lot 16 Block 15 Superior View Addition to Duluth Second Division, St. Louis County, Minnesota.  
 And  
 Lots 18, 20 and 22, Block 15 Superior View Addition to Duluth Second Division  
 St. Louis County, Minnesota.

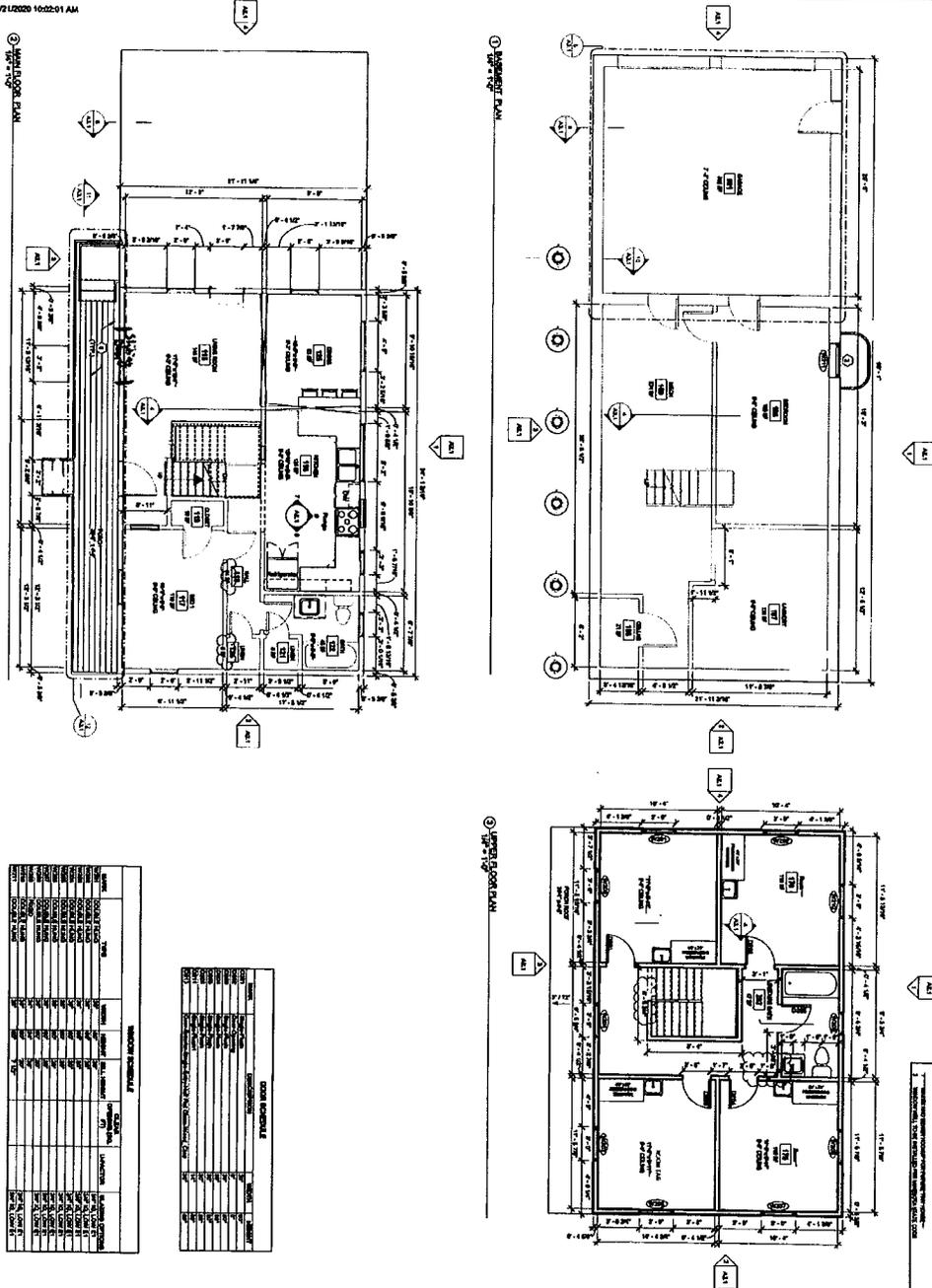
- SURVEYOR'S NOTES**
- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING 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 COORDINATE SYSTEM OF 1996. (NAD 83 2011)
  - BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY, SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.

<b>CERTIFICATE OF SURVEY</b>	
CLIENT: ILLC	REVISIONS:
ADDRESS: 1239 MISSOURI AVE, DULUTH, MN 55811	PHONE: 218-727-5211 LICENSED IN MN & WI WWW.ALTA.LS.COM
DATE: 2-15-2021	JOB NO: 21-024 SHEET 1 OF 1

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 License #49505  
 DATE: 2-15-2021



7/12/2020 10:22:01 AM



NO.	DESCRIPTION	DATE	BY	CHECKED BY
1	ISSUED FOR PERMITS	07/12/2020	MM	MM
2	ISSUED FOR CONSTRUCTION	07/12/2020	MM	MM
3	ISSUED FOR CONTRACTOR	07/12/2020	MM	MM
4	ISSUED FOR ARCHITECT	07/12/2020	MM	MM
5	ISSUED FOR ENGINEER	07/12/2020	MM	MM
6	ISSUED FOR LANDSCAPE ARCHITECT	07/12/2020	MM	MM
7	ISSUED FOR INTERIOR DESIGNER	07/12/2020	MM	MM
8	ISSUED FOR HISTORIC ARCHITECTURE CONSULTANT	07/12/2020	MM	MM
9	ISSUED FOR OTHER PROFESSIONAL	07/12/2020	MM	MM
10	ISSUED FOR OTHER PROFESSIONAL	07/12/2020	MM	MM

NO.	DESCRIPTION	DATE	BY	CHECKED BY
1	ISSUED FOR PERMITS	07/12/2020	MM	MM
2	ISSUED FOR CONSTRUCTION	07/12/2020	MM	MM
3	ISSUED FOR CONTRACTOR	07/12/2020	MM	MM
4	ISSUED FOR ARCHITECT	07/12/2020	MM	MM
5	ISSUED FOR ENGINEER	07/12/2020	MM	MM
6	ISSUED FOR LANDSCAPE ARCHITECT	07/12/2020	MM	MM
7	ISSUED FOR INTERIOR DESIGNER	07/12/2020	MM	MM
8	ISSUED FOR HISTORIC ARCHITECTURE CONSULTANT	07/12/2020	MM	MM
9	ISSUED FOR OTHER PROFESSIONAL	07/12/2020	MM	MM
10	ISSUED FOR OTHER PROFESSIONAL	07/12/2020	MM	MM

PROJECT MANAGER  
DATE  
DRAWN BY  
CHECKED BY

Author  
Checker

NO. TITLE BLOCK NUMBER BY YEAR

REV DESCRIPTION DATE

0

1239 MISSOURI AVE  
DULUTH, MN 55811

MISSOURI AVE  
RESIDENCE

MEMBER  
**ASHRAE**  
**AIA**  
**BID**

AMERICAN INSTITUTE OF  
BUILDING DESIGNERS

**ACCOMPANY AEC DESIGN CENTER LLC**  
1239 MISSOURI AVE  
DULUTH, MN 55811  
(218) 481-1654  
SBC CENTER  
Two Harbors, MN 55675  
Duluth, MN 55811

**AECM**  
DESIGN CENTER  
Do Impressive Projects.  
1239 MISSOURI AVE  
DULUTH, MN 55811

SCALE

**A1.1**

1/4" = 1'-0"





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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 21-025	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Type</b>	Minor Subdivision	<b>Planning Commission Date</b>	April 13, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	March 9, 2021	<b>60 Days</b>	May 8, 2021
	<b>Date Extension Letter Mailed</b>	March 16, 2021	<b>120 Days</b>	July 7, 2021
<b>Location of Subject</b>	1239 Missouri Avenue			
<b>Applicant</b>	RBI Group	<b>Contact</b>	Josh MacInnes	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	See Attached			
<b>Site Visit Date</b>	April 2, 2021	<b>Sign Notice Date</b>	N/A	
<b>Neighbor Letter Date</b>	N/A	<b>Number of Letters Sent</b>	N/A	

**Proposal**

Applicant is requesting a Minor Subdivision to divide one platted lot into two lots. The current parcel is approximately 21,106 square feet and the division will create two lots. Parcel A will be 10,024 square feet and Parcel B will be 10,947 square feet, each consistent with the requirements of the R-1 district.

**Recommended Action:** Approval with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Traditional Neighborhood
<b>North</b>	R-1	Residential	Traditional Neighborhood
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	R-1	Residential	Traditional Neighborhood
<b>West</b>	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 requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any

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 1,122 square foot single-family residence built in 1942. The underlying plat is "SUPERIOR VIEW ADDN TO DULUTH 2ND DIV"; the existing tax parcel consists of seven platted lots with frontage on the platted Missouri Avenue.

**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 Missouri Avenue.
2. The single family home will remain on parcel A and is an existing nonconforming building. The applicant has submitted a companion application for variance to add a second story on the existing dwelling on Parcel A. No other structures exist on the parcels.
3. Both parcels are zoned R-1, which has a minimum lot size of 4,000 square feet and have the required street frontage along Missouri Avenue. The proposed subdivision, if approved, would not make the parcels non-conforming due to lot frontage, lot area, or similar bulk standard.
4. The proposed minor Subdivision supports the goals of the Imagine Duluth 2035 housing chapter by creating infill opportunities within an established neighborhood without impacting the character of area, and provide housing in proximity to amenity centers such as the Kenwood neighborhood commercial area.
5. No public, agency, or other 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**

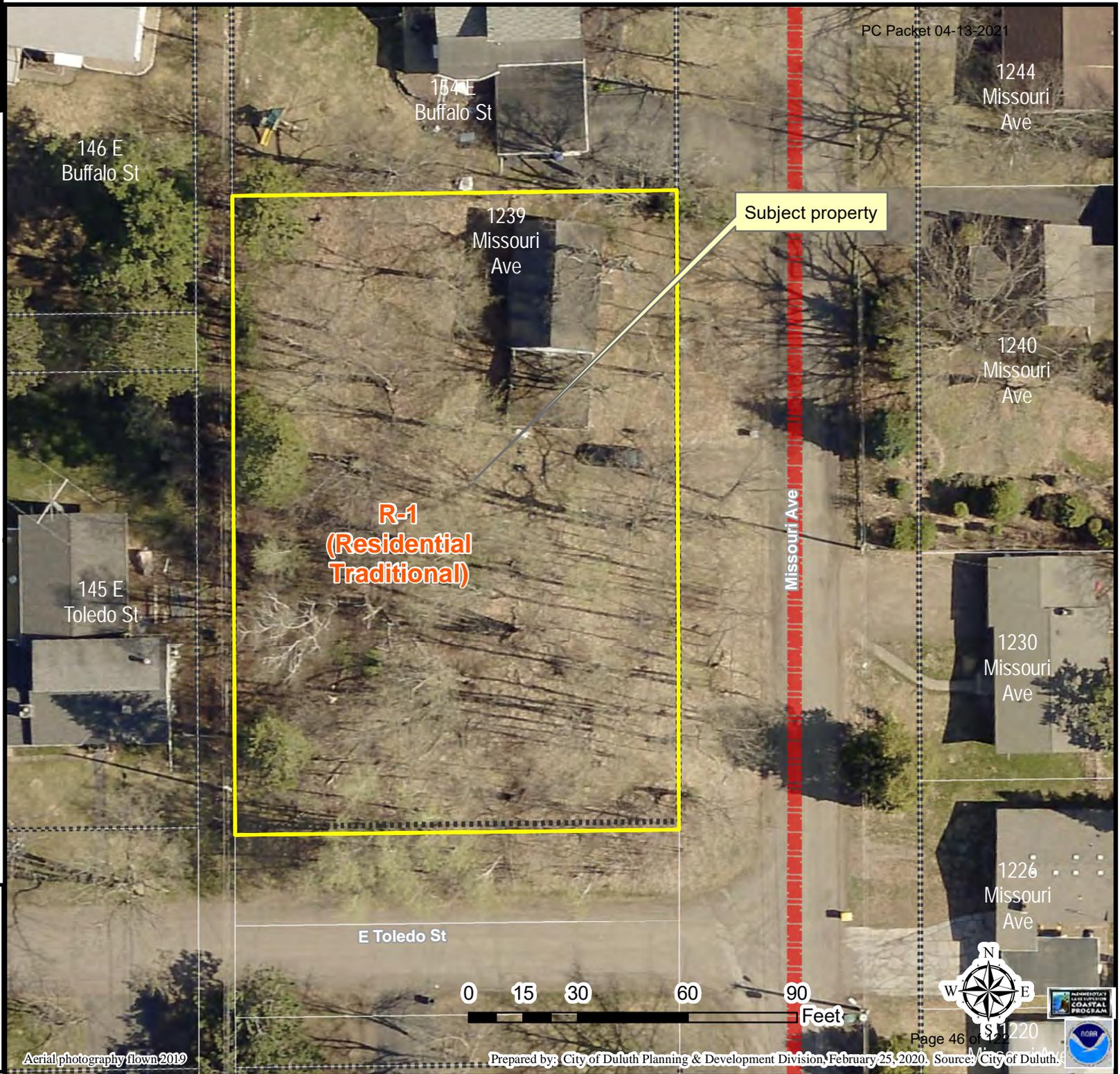
Based on the above findings, Staff recommends that Planning Commission approve the Minor Subdivision with the following conditions:

- 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.



PL 21-025 Minor Subdivision  
Location Map

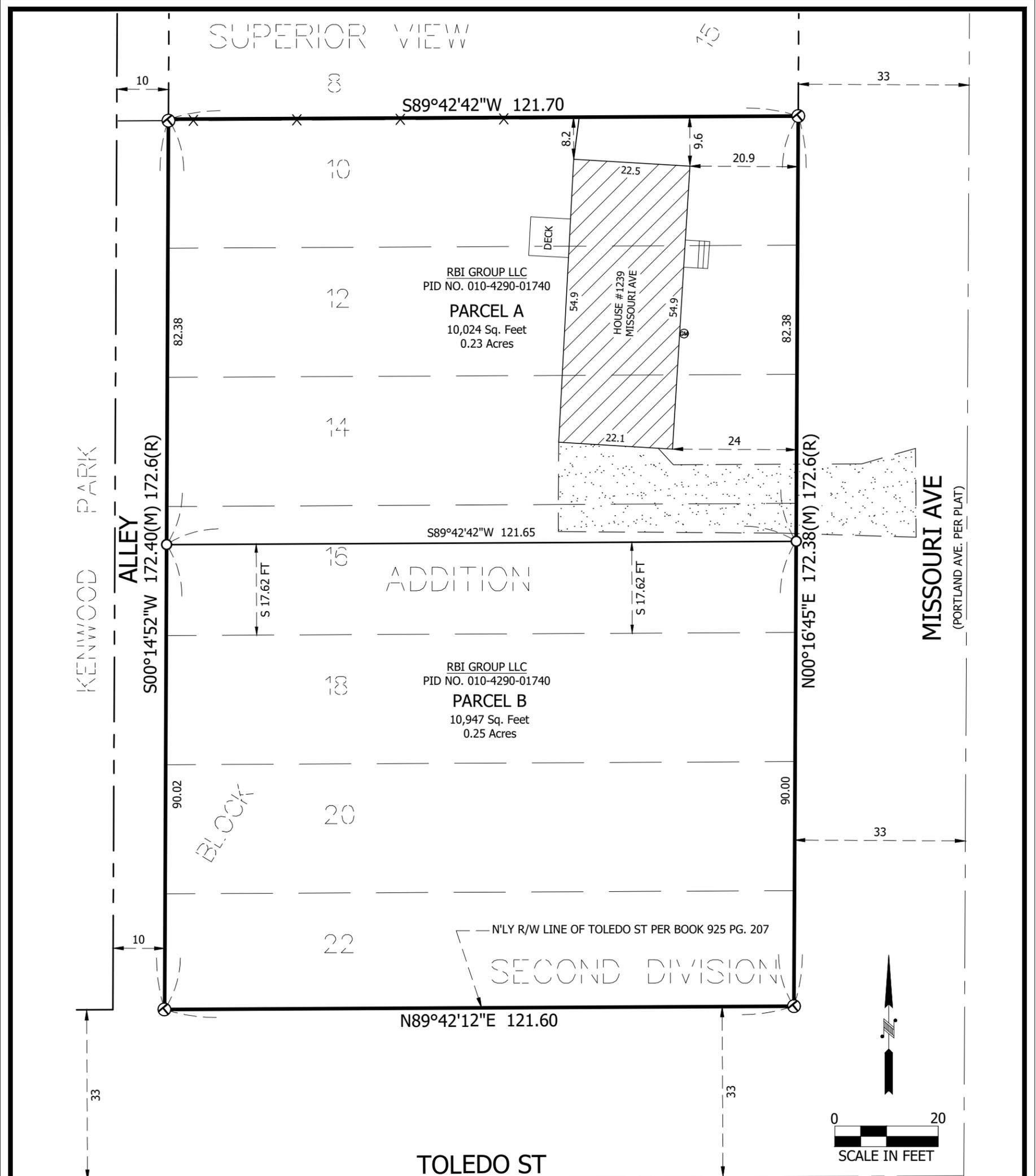


**Legend**

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

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





**PARENT LEGAL DESCRIPTION PER DOC. NO. 1393071**  
 Lot 10 Block 15 Superior View Addition to Duluth Second Division  
 Lot 12 Block 15 Superior View Addition to Duluth Second Division  
 Lot 14 Block 15 Superior View Addition to Duluth Second Division  
 Lot 16 Block 15 Superior View Addition to Duluth Second Division, St. Louis County, Minnesota.  
 And  
 Lots 18, 20 and 22, Block 15 Superior View Addition to Duluth Second Division  
 St. Louis County, Minnesota.

**LEGAL DESCRIPTION OF PARCEL A**  
 Lots 10, 12, 14 and 16, Block 15, Superior View Addition to Duluth Second Division, according to the recorded plat thereof, St. Louis County, Minnesota, EXCEPT the South 17.62 feet of said Lot 16, Block 15, Superior View Addition to Duluth Second Division.

**LEGAL DESCRIPTION OF PARCEL B**  
 Lots 18, 20 and 22, Block 15, Superior View Addition to Duluth Second Division, according to the recorded plat thereof, St. Louis County, Minnesota, AND  
 The South 17.62 feet of Lot 16, said Block 15, Superior View Addition to Duluth Second Division.

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: 2-15-2021 MN License #49505

CERTIFICATE OF SURVEY		
CLIENT: 1LLC	REVISIONS: 3-8-21 ADD MINOR SUBDIVISION	
ADDRESS: 1239 MISSOURI AVE, DULUTH, MN 55811	JOB NO: 21-024 SHEET 1 OF 1	
DATE: 2-15-2021	DATE: 2-15-2021	

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





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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 21-026	<b>Contact</b>	Kyle Deming – <a href="mailto:kdeming@duluthmn.gov">kdeming@duluthmn.gov</a>	
<b>Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	April 13, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	March 10, 2021	<b>60 Days</b>	May 9, 2021
	<b>Date Extension Letter Mailed</b>	March 24, 2021	<b>120 Days</b>	July 8, 2021
<b>Location of Subject</b>	2727 E. 5 <sup>th</sup> St. (Congdon Park)			
<b>Applicant</b>	Ray E. and Beatrice D. Ruoho	<b>Contact</b>		
<b>Agent</b>	Johnston Masonry	<b>Contact</b>	Kurt Granger	
<b>Legal Description</b>	Lots 14-16, except 8,350 sq. ft. for Wallace Ave., Block 6, Willard's Addition (PID 010-4600-00630)			
<b>Site Visit Date</b>	March 31, 2021	<b>Sign Notice Date</b>	March 25, 2021	
<b>Neighbor Letter Date</b>	N/A	<b>Number of Letters Sent</b>	N/A	

**Proposal:** A Concurrent Use Permit for a brick pillar, retaining wall, fence, and heat tubing in the driveway apron, sidewalk, and driveway in the easement for Wallace Ave.

**Staff Recommendation:** Staff recommends that Planning Commission recommend approval to City Council.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Traditional Neighborhood
<b>North</b>	R-1	Residential	Traditional Neighborhood
<b>South</b>	R-1	Residential and church	Traditional Neighborhood
<b>East</b>	R-1	Undeveloped park	Traditional Neighborhood
<b>West</b>	R-1	Residential	Traditional Neighborhood

**Summary of Code Requirements:**

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

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city.
2. ... Not Applicable (Skywalks)
3. No portion of a public easement proposed for use is being physically used or occupied by the public.
4. ...Not Applicable (Parking)

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

Governing Principle #1 – Reuse previously developed lands: includes adaptive reuse of existing building stock and historic resources, as this strengthens neighborhoods.

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

**History:**

1887 – Willard’s Addition plat filed.

1895 – 66 foot wide strip of land from 4<sup>th</sup> St. to St. Marie St. was condemned for Wallace Ave.

1931 – Home was constructed.

**Review and Discussion Items**

Staff finds that:

- 1.) The home was constructed in 1931 with a tuck-under garage and driveway to Wallace Ave.
- 2.) In 2020, the driveway was repaved, a snowmelt system was installed in the pavement, and a short retaining wall with fence and brick pillar was constructed.
- 3.) A portion of these features are within a 20 foot x 25 foot area of the street easement shown on the attached exhibit.
- 4.) Underground private improvements consist of ½ inch diameter PEX tubing embedded in a 6 inch thick reinforced concrete slab in the driveway, public sidewalk, and driveway apron. A heat transfer fluid will be circulated through the tubing for snow melting.
- 5.) Although St. Louis County has jurisdiction over the roadway, the roadway easement was dedicated to the City as part of a condemnation action in 1895, so the City’s Concurrent Use Permit process applies.
- 6.) Ordinarily, the City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against occurrences in the right of way. This requirement has been waived by the Land Use Supervisor based on the type of private infrastructure installed in the street easement and its location, after consultation with the City Attorney’s office.
- 7.) The City Engineering office does not take responsibility for locating buried private improvements in the public easement, so the applicant has been informed of the need to sign up with Gopher State One Call to be notified of underground excavation projects in the area. The applicant will need to disclose this to future buyers of the property so they can register as well. It is recommended that this be a condition of approval for the concurrent use permit.
- 8.) The City’s Property and Facilities Management (PFM) office has commented that, although the condemnation for Wallace Avenue was recorded with St. Louis County, it wasn’t memorialized on the applicant’s Certificate of Title, which creates a title issue for the portion of Wallace Avenue abutting the applicant’s property. PFM recommends that resolving this title issue be a condition for approval of the concurrent use permit. PFM will prepare the required documents and pay any associated recording fees, but will need the applicant’s cooperation and consent on the paperwork.
- 9.) The area proposed for the concurrent use permit will not diminish the public’s ability to use the public right of way, nor will it harm or inconvenience the health, safety, and general welfare of the city.
- 10.) No other public, agency, or other comments have been received as of March 31, 2021.

**Staff Recommendation**

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

- 1.) Applicant shall maintain the project as identified in the attached exhibits.
- 2.) Applicant register with Gopher State One Call and disclose to future owners the requirement to locate the underground improvements in the public street easement.
- 3.) Applicant participate with the City’s Property and Facilities Management Department to memorialize the condemnation for Wallace Avenue onto the applicant’s Certificate of Title or, in the alternative, grant a new easement for Wallace Avenue.

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

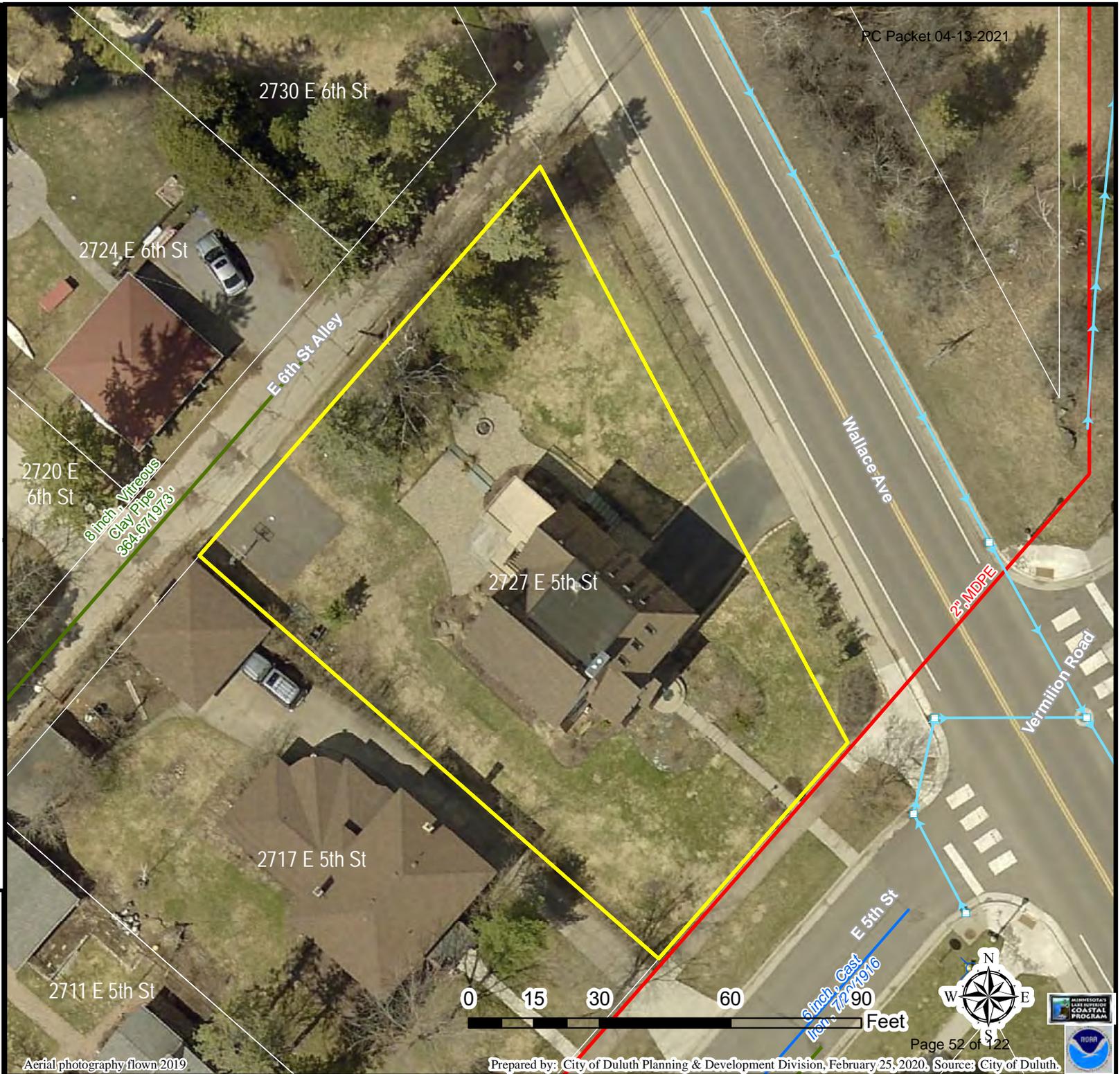


PL 21-026  
 Concurrent Use Permit  
 2727 E 5th St

PC Packet 04-13-2021

**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

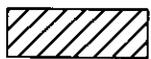
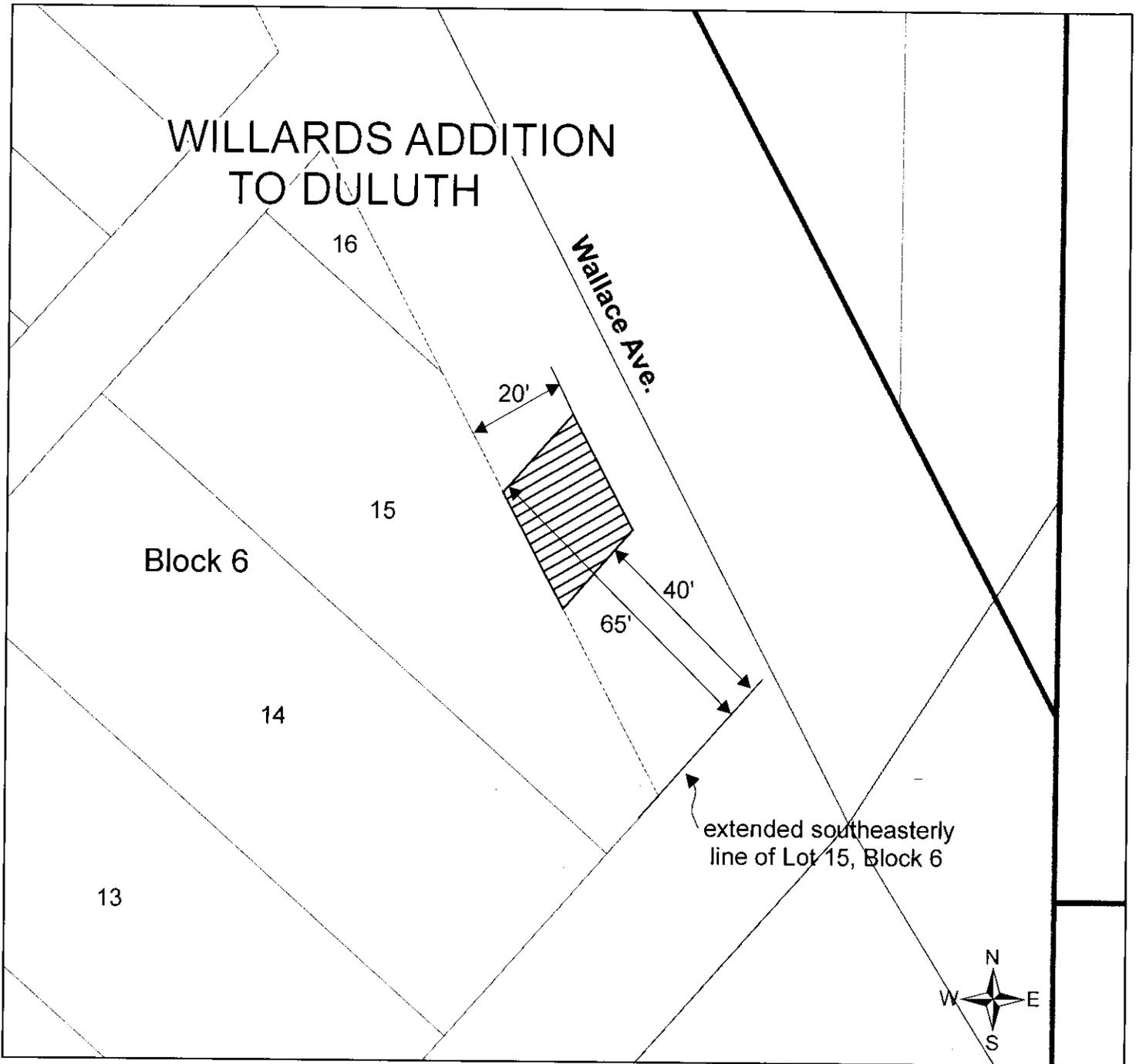


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Aerial photography flown 2019

Prepared by: City of Duluth Planning & Development Division, February 25, 2020, Source: City of Duluth.

# Exhibit A



Concurrent Use Area



A strip of land over, under, and across the southwesterly 20 feet of Wallace Ave., as condemned by that document found in the Office of the Register of Deeds in Book 1 of Condemnation Plats on Page 54, St. Louis County, Minnesota; bounded on the northwest by a line that is parallel to and distant 65' northwesterly from the extended southeasterly line of Lot 15, Block 6, Willards Addition to Duluth and bounded on the southeast by a line that is parallel to and distant 40' northwesterly from the extended southeasterly line of said Lot 15.

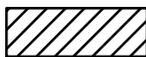
APPROVED BY CITY ENGINEER

11-4-20

DATE  
Page 53 of 122

# Exhibit A



 Concurrent Use Area

0 30  
 Feet

A strip of land over, under, and across the southwesterly 20 feet of Wallace Ave., as condemned by that document found in the Office of the Register of Deeds in Book 1 of Condemnation Plats on Page 54, St. Louis County, Minnesota; bounded on the northwest by a line that is parallel to and distant 65' northwesterly from the extended southeasterly line of Lot 15, Block 6, Willards Addition to Duluth and bounded on the southeast by a line that is parallel to and distant 40' northwesterly from the extended southeasterly line of said Lot 15.

APPROVED BY CITY ENGINEER

DATE  
Page 54 of 122



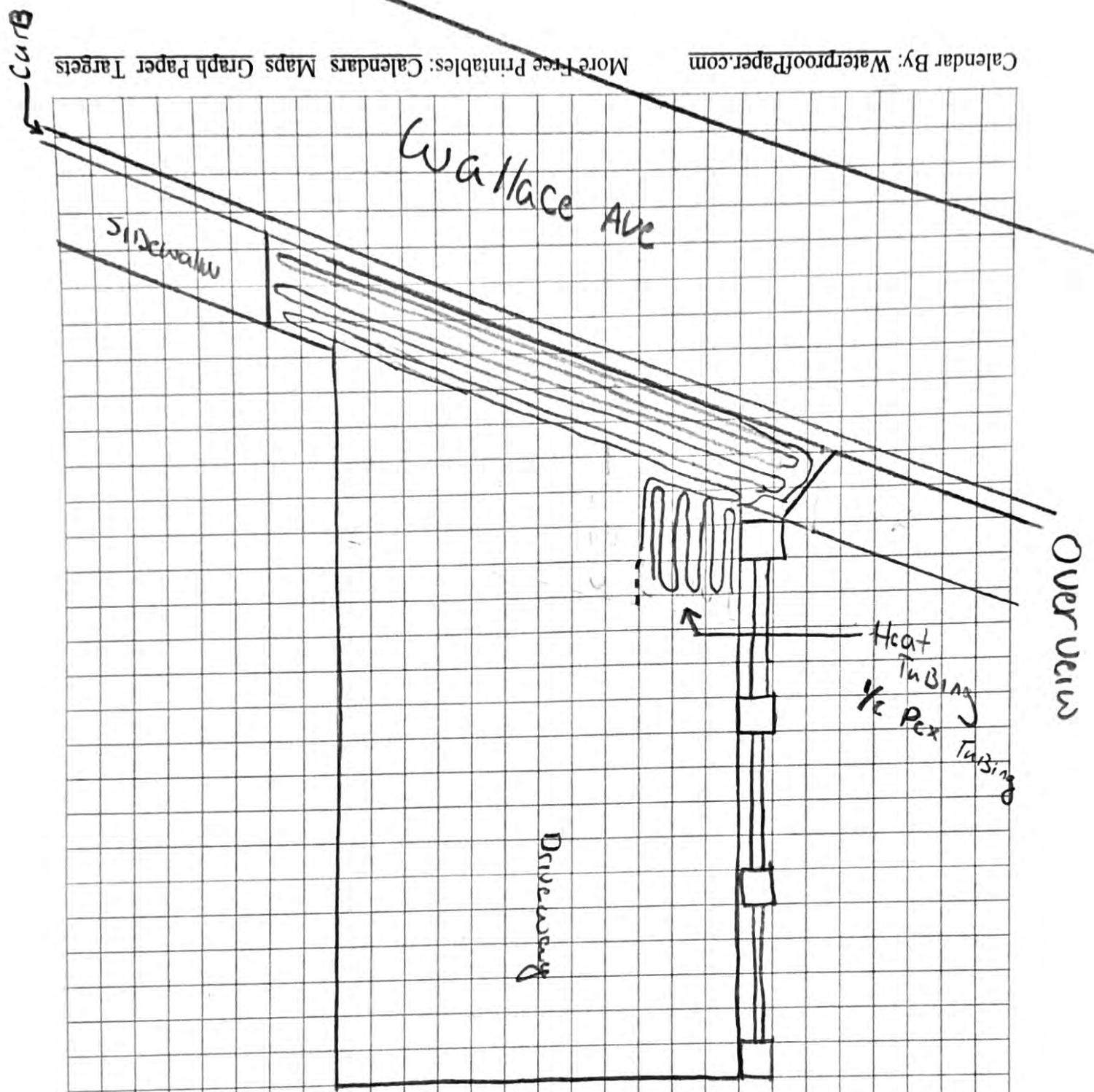
E 5th St

Johnston  
Mason  
• (218) 523-2222  
www.johnstonmason.com  
Your All Service Experts



E 5th St

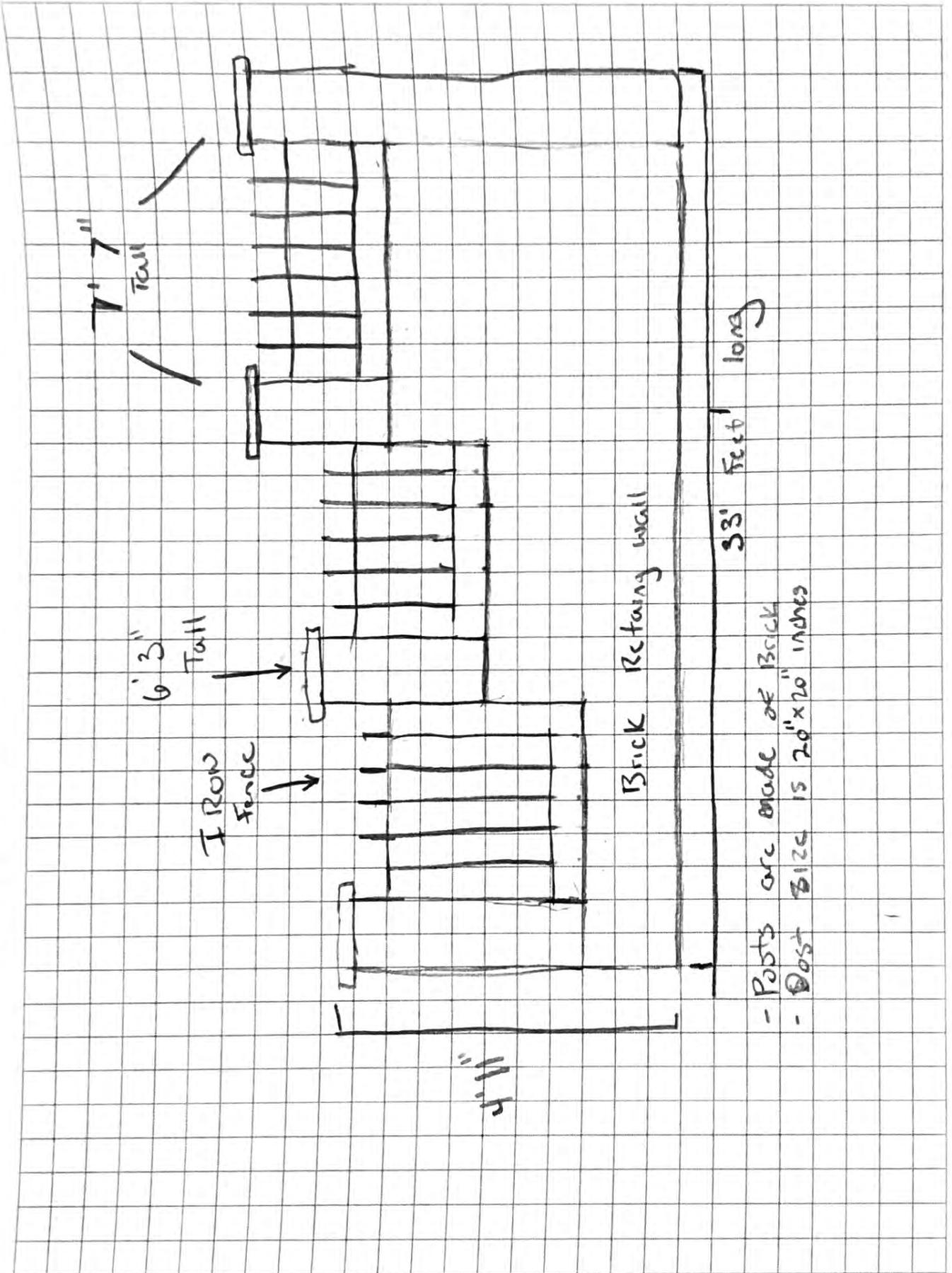
Johnson Mercury



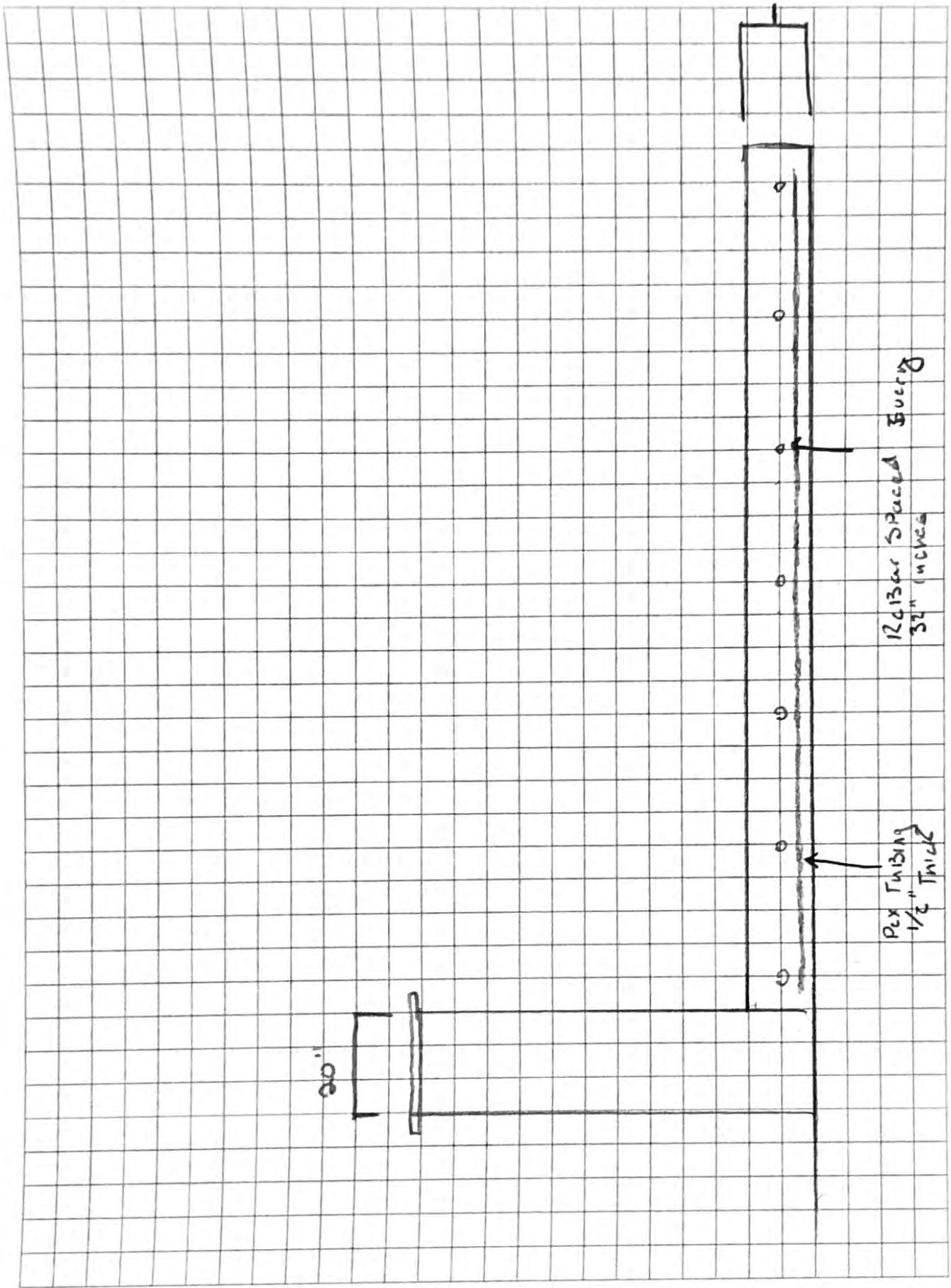
### Pex Tubing

- Plastic Pex Tubing 1/2 inch Diameter
- Rhogard ultra 50% & 50% water
- Pipe runs into the sidewalk & stop at the curb

Cross Section



# Elevation







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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 21-010	<b>Contact</b>	Chris Lee, clee@duluthmn.gov	
<b>Type</b>	Interim Use Permit – Vacation Dwelling Unit	<b>Planning Commission Date</b>	April 13, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	February 5, 2021	<b>60 Days</b>	April 4, 2021
	<b>Date Extension Letter Mailed</b>	February 12, 2021	<b>120 Days</b>	June 3, 2021
<b>Location of Subject</b>	3027 Minnesota Ave			
<b>Applicant</b>	Steven Sola	<b>Contact</b>		
<b>Agent</b>	Mia Mullins	<b>Contact</b>		
<b>Legal Description</b>	PID # 010-3110-01220			
<b>Site Visit Date</b>	February 26, 2021	<b>Sign Notice Date</b>	February 23, 2021	
<b>Neighbor Letter Date</b>	February 25, 2021	<b>Number of Letters Sent</b>	22	

**Proposal**

Applicant proposes to use a three-bedroom home as a vacation dwelling unit. Up to 7 people will be allowed to stay in the home.

The applicant was on the waitlist for available IUPs for vacation rentals.

**Recommended Action:** Staff recommends that Planning Commission recommend approval.

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

**Summary of Code Requirements:**

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

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

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location . . .;
2. The applicant agrees to sign a development agreement with the city.
3. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units. Permits issued for



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*Planning & Economic Development Department*

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 411 West First Street  
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218-730-5580



planning@duluthmn.gov

vacation dwelling units or accessory vacation dwelling units in any form district shall not be counted against the maximum number of permits that may be issued, 4. Except for properties within the Higher Education Overlay District as identified in 50-18.5, the minimum rental period and off-street parking requirements of 50-20.3.U and 50-20.5.M shall not apply for vacation dwelling units or accessory vacation dwelling units in form districts.

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

Governing Principle #8 - Encourage mix of activities, uses, and densities. A short term rental allows property owners to generate income from otherwise vacant properties and provide a service for tourists.

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

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

**History:** The home is 1,300 square feet in size and constructed in 1899. The structure is currently a licensed single-family rental for long-term renters.

**Review and Discussion Items:**

- 1) Applicant's property is located at 3031 Minnesota Avenue. The proposed vacation dwelling unit contains 3 bedrooms, which would allow for a maximum of 7 guests.
- 2) The applicant is proposing 2 off street parking spaces in the driveway located in front of the detached garage. No modifications to the existing paved driveway are anticipated.
- 3) The applicant has indicated there will be a space for camper or trailer storage by VDU guests. However, that camper must remain unoccupied during rental of the home.
- 4) The applicant has indicated a deck as an outdoor amenity. The deck is screened by the existing fence and vegetation.
- 5) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed Mia Mullins at 3033 Minnesota Avenue to serve as the managing agent.
- 7) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.



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- 8) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 9) One citizen comment was received regarding parking and trash. In response, staff has included a condition that the applicant shall provide on-site trash service and that guests may not park in the Lafayette Square parking lot overnight.
- 10) Construction Services commented that the applicant must check with their office for Building Code requirements prior to permit approval. No other comments from citizens, City staff, or any other entity were received regarding the application.

**Staff Recommendation:**

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

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant will provide trash service for guests, and shall clearly identify how such service shall be used by guests.
- 3) Guests may not park in the Lafayette Square parking lot.
- 4) No fires on the beach at Park Point.
- 5) Quiet hours are to be limited to 10pm – 7am.
- 6) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.
- 7) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission review; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 21-010  
Interim Use Permit  
3027 Minnesota Ave

PC Packet 04-13-2021

**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



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Aerial photography flown 2019



## Vacation Dwelling Unit Worksheet (September 2020)

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

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.

**How many legal bedrooms are in the dwelling? What will be your maximum occupancy?**

3 bedrooms 7

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

- a. 1-2 bedroom unit, 1 space
- b. 3 bedroom unit, 2 spaces
- c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
- d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
- e. Form districts are not required to provide parking spaces.

**How many off-street parking spaces will your unit provide?** 3-4

4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street. **Will you allow motorhome or trailer parking? If so, where?** Yes, both on+ off street

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

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

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

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

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

The above information will be collected on the VRBO platform and stored. It will also be in excel form on Google Docs.

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

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

Lia Mullins / 3033 Minnesota Ave / Duluth 612.804.4329

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

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

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

The above information will be included on the VRBO site and guests will also receive emails.

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

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



**From:** [REDACTED]  
**To:** [Chris Lee](#)  
**Subject:** re. 3031 MN Ave permit request  
**Date:** Wednesday, March 10, 2021 9:42:51 AM  
**Attachments:** [image.png](#)

---

Hi Chris,

Thanks for chatting on the questions I had related to the neighbor's request for this permit re. 3031 MN Ave (previously 3027 MN Ave)

I am not sure when the hearing is for this interim use permit, seems you mentioned it was going to be pushed ahead a month.

I would be grateful if you would be willing to bring these concerns forward:

Applicant provides on site garbage and recycling for the business and homes.

Applicant provides adequate parking on site- have seen renters of other vrbos use up spaces at Lafayette park instead of using onsite parking, (the owner told them to park at Lafayette instead) Is there a way to enforce this?

Applicant provides guidance on use of accesses to bay and beach & Lafayette for customers- applicant or their customers will not dissuade or harass the public from seeking access to the bay across from the Lafayette parking lot

Also, if there is a problem ie loud noise/music , smoke from fires, parking problems who do the neighbors call?

Thank you,

[REDACTED]  
[REDACTED]



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

<b>File Number</b>	PL 21-020	<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Type</b>	Interim Use Permit– Vacation Dwelling Unit in Form District	<b>Planning Commission Date</b>		April 13, 2021
<b>Deadline for Action</b>	<b>Application Date</b>	March 5, 2021	<b>60 Days</b>	May 4, 2021
	<b>Date Extension Letter Mailed</b>	March 16, 2021	<b>120 Days</b>	July 3, 2021
<b>Location of Subject</b>	120 East Superior Street, Unit 3			
<b>Applicant</b>	Lillecorps 1 LLC	<b>Contact</b>	lillegardw@gmail.com	
<b>Agent</b>	Knutson Custom Construction LLC	<b>Contact</b>	Knutsonbuildsduluth@gmail.com	
<b>Legal Description</b>	PID # 010-0173-00030			
<b>Site Visit Date</b>	April 2, 2021	<b>Sign Notice Date</b>	March 30, 2021	
<b>Neighbor Letter Date</b>	April 1, 2021	<b>Number of Letters Sent</b>	25	

**Proposal**

Applicant is proposing a new interim use permit for a vacation dwelling unit. The permit would allow for a 4-bedroom condominium with a maximum of 9 occupants in the F-7 form district.

Vacation dwelling units located in form districts are exempt from minimum night stays and parking, and there is no cap on number of permits issued.

Staff is recommending Planning Commission recommend approval.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-7	Mixed Use Building	Central Business Primary
<b>North</b>	F-7	Parking Ramp	Central Business Primary
<b>South</b>	F-7	Park	Open Space
<b>East</b>	F-7	Mixed Use Building	Central Business Primary
<b>West</b>	F-7	Mixed Use Building	Central Business Primary

**Summary of Code Requirements:**

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-7 zone district.

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

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



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requested use in that location ....; 2. The applicant agrees to sign a development agreement with the city.

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

**Governing Principle #8** - Encourage mix of activities, uses, and densities - The issuance of a permit allows an existing structure in the downtown area to be functionally used, decrease vacancy levels, and increase tax base.

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

**S9:** Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth. The proposed IUP in this location will enhance the level of activity in the downtown, and increase opportunities for additional commerce.

**Future Land Use – Central Business Primary:** Encompasses a broad range of uses and intensities including but not limited to - governmental campus, significant retail, entertainment and lodging, opportunities for high-density housing, central plaza, public/ open space, and public parking facilities.

**Current History:** The property currently is a mixed-use building. The ground floor contains a brewery and taproom. The upper floors contain an office space and dwelling units.

**Review and Discussion Items:**

- 1) Applicant's property is located at 120 East Superior Street. The unit is technically located on the third floor of the structure due to the walkout basement. The proposed vacation dwelling unit contains 4 bedrooms that would allow for a maximum of 9 guests.
- 2) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicants have listed themselves to serve as the managing agent.
- 3) The site is not required to provide parking. However, the applicant will be renting a couple of parking spaces on an adjacent property.
- 4) The site does not have any outdoor amenities.
- 5) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.



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6) Applicant has applied for all relevant permits and licenses and these are contingent upon approval of the Interim Use Permit for a Vacation Dwelling Unit.

7) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").

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

**Staff Recommendation:**

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

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.
- 3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50



PL 21-020 IUP  
Location Map

PC Packet 04-13-2021  
132 E Superior St



Subject property

**F-7  
(Downtown  
Shopping)**

**I-G (Industrial  
General)**

**Legend**



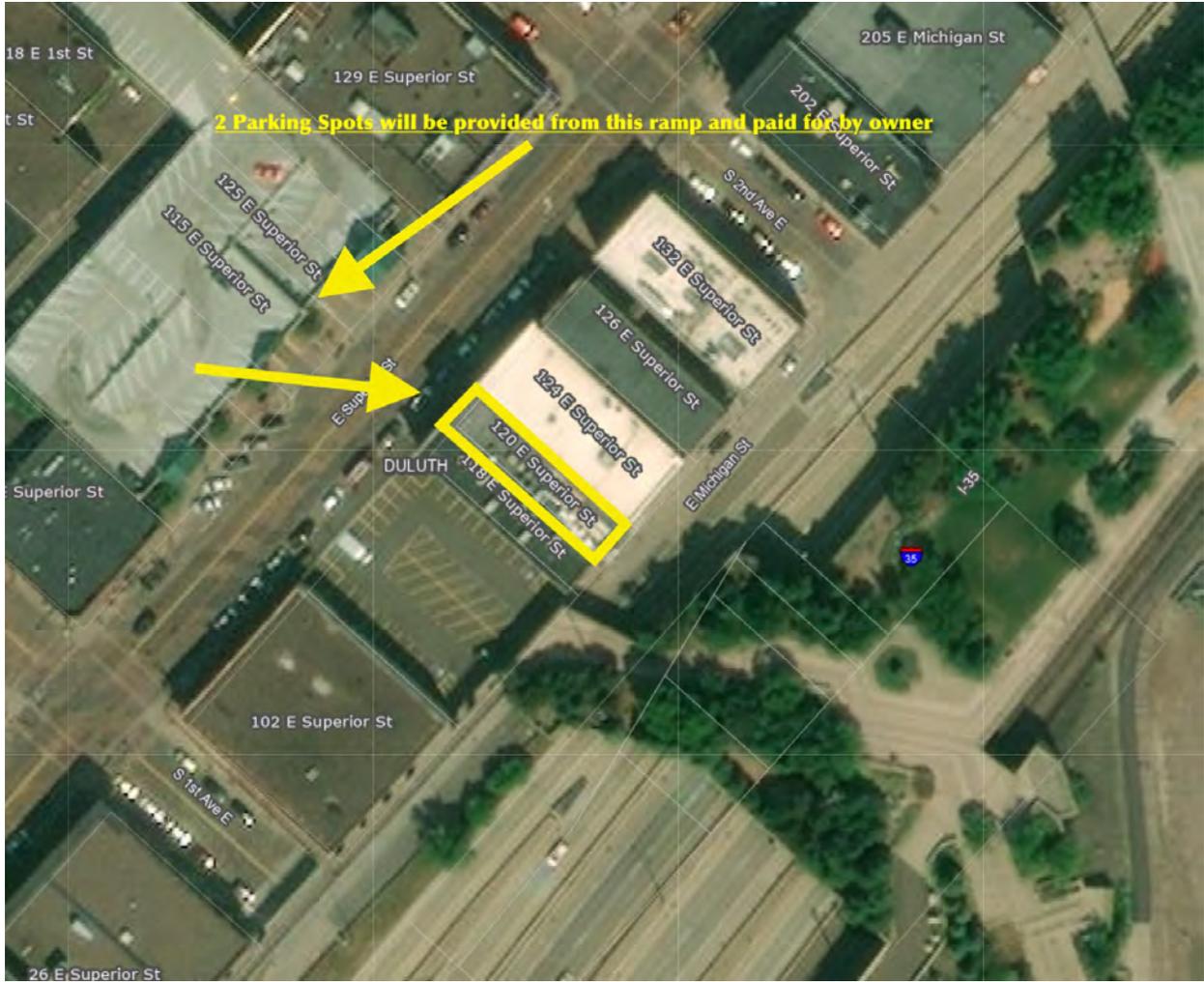
Zoning Boundaries

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Aerial photography flown 2019

Prepared by: City of Duluth Planning & Development Division, February 25, 2020. Source: City of Duluth.









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 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 21-010	<b>Contact</b>	Chris Lee, clee@duluthmn.gov	
<b>Type</b>	Interim Use Permit – Vacation Dwelling Unit	<b>Planning Commission Date</b>		April 13, 2021
<b>Deadline for Action</b>	<b>Application Date</b>	March 5, 2021	<b>60 Days</b>	May 4, 2021
	<b>Date Extension Letter Mailed</b>	March 20, 2021	<b>120 Days</b>	July 3, 2021
<b>Location of Subject</b>	942 89 <sup>th</sup> Avenue West Apt. 102			
<b>Applicant</b>	Ann VanRyswyk	<b>Contact</b>		
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	PID # 010-3300-01950			
<b>Site Visit Date</b>	March 31, 2021	<b>Sign Notice Date</b>	March 30, 2021	
<b>Neighbor Letter Date</b>	March 31, 2021	<b>Number of Letters Sent</b>	51	

**Proposal**

Applicant proposes to use a two-bedroom apartment as a vacation dwelling unit. Up to 2 people will be allowed to stay in the home. The applicant is the owner of the property.

The applicant was on the waitlist for available IUPs for vacation rentals.

**Recommended Action:** Staff recommends that Planning Commission recommend approval.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-2	Multi-Family Residential	Traditional Neighborhood
<b>North</b>	R-1	Single Family Residential	Traditional Neighborhood
<b>South</b>	R-2	Single Family Residential	Traditional Neighborhood
<b>East</b>	R-2	Single Family Residential	Traditional Neighborhood
<b>West</b>	R-1	Single Family Residential	Traditional Neighborhood

**Summary of Code Requirements:**

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the R-2 zone district.

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

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location . . .;
2. The applicant agrees to sign a development agreement with the city.
3. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units. Permits issued for



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vacation dwelling units or accessory vacation dwelling units in any form district shall not be counted against the maximum number of permits that may be issued, 4. Except for properties within the Higher Education Overlay District as identified in 50-18.5, the minimum rental period and off-street parking requirements of 50-20.3.U and 50-20.5.M shall not apply for vacation dwelling units or accessory vacation dwelling units in form districts.

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

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

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

**History:** The structure is a 2,160 square foot multi-family dwelling containing 5 units (1 efficiency and 4 one-bedroom), constructed in 1913. The structure is currently a licensed multi-family rental.

**Review and Discussion Items:**

- 1) Applicant's property is located at 942 89<sup>th</sup> Avenue West, Apartment 102. The proposed vacation dwelling unit contains 1 bedroom, which would allow for a maximum of 2 guests.
- 2) The applicant is proposing 1 off street parking space in the driveway located in front of the detached garage. No modifications to the existing paved driveway are anticipated.
- 3) The applicant has indicated there will not be a space for camper or trailer storage by VDU guests.
- 4) The applicant has indicated no outdoor amenities.
- 5) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed Justin Wimmer to serve as the managing agent.
- 7) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 8) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 9) Construction Services commented that the applicant must check with their office for Building Code requirements prior



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

Room 160  
411 West First Street  
Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

to permit approval. No other comments from citizens, City staff, or any other entity were received regarding the application.

**Staff Recommendation:**

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

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.
- 3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission review; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.





## Vacation Dwelling Unit Worksheet (September 2020)

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

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.

**How many legal bedrooms are in the dwelling? What will be your maximum occupancy?**

1 2

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

- a. 1-2 bedroom unit, 1 space
- b. 3 bedroom unit, 2 spaces
- c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
- d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
- e. Form districts are not required to provide parking spaces.

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

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

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

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

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

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

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

We will keep a detailed guest record @ 959 89th Ave. W.  
Apt # 101

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

Duluth  
55808

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

Justin Wimmer 218-491-3050

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

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

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

The information will be printed and placed  
in the rental apartment.

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

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

Ann VanRyswyk  
954 89th Avenue W. Apt. 101  
Duluth, MN 55808  
(612) 607-3283  
hubert.bonnet@gmail.com

March 2nd, 2021

William Hakala  
929 89th Avenue W.  
Duluth, MN 55808

Dear Bill & Cindy,

This letter is to inform you that we are applying for an Interim Use Permit. Per the city of Duluth, we are required to notify neighbors that are living within 100 feet from our property. If you have any questions you can contact us via email or by phone.

Sincerely,

Ann VanRyswyk

## **Welcome to Apartment 102 at 942 89th Avenue West, Duluth!**

Thanks for choosing our place for your stay in Duluth. Here are some information that we would like to share with you.

### **Towels**

Towels are in the bathroom on the shelf.

### **Heat**

The apartment should feel comfortable, but if you are cold please let us know (please do not change the temperature on the thermostat as it affects the whole building). And if you are too warm, you can shut the radiators off by turning the valve. We don't have central air.

### **Coffee**

We have a coffee machine for your convenience.

### **Food items and groceries**

There is tea and coffee for your to use in the kitchen. Whatever food items you find in the cupboards and the fridge feel free to use. For groceries there is a Whole Foods Coop at 4426 Grand Avenue. They have a large selection of local & organic produce and other high quality food. There is also a Super One grocery at 5300 Bristol St. in west Duluth.

### **WIFI**

Network: MySpectrumWIFI22 - 5G

PW: purpletiger353

### **Guests**

The maximum of guests allowed in this unit is 2.

### **TV**

To access Netflix and other apps, press "smarthub" on the tv remote.

### **Parking**

There is parking for one car in the garage driveway under the tree, accessible from the alley.

### **Willard Munger Trail**

With a bicycle you can easily access the trail from this location.

### **Spirit Mountain**

Less than 5 minutes by car, a great place for downhill skiing, cross-country skiing, and mountain biking.

### **Mont Du Lac**

About 10 minutes away, great place for downhill skiing.

### **Shops & Restaurants**

We have listed numerous places in our guest book on Airbnb.

### **Lock**

Please lock the door when you leave.

### **Trash**

Underneath the sink, on the right side, there is a trash bin and to the left side, there is a recycling bin. If your stay is long and you need to throw away your trash, please let us know.

### **Smoking/Pets**

Please note that we have a no smoking and no pet policy.

### **Sickness/Emergency**

In case you get sick there is a pharmacy at Walgreens on 4501 Grand Avenue. At 4702 Grand Avenue there is an Urgent Care at St. Luke's Denfeld Medical Clinic. For any major issue obviously call 911.

### **Bluetooth Speaker**

You can play music on your phone using the bluetooth speaker located in the living-room. Turn the speaker on, and select ENEBY20 by going to Bluetooth on your phone.

### **Check-out**

Check out time is at 11am.

Please put all dirty towels, dishrags etc. in the laundry basket in the bathroom.

Don't forget to lock the apartment.

### **Contact**

Please text us for any concerns or questions. If you have an urgent concern that needs to be addressed please call Hubert at 218-409-0484.

### **On-site Manager**

If need be, you can also contact the on-site manager. His name is Justin Wimmer and his number is 218-491-3050. He lives on the property at 930 89th Avenue West Apt. B1.

We wish you a wonderful stay in our beautiful city and neighborhood. Thank you again for choosing to stay with us!



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 21-029	<b>Contact</b>	Chris Lee, clee@duluthmn.gov	
<b>Type</b>	Interim Use Permit – Vacation Dwelling Unit	<b>Planning Commission Date</b>	April 13, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	March 9, 2021	<b>60 Days</b>	May 8, 2021
	<b>Date Extension Letter Mailed</b>	March 25, 2021	<b>120 Days</b>	July 7, 2021
<b>Location of Subject</b>	1407 Morningside Avenue			
<b>Applicant</b>	Rebecca Orn	<b>Contact</b>		
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	PID # 010-3330-01332			
<b>Site Visit Date</b>	March 31, 2021	<b>Sign Notice Date</b>	March 30, 2021	
<b>Neighbor Letter Date</b>	March 31, 2021	<b>Number of Letters Sent</b>	24	

**Proposal**

Applicant proposes to use a two-bedroom home as a vacation dwelling unit. Up to 5 people will be allowed to stay in the home.

The applicant was on the waitlist for available IUPs for vacation rentals.

**Recommended Action:** Staff recommends that Planning Commission recommend approval.

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

**Summary of Code Requirements:**

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

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

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location . . .;
2. The applicant agrees to sign a development agreement with the city.
3. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units. Permits issued for



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vacation dwelling units or accessory vacation dwelling units in any form district shall not be counted against the maximum number of permits that may be issued, 4. Except for properties within the Higher Education Overlay District as identified in 50-18.5, the minimum rental period and off-street parking requirements of 50-20.3.U and 50-20.5.M shall not apply for vacation dwelling units or accessory vacation dwelling units in form districts.

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

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

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

**History:** The property contains a 930 square foot single family home built in 1988.

**Review and Discussion Items:**

- 1) Applicant's property is located at 1407 Morningside Ave. The proposed vacation dwelling unit contains 2 bedrooms, which would allow for a maximum of 5 guests.
- 2) The applicant is proposing 2 off street parking spaces in the driveway.
- 3) The applicant has indicated there will not be a space for camper or trailer storage by guests.
- 4) The applicant has indicated no outdoor amenities. The applicant does indicate there is privacy fence on the property.
- 5) Permit holders must designate a managing agent or local contact who resides with 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed themselves to serve as the managing agent.
- 7) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 8) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 9) Construction Services commented that the applicant must check with their office for Building Code requirements prior to permit approval. No other comments from citizens, City staff, or any other entity were received regarding the application at the time this report was drafted.



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**Staff Recommendation:**

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

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.
- 3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission review; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.

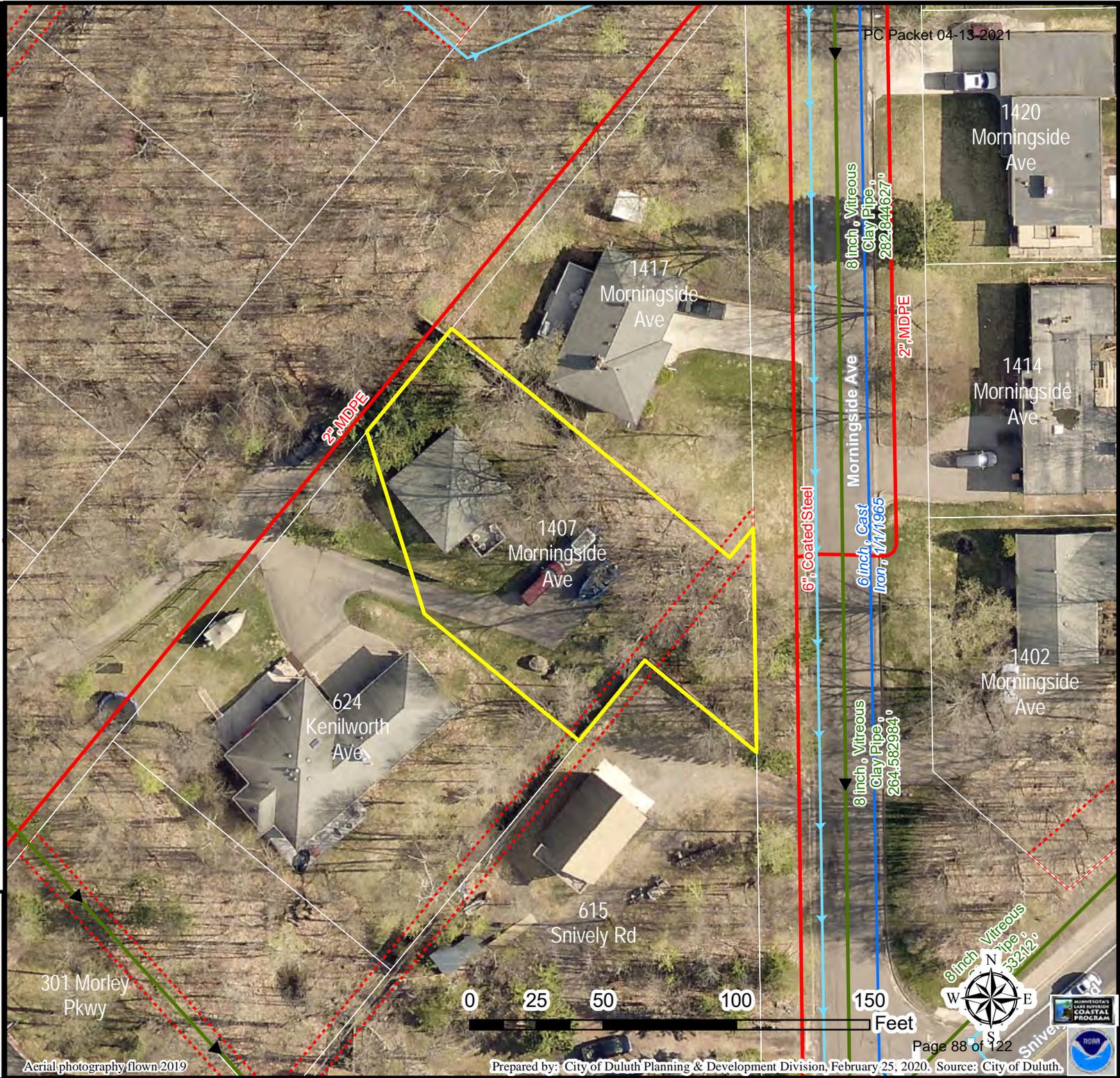


PL 21-029  
Interim Use Permit  
1407 Morningside Dr.

**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.



PC Packet 04-13-2021

Aerial photography flown 2019

Prepared by: City of Duluth Planning & Development Division, February 25, 2020. Source: City of Duluth.



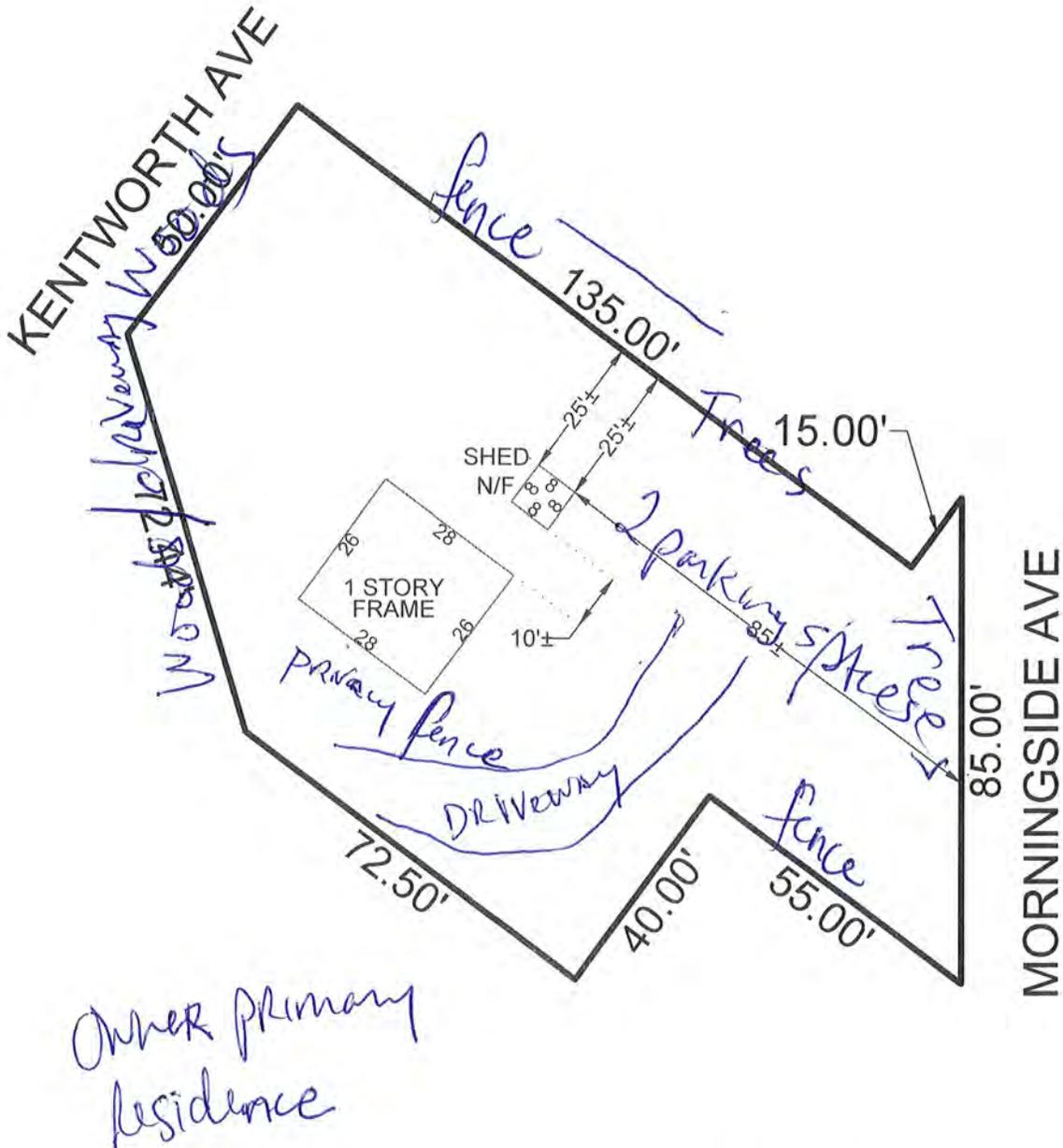
EPIC PROPERTY SERVICES

# EPIC PROPERTY SERVICES, INC.

## PROPERTY SKETCH

LEGAL: SEE SCHEDULE A

30 Scale



1407 MORNINGSIDE AVE

DULUTH

THIS IS NOT A SURVEY NOR SHOULD THIS BE USED AS A SURVEY TO LOCATE FUTURE IMPROVEMENTS. This drawing is for residential mortgage informational purposes only. the information relating to the property dimensions is based upon the recorded plat or maps in the country records the improvements location and dimensions shown are approximate and based upon a visual inspection.



**From:** [REDACTED]  
**To:** [Chris Lee](#)  
**Cc:** [REDACTED]  
**Subject:** Interim use permit at 1407 Morningside avenue  
**Date:** Friday, April 2, 2021 7:22:46 PM

---

Dear Chris Lee, planner 1,

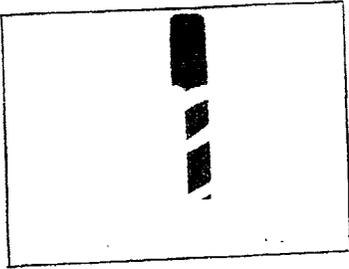
The Orn family are very considerate and responsible neighbors. I saw the small two bedroom house before and after they remodeled and it is beautiful. I am confident that Rebecca will not tolerate any out of control nonsense at the house right next door to their home. My home borders their property and it is isolated by fences and woods on all sides. I support their application.

Please share my email with the planning commission as I will not be attending. Feel free to call me if you wish. [REDACTED]

[REDACTED]  
Sincerely,

[REDACTED]  
[REDACTED] 55803

Sent from my iPhone



# Epic Property Services, Inc Property Inspection Report

Order Number: 15481  
Address On Building: 1402 Morning Side Ave  
City: Dublin County: St Louis

### Character Of Improvements?

- |   |   |   |
|---|---|---|
| <input checked="" type="checkbox"/> 1 Sty | <input checked="" type="checkbox"/> Frame | <input checked="" type="checkbox"/> Residential |
| <input type="checkbox"/> 1 1/2 Sty        | <input type="checkbox"/> Brick            | <input type="checkbox"/> Townhouse              |
| <input type="checkbox"/> 2 Sty            | <input type="checkbox"/> Stucco           | <input type="checkbox"/> Condo                  |
| <input type="checkbox"/> Other            | <input type="checkbox"/> Other            | <input type="checkbox"/> Commercial             |
|   |   | <input type="checkbox"/> Other                  |

### Garage?

- Attached
- Not Attached
- Car
- None

### Any Alley?

- Yes
- No

### Estimated Age Of Improvements?

- New Construction
- Less then 1 year
- 1 to 5 years
- 5 to 15 years
- 15 years or older

### Any Apparent Recent Improvements?

- Yes Describe: \_\_\_\_\_
- No

### Apparent Easements?

- Yes Describe: \_\_\_\_\_
- No

### Any Fences On The Property?

- Yes
- No

### Do Improvements On Adjoining Property

#### Appear To Encroach?

- Yes Describe: \_\_\_\_\_
- No

#### Any Party Walls?

- Yes Describe: \_\_\_\_\_
- No

### Do All Structures And Improvements Appear To Be

#### Within Property Lines?

- Yes Describe: \_\_\_\_\_
- No

### Access To Property?

- Street/Alley
- Shared Drive
- Access Esmt
- Other

### Water On property

- Lakes
- Wetlands
- Rivers
- Creek

### Persons In Possession?

- Occupied (No Response)
- Unoccupied
- Owner
- Workmen
- Other

### Overhead powerlines

- Yes
- No

Other Information: \_\_\_\_\_

Inspection Date: 11-3-15 Inspected By: W. Johnson

Plat Drawing Prepared By:  
Epic Property Services, Inc, 12550 W Frontage Rd, Suite 205, Burnsville, MN 55337  
Phone: (952)666-7410 Fax: (952)666-7424 Email: Orders@epicpropertyservicesinc.com

### Vacation Dwelling Unit Worksheet (September 2020)

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

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.

**How many legal bedrooms are in the dwelling? What will be your maximum occupancy?**

2 5

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

- a. 1-2 bedroom unit, 1 space
- b. 3 bedroom unit, 2 spaces
- c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
- d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
- e. Form districts are not required to provide parking spaces.

**How many off-street parking spaces will your unit provide?** 2

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

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

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

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

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

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

I will keep an Excel spreadsheet with names and dates of stay of all guests

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

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

Self - Rebecca Orn 651-485-5736 ornrebecca@gmail.com  
Husband - Brad Orn 612-963-8700 orns17@gmail.com

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

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

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

VRBO/ Airbnb

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

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





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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

<b>File Number</b>	PL 21-028		<b>Contact</b>	Kyle Deming, <a href="mailto:kdeming@duluthmn.gov">kdeming@duluthmn.gov</a>	
<b>Type</b>	Interim Use Permit – Vacation Dwelling Unit		<b>Planning Commission Date</b>	April 13, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	March 9, 2021	<b>60 Days</b>	May 8, 2021	
	<b>Date Extension Letter Mailed</b>	March 24, 2021	<b>120 Days</b>	July 7, 2021	
<b>Location of Subject</b>	4931 E. Superior St. (Lakeside-Lester Park)				
<b>Applicant</b>	Endion Land Co. LLC		<b>Contact</b>		
<b>Agent</b>	Heirloom Property Management		<b>Contact</b>	Michael Schraepfer	
<b>Legal Description</b>	Lots 7 and 8, except RY R of Way, Block 70, London Addition (PID 010-3030-00100)				
<b>Site Visit Date</b>	March 31, 2021		<b>Sign Notice Date</b>	March 30, 2021	
<b>Neighbor Letter Date</b>	April 1, 2021		<b>Number of Letters Sent</b>	19	

**Proposal**

Applicant proposes to use a three-bedroom home as a vacation dwelling unit with no off-street parking, with a maximum of 7 occupants. The proposed vacation dwelling is located in the F-2 Form District.

**Recommended Action:** Staff recommends that Planning Commission recommend approval.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-2 Low-Rise Neighborhood Mix	Residential	Traditional Neighborhood
<b>North</b>	P-1 Park	Park	Open Space
<b>South</b>	R-1	Superior St. and trail	Traditional Neighborhood
<b>East</b>	MU-N	Residential	Traditional Neighborhood
<b>West</b>	F-2 Low-Rise Neighborhood Mix	Residential and church	Traditional Neighborhood

**Summary of Code Requirements:**

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-2 zone district.

UDC Sec. 50-37.10.E . . . the Council shall only approve an interim use permit, or approve it with conditions, if it determines that: 1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location . . . ; 2. The applicant agrees to sign a development agreement with the city. 3. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units. Permits issued for vacation dwelling units or accessory vacation dwelling units in any form district shall not be counted against the maximum number of permits that may be issued, 4. Except for properties within the Higher Education Overlay District as identified in 50-18.5, the minimum rental period and off-street parking requirements of 50-20.3.U and 50-20.5.M shall not apply for vacation dwelling units or accessory vacation dwelling units in form districts.

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

Governing Principle #8 - Encourage mix of activities, uses, and densities. Project is a reuse of a dwelling in a commercial corridor (zoned F-2) for a tourism-oriented use. The surrounding area include a church, businesses, a park and dwellings.

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

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

**History:** The structure was built in 1911.

**Review and Discussion Items:**

1. Applicant's property most recently was an office related to the neighboring St. Michael's Church. Originally, it was a three-bedroom house.
2. Applicant is proposing a 3-bedrom vacation dwelling unit allowing up to 7 guests for stays of a minimum of 2 nights.
3. There are no off-street parking spaces on the applicant's 4,897 sq. ft. property and none are required due to the F-2 zoning of the property. The applicant finds the available on-street parking sufficient due to the park occupying the entire block across the street rather than homes that would compete for on-street parking spaces.
4. Applicant has indicated guests will not bring campers or trailers to the property.
5. As there is limited yard space and only a small balcony on the Pitt St. side of the house, the applicant does not expect much use of the property's exterior spaces. No exterior amenities are to be provided except additional landscaping shown on the attached Landscape Screening Plan.
6. Applicant has indicated that Heirloom Property Management will manage the property and that they will contact the owners of all properties within 100 feet of the subject property to provide the manager's contact info. Applicant has begun the process of talking with these landowners.
7. A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
8. Applicant must comply with items listed in the Vacation Dwelling Unit Worksheet (included with staff report) and provide to guests information about City rules found on the handout provided to the applicant titled "Selected City Ordinances on Parking, Parks, Pets, and Noise."
9. No comments from citizens, City staff, or any other entity were received regarding the application.

**Staff Recommendation:**

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

1. The Interim Use Permit shall not be effective until the applicant has obtained all required licenses and permits for operation.
2. The applicant install the landscaping shown on the Landscape Screening Plan.
3. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission review; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 21-028  
Interim Use Permit  
4931 E Superior St

4931 Pitt St

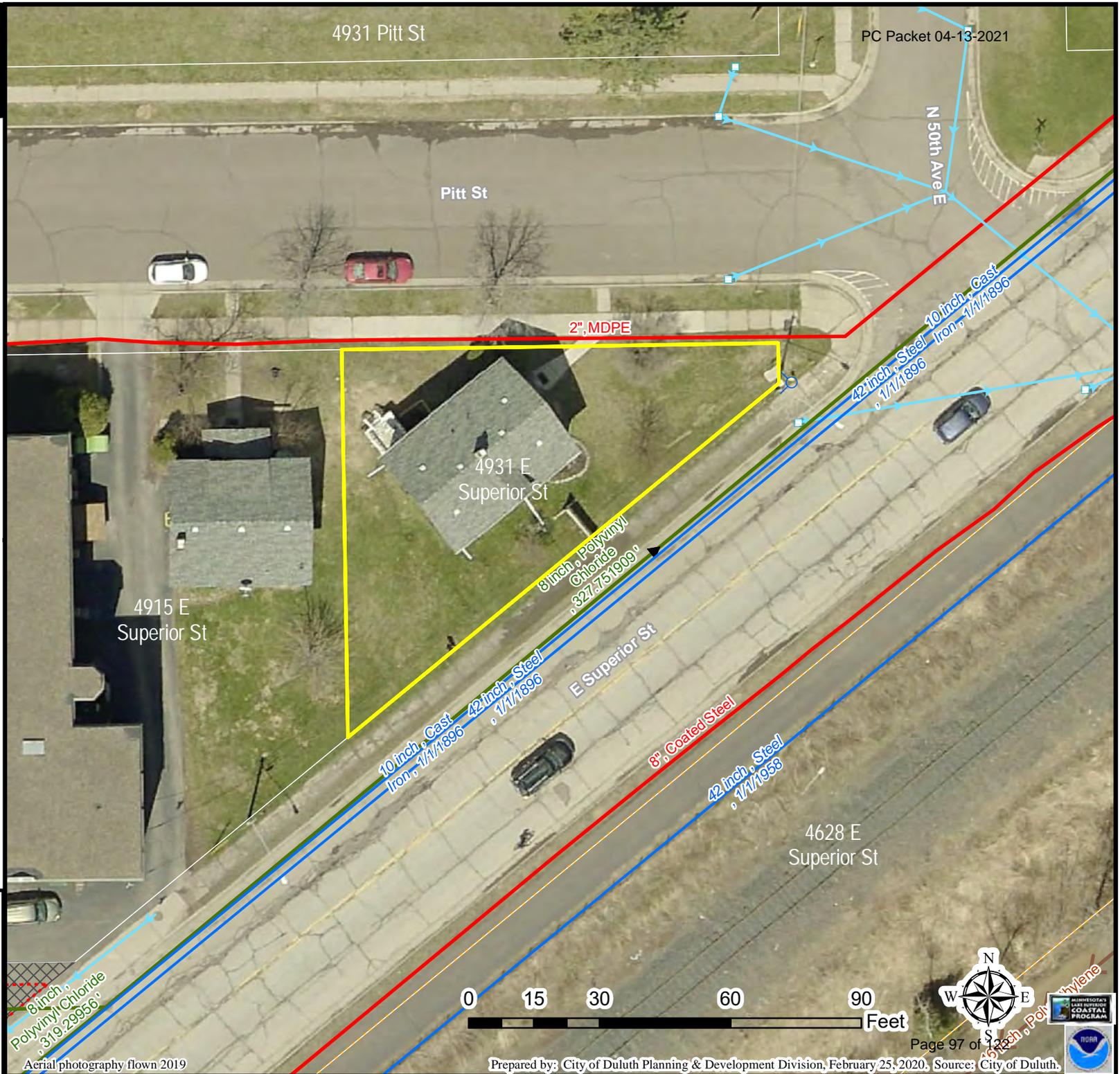
PC Packet 04-13-2021

Pitt St

N 50th Ave E

**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



4915 E  
Superior St

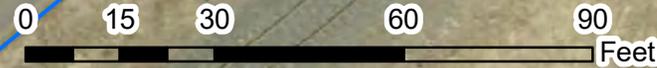
4931 E  
Superior St

E Superior St

4628 E  
Superior St

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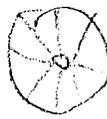
Aerial photography flown 2019



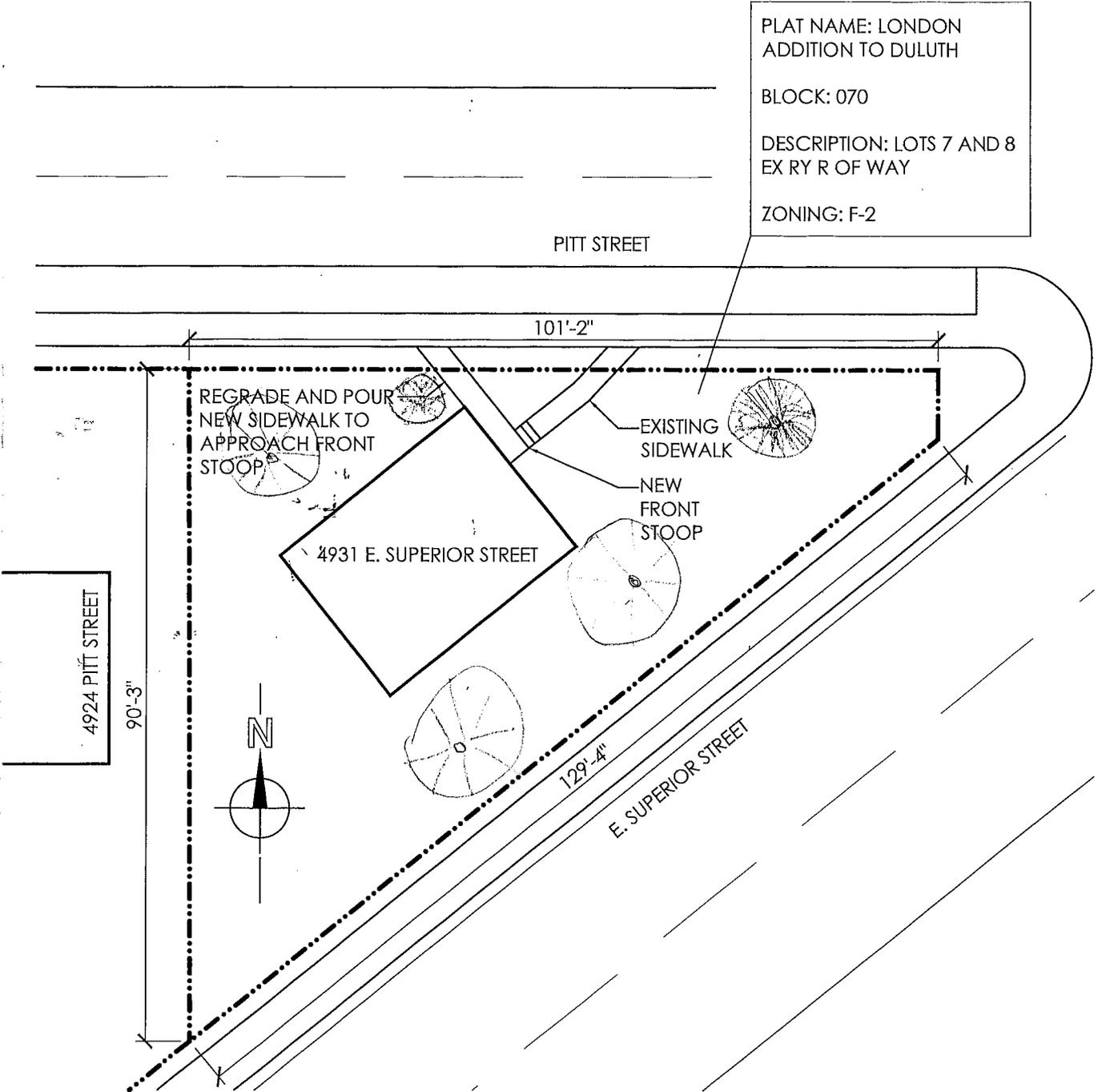
# Landscape Screening Plan - 4931 F Superior St., Duluth MN

Packet 4-13-2011

 Landscape Shrub

 Landscape Tree

PLAT NAME: LONDON  
 ADDITION TO DULUTH  
 BLOCK: 070  
 DESCRIPTION: LOTS 7 AND 8  
 EX RY R OF WAY  
 ZONING: F-2



1 SITE PLAN  
 TITLE 1" = 20'-0"

## Vacation Dwelling Unit Worksheet (September 2020)

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

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.

**How many legal bedrooms are in the dwelling? What will be your maximum occupancy?**

3 7

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

- a. 1-2 bedroom unit, 1 space
- b. 3 bedroom unit, 2 spaces
- c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
- d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.

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

**How many off-street parking spaces will your unit provide?** 0 In Form District.

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

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

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

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

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

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

Our property management software keeps this log.

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

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

Heirloom Property Management 218-390-4317

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

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

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

This will be advertised in marketing, communicated to all guests, and available onsite in a booklet.

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

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



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

<b>File Number</b>	PL 21-023	<b>Contact</b>	Kyle Deming, <a href="mailto:kdeming@duluthmn.gov">kdeming@duluthmn.gov</a>	
<b>Type</b>	Variance – building height	<b>Planning Commission Date</b>	April 13, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	March 9, 2021	<b>60 Days</b>	May 8, 2021
	<b>Date Extension Letter Mailed</b>	March 24, 2021	<b>120 Days</b>	July 7, 2021
<b>Location of Subject</b>	601 E. 4 <sup>th</sup> St. (East Hillside)			
<b>Applicant</b>	Brewery Creek LLLP	<b>Contact</b>	Jeff Corey – 1Roof Community Housing	
<b>Agent</b>	LHB Architects and Engineers	<b>Contact</b>	Emily Timm	
<b>Legal Description</b>	Lots 1-10, including vacated 20 feet of E. 4 <sup>th</sup> St., Block 93, Portland Division (010-3830-14230)			
<b>Site Visit Date</b>	March 15, 2021	<b>Sign Notice Date</b>	March 25, 2021	
<b>Neighbor Letter Date</b>	April 1, 2021	<b>Number of Letters Sent</b>	23	

**Proposal**

Construct a 209 foot by 69 foot, 52-unit 5-story apartment building at the northeast corner of 6<sup>th</sup> Ave. E. and E. 4<sup>th</sup> St. A variance is requested to exceed the 55 foot maximum building height by 5 feet – 1 inch to a height of 60 feet – 1 inch.

**Recommended Action:** Approve variance with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-6 Mid-Rise Neighborhood Shopping	Vacant commercial	Neighborhood Mixed Use
<b>North</b>	MU-N and R-1	Apartment Building	Neighborhood Mixed Use
<b>South</b>	F-6 Mid-Rise Neighborhood Shopping	Commercial	Neighborhood Mixed Use
<b>East</b>	F-6 Mid-Rise Neighborhood Shopping	Apartments	Neighborhood Mixed Use
<b>West</b>	MU-N	Parking lot	Neighborhood Mixed Use

**Summary of Code Requirements**

Sec. 50-22.12.B – Maximum Overall Height – 55 feet.

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

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

Governing Principle #5 – Promote reinvestment in neighborhoods. Project redevelops an underutilized site in a portion of the neighborhood with access to transit, jobs, and services.

Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods. Project provides 52 additional housing units for the community.

Zoning – F-6 Mid-Rise Neighborhood Shopping - Corridor Building II - Corridor buildings are primarily meant to house office or multi-family residential uses, with less transparency required on the ground floor. Corridor Building II is an intermediary building type between the more neighborhood scale locations and the intensity of Downtown.

Future Land Use – Neighborhood Mixed Use - A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets. Site design should maintain a largely residential building character. Commercial-only uses should be adjacent to non-residential or other mixed-use areas.

History – the site formerly featured an oil change business and a liquor store with apartments above. They have been vacant and blighted for several years. The site was acquired by One Roof Development as a redevelopment site in 2018.

**Review and Discussion Items**

Staff finds that:

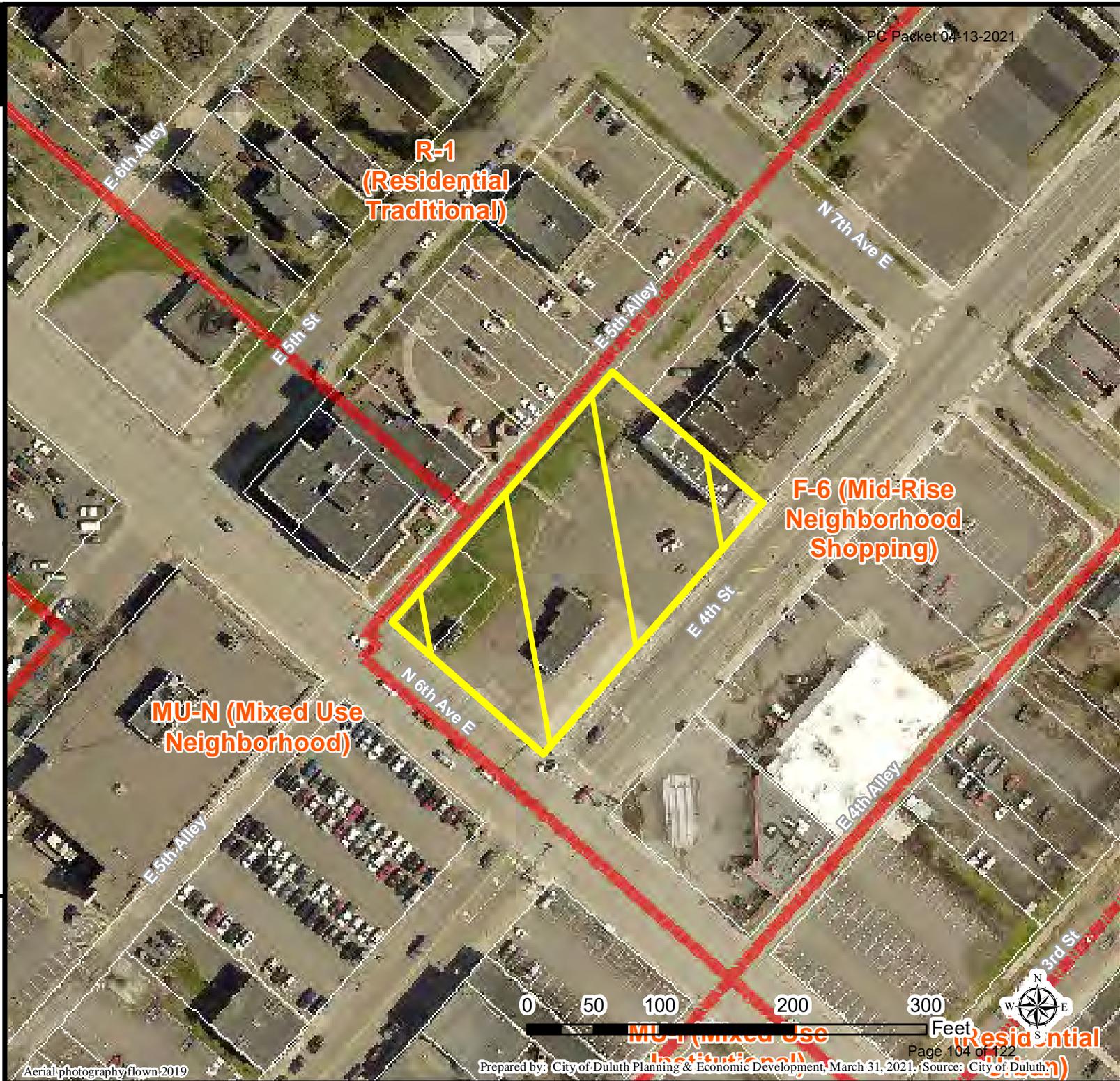
- 1) The applicant’s property is 250 x 150 feet comprising 0.86 acres. It currently is primarily parking lot with two small commercial buildings that have been unoccupied for several years and a large billboard sign. F-6 Zoning with a Corridor Building II sets a maximum building height of 55 feet and the proposal is a 60 foot – 1 inch tall building as measured from the center of the principal front of the building on E. 4<sup>th</sup> St.
- 2) The applicant is proposing to use the property in a reasonable manner by constructing a 52 unit apartment building at the corner of the property with parking to the rear off the alley. However, the steep grade and the presence of the buried creek are special circumstances that present a practical difficulty in putting the property to this use.
- 3) The applicant’s property is severely impacted by the slope dropping 22 feet from the northwest corner to the southeast corner. The zoning requires the building be located at the street intersection, which is at an elevation of 796 ft. and the MN Accessibility Code requires the rear entrance be at grade with the parking lot (elevation 809 ft.). The differences in grade (13 ft.) is not enough to allow for two floors between 4<sup>th</sup> St. and the alley, and so the building has been designed with a 13 foot distance between 1<sup>st</sup> and 2<sup>nd</sup> floor, which makes the building taller to get the same number of total floors.
- 4) To mitigate for the taller first floor (13 ft.), the applicant is proposing to use 8 ft. studs rather than 9 ft. studs on floors 2 through 5 to reduce the height of the building.
- 5) In addition to the slope, the presence of a Brewery Creek, in a subterranean tunnel running along the east property boundary, also presents a practical difficulty to the reasonable use of the site. The applicant is prevented from using the easterly 30 feet of the site for the apartment building in order to provide a safety buffer to protect the building’s stability on the site. If the entire width of the site were available for apartments and the slope allowed apartments to be constructed on the “uphill” side of the first floor, the fifth floor would not be needed to fit the 52 apartments.
- 6) The variance, if granted, would not alter the essential character of the area that includes the Village Place Apartments (602 E. 5<sup>th</sup> St.) across the alley from the subject property that is 5 stories tall from E. 5<sup>th</sup> St. and 6 stories tall from the alley. The subject property will be 4 stories tall from the alley elevation. Other buildings within two blocks of the site are generally 3 stories tall, with the exception of the Essentia Health St. Mary’s Hospital that is 9 stories tall from E. 3<sup>rd</sup> St. and the St. Mary’s support building (with helipad) at 407 E. 4<sup>th</sup> St. that is the equivalent of 5-6 stories tall.
- 7) This addition is at the corner of the property and will have a limited effect on access to light and air for the rowhouse to the east due to the 30 foot setback from the east property line. Additionally, the subject building is 85 feet south of the Village Place Apartments providing sufficient access to light and air.
- 8) The 36 parking spaces will access the existing alley which has sufficient capacity to convey vehicles to either 6<sup>th</sup> or 7<sup>th</sup> Ave. E. where they can utilize the grid pattern of streets. No vehicle congestion is expected to result.

9. The health, safety, and public welfare are not expected to be effected by the granting of the variance. Construction of the building according to current building codes will not result in danger of fire or other safety issues any more so if it were constructed within the normal building height according to the Fire Marshall.
10. The variance, if granted, would result in a building that is 5 feet taller than what could normally be built on this lot. This is only marginally taller and, therefore, the impact to values of upslope properties is also likely to be marginal.
11. The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Neighborhood Mixed Use and the intent of the Corridor Building II being an “intermediary building type between the more neighborhood-scale locations and the intensity of Downtown.”
12. No comments from citizens, City staff, or any other entity were received regarding the application.
13. Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

**Staff Recommendation**

Based on the above findings, staff recommends that Planning Commission adopt the findings of fact in the staff report and approve the Variance with the following conditions:

- 1) The project be limited to a constructing a 60 foot – 1 inch tall building occupying the areas of the site shown on Sheet C300 of plans drawn by LHB titled “Brewery Creek” date 3/8/2021.
- 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.



**Legend**  
 Zoning Boundaries

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



VIEW OF MAIN ENTRY FROM SOUTHWEST



VIEW FROM NORTHWEST



VIEW FROM SOUTHEAST

EXTERIOR ELEVATION KEY

- AN ADDRESS NUMBERS
- C1 CORNICE 1 - PREFINISHED SHEET METAL WITH HORIZONTAL EXPRESSION LINES
- C2 CORNICE 2 - PREFINISHED SHEET METAL WITH HORIZONTAL EXPRESSION LINES
- C3 CORNICE 3 - PREFINISHED SHEET METAL
- D1 DOOR 1 - MAIN ENTRY
- D2 DOOR 2 - COMMUNITY ROOM
- D3 DOOR 3 - STAIR B EMERGENCY EXIT
- D4 DOOR 4 - ENTRY DOOR
- D5 DOOR 5 - TRASH DOORS
- EC1 ENTRANCE CANOPY 1
- EO ELEVATOR OVERRUN
- FCL1 FIBER CEMENT LAP SIDING 1
- FCL2 FIBER CEMENT LAP SIDING 2
- FCP1 FIBER CEMENT PANEL 1
- FCP2 FIBER CEMENT PANEL 2
- FCP3 FIBER CEMENT PLANK
- HR1 METAL HANDRAIL
- ML1 ALUMINUM VTAC LOUVER - MATCH COLOR OF ADJACENT CLADDING
- RW CAST IN PLACE CONCRETE RETAINING WALL
- SG SLOPED GRADE BEYOND



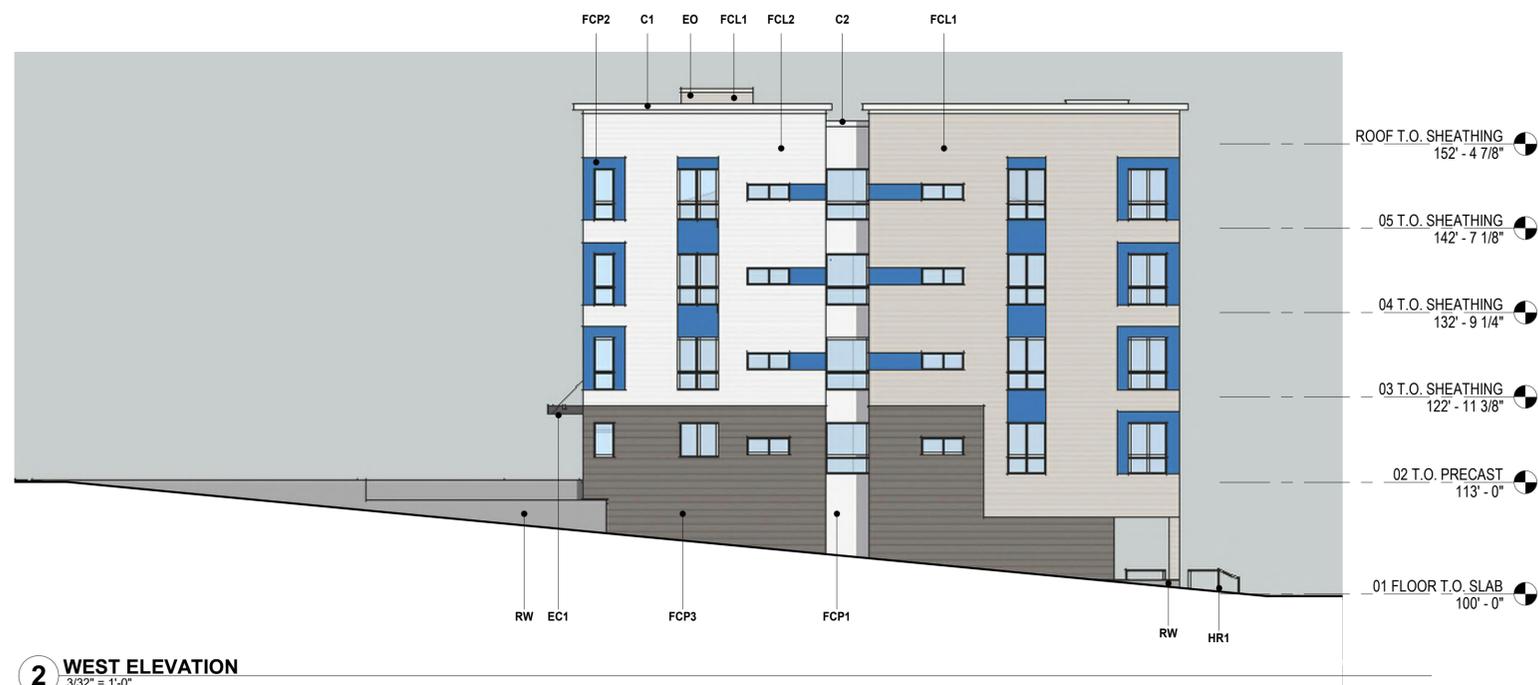
**2 NORTH ELEVATION**  
3/32" = 1'-0"



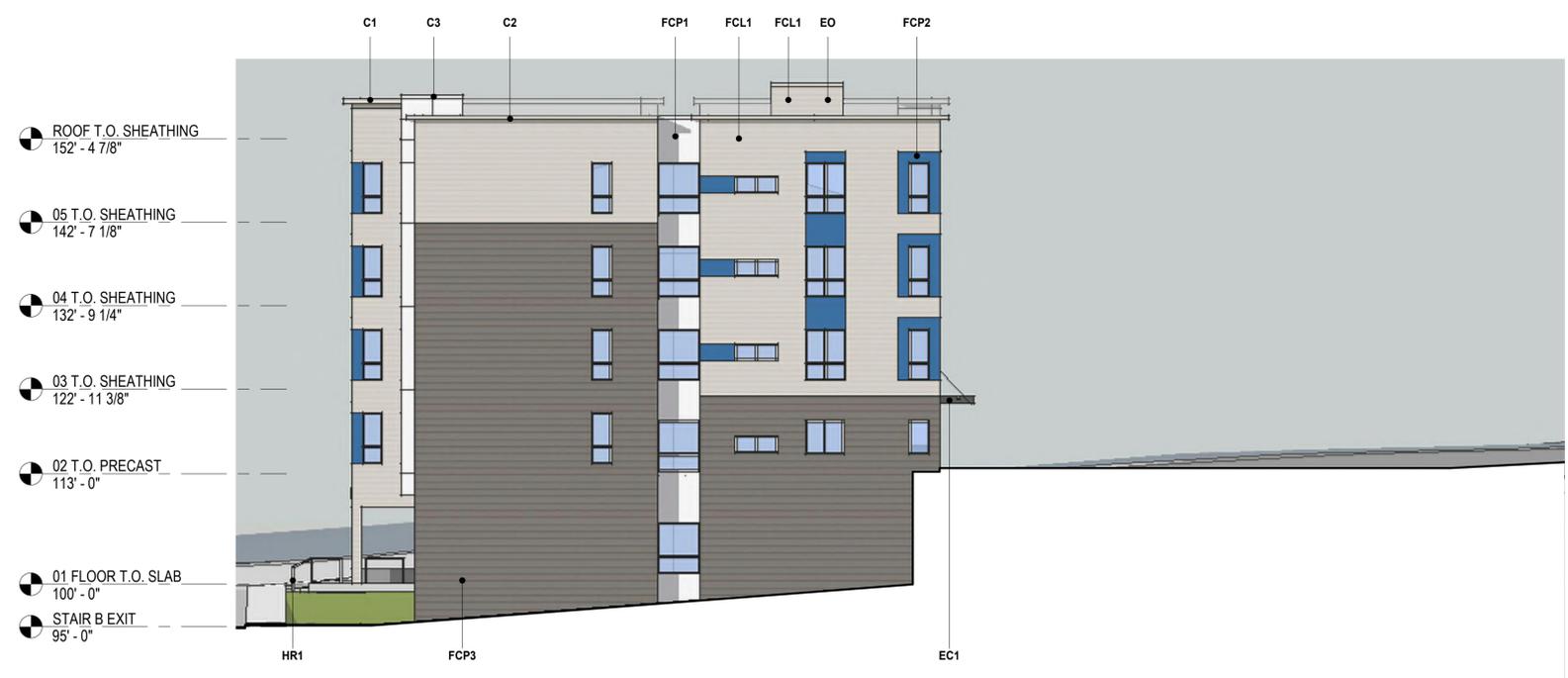
**1 SOUTH ELEVATION**  
3/32" = 1'-0"

EXTERIOR ELEVATION KEY

- AN ADDRESS NUMBERS
- C1 CORNICE 1 - PREFINISHED SHEET METAL WITH HORIZONTAL EXPRESSION LINES
- C2 CORNICE 2 - PREFINISHED SHEET METAL WITH HORIZONTAL EXPRESSION LINES
- C3 CORNICE 3 - PREFINISHED SHEET METAL WITH HORIZONTAL EXPRESSION LINES
- D1 DOOR 1 - MAIN ENTRY
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- FCP2 FIBER CEMENT PANEL 2
- FCP3 FIBER CEMENT PLANK
- HR1 METAL HANDRAIL
- ML1 ALUMINUM VTAC LOUVER - MATCH COLOR OF ADJACENT CLADDING
- RW CAST IN PLACE CONCRETE RETAINING WALL
- SG SLOPED GRADE BEYOND



**2 WEST ELEVATION**  
3/32" = 1'-0"



**1 EAST ELEVATION**  
3/32" = 1'-0"



PERFORMANCE DRIVEN DESIGN.  
LHBcorp.com

21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.8446

CLIENT:  
**BREWERY CREEK LLLP**

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

NO	DATE	ISSUED FOR

NO	DATE	REVISION

**PRELIMINARY**  
**NOT FOR CONSTRUCTION**  
03/08/2021

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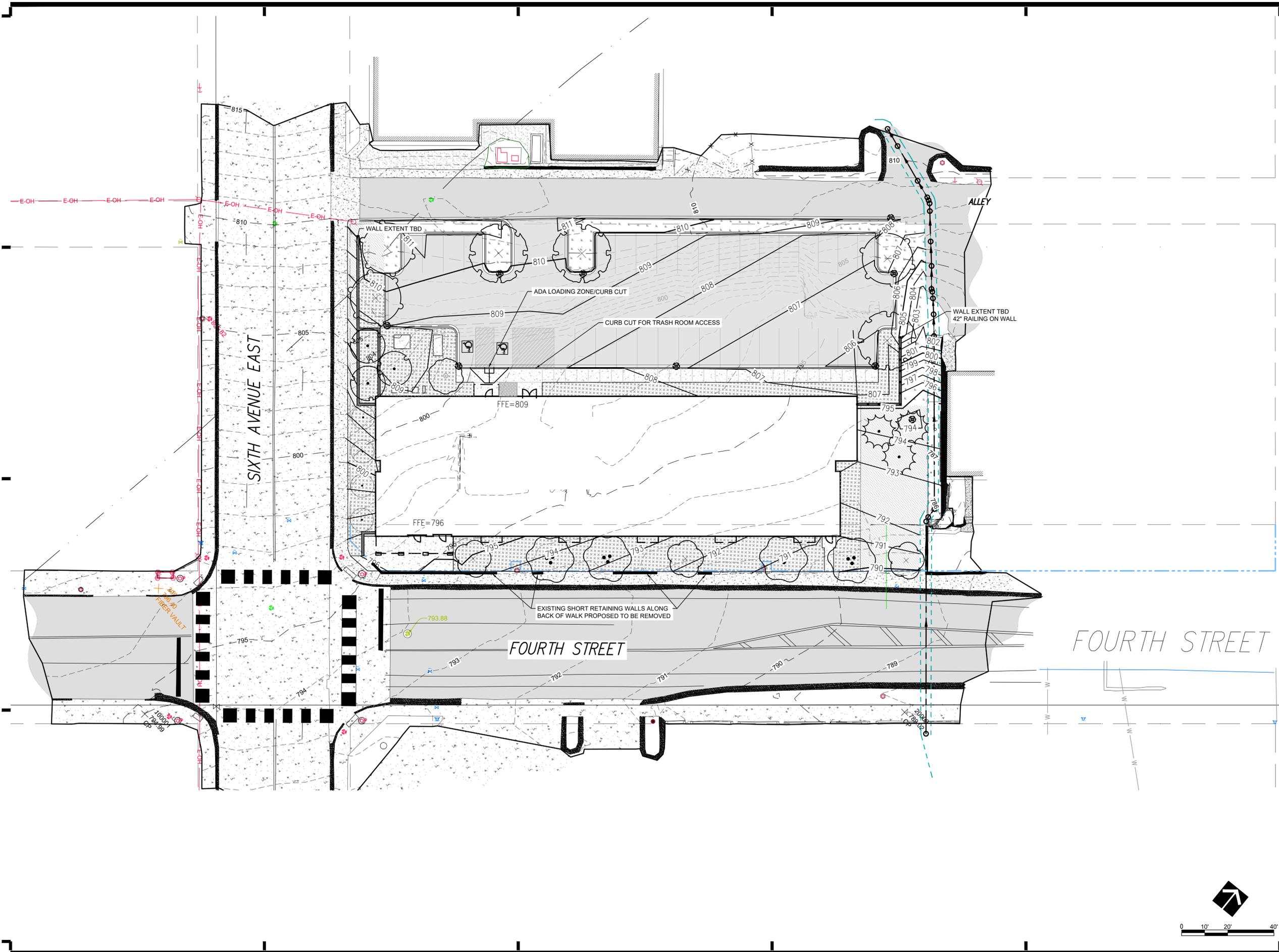
PROJECT NAME:  
**BREWERY CREEK**

601-619 EAST 4TH ST  
DULUTH, MN

DRAWING TITLE:  
**GRADING PLAN**

FILE: ..200146500 Drawings\Civil\200146 C200 Grading.dwg  
 DRAWN BY: XXX  
 CHECKED BY: XXX  
 PROJ. NO: 200146  
 DRAWING NO:

**C200**





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CLIENT:  
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NO DATE ISSUED FOR

NO DATE REVISION

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03/08/2021

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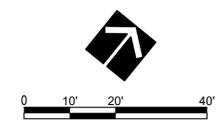
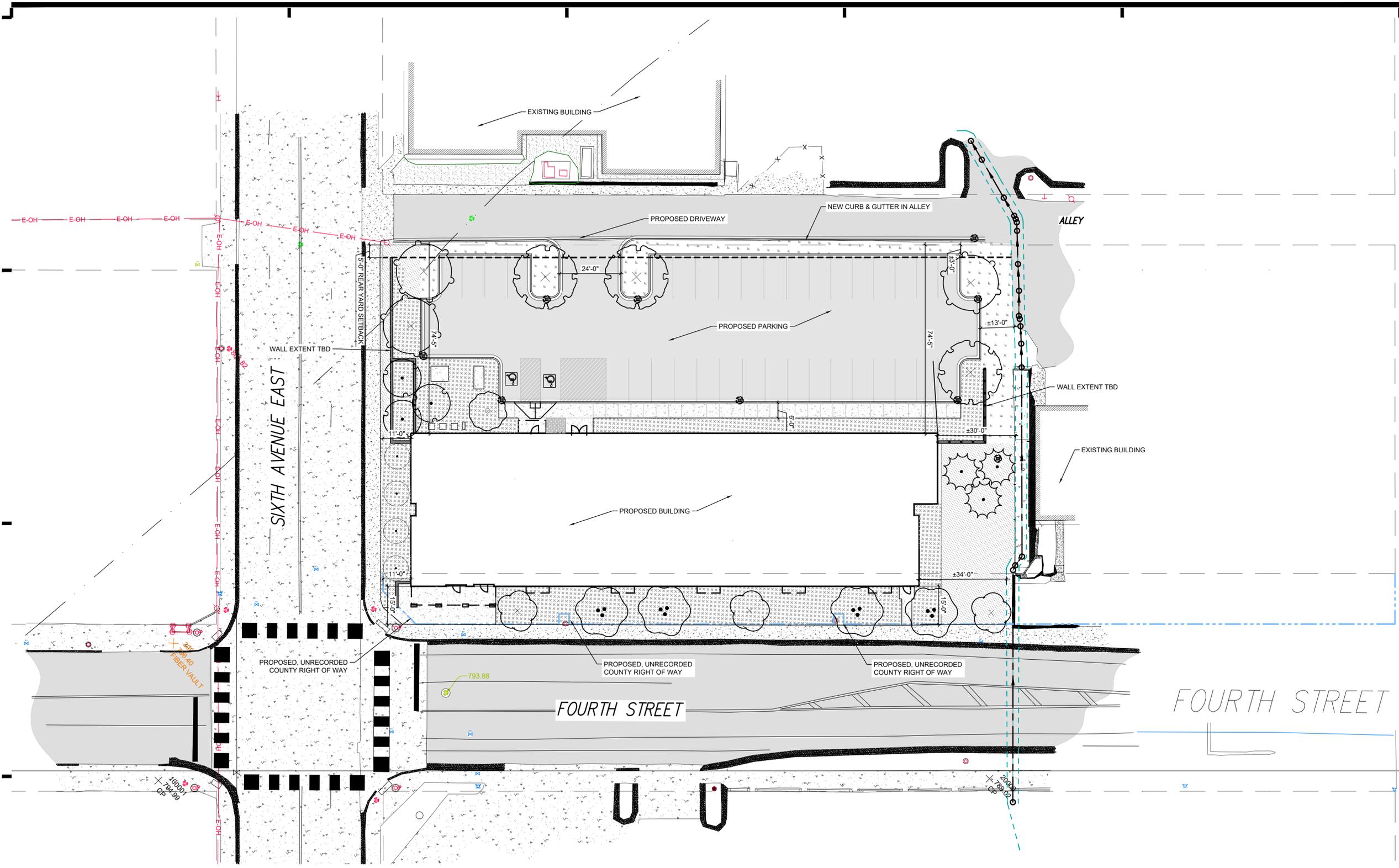
PROJECT NAME:  
**BREWERY CREEK**

601-619 EAST 4TH ST  
DULUTH, MN

DRAWING TITLE:  
**SURFACING & LAYOUT PLAN**

FILE: ..200146500 Drawings\Civil\200146 C300 Layout and Surfacing.dwg  
DRAWN BY: XXX  
CHECKED BY: XXX  
PROJ. NO: 200146  
DRAWING NO:

**C300**





PERFORMANCE DRIVEN DESIGN.  
LHBcorp.com

21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.8446

CLIENT:  
BREWERY CREEK LLLP

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

NO DATE ISSUED FOR

NO DATE REVISION

**PRELIMINARY**  
NOT FOR CONSTRUCTION  
02/25/2021

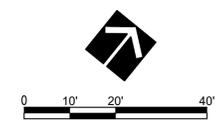
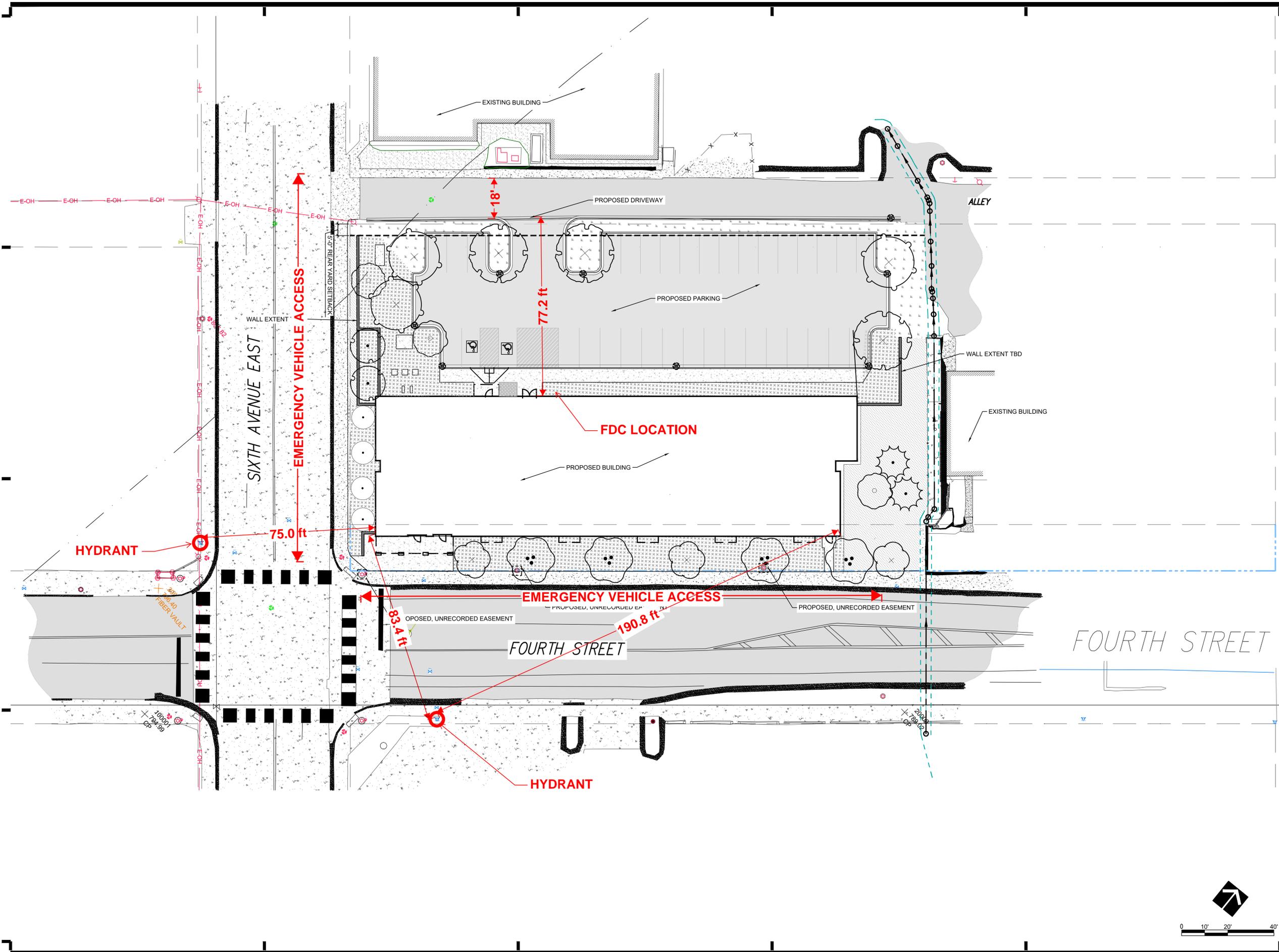
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PROJECT NAME:  
BREWERY CREEK

601-619 EAST 4TH ST  
DULUTH, MN

DRAWING TITLE:  
EMERGENCY ACCESS  
EXHIBIT

FILE: ..200146500 Drawings\Civil\200146 C300 Layout and Surfacing.dwg  
DRAWN BY: XXX  
CHECKED BY: XXX  
PROJ. NO: 200146  
DRAWING NO:





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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

Date: April 5, 2021  
 To: Heritage Preservation Commission and Planning Commission  
 From: Steven Robertson, Senior Planner  
 RE: Proposed UDC Text Amendments Related to Allowed Uses in R-2

The purpose state of the R-2 district, as shown in 50-14.6, is “to accommodate multi-family apartments and townhouses, in an urban setting. This district also allows for single-family detached dwellings, duplexes and group living accommodations as shown in Table 50-19.8. The district is intended primarily for locations closer to commercial and mixed-use activity centers, and may serve as a transition between lower-density residential areas and more intense commercial and mixed-use neighborhoods”.

The UDC currently allows Office and Retail, Small (less than 15,000 square feet) as special uses in the R-2 district; these have been allowed in the R-2 since 2011. Planning staff are recommending that the permitted use table be amended to also allow Personal Service and Repair, Small (less than 10,000 square feet) and Grocery Store, Small (less than 15,000 square feet) as special uses in the R-2. Staff believe that these two new uses are in accord with the purpose statement of the R-2 district, and have similar traffic generation, off-street parking needs, and hours of operation as Retail, Small and Office. Staff recommend that 50-19.8 be amended as shown in the attached document.

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

**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
<b>Retail Sales</b>																										
Adult bookstore																							P			
Building materials sales								S		P	P <sup>3</sup>															
Garden material sales		S						P <sup>1</sup>			P <sup>3</sup>				P											
Grocery store, small (less than 15,000 sq. ft.)					S <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>			P <sup>1</sup>	P <sup>3</sup>		P		P	P	P	P	P						
Grocery store, large (15,000 sq. ft. or more)								P <sup>1</sup>				P <sup>3</sup>														
Retail store not listed, small (less than 15,000 sq. ft.)					S <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>		P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	P	P	P					
Retail store not listed, large (15,000 sq. ft. or more)								P <sup>1</sup>			P <sup>1</sup>	P <sup>3</sup>		P		P	P		P	P						
<b>Vehicle Related</b>																										
Automobile and light vehicle, service							S <sup>2</sup>	P <sup>1</sup>		P		P <sup>3</sup>		P		P	P	P					P			
Automobile and light vehicle, repair								P <sup>1</sup>		P <sup>1</sup>		P <sup>3</sup>											P			
Automobile and light vehicle sales, rental, or storage								P <sup>1</sup>		P													P			
Filling station (small)					S <sup>2</sup>	P <sup>3</sup>	S <sup>2</sup>	P <sup>1</sup>		P	P <sup>1</sup>	P <sup>3</sup>		P		P	P	P				P	P			
Filling station (large)								P <sup>1</sup>		P	P <sup>1</sup>	P <sup>3</sup>		P		P	P	P				P	P			
Parking lot (primary use)					S		S	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P <sup>3</sup>	S	S	S	S	S	S		S	S	P	P			
Parking structure								P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P <sup>3</sup>					S		S			P	P			
Truck or heavy vehicle sales, rental, repair or storage										P													P			





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

Room 160  
411 West First Street  
Duluth, Minnesota 55802



218-730-5580



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

Date: April 5, 2021  
To: Heritage Preservation Commission and Planning Commission  
From: Steven Robertson, Senior Planner  
RE: Proposed UDC Text Amendments Related to Historic Preservation

In coordination with the City Attorney's office, staff is reviewing UDC provisions associated with historic preservation. The current language in the UDC has standards relates to historic districts and historic landmarks. The language is intended to be applicable for locally designated historic landmarks and the two locally designated historic districts. To reduce ambiguity, staff recommend an amendment to the applicable UDC section to clarify that the intent of local historic preservation efforts and the work of the Heritage Preservation Commission is on locally designated landmarks and districts.

..Title

AN ORDINANCE AMENDING SECTIONS 50-18.3, 50-36.3, 50-37.14, 50-41.8 AND 50-41.12 RELATED TO HISTORIC PRESERVATION

..Body

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-18.3 of the Duluth City Code, 1959, as amended, be amended as follows:

### **50-18.3 Historic Resources Overlay (HR-O).**

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#### **A. Purpose.**

The purpose of this Section 50-18.3 is to preserve, protect and promote any areas, places, buildings, structures, lands, districts and other objects having a special historical, community or aesthetic interest or value through a process of local designation. The provisions of this section are not intended to apply to historic districts or landmarks designated under authority of federal or state law. The Historic Resources Overlay:

1. Safeguards the heritage of the city by preserving properties that reflect elements of the city's cultural, social, economic, political, engineering, visual or architectural history;
2. Protects and enhances the city's appeal and attraction to residents, visitors and tourists, while enhancing its economic viability through the protection and promotion of its unique character as related to its history and heritage;
3. Enhances the visual and aesthetic character, diversity and interest of the city;
4. Fosters civic pride in the beauty and notable accomplishments of the past;
5. Promotes the preservation and continued use of historic properties for the education and general welfare of the people of the city;

#### **B. Designation of local historic resources.**

1. Through the process for designating historic resources in Section 50-37.8, or its predecessor ordinance previously codified as Chapter 28A of the City Code, the heritage preservation commission has designated:
  - (a) Two locally designated historic preservation districts: the Duluth Civic Center Historic District, and the Duluth State Normal School Historic District, whose boundaries are shown on Exhibits 50-18.3-1 and 50-18.3-2; and
  - (b) Those locally designated historic preservation landmarks on file with the secretary of the planning commission;
2. The heritage preservation commission and planning commission may from time to time recommend, and the council may approve, additional locally designated historic preservation districts or locally designated landmarks pursuant to Section 50-37.8;

#### **C. Review of construction/demolition activities.**

Within those locally designated local historic preservation districts shown on Exhibit 50-18.3-1 and with regard to those locally designated historic preservation landmarks on file with the secretary of the planning commission:

1. Construction and demolition activities, including all street and utility activities, shall be approved pursuant to Section 50-37.14;

2. The issuance of city permits to do any of the following shall be approved pursuant to Section 50-37.14:
- (c) Remodel, repair or alter in any manner that will change the exterior appearance;
  - (d) New construction, including parking facilities;
  - (e) Move a building;
  - (f) Change the nature or appearance of a designated historic preservation landmark or district, including landscape features;
  - (g) Demolition in whole or in part;

#### D. Emergency repair.

In emergency situations where immediate repair is needed to protect the safety of the structure and its inhabitants, the building official may approve the repair of only those items needed to ensure safety. Such repairs shall be limited to those necessary to correct the safety emergency. In the case of a permit issued pursuant to this subsection D, the building official shall require that the repairs be made in conformance with the U.S. secretary of interior's recommended standards for heritage preservation projects and adopted historic preservation guidelines for the landmark or district to the extent possible. In addition, the building official shall immediately notify the historic preservation commission of the action and specify the facts or conditions constituting the emergency situation;

#### E. Building code enforcement.

This Section 50-18.3 is also intended to encourage the sensitive rehabilitation, restoration, stabilization and preservation of historic buildings throughout the city. These rehabilitation and preservation efforts should provide for the upgrading and maintenance of the safety features of the building or structure to provide a practical level of safety to the public and surrounding properties. While ensuring this increased level of public safety, the enforcement authorities are encouraged to be open to acceptable alternative solutions and alternative compliance concepts, where practical, that will permit the continued use of existing buildings and structures without creating overly restrictive financial burdens on owners or occupants. Nothing in this Section shall be construed to prevent the ordinary maintenance or repair of any exterior elements of any building or structure.

Section 2. That Section 50-36.3 of the Duluth City Code, 1959, as amended, be amended as follows:

#### **50.36.3 Heritage preservation commission.**

##### B. Creation.

Pursuant to Minnesota Statute 471.193, there is hereby created and established a city of Duluth heritage preservation commission, hereinafter called the "commission." The commission shall have the responsibility of recommending to the city council the adoption of ordinances designating areas, places, building structures, works of art or other objects having special historical, cultural or architectural interest for the community as historical preservation landmarks or districts;

##### C. Membership and terms.

The commission shall consist of seven voting members, all of whom are to be citizens of the city, five of whom will be appointed by the mayor with the approval of the council; one will be appointed by the county historical society, and one will be appointed by the planning commission. Members shall be persons who have demonstrated an interest in the historical, cultural or architectural development of the city or who own

property within a historic preservation district. At least two of the five members appointed by the mayor shall be preservation-related professionals;

Appointments shall be for a term of three years. In the event of a vacancy, the vacancy for the unexpired term shall be filled in the same manner as the appointment was originally made. Members shall serve without compensation and shall continue to hold office until their successors have been appointed and confirmed;

#### D. Powers.

The heritage preservation commission shall have the following powers:

1. Recommendation of **locally designated** historic preservation ~~landmarkssites~~ and districts to the city council;
2. Approve, approve with conditions or deny applications for historic construction and demolition permits pursuant to Section 50-37.14;
3. Recommend historic preservation guidelines specific to a **locally designated historic preservation** landmark or **locally designated historic preservation** district;
4. Make an annual report to the state historic preservation officer by October 31 of each year;
5. Conduct continuing survey of all areas, places, buildings, structures or similar objects in the city that the commission, on the basis of information available or presented to it, has reason to believe are or will be eligible for designation as historic preservation landmarks or districts;
6. Work for the continuing education of the citizens of the city with respect to the historic and architectural heritage of the city and keep current and public an official list of designated historic preservation landmarks and districts;
7. The commission may retain the services, on a permanent or part-time basis, of technical experts and other persons as may be required to perform the commission's duties;
8. The commission shall have authority to solicit gifts and contributions to be made to the city and to assist in the preparation of applications for grant funds to be made to the city for the purpose of historic preservation;
9. The commission may recommend to the planning commission and council that certain properties eligible for designation as **locally designated** historic preservation landmarks or **locally designated historic preservation** districts be acquired by gift, by negotiation or other legal means;
10. Upon final designation of a **locally designated** historic preservation landmark or **locally designated historic preservation** district, adopt historic preservation guidelines specific to the landmark or district. Such guidelines shall detail allowable architectural and/or site modifications, essential features to be retained and any other criteria by which future proposals for modifications shall be judged. The United States secretary of the interior standards for treatment of historic properties shall be among the standards used to create such a program. These guidelines are intended to provide assurance to owners of properties within historic preservation landmarks or districts that any permit review process will be based on clear and objective standards rather than the taste of individual commission members;
11. The commission may nominate a historic preservation landmark or district to the national register of historic places, but only with the consent of the council.

Section 3. That Section 50-37.14 of the Duluth City Code, 1959, as amended, be amended as follows:

**50-37.14 Historic construction/demolition permit.**

This Section only applies to applications for construction or demolition within a **locally designated historic preservation** district or on a **local historic** property listed in Section 50-18.3 where the city must confirm whether the application complies with the standards in Section 50-18.3 and with all other applicable provisions of this Chapter and state law.

**E. Application.**

An application for a historic construction/demolition permit shall be filed pursuant to Section 50-37.1.B;

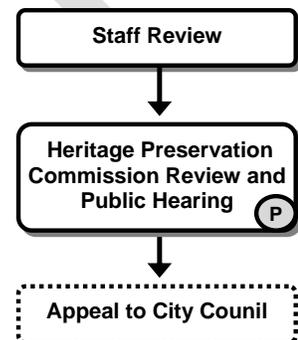
**F. Procedure.**

The application shall be reviewed by the heritage preservation commission. The commission shall conduct a public hearing pursuant to Section 50-37.1.I, with public notice as required by Section 50-37.1.H and make a decision to adopt, adopt with modifications, or deny the application based on the criteria in subsection C below;

**G. Criteria.**

The commission shall approve the application, or approve it with modifications, if the commission determines that the application complies with all applicable provisions of this Chapter and state law and that the work to be performed shall not adversely affect the historic preservation landmark or district based on adopted historic preservation guidelines.

**Historic Construction / Demolition Permit**



(P) Indicates Public Hearing Required

Section 4. That Section 50-41.8 of the Duluth City Code, 1959, as amended, be amended as follows:

#### 50-41.8 Definitions: H

Habitable room. Any room used or intended to be used for sleeping, cooking, living or eating purposes, excluding such enclosed spaces as closets, pantries, bath or toilet facilities, service rooms, corridors, laundries, unfinished attics, foyers, storage space, utility rooms or similar spaces.

Habitable unit. Any habitable room or group of habitable rooms that provide sleeping facilities alone or in combination with required cooking, eating or living facilities.

Hardship. The property in question cannot be put to reasonable use under existing regulations and the plight of the landowner is due to circumstances unique to the property and not created by the landowner. Economic considerations alone shall not constitute a hardship.

Hazardous waste. Any refuse, sludge or other waste material or combinations of refuse, sludge or other waste material in solid, semisolid, liquid or contained gaseous form that because of its quality, concentration, or chemical, physical or infectious characteristics may:

A. Cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness; or

B. Pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of, or otherwise managed. Categories of hazardous waste materials include, but are not limited to: explosives, flammables, oxidizers, poisons, irritants and corrosives. Hazardous waste does not include: source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954, as amended.

Height of building. The vertical distance at the center of the principal front of a building, measured from the grade on that front to the highest point of a flat roof or to the deck line of a mansard roof or to the average height of the highest gable or of a mean height level between eaves and hip or gambrel roof.

Height of tower or structure. The vertical distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

Height of wall or fence. The vertical distance measured from finished grade on the highest side of the fence or wall to the top of the fence or wall.

~~Historic preservation district. A contiguous collection or group of lands, parcels, sites, structures, buildings or objects that is determined to be historically, culturally or architecturally significant as a whole and has been locally designated as a historic preservation district pursuant to Section 50-18.3 of this Chapter.~~

Historic preservation guidelines. The established criteria by which any proposed changes, including architectural or site modifications to a locally designated historic preservation district or locally designated historic landmark shall be judged.

~~Historic preservation landmark. Any individual property, parcel, place, building, structure, work of art or other object that has been determined to be historically, culturally or architecturally significant and has been locally designated as a local historic preservation landmark pursuant to Section 50-18.3 of this Chapter.~~

Hosting platform. Any entity, website, smartphone application or other intermediary used to facilitate reservations of vacation dwelling units, accessory vacation dwelling units, or accessory home shares within the city.

Hotel or motel. A building or series of buildings operated as a commercial establishment providing accommodations to the transient traveling public in habitable units for compensation, and including both short-stay and extended stay facilities, and that may offer customarily incidental services. A hotel must have a minimum of five separate habitable units, and must have a reception desk staffed at all times.

Hospital. An institution or place where sick or injured in-patients are given medical or surgical care, at either public or private expense, but excluding a nursing home and excluding institutions where persons suffering from permanent types of illness, injury, deformity or deficiency or age are given care and treatment on a prolonged or permanent basis.

Section 5. That Section 50-41.12 of the Duluth City Code, 1959, as amended, be amended as follows:

**50-41.12. Definitions: L.**

Land development. A human-made change to, or construction on, the land surface that changes its runoff characteristics.

Land disturbing activity. Land change that may result in soil erosion from water or wind and the movement of sediments into or upon waters or lands of or downstream of the city, including clearing, grading, excavating, transporting and filling of land. Land disturbing activity does not include:

- A. Minor land disturbing activities such as home gardens and individual home landscaping, repairs and maintenance work;
- B. Construction, installation and maintenance of electric, telephone and cable television utility lines or individual service connection to these utilities;
- C. Installation of septic tank lines or drainage fields unless included in an overall plan for a land disturbance activity relating to construction of a building to be served by the septic tank system;
- D. Tilling, planting or harvesting of agricultural, horticultural or silviculture crops;
- E. Installation of fence, sign, telephone and electric poles and other kinds of posts or poles;
- F. Emergency work to protect life, limb or property and emergency repairs, except if the land disturbing activity would have required an approved erosion and sediment control plan except for the emergency, then the land area disturbed shall be shaped and stabilized in accordance with the requirements of Section 50-18.1.E.

Landing area. The area of the airport used for the landing, taking off, or taxiing of aircraft.

Land owner. The legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights in the land.

Landscape plan. An accurate scale drawing that indicates the major natural features of a site and all proposed buildings, structures and site improvements in sufficient detail to allow the evaluation of impacts on natural systems and other aspects of the development.

Laundromat. An establishment providing home type (large institutional or commercial type) washing, drying or ironing machines for use on the premises.

Link. For purposes of the connectivity index described in Section 50-23.3, links are stretches of road that connect "nodes" as defined below. Street stub-outs are considered as links, but temporary dead-end streets internal to a development, private streets in gated sections or alleys shall not be counted as links. Every road segment that connects a node in the development to the external street network shall be counted as a link in the index calculation.

Loading space. A space within the principal building or on the same lot as the principal, providing for the off street standing, loading or unloading of trucks and trailers.

Locally designated historic preservation district. A contiguous collection or group of lands, parcels, sites, structures, buildings or objects that have been locally determined to be historically, culturally or architecturally significant as a whole and has been locally designated as a historic preservation district pursuant to Section 50-18.3 of this Chapter.

Locally designed historic preservation landmark. Any individual property, parcel, place, building, structure, work of art or other object that has been locally determined to be historically, culturally or architecturally significant and has been locally designated as a local historic preservation landmark pursuant to Section 50-18.3 of this Chapter

Local watershed. All the water that drains to a natural waterway located primarily within the city.

Lot. Land occupied or intended for occupancy by a use permitted in this Chapter, including one main building together with its accessory buildings, and the yards and parking spaces required by this Chapter, and having its principal frontage upon a street or upon an officially approved place. For the purposes of this Chapter, the term "lot" may include two or more lots of record that are contiguous or separated only by a public easement not exceeding 25 feet in width, are owned by the same owner and where none of the parcels can be severed or legally sold, conveyed or used without the other parcels by virtues of a legally binding agreement that runs with the land and is recorded in the office of the county recorder. If at any time any parcel that had been recognized as part of any lot by reason of such proximity, ownership and agreement are severed, legally sold, conveyed or used separately from the other parcel or

parcels making up said lot, the parcel so severed, legally sold, conveyed or used shall henceforth not be considered part of the lot, any uses relying on its status as part of the lot shall become nonconforming and the provision of Section 50-39 shall not be applicable to any such use.

Lot, corner. A lot abutting upon two or more streets at their intersection.

Lot, double frontage. A lot having a frontage on two streets as distinguished from a corner lot.

Lot, flag. A lot so shaped and designed that the main building site is setback from the street and that portion of the lot providing access has a width less than 25 percent of the lot width at its greatest point.

Lot, front. The area of a lot that abuts a public street is the front of the lot. For corner lots, the shortest side fronting upon a street shall be considered the front of the lot unless structures exist on the lot. In that case, the frontage shall be established by the orientation of the buildings, or of the principle entrance if building orientation does not clearly indicate lot frontage. For corner lots, where no other method determines conclusively the front of a lot, the city engineer shall select one frontage on the basis of traffic flow on adjacent streets, so that the lot is considered to front on the street with the greatest traffic flow.

Lot frontage. Frontage shall be the dimension of the lot line at the street, except where the lot line at the street is not straight, in which case the frontage shall be the dimension across the lot at the required front yard line.

Lot of record. A parcel of land that is part of a subdivision, the map of which has been recorded by the county recorder or a parcel of land described by metes and bounds the description of which has been recorded by the county recorder.

Lots on the block face. When a dimensional standard is calculated based on a dimension measured for "lots on the block face" the measurement shall apply only to (a) developed lots on the same side of the street between the next two intervening side streets, and (b) lots that face developed streets (not to streets shown on a plat or map that have not been constructed). For purposes of this measurement, all contiguous lots in common ownership shall be considered as a single lot (not as separate platted lots).

Low density residential lot. A single lot located in an area that is zoned for one-family or two-family residences and in which the predominant land use is such type of residences.

Low density residential structure. A one-family or two-family home.

Lowest floor. The lowermost floor of the lowest enclosed area, including basement and crawl space.

Section 6. That this ordinance shall be effective thirty (30) days after its passage and publication.

STATEMENT OF PURPOSE: