

City of Duluth

411 West First Street Duluth, Minnesota 55802

Meeting Agenda

Planning Commission.

Tuesday, July 13, 2021	5:00 PM Council Chamber, Third Floor, City Hall, 411 West First Stree
To vi	iew the meeting, visit http://www.duluthmn.gov/live-meeting
	Call to Order and Roll Call
	Approval of Planning Commission Minutes
<u>PL 21-0608</u>	Minutes 6/8/21
<u>Attachments:</u>	06-08-21 PC Minutes (not approved yet)
	Public Comment on Items Not on Agenda
	Consent Agenda
<u>PL 21-065</u>	Variance for House Addition at 3901 W 8th Street by John Martin and Emily Edison
<u>Attachments:</u>	PL 21-065 Staff Report and Attachments
<u>PL 21-075</u>	Concurrent Use Permit for Small Cellular Facility at 1801 E 2nd Street by SAC Wireless/AT&T
<u>Attachments:</u>	PL 21-075 Staff Report and Attachments
<u>PL 21-076</u>	Concurrent Use Permit for Small Cellular Facility at 631 E 5th Street by SAC Wireless/AT&T
<u>Attachments:</u>	PL 21-076 Staff Report and Attachments
<u>PL 21-077</u>	Interim Use Permit for Vacation Rental in a Form District at 325 Lake Avenue S Unit 1209 by Alex & Kate Fagundes
<u>Attachments:</u>	PL 20-077 Staff report and attachments
<u>PL 21-103</u>	Interim Use Permit for Vacation Dwelling Unit in a Form District at 325 Lake Avenue S #1302 by Jason and Betsy Norman
<u>Attachments:</u>	PL 21-103 Staff Report final with attachments
<u>PL 21-083</u>	Concurrent Use Permit for Landscaping at 2102 Minnesota Avenue by North Shore LS LLC
Attachments:	PL 21-083 Staff Report and Attachments

<u>PL 21-085</u>	Planning Review for Round Up Bar & Grill at 415 E 4th Street by Michael Ronning
<u>Attachments:</u>	PL 21-085 Staff Report and Attachements
<u>PL 21-086</u>	Variance from Shoreland Setbacks at 224 W St Andrews Street by Ann Gumpper & Mark Harvey
<u>Attachments:</u>	PL 21-086 Staff Report and Attachments
<u>PL 21-087</u>	Interim Use Permit for Vacation Rental in a Form District at 5324 E Superior Street Unit 1 by Sarah Maxim
<u>Attachments:</u>	PL 21-087 Staff report and attachments
<u>PL 21-088</u>	Interim Use Permit for Vacation Rental in a Form District at 5324 E Superior Street Unit 2 by Sarah Maxim
<u>Attachments:</u>	PL 21-088 Staff report and attachments
<u>PL 21-090</u>	Concurrent Use Permit for Encroachment of the Existing Building at 5324 E Superior Street by Sarah Maxim
<u>Attachments:</u>	PL21-090 Staff Report - final with attachments
<u>PL 21-092</u>	Minor Subdivision at 4924 Pitt Street by St Michaels Church
<u>Attachments:</u>	PL 21-092 Staff Report and Attachments
<u>PL 21-098</u>	Minor Subdivision at N Hawthorne Road By Julie Ann Kubat
<u>Attachments:</u>	PL 21-098 Staff Report and Attachments
<u>PL 21-101</u>	Special Use Permit for Solar Installation At 3512 Riley Road By Minnesota Power
<u>Attachments:</u>	PL 21-101 Staff Report and Attachments
	Public Hearings
<u>PL 21-082</u>	Minor Subdivision at 2400 E Superior Street by Duluth Women's Club
<u>Attachments:</u>	PL 21-082 Staff Report and Attachments
<u>PL 21-093</u>	Special Use Permit for High School at 4230 St Johns Avenue by St Johns Church
<u>Attachments:</u>	PL 21-093 Staff report and attachments
<u>PL 21-094</u>	UDC Map Amendment from R-1 To F-2 at 4731 Gladstone Street by Lakeside Lodge #281
<u>Attachments:</u>	PL 21-094 Staff report and attachments

<u>PL 21-095</u>	Special Use Permit for a 32-Dwelling Cottage Home Park at the Northwest Corner of Glen Place and W Michigan Street by Aaron Schweiger
<u>Attachments:</u>	PL 21-095 Staff Report final with attachments
<u>PL 21-096</u>	Minor Subdivision at Glen Place and W Michigan Street by Aaron Schweiger
<u>Attachments:</u>	PL 21-096 Staff Report final with attachments
<u>PL 21-097</u>	Preliminary Plat at Former Central High School, 730 E Central Entrance, by ISD 709
<u>Attachments:</u>	PL 21-097 Staff Report and Attachments
<u>PL 21-099</u>	Preliminary Plat to Subdivide 20 Acres into 5 Lots Between Arrowhead Road by Unique Opportunities LLC
<u>Attachments:</u>	PL 20-099 Staff Report final with attachments
	Other Business
<u>PL 21-104</u>	Citizen Petition for Environmental Assessment Worksheet (EAW) for Proposed Vassar Street Housing Housing Development
<u>Attachments:</u>	PI 21-104 Staff Memo and Attachment

Communications

Land Use Supervisor Report

Historic Preservation Commission Report

Joint Airport Zoning Board Report

Duluth Midway Joint Powers Zoning Board Report

NOTICE: The Duluth Planning Commission will be holding its July 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 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

June 8, 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 <u>planning@duluthmn.gov</u> 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, June 8th, 2021.

Roll Call

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

Members Present: Jason Crawford*, Gary Eckenberg* (entered meeting during item PL21-069), Jason Hollinday*, Margie Nelson*, Eddie Ratnam*, Michael Schraepfer*, Sarah Wisdorf*, Andrea Wedul*, and Zandra Zwiebel*

Members Absent: N/A

Staff Present: Adam Fulton*, Robert Asleson*, Jenn Moses*, Steven Robertson*, Kyle Deming*, John Kelley*, Chris Lee*, Theresa Bajda*, and Cindy Stafford*

Public Comment on Items Not on Agenda

No speakers.

Approval of Planning Commission Minutes -

Planning Commission Meeting – May 11, 2021 **MOTION/Second:** Zwiebel/Wisdorf approved

VOTE: (8-0)

(Item PL21-066 was removed from the consent agenda and placed under public hearings.)

Consent Agenda

PL21-059 Special Use Permit for Child Care at 1500 Swan Lake Road by Mellissa Reisdorf PL21-067 Vacation of Portions of Right of Way at 3801 W Superior Street by Jorey Olson

Staff: Deputy Director Adam Fulton noted staff received correspondence in favor of PL21-059. They also received correspondence to deny item PL21-066 and remove from the consent agenda. The commissioners can decide if they want to remove the item from the consent agenda. Zandra Zwiebel asked if the person opposed to PL21-066 was present or

just submitted the letter. Deputy Director stated they were in attendance, but anyone can speak to the item regardless if it is on the consent agenda or not. **MOTION/Second:** Schraepfer/Zwiebel remove item PL21-066 from the consent agenda

VOTE: (8-0)

Public: No speakers on the remaining consent agenda items. **MOTION/Second:** Zwiebel/Schraepfer approved consent agenda items as per staff recommendations.

VOTE: (8-0)

Public Hearings

PL21-066 Interim Use Permit (IUP) for a Vacation Dwelling Unit at 2301 E 4th Street by Michelle and Jim Lelwica

Staff: Deputy Director Fulton noted the applicant was chosen from the next in line on the waiting list. There will not be a formal presentation, but staff is happy to answer any questions. Commissioner Michael Schraepfer noted this property was already being rented, and had 26 reviews. The neighbor letter they received stated it has already been operating as a vacation rental. Schraepfer feels the applicant is not following the rules. Deputy Director Fulton noted this matter was brought to staff's attention earlier in the year. If the IUP is approved, it would bring it into compliance with the UDC. If denied, fines could be administered. Schraepfer stated this sets a precedent confirming the city's rules matter.

Applicant: Michelle Lelwica addressed the commission and noted the home has had a regular rental license since 2018. This license allows rentals longer than 29 days in duration. She noted they are advertising through VRBO and AirBNB for 29 days or longer. They are making sure they are staying within the limits and have been paying their taxes, and obeying the rules. Schraepfer pulled up the website (in current time) and noted it was available for short term rental through next weekend. Lelwica said she received an unofficial head nod for leniency during Grandma's Marathon from someone on staff. Commissioner Andrea Wedul asked Lelwica if she has had short-term rentals in the past. Lelwica stated she allowed friends, family and staff to stay there during Covid. Commissioner Jason Crawford noted anybody could do that with their own home. He has a hard time with this one. Deputy Director Fulton noted via text communication (in current time) staff did not provide clearance to rent on a short-term basis during Grandma's Marathon weekend. He noted there may have been violations, but it doesn't change the option to bring it into conformity now. Lelwica noted they worked hard on this house, and are trying to obey the rules, and she appreciates any support.

Public: Lisa Kappenman addressed the commission and noted it is a matter of fairness to the other people on the waiting list who obey the rules. She is opposed to the IUP and asks the commissioners to deny. She appreciated Commissioner Schraepfer's on-the-spot checking. **MOTION/Second:** Zwiebel/Schraepfer recommended approval as per staff recommendations. **Commissioners:** A motion was made to approve – no vote and more discussion followed. Schraepfer is pro vacation rentals. He sees the 29 day stipulation on the website, but noted he can rent it tomorrow for three days. It is off-putting that it is available now. Wedul noted this sets a dangerous precedent. It is not about *trying* to obey the rules, it is about obeying the rules. Zwiebel stated she is not happy with the applicant's disregard for the rules. Schraepfer suggested a friendly amendment be made to the motion to delay the rental start date, and any current rentals be removed, before it can be approved by the city council. City Attorney Bob Asleson stated the friendly amendment is valid if both motion makers agree to it. Deputy Director Fulton noted the commissioners can add any condition to bring to the city council, but it is subject to it being legal. Wedul thinks they should resolve any outstanding violations prior to

rental. Crawford noted the matter is moot if it is already booked through the fall. Schraepfer noted the city council is the deciding body and they can be responsible for enforcement. Wedul stated the rental date start can be open to city council discussion.

MOTION/Second: Zwiebel/Schraepfer recommended approval as per staff recommendations with added condition that the city council review potential delayed start date

VOTE: (7-1, Wedul Opposed)

(Commissioner Gary Eckenberg joined the meeting during the next item.)

PL 21-069 MU-P Concept Plan Amendment at 800 E Central Entrance by ISD 709 Staff: Steven Robertson gave a presentation. He shared a GIS map and noted this is a challenging site. The applicant is requesting to amend an approved MU-P concept map and plan. Any amendment to the concept map and plan that involves changes to land use, density, or height are required to follow the rezoning process, including a public hearing by the planning commission and final ordinance approve from the city council. If approved, the amendment will allow for development of a bus garage, and expansion of administrative office spaces on property to be retained by ISD 709, the applicant. It also provides for minimum requirements to be met prior to approval of a Regulating Plan by the Land Use Supervisor. Staff recommends approval based on the findings and conditions listed in the staff report. Commissioner Wedul asked if they can preserve the trails. Robertson noted a permanent easement shall be dedicated for existing and proposed city trail infrastructure on the site. Wedul noted this site is a high visibility area, and to consider height and the bluff line. Robertson noted the initial limits in height go up to 72', which equals five stories. There are no additional controls to height other than what was included in the 2014 plan. Commissioner Zwiebel noted the future use of bus maintenance. She was not aware that the school district owned and maintained buses, and thought it was contracted out. Robertson deferred to the applicant. He noted the bus language was most appropriate because he doesn't want an industrial site (i.e. Caterpillar) there in twenty years.

Applicant: John Erickson of DSGW Architects (not LHB) addressed the commission. This has been a challenging project for the city and school district for many years. There is now an opportunity to improve facilities and utilize existing property to add office space and a transportation maintenance facility. They are taking an economical, common sense approach. They will minimize impact to the tree line and maximize the buffer. The elevation creates a buffer, since it sits above the Blackman residential area. New building codes will be followed. He feels it will be less of an impact on the neighbors then when it was an existing school. Stormwater treatment will be on-site. There will be no retention ponds. There is special legislation by the state, which allows financing through bond sales. The timing is still being negotiated. Zwiebel thanked the applicant for addressing all her concerns before she noted them, but asked specifically about the buses. Erickson noted the school district owns about 34 of their buses, and the rest is contracted through Voyageur. Zwiebel asked why it took ten years to make something happen with the site. Erickson noted they were trying to sell the entire site for redevelopment, but with the successful deal of selling historic Old Central, the timing was right to utilize this property to house administrative office staff. Commissioner Eddie Ratnam noted before the pandemic there was a move toward consolidation into fewer buildings. Now future industry is opening up spaces to allow more distance between occupants. Has the applicant had conversation about creating more space? Erickson agreed that more space is a national conversation. The school district feels this is the right size for their space needs. Ratnam noted it is more expensive to acquire new land versus using existing property.

Public: Gary Kolojeski – of South Blackman Avenue addressed the commission. He said the school has already excavated trees that were supposed to be retained to create a buffer. He

would like to see them replanted. In the winter, the old school scoreboard is easily seen. He is not opposed to the administrative office space, but it opposed to the 36-stall, black-topped, bus garage. He is concerned about stormwater run-off as well as bus pollution. He is also concerned there will be more traffic on South Blackman Avenue. He doesn't feel he can hold the district to their word. Before the plan moves forward he would like to see the size of the building, and he urges the commission to table this item. Nathan Norton addressed the commission on behalf of the school district. He noted item d in the staff report and the financial security. The escrow might not be possible, but the school district is 100% on board. Deputy Director Fulton noted the language can be evaluated before it goes to the city council.

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

VOTE: (9-0)

PL 21-063 Special Use Permit for a Cottage Home Park at 4319 Decker Road by Northland Homes

Staff: Kyle Deming introduced the applicant's proposal for a special use permit for a cottage home park on four acres containing 14 dwelling units consisting of 1,500 – 1,800 square feet, one or two-level homes with attached garages. A homeowners' association will be formed to manage all of the property other than the individually owned dwelling units, including the 20 foot wide private looped driveway, interconnecting sidewalk, community recreation area, and stormwater treatment. Water, sewer, and gas pipes will be public. Staff recommends approval with the conditions listed in the staff report. Their stormwater plans are still being worked on and discussed with the City Engineer. A tree replacement plan and landscaping plan will need approval from the Land Use Supervisor before land-disturbing activities commence. The standard escrow amount will be required, and the "spine" of the sidewalk system shall be installed prior to the first dwelling receiving its certificate of occupancy. Then each dwelling unit will be connected to the spine as they are constructed. Commissioner Eckenberg asked about the nearby homes. Are they rentals, or owner occupied? Deming deferred to the applicant. Wedul asked about the curved road by the exception area. Why is it so close? Deming noted the UDC does not require buffering roads from the property line. Wedul thinks this would be better fit as an R-P zone development. Did staff have any discussion about rezoning? She noted the higher density is out of character with adjacent properties. Deming noted staff was not evaluating other zoning tools. This was presented to them as a cottage home park. Senior planner Jenn Reed Moses was in on the initial meeting with the developer. Staff presented both options to the developer, and cottage home park is the route they chose. President Nelson asked if this is the first cottage home park in Duluth. Deming stated there was also one by UMD/St. Marie Street that was approved but not built.

Applicant: Rob Irving addressed the commission. The land just below this area to the south is sub-cut down below their elevation. It is an open field, and the building on it is an old farmstead. They plan to leave as many trees as possible. They don't plan to rent the units, but he doesn't want to rule it out. The curved road has a six foot buffer from home/unit #14. Wedul asked about the community space, and whether they have to sell a certain number of units before completion. Irving doesn't want to complete the project in phases. They hope to have two units built in the fall to use as show homes, and complete the rest next summer. Wedul asked about stormwater treatment. Irving stated there is a possibility that they will have to lose a house for stormwater treatment. They are working with their engineer, and City engineers to develop a plan. Eckenberg noted the applicant wanted the units to be owner occupied, but then backed away, and suggest the possibility of rentals. Irving stated the homeowners association would have to vote on it. This allows the freedom for people to choose which direction they go. Eckenberg asked the price of the homes. Irving stated a mid-price range. Ratnam asked about utilities; will they all be located underground? Irving affirmed.

Public: Sarah Senderaf addressed the commission. Her family owns the property next door. They are concerned it will hurt the wildlife in the area. She doesn't feel it is a good fit for their community. She noted the homeowners association will have a vote, but what about the surrounding community? Her grandparents owned their property since the 1960s. Dan Pietrusa addressed the commission. He is the owner of the property labeled "exception" on the map. He was shocked to see the density being proposed for the project without consideration for the neighbors. The road is six feet from his property. He is highly opposed and doesn't feel it fits the neighborhood. The density is too excessive. Lori Lucia addressed the commission. Her mother owns the house next to Dan Pietrusa's property. She feels that 14 homes added to the small area will change the feel of the entire neighborhood. She is opposed.

Commissioners: Wedul noted UDC section item 2 which states the dwelling units meet the minimum lot area and lot frontage requirements. She doesn't think it meets residential requirements. Eckenberg asked about cottage home parks, and why the City Council approved them. Commissioner Sarah Wisdorf noted cottage home parks are the brain child of the Planning Commission in correlation to tiny homes. Eckenberg stated he is not opposed, just wondering why this is a good idea. Moses provided some insight into cottage home parks, which came out of discussion regarding tiny homes. They are homes which center around a community space, creating a pocket neighborhood. Wedul doesn't feel it fits the zoning in R-1. Moses noted general community space is allowed in R-1. Wedul noted the lots, and the shared parcel and the homes exist independent of the parcel. Moses stated there are no lots being created. The lot fronts on Decker Road; the homes would be sold utilizing a CIC plat. There is desire for a neighborhood with a sense of community. Zwiebel noted their proposed setback meets R-1 setback requirements. Staff affirmed. Deming noted the four acre parcel, which would allow roughly 43 units based on the minimum lot requirement of 4,000 sf. The dwelling units they are proposing are on the equivalent to a 50 \times 60' lot, which is similar to how you would set up a traditional neighborhood. Eckenberg referred to the staff report and the Comprehensive Plan's Governing Principles regarding future land use - Urban Residential, which has the greatest variety of residential building types with medium to high densities. He feels this is a good opportunity for lower market value homes in areas other than traditional neighborhoods. It eliminates urban sprawl, and the utilities are already there. He is in support.

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

VOTE: (9-0)

PL 21-064 UDC Map Amendment from RR-1 to R-1 on Vassar Street in the Woodland Neighborhood by Kevin Christianson

Staff: John Kelley introduced the applicant's proposal to rezone property from the current zoning of Rural Residential 1 (RR-1) to Residential Traditional (R-1). The applicant has stated that the intent of this rezoning of the 16 acres to R-1 along with an adjacent 10 acres already zoned the same, would allow for the development of 25-30 individual residential lots. The applicant believes the rezoning will allow for more housing opportunities and increase the demand for more services in the Woodland Core Investment Area. Staff recommends approval to the city council. Staff has received comments from residents in the area opposed to the rezoning. President Nelson noted she visited the site. She asked if there will be improvements made to Vassar Street. Kelley noted it could be a future consideration. They are just focusing on the rezoning tonight. There will be more steps needed post-rezoning, including a concept plan, a preliminary plat, and a final plat. Commissioner Wedul asked about the history of the large lots. Is it to protect Amity Creek? Kelley is unsure, but reasoning could be due to the creek and the creek corridor. With traditional neighborhood zoning, it would support additional housing. RR-1 zoning was a carry-over from older zoning. Planner Jenn Moses noted this was her understanding as well. This area was zoned prior to the current UDC. Eckenberg noted the green

open space which runs through the proposed rezoning. Kelley stated they will look at that during the platting process, where wetlands and steep slopes, etc. will be taken into account. Eckenberg noted the extension of future land use and the extension of the traditional neighborhood area. Kelley stated the features on the property could dictate the future design pattern. There could potentially be other access points. Moses stated the platting phase gets into more details. The intent is areas along Amity Creek are important to protect. Also, a tree preservation plan will be needed in the future. Zwiebel asked which side of the stream is the hiking trail. Kelley noted there is a series of hiking trails, but wasn't sure specifically about the Superior Hiking Trail. Kelley said there is also potential for portions to remain open space. There will be more discussion when the platting stage begins. Commissioner Jason Hollinday asked how much of the area is buildable. He also visited the site and noted the narrowness of Vassar Street. Zwiebel asked about the utilities. Kelley stated the utilities are the responsibility of the developer/contractor. Eckenberg asked about item #5 in the staff report. Where is the additional 10 acres located? Kelley stated it is to the west of the proposed rezoning. The applicant already has interests in the 10 acres zoned R-1. Wedul asked if an environmental assessment has been done. She noted the area's trout stream and mature trees. Kelley stated the applicant's first step is rezoning. There was a wetland delineation done a couple of years ago, but a complete wetland delineation will be needed during the platting phase.

Applicant: Kevin Christensen addressed the commission. He feels the rezoning follows a pattern in the area, and meets the city's comprehensive plan. There will be a 2nd access off of Woodland to lower the impact on Vassar Street. He is happy to meet with neighbors to discuss future plans, but now the focus in on rezoning. Wedul asked if he was aware of the environmental impacts. Christiansen noted there are wetlands to be considered, and stormwater plans will need to be addressed. At this point he is focused on the rezoning.

Public: Chair Nelson noted they have received many emails and letters ahead of tonight's meeting. Julie O'Leary a member of the Izaak Walton League addressed the commission. She is concerned about the environment. The maps don't show the integrity of the area, and the mature trees and wetlands. She feels they should allow lower density of housing to protect the stream and nature areas. She urges the planning commission to look beyond just the map. Jennifer Marksteiner of 121 Vassar Street addressed the commission. She has many concerns including the narrowness of Vassar Street. It is only 21 feet wide. She is concerned heavy equipment will tear up the street. Utilities will destroy the trees and the frontage to their homes. It would destroy the aesthetics of people's homes. She also thinks it is a safety concern in case of a fire. The only current access is via Vassar Street. She is concerned that the increased density will truly change the character of the neighborhood. She reiterated to the commissioners that there have been several petitions circulating and created with neighbors who are opposed to the rezoning. She thanked the commissioners for their time. Pat Ferguson of 124 Vassar Street addressed the commission. Ferguson owns property to the south. The area is a direct flight pattern to migrating birds. Stormwater runoff will increase pollution including plastics. The area's wildlife needs to be considered. Protecting their habitat is important. There are no sidewalks on Vassar Street, and increased traffic is a concern, especially for young kids. Kyle Surrell of 121 Vassar Street addressed the commission. He has lived there for 20 years. The hills on the property do not accommodate new housing. He noted a steep drop off 100' away from 121 Vassar Street. It would be ridiculous to try to develop the area. It literally makes no sense. Joel Krochalk and wife Sue address the commission. They live on Chisholm Street. They hike the trails. The Superior Hiking Trail is on the other side, but the trails are connected. He noted the area is very steep, and there are lots of wetlands. The creek can't speak for itself, and once it's done it is hard to undo. There will be permanent damage to pristine wilderness, Chair Nelson asked if anybody wanted to speak in favor of the rezoning. There were no speakers. **Commissioners:** Zwiebel asked who owned the 10 acres of R-1 property adjacent to the rezoning area. Kelley noted the R-1 property is listed under Truscott, but the applicant has an

interest in it. Zwiebel noted the property isn't owned by the city and is not tax-forfeit property. The owners have rights as property owners. Everyone has green areas in their neighborhoods. Decisions have to be made. She appreciates the developers allowance for access to the trails to remain. In actuality the trail system belongs to the property's owners. Commissioner Wedul echoes Zwiebel's comments, but feels Woodland would be hit with development pressure.. She is not in favor of moving forward with the rezoning. Eckenberg agrees with Zwiebel's comments. The neighborhood thinks of the trail system as their own, but others would enjoy the benefits of the neighborhood. The developer is proposing a 2nd access other than Vassar Street. He is in favor of the rezoning. More detailed aspects will be presented later with the plat development. This phase will also be open to the public. Wedul noted the planning commission has tools in their toolbox now to use before it gets to the plat development stage. Zwiebel would like to table the item, and can't move forward in good conscience. What is the real intent of the situation? The community is willing to hold meetings. She doesn't want to move forward with the rezoning until future platting concerns are addressed. They need to support the Woodland neighborhood. Commissioner Ratnam is not opposed to the rezoning, but is leaning against it due to not knowing what the environmental impacts will be. Commissioner Eckenberg stated it is unfair for the developer to move forward to the next steps of the process without approval for rezoning. Punishing the developer for inaccurate information is not part of the planning commission's role. If the residents choose to, they can bring their voices to the city council. He doesn't feel it is right to table and delay their decision based on misinformation. Commissioner Zwiebel noted it this item is not tabled, she would be opposed. Wedul asked what misinformation the petition was focused on. Zwiebel noted somewhere it was listed as up to 80 homes, as opposed to the correct number of 25-30 homes. Commissioner Schraepfer sees both sides of the issue. The rezoning is the first step of the process, and gives the developer the go-ahead to address the next step. Commissioner Wisdorf appreciates the community's feedback and involvement. She says each step comes with checks and balances. The rezoning comes first, and she is in support. **MOTION/Second:** Eckenberg/Hollinday Motion to Table

VOTE: (3-6, Crawford, Hollinday, Nelson, Schraepfer and Wisdorf Opposed) – Motion Failed

MOTION/Second: Eckenberg/Hollinday recommended approval as per staff recommendations

VOTE: (6-3, Ratnam, Wedul and Zwiebel Opposed)

PL 21-068 UDC Map Amendment from R-1 to MU-N at 6920 Grand Avenue by Peter Cpin **Staff:** Steven Robertson noted the applicant passed away last week. The tenant/owner's agent is in attendance. The proposal is to rezone the current zoning of Residential-Traditional (R-1) to Mixed-Use Neighborhood (MU-N). This will allow expansion of a legal non-conforming use. Based on the character of the neighborhood, the purpose statement of the MU-N zone district and the historic commercial use of this property and adjoining properties along Grand Avenue, the rezoning as proposed is appropriate for this property. The rezoning necessitates the review of the property for conformity with the UDC, which requirements for screening must be met, and other violations (dumping of tires and solid waste, and the long term use of shipping containers for storage) are addressed and corrected. Staff received one public comment opposing the rezoning. Because material adverse impacts on nearby properties are not anticipated, staff recommends that the planning commission recommend approval to the city council. Zwiebel asked if there is a new owner. Robertson said it may be a contract for deed situation where the person running the business will eventually own. Zwiebel asked about the previous citations. Robertson said they were issued to Cpin, and need to be addressed, but it should not stop the rezoning proposal tonight. Zwiebel asked about the stormwater drain. Does it enter into the

creek? Robertson noted MNDot redirected the underground pipe. The one on site is abandoned. Commissioner Eckenberg asked about the building to the east. Robertson noted there were homes, then a church and then commercial property. Eckenberg noted they can't put stipulations on rezoning, but could a special use permit require clean-up? Robertson stated the applicant has made a good faith effort to remove the tires. He is aware of the problem.

Applicant: Donnell Kelly addressed the commission. He has been there for six years. It is a limited business and can't expand. This zoning change will allow them to expand. He would like to continue to do business in Duluth and obey the laws. They sell tires and want to try to keep the business local. Covid times were difficult. He wants to improve the property's appearance and agree to comply. He hopes to expand. Eckenberg asked the applicant what his plans were for the shipping containers. The applicant said he wasn't aware they were not allowed, but agrees to comply. He would like to add a new building. He wants to invest in his business and the community.

Public: No speakers.

Commissioners: Eckenberg asked if shipping containers are allowed in an MU-N zone district. Robertson said they are only allowed in an Industrial zone. There was no prior warning made to the applicant about the shipping containers. Robertson noted they need to be more flexible on how they deal with this. Expansion would allow for more interior storage. Without rezoning the situation doesn't change, and they will be stuck in limbo. He can't speak for the Land Use Supervisor, but thinks they can give the applicant enough time for completion of expansion to allow for compliance.

MOTION/Second: Wisdorf/Zwiebel recommended approval as per staff recommendations

VOTE: (9-0)

Other Business

PL21-070 Tax Increment Financing (TIF) – Comprehensive Plan Compliance for the Burnham Project at 521 W 2nd Street

Staff: Theresa Bajda provided overview of project and described the role of the Planning Commission is to determine whether the proposed development and its uses are consistent with the Comprehensive Plan and the Unified Development Code (UDC). The project implements the Comprehensive Plan principles as listed in the staff report. Staff believe that the proposed development conforms to and implements the Comprehensive Plan, and asks the Planning Commission to review, discuss, and make a determination. Staff indicated the TIF Plan and corresponding Development Agreement will go before the Duluth Economic Development Authority (DEDA) followed by City Council for approval. The project calls for redevelopment of the historic former St. Louis County Jail into a 32-unit residential apartment building spanning six floors. The majority of the units will be studio and one-bedroom, four of which will be affordable to tenants earning 60% or less of the Area Median Income.

Commissioners: Commissioner Zwiebel noted the annex and questioned if that is where offstreet parking would be. Bajda confirmed there will be eight parking spots where the current non-historic annex is, and six additional spots located to the east. Commissioner Eckenberg asked what the plan is for pedestrian access to the other side of Second Street. City Senior Housing Developer Jason Hale noted there are opportunities for safe pedestrian crossing on Second Street and Mesaba Avenue and indicated signage will be added. Commissioners Wedul voiced her concerns regarding safe access across Mesaba for pedestrians without having to dart across Second Street, especially during freezing temperatures in the winter.

MOTION/Second: Wedul/Wisdorf Development is in conformity with the Comprehensive Plan

Commissioners Eckenberg and Hollinday recused themselves from the next agenda item.

PL21-073 Tax Increment Financing (TIF) – Comprehensive Plan Compliance for the Brewery Creek Project at 619 E 4th Street

Staff: Theresa Bajda provided an overview of the development that proposes a newly constructed 52-unit apartment building on the corner of 6th Avenue East and East Fourth Street. The one and two-bedroom units will be affordable to tenants earning between 30%-60% of the area median income. 26 of the units are reserved for high priority homeless and six units reserved for household with disabilities. The project includes removal of the existing blighted structure, a former oil change business and liquor store. City staff believe that the proposed development conforms to and implements the Comprehensive Plan Principles, which are detailed in the commissioners' staff report packet. City staff ask the Planning Commission to review the proposed development, and following discussion, make a finding that it conforms to the Imagine Duluth 2035 Comprehensive Plan.

Commissioners: No comments or questions.

MOTION/Second: Nelson/Wedul Development is in conformity with the Comprehensive Plan

VOTE: (7-0, Eckenberg and Hollinday Abstained)

Communications

Land Use Supervisor (LUS) Report – Planner Jenn Moses gave an overview. There will be a flag raising ceremony on June 21st. There is a MNDOT study on central entrance, which is going well. President Nelson noted there are virtual meetings coming up, and more information is listed on the MIC website.

Heritage Preservation Commission – Vice-President Wisdorf noted there was no recent meeting, and her update from the May 10th meeting stands.

Joint Airport Zoning Board – Commissioner Eckenberg relayed there is nothing new to report.

Duluth Midway Joint Powers Zoning Board – No updates.

<u>Adjournment</u>

Meeting adjourned at 9:05 p.m.

Respectfully,

Adam Fulton – Deputy Director Planning & Economic Development



Planning & Development Division

Planning & Economic Development Department

planning@duluthmn.gov

218-730-5580

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-065		Contact		Chris Lee, clee@duluthmn.gov		
Туре	Variance – front yard and shoreland setbacks		Planning Commission Date July 13, 2021				
Deadline	Application Date		May 4, 202	4, 2021 60 Days		July 3, 2021	
for Action	Date Extension Letter Mailed		May 14, 2021		120 Days	September 1, 2021	
Location of S	ubject	3901 West 8 th St					
Applicant	Emily Ec	lison & John Martin, owners	Contact	3901 We	West 8 th Street		
Agent	Jon Lintula		Contact	On file	On file		
Legal Descrip	tion	See attached exhibits					
Site Visit Date		June 2, 2021	Sign Notice Date		Ma	May 25, 2021	
Neighbor Letter Date		May 25, 2021	Number of Letters Sen		Sent ³⁶		

Proposal

Applicant is requesting a variance to reduce the front side yard from 15 feet to 6.5 feet. This reduction of 8.5 feet will allow for an addition to the home.

The applicant is also requesting a 30 foot reduction of the 150 foot setback from Merritt Creek to build the addition.

Recommended Action: Approval with conditions.

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

Summary of Code Requirements

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

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

PC Packet 07-13-2021 Sec. 50-37.9.L. – Standards for Variance in Shorelands. No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment. Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas.

Comprehensive Plan Governing Principle and/or Policies and Current History (if applicable): Governing Principle #5 – Promote reinvestment in neighborhoods. This variance would allow for substantial improvement into a home that remains unchanged since its construction.

Housing Policy #4 – Improve the quality of the city's housing stock and neighborhoods. The variance would allow the home owner to make improvements to increase the value of their home.

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 968 square foot single-family residence built in 1906.

Review and Discussion Items

- Applicant is requesting a variance to construct a 400 square foot addition to the 8th Street side of the home. The addition will encroach into the corner front side yard setback for 37th Avenue West by 8.5 feet. Part of the addition will also be encroaching into the required 150 foot shoreland set back for Merritt Creek. The applicant is requesting the shoreland setback be reduced from 150 feet to 120 feet to accommodate the addition.
- 2. The home was constructed in 1906. Much of the home is original, with no additions in its 115 year history. The house is 968 square feet and the applicant desires to make an improvement and investment in the home for their growing family.
- 3. The applicant has provided plans that outline mitigating elements for stormwater run-off into the stream including a 210 square foot rain garden. Plans for the rain garden must be approved prior to issuance of a building permit.
- 4. The applicant states that the current house, when built, was situated on the lot in a way that was congruent with the topography and grade of the site. Due to the terrain, 39th Avenue West was not developed in the platted right of way, making this home seem like it is set far back from the road. Other homes on both block faces are located within the setbacks and closer to the ordinary high water mark for Merritt Creek.
- 5. The applicant is proposing to use the property in a reasonable manner by constructing an addition to a modest home.
- 6. The applicant's practical difficulty was not created by the landowner but rather is due to the existing conditions present on the lot and topography on the site. 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.
- 7. No public, agency, or other City comments were received.
- 8. Per UDC Section 50-37.1.N,. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

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

- 1) The second-floor addition, be limited to, constructed, and maintained according to the site plan submitted on May 4, 2021; and
- 2) Applicant construct the proposed rain garden for run-off mitigation; and

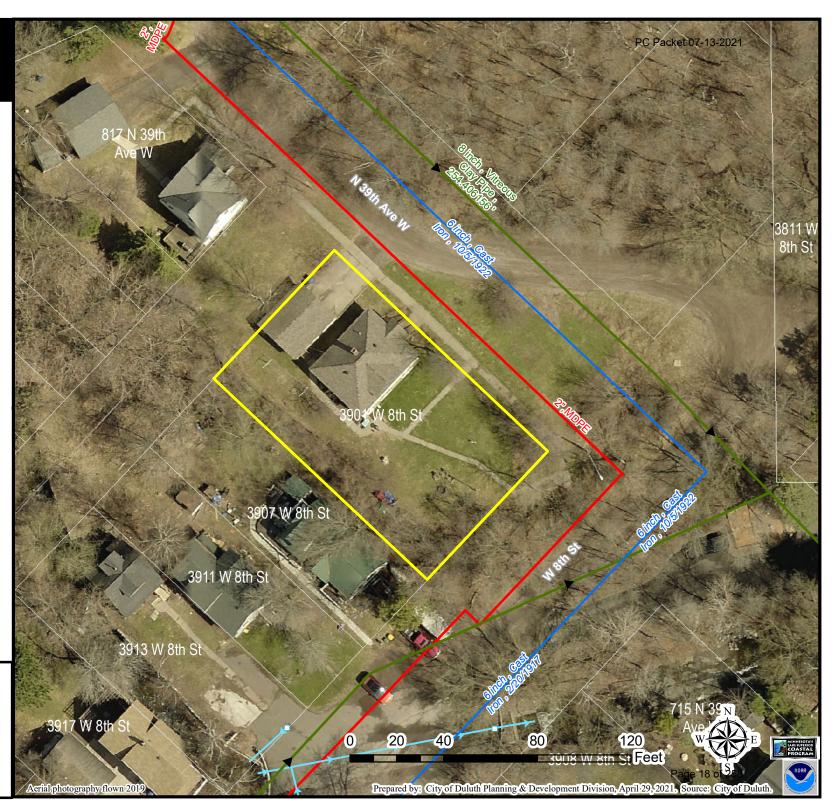
3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.

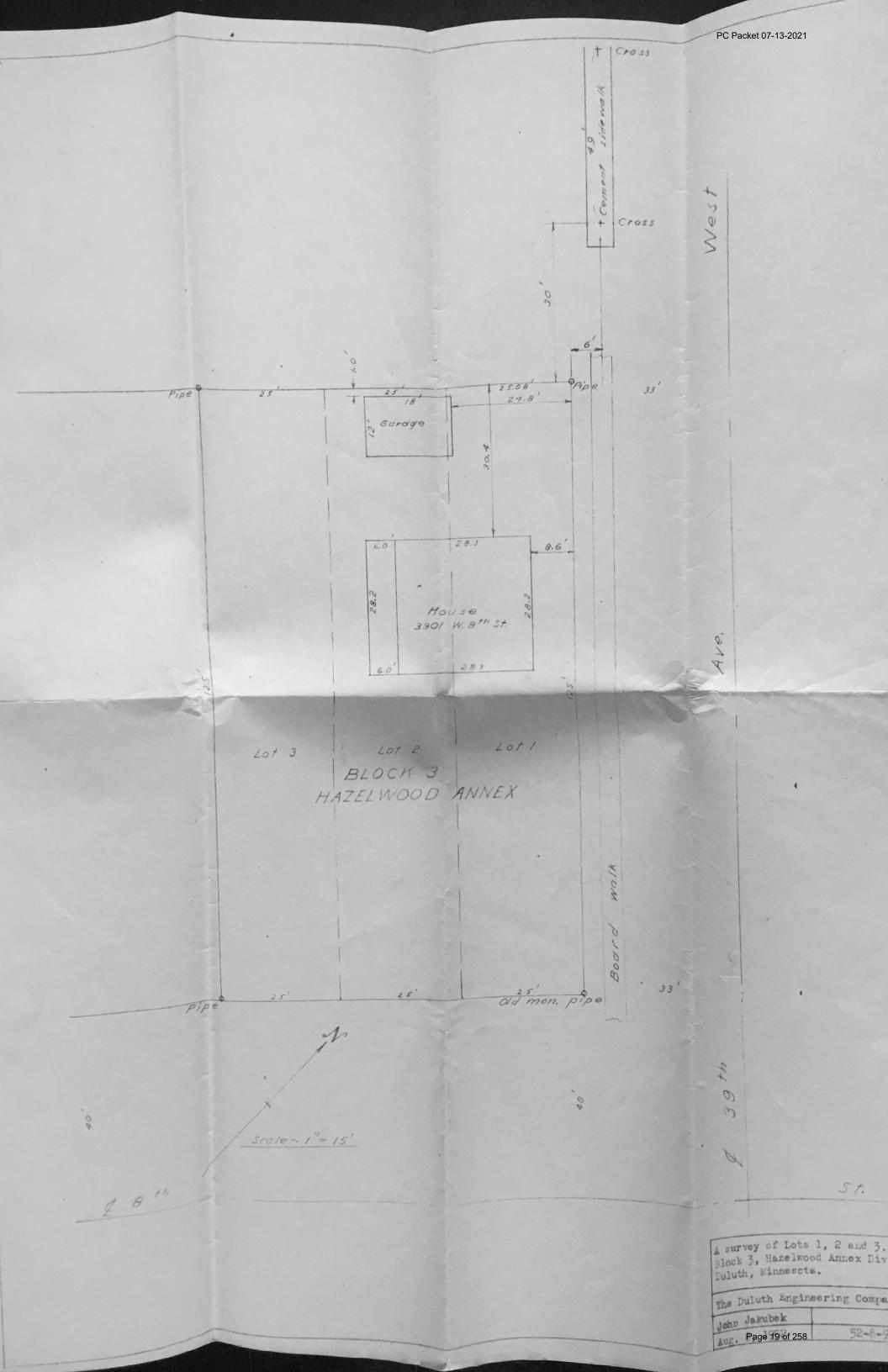


PL 21-065 Variance 3901 W 8th St



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.





Variance Application- Supplemental Documentation, 3901 W 8th Street

Seeking Relief from UDC Section:

A. 50-14.5- R-1 District Corner Lot: width of front side yard, 15 foot required Dwelling Setback. Owner requests a reduction of 6.5 feet so that established setback will be retained for the proposed addition.

The current one-family dwelling was constructed in 1906 and establishes the present setbacks within the context of a traditional neighborhood. No additions have been made to date. Dwelling is 968 SF with a full basement and unfinished attic. A covered porch also projects 61" into the current setback with a stair extending down to the public sidewalk. This porch, stair, and extending roof is to be removed in the proposed scope of work. Current owners have lived in the home and maintained the property since purchasing in 2009.

Owners propose a complete interior remodel to all levels and a moderately sized addition (624 SF) consisting of living/dining and entry spaces to better accommodate their growing family.

Property is a corner lot at the intersection of a dead end street and dead end avenue. Due to surrounding topography and the wooded setting, the proposed addition will be difficult to view from within any neighboring dwelling. Owner's investment will distinctly add value and improve appearance of the area. Original structure follows the basic style parameters of an American Foursquare but with the first floor sunk below grade and omitting the full-width covered porch. The addition, as designed, helps complete the concept and improves the overall character within the context of a traditional neighborhood. See Exhibit B.

Reduce Setback- Landscape/buffering Plan: Existing lot and adjacent R.O.W. have numerous trees and shrubs and the avenue location currently provides a wide band of green space that will be retained and maintained. A 210 SF rain garden will be added along the east property line, south of the addition. See Exhibits A and D.

Additional information indicating that proposed use is consistent with the intent of the UDC and the characteristics of the established neighborhood:

- Due to the steep grade, 39th Avenue West was not developed as it was originally platted. Owner <u>is not</u> requesting vacation of the original 66 foot R.O.W. However the distance from the proposed addition to a 66 foot Right of Way, superimposed to follow the centerline of the avenue as it was developed, should exceed 15 feet at the nearest point and increases toward the south. See Exhibits A, C, and D.
- As a corner lot, if the existing dwelling was determined to front onto 39th Avenue West, an 8.5 foot setback would be allowed per Table 50-14.5-1 (*Minimum depth* of front yard- The smaller of 25 ft. or average of adjacent developed lots facing the same street). Front yard setback of only other dwelling (817 N 8th Street) is less than 8.5 feet. See Exhibit A.

- Numerous lots within this established traditional neighborhood have structures built with less than 15 feet of corner front side yard setbacks. See Exhibit C.
- B. **Section 50-18.1D**, Table 50-18.D-1 Structure Setback from Ordinary High Water Level- 150 feet required (Natural Resources Overlay, Cold Water River); Owner requests a reduction of 30 feet for the setback of the proposed home addition.

Existing conditions: a small dwelling (968 SF) on a large parcel 75' x 125'. Setback constraints are further impacted by proximity to Merritt Creek, designated in the NRO as a Cold Water River. Parcel and adjacent R.O.W. provide for a well-developed Naturally Vegetative Buffer that is unaffected by the proposed addition. Owner is committed to mitigating potential impact of surface runoff.

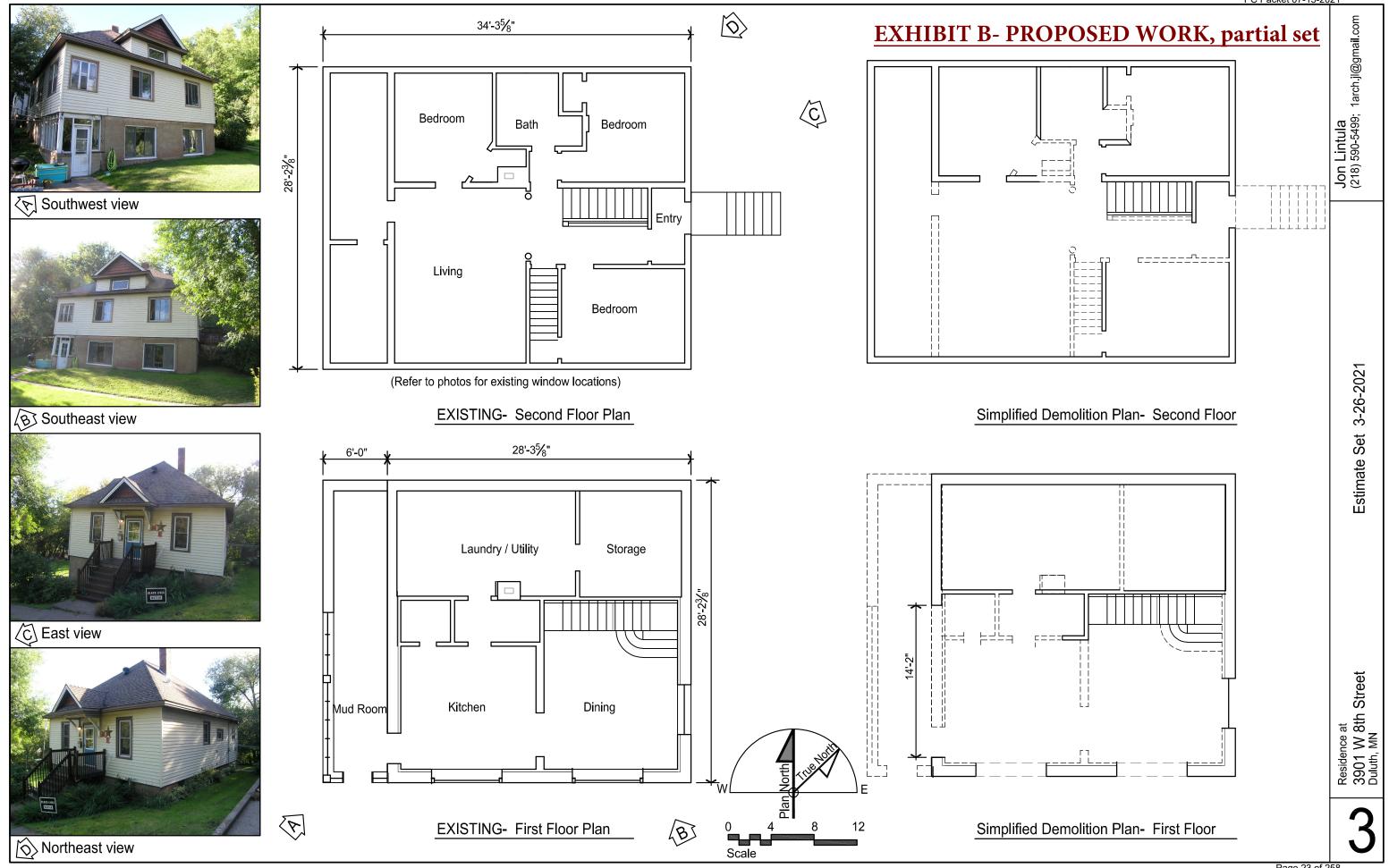
Impervious Surface: Projected roof area of proposed addition is 724 SF; no increase to driveway; no net increase of sidewalk area.

Shorelands Impact Mitigation Plan:

- provide gutters/downspouts and rainwater catchment barrels (100 gallons)
- direct overflow to new rain garden (210 SF x 6-8" depth, with variety of regionally appropriate plantings selected from EPA recommendations). See Exhibit D.



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WORK SCOPE SUMMARY

First Floor

Addition: Windowed Great Room and Entry 628 SF New Space

-Add Bathroom

-Provide New Commercial Grade Kitchen and Prep Pantry -New radiantly heated Floor slab (stained and polished) -New high-performance windows -Install New Doors and Trim (include sliding panels to new space)

Selective Demolition and Reconstruction: -Replace concrete block foundation wall (existing Mudroom area) -Remove existing plaster, replace with drywall -Remove and replace electrical wiring -Remove and replace all plumbing and heating -Demolish masonry chimney full-height through roof

Second Floor

- New Master Bedroom with added Bath and walk-in closets
- Create New Entry location
- New Entry deck to access Driveway / Garage, 260 SF
- New stair to access finished Third Floor space
- Relocate / Enlarge Bathroom
- Enlarge existing Bedroom
- Add closet space
- New high-performance windows
- New Doors and Trim
- New finish flooring

Selective Demolition and Reconstruction:

- Remove existing plaster, replace with drywall
- Remove and replace electrical wiring
- Remove and replace all plumbing and heating
- Reinsulate walls

Third Floor -400 New SF*

(existing unfinished attic with 11'-4" hip vault)

- Build new knee walls and closet space
- Install heating and electrical
- Install finish flooring
- Insulate roof vault, provide new drywall finish throughout
- New high-performance window

Exterior, General

- Remove existing doors, replace with new
- Remove existing windows, replace with new
- Remove existing siding, replace with new LP Smartside
- Remove roofing and replace

New Area

628 SF Great Room / Entry 400 SF* Third Floor 1,028 SF

Existing Configuration: 3 Bedrooms; 1 Bath Bedrooms-101 SF 100 SF

- 88 SF
- +

BR Closets 24 SF

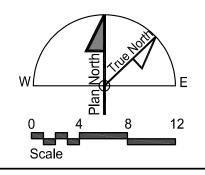
New Configuration: <u>4 Bedrooms ; 3 Bath</u> Bedrooms (net increase of 443 SF)

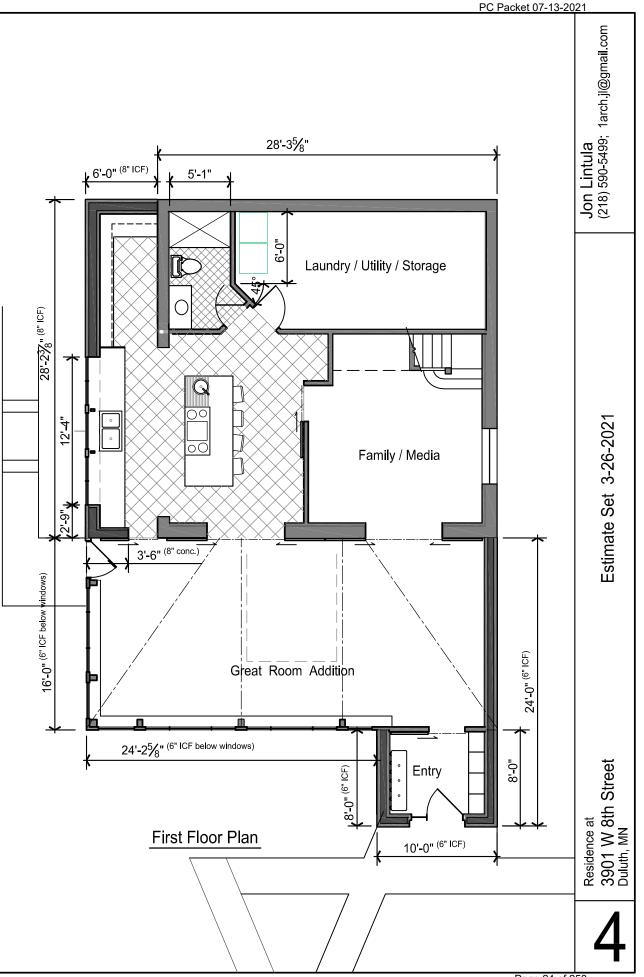
175 SF 142 SF 100 SF

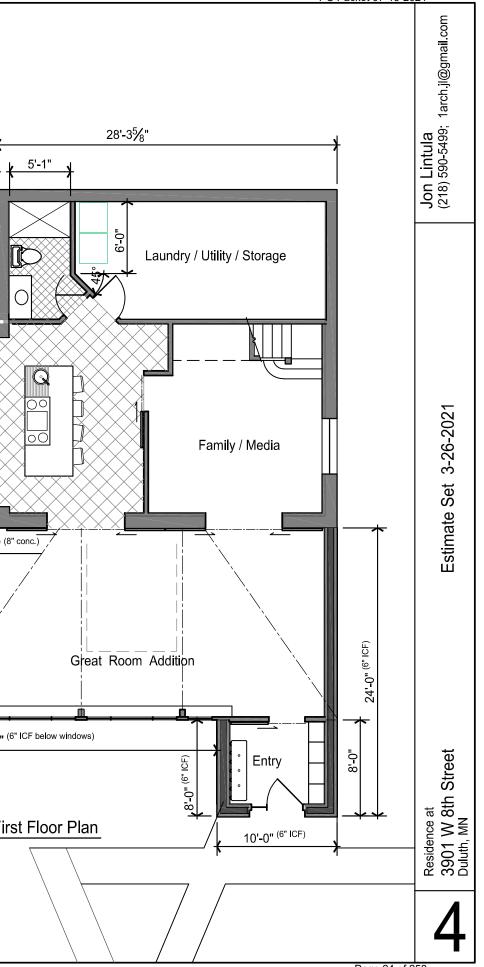
- 315 SF* (Third Floor)
- +

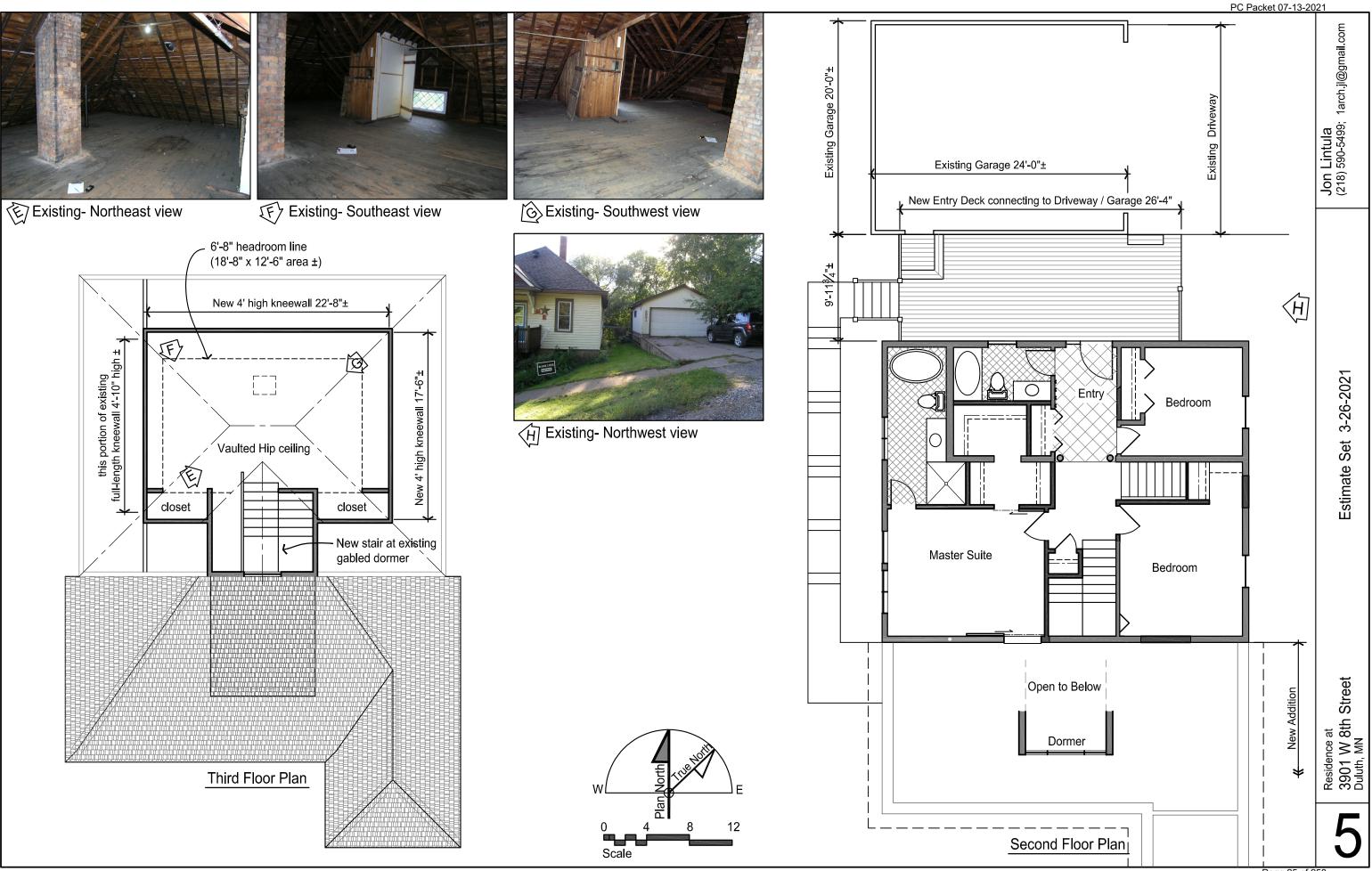
BR Closets 126 SF (net increase of 102 SF)

*Third Floor Area 400 SF measured to knee walls; 315 SF with ceiling height greater than 5 feet









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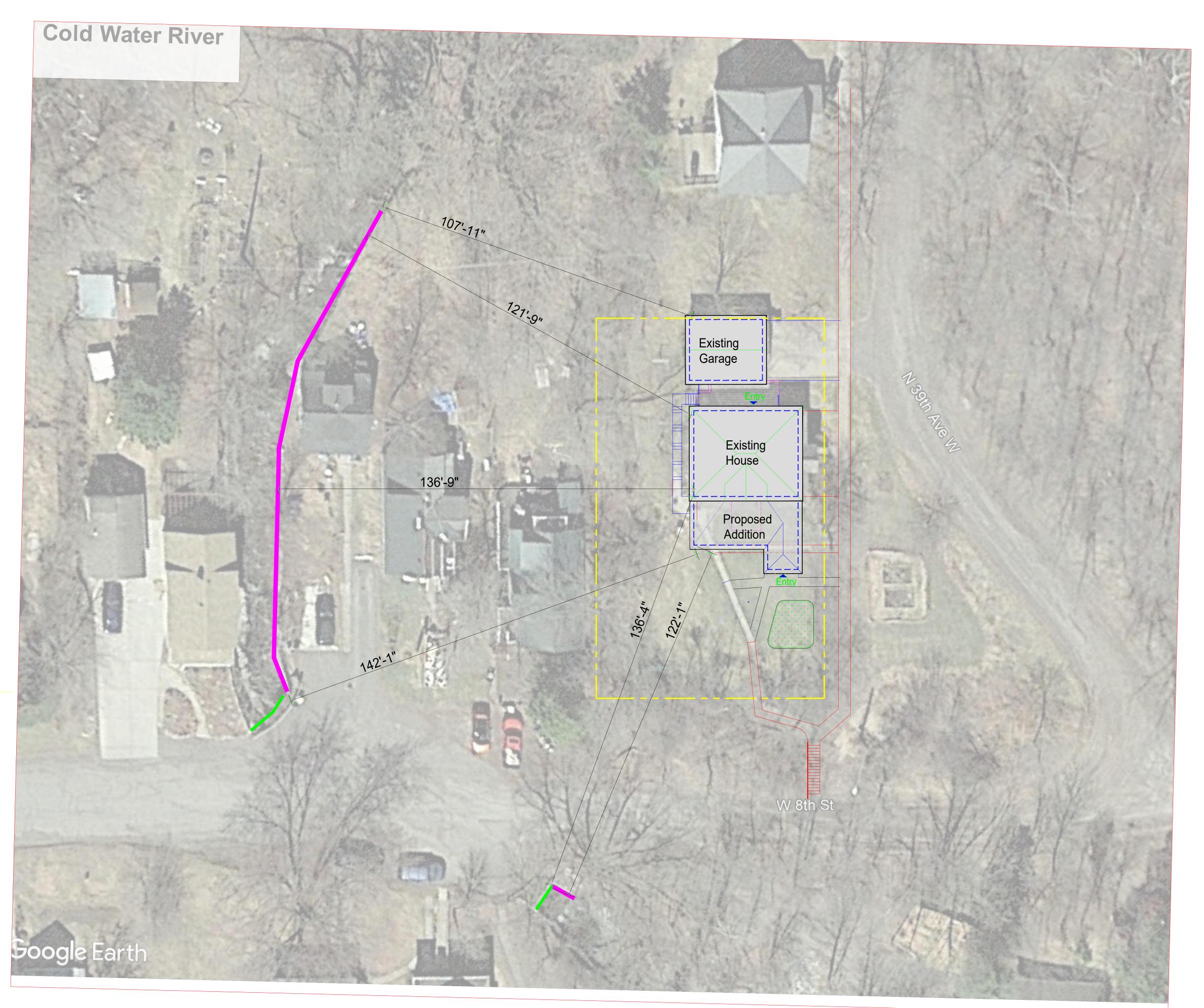


Exhibit D Shorelands Impact Mitigation Plan:

Proposed Addition: Projected Roof Area = 724 SF. Provide gutters and downspouts with rainwater catchment barrels (100 gallons). Overflow directed to rain garden.



Proposed Rain Garden-210 SF x 6-8" depth, with variety of regionally appropriate plantings selected from EPA recommendations

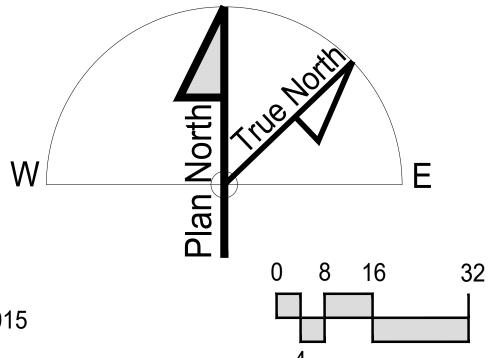
SYMBOL KEY:

Indication for Ordinary High Water Mark (OHM Merritt Creek)
- Taken as near wall of concrete/stone spillway, both

- above and below West 8th Street
- dimensional tolerance is ± two feet -



Headwall of Concrete Box Culvert under West 8th Street



Google Earth Imagery Date 4/14/2015



Planning & Development Division

Planning & Economic Development Department

218-730-5580

planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-075		Contact Ste		Steven Ro	Steven Robertson, 218-730-5295	
	Concurre on Light I	ent Use Permit, Wireless Utility Pole	Planning Commission Date			July 13, 2021	
Deadline		tion Date	June 16, 2021 60 (Fee Submitted)		60 Days		
for Action	Date Extension Letter Mailed		June 21, 20	²¹ 120 Days		6	
Location of S	ubject	1801 East Second Street					
Applicant	SACW (AT&T)	Contact Available, on file				
Agent	Joe Goldshlack		Contact	Availa	vailable, on file		
Legal Descrip	otion	See Attached Map		-			
Site Visit Date		June 27, 2021	Sign Notice Date		1	June 29, 2021	
Neighbor Letter Date		N/A	Number of Letters Sent		rs Sent	N/A	

Proposal: The applicant is seeking a concurrent use permit to allow a private obstruction (utility pole mounted antennas and related equipment) in the public right of way.

Recommended Action: Recommend to the city council to approve with conditions (Ordinance).

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	Utility Pole	Urban Residential
North	R-2 / MU-N	Residential	Urban Residential / Neigh. Mixed Use
South	R-2	Residential	Urban Residential
East	R-2	Residential	Urban Residential
West	R-2/P-1	Residential	Urban Residential / Open Space

Summary of Code Requirements

UDC Section 50-37.7.C. The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that the proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city, and no portion of a public easement proposed of use is being physically occupied by the public.

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

Principle #4 - Support emerging economic growth sectors. Emerging economic sectors add economic, cultural and social diversity. These include higher education, medical, value-added manufacturing, commercial outdoor recreation, historic resources interpretation, arts and music, information technology and visitor services.

The installation falls with the provisions of Minnesota Statute 237.162 and 247.1643, as amended in 2017.

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

Existing small cell on utility poles in public right of way include the following sites: six around UMD, two near the Burning Tree Plaza, two near Canal Park, three near the 6000 block of East Superior Street, one near Spirit Mountain, one near Denfeld High School, one near East High School, one near the Radison Hotel, one near the Miller Hill Mall, and one near Edgewater Park. There are three more on utility poles within the St. Scholastica Campus, on private property.

This is a companion zoning application to PL 21-076, also a concurrent use permit for a wireless equipment on an existing utility pole.

Review and Discussion Items:

1) The applicant is seeking a concurrent use permit to allow a private obstruction (utility pole mounted antennas and equipment mount) in the public right of way. The small wireless facility will be installed on a replacement Minnesota Power wooden pole. The street light will be attached to the pole at 24 feet, and the wireless equipment will be placed at 30 to 37 feet, with a radio at 15 feet Wireless attachments will include 2 exterior mounted panel antenna and 3 radio units. There will be no ground mounted equipment.

2) Granting a concurrent use permit would give the applicant the ability to use dedicated public rights-of-way, with conditions, while preserving other existing public uses in the same right-of-way corridors. Concurrent use permits require a public hearing and recommendation by the Planning Commission, and is approved by the City Council via ordinance. Unlike street right-of-way vacations, concurrent use permits are not recorded at the County as they are voidable permits issued by the City to applicants who are private users of public rights-of-way.

3) Ownership of the pole will remain with Minnesota Power. Liability, maintenance, and operation of the small wireless facilities will remain the responsibility of the applicant. In the event of an accident, such as a vehicle hitting the utility pole, the city is not responsible for restoring or replacing any of the applicant's equipment.

4) The existing pole will be replaced with a new pole. The new polls will have a structural analysis by the manufacturer to ensure that they can support the weight of the private small cell facilities.

5) Granting the proposed concurrent use permits will not harm or inconvenience the health, safety and general welfare of the city. The area proposed for the concurrent use permit will not take away from the public's ability to use the public right-of-way. Minnesota Power will own the poles and continue to use them for utility purposes (lighting).

6) The UDC generally requires that new wireless facilities follow a location standard: first they should be collocated on existing towers or other structures on city owned properties first, and then existing towers or other structures on other (private) property, and so forth down the location standard list. As these small wireless facilities would be located on existing infrastructure in public right of way, and as per the recent change in state statute, the city is processing these applications as concurrent use permits and not special use permits, and the UDC's use-specific standards do not apply in this specific situation.

7) The city has the ability to regulate land use, however, the Federal Communications Commission preempts local review on the potential environmental effects of radio frequency (RF) emissions, with the presumption that the applicant and service provider is in compliance with the Commission's RF rules. The applicant included an FCC checklist used to determine exemption from RF regulations (unlikely to cause exposure in excess of the FCC's guidelines).

8) At the time that this memo was written, no written comments had been received.

Staff Recommendation:

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

1) The project be limited to, constructed, and maintained according to construction drawings submitted and included with this staff report.

2) Applicant, and/or successors, shall remove the proposed obstructions at applicant's expense if directed to do so by the City with appropriate notice, and shall adhere to other standards and obligations established in the approving document (ordinance).

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, all other changes must be approved by amending the City Council's approved ordinance.



R-1 (Residential Traditional)

<u>Traditional</u> <u>Neighborhood</u>

Legend

N2011AVE

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

Neighborhood Mixed Use Noighborhood)

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Aerial photography flown 2016

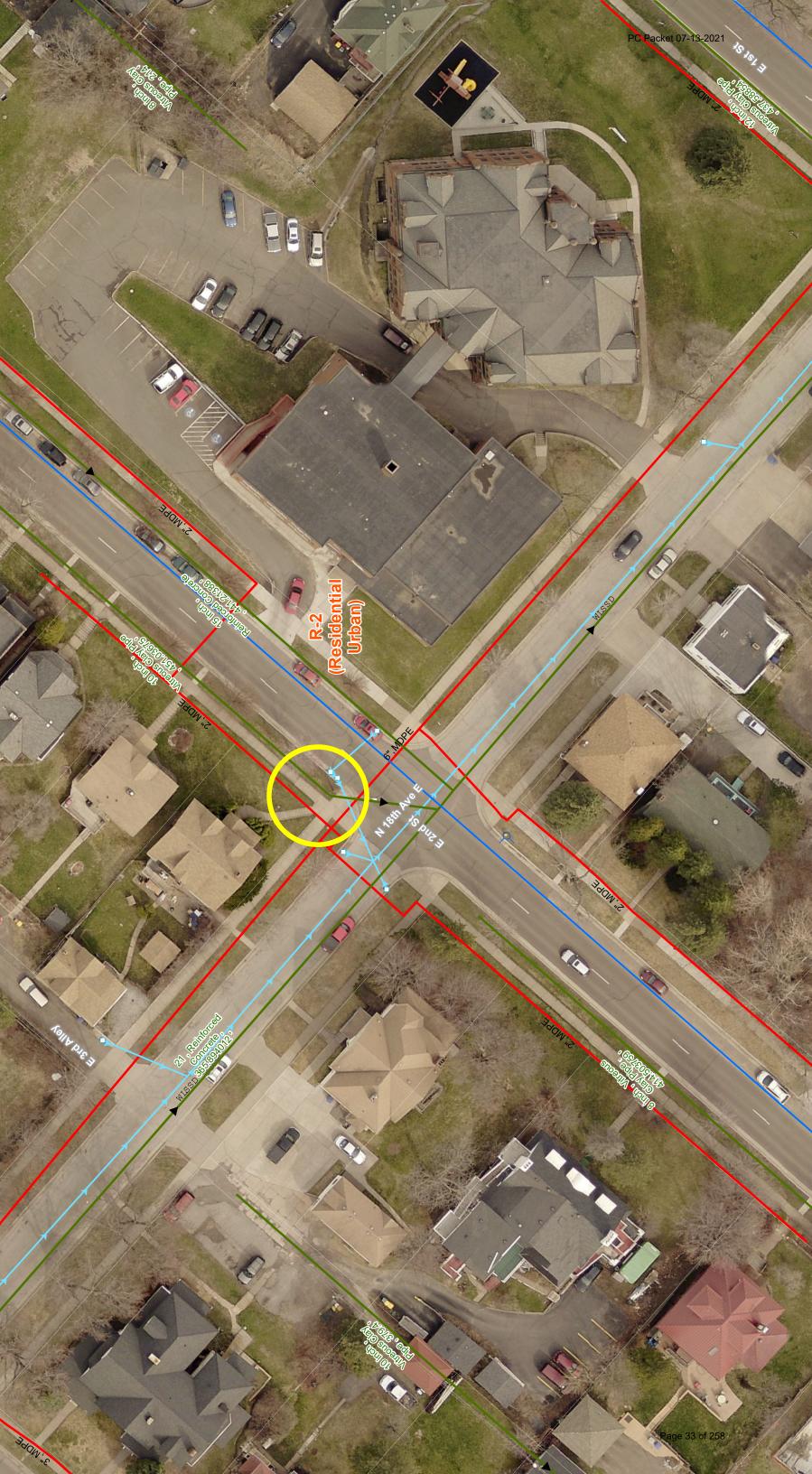
Park

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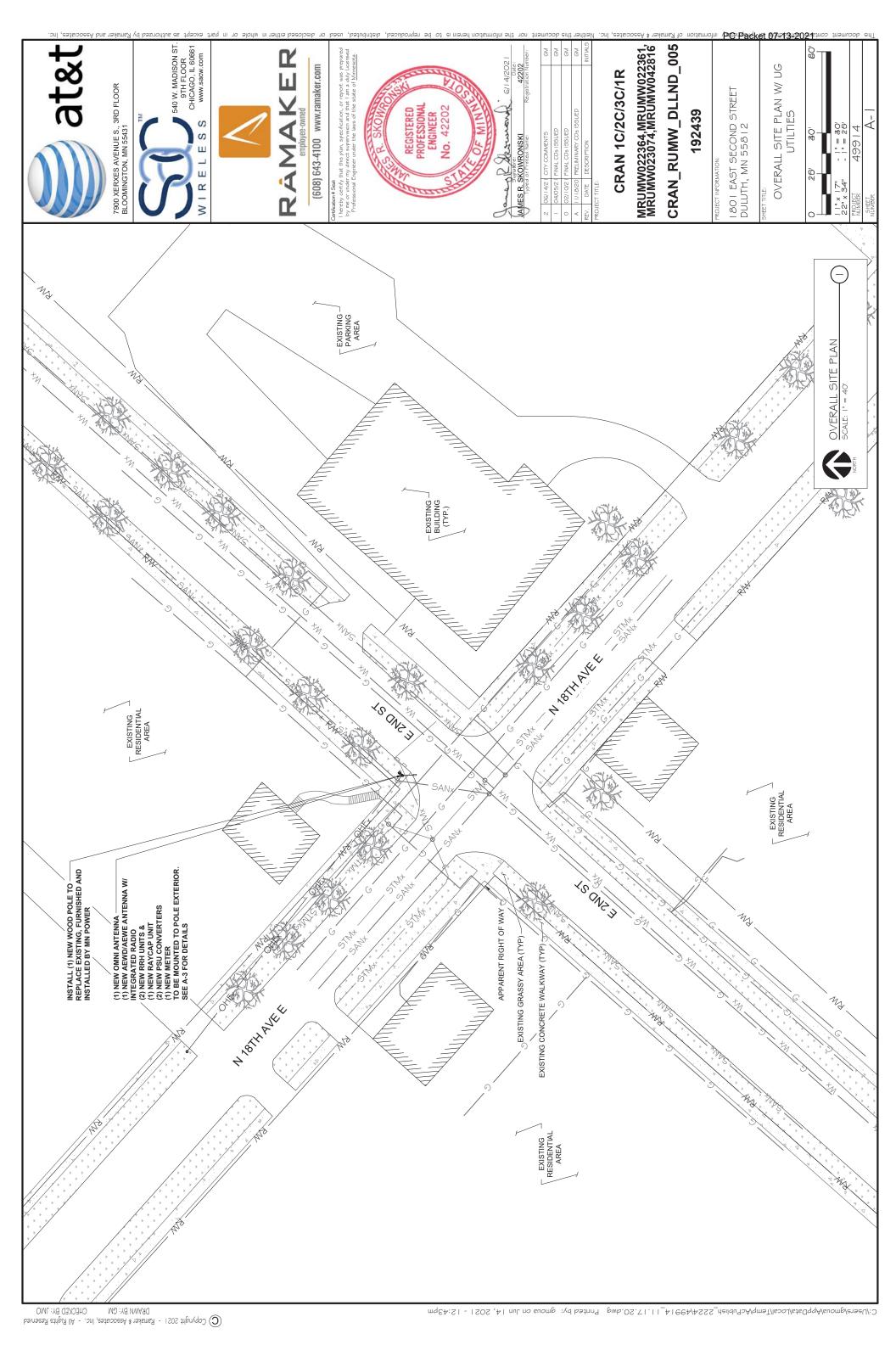
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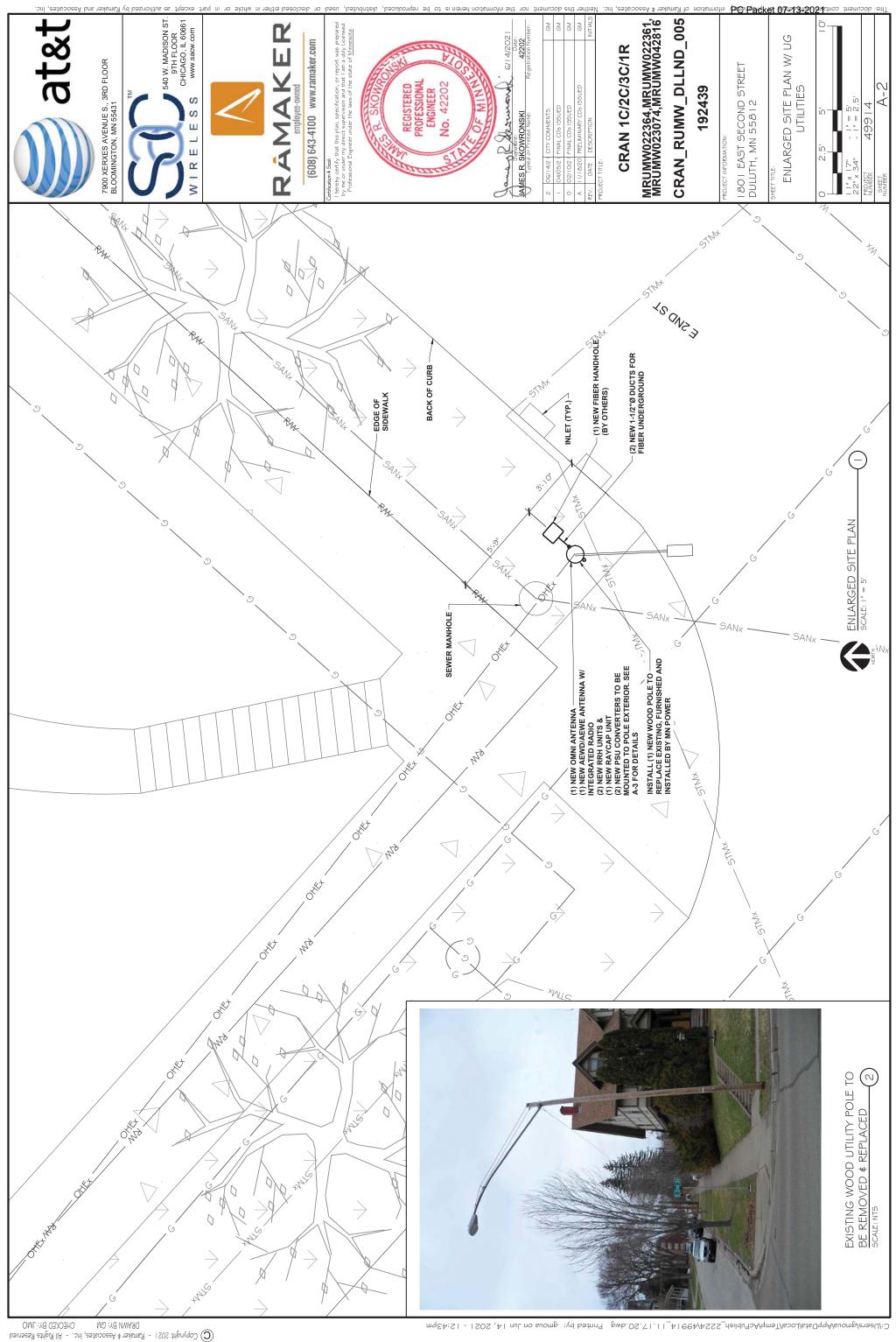
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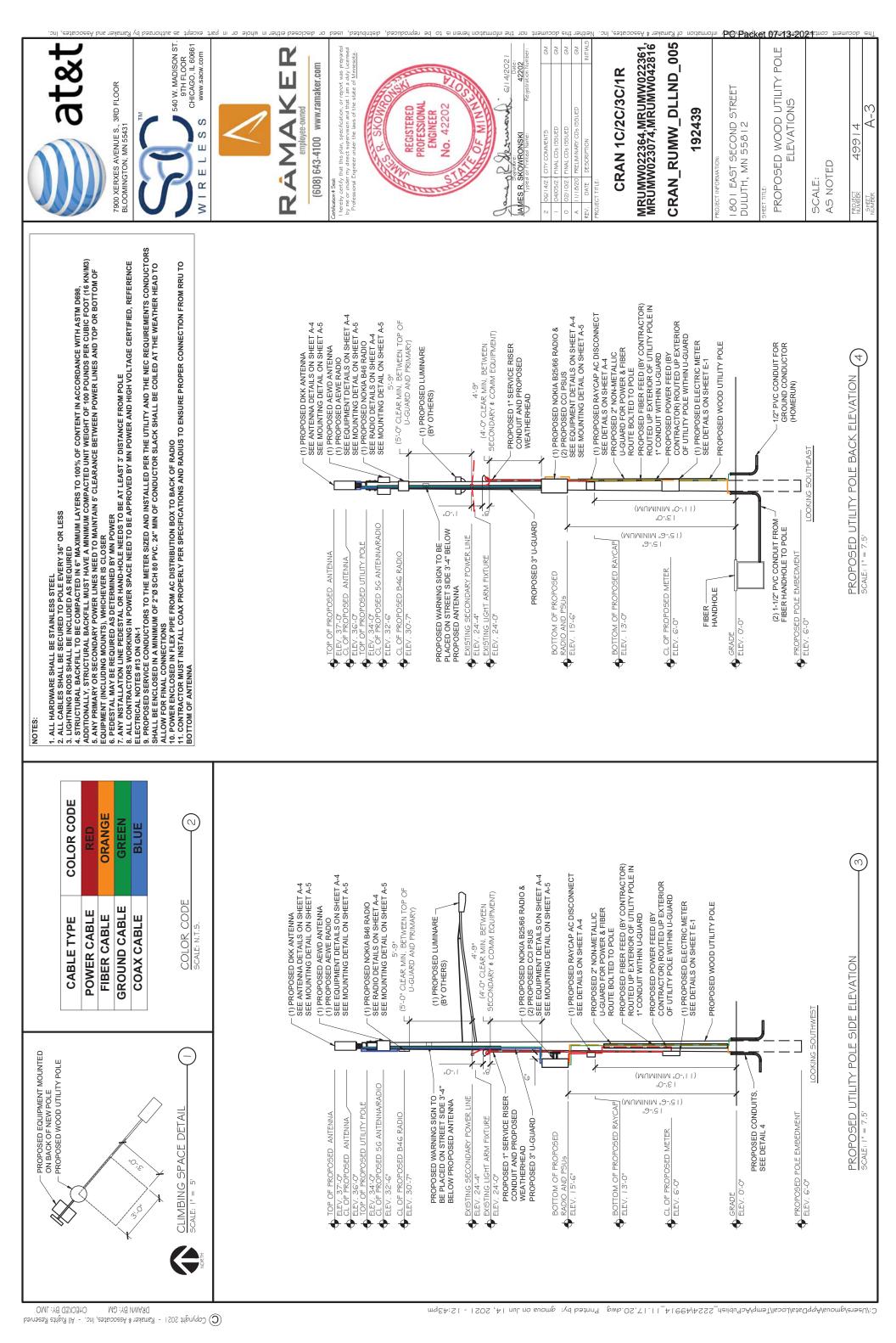






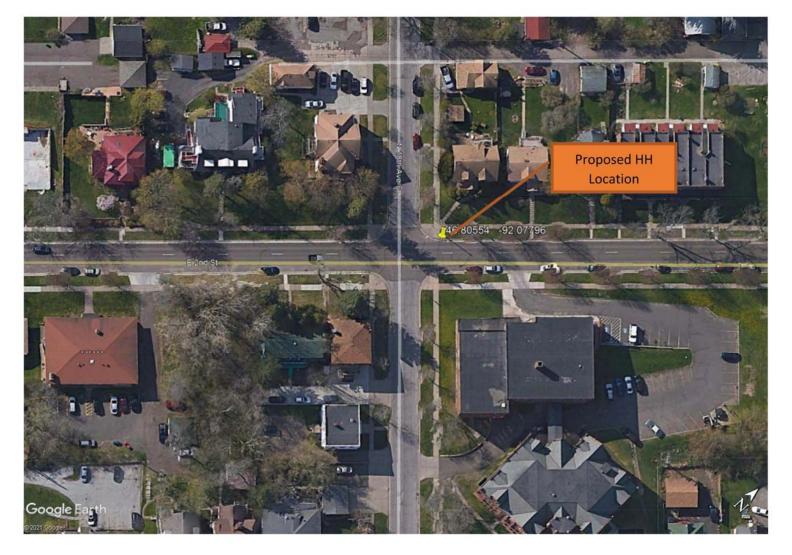






SITE NAME: CRAN_RUMW_DLLND_005 SITE ADDRESS: E 2nd ST DULUTH, MN LAT/LONG: 46.80554, -92.07796 POLE TYPE: WOOD, LIGHT POLE

Proposed Route Design ATT Minnesota Plan View



Nearest Intersection: E 2nd St & N 18th Ave E

Description: CCI to install a new HH in the ROW near the light pole.

ATT is to leave stub 1.25" duct out from base of new light pole to the proposed HH location.

Approx. HH Location – Street View





STATEMENT REGARDING AESTHETIC DESIGN CRITERIA

DLLND_005 / 14811099 / MRUMW022364 / 1801 E. Second St.

Pursuant to Ordinance 19-0027R, a SWF must adhere to the eight criteria listed below. Applicant's responses are stated below in red.

(a) Except as established in Minnesota State Statute, the height of a new facility may not exceed the average height of existing utility poles or streetlights in the immediate area (150-foot radius of the proposed site) by more than five (5) feet, or forty (40) feet, whichever is greater; antennas mounted at the top of the pole shall not increase the height of the pole by more than five (5) feet; and

Applicant asserts that this proposed SWF will not exceed the average height of nearby utility poles. The proposed top-mounted antenna will only extend three (3) feet above the top of the replaced pole. (See p. A3 of Construction Drawings).

(b) New facilities shall be located as near as practicable to street intersections and shall be located to the extent practicable on existing poles or other structures currently in the right of way and shall be limited to the heights in section (a) above; and

Applicant's proposed pole is located directly on a street corner and is within the ROW.

(c) Decorative lights, banner poles, clocks, flagpoles, and other public street furniture that was not designed to accommodate small cell facilities shall not be used if accommodating the small cell facilities interfere with the operation of the public street furniture; and

Applicant's proposed pole is not decorative.

(d) Concealment elements shall be incorporated into new sites, including approved camouflage or shrouding techniques, to the greatest extent practicable; and

Applicant has made every practicable effort to camouflage and conceal its proposed equipment. Any additional concealment efforts would result in additional shrouds or screens that would cause the pole to look more crowded and abnormal than as proposed.

(e) New electrical and other utility service lines must be undergrounded whenever possible to avoid additional overhead lines; for metal poles, undergrounded cables and wires must transition directly into the pole base without any external junction box; and

Barring any unforeseen issues, this SWF will draw power from existing electrical lines attached to it. It will therefore not require the construction of any new overhead or underground lines. The subject pole is not metal.

(f) Unless otherwise required for compliance with FAA or FCC regulations, new wireless facilities shall not include any permanently installed lights; and

The Proposed SWF will not include any permanently installed lights besides a streetlight like the one currently mounted to the pole.



(g) Any new facility and/or equipment and other improvements associated with a new facility must not obstruct any access to fire hydrants or fire escapes, or aboveground or underground public infrastructure, such as underground public utility lines; and

The proposed SWF will not obstruct access to fire hydrants or fire escapes, or aboveground or underground public infrastructure, such as underground public utility lines.

(h) Unless indicated otherwise by the Land Use Supervisor or City Engineer, the color of the antennas and related accessory equipment shall be made to match the existing pole color; if no pole exists, color should match the poles in the immediate area.

Applicant intends to paint the proposed equipment to match the pole as close as possible.

Respectfully Submitted:

Joe Goldshlack SAC Wireless o.b.o. AT&T 540 W. Madison St., 9th Floor Chicago, IL 60661 (517) 648-0023 joe.goldshlack@sacw.com

Dated: May f. 200



Planning & Development Division

Planning & Economic Development Department

218-730-5580

planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-076		Contact	Contact Steven R		obertson, 218-730-5295
J 1 ² -	Concurrent Use Permit, Wireless Utility on Light Pole		Planning Commission Date			July 13, 2021
Deadime		tion Date	June 16, 2021 (Fee Submitted)		60 Days	
for Action	Date Ex	Date Extension Letter Mailed		21, 2021 120 Days		5
Location of Subject 651 East Fifth Street						
Applicant	SACW (AT&T)	Contact Available, on file			
Agent	Joe Gold	dshlack	Contact	Contact Available, on file		
Legal Description See Attached Map						
Site Visit Date		June 27, 2021	Sign Notice Date			June 29, 2021
Neighbor Letter Date		N/A	Number of Letters Sent		rs Sent	N/A

Proposal: The applicant is seeking a concurrent use permit to allow a private obstruction (utility pole mounted antennas and related equipment) in the public right of way.

Recommended Action: Recommend to the city council to approve with conditions (Ordinance).

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Utility Pole	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1/F-6	Residential/Commercial	Trad. Neigh/Neigh. Mixed Use
East	R-1/F-6	Residential	Trad. Neigh/Neigh. Mixed Use
West	R-1/MU-N	Residential/Commercial	Trad. Neigh/Neigh. Mixed Use

Summary of Code Requirements

UDC Section 50-37.7.C. The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that the proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city, and no portion of a public easement proposed of use is being physically occupied by the public.

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

Principle #4 - Support emerging economic growth sectors. Emerging economic sectors add economic, cultural and social diversity. These include higher education, medical, value-added manufacturing, commercial outdoor recreation, historic resources interpretation, arts and music, information technology and visitor services.

The installation falls with the provisions of Minnesota Statute 237.162 and 247.1643, as amended in 2017.

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

Existing small cell on utility poles in public right of way include the following sites: six around UMD, two near the Burning Tree Plaza, two near Canal Park, three near the 6000 block of East Superior Street, one near Spirit Mountain, one near Denfeld High School, one near East High School, one near the Radisson Hotel, one near the Miller Hill Mall, and one near Edgewater Park. There are three more on utility poles within the St. Scholastica Campus, on private property.

This is a companion zoning application to PL 21-075, also a concurrent use permit for a wireless equipment on an existing utility pole.

Review and Discussion Items:

1) The applicant is seeking a concurrent use permit to allow a private obstruction (utility pole mounted antennas and equipment mount) in the public right of way. The small wireless facility will be installed on a replacement Minnesota Power wooden pole. The street light will be attached to the pole at 24 feet, and the wireless equipment will be placed at 30 to 37 feet, with a radio at 15 feet. Wireless attachments will include 2 exterior mounted panel antenna and 3 radio units. There will be no ground mounted equipment.

2) Granting a concurrent use permit would give the applicant the ability to use dedicated public rights-of-way, with conditions, while preserving other existing public uses in the same right-of-way corridors. Concurrent use permits require a public hearing and recommendation by the Planning Commission, and is approved by the City Council via ordinance. Unlike street right-of-way vacations, concurrent use permits are not recorded at the County as they are voidable permits issued by the City to applicants who are private users of public rights-of-way.

3) Ownership of the pole will remain with Minnesota Power. Liability, maintenance, and operation of the small wireless facilities will remain the responsibility of the applicant. In the event of an accident, such as a vehicle hitting the utility pole, the city is not responsible for restoring or replacing any of the applicant's equipment.

4) The existing pole will be replaced with a new pole. The new pole will have a structural analysis by the manufacturer to ensure that they can support the weight of the private small cell facilities.

5) Granting the proposed concurrent use permits will not harm or inconvenience the health, safety and general welfare of the city. The area proposed for the concurrent use permit will not take away from the public's ability to use the public right-of-way. Minnesota Power will own the poles and continue to use them for utility purposes (lighting).

6) The UDC generally requires that new wireless facilities follow a location standard: first they should be collocated on existing towers or other structures on city owned properties first, and then existing towers or other structures on other (private) property, and so forth down the location standard list. As these small wireless facilities would be located on existing infrastructure in public right of way, and as per the recent change in state statute, the city is processing these applications as concurrent use permits and not special use permits, and the UDC's use-specific standards do not apply in this specific situation.

7) The city has the ability to regulate land use, however, the Federal Communications Commission preempts local review on the potential environmental effects of radio frequency (RF) emissions, with the presumption that the applicant and service provider is in compliance with the Commission's RF rules. The applicant included an FCC checklist used to determine exemption from RF regulations (unlikely to cause exposure in excess of the FCC's guidelines).

8) At the time that this memo was written, no written comments has been received.

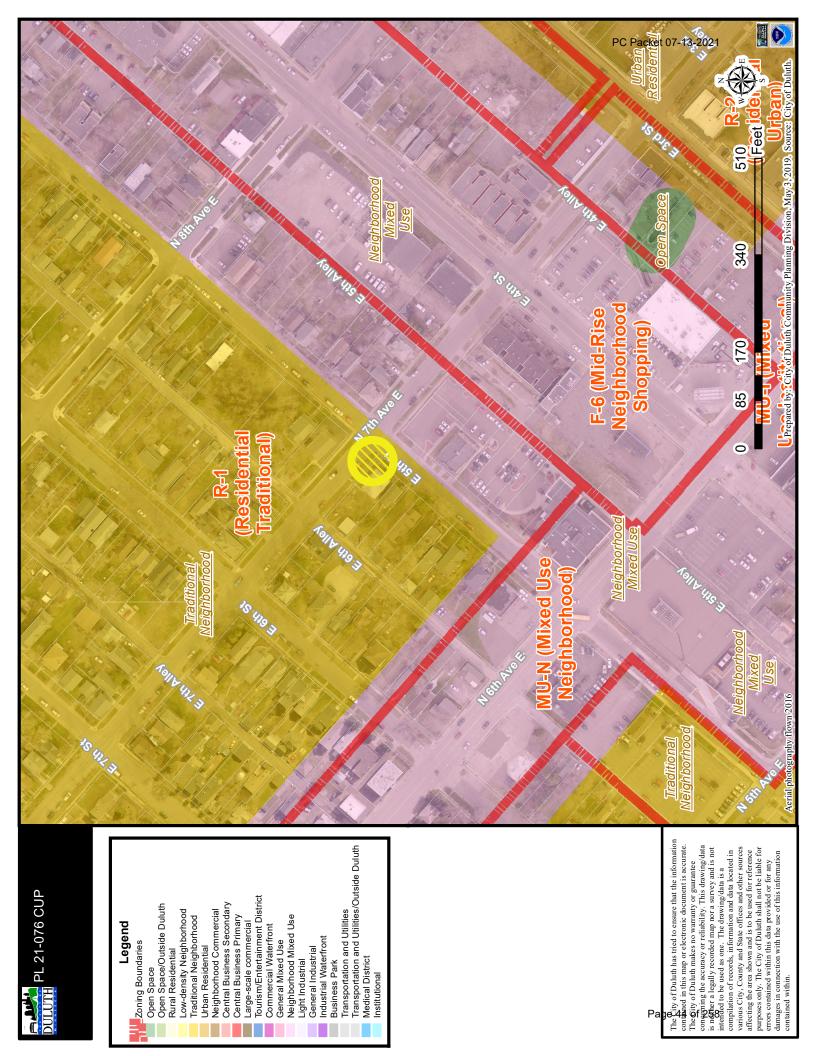
Staff Recommendation:

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

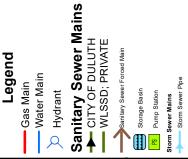
1) The project be limited to, constructed, and maintained according to construction drawings submitted and included with this staff report.

2) Applicant, and/or successors, shall remove the proposed obstructions at applicant's expense if directed to do so by the City with appropriate notice, and shall adhere to other standards and obligations established in the approving document (ordinance).

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, all other changes must be approved by amending the City Council's approved ordinance.

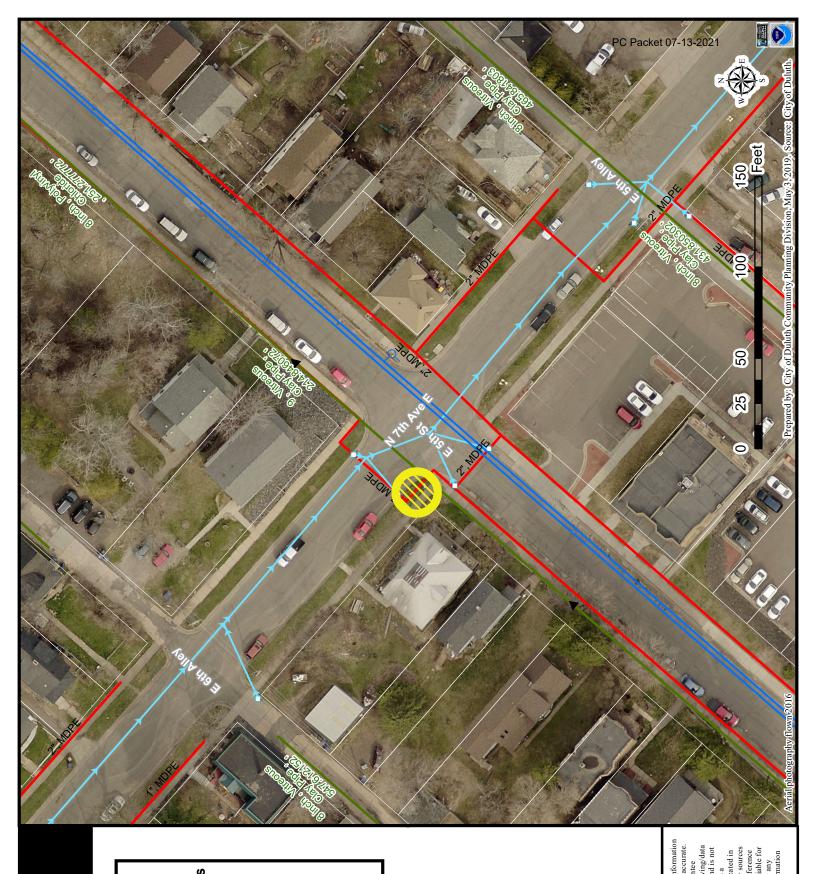




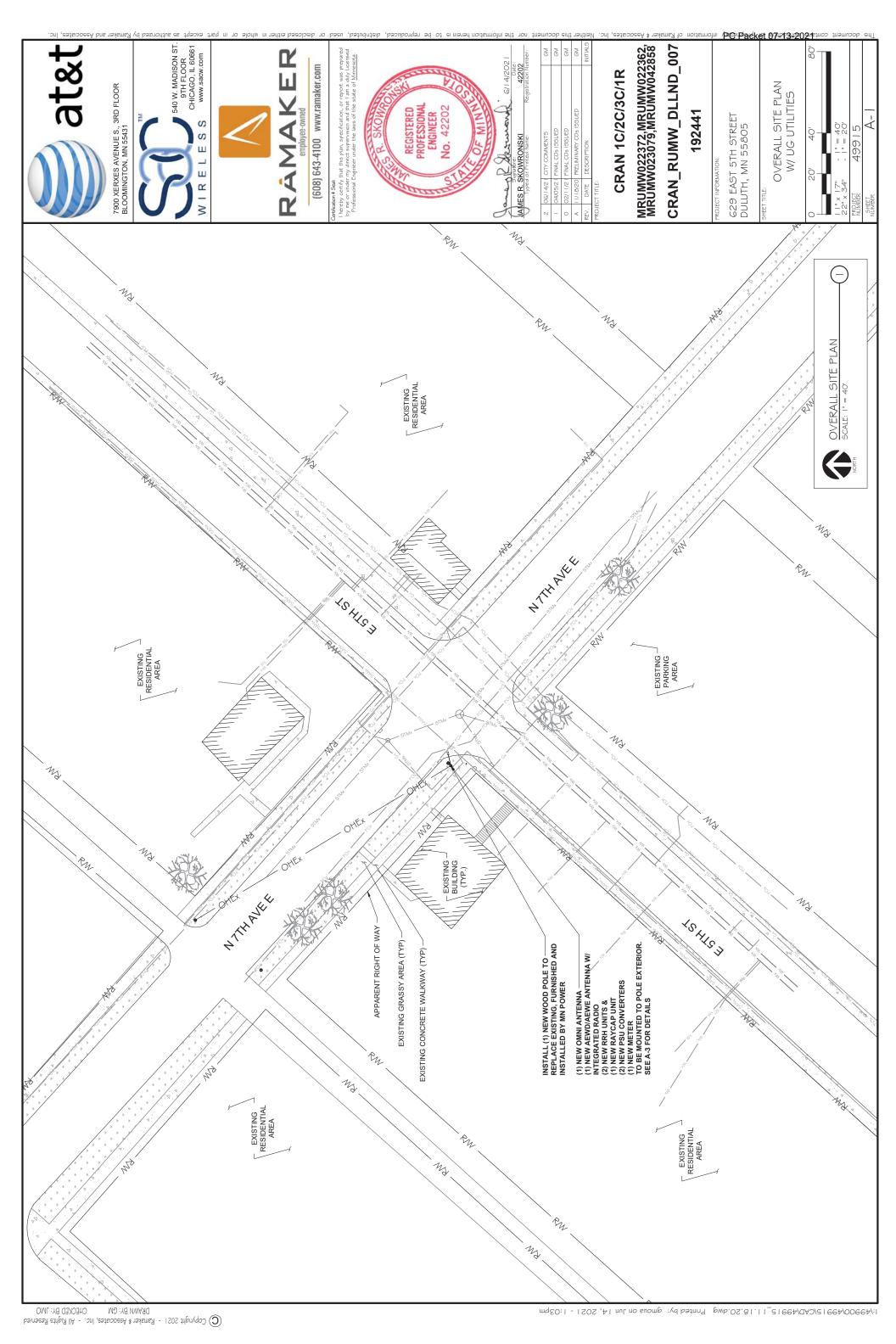


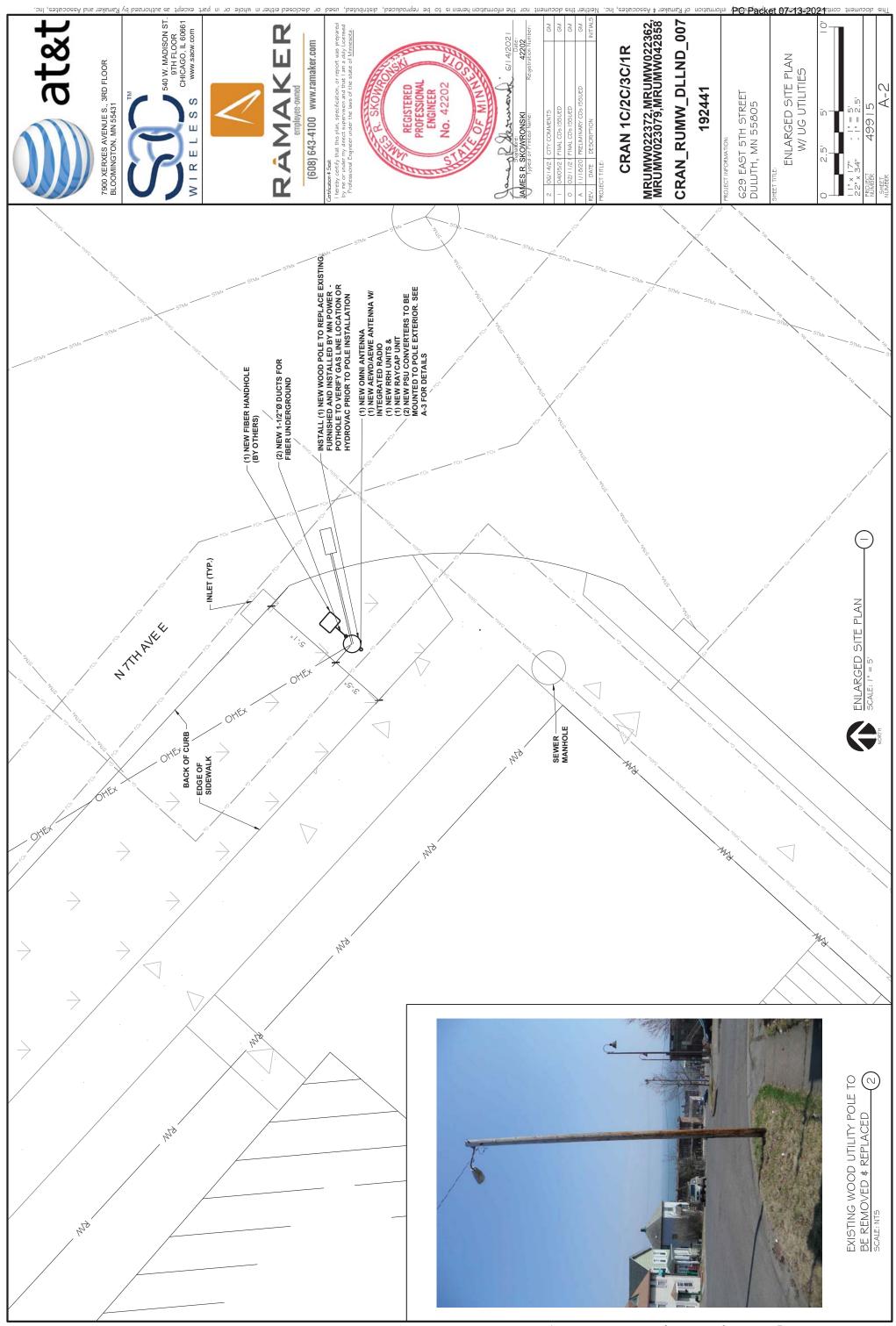
Storm Sever Catch Basin

Easement Type Utility Easement Other Easement The display of Duluth has tried to ensure that the information conterned in this map or electronic document is accurate. The display of Duluth makes no warranty or guarantee conserving the accuracy or reliability. This drawing data is neghter a legally recorded map nor a survey and is not interflect 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 datages in connection with the use of this information contained within.





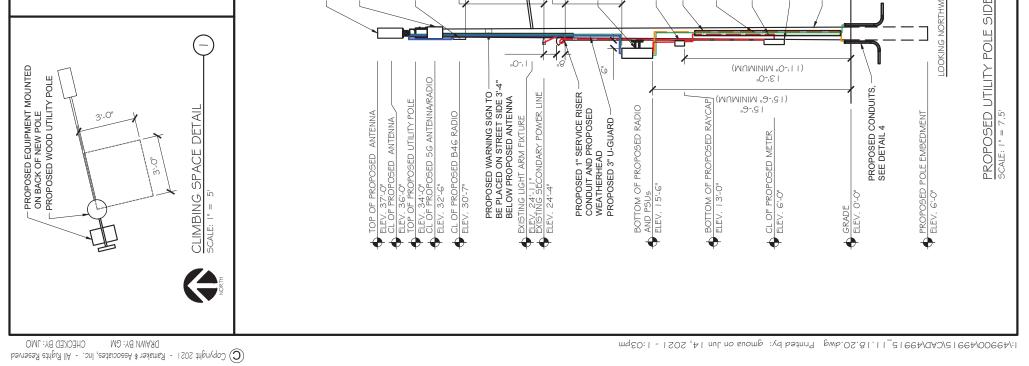




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WIRELESS AVENUES., 3RD FLOOR BLOOMINGTON, MN 55431 540 W. MADISON ST. CHICAGO, IL 60661 W. Sadew com M. Sadew com	In the large of the contract o	RADIECT 49915 NUMBER A-3 NUMBER A-3
NOTES: 1. ALL HARDWARE SHALL BE STAINLESS STEEL 2. ALL GABLES SHALL BE STAINLESS STEEL 2. ALL CABLES SHALL BE SECURED TO POLE EVERY 36" OR LESS 3. LIGHTNING RODS SHALL BE INCLUDED AS REQUIRED 4. STRUCTURAL BACKFILL MUST HARE AMXIMMU LAYERS TO 100% OF CONTENT IN ACCORDANCE WITH ASTM D698, 4. STRUCTURAL BACKFILL MUST HARE AMXIMMU LAYERS TO 100% OF CONTENT IN ACCORDANCE WITH ASTM D698, 4. STRUCTURAL BACKFILL MUST HARE AMXIMMU ATVERS TO 100% OF CONTENT IN ACCORDANCE WITH ASTM D698, 5. ANY PRIMARY OR SECONDARY POWER LINES NEED TO MAINTAIN 5' CLEARANCE BETWEEN POWER LINES AND TOP OR BOTTOM OF 5. ANY PRIMARY OR SECONDARY POWER LINES NEED TO MAINTAIN 5' CLEARANCE BETWEEN POWER LINES AND TOP OR BOTTOM OF 5. ANY INSTALLATION LINE PEDESTAL OR HAND-HOLE NEED TO BE AT LEAST 3' DISTANCE FROM POLE 6. FEDESTAL MAY BE REQUIRED BY MN POWER 7. ANY INSTALLATION LINE PEDESTAL OR HAND-HOLE NEED TO BE APPROVED BY MN POWER AND HIGH VOLTAGE CERTIFIED, REFERENCE 8. ALL CONTACTORS WORKING IN POWER SPACE NEED TO BE APPROVED BY MN POWER AND HIGH VOLTAGE CERTIFIED, REFERENCE 8. ALL CONTACTORS WORKING IN POWER SPACE NEED TO BE APPROVED BY MN POWER AND HIGH VOLTAGE CERTIFIED, REFERENCE 9. ROPOSED SERVICE CONDUCTORS TO THE METER SIZED AND INSTALLED PER THE UTILITY AND THE NEC REQUIREMENTS CONDUCTORS 1. ANY INSTALLATION LINE PEDESTAL OR HAND-HOLE NEED TO BE APPROVED BY MN POWER AND HIGH VOLTAGE CERTIFIED, REFERENCE ELECTRICAL NOTES #13 00 GN-1 9. PROPOSED SERVICE CONDUCTORS TO THE METER SIZED AND INSTALLED PER THE UTILITY AND THE NEC REQUIREMENTS CONDUCTORS 1. PROPOSED SERVICE CONDUCTORS TO THE METER SIZED AND INSTALLED PER THE UTILITY AND THE NECROFED IN AMINIMUM OF 2''''S SCH 80 PVC. 24" MIN OF CONDUCTOR SLACK SHALL BE COLLED AT THE WEATHER HEAD TO 10. DOWER ENCLOSED IN A MINIMUM OF 2'''''''''''''''''''''''''''''''''''		PROPOSED UTILITY POLE BACK ELEVATION
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SITE NAME: CRAN_RUMW_DLLND_007 SITE ADDRESS: E 5TH ST DULUTH, MN LAT/LONG: 46.79698, -92.09508 POLE TYPE: WOOD, LIGHT POLE

Proposed Route Design ATT Minnesota Plan View



Nearest Intersection: E 5th St & N 7th Ave E

Description:

CCI to install a new HH in the ROW near the light pole.

ATT is to leave stub 1.25" duct out from base of new light pole to the proposed HH location.

Approx. HH Location – Street View





STATEMENT REGARDING AESTHETIC DESIGN CRITERIA

DLLND_007 / 14810151 / MRUMW022372 / 651 E. Fifth St.

Pursuant to Ordinance 19-0027R, a SWF must adhere to the eight criteria listed below. Applicant's responses are stated below in red.

(a) Except as established in Minnesota State Statute, the height of a new facility may not exceed the average height of existing utility poles or streetlights in the immediate area (150-foot radius of the proposed site) by more than five (5) feet, or forty (40) feet, whichever is greater; antennas mounted at the top of the pole shall not increase the height of the pole by more than five (5) feet; and

Applicant asserts that this proposed SWF will not exceed the average height of nearby utility poles. The proposed top-mounted antenna will only extend three (3) feet above the top of the replaced pole. (See p. A3 of Construction Drawings).

(b) New facilities shall be located as near as practicable to street intersections and shall be located to the extent practicable on existing poles or other structures currently in the right of way and shall be limited to the heights in section (a) above; and

Applicant's proposed pole is located directly on a street corner and is within the ROW.

(c) Decorative lights, banner poles, clocks, flagpoles, and other public street furniture that was not designed to accommodate small cell facilities shall not be used if accommodating the small cell facilities interfere with the operation of the public street furniture; and

Applicant's proposed pole is not decorative.

(d) Concealment elements shall be incorporated into new sites, including approved camouflage or shrouding techniques, to the greatest extent practicable; and

Applicant has made every practicable effort to camouflage and conceal its proposed equipment. Any additional concealment efforts would result in additional shrouds or screens that would cause the pole to look more crowded and abnormal than as proposed.

(e) New electrical and other utility service lines must be undergrounded whenever possible to avoid additional overhead lines; for metal poles, undergrounded cables and wires must transition directly into the pole base without any external junction box; and

Barring any unforeseen issues, this SWF will draw power from existing electrical lines attached to it. It will therefore not require the construction of any new overhead or underground lines. The subject pole is not metal.

(f) Unless otherwise required for compliance with FAA or FCC regulations, new wireless facilities shall not include any permanently installed lights; and

The Proposed SWF will not include any permanently installed lights besides a streetlight like the one currently mounted to the pole.



(g) Any new facility and/or equipment and other improvements associated with a new facility must not obstruct any access to fire hydrants or fire escapes, or aboveground or underground public infrastructure, such as underground public utility lines; and

The proposed SWF will not obstruct access to fire hydrants or fire escapes, or aboveground or underground public infrastructure, such as underground public utility lines.

(h) Unless indicated otherwise by the Land Use Supervisor or City Engineer, the color of the antennas and related accessory equipment shall be made to match the existing pole color; if no pole exists, color should match the poles in the immediate area.

Applicant intends to paint the proposed equipment to match the pole as close as possible.

Respectfully Submitted:

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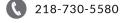
Joe Goldshlack SAC Wireless o.b.o. AT&T 540 W. Madison St., 9th Floor Chicago, IL 60661 (517) 648-0023 joe.goldshlack@sacw.com

Dated: May 7, 2021



Planning & Development Division

Planning & Economic Development Department



planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-077		Contact John Kell		John Kelley	ey, jkelley@duluthmn.gov	
Туре	Interim Use Permit– Vacation Dwelling Unit in Form District		Planning Commission Date		July 13, 2021		
Deadline	Applicat	ion Date	May 20, 2021 60 Days		60 Days	July 19, 2021	
for Action	Date Extension Letter Mailed		June 16, 2021 120 Days		120 Days	September 17, 2021	
Location of Sul	Location of Subject 325 South Lake Avenue, Unit 120)			·	
Applicant	Alex & Kate Fagundes Co		Contact				
Agent			Contact				
Legal Description PID # 010-4444-0		PID # 010-4444-00070					
Site Visit Date		June 23, 2021	Sign Notice Date		une 29, 2021		
Neighbor Letter Date		June 18, 2021	Number of Letters Sent 4		48		

Proposal

Applicant is proposing a new interim use permit for a vacation dwelling unit. The permit would allow for a 2-bedroom condominium with a maximum of 5 occupants in the F-5 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.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-5	Mixed Use Building	Tourism/Entertainment District
North	F-5	Mixed Use Building	Tourism/Entertainment District
South	F-5	Mixed Use Building	Tourism/Entertainment District
East	F-5	Parking lot	Tourism/Entertainment District
West	F-5	Parking lot	Tourism/Entertainment District

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-5 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 $\operatorname{city}^{\text{Fage}_{32}}$. Except for



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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 - 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 – Tourism/Entertainment: Retail, entertainment, and lodging facilities, meeting facilities, waterfront-related uses, open space uses.

Current History: The property currently is a mixed-use building. The ground floor contains a brewery and taproom. The upper floors are for the Suites Hotel, office space and dwelling units.

Review and Discussion Items:

1) Applicant's property is located at 325 South Lake Avenue, Unit 1209. The unit is located on the second floor of the building. The proposed vacation dwelling unit contains 2 bedrooms that would allow for a maximum of 5 guests.

2) 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 applicants have listed the Suites Hotel to serve as the managing agent.

3) The site is not required to provide parking. However, the applicant has stated that parking is available at the Suites Hotel Parking lot and one car can park for free with validation obtained from the hotel front desk. Additional parking is available at other paid parking lots.

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.

6) Applicant will apply for all relevant permits and licenses and these are contingent upon approval of the Interim Use

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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



Legend

Zoning Boundaries

DULUTH PL 21-077 IUP 325 S Lake Avenue

BLDG MARINE IRON&SHIP

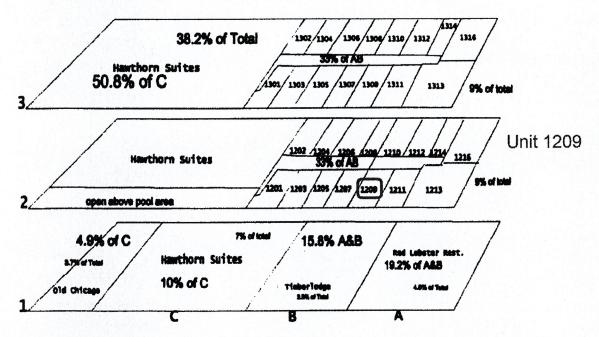
PC Packet 07-13-2021 249000010

COASTAL PEOCAAM

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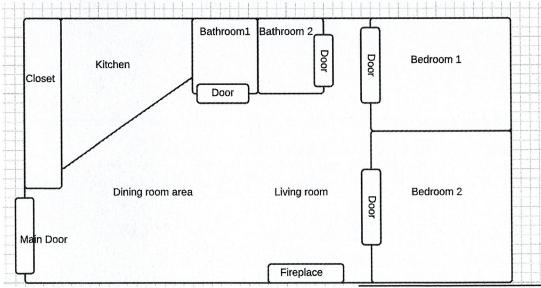
High level floor layout



First 3 floors of the Suites Hotel showing location of condo 1209 on the 2nd floor.

Condo Layout

The 1209 condo is a 2 bedroom, 2 bathroom unit with approximately 1300 st feet of space. High level floor plan.



Each bedroom is equipment with a night stand, lamp, queen bed, and small furnishings.

Parking

Parking is available at the Suites Hotel Parking lot. One car can park for free with validation obtained from the hotel front desk.

Additional cars can be parked at other paid public parking spots.





Planning & Development Division

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18-730-5580

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Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-103		Contact Kyle Deming		ing	
Туре		Use Permit– Vacation Dwelling Unit	Planning Co	mmissior	n Date	July 13, 2021
Deadline			June 14, 2021 60 Days			August 13, 2021
for Action	Date Ex	Date Extension Letter Mailed		June 24, 2021 120 D a		October 12, 2021
Location of Sul	oject	325 South Lake Avenue, Unit 1302	·		·	
Applicant	Jason ar	nd Betsy Norman	Contact			
Agent			Contact			
Legal Descripti	on	Unit B31 and an undivided interest (010-4444-00290)	in common a	reas, CIC	#29 Water	front Plaza Condominiums
Site Visit Date		June 29, 2021	Sign Notice Date		June 28, 2021	
Neighbor Letter Date		June 28, 2021	Number of Letters Sent 47		47	

Proposal

Applicant is proposing a new interim use permit for a vacation dwelling unit. The permit would allow for a 2-bedroom condominium with a maximum of 5 occupants in the F-5 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.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-5	Mixed Use Building	Tourism/Entertainment District
North	F-5	Mixed Use Building	Tourism/Entertainment District
South	F-5	Mixed Use Building	Tourism/Entertainment District
East	F-5	Parking lot	Tourism/Entertainment District
West	F-5	Parking lot	Tourism/Entertainment District

Summary of Code Requirements:

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-5 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.

Page 59 of 258 3. 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 - 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 – Tourism/Entertainment: Retail, entertainment, and lodging facilities, meeting facilities, waterfront-related uses, open space uses.

Current History: The property currently is a mixed-use building. The ground floor contains a brewery and taproom. The upper floors are for the Suites Hotel, office space and dwelling units.

Review and Discussion Items:

1) Applicant's property is located at 325 South Lake Avenue, Unit 1302. The unit is located on the third floor of The Suites Hotel in Canal Park. The proposed vacation dwelling unit contains 2 bedrooms that would allow for a maximum of 5 guests.

2) 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 applicants have listed Jason Norman as the managing agent.

3) The site is not required to provide parking. However, the applicant has stated that there is a gated parking area in the rear where out guests will be given access to one parking space during their stay. Additional parking is available at other paid parking lots.

4) The site does not have any outdoor amenities, but the applicant has stated that guests will have access to the hotel pool, hot tub, sauna, and game room during their stay. All of these amenities are indoors.

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.

6) Applicant will apply 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.

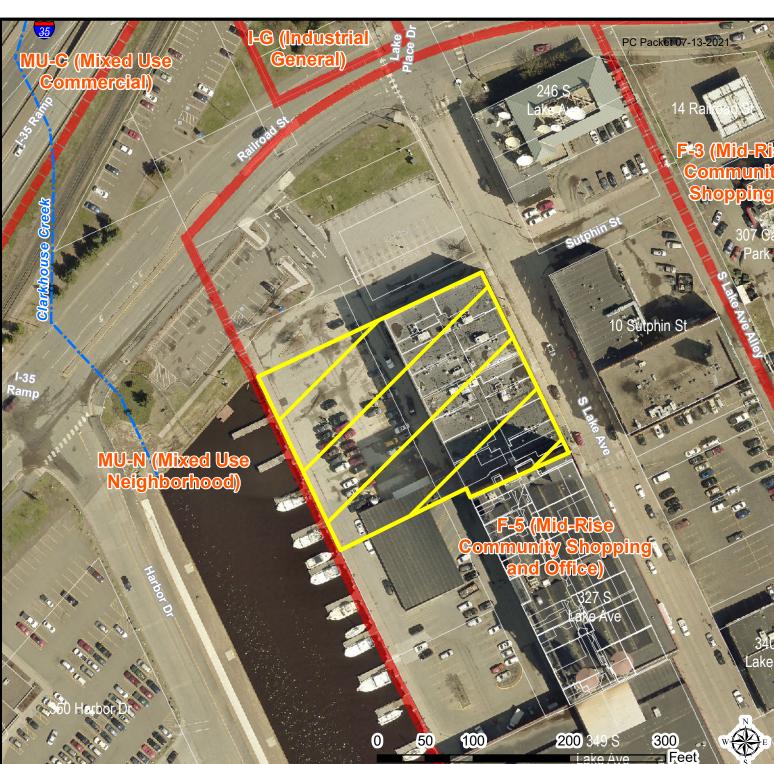
Staff Recommendation:

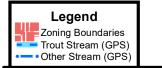
Based on the above findings, Staff recommends that Planning Commission recommend approval subject to the following:

- 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



PL21-103 Interim Use Permit for Vacation Dwelling Unit in The Suites at 325 S. Lake Ave. Jason & Betsy Norman





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Aerial photography flown 2019

Prepared by: City of Duluth Planning and Development Division, June 17, 2020, Source: City of Duluth.

Lake Ave

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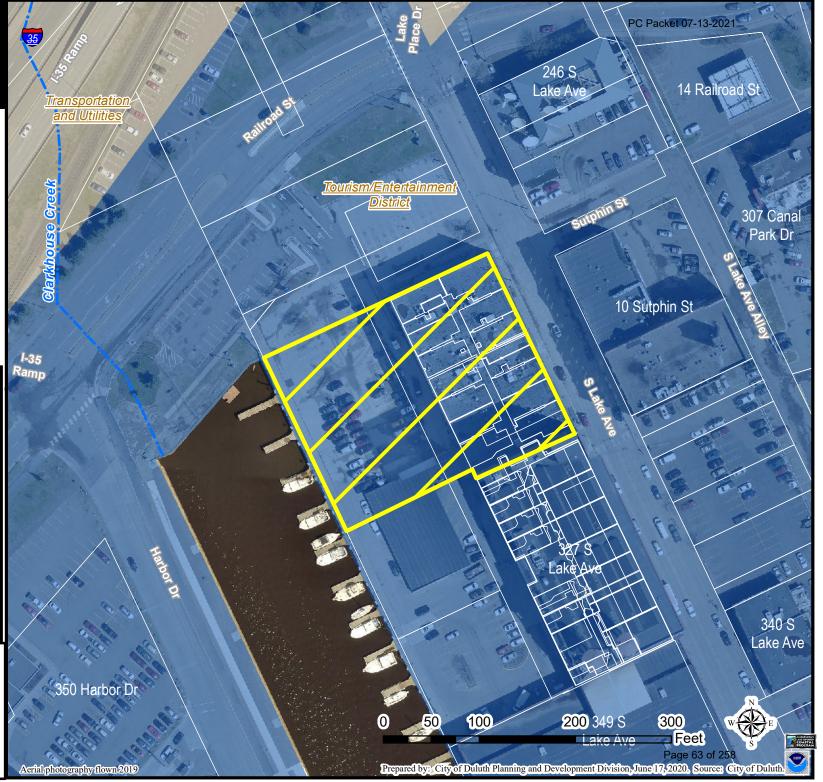


PL21-103 Interim Use Permit for Vacation Dwelling Unit in The Suites at 325 S. Lake Ave. Jason & Betsy Norman

Legend

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

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Planning & Development Division

Planning & Economic Development Department

218-730-5580

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planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-083		Contact		Chris Lee,	lee@duluthmn.gov	
Туре	Concurrent Use Permit		Planning Commission Date		July 13, 2021		
Deadline	Application Date Date Extension Letter Mailed		June 2, 2021 60 Days June 16, 2021 120 Days		August 1, 2021		
for Action					120 Days	September 30, 2021	
Location of Subject		2102 Minnesota Avenue	I		1		
Applicant	Mark Kur	illa	Contact				
Agent	Michael I	Bruckelmyer	Contact	Brucke	Bruckelmyer Brothers		
Legal Description		See attached	·	·			
Site Visit Date		June 26, 2021	Sign Notice	Sign Notice Date		June 29, 2021	
Neighbor Letter Date		N/A	Number of	Number of Letters Sent		N/A	

Proposal: A Concurrent Use Permit to install retaining walls and landscaping in the right of way 21st Street and Lake Avenue.

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

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

Summary of Code Requirements:

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:

The property contains a 3,000 square foot house built in 2001. The street end of 21st Street along Park Point was evaluated during the Park Point Small Area Plan and designated as an access point to Lake Superior.

Review and Discussion Items

Staff finds that:

- 1.) The applicant is proposing to occupy two areas in the right of way in 21st Street and Lake Avenue. The total occupied space will be 1,536 square feet. The respective rights of way are currently undeveloped.
- 2.) This proposal is to allow for the installation of retaining walls and landscaping into the right of way.
- 3.) 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. The applicant has provided insurance to add the City of Duluth as an additionally insured party.
- 4.) 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.
- 5.) The proposed concurrent use permit will not impact the ability of the public to access Lake Superior from this street end. The Park Point Small Area Plan indicates this access is necessary and does not recommend vacating this street end. A concurrent use permit will allow the property owner to rebuild a failing retaining wall. City Engineering has indicated that the property owner will need to get a beach sand permit from engineering if they move any sand.
- 6.) No other public, agency, or other comments have been received as of June 21, 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.) Applicant shall not take actions in the rights-of-way near their property to exclude people from accessing. Should such action occur, the concurrent use permit shall be revoked.
- 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.





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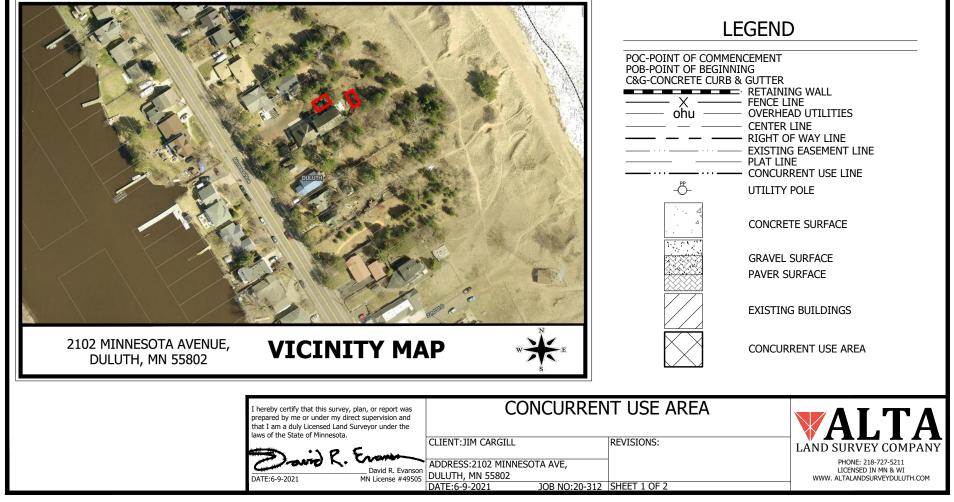


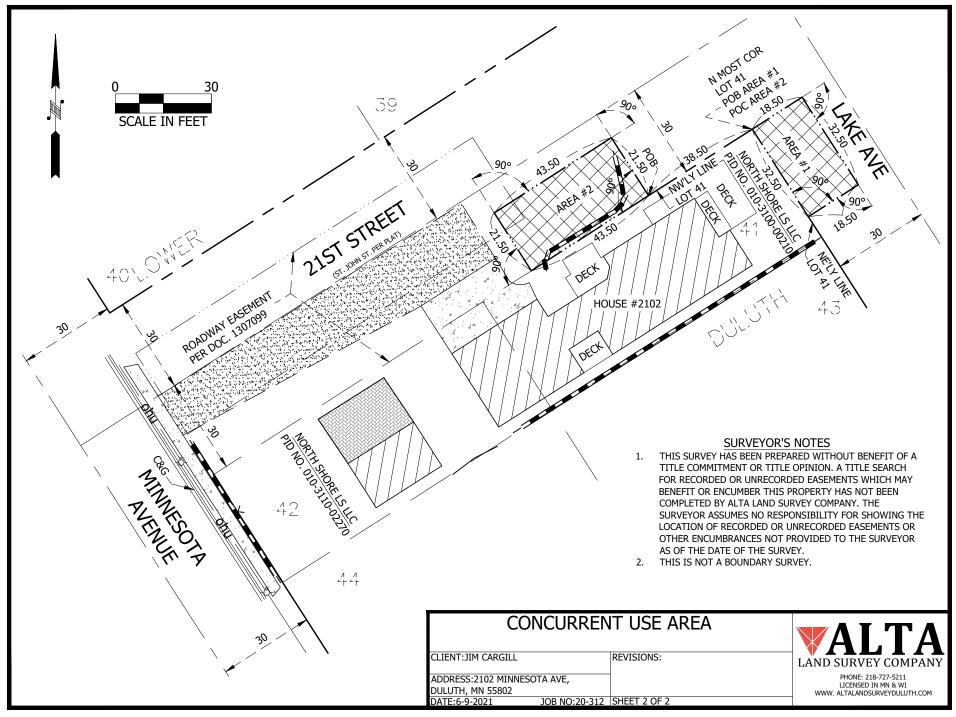
LEGAL DESCRIPTION FOR CONCURRENT USE AREA #1

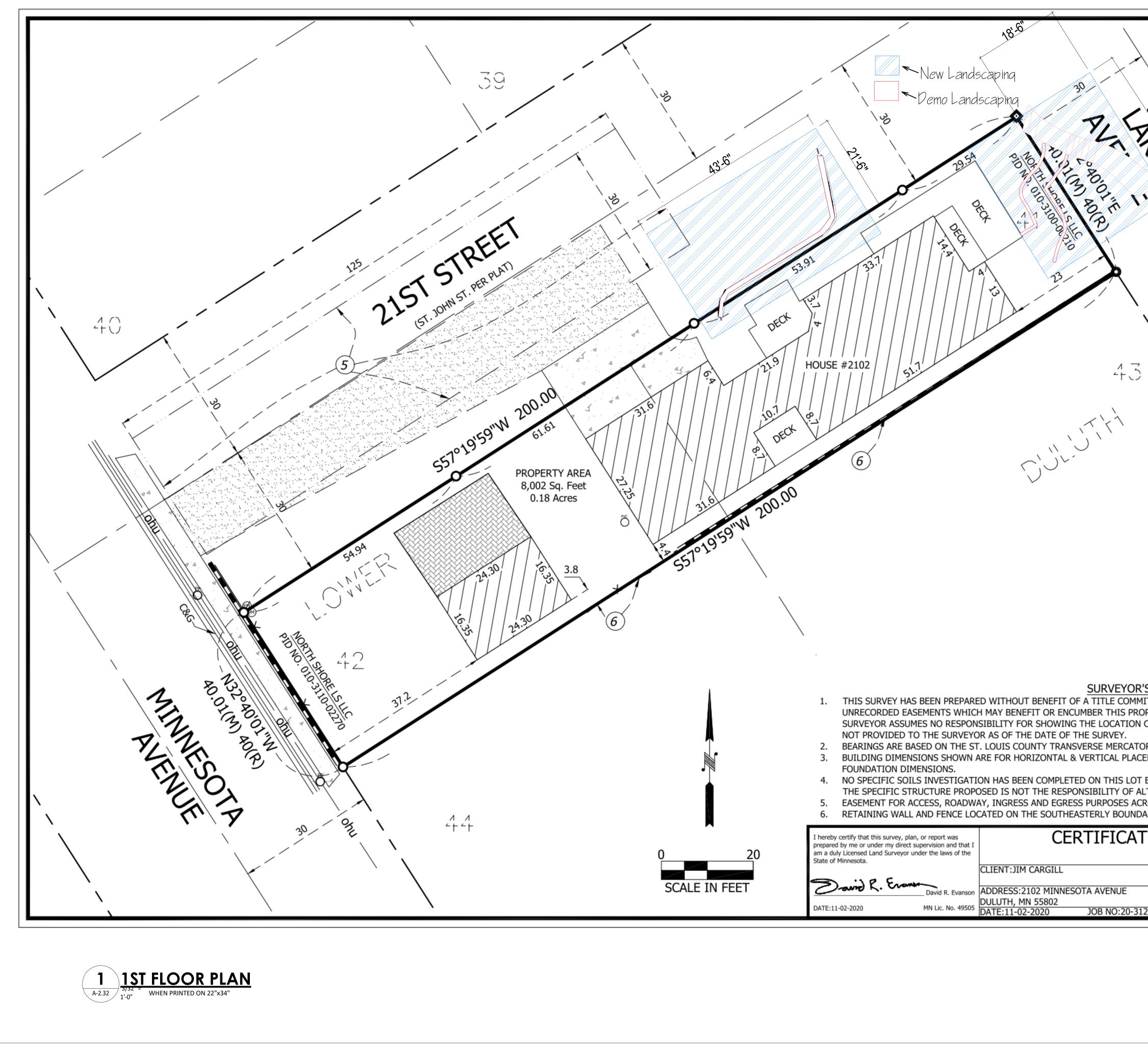
LEGAL DESCRIPTION FOR CONCURRENT USE AREA #2

A parcel of land lying within the platted right of way of 21st Street lying adjacent to Lot 41, Lower Duluth, Lake Avenue, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows: Commencing at the North most corner of said Lot 41; thence Southwesterly along the Northwesterly line of said Lot 41 for a distance of 38.50 feet to the point of beginning of the concurrent use area herein described; thence continuing Southwesterly along said Northwesterly line 43.50 feet; thence Northwesterly, deflecting to the right 90 degrees 21.50 feet to a line parallel with and distant 21.50 feet Northwesterly of the Northwesterly line of said Lot 41; thence Northeasterly, deflecting 90 degrees to the right, along said parallel line 43.50 feet; thence Southeasterly, deflecting 90 degrees to the right 21.50 feet to the point of beginning.

Said concurrent use contains 935 Sq. Feet 0.02 Acres.



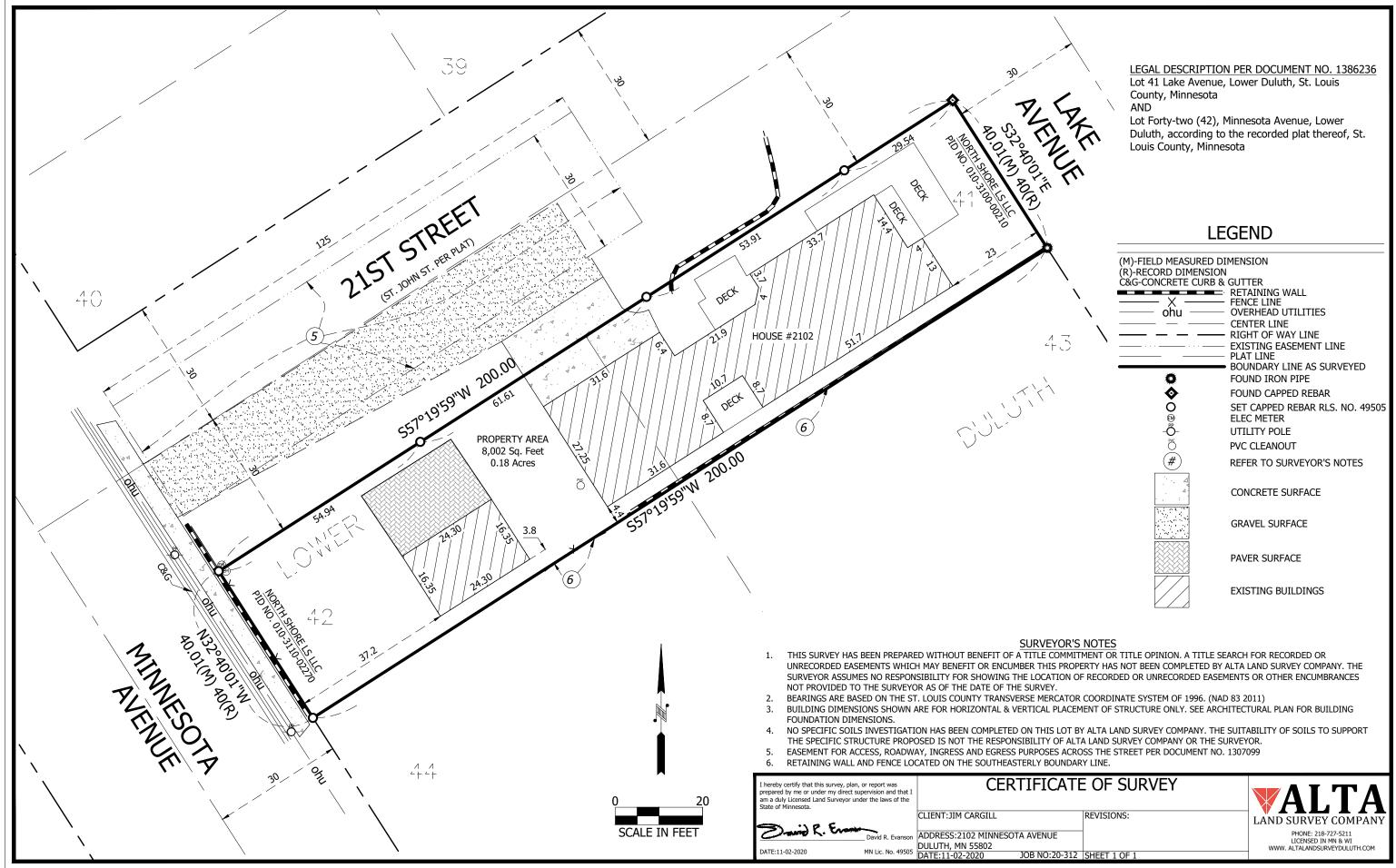




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Landscape Sheet # A-2.32 Page 70 of 258 Landscape Plan



PC Packet 07-13-2021



218-730-5580

planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-085		Contact	Contact Chris Lee			
Туре	MU-I Planning Review		Planning Commission Date		July 13, 2021		
Deadline for	Application Date		June 16, 2021		60 Days	August 15, 2021	
Action	Date Ext	ension Letter Mailed	Mailed June 16, 2021		120 Days	October 5, 2021	
Location of Subject 415-417 E 4 th St		415-417 E 4 th St					
Applicant	Michael	Ronning	Contact	Rou	Round Up Bar & Grill		
Agent	Hugh Reitan		Contact	Buil	Builders Commonwealth		
Legal Descrip	Legal Description						
Site Visit Date	Site Visit Date June 26, 2021		Sign Notice Date		June 29, 2021		
Neighbor Lett	ter Date	June 28, 2021	Number of Letters Sent 28		28		

Proposal

The applicant wishes to purchase the property at 417 E 4th Street to expand their business located at 415 E 4th Street. The current use of 415 E 4th Street is a restaurant (Round Up Bar & Grill).

Recommendation

Staff recommends approval, subject to conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-I	Restaurant	Institutional
North	R-2	Parking Lot	Urban Residential
South	MU-I	Hospital	Institutional
East	MU-I	Hospital	Institutional
West	MU-I	Hospital	Institutional

Summary of Code Requirements

50-15.4 MU-I District – Planning review by the Planning Commission is required for most development and redevelopment. Development Standards:

- 1. A planning review by the planning commission, pursuant to the procedures in Article V, shall be required for all development and redevelopment, unless the applicant chooses to use the district plan option described below. Development may not proceed until the planning commission has approved the project through planning review or the district plan option;
- 2. Any proposed rezoning of land from an R district into the MU-I district shall require the preparation of a plan addressing how traffic, parking, and view impacts from the proposed redevelopment will be minimized for those lands on nearby R district properties or mitigated within existing MU-I lands, and planning review shall be based on that plan. The plan shall include any land and facilities within the current MU-I district that will be used to support the use or development of the property to be rezoned, and shall demonstrate how the rezoned and existing institutional properties will functionally relate in terms of parking, circulation, noise, visual impacts, and other applicable development standards;
- 3. Applicants that do not opt for approval of a district plan shall obtain separate approval for each future expansion or development project through the planning review procedures pursuant to Section 50-37.11, which may include requirements for special use permits or variances. Such approval will require review of vehicle circulation and building scale;
- 50-18.1 Shoreland, Flood Plains, Wetlands, Stormwater
- 50-23 Connectivity and Circulation Focuses on pedestrian and bicycle accommodations.
- 50-24 Parking and Loading Addresses required parking spaces, loading docks, and snow storage.
- 50-25 Landscaping and Tree Preservation Landscaping requirements and tree preservation
- 50-26 Screening, Walls, and Fences Screening of equipment, loading areas, etc., plus fences & retaining walls. 50-29 Sustainability Standards Sustainability point system for new development.
- 50-30 Design Standards Building standards for multi-family, commercial, institutional, and industrial buildings.
- 50-31 Exterior Lighting Directs the minimum and maximum illumination values and lighting fixtures for a site.
- 50-37.11 Planning Review Planning Commission shall approve the Planning Review or approve it with
- modifications, if it is determined that the application complies with all applicable provisions of this Chapter.

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

Governing Principle #1 – Reuse previously developed lands. This proposal will remove a blighted and condemned property and provide a service for the surrounding medical uses.

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

Zoning – MU-I District: established to provide for the unique development needs and impacts of major medical, educational and research institutional development. The intent is to give institutional landowners the flexibility to plan and develop their facilities while ensuring that surrounding neighborhoods are protected from adverse impacts, such as traffic, overshadowing buildings, noise and unexpected expansion of institutional uses into residential areas;

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

Site history: 417 E 4th St contains a 1,280 square foot home and 950 square foot retail store built in 1909. This property is currently condemned. 415 E 4th St is a bar containing 2,800 square feet built in 1909.

Review and Discussion Items

Staff finds that:

- 1) 50-15.3 (MU-I District) Applicant has provided required plan documents.
- 2) The applicant is proposing to purchase the property at 417 E 4th Street to expand their business. They propose to remove the home in the rear of the property and expand the bar into the store front space. This action constitutes the redevelopment of a long-vacant property and is a positive outcome for the neighborhood.
- 3) 50-18.1.B (Wetlands) Not Applicable
- 4) 50-18.1.E (Stormwater Management) The applicant's plans show stormwater will runoff the current building into a landscaped area.
- 5) 50-23 (Connectivity) –Public sidewalks exist along East 4th Street. The applicant is not proposing any new connectivity from the sidewalk to the front door. The revitalization of the vacant storefront will provide for more "eyes on the street" in this location.
- 6) 50-24 (Parking) Parking is required at 6.5 spaces per 1,000 square feet. Minimum required parking is 16.8 spaces (utilizing the 30% transit reduction) between the two structures and the plans show no additional parking is proposed at this time. Staff counts 7 parking stalls on site. The applicant proposes that they will add additional parking spaces in the rear of 417 E 4th St. to come into greater conformity with the UDC.
- 7) 50-25 (Landscaping) The applicant is not proposing any landscaping as part of this application
- 8) 50-26 (Screening) The rooftop mechanicals must be screened from the sidewalk. Plans do not show any roof top mechanicals and current aerial imagery does not show mechanical units on the roof. If mechanicals are to be added at building permit review, they must be screened.
- 9) 50-27 (Signs) Any additional changes to the sign would need a separate sign permit.
- 10) 50-29 (Sustainability) Not Applicable.
- 11) 50-30 (Design Standards) Plans show new materials added to the façade. There will be glazing and entries to keep with a shopfront design.
- 12) 50-31 (Exterior Lighting) Applicant's plan does not show lighting on the site. Any lighting on the site, including lighting in the alley, must be downcast with cut-off fixtures to prevent glare.
- 13) No comments where received from city or outside agencies.
- 14) Per UDC 50-37.1.N, an approved Planning Review will expire if the project or activity authorized is not begun within one year, which may be extended for one additional year at the discretion of the Land Use Supervisor.

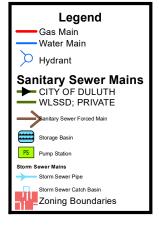
Staff Recommendation

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

- 1) The project be limited to, constructed, and maintained according to the construction and building plans submitted with this application on June 7, 2021 subject to the conditions identified in the findings and as follows:
 - a. Parking shall be brought into greater compliance with the UDC than the existing circumstances, which shall require completion of a parking plan for the site to be submitted prior to issuance of building permits;
 - b. Applicant shall work with the city to ensure best practices for preservation of the health, safety, and welfare of the community are maintained at all times, including through collaboration with the Duluth Police Department.
- 2) Any alterations to the approved plans that do not alter major aspects of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of UDC Chapter 50.

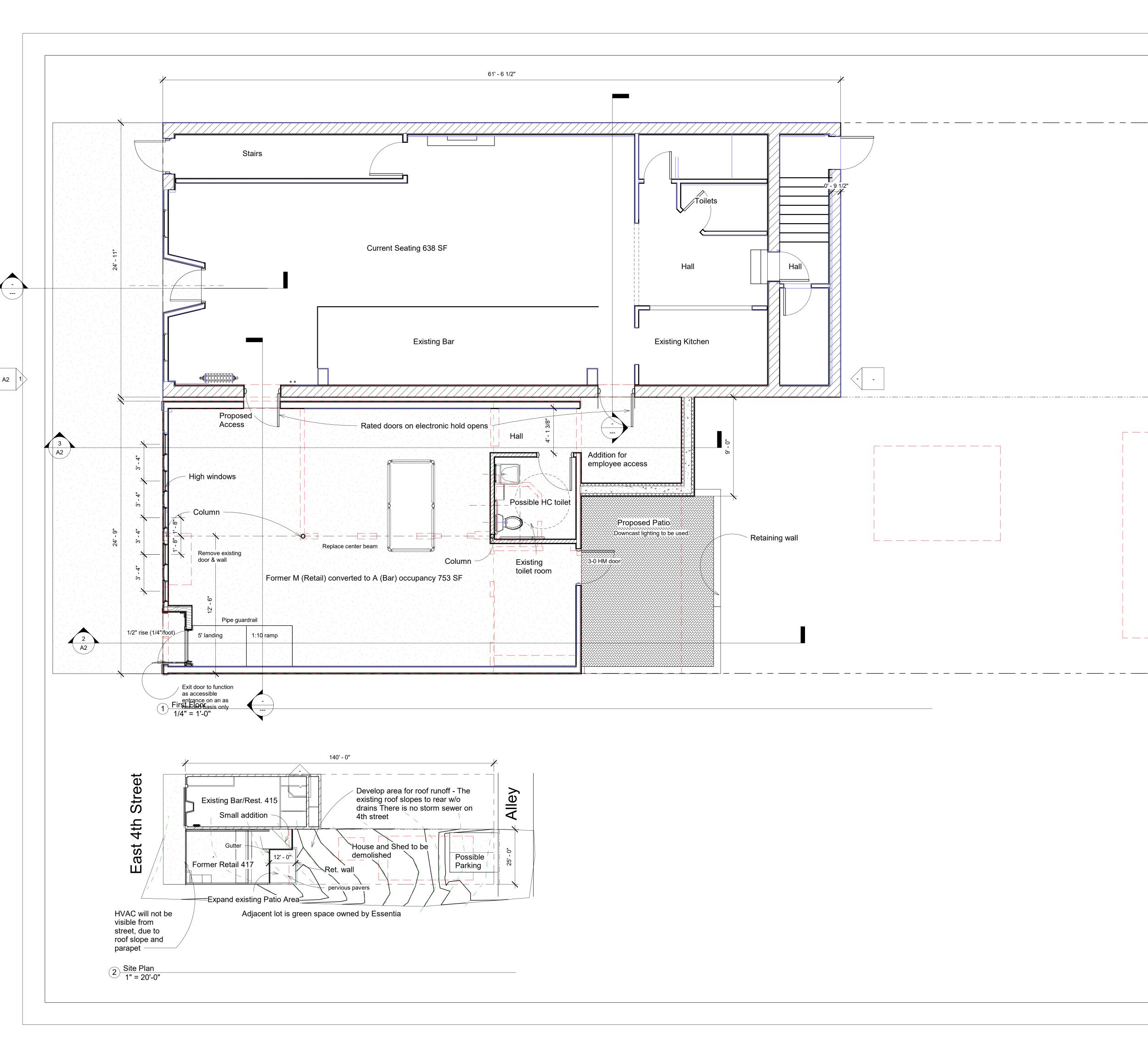


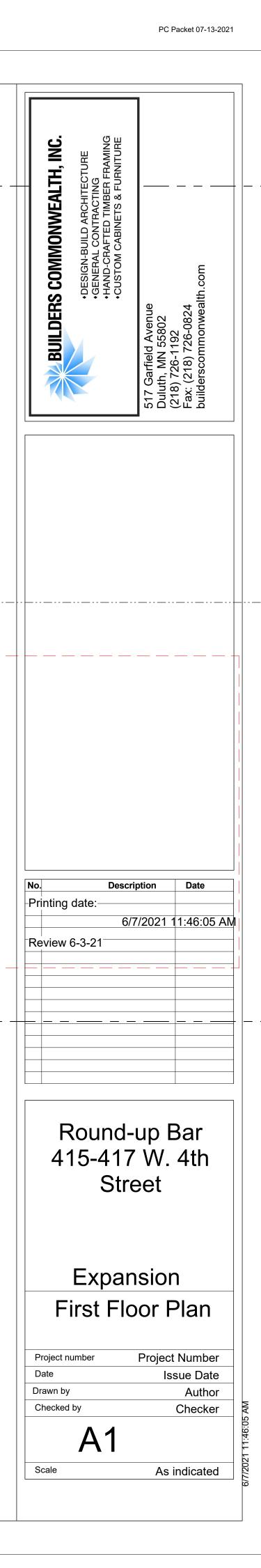
PL 21-085 Planning Review 415 E 4th St

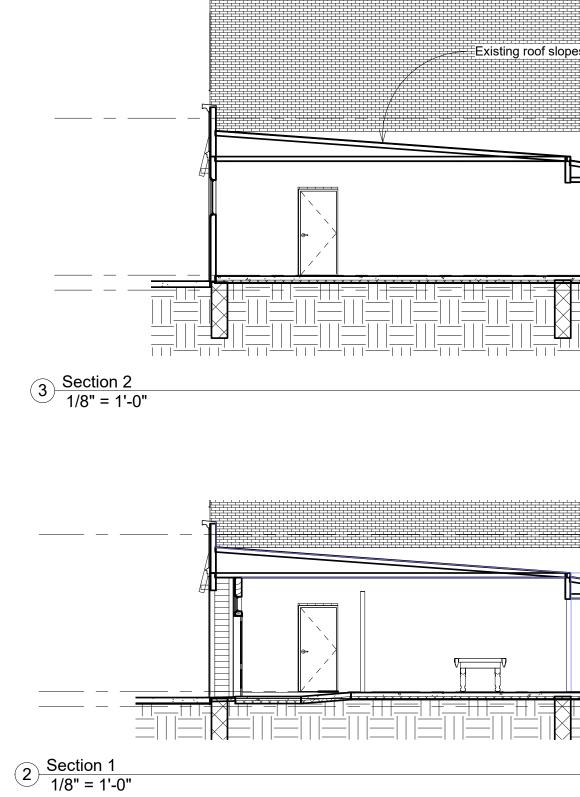


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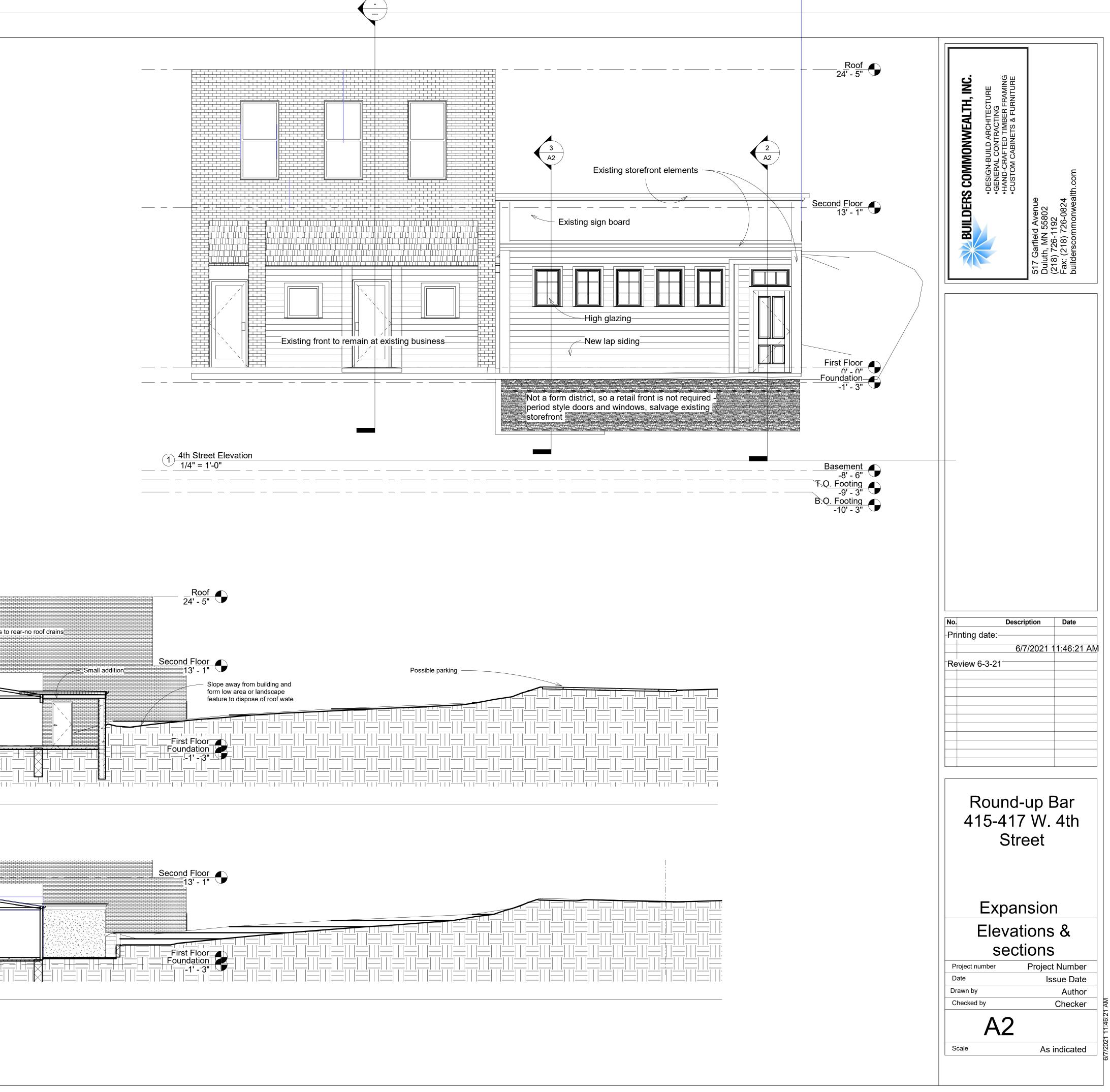


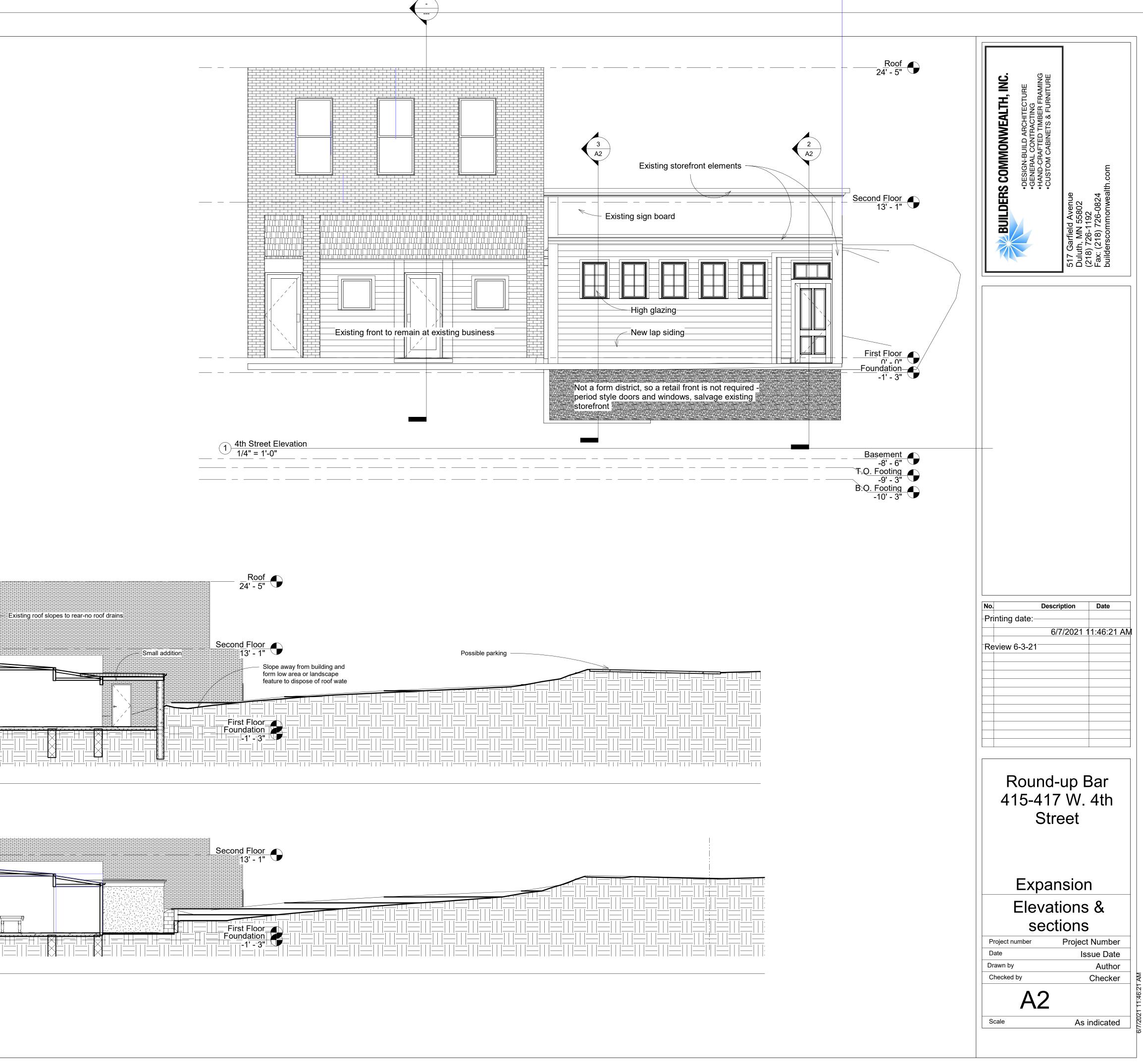


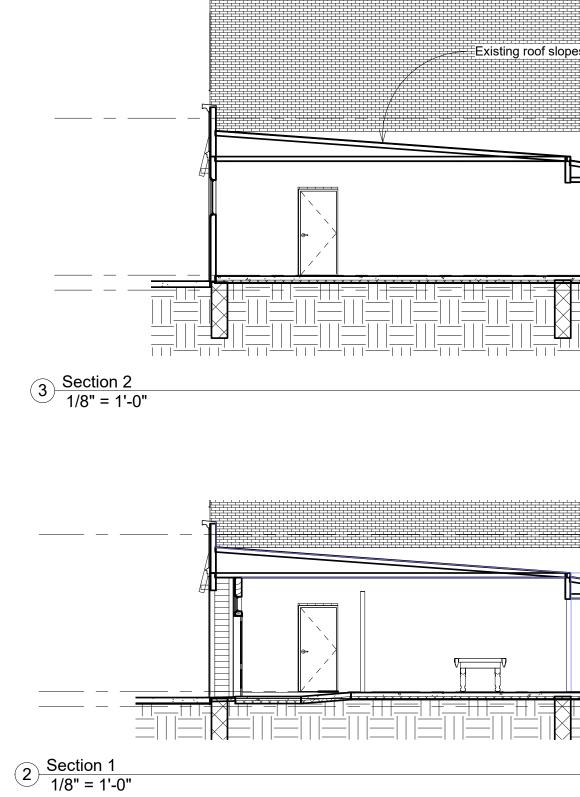




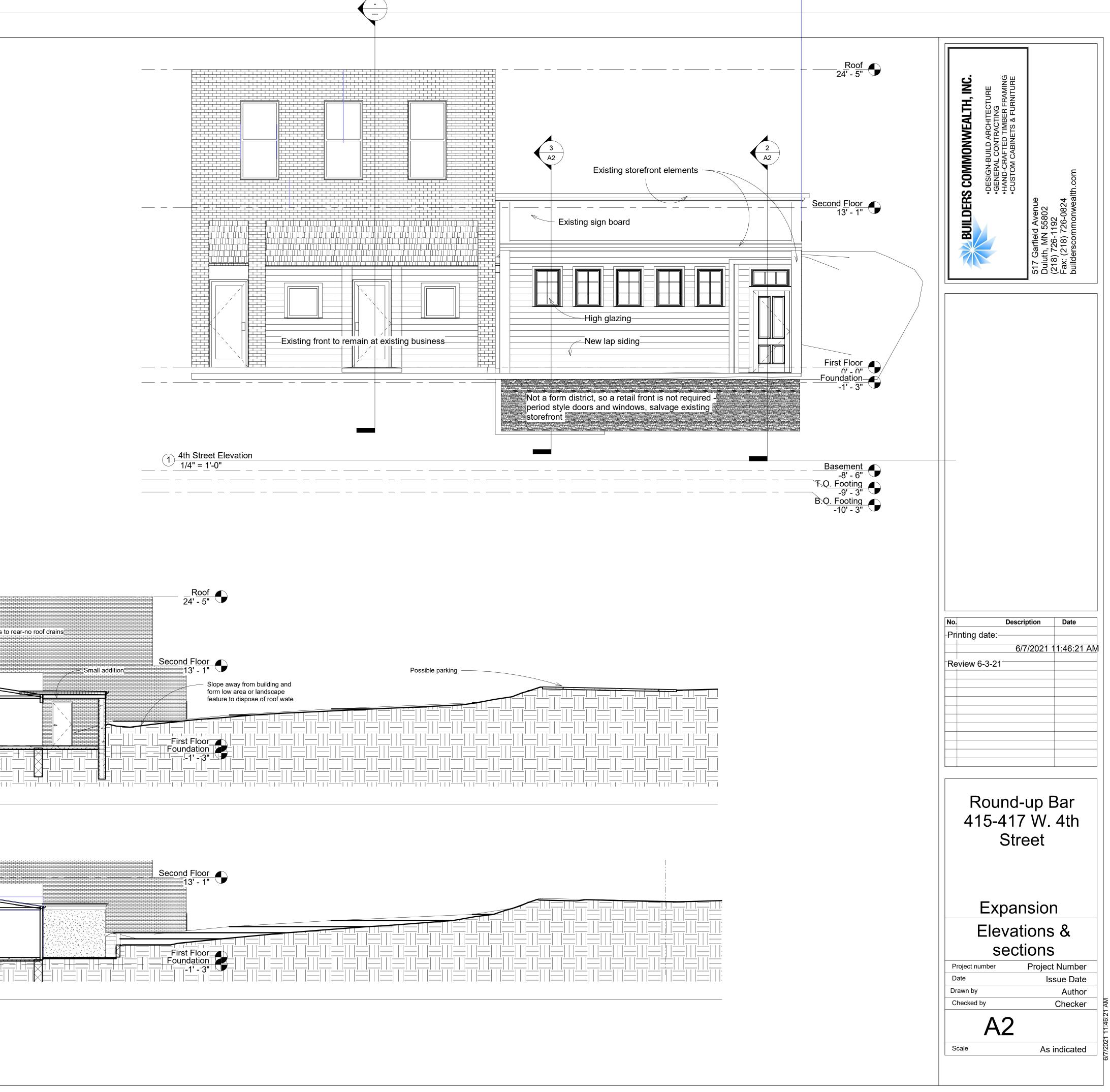


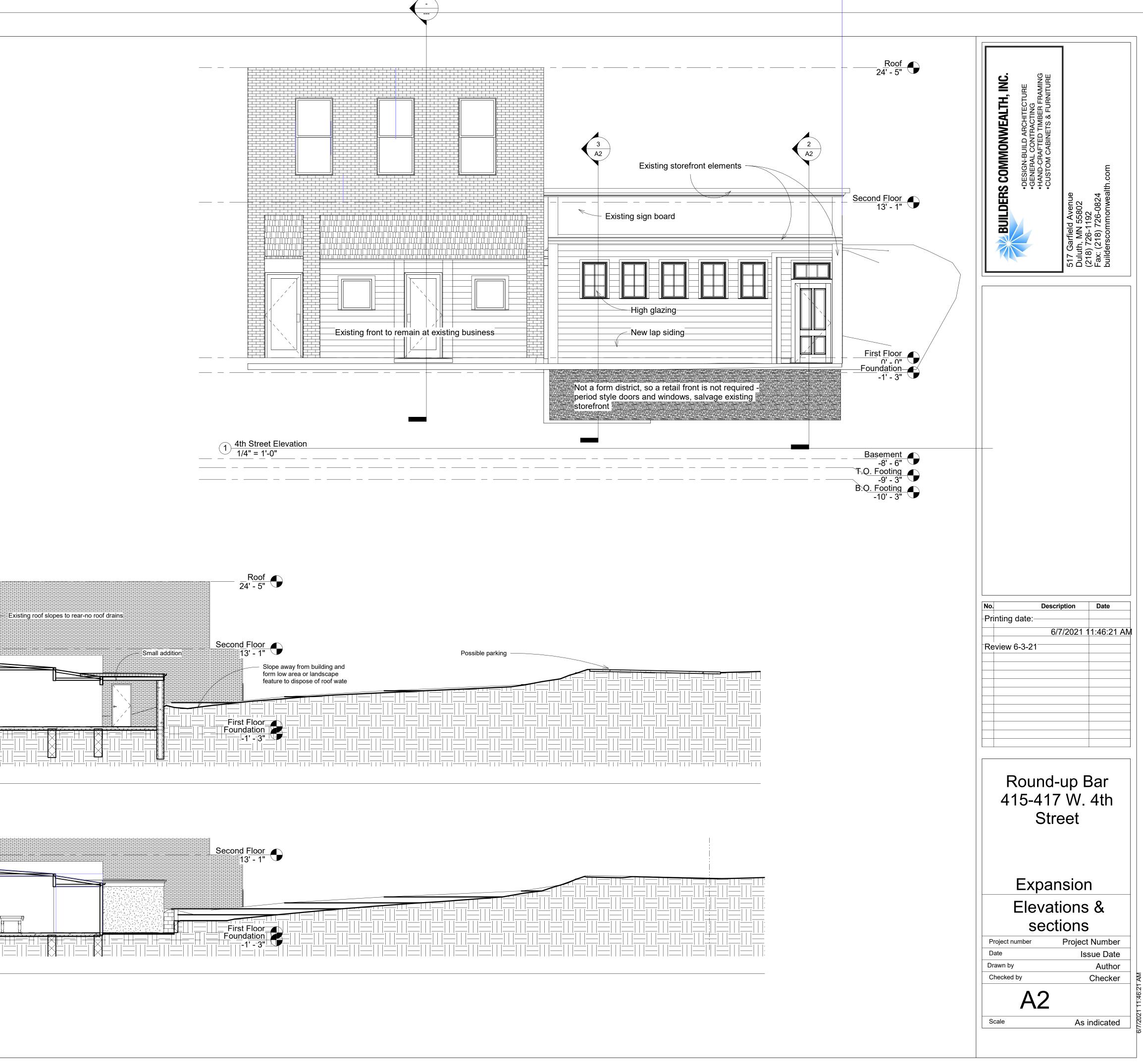
















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Planning & Development Division

Planning & Economic Development Department

🔇 218-730-5580

planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

PL 21-086		Contact	Jenn Mose	s, jmoses@duluthmn.gov	
Variance – Shoreland structure setback		Planning Commission Date July 13, 202		July 13, 2021	
Application Date		June 7, 2021 60 Days		August 6, 2021	
Date Ext	ension Letter Mailed	June 24, 2021	120 Days	October 5, 2021	
ject	224 West St. Andrews Street				
Ann Gum	pper & Mark Harvey	Contact			
Hugh Rei	tan	Contact			
on	Parcel 010-1850-01630				
Site Visit Date June 30, 2021		Sign Notice Date		June 29, 2021	
Date	June 24, 2021	Number of Letters Sent		21	
	Variance Applicat Date Ext Ject Ann Gum Hugh Rei	Variance – Shoreland structure setback Application Date Date Extension Letter Mailed ject 224 West St. Andrews Street Ann Gumpper & Mark Harvey Hugh Reitan parcel 010-1850-01630 June 30, 2021	Variance – Shoreland structure setback Planning Comm Application Date June 7, 2021 Date Extension Letter Mailed June 24, 2021 ject 224 West St. Andrews Street Ann Gumpper & Mark Harvey Contact Hugh Reitan Contact parcel 010-1850-01630 June 30, 2021 June 30, 2021 Sign Notice Date	Variance – Shoreland structure setback Planning Commission Date Application Date June 7, 2021 60 Days Date Extension Letter Mailed June 24, 2021 120 Days ject 224 West St. Andrews Street 120 Days Ann Gumper & Mark Harvey Contact 100 Contact Hugh Reitan Contact 100 Contact June 30, 2021 Sign Notice Date 100 Contact	

Proposal: Applicant is requesting a variance from the shoreland setbacks to build an approximate 8' x 10' mudroom addition that would be 65' from the creek instead of the required 150'.

Recommended Action: Staff is recommending approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Single Family Homes	Open Space
North	R-1	Church/school	Open Space/Traditional Neighborhood
South	R-1	Single Family Homes	Open Space
East	R-1	Single Family Homes	Open Space
West	R-1	Undeveloped	Open Space

Summary of Code Requirements:

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

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

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

Governing Principle 5 – Promote reinvestment in neighborhoods through land use and transportation that foster neighborhood reinvestment. This homeowner will be reinvesting in their home by constructing a new garage.

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

History: The house constructed in 1910.

Review and Discussion Items:

Staff finds that:

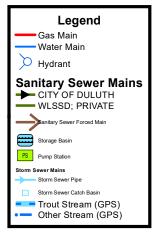
- 1) The applicant is requesting a shoreland variance for an approximate 8' x 10' mudroom addition onto the east side of the existing home. The creek is on the south side of the existing home, so this will not be any closer to the creek than the existing home.
- 2) The property was platted, and the house constructed, prior to the current shoreland regulations. The entire property is within the structure setback for Tischer Creek, so under the current regulations no expansions would be permitted; this results in a practical difficulty to the homeowner.
- 3) The addition is a modest size and a reasonable use in the R-1 district.
- 4) The proposal will not alter the essential character of the neighborhood as it is a modest size addition on the side of the house. The design is consistent with other structures in the area and with the intent of neighborhood layout and design as described in the UDC and Comprehensive Plan.
- 5) Section 50-37.9.L of the UDC requires mitigation for shoreland variances. Typical mitigation for residential properties includes installation of a rain garden, additional natural vegetative area, or other type of stormwater control. Staff recommends that the applicant prepare a mitigation plan, and that this mitigation plan be approved by the Land Use Supervisor, prior to receiving a building permit.
- 6) No public, agency, or City comments have been 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:

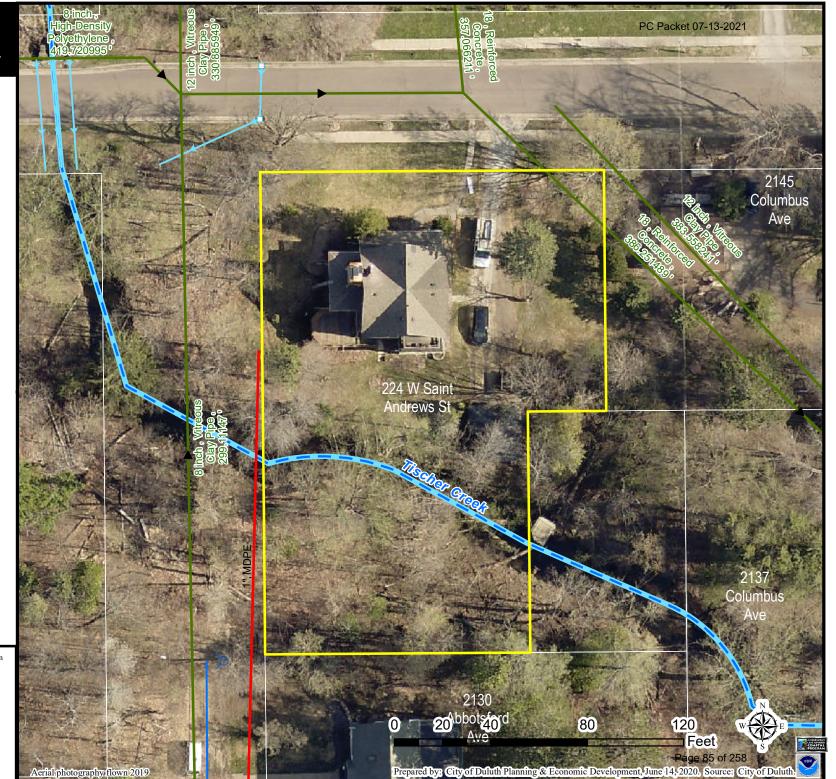
Based on the above findings, Staff recommends that Planning Commission grant the Variance with the following conditions:

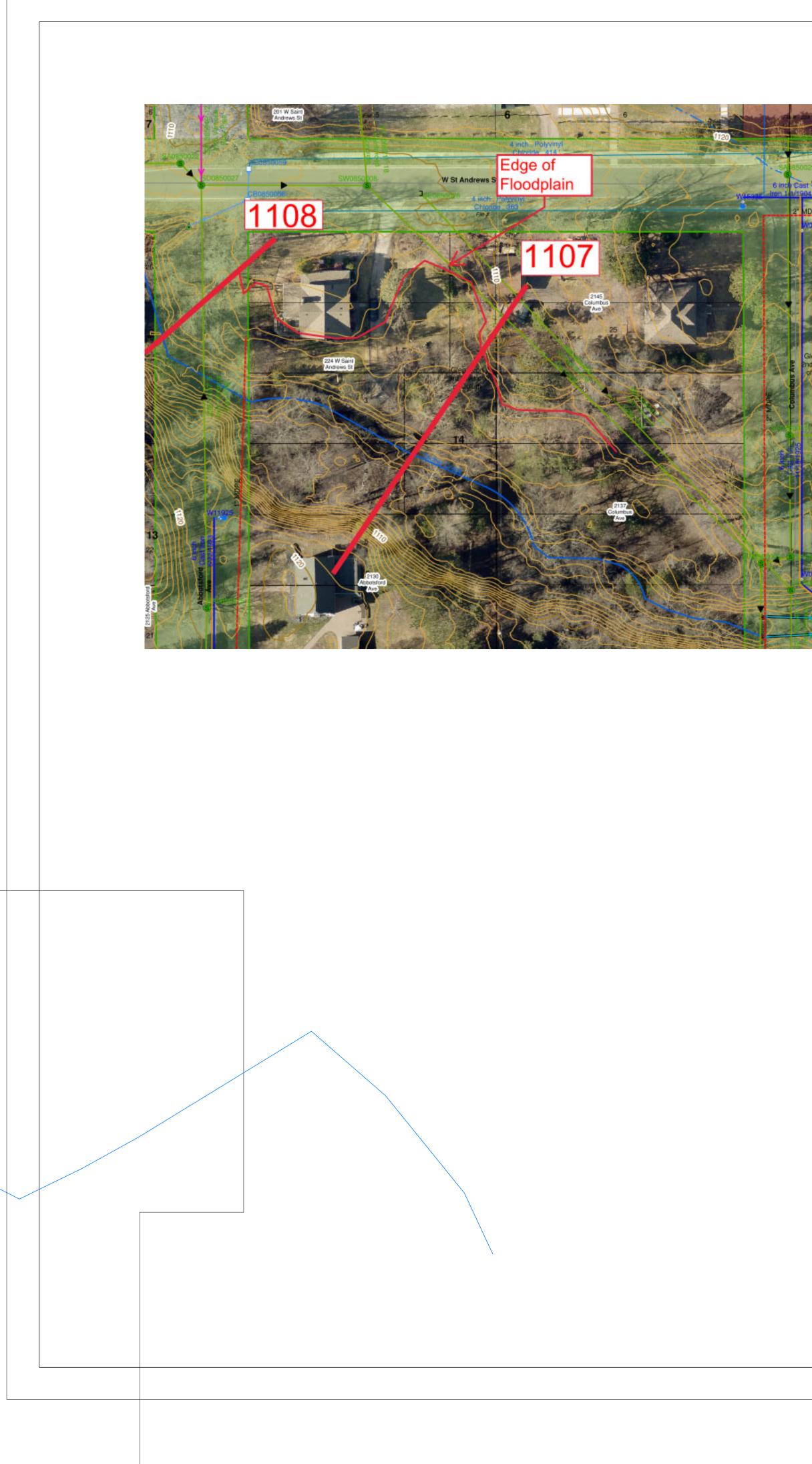
- 1) The project be limited to, constructed, and maintained based on the site plan submitted with the application, dated 5/20/21.
- 2) The mitigation plan shall be approved prior to issuance of a building permit.
- 3) Any alterations to the approved plans that do not alter major elements of the plan 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.

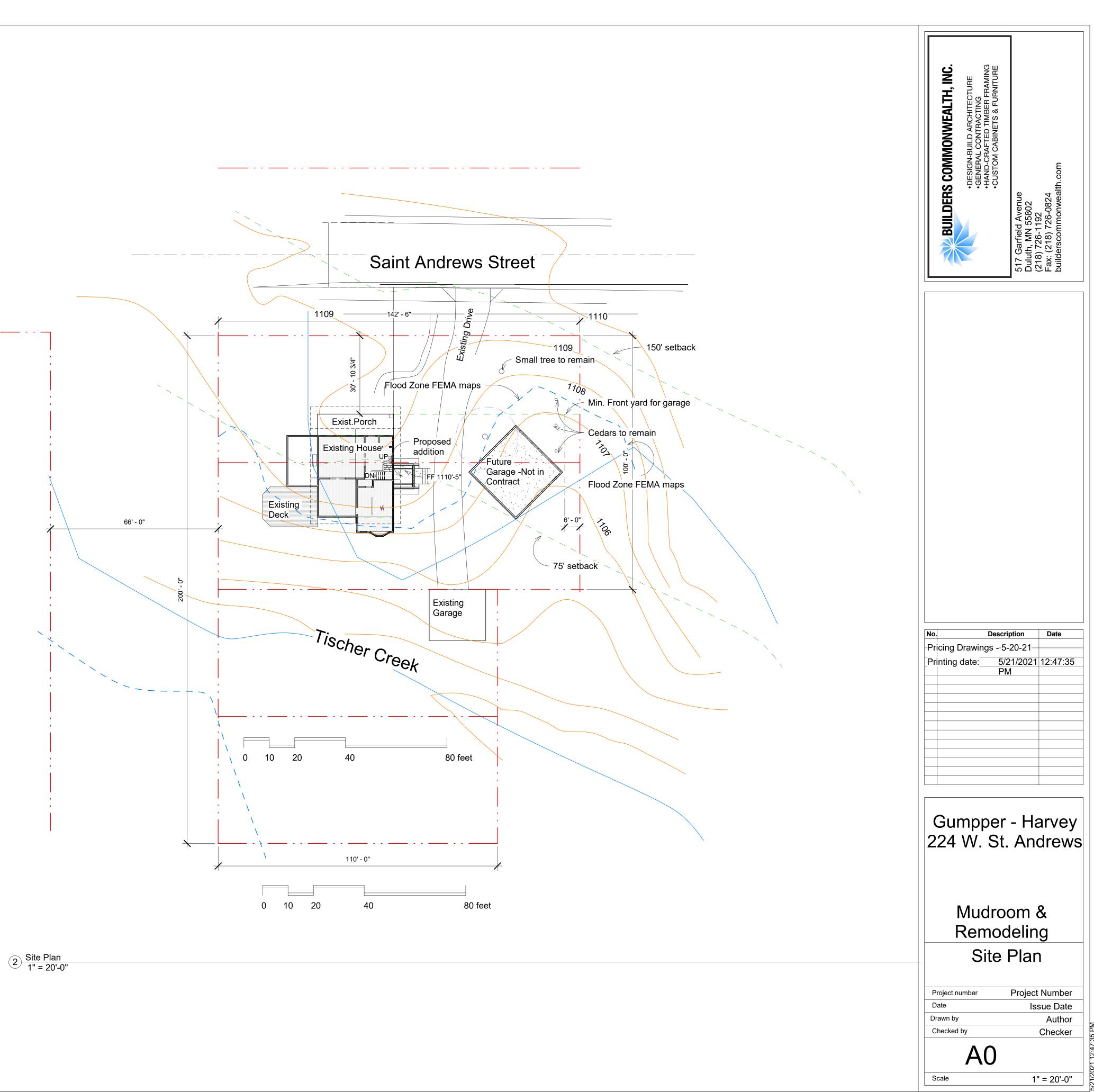




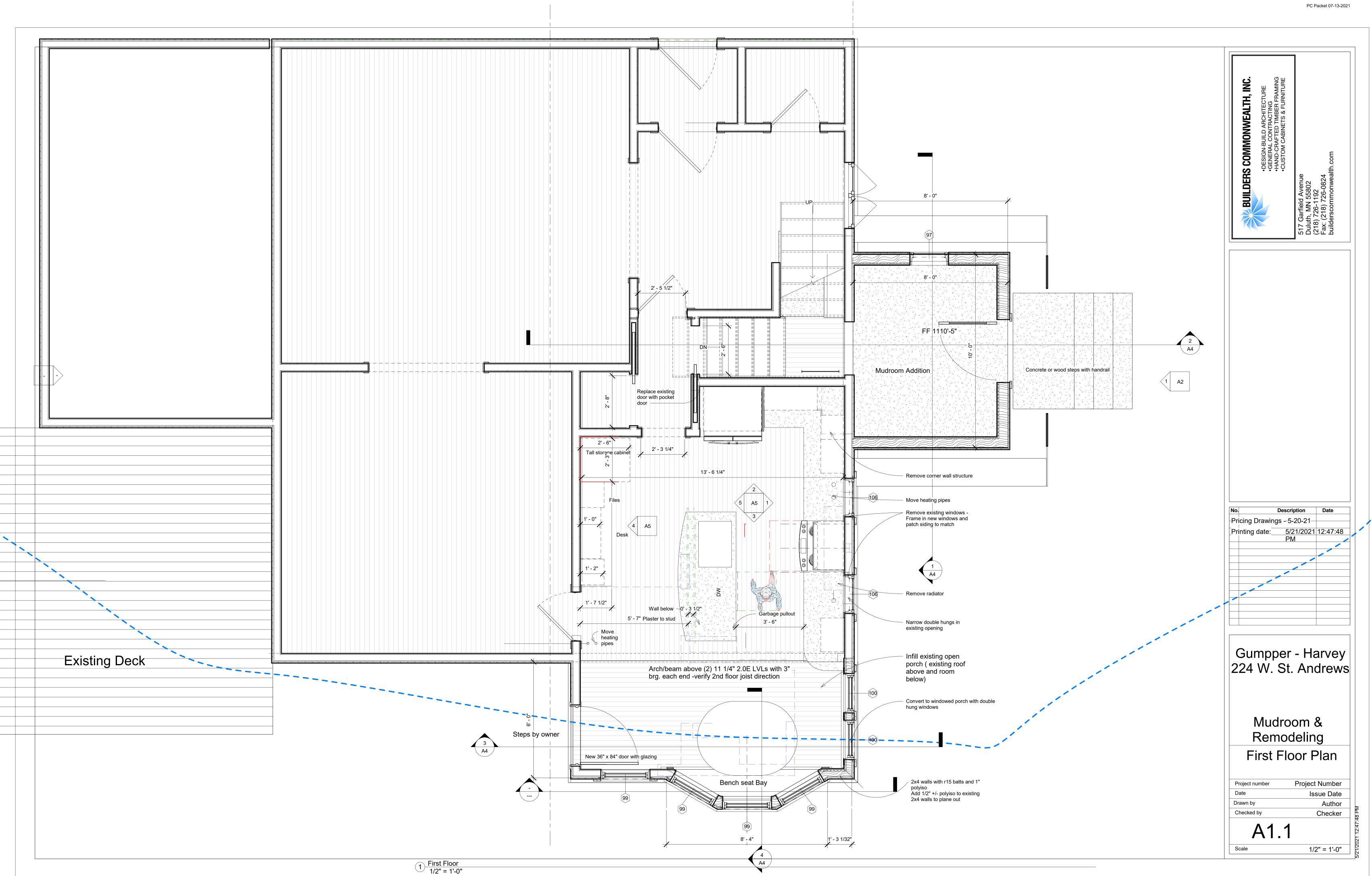
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PC Packet 07-13-2021





> Room 160 411 West First Street Duluth, Minnesota 55802

218-730-5580 planning@duluthmn.gov

Variance Application Supplemental Form

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

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

2-18-NATURAL RESOURCES OVERLAY FLOODPLAIN-3. FLOOD FRINGE D. SHOPELANDS TABLE TO-18.1, DI 150' STRUCTMAL SET BACK - 75 IMP. SURFACE SET BACK 1. Please explain how the exceptional narrowness, shallowness or shape of the property, or exceptional topographic or other conditions related to the property, would result in practical difficulties under strict application of the requirements of the UDC: THE ENTIRE PROPERTY IS WITHIN THE STRUCTURAL < - THE EXISTING HOUSE IS LESS THAN THE STREAM - THIS LOT IS IN F.E. M.A. FLOOD MAPS

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

OT WAS PLATTED AND THE HOUSE WAS LICTED BEFORE MODERN, ZONING, AND LAND REGULATION

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

IT EXPANSION OF THE FOOTPEINT REQUIRES A VARIANCE SIZERLATOUT OF THE EXISTING HOUSE DO KOT ALLOW FOR BOTH A MOPERN MUDROOM KITCHEN THIS TYPE OF ADDITION WOULD , ROUTINE IN A TYPICAL R-1 LOT. **Revised July 2019**

PC Packet 07-13-2021

4. Please explain how the application proposes to use the property in a reasonable manner, which would not be permitted by this code except for a variance; THE KITCHEN IS BEING EXPANDED ONEL AN EXISTING FOUNDATION AND UNPER AN EXISTING ROOF THE MUPROMIS MOPEST, NOT IN THE FLOOD WAY AND THE FLOOR WILL BE & ABOUT FLOOD LEVEL

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

THIS ADDITION WILL NOT INTERFERE WITH THE FLOW OF FLOODWATER THE IMPERVICES SVRACE WILL BE 12.6%.

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

THIS ADDITICN BASILY MEETS ZONING SETBACKS AND WOULD BE CONSIDERED INNOCUOUS IN MOST RESIDENTIAL ZONES.

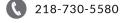
Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M (E. Unsewered Areas, F. Two Family Dwellings in R-1, G. Parking Regulations, H. Reduce Setbacks, I. MU-C District, J. Airport Overlay, K. Flood Plain Regulations, L. Shorelands, or M. Non-Conforming Buildings)? Yes No

Discuss what subsections are applicable and how this request meets those: <u>*HC*</u> *AND* <u>*L*</u> FLOOPPLAIN WILL BE DEALT WITH BY PLOOP BLEVATION, PORS NOT DIMINISH WATER COURSE -THIS HAS NO HEGATIVE EFECTON THE STREAM AND THE OWNER IS WILLING TO PLANT MORE NATURAL VEGETATION NEAR THE STREAM Page 89 of 258



Planning & Development Division

Planning & Economic Development Department



planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-087		Contact	John Kelle	y, jkelley@duluthmn.gov
Туре	Interim Use Permit – Vacation Dwelling		Planning Com	mission Data	July 13, 2021
.,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,,	Unit – Ur	nit A		inission Date	
Application Date		tion Date	June 7, 2021	60 Days	August 6, 2021
for Action	Date Ext	ension Letter Mailed	June 18, 2021	120 Days	October 5, 2021
Location of Su	bject	5330 East Superior Street		·	·
Applicant	Sarah an	d Seth Maxim	Contact		
Agent			Contact		
Legal Descript	Legal DescriptionPID # 010-3060-00120				
Site Visit Date		June 23, 2021	Sign Notice Date		June 29, 2021
Neighbor Lette	Neighbor Letter Date June 18, 2021		Number of Letters Sent		49

Proposal

Applicant proposes use of an approximately 550 square foot studio apartment within the existing 7,150 square foot building as a vacation dwelling unit. The permit is good for a studio apartment with 2 occupants.

Vacation dwelling units located in the F-2 Form District are exempt from minimum night stays and parking, and there is no cap on number of permits issued.

Recommended Action: Staff recommends that Planning Commission recommend approval.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-2	Vacant commercial building	Neighborhood Mixed Use
North	F-2	Dental office	Neighborhood Mixed Use
South	F-2	Single Family Dwelling	Neighborhood Mixed Use
East	F-2	Gas station	Neighborhood Mixed Use
West	F-2	Gas station	Neighborhood Mixed Use

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 cltopes? No 25% or than



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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.

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.

Applicant is proposing to provide another type of lodging product for visitors to the City of Duluth and surrounding area.

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

History: Building is 7,150 square feet in size and constructed in 1928. Most recent uses included an apartment, fitness and tanning center. The proposed use will occupy only a portion of the building.

Review and Discussion Items:

1) Applicant's property is located at 5530 East Superior Street. The proposed vacation dwelling is a 550 square studio apartment, Unit A, within an existing commercial building that formerly was a fitness center and tanning salon, and soon to have a brewery within the building. The studio apartment would allow for a maximum of 2 guests.

2) City Council approved an Interim use Permit (PL 20-139) on November 11, 2020 for a 2 bedroom vacation dwelling unit. The approved 2-bedroom unit was approximately 1,500 square feet. The applicant is reconfiguring the approved vacation dwelling unit to accommodate a studio and 2-bedroom apartment. Staff is recommending that the previous resolution 20-0802R be rescinded and a new resolution for a studio vacation dwelling unit at 5330 East Superior Street.

3) Vacation dwelling units located in Form districts are exempt from number of interim use permits issued, minimum night stays and parking requirements.

4) There will not be any campers or trailers parked on the property.

5) The site does not have any outdoor amenities.

6) 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 biologe** must



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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, and meet the criteria.

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

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

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

Staff Recommendation:

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

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.





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Legend Zoning Boundaries





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File Number	PL 21-088		Contact		John Kelley	v, jkelley@duluthmn.gov
Туре	Interim Use Permit – Vacation Dwelling Unit – Unit B		Planning Commission Date		July 13, 2021	
Deadline	Application Date		June 7, 2021		60 Days	August 6, 2021
for Action	Date Ext	ension Letter Mailed	June 18, 2021		120 Days	October 5, 2021
Location of Su	bject	5330 East Superior Street				·
Applicant	Sarah an	d Seth Maxim	Contact			
Agent			Contact			
Legal Descripti	ion	PID # 010-3060-00120		•		
Site Visit Date		June 23, 2021	Sign Notice Date		une 29, 2021	
Neighbor Lette	Neighbor Letter Date June 18, 2021		Number of Letters Sent 49		19	

Proposal

Applicant proposes use of an approximately 900 square 2-bedroom apartment within the existing 7,150 square foot building as a vacation dwelling unit. The permit is good for a 2-bedroom apartment with 5 occupants.

Vacation dwelling units located in the F-2 Form District are exempt from minimum night stays and parking, and there is no cap on number of permits issued.

Recommended Action: Staff recommends that Planning Commission recommend approval.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-2	Vacant commercial building	Neighborhood Mixed Use
North	F-2	Dental office	Neighborhood Mixed Use
South	F-2	Single Family Dwelling	Neighborhood Mixed Use
East	F-2	Gas station	Neighborhood Mixed Use
West	F-2	Gas station	Neighborhood Mixed Use

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 cft grows than



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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.

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.

Applicant is proposing to provide another type of lodging product for visitors to the City of Duluth and surrounding area.

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

History: Building is 7,150 square feet in size and constructed in 1928. Most recent uses included an apartment, fitness and tanning center. The proposed use will occupy only a portion of the building.

Review and Discussion Items:

1) Applicant's property is located at 5530 East Superior Street. The proposed vacation dwelling is a 900 square 2-bedroom apartment, Unit B, within an existing commercial building that formerly was a fitness center and tanning salon. A portion of the building will be used as a brewpub. The 2-bedroom apartment would allow for a maximum of 5 guests.

2) City Council approved an Interim use Permit (PL 20-139) on November 11, 2020 for a 2-bedroom vacation dwelling unit. The approved 2-bedroom unit was approximately 1,500 square feet. The applicant is reconfiguring the approved vacation dwelling unit to accommodate a studio and 2-bedroom apartment. Staff is recommending that the previous resolution 20-0802R be rescinded and a new resolution for a 2-bedroom vacation dwelling unit at 5330 East Superior Street.

3) Vacation dwelling units located in Form districts are exempt from number of interim use permits issued, minimum night stays and parking requirements.

4) There will not be any campers or trailers parked on the property.

5) The site does not have any outdoor amenities.



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6) 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, and meet the criteria.

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

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

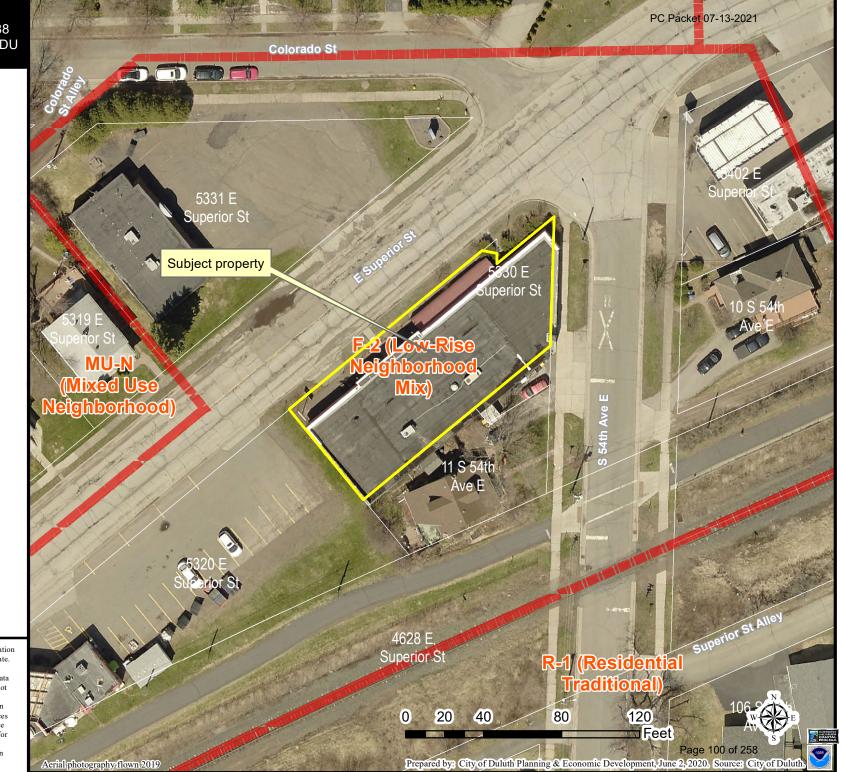
10) No comments from citizens, City staff, or any other entity were received regarding the application.

Staff Recommendation:

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

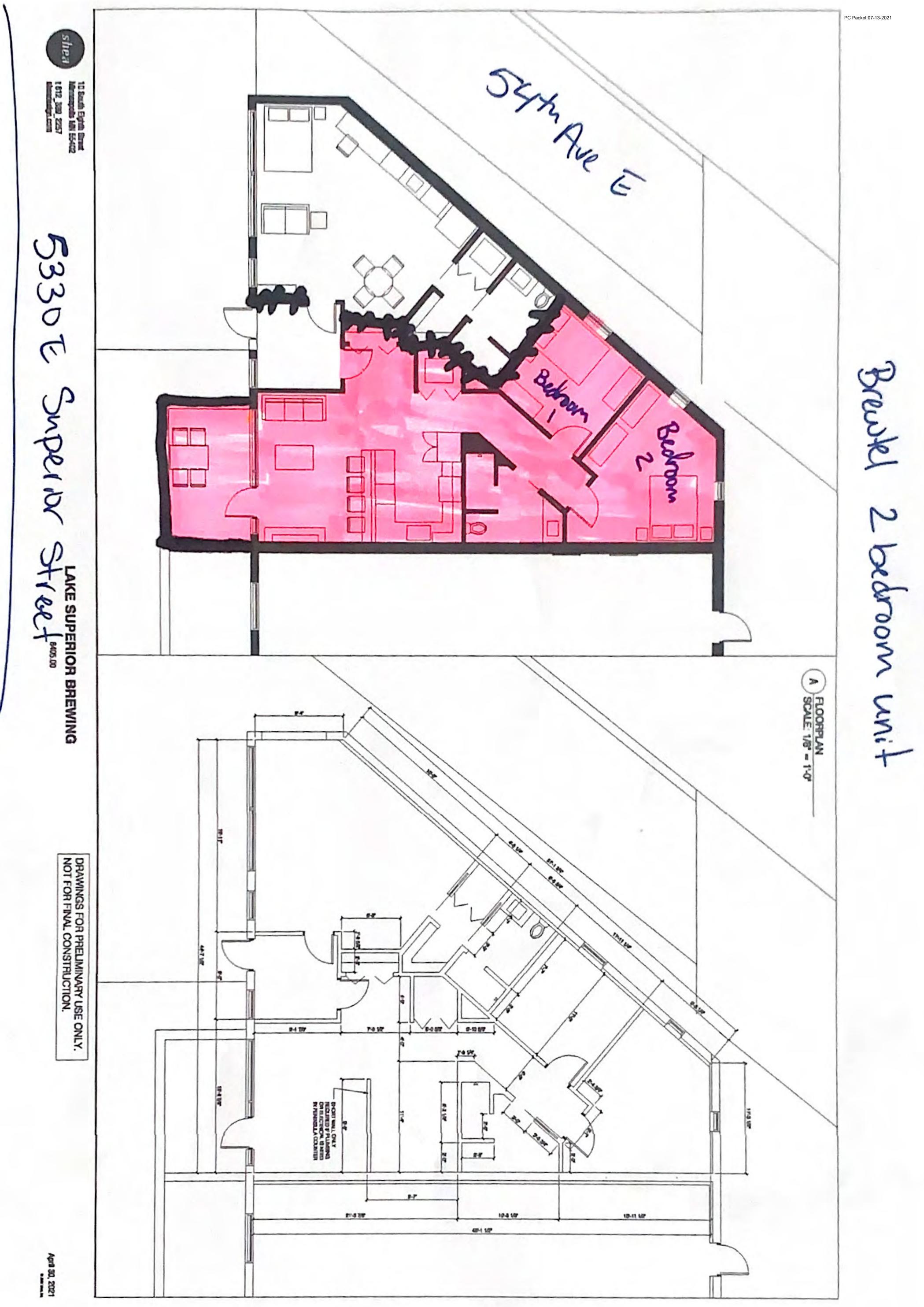
- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.





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Legend Zoning Boundaries



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Planning & Development Division

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File Number	PL 21-090		Contact	Kyle Demin	g
Туре	Concurre	nt Use Permit	Planning Commis	Planning Commission Date	
Deadline for Action	Application Date		June 7, 2021	60 Days	August 6, 2021
	Date Extension Letter Mailed		June 24, 2021	120 Days	October 5, 2021
Location of Sul	oject	5324/5330 E. Superior (La	keside-Lester Park)	I	
Applicant	Sarah & S	Seth Maxim	Contact		
Agent			Contact	Contact	
Legal Descripti	on	See attached Certificate o	f Survey (PID 010-3060-00	120)	
Site Visit Date June 30, 2021		June 30, 2021	Sign Notice Date		June 29, 2021
Neighbor Lette	er Date	N/A	Number of Letters Sent		N/A

Proposal: A Concurrent Use Permit to resolve the encroachment of an existing commercial building into the 54th Ave. E.

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

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-2 – Low-Rise Neighborhood Mix	Commercial	Mixed Use-Neighborhood
North	F-2 – Low-Rise Neighborhood Mix	Residential	Mixed Use-Neighborhood
South	R-1 – Residential Traditional	Railroad and Lakewalk	Traditional Neighborhood
East	F-2 – Low-Rise Neighborhood Mix	Commercial	Mixed Use-Neighborhood
West	F-2 – Low-Rise Neighborhood Mix	Commercial	Mixed Use-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, as this strengthens neighborhoods.

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

History:

1871 – London Addition plat filed in St. Louis County Recorder's office

1889 – Lester Park 2nd Division plat filed

1895 – Rearrangement of Block 119, London Addition, re-plat filed that reoriented the lots to Superior St.

1919 – Vacation of a part of 54th Ave. E. adjacent to Lot 11, Rearrangement of Block 119

1928 – Commercial building constructed

Review and Discussion Items

Staff finds that:

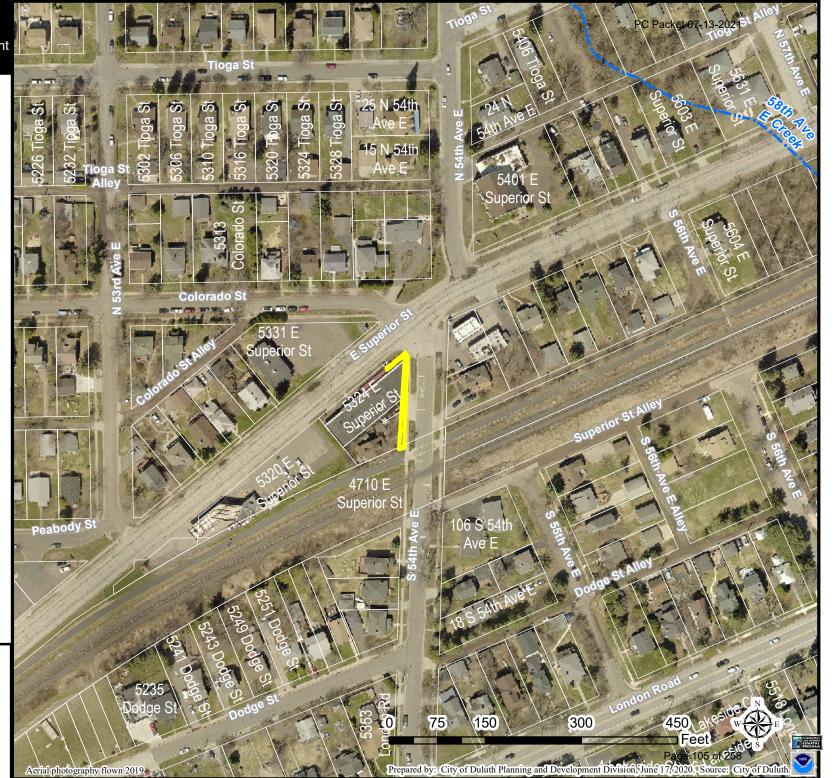
- 1.) The area of the proposed concurrent use was originally platted in 1871 as the London Addition to Duluth. This plat did not include the present location of Superior St. or the North Shore Scenic Railroad.
- 2.) In 1895, Block 119 of London Addition (the block containing the subject site) was re-platted to change the orientation of the lots to "front" on Superior St. (called Grand Ave E. on the re-plat). When this re-plat was drawn up there was a surveying error and the west line of 54th Ave. E. was drawn too far east.
- 3.) In 1919, the error was corrected when the "extra" part of 54th Ave. E. was vacated.
- 4.) The existing commercial building was constructed in 1928.
- 5.) It is apparent from the platting, re-platting, and vacation history of this area that there are challenges providing accurate survey controls. It is assumed that the building was inadvertently constructed in the street easement due to a surveying error.
- 6.) The concurrent use permit will cover the existing building encroachment as well as the exit stairway to be constructed at the rear of the building.
- 7.) If approved, the applicant will need to obtain liability insurance and indemnify the City against liability for occurrences due to their encroachment into the right of way.
- 8.) The City Engineering office does not take responsibility for locating buried private improvements in the public easement and so, ordinarily, the applicant would need to sign up with Gopher State One Call to be notified of underground excavation projects in the area. However, because the private improvements in the street are all plainly visible above ground, the Engineering office will not require this of the applicant in this case.
- 9.) The area proposed for the concurrent use permit will not diminish the public's ability to use the improved parts of 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 the time of publishing this report.

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:

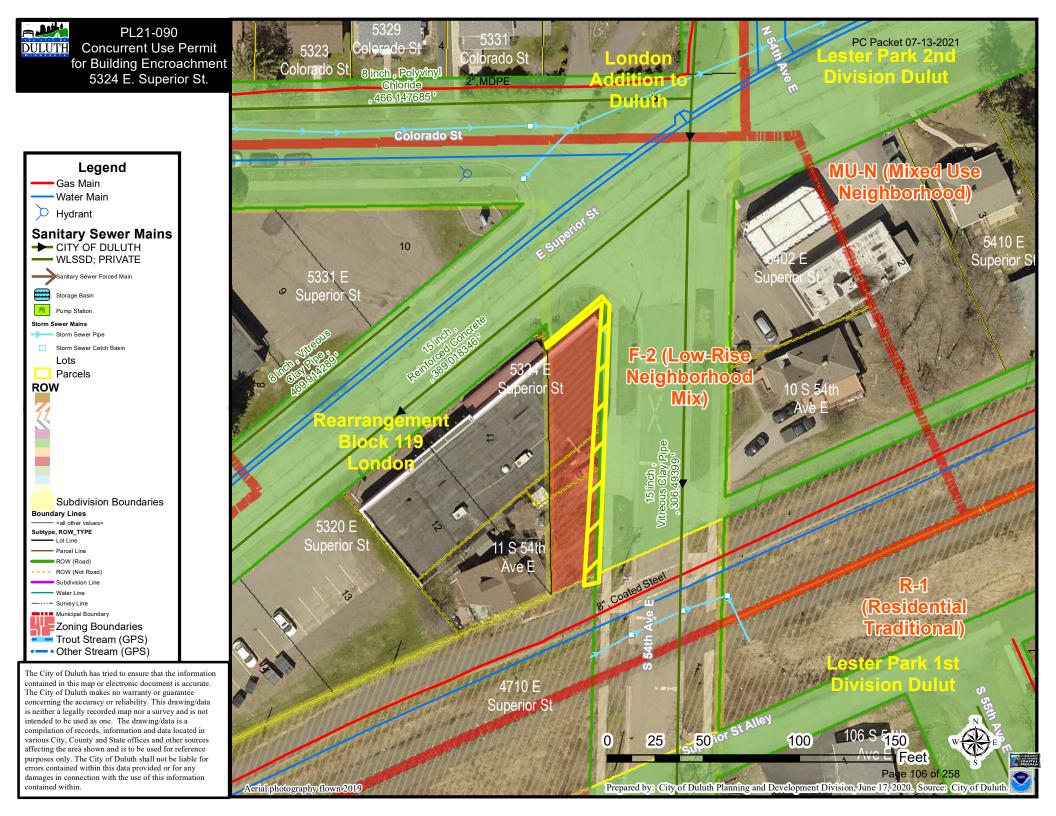
- 1.) Applicant shall provide evidence to the City of Duluth that required insurance and indemnification are in place at all times.
- 2.) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

PL21-090 DULUTH Concurrent Use Permit for Building Encroachment 5324 E. Superior St.



Legend Trout Stream (GPS) Other Stream (GPS)

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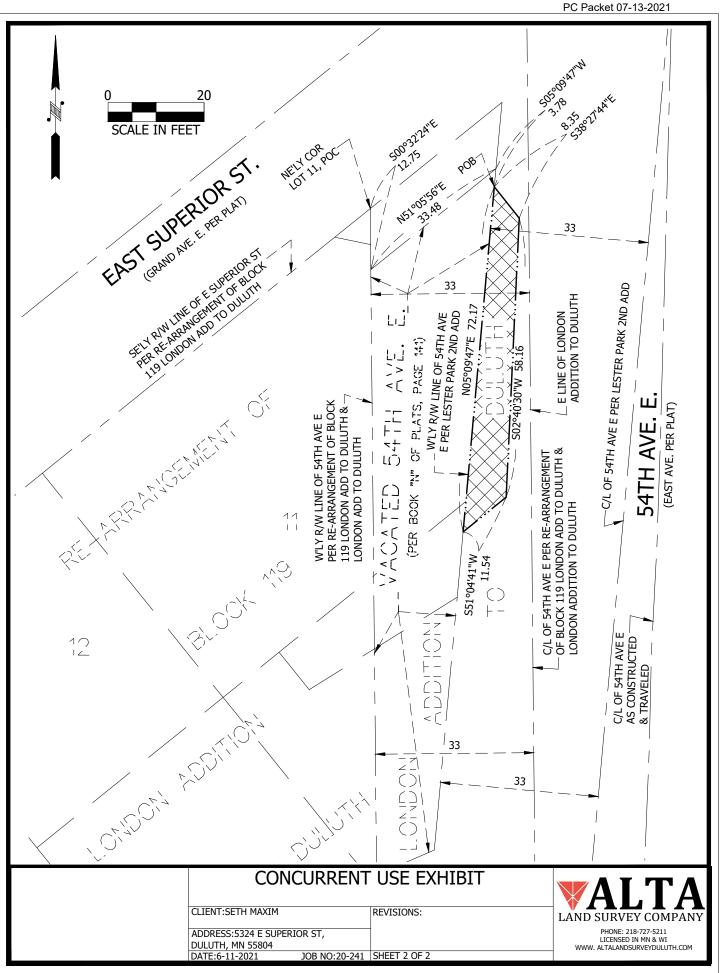
CONCURRENT USE AREA

That part of East Avenue as dedicated on LONDON ADDITION TO DULUTH, (now known as 54th Avenue East) according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the Northeasterly corner of Lot 11, RE-ARRANGEMENT OF BLOCK 119 LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota; thence on an assumed bearing of South 00 degrees 32 minutes 24 seconds East along the Westerly right of way line of said East Avenue (now known as 54th Avenue East) as dedicated on said LONDON ADDITION TO DULUTH for a distance of 12.75 feet; thence North 51 degrees 05 minutes 56 seconds East 33.48 feet to the Westerly right of way line of said East Avenue as shown on LESTER PARK 2ND DIVISION, according the recorded plat thereof, St. Louis County, Minnesota; thence South 05 degrees 09 minutes 47 seconds West, along the Westerly right of way line of said East Avenue 3.78 feet to the point being the point of beginning of the parcel herein described; thence South 38 degrees 27 minutes 44 seconds East 8.35 feet; thence South 02 degrees 40 minutes 30 seconds West 58.16 feet; thence South 51 degrees 04 minutes 41 seconds West 11.54 feet to the Westerly right of way line 72.17 feet to the point of beginning.

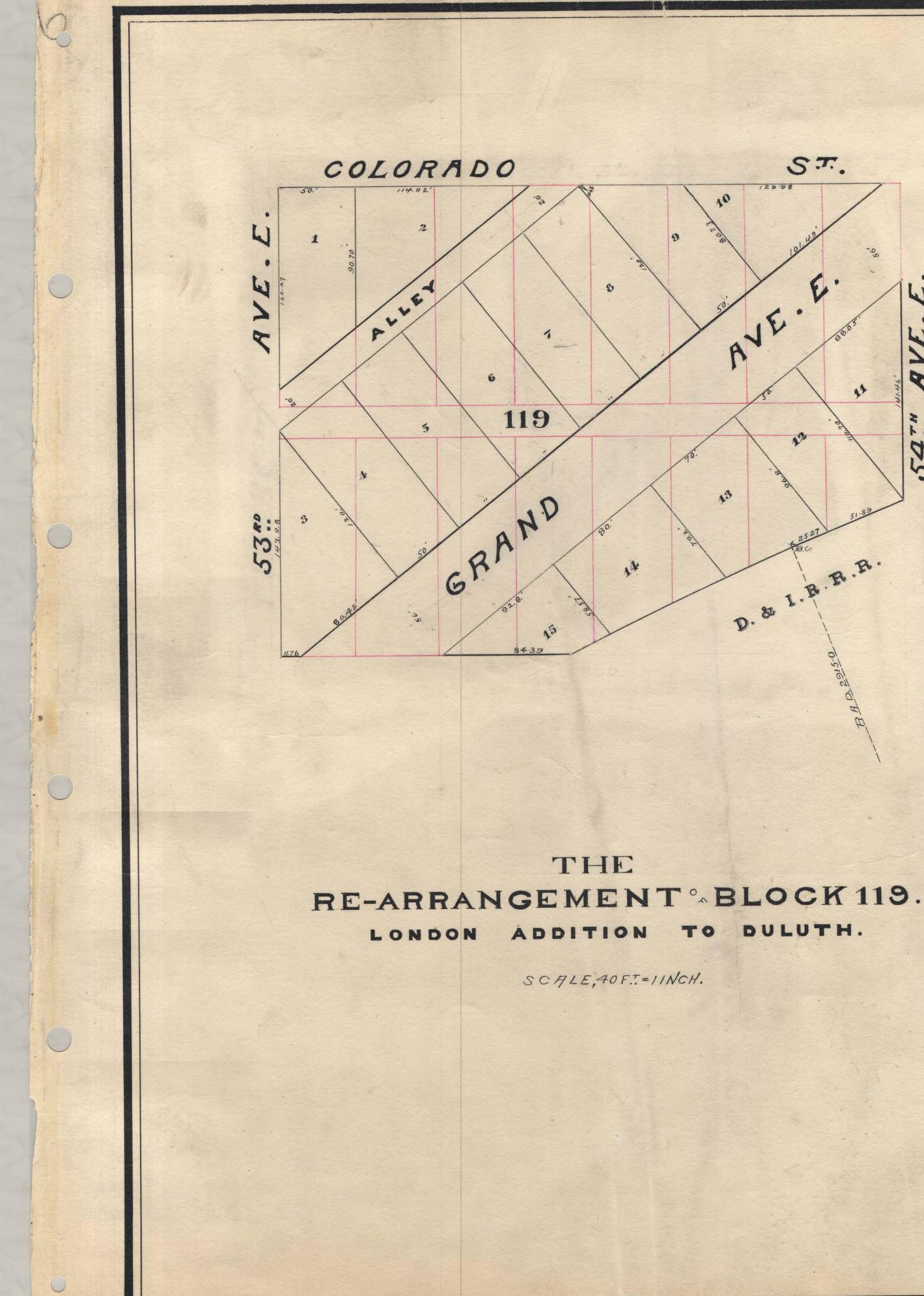
Said parcel contains 459 Sq. Feet.

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	NCURREN		HIBIT	
ADDRESS:5324 E SUP	PERIOR ST,	REVISIONS:		LAND SURVEY COMPANY PHONE: 218-727-5211 LICENSED IN MN & WI WWW. ALTALANDSURVEYDULUTH.COM
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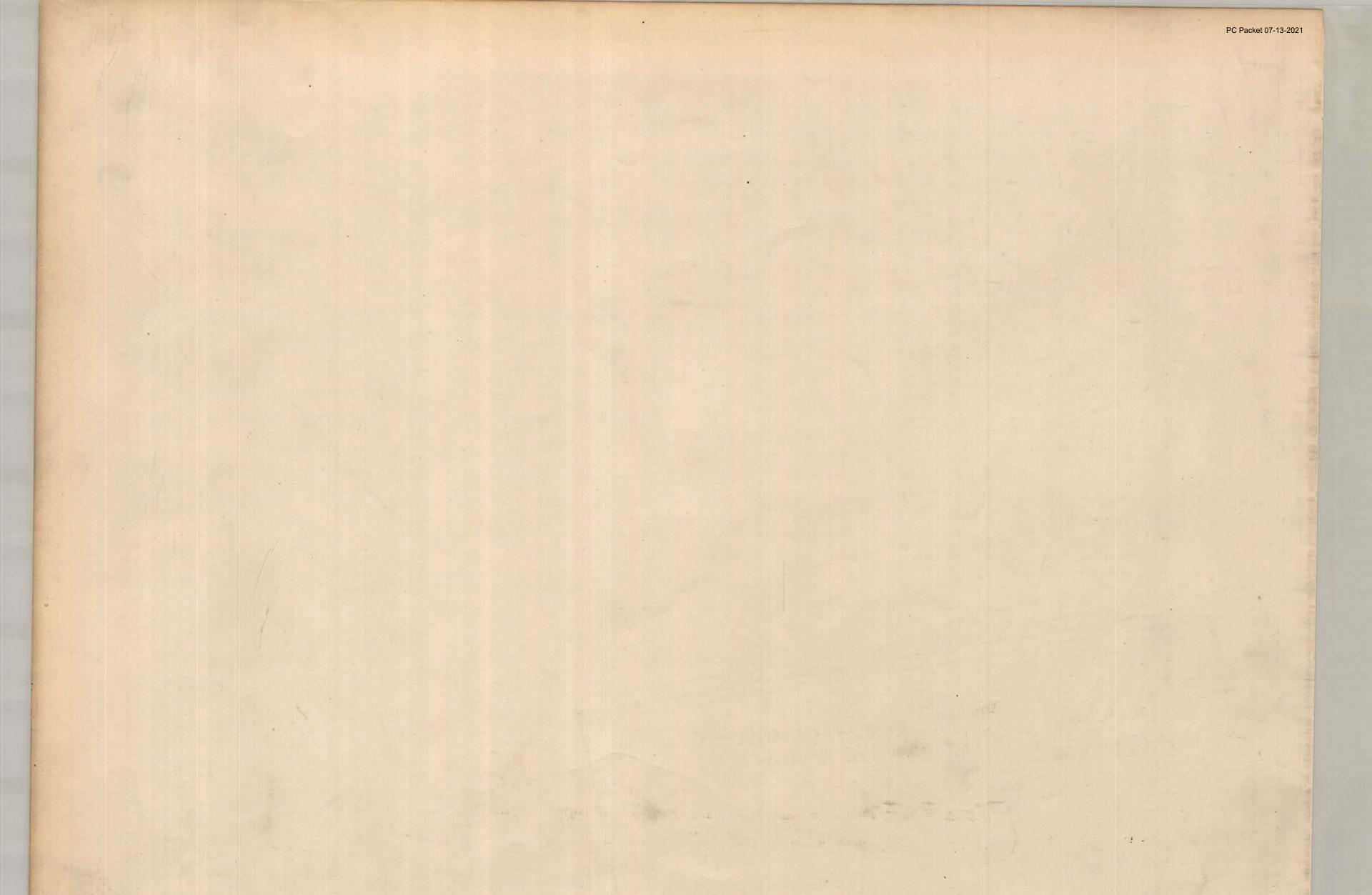
Johan R. Atamies President attest. no B Freenfield Secretary. Munout & Kurtholary Public St Louis Co, Minn. S.L. Rice. Surveyor. M.J. Davis A. Swordling James Frendl

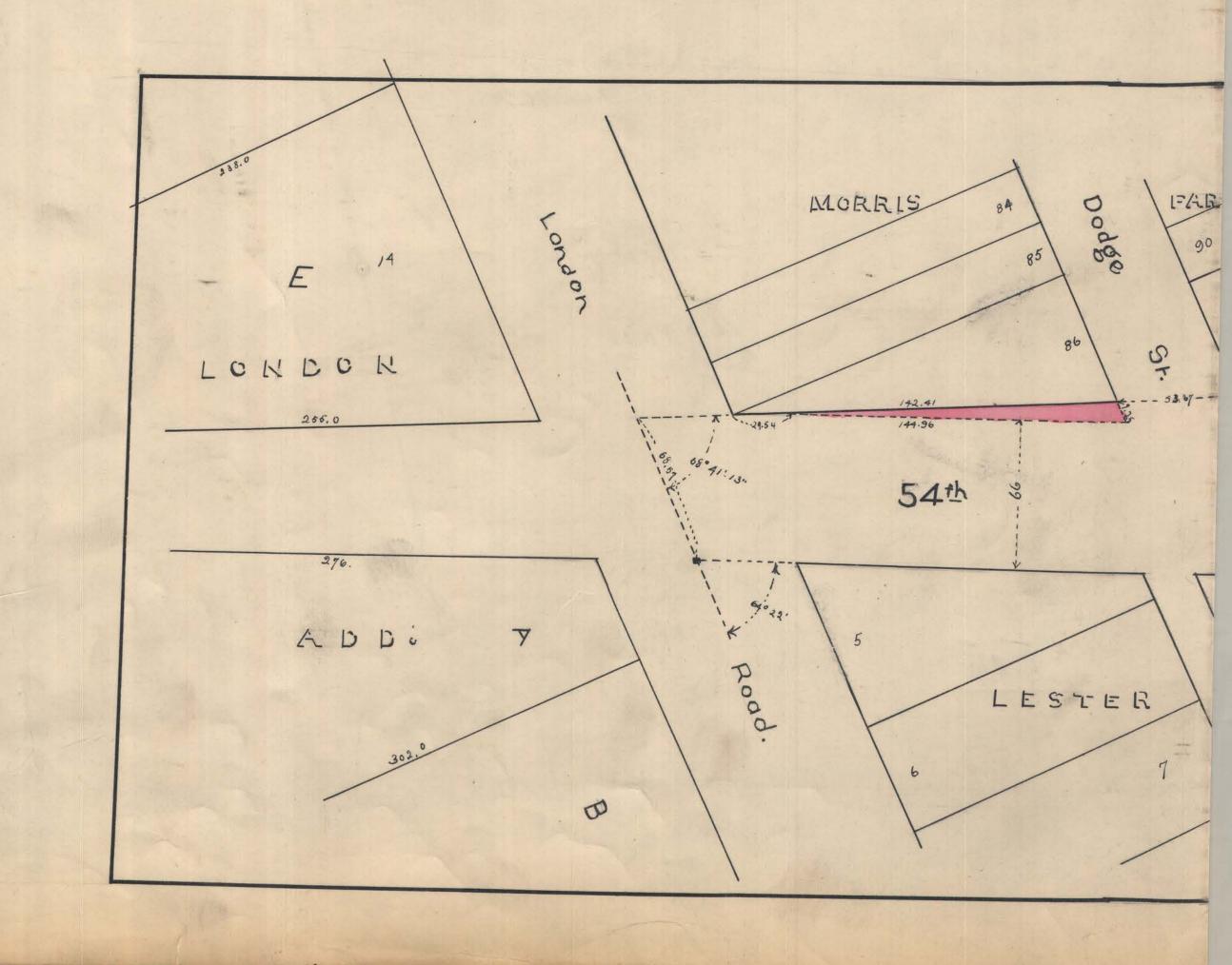
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ST.

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KNOW ALL MEN BY THESE PRESENTS that the Lakeside Land Company a corporation organized under the laws of the State of Minnesota, being the owner of the following described property, lying and being in the state of Minnesota, County of St Louis, City of Duluth to will:- "All that part of Block one hundred and nineteen (119) in London Addition to Duluth according to the record plat thereof, which lies north of the right of way of the Buluth and Iron Range railway, as at present located through said London Addition and being desirous of re-arranging the same, said company have caused said property to be surveyed, and the annexed plat there of made in accodance with the statutes in such cases made and provided. now therefore the said Lakeside Land Company does hereby ratify and in all respects confirm, said survey and plat there of as the Re-arrangement of Block 119 London addition to Duluth and the alley and street represen ed on said plat an hereby dedicated to public use. I witness where of the said Laheside Land Company has caused this instrument to be executed and signed by its President and its corporate seal to be hereto affixed and duely attested by its Secretary this _13th day of tebruary a.L. 1895. In presence of M. Morowley-N. Navis State of Minnesota | County of ett Louis On this 13 day of Feby. a.D. 1895. before me personally appeared Chas. R taines and John B. Inconfield to me personally known to be the identical persons whose signatures are subscribed to the above certificate, who being by me duely and severally sworn did say that they are respectively, the President and Secretary of the Lakeside Land Company of Buluth Mimi, that the foregoing instrument was signed and sealed in behalf of the said company by authority of its Board of Directors that the seal imprinted thereon is the corporate of said corporation and that the said Chas. R. Haines and John B. Greenfeels acknowledge said plat and said certificate to to be the free act and deed of said corporation I the undersigned, a surveyor and civil engineer, do hereby certify, that at the request of the Lakende Land Company I have surveyed the the land described in the forging certificate and represented on the plat here to annexed, and that said plat is a true and accurate plat of Said land surveyed. State of Minnesota) County of St Louis On this 13 day of Tety. a.D. 1895, before me appeared S.L. Rice, to me person-ally known and he did say, that he is a surveyor and civil enginer and that he executed the foregoing certificate and acknowledged the same us his own free act and deed. Menwick Blust Notary Bublic, St Louis Co. Minn. The annexed plat of the Re-arrangement of Block 119 London Addition to Duluth approved by us this 18th day of March a.B. 1895 Attest A.M. Kilgm Clerk of Board of Public Works. Accepted by the common council of the City of Duluth at a meeting held on the -2. day of _____ a. 1895. City Clerk, City of Duluth. I hereby certify that the taxes on the above described land are fully paid to date. - O. Halden County Auditon St Louis Co. 28th day of march 1895 State of Minnesata } S.S. H. Borgstrom Register of Deed St Louis Co.





N of Plats PC Packet 07-13-202 Filed January 310t 1919 at 4. P.M. no. 293776 By Commissioner Farrell: Readlored, That Peabody street lying southerly of the Duluch & From Range Railway company's night of way, excepting on alley sixteen feet wide adjacent to said Duluch & From Range Railway company's right of way and all that portion of Fifty fourth avenue east between London Road and Superior street lying weat of a line sixty-six feet west of and parallel to the east line of Fifty-fourth arenue east be and the same are hereby recented. Resolved further, That the City of Duluch does hereby reserve the right of way for easements through said property for conducte for wires, sewers, water and gas and other public necessities. bommissioner Farrell moved the adoption of the resolution and it was declared adopted upon the following rote: Year - Commissioners Farrell, Phillips, Sitberstien, Vase, Mayor Magney - 5. Nays - None. Adopted Jan. 20, 1919. approved Jan. 20. 1919. I, I. D. ash, leity lelect of the leity of Duluth, in the State of Minnesota, do hereby certify that I have compared the annexed copy of Resolution adopted by the leity bouncil of the leity of Duluth, on the 20th day of Jans 1919. with the original document and record thereof on file and of record in my office, and in my custody as leity lelerh of said city, and that the same is a true and correct copy thereof, and the whole thereof, and a true and correct transcript therefrom. therefrom. In Witness Where of I have hereunto set my hand and affiped the corporate seal of said bity of Duluch, this 28th Day of Jan. 1919. F. D. ash, leity bleck. leity of Duluch. Mim. Cooporate Scal of the leity of Duluch. 1887

Vacation Glat of a part of the westerly side of 54th Ave. E. from Superior St. to London Road.

The part to be vacated is shown colored in red on the annexed plat. Aug. 10: 1915.

Corporate Seal Vacated by resolution of the City Council of the City of Duluth on the 20th day of Jan. A.D. 1919. ofthe City of Duluth F. D. ash city Clerk. 1887. Colorado AUD. 14 DLV. K C C Superior PEABODY D.&I.R. PARK LONDON 119 10, St. 13 ADDO ST 12 87,50 10 E. Ave. 54th Ave. E LESTER /PARK FLRST DLVC PARK RR 210 , DLV 11 10 S 11



Planning & Development Division

Planning & Economic Development Department

Room 160 411 West First Street Duluth, Minnesota 55802

planning@duluthmn.gov

218-730-5580

File Number	PL 21-092		Contact		Chris Lee, clee@duluthmn.gov		
Туре	Minor Sı	ubdivision	Planning	Commiss	July 13, 2021		
Deadline	Deadline Application Date			21	60 Days	August 6, 2021	
6 • • • •		Date Extension Letter Mailed)21	120 Days	October 5, 2021	
Location of S	Location of Subject 4924 Pitt Street						
Applicant	St. Micha	ael's Church Duluth	Contact	On file			
Agent	Heirloom Properties		Contact	Michael S	Aichael Schraepfer		
Legal Description See Attached				•			
Site Visit Date		June 26, 2021	Sign Notice Date		N	/Α	
Neighbor Letter Date N/A		N/A	Number o	Number of Letters Sent N		/Α	

Proposal

Applicant is requesting a Minor Subdivision to divide one parcel into two parcels. The current parcel is approximately 106,089 square feet made up of 11 lots. Parcel A will be approximately 85,031 square feet, Parcel B will be approximately 8,400 square feet. The parcels will each be conforming to zoning and buildable.

Recommended Action: Approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-2	Church/Office	Traditional Neighborhood
North	P-1	Residential	Open Space
South	R-1	Residential	Traditional Neighborhood
East	F-2	Residential	Traditional Neighborhood
West	R-1	Residential	Urban Residential

Summary of Code Requirements

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

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

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

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

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

(d) If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the

requirements of this Chapter, the proposed relocation will not create any new nonconformity or the requirements of this Chapter.

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 St. Michaels Church constructed in 1916 and the 3-story office building constructed in 1923 (former St. Michael's School – closed 1981) East Superior Street. This property is platted as the London Addition to Duluth.

Review and Discussion Items

- 1. Applicant is requesting a Minor Subdivision to divide a single lot into two lots. Both parcels will have frontage on East Superior Street and Pitt Street.
- The church and office use will remain on parcel A and this subdivision will not create a non-conforming structure. Parcel B will contain a residential unit and not be increasing any non-conformities in this zone district.
- 3. Both parcels are zoned F-2, and have the required street frontage along East Superior Street and Pitt Street. The proposed subdivision, if approved, would not make the parcels non-conforming due to lot frontage, lot area, or similar bulk standard.
- 4. No public, agency, or other City comments were received.
- 5. The attached exhibit demonstrates compliance with Minnesota statutes 462.358 and 505 or 508, as applicable.
- 6. Approval of this Minor Subdivision signifies that City of Duluth UDC standards are met. St. Louis County may have additional requirements. This subdivision approval lapses if deeds are not recorded with St. Louis County within 180 days. Applicant must provide the City with proof of recording.

Staff Recommendation

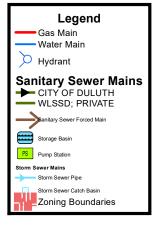
Based on the above findings, Staff recommends that Planning Commission approve the Minor Subdivision with the following conditions:

1) Appropriate deeds be filed with St. Louis County within 180 days. Prior to recording the deed that results from this adjustment, the Planning Division will need to stamp the deed, indicating compliance with the local zoning code.

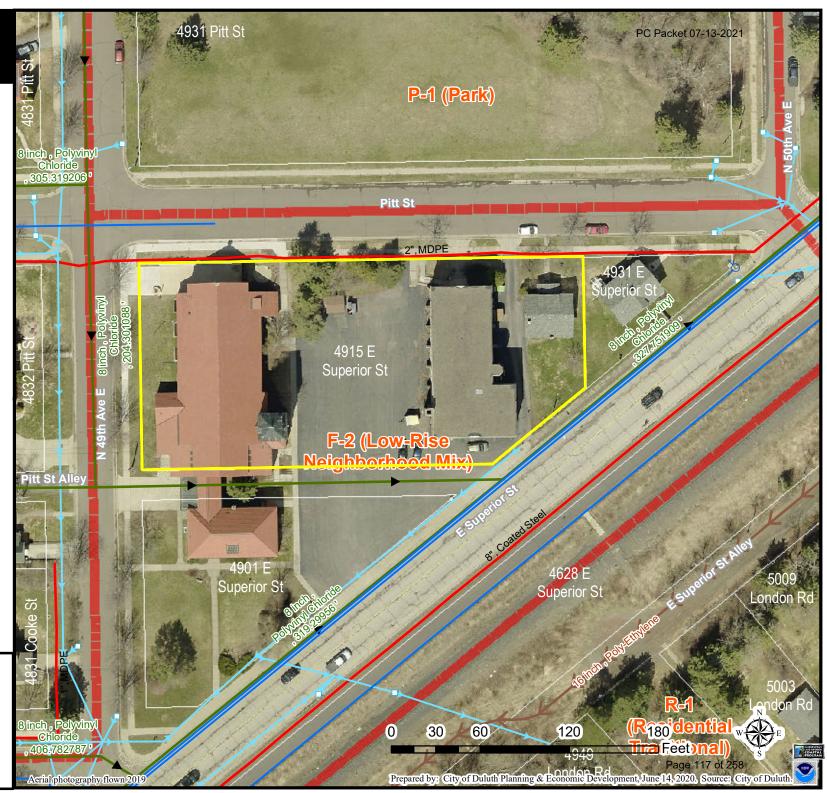
2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

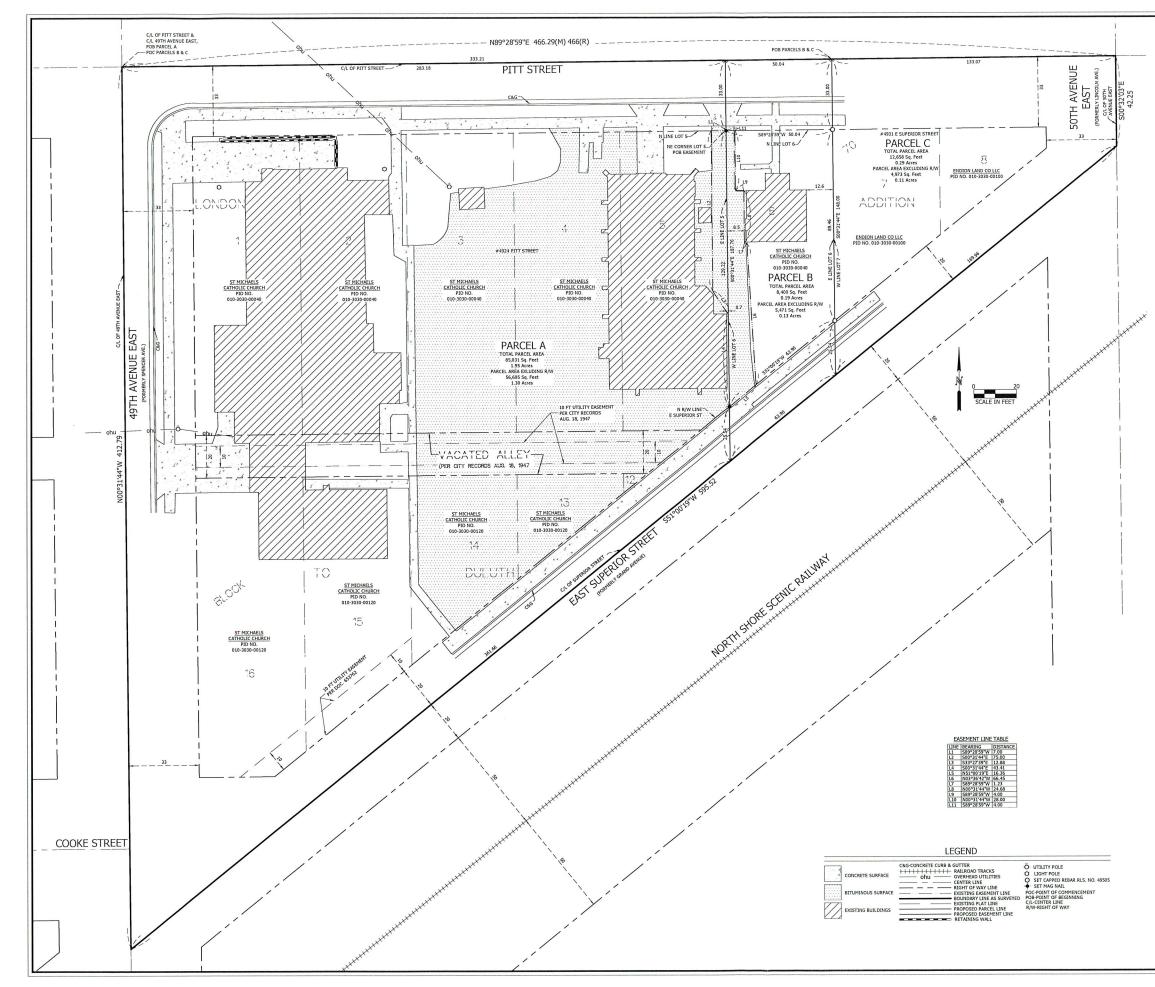


PL 21-092 4924 Pitt St Minor Sub



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 CERTIFICATE OF TITLE NO. 134653

Lot 1 Block 70 LONDON ADDITION TO DULUTH Lot 2 Block 70 LONDON ADDITION TO DULUT Lot 3 Block 70 LONDON ADDITION TO DULUT Lot 3 Block 70 LONDON ADDITION TO DULUT Lot 4 Block 70 LONDON ADDITION TO DULUT

That part of LONDON ADDITION TO DULUTH, lying within the following boundaries, to wit:

That part of LONDON ADDITION TO DULUTH, Jving within the following boundanes, to wri: a. The center line of Pixt Street; b. The center line of Pixt Street; c. The center line of Stbh Avenue East, formerly Spencer Avenue; c. The center line of Stbh Avenue East, formerly Lincoln Avenue; d. The center line of Stbh Avenue Stat, formerly Grand Avenue, as established by condemnation as evidenced by Book C of Plats, page 402, recorded in the office of the Register of Deesdo 5 SL cuis County, Minnesota.

LEGAL DESCRIPTION OF PARCEL A

Lots 1, 2, 3, 4 and 5, Block 70, LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, ncluding that part of Pitt Street, 49th Avenue East, formerly Spencer Avenue and East Superior Street, formerly Grand Avenue, said parcel is described as follows:

Beginning at the intersection of the center lines of said Pitt Street and said 49th Avenue East; thence on an assumed bearing of North 89 beginning as use intersection or one center miss or same that are used, and same that version cash, userule on an assumed beginning in Mohl of 99 degrees 28 minutes 59 seconds East, along the center line of said her there is 200 seconds we can solve extension of the East line of said Lot 5; thence South 00 degrees 31 minutes 44 seconds East, along said East line and its Northerly and Southerly extension 187.76 feet to the center line of said East Superior Street; thence South 51 degrees 00 minutes 19 seconds West, along said center line 316.64 feet to the center line of said 49th Avenue East; thence North 00 degrees 31 minutes 44 seconds West, along said center line 412.79 feet to the point of beginning.

SUBJECT to the rights of way of Pitt Street, East Superior Street and 49th Avenue East.

Said parcel contains 85,031 square feet or 1.95 acres.

SUBJECT TO AND TOGETHER WITH:

LEGAL DESCRIPTION OF PROPOSED EASEMENT

An easement lying over, under and across that part of Lots 5 and 6, Block 70, LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota described as follow

plat thereof, St. Louis County, Minnesota described as follows: Commencing at the intersection of the center lines of said Pitt Street and said 49th Avenue East; thence on an assumed bearing of North 89 degrees 28 minutes 59 seconds East, along the center line of said Pitt Street 283.18 feet to the Northerly extension of the East line of said Lot 5; thence South 00 degrees 31 minutes 44 seconds East, along said East line and its Northerly extension 33.00 feet to the Northeast corner of said Lot 5; said point being the point of beginning of the assement herein described; thence South 80 degrees 28 minutes 59 seconds West, along the North line of said Lot 5 for a distance of 7.00 feet; thence South 00 degrees 31 minutes 44 seconds East 7.500 feet; thence South 31 degrees 27 minutes 39 seconds East 1.28 feet to the East line of said Lot 5; thence 5outh 00 degrees 31 minutes 44 seconds East, along said East line 43.41 to the North right of way line of East Superior Street, formerly Grand Avenue; thence North 51 degrees 00 minutes 19 seconds East, 28 devends West 1.23 feet; thence North 03 degrees 36 minutes 42 seconds West 24.68 feet; thence South 80 degrees 28 minutes 59 seconds West 1.23 feet; thence North 00 degrees 31 minutes 44 seconds West 24.06 feet; thence South 80 degrees 28 minutes 59 seconds West 2.35 seconds West 2.00 feet; thence North 00 degrees 31 minutes 44 seconds West 24.00 feet; thence North 00 degrees 31 minutes 44 seconds West 24.00 feet; thence North 00 degrees 31 minutes 44 seconds West 24.00 feet; bence North 00 degrees 31 minutes 44 seconds West 24.00 feet to the North line 4 or said Lot 5; theree South 80 degrees 28 minutes 59 seconds West 4.00 feet; thence North 00 degrees 31 minutes 44 seconds West 28.00 feet to the North line 4 or said Lot 5; theree South 80 degrees 28 minutes 59 seconds West 4.00 degrees 31 minutes 44 seconds West 28.00 feet to the North line 4 or said Lot 5; theree South 80 degrees 28 minutes 59 seconds West 4.00 degrees 31 minutes 44 seconds West 28.00 feet to the No the North line of said Lot 6; thence South 89 degrees 28 minutes 59 seconds West, along said North line 4.00 feet to the point of beginning Said easement contains 1,669 square feet or 0.04 acres.

LEGAL DESCRIPTION OF PARCEL B

Lot 6, Block 70, LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, Including that part of Pitt Street and East Superior Street, formerly Grand Avenue, said parcel is described as follows:

Commencing at the intersection of the center lines of said Pitt Street and 49th Avenue East, formerly Spencer Avenue; thence on an Commencing at the intersection of the center lines of said Pitt Screet and 49th Avenue East, formerly Spencer Avenue; thence on an assumed bearing of North 89 degrees 28 minutes 59 seconds East, along the center line of said Ptt Street 333.21 feet to the Northerly extension of the East line of said Lot 6, said point being the point of beginning of the parcel herein described; themee South 00 degrees 31 minutes 44 seconds East, along said East line and its Northerly and Southerly extension 148.00 feet to the center line of said to East Superior Street; thence South 51 degrees 00 minutes 19 seconds West, along said center line 63.90 feet to the Southerly extension 187.76 feet to the center line of said Pitt Street; thence North 89 degrees 28 minutes 59 seconds East, along said center line 50.04 feet to the point of beginning.

SUBJECT to the rights of way of Pitt Street and East Superior Street.

Said parcel contains 8,400 square feet or 0.19 acres.

SUBJECT TO AND TOGETHER WITH:

LEGAL DESCRIPTION OF PROPOSED EASEMENT

An easement lying over, under and across that part of Lots 5 and 6, Block 70, LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota described as follows

Commencing at the intersection of the center lines of said Pitt Street and said 49th Avenue East; thence on an assumed bearing of North 85 Commensing as we measewant of the Center times of said this 20th and 20th results and 20th results of all essential beaming of reducts of degrees 28 minutes 59 seconds East, along the center line of said Results Storet 283.18 features to the Northerity extension of the East line of said Lot 5; thence South 00 degrees 31 minutes 41 seconds East, along said East line and its Northerity extension 33.00 features to the Northerity corner of said Lot 5; said point being the point of beginning of the easternet herein desched; thence South 80 degrees 28 minutes 59 econds West, along the North line of said Lot 5 for a distance of 7.00 feet; thence South 00 degrees 31 minutes 44 seconds East 75.00 feet: thence South 33 degrees 27 minutes 39 seconds East 12.88 feet to the East line of said Lot 5; thence South 00 degrees 31 minutes 4 econds East, along said East line 43.41 to the North right of way line of East Superior Street, formerly Grand Avenue; thence North 51 degrees 00 minutes 19 seconds East, along said North right of way line 16.36 feet; thence North 03 degrees 36 minutes 42 seconds West 66.45 feet; thence South 89 degrees 28 minutes 59 seconds West 1.23 feet; thence North 00 degrees 31 minutes 44 seconds West 24.68 feet; theree South 89 degrees 28 minutes 59 seconds West 4.00 feet; theree North 00 degrees 31 minutes 44 seconds West 28.00 feet to the North line of said Lot 6; thence South 89 degrees 28 minutes 59 seconds West, along said North line 4.00 feet to the point of beginning

Said easement contains 1.669 square feet or 0.04 acres.

LEGAL DESCRIPTION OF PARCEL C

Lots 7 and 8, Block 70, LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, including that part of Pitt Street, 50th Avenue East, formerly Lincoln Avenue and East Superior Street, formerly Grand Avenue, said parcel is described as follows:

To lows: Commencing at the intersection of the center lines of said Pitt Street and 49th Avenue East, formerly Spencer Avenue; thence on an assumed bearing of North 89 degrees 28 minutes 59 seconds East, along the center line of said Pitt Street 332.1 feet to the Northerly extension of the West line of said Lot 7, said point being the point of beginning of the parcel herein described; thence continue North 89 degrees 28 minutes 59 seconds East, along the center line of said Pitt Street 133.07 feet to the center line of said S0th Avenue East, thence South 00 degrees 32 minutes 03 seconds East, along said center line 42.25 feet to the center line of said S0th Avenue East, thence South 00 degrees 31 minutes 03 seconds West, along said center line 40.56 feet to the Southerly extension of the West line of said Lot 7, thence North 00 degrees 31 minutes 44 seconds West, along said center line 16.56 feet to the Southerly extension 148.00 feet to the point of working and the second Substance South 51 degrees 00.56 feet to the Southerly extension 148.00 feet to the point of working and the second Substance Southerly extension 148.00 feet to the point of the West line of Said Lot 7, thence South 00 degrees 31 minutes 44 seconds West, along said West line and its Southerly and Northerly extension 148.00 feet to the point of beginning

SUBJECT to the rights of way of Pitt Street, 50th Avenue East and East Superior Street.

Said parcel contains 12,658 square feet or 0.29 acres.

4924 PITT STREE DULTH, MN 5580		NITY MAP	*	
UNRECORDED EASEMENTS WHIC SURVEYOR ASSUMES NO RESPO NOT PROVIDED TO THE SURVEY BEARINGS ARE BASED ON THE S J. BUILDING DIMENSIONS SHOWN FOUNDATION DIMENSIONS.	H MAY BENEFIT OR ENCUMBER THIS PROP ISIBILITY FOR SHOWING THE LOCATION O RA SO FT HE DATE OF THE SURVEY. T. LOUIS COUNTY TRANSVERSE MERCATOF ARE FOR HORIZONTAL & VERTICAL PLACE	MENT OR TITLE OPINION. A TITLE SEARCH ERTY HAS NOT BEEN COMPLETED BY ALTA F RECORDED OR UNRECORDED EASEMENT COORDINATE SYSTEM OF 1996. (NAD 83 7 MENT OF STRUCTURE ONLY. SEE ARCHITEC	LAND SURVEY COMPANY, THE 5 OR OTHER ENCUMBRANCES (011) TURAL PLAN FOR BUILDING	
to secure solution was each convertee on this core of atta LND source company. The suitability of solution the secure structure personals to not net expension solution of atta LND solution convertee many of the suivalence of the solution solution convertee many of the suivalence of the solution solution convertee many of the suivalence of the solution solution convertee many of the suivalence of the solution solution of the suivalence of the solution solution convertee many of the suivalence of the solution solution solutis solution solution solution solution solution solution solution				
Dat I am i duly Learned Land Surveyor under the laws of the State of Minnesota. David R. Evanson Darie R. Evanson Darie R. Evanson Mix Learnes +9505	CLIENT:ST. MICHAEL'S CHURCH ADDRESS:4924 PITT STREET DULUTH, MN 55804 DATE:05-32021 JOB NO:21-091	REVISIONS:	LAND SURVEY COMPANY POOR: 19-72-5211 UCINEDIN MY 3 W WWW. ALTANOSUMPTICAL	



Planning & Development Division

Planning & Economic Development Department

Room 160 411 West First Street Duluth, Minnesota 55802 218-730-5580

planning@duluthmn.gov

File Number	PL 21-098		Contact	Jenn Mose	Jenn Moses, jmoses@duluthmn.gov		
Туре	Minor Subdivision		Planning Commission Date		July 13, 2021		
Deadline	Applica	tion Date	June 8, 2021 60 Days		August 7, 2021		
for Action	Date Extension Letter Mailed		June 24, 2021	120 Days	October 6, 2021		
Location of Subject N Haw		N Hawthorne Road					
Applicant	Julie Anr	n Kubat	Contact				
Agent	N/A	Contact					
Legal DescriptionParcel 010-2121-00030		Parcel 010-2121-00030					
Site Visit Date		June 30, 2021	Sign Notice Date		/Α		
Neighbor Letter Date N/A Nu		Number of Lette	Number of Letters Sent N/A				

Proposal:

Applicant is proposing to subdivide parcel into two lots.

Recommended Action:

Staff recommends approval.

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

Summary of Code Requirements

50-33.1 General: All subdivision plats and replats, and all registered land surveys, shall create lots, streets and walkways and open spaces consistent with the requirements of the zone district within which the land is located. 50-37.5, D 1. The planning commission shall approve the application if it determines that the application:

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

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

(c) If an existing structure on a lot complies with the requirements of this Chapter, then after the minor subdivision structures on each of the resulting lots will still comply with the requirements of this Chapter; and
 (d) If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any existing nonconformity between the requirements of this Chapter.

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

Governing Principle 12 – Create efficiencies in delivery of public service: allowing additional housing in existing neighborhoods allows for utilization of existing water, wastewater, stormwater, and transportation infrastructure.

Future Land Use – Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages ... includes many of Duluth's older neighborhoods, infill projects ... density of 4-8 units/acre.

History: The subject lot is part of the Hawthorne Division, platted in 2019 (PL 19-054).

Review and Discussion Items

- Applicant is proposing a division of a previously platted lot into two lots. Parcel A would have 14,379 square feet with 69.15 feet of frontage, and Parcel B would have 15,417 square feet with 69 feet of frontage. This proposal meets the UDC requirements in the R-1 district of a minimum area of 4,000 square feet and minimum lot frontage of 40 feet.
- 2. Frontage for both lots would be provided on Hawthorne Street.
- 3. No structures exist on the lot, so this proposal would not result in any nonconforming structures.
- 4. No public, agency, or other City comments were received.
- 5. The attached exhibit demonstrates compliance with Minnesota statutes 462.358 and 505 or 508, as applicable.
- 6. Approval of this Minor Subdivision signifies that City of Duluth UDC standards are met. St. Louis County may have additional requirements. This subdivision approval lapses if deeds are not recorded with St. Louis County within 180 days. Applicant must provide the City with proof of recording.

Staff Recommendation

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

1) Appropriate deeds be filed with St. Louis County within 180 days. Prior to recording the deed that results from this adjustment, the Planning Division will need to stamp the deed, indicating compliance with the local zoning code.

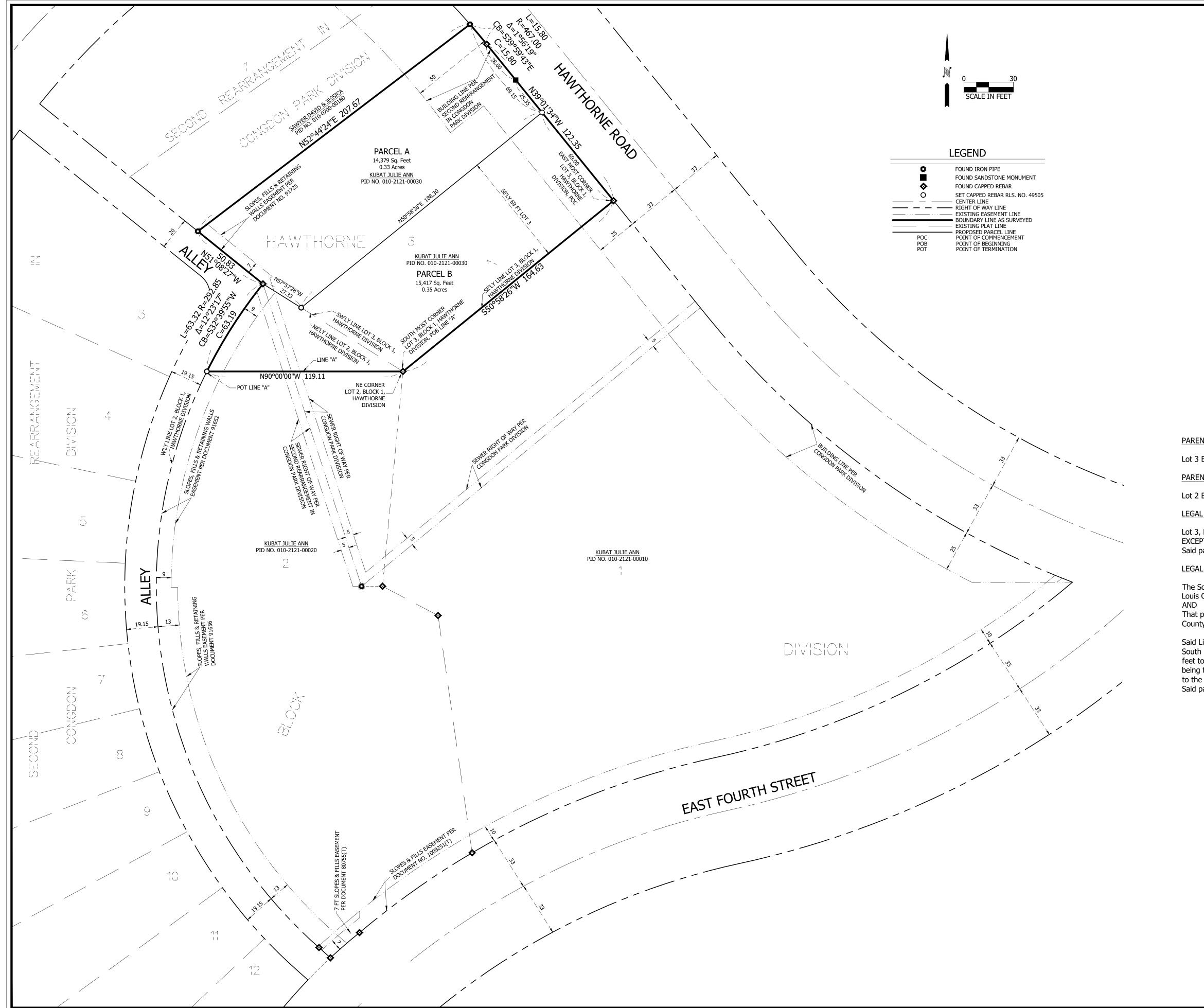
2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.





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.







XXX N HAWTHORNE ROAD DULUTH, MN 55812

VICINITY MAP

PARENT LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 349874

Lot 3 Block 1 HAWTHORNE DIVISION

PARENT LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 349873

Lot 2 Block 1 HAWTHORNE DIVISION

LEGAL DESCRIPTION OF PARCEL A

Lot 3, Block 1, HAWTHORNE DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota, EXCEPT the Southeasterly 69.00 feet thereof. Said parcel contains 14,379 square feet or 0.33 acres.

LEGAL DESCRIPTION OF PARCEL B

The Southeasterly 69.00 feet of Lot 3, Block 1, HAWTHORNE DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota.

That part of Lot 2, Block 1, HAWTHORNE DIVISION, according to the recorded plat thereof, St. Louis County, Minnesota lying Northerly of the following described Line "A":

Said Line "A" commencing at the East most corner of said Lot 3; thence on an assumed bearing of South 50 degrees 58 minutes 26 seconds West, along the Southeasterly line of said Lot 3 for a distance of 164.63 feet to the South most corner of said Lot 3, said point also being the Northeast corner of said Lot 2, said point being the point of beginning of said Line "A"; thence North 90 degrees 00 minutes 00 seconds West 119.11 feet to the Westerly line of said Lot 2 and there terminating. Said parcel contains 15,417 square feet or 0.35 acres.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.	CERTIFICATE		
	CLIENT:JULIE ANN KUBAT	REVISIONS:	LAND SURVEY COMPANY
Datid R. Evanson	ADDRESS:XXX N HAWTHORNE ROAD DULUTH, MN 55812	-	PHONE: 218-727-5211 LICENSED IN MN & WI WWW. ALTALANDSURVEYDULUTH.COM
	DATE:06-01-2021 10B NO:21-071	SHEET 1 OF 1	



Planning & Development Division

Planning & Economic Development Department

218-730-5580

🖂 plan

oplanning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 20-101		Contact	Contact Steve		n Robertson	
Туре	Special Use Permit		Planning	Planning Commission Date		July 13, 2021	
Deadline	Application Date		June 11, 2021 60 Da		60 Days	August 10, 2021	
for Action	Date Ex	Date Extension Letter MailedJune 21, 2021		120 Days	October 9, 2021		
Location of Subject 3512 Riley Road			÷				
Applicant	Minnesc	Ainnesota Power Contact On file					
Agent	Daniel M	Daniel McCourtney Conta			n file		
Legal Descrip	otion	See Attached Map					
Site Visit DateJune 27, 2021Sign Notice Date			June 28, 2021				
Neighbor Letter Date June 25, 2021		Number of Letters Sent		10			

Proposal

The applicant is proposing to build a 1.6 megawatt solar facility in the City of Duluth near Riley Road and Jean Duluth Road. The proposal for a solar facility requires a Special Use Permit.

Staff Recommendation

Staff recommends approval of the Special Use Permit, with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	P-1	City Land	Open Space
North	City of Rice Lake	Residential	City of Rice Lake
South	P-1/RR-1	Recreation	Open Space / Rural Residential
East	RR-1 / City of Rice Lake	Residential	Rural Residential / City of Rice Lake
West	City of Rice Lake	Residential	City of Rice Lake

Summary of Code Requirements

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

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

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

Governing Principles

The following Imagine Duluth 2035 Governing Principles should be considered when reviewing the request:

Governing Principle #4 - Support emerging economic growth sectors

Emerging and growing economic sectors add economic, cultural, and social diversity. These include higher education, medical, value-added manufacturing, commercial outdoor recreation, historic resources interpretation, arts and music, information technology and visitor services. Encourage and foster locally owned and entrepreneurial ventures to enhance the economic base.

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

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

Principle #10 - Take sustainable actions

Initiate land use, site design, transportation, building design, and materials policies which reduce consumption of finite resources, generation of solid waste, and introduction of toxic materials to land, air, or waters. Also implement resiliency in design and operation with City systems and infrastructure that serve both public and private land uses

Future Land Use

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

Site History or Previous Studies

On May 24, 2021, the City Council approved (21-0361R) a 40 year lease of this property for \$4,760 per year to RendField Land Company, a subsidiary of Allete, Inc.

On December 14, 2020, the City Council approved an ordinance change to the UDC to allow solar facilities as a special use in the P-1 zone district.

There are several small to moderate sized solar systems in Duluth: UMD has a 50 kw system at the HCAMS building, St Louis County's Government Service Center has three 10 kw arrays, Canal Park has a 45 kw, Lincoln Park Solar Garden has a 40 kw system, and the Rice Lake Road/Arrowhead Site has a 40 kilowatt array.

According to the Mn Solar App (<u>https://solar.maps.umn.edu/app/</u>) and UMD/Duluth Shines (<u>https://maps.umn.edu/DuluthShines/</u>) this site has a high suitability for solar generation.

Review and Discussion Items:

1) The applicant is proposing to build a 1.6 megawatt solar facility in the City of Duluth, on a 9.5 acre site owned by the City of Duluth. The application, exhibits, construction drawings, and storm water plans exceed 500 pages, and only a small portion of the application documents were included with the staff report.

2) Sec 50-17.4 (Park and Open Space). The P-1 district is intended to protect and reserve lands for recreational, scenic and natural resource uses. It is intended to be applied to publicly owned land but may be applied to private property with the landowner's written consent. Both passive recreational (e.g., walking paths, picnic tables) and active recreational (e.g., playgrounds, ball fields, tennis courts) uses may be permitted. A solar facility is considered a special use in the P-1 district.

3) Sec 50-18.1.B (Wetlands). A wetland delineation was completed on this site (PL 20-150). The proposed facility has been designed to avoid most wetland impacts, but about 3,000 square feet of wetlands will be impacted to allow for access and for construction of footings for the facility.

4) Sec. 50-23 (Connectivity). Not applicable to this project. The project will have one curb cut onto Riley Road, and one internal circulation driveway.

5) Sec 50-24 (Parking and Loading). Not applicable to this project. No off-street parking spaces will be provided.

6) Sec. 50-25.5 (Landscaping between differing land uses). Not applicable to this project.

7) Sec. 50-26 (Screening, Walls and Fences). A six-foot tall fence, with a one-foot barbed wire extension, is proposed, around the entire perimeter of the site. Barbed wire is not allowed except in case of national security.

8) Sec. 50-27 (Signs). No signage is proposed.

9) Sec. 50-28 (Stormwater Drainage and Erosion Control). The applicant has submitted an extensive stormwater control plan for City review.

10) Sec. 50-29 (Sustainability Standards). Not applicable to this project.

11) Sec. 50-30 (Building Design Standards). These requirements do not apply for this project.

12) Sec. 50-31 (Exterior Lighting). There is no proposed exterior lighting.

13) The proposed solar facility will allow for pervious spaces, grasses, and plants at ground level.

14) Two citizen comments were received related to the impact of this project.

15) UDC 50-37.1.N. states that an approved Special Use Permit will expire 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 Special Use Permit, subject to the following conditions:

1) The project must be limited to, constructed, and maintained according to the Site Plan and Canopy Coverage Plan submitted with the special use permit application.

2) Proposed fencing revised to exclude barbed wire fencing, and comply with the UDC standards on fencing.

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

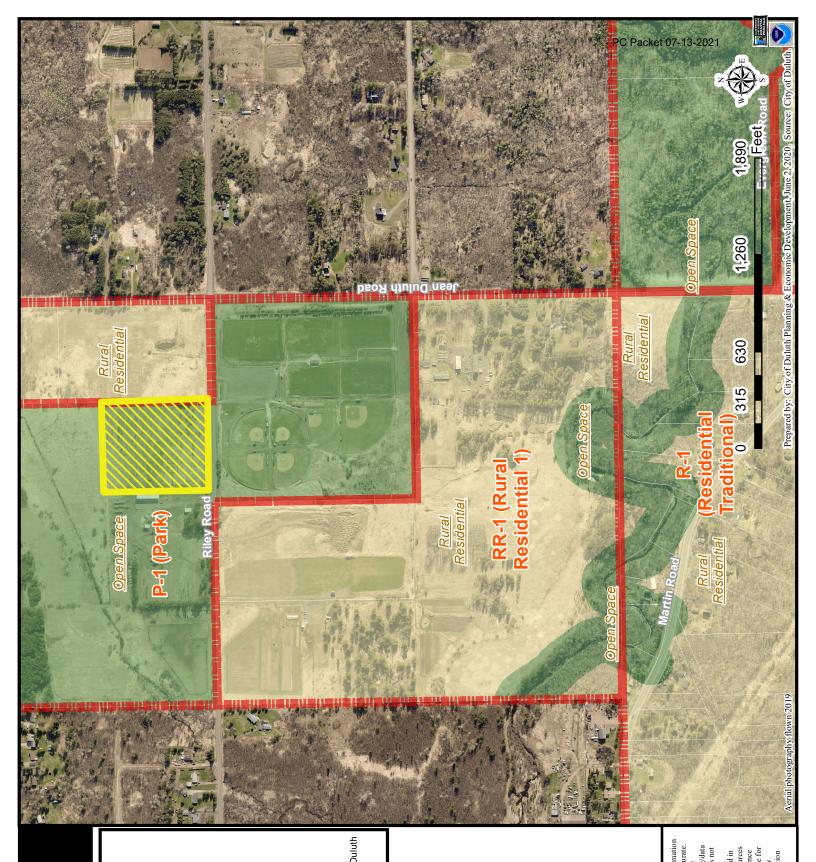


Transportation and Utilities Transportation and Utilities/Outside Duluth Medical District Tourism/Entertainment District Open Space Open Space/Outside Duluth Central Business Secondary Low-density Neighborhood Neighborhood Commercial raditional Neighborhood Central Business Primary Neighborhood Mixed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

Institutional



The Construction of the strict of the ensure that the information constant in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee ensigning the accuracy or trainbulity. This dawning/data is number a legally recorded map nor a survey and is not inteffed to be used as one. The drawing/data is a propletion 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 damages in connection with the use of this information contained within.

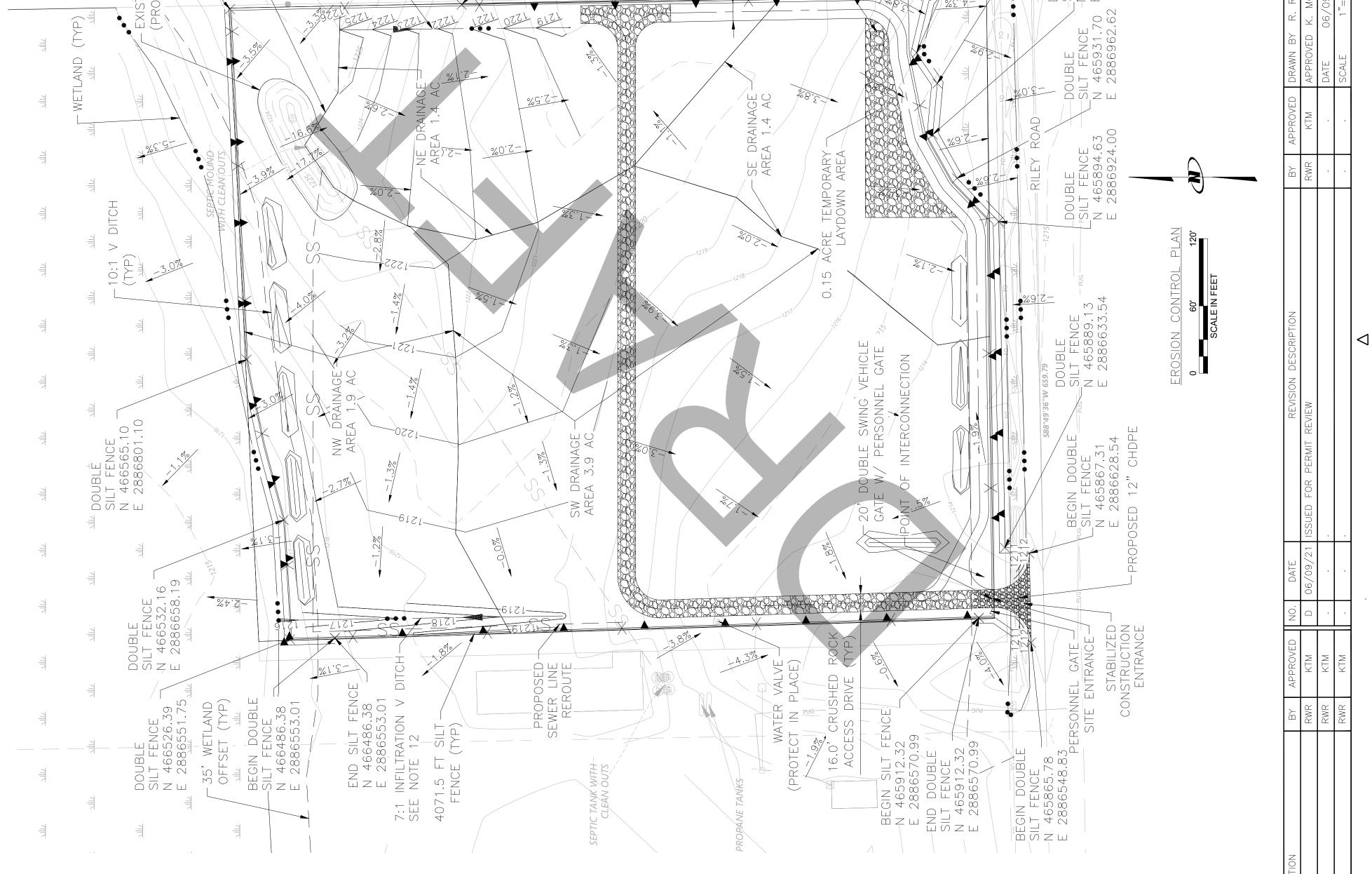




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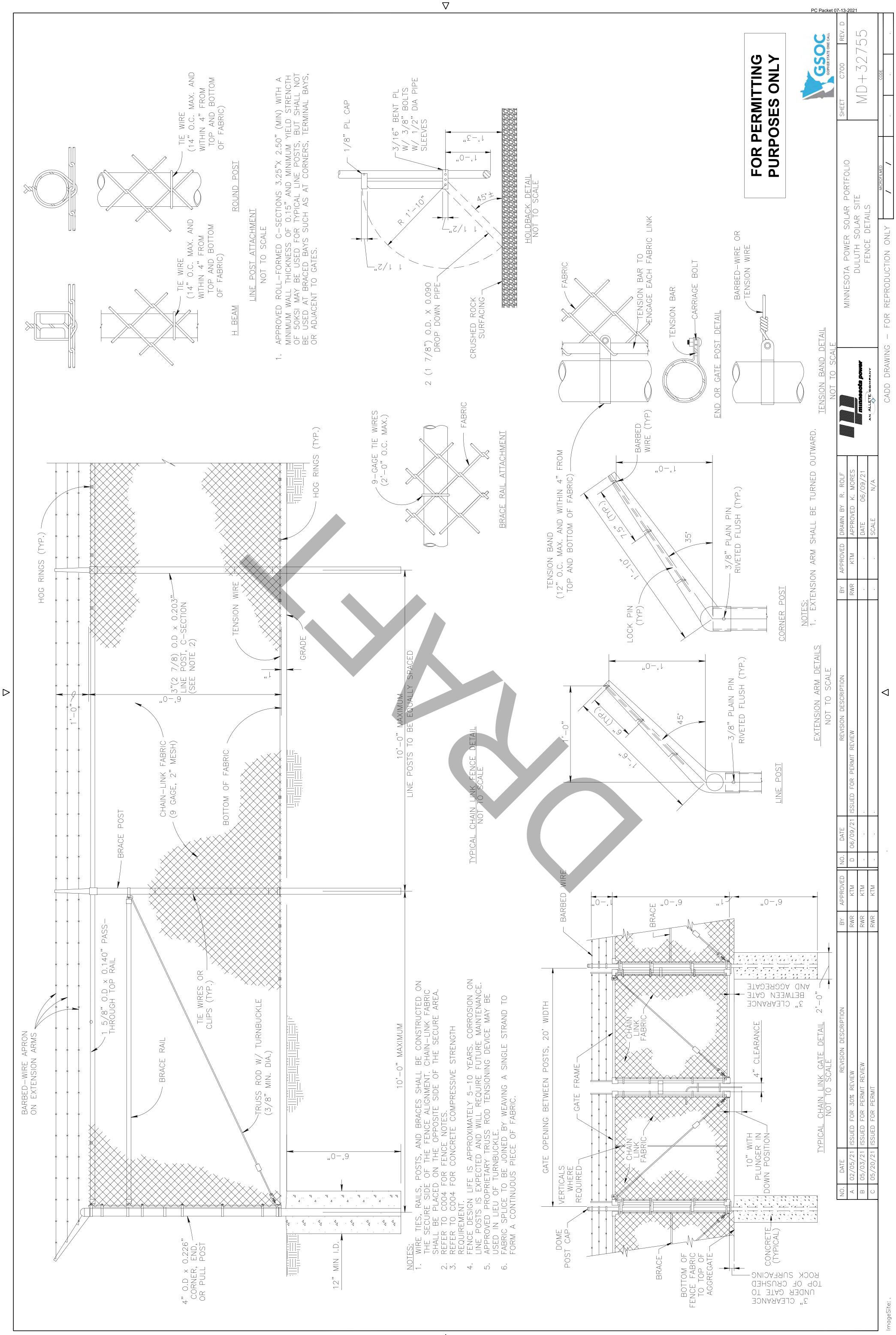
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PC Packet 07-13-2021



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NOTE:



City of Duluth Special Use Permit Application

Introduction

Minnesota Power is proposing to construct a 1.6 megawatt solar installation located at 3525 Riley Road, Duluth, MN (the Project). This use is subject to approval by the City of Duluth via a Special Use Permit. A Project location and layout is included as Figure 1 in Minnesota Power's Special Use Permit Application materials. The following constitutes Minnesota Powers review of the City of Duluth's 12 Guiding Principles and Community Impact Statement as it relates to the proposed Project.

City of Duluth 12 Guiding Principals

Principle #1 - Reuse previously developed lands

The proposed Project is located on previously disturbed land that is currently owned by the City of Duluth and is being used as a maintenance yard.

Principle #2 - Declare the necessity and secure the future of undeveloped places.

The proposed Project has been intentionally located away from previously undisturbed areas and collocated adjacent an existing City of Duluth maintenance facility.

Principle #3 - Support traditional economic base

The proposed Project will support Duluth traditional economic base by providing clean, renewable energy for the local electric grid to be used by both residential and business customers.

Principle #4 - Support emerging economic growth sectors

Renewable energy generation is a large emerging economic growth sector both locally and regionally. The proposed Project will increase the City of Duluth and the region's renewable energy capabilities.

Principle #5 - Strengthen neighborhoods

The proposed Project's location will not impact the rural nature of the area and is located adjacent to City owned facilities. As a result, the proposed Project is not anticipated to negatively impact any neighborhoods and is consistent with the surrounding area use.

Principle #6 - Reinforce the place-specific

The proposed Project will contribute to the community by providing clean, renewable energy for the residents and businesses of Duluth. In addition, it the Project is compatible with the local land use patterns and will contribute to Duluth's values of sustainability and environmental stewardship.

Principle #7 - Create and maintain connectivity

The proposed Project's location will not impact any commercial, public or recreational travel corridors. In addition, the proposed Project will not impact local traffic/use patterns.



AN ALLETE COMPANY

City of Duluth Special Use Permit Application

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

The proposed Project is a unique land use for the City of Duluth and will support all manner of both residential and business needs.

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

The general public will benefit from the availability of clean, renewable energy that is generated within the City of Duluth. In addition, the proposed Project will bolster the reliability of the regions electric grid contributing to both public and private entities.

Principle #10 - Take sustainable actions

The proposed Project has been designed to avoid wetland and waterway impacts. In addition, the Project will generate renewable carbon-free electricity in a long term sustainable manner.

Principle #11 - Include consideration for education systems in land use actions No negative impacts to the City of Duluth's education systems are expected from the proposed Project.

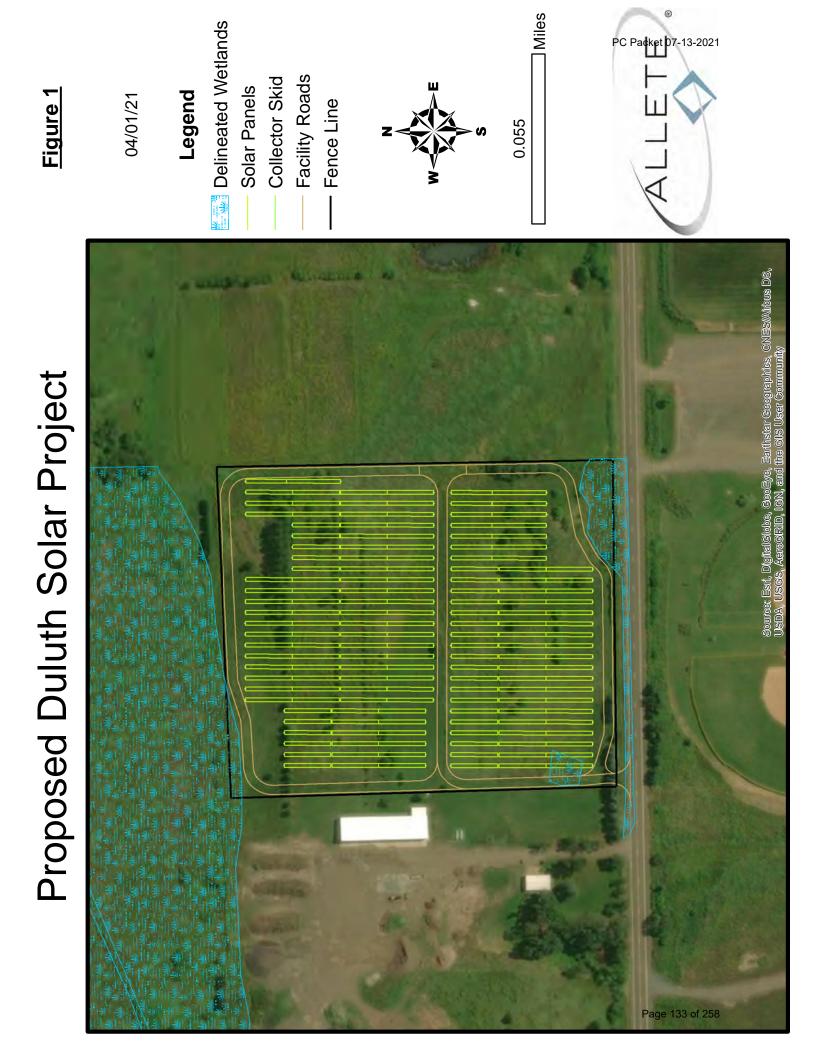
Principle #12 - Create efficiencies in delivery of public services

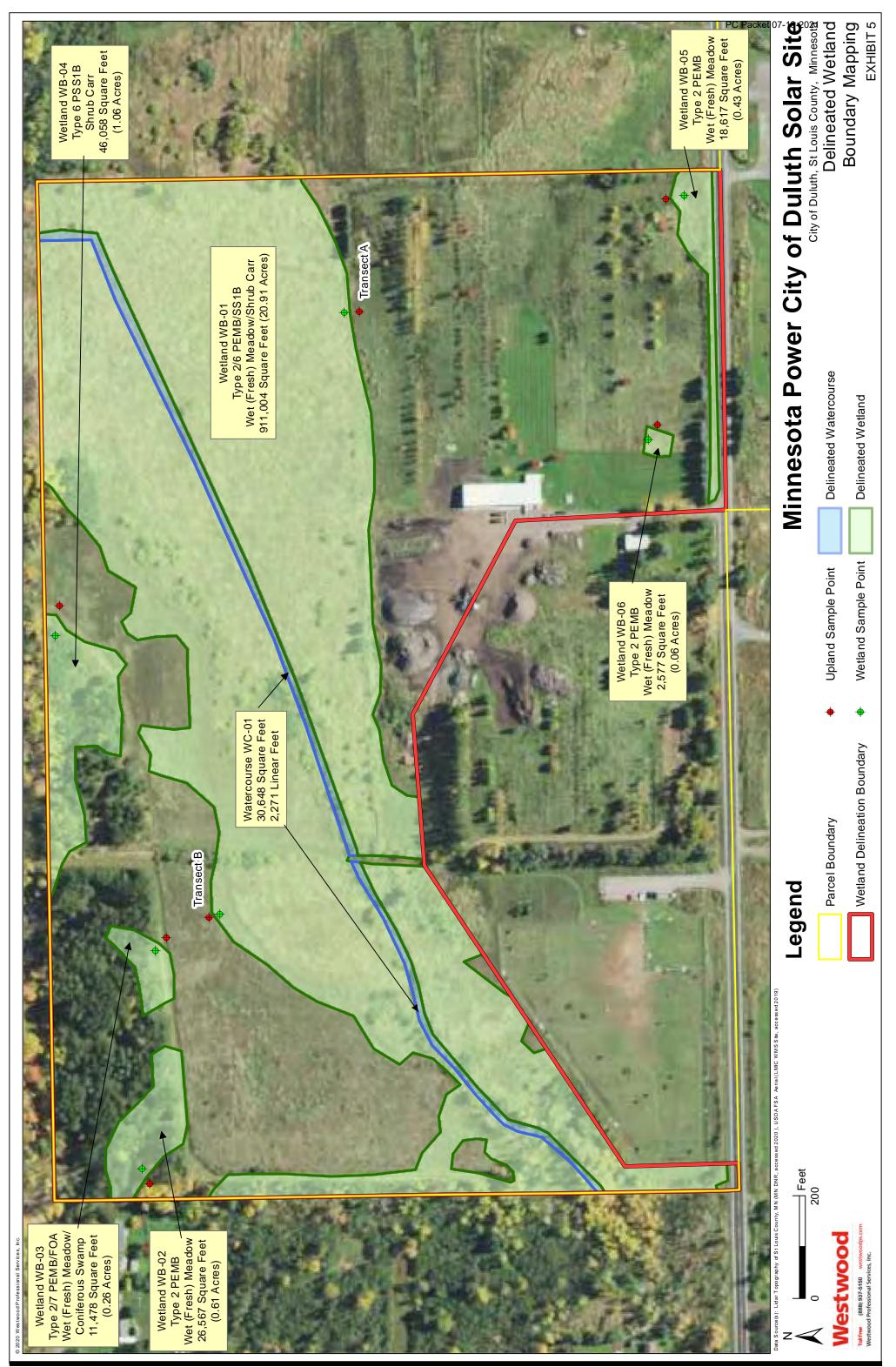
The existing infrastructure can accommodate the construction of the proposed Project. Once the Project is operational, very little traffic and demands on public infrastructure are expected.

Community Impact Statement

The proposed Project is located 3525 Riley Road. This location is strategic in the since that it is located immediately adjacent to a City of Duluth Maintenance facility on a parcel of land that was previously disturbed and it now unused/fallow. There are no other homes or business immediately adjacent to the proposed Project site and the infrastructure used to access the project site will not be impacted by this proposed use. As outlined in the City of Duluth's 12 Guiding Principles, the proposed Project would be a community asset represent a public and private partnership that would advance several of the City of Duluth's ideals including economic growth, sustainability and environmental stewardship.

For these reasons, Minnesota Power is requesting approval of a Special Use Permit from the City of Duluth to construct the proposed Project.





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2.0 INTRODUCTION

Burns & McDonnell Engineering Company Inc. is performing the engineering design on a solar development in Duluth, Minnesota. The purpose of this drainage study is to evaluate the existing conditions of the solar site as well as the impact of construction on the Duluth Solar Project (Project).

2.1 Modeling Software

The hydrologic modeling software used was HydroCAD modeling system, Version 6.1 (1). HydroCAD is a computer-aided design (CAD) program used for modeling the hydrology and hydraulics (H&H) of stormwater runoff. This program provides a wide range of new data export options such as exporting data for individual nodes and exporting data for an entire project.

2.2 **Project Location**

The Project site consists of approximately 8.55-acres in the city of Duluth, Minnesota. It lies near the Northwest corner of Riley Road and Jean Duluth Road, approximately 600 feet west of Jean Duluth Road. See Figure 1-1 for approximate location of site. The site is also located south of an auxiliary creek that flows into Amity Creek which then flows west into Lake Superior. The small unnamed creek near the site was not considered to be potential flooding sources that could affect the Project footprint.



Figure 2-1: Project Location

The project is located in the Lake Superior – South Watershed (2). The South Watershed covers over 400,000 acres west of Lake Superior. The subsurface geology includes bedrock, glacial till complexes

and erodible lake-laid clay soils. This geology has allowed for large mountains and ridges sloping toward Lake Superior to form in the region. Streams and lakes are common in the watershed and most have exceptional water quality. The land use in the watershed includes a mix of urban, commercial, resort and rural residential. Urbanization can be found in the southwestern part of the watershed in the city of Duluth and towns of Two Harbors, Beaver Bay and outskirts of Silver Bay.

2.3 Site Conditions Summary

2.3.1 Surface Types

The site is currently a densely grassed meadow with small, scattered trees. There are no impervious surfaces on the site. The proposed construction will add impervious surfaces in the form of solar panels, service roads and an inverter pad. The impervious area due to the solar panels considers the disconnected impervious credit method using the Minnesota Pollution Control Agency's (MPCA) Volume Credit to Solar Projects' guidance (3). Table 1-1 shows the calculated amount of impervious area to be treated post-construction.

	Meadow (acres)	Paved Roads/Areas (acres)	Solar Panel Area to be Treated ₁ (acres)	Total Area	% Impervious to be Treated ₁
Pre-Construction	8.55	0.00	0.00	8.55	0.00%
Post-Construction	7.38	0.38	0.79	8.55	14%

Table 1-1: Pre and Post Project Surface Area Types

Note:

1) For impervious area calculations, the adjusted impervious area for solar panels using the MPCA solar calculator tool was used. These calculations can be seen in Appendix I.

2.3.2 Precipitation

Rainfall depths were obtained from the City of Duluth Engineering Guidelines, Section D Stormwater (4) for the rainfall depths of 2-year, 10-year, and 100-year, 24-hour storms in Duluth, Minnesota. The provided values shown in Table 1-2 were used as parameters in hydrologic studies conducted for both pre-construction and post-construction conditions.

Recurrence Interval (years)	24-hour Rainfall Depth (inches)
2-yr	2.7
10-yr	4.0
100-yr	6.4
100-yr, 10-day	8.1 (snowmelt)

Table 1-2: Rainfall Frequencies

2.3.3 Runoff Rate and Volume Control

Runoff is defined as stormwater or snow melt that flows over the land and is not infiltrated into the ground. It is measured using local rainfall intensity and depths, runoff curve numbers, land use, and soil types. These characteristics help to determine the amount of runoff that reach and leave the project site, as well as the time it takes for runoff to reach and leave the project site. The pre-construction and post-construction peak runoff rates and peak runoff volumes are shown below in Table 1-3 and Table 1-4, respectively. The post project values reflect the use of various Best Management Practices (BMP) across the site to reduce rates and volumes. All runoff rates were decreased by at least 10% as required by the City of Duluth Unified Development Code, Section 50-28 (UDC) (5). Additionally, the Project meets UDC requirements to maintain pre-construction peak runoff volumes.

Rainfall	Pre-Construction Peak	Post-Construction Peak	
Event	Runoff Rate (cfs)	Runoff Rate (cfs)	% Change
2-yr	0.470	0.410	-13%
10-yr	3.790	2.110	-45%
100-yr	14.910	11.200	-25%

Table 1-3: Peak Runoff Rates

Rainfall	Pre-Construction Peak	Post-Construction Peak	
Event	Runoff Volume (af)	Runoff Volume (af)	% Change
2-yr	0.131	0.092	-30%
10-yr	0.474	0.416	-13%
100-yr	1.433	1.433	-0%

Table 1-4: Peak Runoff Volumes

2.3.4 Soils

Existing site soil information was determined from an on-site geotechnical evaluation performed by Braun Intertec in October 2020 (6). Hydrologic soil group B was specified by the geotechnical report for the watersheds encompassing the Project site, indicating that soils have moderately low runoff potential when saturated. The soil type on the project site and adjacent areas was determined by the geotechnical report to be mostly silt. The geotechnical report for the Project area can be found in Appendix H.

2.3.5 Statement of Performance

The project meets the requirements of the UDC Section 50-28 and the City of Duluth Engineering Guidelines Section D Stormwater (5) (4). For all design storms, there is at least a 10% reduction in peak runoff rates. Post-construction peak runoff volumes remain less than or equal to existing volumes. The proposed infiltration v-ditches allow for water quality and low water temperatures to be maintained.

3.0 PROJECT NARRATIVE

The Project is planned to be an approximate 1.60-MW photovoltaic (PV) power plant. In addition to PV arrays, the development will include an inverter pad, compacted native soil access drive around the perimeter of the project and an access drive corridor through the project. The estimated start date for this project is August 31, 2021 and the estimated completion date for the project is June 29, 2022. The site will be cleared of trees, stumps, and debris within the limits of grading as needed to accommodate the proposed layout. Construction of BMPs, new access road, fences and minor grading will proceed after the site is cleared of trees and brush. The installation of solar panels will include subgrade preparation for foundations, removing vegetation root mass, pouring foundation and backfilling. Once the panels are installed, restoration efforts will ensue. Restoration efforts include the installation of permanent stormwater management features, landscaping, reseeding and the installation of infiltration v-ditches.

4.0 PRE-CONSTRUCTION CONDITIONS

4.1 Surface Types

The site is currently 8.55-acres of undeveloped pervious area. There is dense grass throughout the site as well as small, scattered trees, with no impervious area on the site. The area is relatively flat with about 5 feet of elevation change across the 600-foot-long site. Slopes found on the site are typically between 1% and 4%. The site was delineated into four watersheds. The watershed delineations can be seen in Appendix A. Surface area types for each catchment area are given in Table 4-1.

Steven Robertson

From:	Chris Laumeyer
Sent:	Wednesday, June 23, 2021 4:54 PM
То:	Steven Robertson
Subject:	Fw: Riley Rd Solar Farm

We own the 20 acres of raw land at 3509 Riley Rd, literally right next to the proposed solar farm site of 3512 Riley Rd. 3509 Riley Rd is owned by our company, Edgewild Farms LLC. We are struggling to develop the organic farm which would greatly serve a need to the surrounding community providing sustainable environmentally friendly agriculture in the community. This service is in direct line with Universal Building Code strategic plan of the City of Duluth (promoting agriculture in the city).

Even though solar energy is also promoted by the UBC (in the same sentence as agriculture), we can not support a solar farm on the lot next to ours and sadly will need to vehemently oppose it. Aside from the fact that a 1.6 Megawatt solar farm will radically reduce the value of our lot and all but eliminate our lot being realistically considered as "Rural Residential" by anyone (who would build a residential home within a few hundred feet of a 1.6 Megawatt solar farm? No one.), a key reason for our reluctant but vehement opposition to the solar farm is because the city appears to be willing to give a large conglomerate (MN Power) a special use permit to build a 1.6 Megawatt Solar Farm but at the same time is insisting that were we to erect a non-permanent hoop house like this,

https://www.growerssupply.com/wcsstore/EngineeringServices/allbizunits/prodimages/zoom/1x/105158a.jp

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We could only do so after applying for a permanent structure building permit as well as possibly having to pay for a structural engineer, architect and a land surveyor (hoop house would be easily 100" inside any required setback). Edgewild Farms LLC has been awarded a federal grant through the USDA for a hoop house.

Therefore the disparity in allowing a 1.6 Megawatt power station on one lot and classifying the above nonpermanent structure as a permanent building with all of the requirements therein at an organic farm on the very next lot is shocking and disturbingly lopsided.

We can't see how we could even avoid publicizing this or how we wouldn't view this as anything other than allow a conglomerate to do what they'd like but "pick on the little guy".

At this point I do plan on attending the 7.13.21 virtual meeting since we more than any other party literally have the most vested interest in voicing a concern and it only makes sense that we'd bring up the disparity on how MN Power and Edgewild Farms LLC respectively are apparently being treated.

Chris Laumeyer Edgewild Farms LLC <u>www.edgewildfarms.com</u>

Youtube Channel: Farming with Autism

Steven Robertson

From:	Chris Laumeyer
Sent:	Wednesday, June 23, 2021 6:28 PM
То:	Steven Robertson
Subject:	Water impact study completed for proposed solar farm?

Hello Steven:

Can you tell me if you know whether a water impact study has been completed for the proposed solar farm at 3512 Riley Rd?

Uncontrolled storm water runoff and erosion are well-documented byproducts of industrial-scale solar construction. This massive increase in watershed sedimentation impacts all downstream rivers and waterways. Water contamination doesn't stop with the end of construction. Removal of all trees and deep-rooted plants, along with inadequate stormwater controls lead to runoff, erosion and water contamination issues. These power plants should not be sited on agricultural land, near wetlands and waterways and away from residents whose groundwater and environment could be damaged.

Chris Laumeyer Owner of 3509 Riley Rd



Planning & Development Division

Planning & Economic Development Department

ion () 218

planning@duluthmn.gov

218-730-5580

Room 160 411 West First Street Duluth, Minnesota 55802

File Number PL 21-0		82	Contact Chris Lee		e, clee@duluthmn.gov	
Type Minor Subdivision		ubdivision	Planning Commission Date			July 13, 2021
Deadline	Application Date		June 1, 202	1	60 Days	July 31, 2021
for Action	Date Ex	tension Letter Mailed	June 16, 20	21	120 Day	/s September 29, 2021
Location of Subject		2400 East Superior Street				
Applicant	Duluth V	Voman's Club	an's Club Contact ^{On file}			
Agent Ellie Dryer		Contact	On file			
Legal Description		LOTS 1,2,3 AND 4 AND NLY 23 FT OF LOTS 13 AND 14 AND ALL OF LOT 15 EX THAT PART OF ELY 12 FT MORE THAN 23 FT DISTANT FROM NLY LINE AND ALL OF LOT 16 INC VAC AVE ADJ LOTS 1 AND 16 OF BLOCK 19 OF HARRISONS DIVISION OF DULUTH				
Site Visit Date		June 16, 2021	Sign Notice Date N/A		N/A	
Neighbor Letter Date		N/A	Number of Letters Sent N//		N/A	

Proposal

Applicant is requesting a Minor Subdivision to divide one platted lot into two lots. The current parcel is approximately 47,388 square feet and the division will create two lots. Parcel A will be approximately 33,369 square feet and Parcel B will be approximately 14,019 square feet.

Recommended Action: Approval with conditions.

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

Summary of Code Requirements

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

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

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

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

(c) If an existing structure on a lot complies with the requirements of this Chapter, then after the minor subdivision structures on each of the resulting lots will still comply with the requirements of this Chapter; and ^{141 of 258}

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

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 6,000 square foot clubhouse built in 1906 currently housing The Duluth Woman's Club. The underlying plat is "Harrisons Division"; the existing tax parcel consists of six platted lots with frontage on East Superior Street.

Review and Discussion Items

- 1. Applicant is requesting a Minor Subdivision to divide a single lot into two lots. Both parcels will have frontage on East Superior Street.
- 2. The clubhouse will remain on parcel A and this subdivision will not create a non-conforming structure. No other structures exist on the parcels.
- 3. The Applicant intends to sell the newly created lot, which will have frontage and access off of Superior Street. The lot may retained as a vacant site, or may provide as a site for development of new housing.
- 4. Both parcels are zoned R-1, which has a minimum lot size of 4,000 square feet and have the required street frontage along East Superior Street. The proposed subdivision, if approved, would not make the parcels non-conforming due to lot frontage, lot area, or similar bulk standard.
- 5. No public, agency, or 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



Legend Gas Main

Water Main > Hydrant

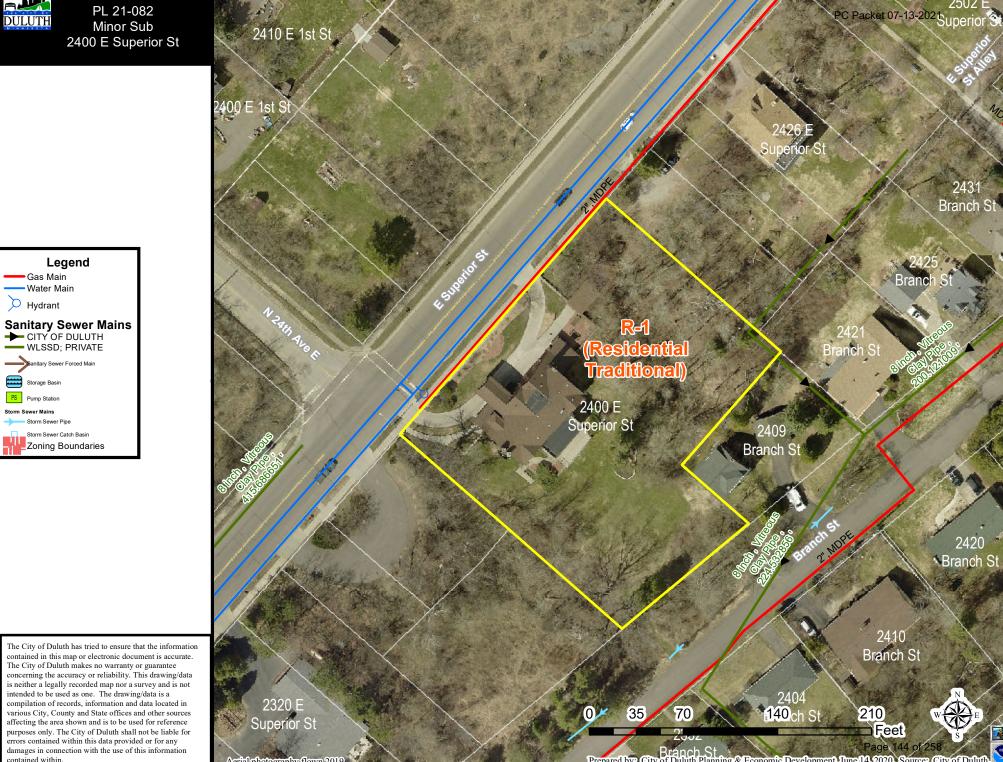
Storage Basin PS Pump Station

Storm Sewer Catch Basin

Storm Sewer Mains Storm Sewer Pipe

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PL 21-082 Minor Sub 2400 E Superior St

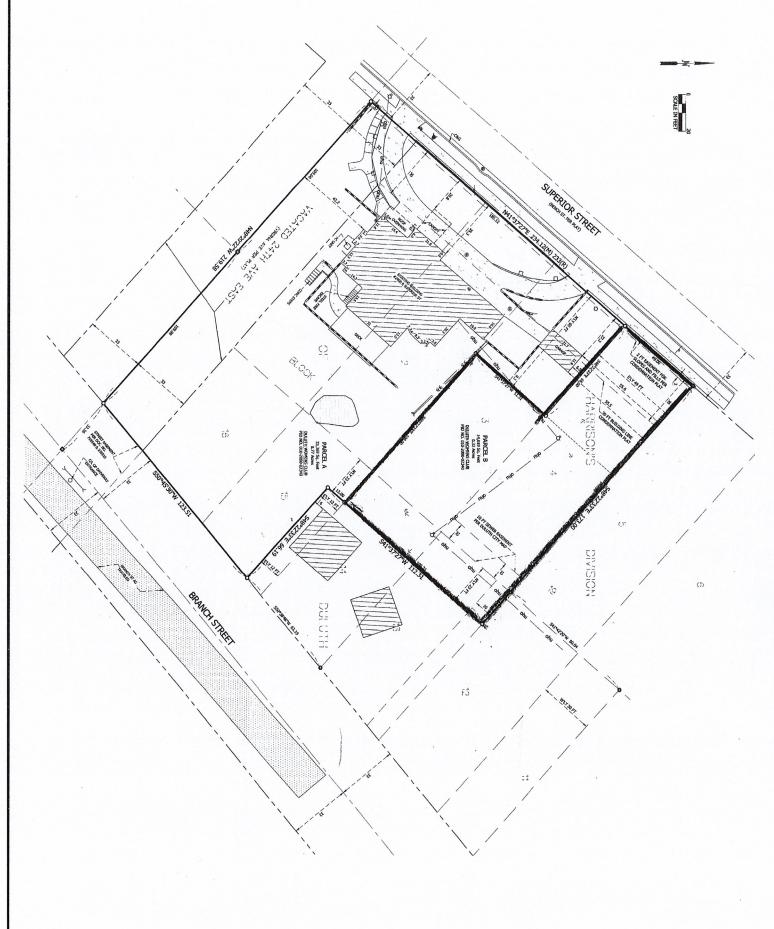


contained within.

Aerial photography flown 2019

Prepared by: City of Duluth Planning & Economic Development, June 14, 2020, Source: City of Duluth

2502





Planning & Development Division

Planning & Economic Development Department

Room 160 411 West First Street Duluth, Minnesota 55802 218-730-5580

planning@duluthmn.gov

PL 21-093 jkelley, jkelley@duluthmn.gov File Number Contact Special Use Permit – High School July 13, 2021 Type **Planning Commission Date** June 8, 2021 August 7, 2021 60 Days Application Date Deadline for Action June 16, 2021 October 6, 2021 **Date Extension Letter Mailed** 120 Days 1 West Chisholm Street Location of Subject 1 West Chisholm Street St. John The Evangelist Church Applicant Contact Bob Lisi St. John The Evangelist Church Agent Contact PID 010-0650-00740 and 010-2020-00110 **Legal Description** June 23, 2021 June 29, 2021 Site Visit Date **Sign Notice Date** June 18, 2021 43 **Neighbor Letter Date Number of Letters Sent**

Proposal

Applicant proposes to operate a high school, grades 9 through 12, at the existing St. John's Campus located in the Woodland neighborhood. The special use permit is needed to operate the high school in the R-1 Zoning District. A middle school is already operating in this location, with 107 students. No building expansions or additions are necessary for the proposed high school.

Recommended Action: Approve with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	School	Urban Residential
North	R-1	Residential	Urban Residential/Institutional
South	R-1	School - Church	Traditional Neighborhood
East	R-1	Residential	Urban Residential/Traditional
West	R-1	Residential	Urban Residential

Summary of Code Requirements

Sec. 50-37.10 – Special Use Permits: Planning Commission shall approve the application or approve it with modifications, if it is determined that the application meets the following criteria:

1. The application is consistent with the Comprehensive Land Use Plan;

2. The application complies with all applicable provisions of this Chapter; including without limitations to any use-specific standards applicable to the proposed use, development or redevelopment, and is consistent with any approved district plan for the area.

3. Without limiting the previous criteria, the Commission may deny any application that would result in a random pattern of development with little contiguity to existing or programmed development or would cause anticipated negative fise all or

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

Governing Principle #1 – Reuse previously developed lands. Supporting expansion in an existing location is preferable to choosing greenfield sites.

Governing Principle #8 – Encourage a mix of activities, uses, and densities. Cities have evolved as a mix of land use, building types, and housing types. Supporting this existing residential care facilities contributes to this mix in

Governing Principle #11 - Consider education systems in land use actions. There is a connection between land use patterns and all level of educational facilities. School locations and housing opportunities for students and families require consideration of impacts on transportation and infrastructure systems, housing densities, parking, and non-student uses.

Zoning – Residential-Traditional (R-1): Established to accommodate traditional neighborhoods of single-family residences, duplexes and townhouses on moderately sized lots. Intended to be used primarily in established neighborhoods.

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

Institutional: Applicable to university and college and public school campuses, large religious facilities or governmental campuses, cemeteries, etc. Applies primarily to existing facilities

History: The school facility has been used to educate students since 1926, at times through 8th grade but more recently serving Pre-Kindergarten through 6th grade students.

The facility was expanded in 2011 to physically connect the existing school to the adjacent St. John's Church. The expansion included many interior and exterior improvements.

The Planning Commission approved a Special Use Permit (PL 17-102) for middle school use in 2017.

Review and Discussion Items

Staff finds that:

- Applicant is requesting a special use permit to allow St. John's Campus to operate a Catholic high school for grades 9 through 12th grade students. The school's goal is to have 240 students enrolled inclusive of the middle school students. There are currently 107 students attending 5th through 8th grade. The high school hours of operation have not been finalized. The middle school hours are 7:40 am to 2:10 pm and office hours for school operations are 7:00 am to 4:00 pm. The applicant is proposing to add an additional 24 space parking area east of the existing gym along Woodland Avenue.
- 2. An elementary school is a permitted use in the R-1 district. A high school requires a special use permit to operate in an R-1 district.
- 3. The use as a high school along with the existing middle school use will not alter the essential character of the neighborhood, which includes a variety of uses including single-family homes and commercial uses. The applicant has stated that vehicular traffic activity is projected to increase with the addition of high school grades to the current 5th through 8th grade programming.
- 4. The school facility does not intend to make any major interior or exterior improvements to the building and/or grounds other than the proposed parking lot expansion.
- 5. UDC Sec. 50-20.2 (Use Specific Standards). In the R-1 district each property boundary with a lot occupied by a residential use shall be buffered with a dense urban screen. The school property does have one adjacent lot to the east occupied by a residential use. However the existing home and garage will be removed for the proposed 24 space parking area. Based on the intent of the special use permit to establish a high school within an existing school, staff does not believe a dense urban screen is required. The school will utilize the existing bus and parent drop off zone for high school students.

6. UDC Sec. 50-24 (Parking and Loading): The UDC requires parking for religious assembly and school use based on classroom, auditorium and assembly room area. The combined required parking spaces for religious assembly and classroom use is 98 spaces. A 30% reduction in the minimum parking space requirements has been applied as there is an active DTA bus stop within ¼ miles of the property, which is expected to be a transportation option for students. The reduced minimum spaces required is 69 and the maximum spaced allowed would be 147. There are 58 existing parking space and with the proposed 24 new parking space the total parking provided would be 82 spaces.

 UDCSec. 50-25 (Landscaping and Tree Preservation). The new parking area contains less than 25 spaces and therefore does not initiate parking lot or street frontage landscape requirements. However the minimum 30% tree canopy coverage is required and is shown on the site plan as being compliant with the shading requirements.
 UDC Sec. 50-26 (Screening, Walls and Fences). No improvements to the building or grounds are proposed at this

time. No screening is required.

9. UDC Sec. 50-29 (Sustainability Standards) and 50-30 (Building Design Standards). These requirements do not apply for this project.

- 10. UDCSec. 50-31 (Exterior Lighting). No additional lighting is being planned for this project.
- 11. No public or City Department comments were received at the time that this report was compiled.

Staff Recommendation

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

- 1) Plans submitted for construction with the project shall be evaluated and found to be consistent with this application;
- 2) Required landscaping and parking areas shall be completed prior to operation as a high school;
- The high school shall prohibit students from parking in adjacent residential areas not specifically designated on approved plans, or shall obtain an amendment to this Special Use Permit to provide for such areas if needed in the future;
- 4) A litter management plan for parking lots shall be submitted prior to issuance of the building permit;
- 5) Any additional exterior lighting proposed at a future date shall be compliant with the UDC;
- 6) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission review; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Staff Recommendation

Staff Recommendation

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

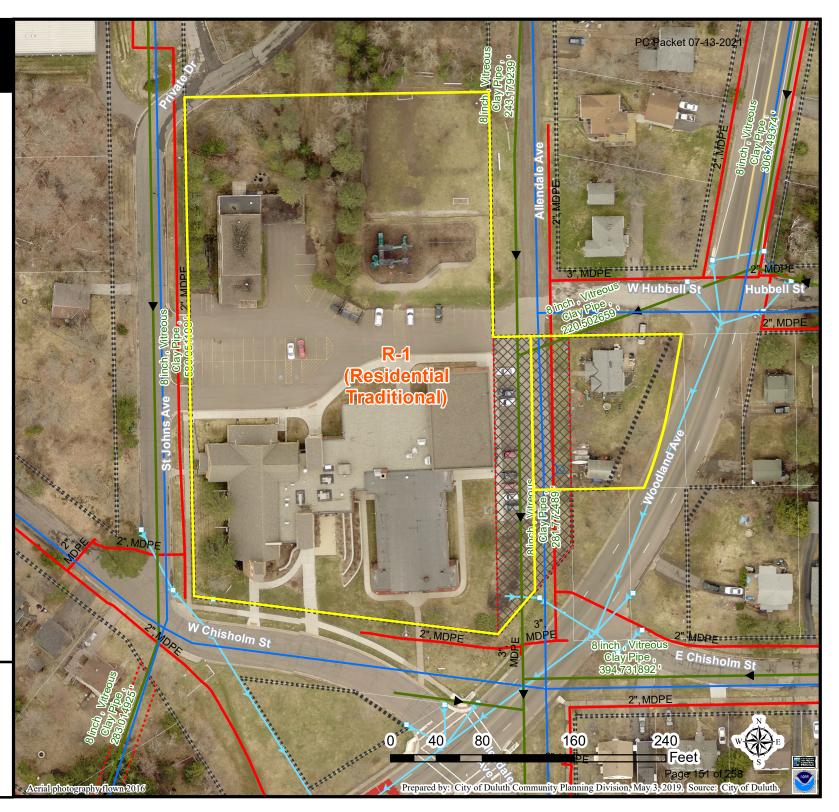
- 1) The project be limited, constructed, and maintained consistent with the sketch plan submitted with this application.
- 2) Existing vegetation along 20th Avenue W and abutting neighboring properties shall remain in place for buffering and landscaping purposes.
- 3) Exhibits indicating dumpster placement conforming to the UDC shall be provided, and a Concurrent Use Permit sought if the applicant continues to seek to place dumpsters in public right-of-way.
- 4) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 21-093 Special Use Permit Site Map



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.



6/8/2021

St. John the Evangelist Parish is requesting a special use permit to allow Stella Maris Academy to operate a Catholic high school (grades 9-12) at the existing St. John's Campus located in the Woodland neighborhood at 1 W. Chisholm Street, Duluth, MN 55803. The school facility has been used to educate students since 1926, and most recently acquired a special use permit in 2017 to serve middle school grades (grades 5 through 8). Included with the special use permit are plans to add additional parking east of the existing gymnasium along Woodland Avenue.

The school facility was expanded in 2011 to physically connect the original school building with the adjacent St. John's Church, improve accessibility with new entrances and an elevator, increase the number of parking spaces and safe zones for student drop off/pick up, expand the hot lunch program, create office space for school and parish administration, and add additional classrooms. Refer to the enclosed exhibits and supporting information regarding the facility amenities.

This special use permit request is aligned with the City of Duluth Comprehensive Plan, particularly principles 1, 3, 5, 6, 8, 11 and 12.

Principle #1 - Reuse previously developed lands.

Principle #3 - Support traditional economic base.

Principle #5 - Strengthen neighborhoods.

Principle #6 - Reinforce the place-specific.

Principle #8 - Encourage mixed activities, uses and densities.

Principle #11 - Include consideration for education systems in land use actions.

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

The investment to facility improvements in 2011 was a commitment to improving an existing asset historically used for educational purposes. This special use permit request continues the long-standing history of delivering Catholic school education from the St. John's Campus.

The Stella Maris Academy will support our local economy through the staff it employs, and the purchase of goods and services required for its operation. The St. John's Campus is surrounded by the Woodland neighborhood mixed-use commercial district, The Hills Academy, and residential properties. It has and will continue to offer a respectful presence and support the diversity of resources in this area of Woodland.

Vehicular traffic activity is projected to slightly increase with the addition of high school grades to the current 5th through 8th grade programming. Bus ridership will continue to be offered and encouraged with options such as our highly utilized intercampus bussing between Holy Rosary and St. John's Campuses, reducing vehicular transportation. The Duluth Transit Authority provides service to the corner of Woodland Ave. and Calvary Road, approximately 1 block from the St. John's Campus, and may also serve as a transportation option for students.

Along with the existing 58 parking spaces, St. John's Parish is proposing to add 24 parking spaces east of the existing school adjacent to Woodland Avenue. The project is designed to meet the required parking spaces for the intended facility use per the analysis outlined in the Appendix. A 30% reduction in

Page 1 of 7

6/8/2021

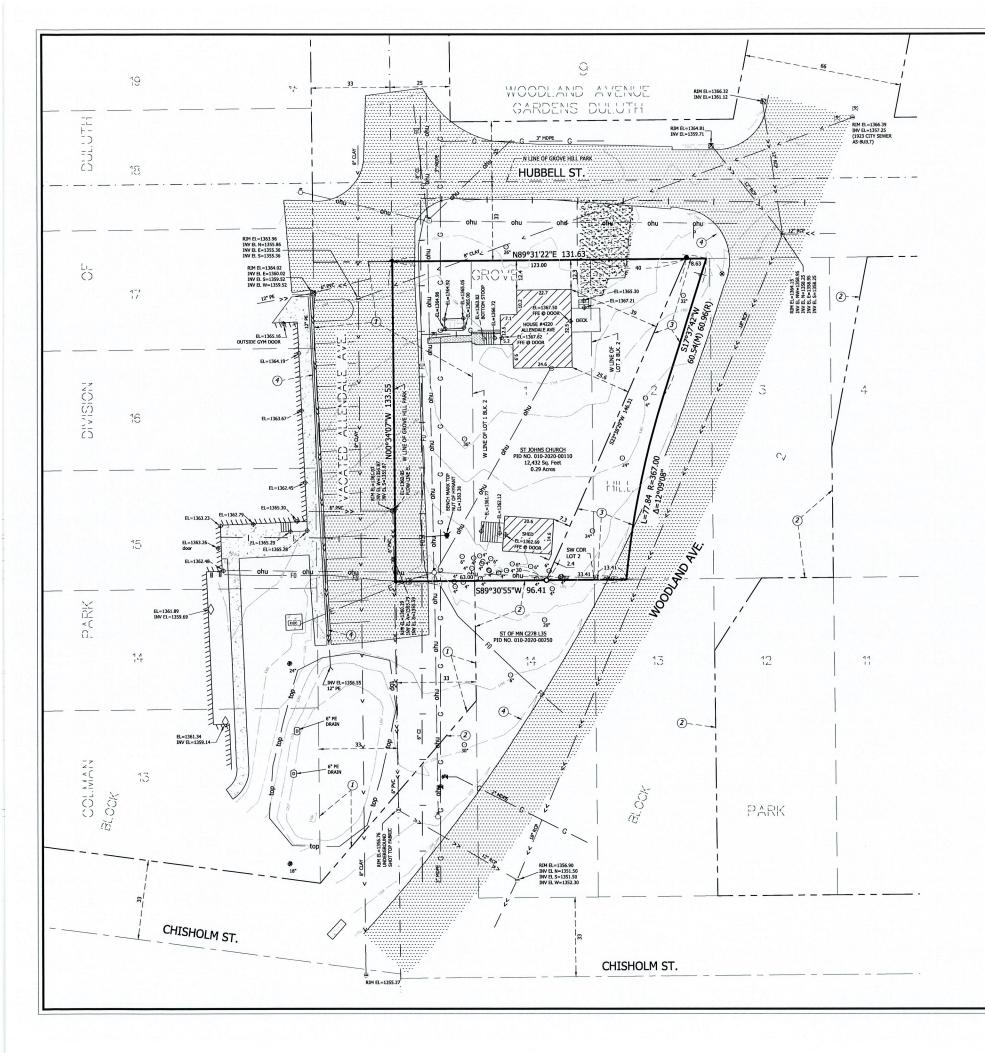
minimum parking stalls is applied due an active Duluth Transit Authority route within ¼ mile from the property. Maximum parking demand assumes high school operations concurrent with an event in the church facility, however parking demand for high school is normally Monday-Friday and peak church attendance Saturday-Sunday.

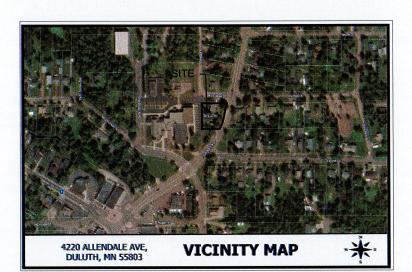
The project also meets the minimum required tree shading of the additional 24 parking stalls through a combination of existing mature trees and two proposed Autumn Gold Maple trees. Refer to the Parking Space Addition and Shading Plan included in the Appendix.

In summary, the addition of high school grades at the St. John's Campus is a responsible and wise use of existing historical and well-maintained facilities in a neighborhood accustomed to the presence of school operations. The addition of high school grades to the existing middle school program will not require any significant changes to the St. John's Campus other than the proposed parking lot expansion. Stella Maris Academy will continue to serve families in the Duluth area desiring a Catholic school education which adds to the rich diversity of educational options in our community.

The following information will help provide a comparison of functions and features from current school operations to new operations:

	Stella Maris Academy – St. John's	Campus
Grade offerings		5 th through 12 th grade (grade offerings may adjust based on existing available classroom space and enrollment)
Number of Students		240 based on 20 students/classroom in 12 classrooms
Number of Classrooms and Facility Amenities		Same as existing plus 24 additional parking spaces
Hot Lunch Program	Daily	Unchanged
After School Programming	Yes	Yes
Transportation	District bussing and parent drop off/pick up	Unchanged
Events	School events (conferences, seasonal concerts, parish events)	Unchanged









LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 351707

Lot 1 Block 2 GROVE HILL PARK

Lot 2 beginning at a point 1.37 feet West of the NE corner of said Lot, thence West on North line of said Lot 2 to the NW corner of said Lot 2, thence SNy along West line of said Lot 2 for a distance of 133.92 feet to the SW corner of said Lot 2, thence SNy along West line of said Lot 2 for a distance of 13.41 feet to a point, thence in a NEVB direction along a curve to the left whose radius is 367 feet for a distance of 77.84 feet to a point of tangent, thence continuing NEYP along tangent to said curve for a distance of 60.96 feet to a point on the North line of said Lot 2, which point is 1.37 feet West of NE corner of said Lot 2 and the place of beginning, all in Block 2 GROVE HILL PARK.

LEGEND

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G-CONCRETE CURB &	
ONC-CONCRETE	GUTTER
E-FINISH FLOOR ELEV	ATION
toe	TOE OF BANK OR GRADE BREAD
top	TOP OF BANK OR GRADE BREAD
mmmm	EXISTING BUILDING LINE
— E —	UNDERGROUND ELEC
F0	UNDERGROUND FIBER OPTIC
G	UNDERGROUND GAS
— ohu ——	OVERHEAD UTILITIES
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_	WATER MAIN
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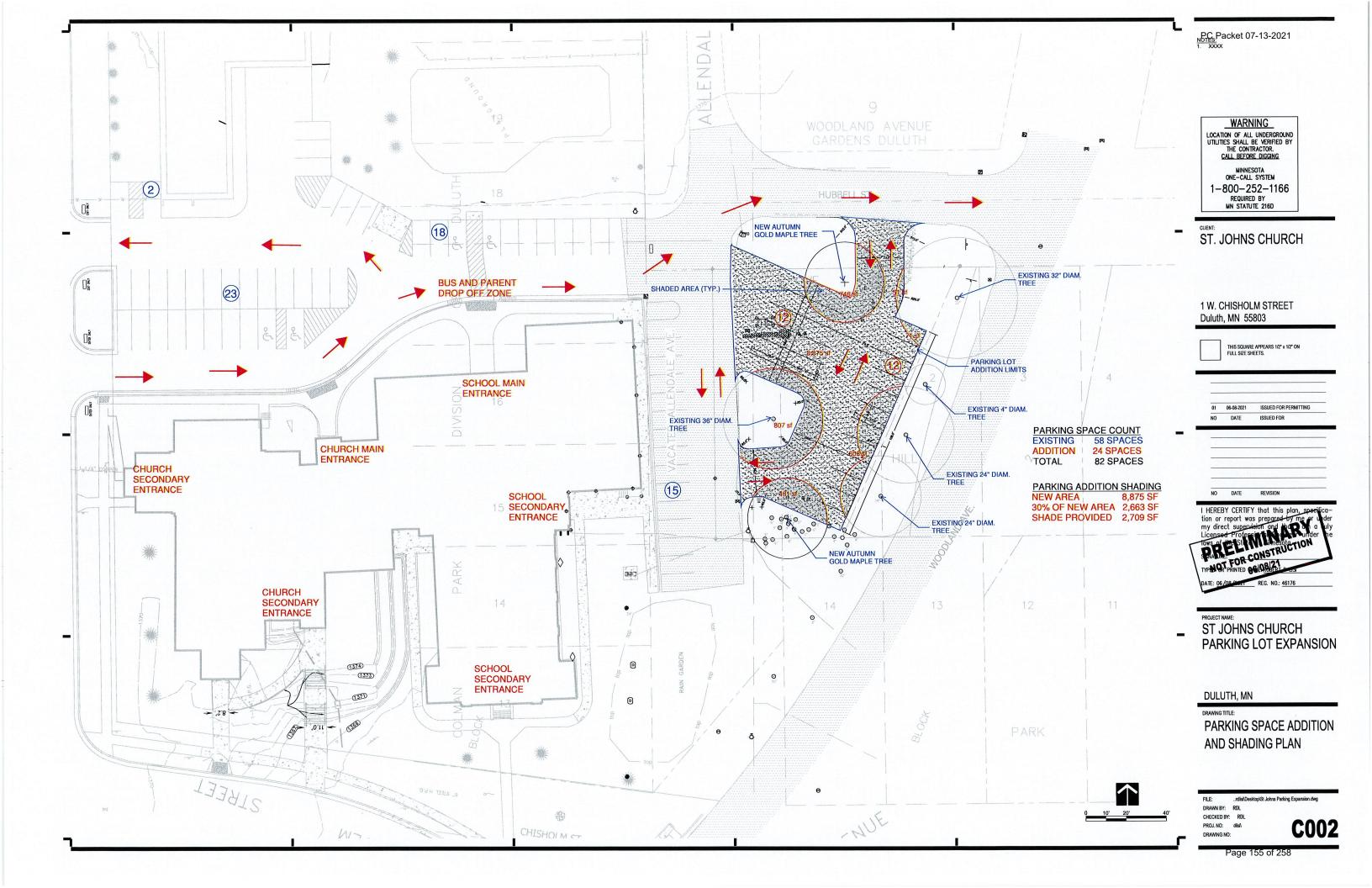
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I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the	CERTIFICATI	e of survey	WALTA	
laws of the State of Minnesota.	CLIENT:ST. JOHNS CHURCH	REVISIONS:	LAND SURVEY COMPANY	
David R. Evanson DATE 4-25-2021 NN Lorns #45505	ADDRESS:4220 ALLENDALE AVE, DULUTH, MN 55803	1	PHONE: 218-727-5211 LICENSED IN MN & WI WWW, ALTALANDSURVEYDULUTH.COM	
UNIE. 1-20-2021 HN LIGHNE #19905	DATE:4-26-2021 JOB NO:21-099	SHEET 1 OF 1		



50-24.2	Code requirement	# Classrooms	Noted Space (SF)	# Classrooms Noted Space (SF) Required parking spaces
	1 space/8 seats in main			
	auditorium/assembly space or 1			
Middle School	space/classroom	12	n/a	12
	5 spaces/classroom or 1.5			
High School	spaces/1000sf	12	9910	60
	1 space/4 seats or per 100 sf in main			
Religious Assembly	auditorium or main assembly room	n/a	3800	38
	Min Spaces R	equired (HS+R	Min Spaces Required (HS+Religious Assembly)	86
50-24.3	Adjustment to required off-street parking	king		
	Minimum # of off street parking			
	spaces required for any development			
	or redevelopment may be reduced by			
	30% if located within 1/4 mile of			
	existing DTA routes in operation for 1		Reduced Min	
A.1 Proximity to transit.	year. YES		Spaces Required	69
50-24.4	Maximum parking limits			
	No more than 150% of the minimum			
	required number off-street parking		Maximum	
	spaces		Spaces Required	147
		Exist	Existing Parking Spaces	58
		Proposed N	Proposed New Parking Spaces	24
		Total Darkin	Total Parking Spaces Provided	82

St. John's Parish Parking Lot Expansion - Parking Space Requirements

6/8/2021

View of the church and school looking northwest from the Woodland Avenue and W. Chisholm St. intersection.



View of the church (left) and school (right) looking north from W. Chisholm Street.



6/8/2021

View looking northeast from the intersection of St. Johns Avenue and W. Chisholm Street.



View looking east from St. John's Avenue — vehicle entrance for student drop off/pick up.

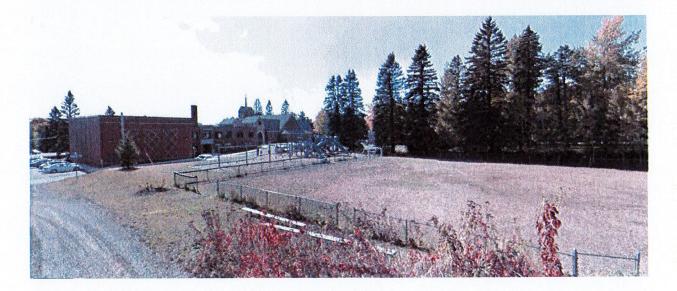


6/8/2021

View looking west from W. Hubbell St toward facility parking lot and school entrance.



View looking south from Allendale Avenue — school playground (foreground) and facility (background).



6/8/2021

View along Woodland Avenue looking west towards school (beyond residential building to be removed).



View at intersection of Woodland Avenue and W. Hubbell Street looking southwest towards the school.



Hello Planners,

Thank you for notifying us of the plans for a special use permit at St. John's Church. Overall, we're happy to see the Church investing in our community and its future in their expanding schools.

Over the years, the school/church have been great neighbors in this is a small, quiet, family neighborhood. The resulting increased noise and traffic in the neighborhood will degrade our residential neighborhood's very fabric, making this such a great place to live.

Specifically, we are concerned about the impact the proposed high school will have on the neighborhood and surrounding streets. We do not see any considerations from the Church or the City in addressing vehicle or pedestrian safety with the proposed use change. At a minimum, we'd like to see changes to W Chisholm Street so it will not get any additional daily traffic from the school. We would suggest the Church's west entrance/exit parking lot be entirely blocked off to keep the high school traffic off St. John Ave and only on the wider Woodland Avenue. As you may know, the intersection of St. John and Chisholm Street meets at an odd angle. Currently, this intersection has drivers zipping through the stop sign and W Chisholm Street can basically be one lane wide in the winter months and will be worse with more on-street parking from the busy school. The narrow street will restrict emergency vehicles responding in the neighborhood and will create many more difficulties that do not exist today.

Until more consideration is given for the additional traffic to the neighborhood, we ask the Planning Commission to reject the special use request and changes to the R-1 use of the Church property at this time. We'd also like the planning department to expand the notification from 350' surrounding the proposed project to all property owners along W Chisholm Street for broader input from the neighborhood.

Regards,

Ryan and Heather Boe



Planning & Development Division

Planning & Economic Development Department

218-730-5580

🛛 🖂 plar

planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-094		Contact		John Kelley		
Туре	Rezone from R-1 to F-2		Planning Commission Date		July 13, 2021		
Deadline	Application Date		June 8, 2021 60 Days		August 7, 2021		
for Action	Date Ext	ension Letter Mailed	June 16, 2021		120 Days	October 6, 2021	
Location of Subject		4731 Gladstone Street					
Applicant	Lakeside Lodge #281		Contact	On file	ile		
Agent	Gary E. Hage		Contact				
Legal Description	Legal Description See Attached Map						
Site Visit Date		June 23, 2021	Sign Notice Date			June 29	
Neighbor Letter Date		June 18, 2021	Number of	Letters	Sent	43	

Proposal

Rezone property from the current zoning of Residential-Traditional (R-1) to Low-Rise Neighborhood Mix (F-2).

Staff Recommendation

Staff recommends approval of the proposed rezoning to F-2.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Masonic Lodge	Neighborhood Commercial
North	R-1	Residential	Neighborhood Commercial
South	F-2	Commercial	Neighborhood Commercial
East	F-2	Bank	Neighborhood Commercial
West	R-1	Residential	Neighborhood Commercial

Summary of Code Requirements

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

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

- UDC Sec. 50-37.3.C: The Planning Commission shall review the application, and Council shall approve the application or approve it with modifications, if it determines that the application: 1. Is consistent with the Comprehensive Land Use Plan; 2. Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use; 3. Is required by public necessity, convenience, or general welfare, or good zoning practice; 4. Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

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

Governing Principles

The following Imagine Duluth 2035 Governing Principle(s) should be considered when reviewing the request:

Governing Principle 8 - Encourage mix of activities, uses and densities: Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide.

Future Land Use

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

Site History or Previous Studies

Masonic Lodge – Fraternal Hall built in 1922 and is approximately 6,500 square feet in size.

Review and Discussion Items:

1) The property owner is requesting that the city rezone 4731 Gladstone Street from the current zoning of Residential-Traditional (R-1) to Low-Rise Neighborhood Mix (F-2).

2) The future land use designation of this area is Neighborhood Commercial, adjacent to Urban Residential. Areas with Neighborhood Commercial future land use designation are typically zoned for mixed use such as form districts (F-2) or could accommodate a mixed use district such as MU-N (Mixed Use Neighborhood).

3) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan, and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or be considered arbitrary and capricious. Good zoning practice requires that zone districts be consistent with the future land use category identified for the area. Other criteria for zoning may include considering existing land use patterns and if the rezoning is related to the needs to the community or existing land use.

4) The character of this immediate area is generally residential on the north and west sides, and commercial on the east and south sides in close proximity to East Superior Street. Immediately to the south of this property is a chiropractor office and to the east is a Bank, and north and west is residential. Small- to moderate-scale commercial, serving primarily the adjacent neighborhood, is consistent with the future land use and with the character of the neighborhood in proximity to existing like uses.

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

6) This area is proposed to be rezoned to F-2. The purpose of the F-2 district is intended to serve as a mixed use, neighborhood-scale commercial district The F-2 District permits Main Street Building I, Corridor Building I, Cottage Commercial Building I and the Iconic Building. This district was designed for use in Lakeside/Lester Park and along London Road. Non-residential uses may include small-scale retail, service and professional offices that provide goods and services to the residents of the surrounding neighborhood.

7) The site is contiguous with the F-2 zone district located to the south and east of the site. The character of the existing structure, and its historic use, is more closely related to the uses in the existing F-2 zone district than the uses in the R-1 zone district.

8) Based on: A) the character of the neighborhood in general and the proposed rezoning area in particular, B) the purpose statement of the F-2 zone district, and C) the future land use classification of neighborhood commercial, the rezoning as proposed is appropriate for this property.

9) One comment was received from a citizen, opposed to the rezoning.

Staff Recommendation:

Based on the above findings, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning to F-2 for the following reason:

- 1) Material adverse impacts on nearby properties are not anticipated.
- 2) The proposed zone district is the most reasonably able to implement the objectives of the Comprehensive Plan related to the land use for this area.
- 3) Future redevelopment, should the building's use change, will be required to conform to modern building code requirements, and conform to modern standards for redevelopment anticipated for the F-2 district.



Planning & Development Division Planning & Economic Development Department

> Room 160 411 West First Street Duluth, Minnesota 55802



CONSTRUCTION SERVICES

AND INSPECTIONS APPLICATION COVER SHEET

CONTACT INFORMATION:

Applicant/Owner Lakeside Lodge #281
Phone N/A Email N/A
Address 4731 Galad stone St.
City Dulyth State MN Zip 55804
Owner's Agent (if applicable) Gary E. Hage, P.E.
Phone 218-341-4536 Email ghage epiduluth, com
Address 1414 North Road
City Dulyth State MN Zip 55811

APPLICATION INFORMATION:

Street Address and Zoning of Property <u>4731 Gladstone St</u>. Parcel ID Number 010-30/0-05980

Reason for this Request (Attach Additional Pages or Cover Letter if Necessary)

row

The undersigned hereby represents upon all of the penalties of law for the purpose of inducing the City of Duluth to take the action herein requested, that all statements herein and attached are true and that all work herein mentioned will be done in accordance with the Ordinances of the City of Duluth and the laws of the State of Minnesota. Undersigned also understands that all documents provided to the City may be considered public data, per Minnesota Government Data Practices Act.

06/08/2/ Signature of Applicant

Reminder: include application checklist and all supporting information, including pre-application verification (if applicable). Submit completed information to Room 100, Construction Services and Inspections.

*Special Use Permit Checklist required to be submitted with this application coversheet.

	Accessory Home Share-\$101.5
	Appeal to Planning Com \$400
	Concurrent Use of Streets - \$78
	District Plan - \$1,125
	EAW or EIS- \$2,810 , plus any applicable professional fees
	Historic Construction/Demolition - \$57 Resource Designation - \$100
	Interim Use Permit \$630
	Planning Review - \$1,051
	Sidewalk Use Permit New Permit- \$168 Renewal Permit - \$85
	Special Use Permit, General - \$1,580 Special Use Permit, Wireless Telecommunications* Modifying or Co-locating – \$2,810 New Facility or Tower – \$5,623 Escrow Deposit - \$9,559
+ + + + +	Subdivision Plat Approval or Amendment: Concept Plan - \$281 Preliminary Plat - \$1,120 Final Plat- \$843 Minor Subdivision-\$420 Plat Amendment or Boundary Line Adjustment - \$281 Registered Land Survey-\$725
	Temporary Use Permit - \$275
X	UDC Zoning Map Amendment/Rezoning General - \$897 MU-P or R-P \$2,500
	Vacation of Street or Utility Easement - \$890
	Variance - \$841
	Wetland, De Minimus, Delineation, or

Exemption-\$168 Replacement Plan - \$837 Zoning Verification Letter-\$94

No Loss- \$223



PL 21-094 Rezoning R-1 F-2 Zoning Map



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PL 21-094 Rezoning R-1 F-2 FLU Map



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Planning & Development Division

Planning & Economic Development Department

🔇 218-730-5580

planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-095		Contact Kyle Dem		Kyle Deming	ning	
Туре	Special Use Permit for a Cottage Home Park		Planning Commission Date		July 13, 2021		
Deadline for Action	Adline Application Date Application Date Date Extension Letter Mailed		June 8, 2021 60 Days		60 Days	August 7, 2021	
			June 24, 202	1	120 Days	October 6, 2021	
Location of Sub	Location of Subject Northwest corner of Glen Place		. and W. Mich	nigan St.	. (Lincoln Park	x)	
Applicant	Aaron Sc	hweiger	Contact				
Agent	Bob Johnson		Contact				
Legal Description	Legal Description Parts of Lots 4 and 5,		Place Divisio	n (see a	ttached)		
Site Visit Date		June 29, 2021	Sign Notice Date		JI	uly 1, 2021	
Neighbor Lette	r Date	June 28, 2021	Number of Letters Sent		Sent 2	4	

Proposal

A special use permit for a cottage home park on 4 acres containing 32 dwelling units, 44 parking spaces on a private driveway, and a community room.

Recommendation

Staff recommend approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	Undeveloped	Urban Residential
North	R-2	Open Space/Park	Open Space
South	MU-B	Filling station	Central Business Secondary
East	R-2	Apartment buildings	Urban Residential
West	R-2	Open Space/Park	Open Space

Summary of Code Requirements

UDC Section 50-37.10. Special Use Permits: Planning Commission shall approve the planning review or approve it with modifications, if it is determined that the application is consistent with the comprehensive plan and complies with all applicable provisions of the UDC. The Commission may deny any application that would result in a random pattern of development with little contiguity to existing or programmed development or would cause anticipated negative fiscal or environmental impacts on the community.

UDC Section 50-20.1.G Cottage Home Park, standards paraphrased here:

1. All dwelling units within a cottage home park shall be subject to setback, height, off-street parking, and other regulations appropriate for one-family dwellings in the applicable zone district.

2. Dwelling units shall meet the minimum lot area and lot frontage requirement for multi-family, townhome, or two-family developments of the applicable zone district that the home park is located, whichever is smaller or least 169 of 258

3. Dwelling units shall face the front lot line, unless the site layout provides for porch/deck on units to tace other primary entrance points within the site.

4. Cottage housing developments shall provide common open space or an amenity area which is centrally located, equally accessible from, and at the disposition of all dwelling units.

5. Sidewalks or multi-use paths must be provided to ensure pedestrian access from each individual dwelling unit to the front property line or public street.

6. Approval of a cottage home park does not negate to the need for subdivision review and approval, if applicable.

7. Cottage home parks must provide separate sewer and water services for each dwelling unit as required by the city engineer.

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

Governing Principle #2 – Declare the necessity and secure the future of undeveloped places. The project will create a community open space with amenities to be used by residents of the development and managed by a homeowners' association.

Governing Principle #5 – Promote reinvestment in neighborhoods. The project will create a small neighborhood enclave that surrounds a community open space with amenities in the center of the city.

Governing Principle #10 – Take actions that enhance the environment, economic, and social well-being of the community. This project will result in a neighborhood of very small dwellings that consume a small quantity of resources in their creation and operation and are sited to reduce the amount of disturbance to the natural environment. Units will be naturally affordable to the occupants.

Governing Principle #12 – Create efficiencies in delivery of public services. The project will use a private driveway off an existing street and will connect to existing infrastructure. The site in the center of the city where all government services are present.

Housing Policy #1 – Increase density in and around Core Investment Areas.

Strategy #1 – Promote infill development with a mix of densities appropriate to the context of the surrounding neighborhood.

Strategy #4 – Focus on creative housing options of a non-traditional neighborhood design. This project is on a vacant lot in an existing neighborhood and is a creative design with the tiny homes.

Housing Policy #2 – Provide affordable, attainable housing opportunities Strategy #5 – Foster opportunities for creative housing types, including tiny homes. This project will create tiny homes that are 400-600 sq. ft. and are "affordable by design" according to the applicant.

Housing Policy #4 – Improve the quality of the city's housing stock and neighborhoods. Strategy #1 – Reduce slum and blight conditions. According to the applicant, "the project will also help clean up a blighted lot which has become home to a large transient homeless population."

Future Land Use – Urban Residential: Greatest variety of residential building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers, and waterfront residential areas. Connected or adjacent to parks and open space. 8 units/acre and up, design standards ensure pedestrian orientation and mix of housing. The project will create a small neighborhood of dwellings at 3.5 units/acre that are connected to open space with pedestrian facilities.

Review and Discussion Items

1) Applicant is requesting a special use permit for a cottage home park containing 32 dwelling units consisting of 400-600 sq. ft., 1- or 2-level homes, and related parking and open space.

- 3) The proposed development is situated on a 4.06-acre parcel located at the northwest corner or Glen Place Dr. and W. Michigan St. near Glen Place Apartments. A 0.23-acre parcel containing a parking lot associated with Glen Place Apartments is being separated via a Minor Subdivision (see related file number PL21-096)
- 4) The site is crossed by a pedestrian easement that will be impacted by several dwelling units and, therefore, staff recommends that the easement be vacated before the building permit for the first dwelling unit is issued.
- 5) The site is crossed by the Superior Hiking Trail (outside the pedestrian easement in #4 above) and the applicant and the Superior Hiking Trail Association are discussing the rerouting of the trail. Staff recommends that the applicant convey to the City a pedestrian easement for the relocated trail before the building permit for the first dwelling unit is issued.
- 6) Sec. 50-18.1.B (Wetlands). Due to steep site topography no wetlands have been identified at the site.
- 7) Sec. 50-18.1.D (Shoreland). The easterly 300 feet of the property is within the shoreland for Buckingham Creek (a Cold Water stream), which will requires a shoreland permit as part of their land disturbing permits. All buildings on the site are compliant with the required 150-foot setback from the stream.
- 8) Sec. 50-18.1.E (Storm Water Management and Erosion Control). The applicant's site plan shows locations for construction of privately-owned storm water treatment facilities pending permitting with the City's Engineering office. City Engineering will also review permit applications for erosion control and grading of the site.
- 9) 50-20.1.G (Use Specific Standards) Cottage Home Park (see Summary of Code Requirements above).
- 10) Development Standards. Dwelling units shown on the site plan comply with setbacks and heights required by the R-1 zoning, off-street parking minimums, and other development standards.
- 11) Minimum Lot Area and Lot Frontage. The 4-acre lot meets minimum lot area and frontage requirements.
- 12) Principal Entrance. The proposed site plan complies with the UDC requirement.
- 13) Common Open Space or Amenity Area. The site plan shows a amenity areas including an 800 sq. ft. community building with picnic area and a fire pit area.
- 14) Connectivity and Access. The site plan shows sidewalks that connect the individual dwelling units to one another and to the parking lot. There is also a sidewalk along the driveway to the public sidewalk along Glen Place Dr.
- 15) Subdivision. The applicant has stated that they will either retain the property and rent individual dwellings or they will form a Common Interest Community plat to allow for ownership of individual dwelling units. A homeowners' association would manage the remainder of the land, including community open space, amenities, sidewalks, driveway and parking, and storm water treatment.
- 16) Utility Connections. The site is crossed by a 40-foot-wide sewer easement containing a large sewer pipe. The applicant is showing a single public sewer main connecting to it, but the applicant will need to dedicate additional easements for the public water and sewer mains prior to construction of dwelling units. Connecting to the public mains are private mains that lead to groups of dwelling units which are served by individual services.
- 17) Sec. 50-23 (Connectivity and Circulation). The project shows sidewalks that connect the dwellings and the public sidewalk in Glen Place Dr.
- 18) 50-24 (Parking and Loading). The site plan shows 44 parking spaces, which exceeds the required 32 spaces, but does not exceed the maximum allowed 48 parking spaces. The Fire Marshall has reviewed the project layout and given general approval, final approval to be given at time of building permit application.
- 19) Sec. 50-25 (Landscaping and Tree Preservation). The applicant has initiated a tree inventory and will be required to replace 20-60% of the trunk diameter inches of trees removed, depending on the size and quality of trees. Staff recommends, before applying for land-disturbing activities, the applicant obtain from the Land Use Supervisor approval of a tree replacement plan and landscape plan.
- 20) 50-26 (Screening, Walls and Fences). The site plans shows a trash enclosure on the existing sewer easement. This will need to be relocated outside of the easement and details of its size and materials provided at time of the building permit for the first dwelling unit.
- 21) Sec. 50-29 (Sustainability Standards). Not applicable.
- 22) Sec. 50-30 (Building Design Standards). Not applicable.
- 23) UDC Sec. 50-31 (Exterior Lighting). Not applicable.
- 24) No citizen comments were received at the time that this report was written.

Staff Recommendation

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

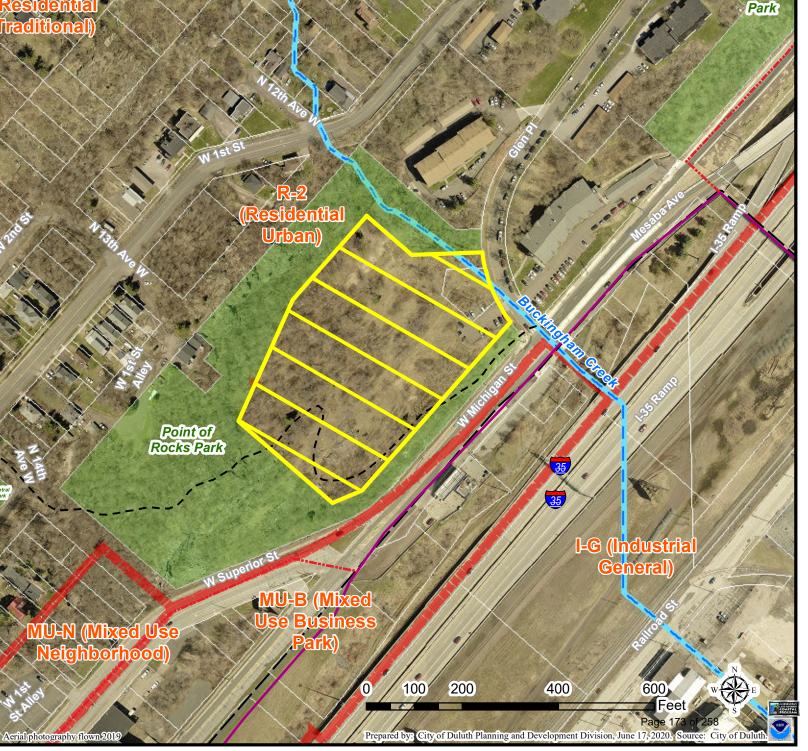
- 1) The proposal is limited to the site plan and documents submitted with this application.
- 2) Before applying for land-disturbing activities, the applicant obtain from the Land Use Supervisor approval of a tree replacement plan and landscape plan.
- 3) Before approval of the building permit for the first dwelling unit, the applicant provide a location for and construction details for the trash and recycling container.
- 4) Before approval of the building permit for the first dwelling unit, the existing pedestrian easement be vacated.
- 5) Before approval of the building permit for the first dwelling unit, the applicant dedicate to the public a pedestrian easement for the Superior Hiking Trail in a location approved by the Land Use Supervisor.
- 6) If the dwelling units are to be sold, the Land Use Supervisor shall review and approve the final CIC plat before the applicant records the document.
- 7) If the dwelling units are to be sold, the applicant shall provide the Land Use Supervisor with the declaration of covenants and restrictions and bylaws of the homeowners' association, before the document is recorded, for review and approval that site elements needed for zoning compliance may not be altered without the consent of the City.
- 8) The applicant shall deposit an escrow (cash or other financial security equal to the amount of landscaping improvements) to ensure implementation of the tree replacement plan and landscape plan. This amount shall be held, without interest, until the applicant has installed the required trees and landscaping, hired a certified professional to inspect trees and landscaping and confirm that all trees and landscaping was installed correctly and according to approved plans, and forwarded the inspection results to the City along with a request for reimbursement of escrow. This escrow shall not be released until all trees and landscaping are installed. Applicant or successor shall maintain required landscaping and replace any vegetation that expires in conformity with the approved landscape plan.
- 9) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission review; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Point of Rocks Tiny Homes Aaron Schweiger DULUTH PL21-095 Cottage Home Park SUP PL21-096 Minor Subdivision

(Residential Traditional)



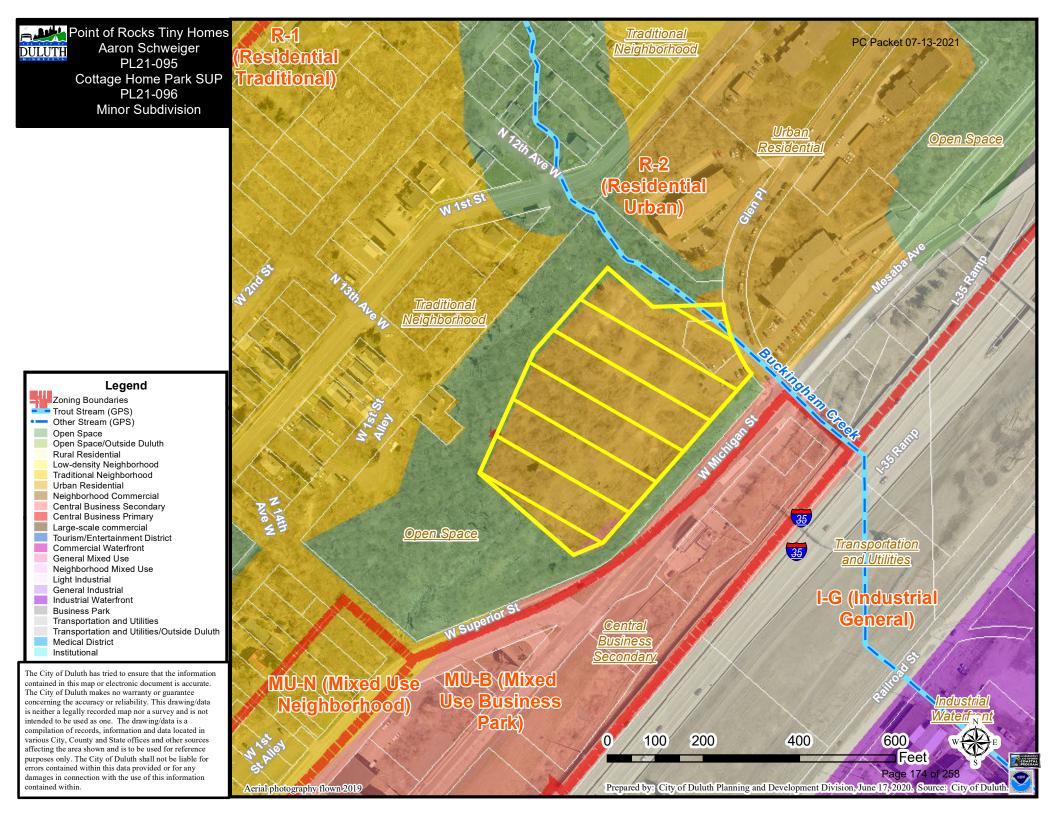
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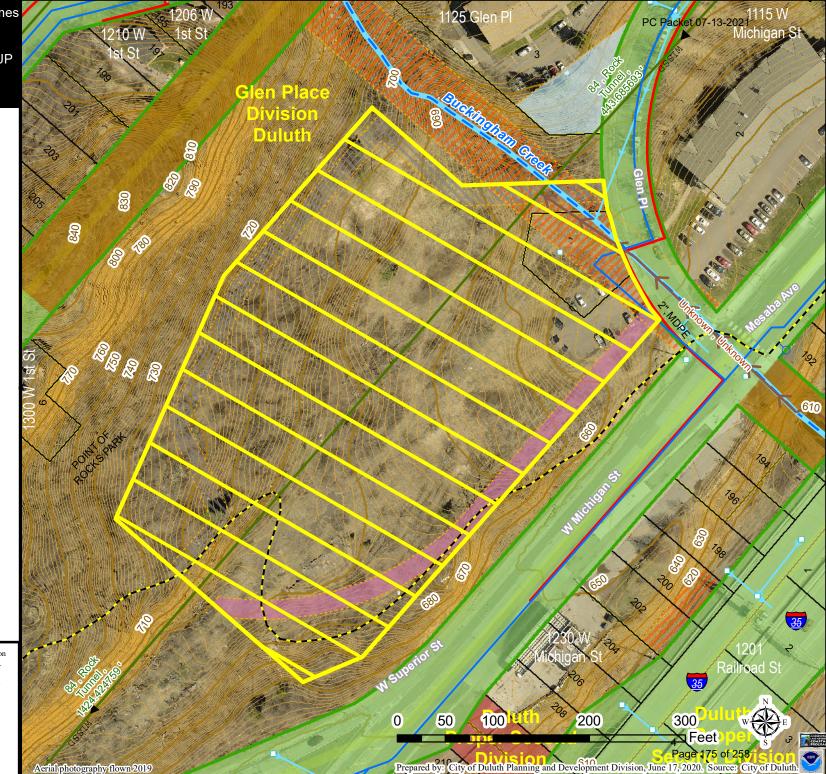
PC Packet 07-13-2021

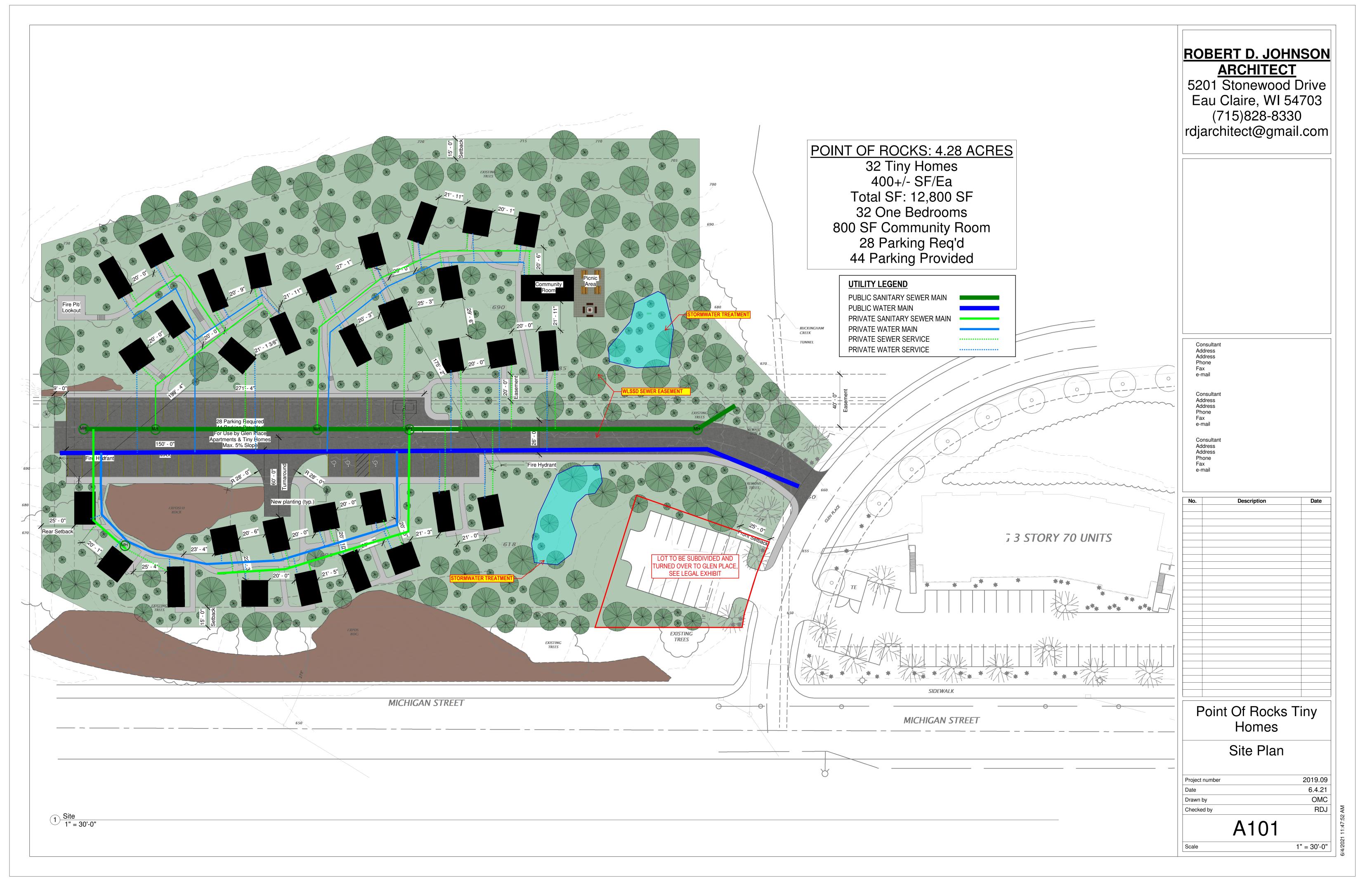


Point of Rocks Tiny Homes Aaron Schweiger PL21-095 Cottage Home Park SUP PL21-096 Minor Subdivision



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PC Packet 07-13-2021

Provided by the Applicant:

The Point of Rocks Cottage Home Neighborhood

We have designed a unique, "first-of-its-kind" Cottage Home Neighborhood with shared community amenities including: outdoor fitness spaces, a Yoga Studios/Clubhouse/Community Room, dog walk area, walking trails which connect to Duluth's trail system, ample green space for each individual unit, community gardens, and a patio/firepit area with stunning views of Canal Park, the harbor, and Lake Superior, all of which will create the perfect balance of private and shared community space for the development.

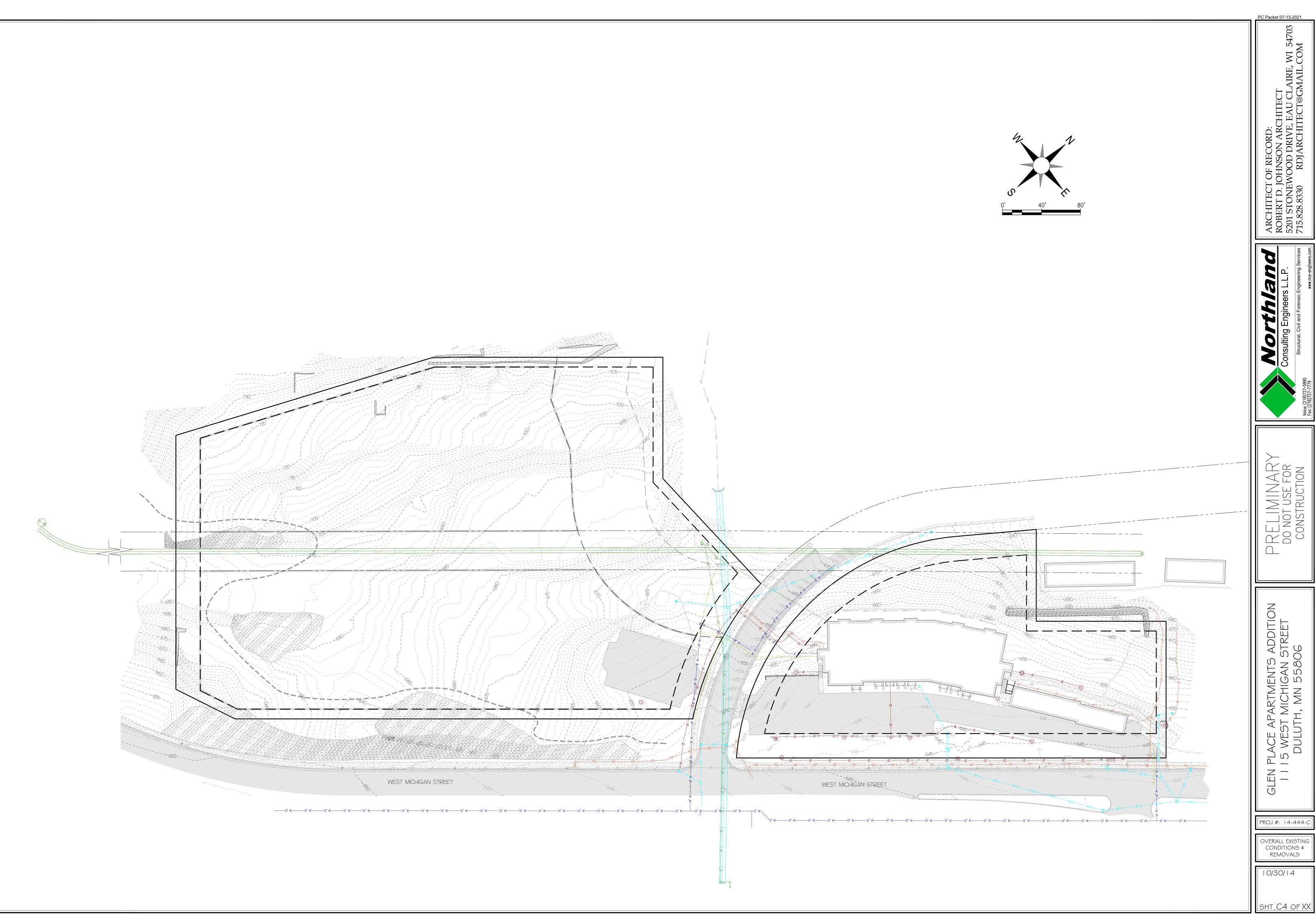
The Point of Rocks property provides challenging topography and technical zoning issues, which has made the site difficult to develop for more traditional multi-family apartments, or other large building projects in the past. However, the cottage homes are a perfect fit for this site, as their construction and design allow them to overcome the challenges larger buildings have faced in previous site designs.

Although our cottage homes will be market rate rentals, due to their size of 400 to 500 square feet, they will be affordable by design. This will add much needed new, quality, affordable one-bedroom units to the Duluth housing market. This project will provide a new, unique, affordable, maintenance-free, amenity-rich community at a lower overall cost of living.

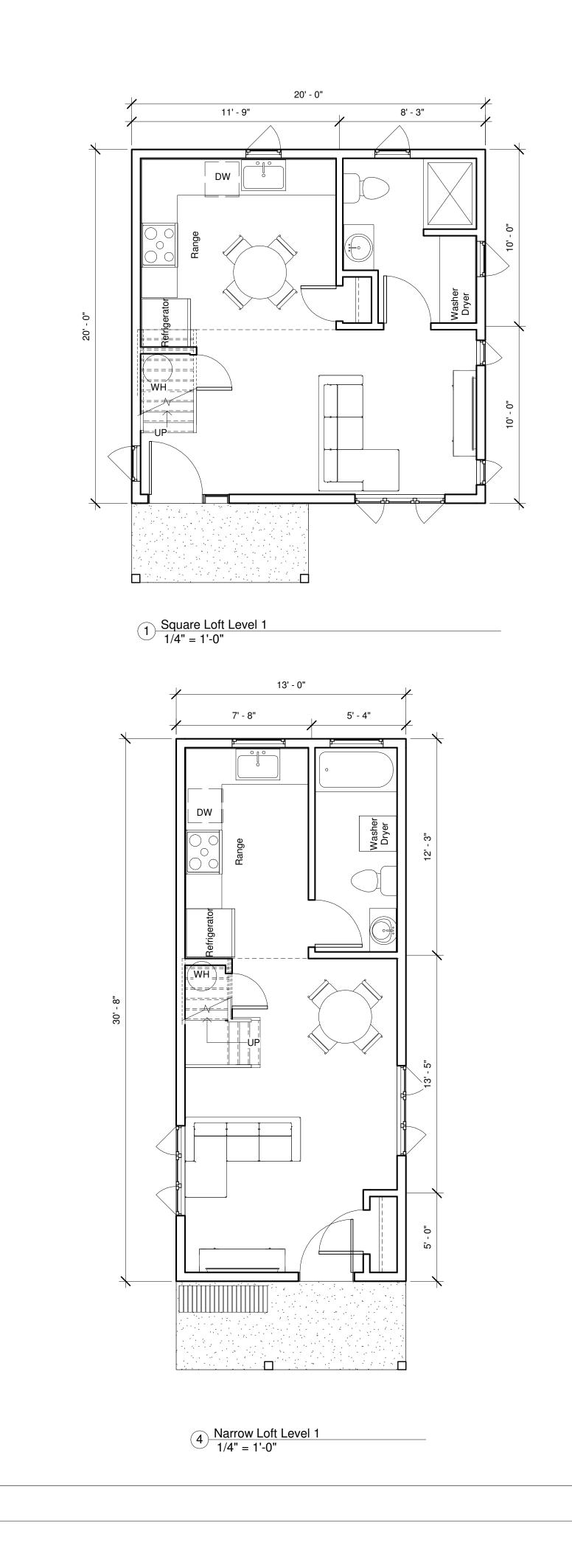
Our cottage homes can be built without doing large scale, invasive site work. They leave a minimally invasive footprint, and can be constructed working with the existing topography rather than working against it, leaving much of the existing topography and foliage in place and undisturbed. With modern design standards and technology, our cottage homes will pack energy-saving features for reducing the community's overall energy footprint, including the use of LED lighting; new, energy efficient appliances and materials; solar power; and water reclamation for gardens. Truly, a modern, green project.

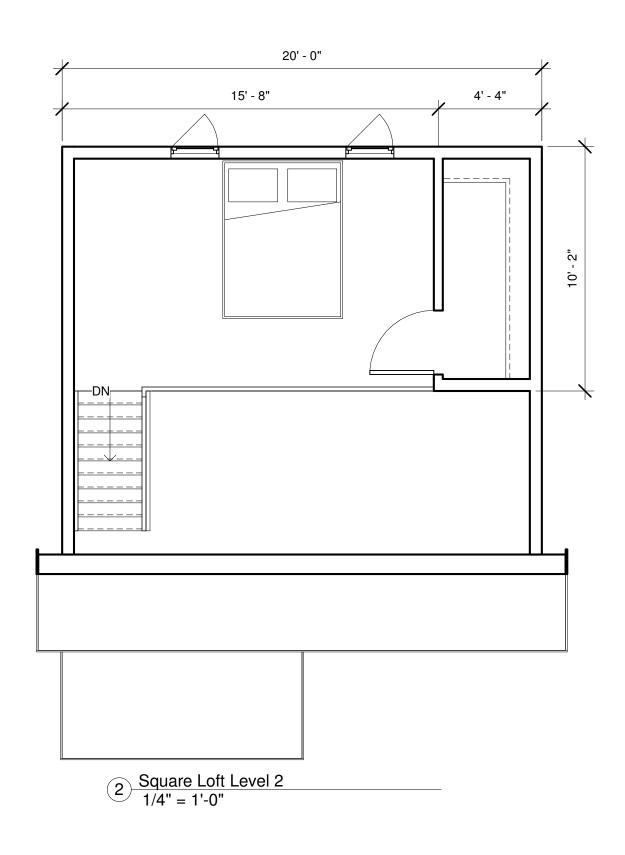
Aside from adding a new, environmentally friendly, affordable housing development, the project will also help clean up a blighted lot which has become home to a large transient homeless population in Duluth. We will be working with Officer Jim Forsyth of the Duluth Police Department, along with the City of Duluth, CHUM, and other community organizations, to help provide services and options to any displaced individuals of the homeless camp. This will also allow us to clean up all the hazardous items and materials left by the homeless camp, such as hypodermic needles, human waste, large amounts of trash, etc. Therefore, the project will help clean up a highly visible hillside area between the Lincoln Park in downtown Duluth corridor.

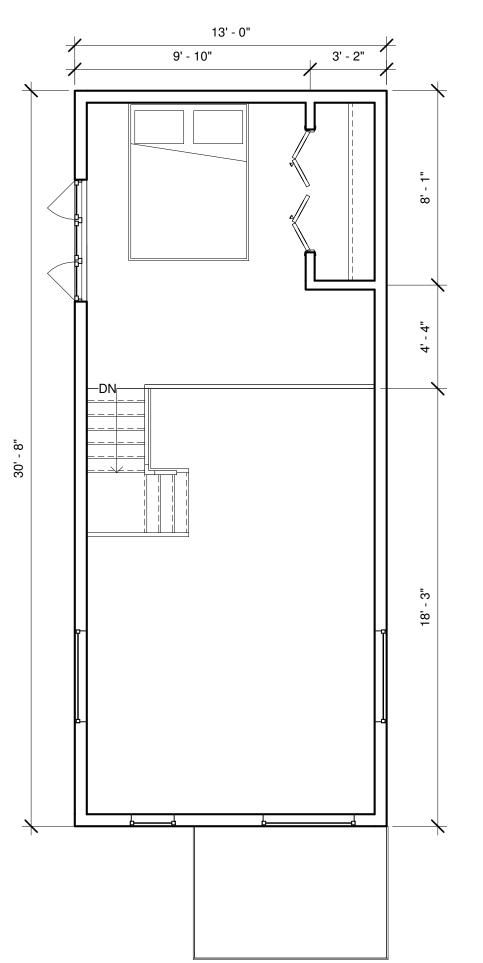
In summary, as a Duluth based developer and owner, we are proud to say that the Point of Rock Cottage Homes Neighborhood development will meet or exceed all of the goals and standards set out in the UDC and in Duluth long term comprehensive land use plan. We sincerely look forward to working with City staff in developing this unique opportunity for the City of Duluth.



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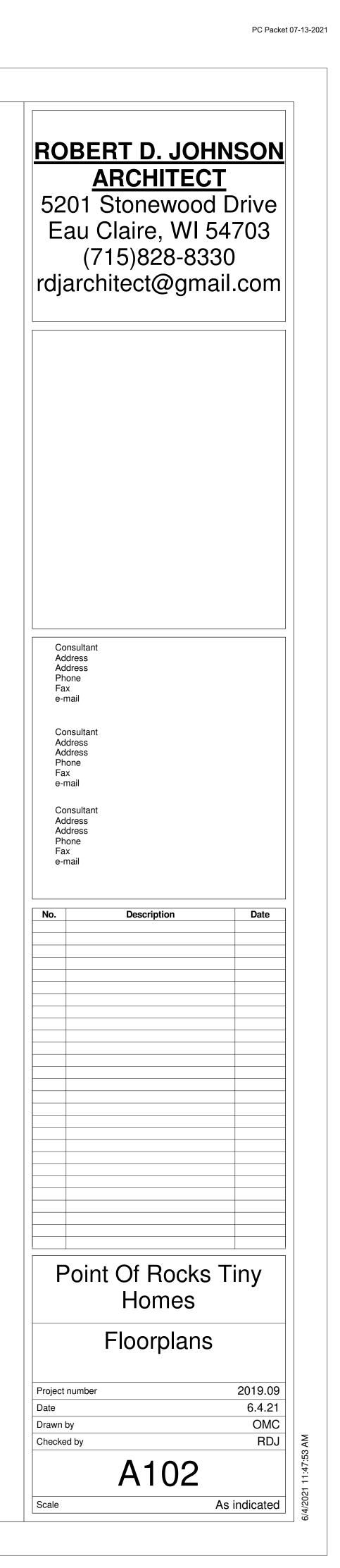
5 Narrow Loft Level 2 1/4" = 1'-0"

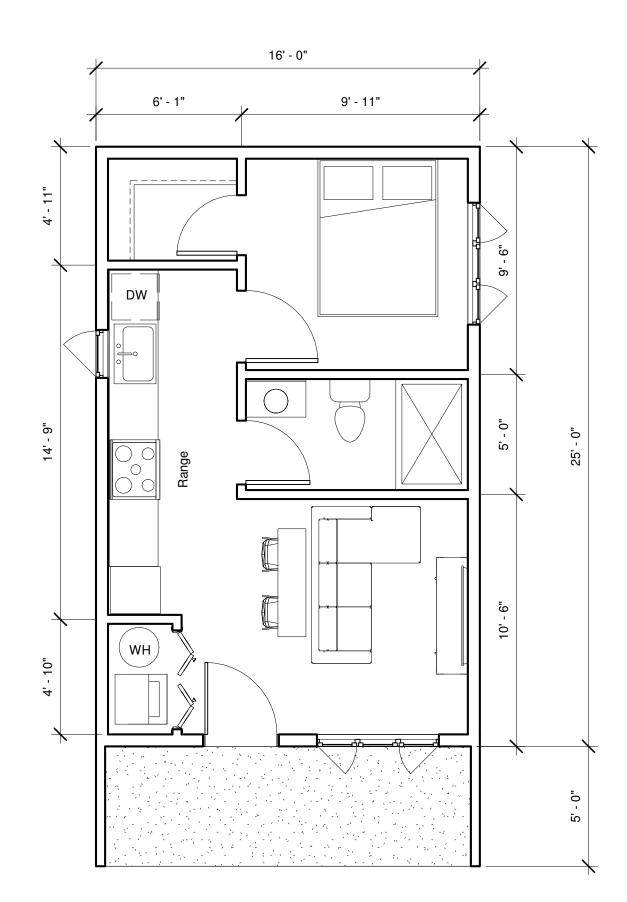


3 Square Loft 12" = 1'-0"

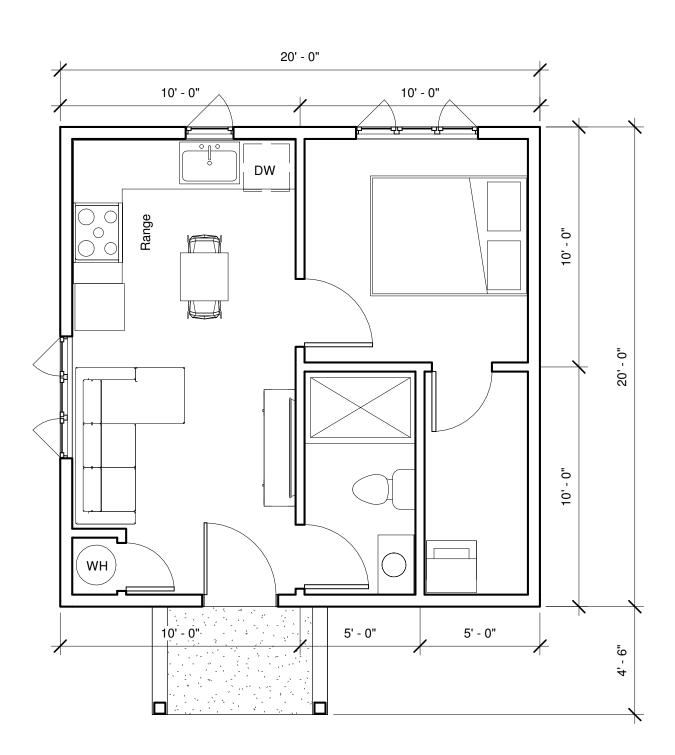


6 Narrow Loft 12" = 1'-0"





 $1 \frac{\text{Narrow No Loft Level 1}}{1/4" = 1'-0"}$

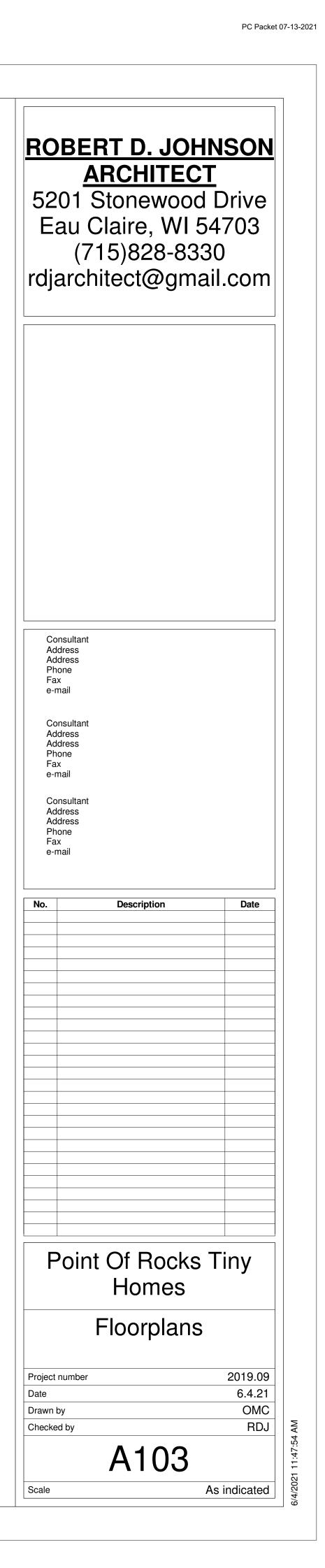


3 Square No Loft Level 1 Copy 1 1/4" = 1'-0"



2 Narrow No Loft 12" = 1'-0"







Planning & Development Division

Planning & Economic Development Department

🔇 218-730-5580

🖂 planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-096 Cc		Contact		Kyle Deming	
Туре	Minor Subdivision		Planning Commission Date		July 13, 2021	
Deadline for Action	Application Date		June 8, 2021 60 Days June 24, 2021 120 Days		60 Days	August 7, 2021
for Action Date Extens		tension Letter Mailed			120 Days	October 6, 2021
Location of Subject Northwest corner of Glen Place D		r. and W. Mic	higan St	. (Lincoln Parl	<)	
Applicant	Aaron Schweiger		Contact			
Agent			Contact			
Legal Descripti	on	Parts of Lots 4 and 5, Block 2, Gle	n Place Divisic	on (see a	ttached)	
Site Visit Date June 29, 2		June 29, 2021	Sign Notice Date		٦	I/A
Neighbor Lette	er Date	N/A	Number of Letters Sent		Sent	I/A

Proposal

A Minor Subdivision to separate an existing parking lot from a larger parcel to be developed into a Cottage Home Park (see related file number PL-21-095).

Recommendation

Staff recommend approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	Undeveloped	Urban Residential
North	R-2	Open Space/Park	Open Space
South	MU-B	Filling station	Central Business Secondary
East	R-2	Apartment buildings	Urban Residential
West	R-2	Open Space/Park	Open Space

Summary of Code Requirements

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

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

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

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

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

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

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

Governing Principle #5 – Promote reinvestment in neighborhoods. This minor subdivision will help support the long-term viability of the apartment building by providing space for needed off-street parking.

Housing Policy #1 – Increase density in and around Core Investment Areas.

Strategy #1 – Promote infill development with a mix of densities appropriate to the context of the surrounding neighborhood. This minor subdivision will enhance an existing multi-family structure by providing needed parking.

Future Land Use – Urban Residential: Greatest variety of residential building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers, and waterfront residential areas. Connected or adjacent to parks and open space. 8 units/acre and up, design standards ensure pedestrian orientation and mix of housing. The project will create a small neighborhood of dwellings at 3.5 units/acre that are connected to open space with pedestrian facilities.

Review and Discussion Items:

- 1) Applicant is requesting a Minor Subdivision to separate a part of their land that contains a parking lot from the balance of the site that is to be developed into a Cottage Home Park (see PL21-095).
- 2) The parking lot provides additional off-street parking needed by the Glen Place Apartments located on the east side of Glen Place Dr.
- 3) The tract with the parking lot will be conveyed to the owner of the Glen Place Apartments.
- 4) The existing parking lot was constructed before the Unified Development Chapter (UDC) was adopted in 2010. Under the previous zoning, this type of stand-alone parking lot was not permitted in the former R-3 zone district. It is unclear under what zoning authority it was constructed.
- 5) The existing parking lot is not compliant with the UDC as, in the R-2 zone district, parking lots must either be a stand-alone use approved with a Special Use Permit, or they must be an accessory use located on the same lot as the principle use. This parking lot does not have a Special Use Permit so staff recommends that, before the current owner completes the transfer of the property to the owner of Glen Place Apartments, they obtain a Special Use Permit.
- 6) Both tracts created by this Minor Subdivision are of a sufficient size and have sufficient lot frontage to permit development according to the R-2 zone district.
- 7) No public, agency, or other City comments were received.
- 8) The attached Minor Subdivision exhibit demonstrates compliance with MN States 463.358, 505, and 508, as applicable.
- 9) Approval of this Minor Subdivision signifies that City of Duluth UDC standards are met. St. Louis County may have additional requirements.
- 10) 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:

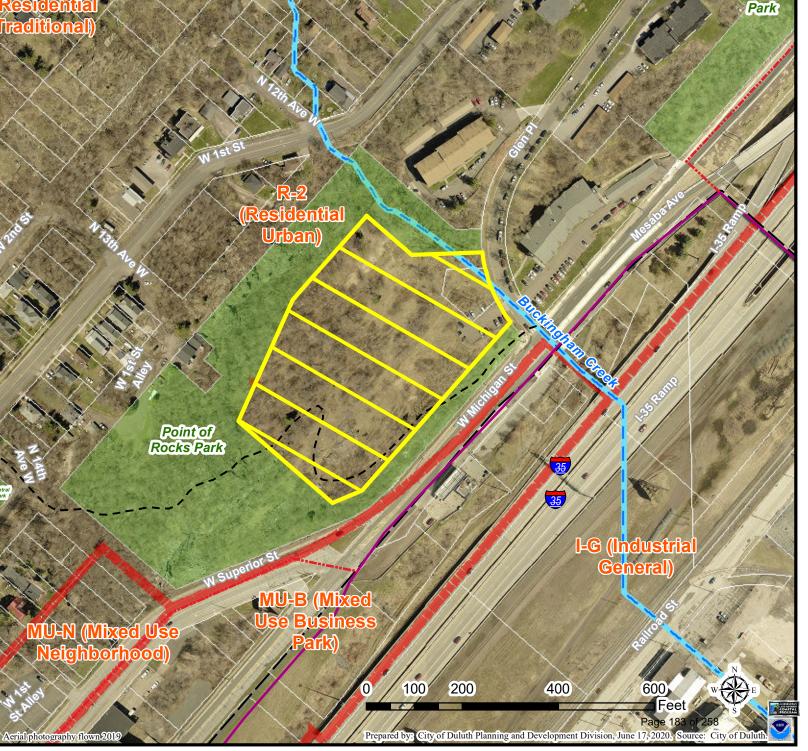
- 1) Prior to transfer of the tract with the parking lot, the applicant applies for and be granted a Special Use Permit for the parking lot.
- 2) Appropriate deeds be filed with St. Louis County within 180 days. Prior to recording the deed that results from this adjustment, the Planning Division will need to stamp the deed, indicating compliance with the local zoning code.
- 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.

Point of Rocks Tiny Homes Aaron Schweiger DULUTH PL21-095 Cottage Home Park SUP PL21-096 Minor Subdivision

(Residential Traditional)



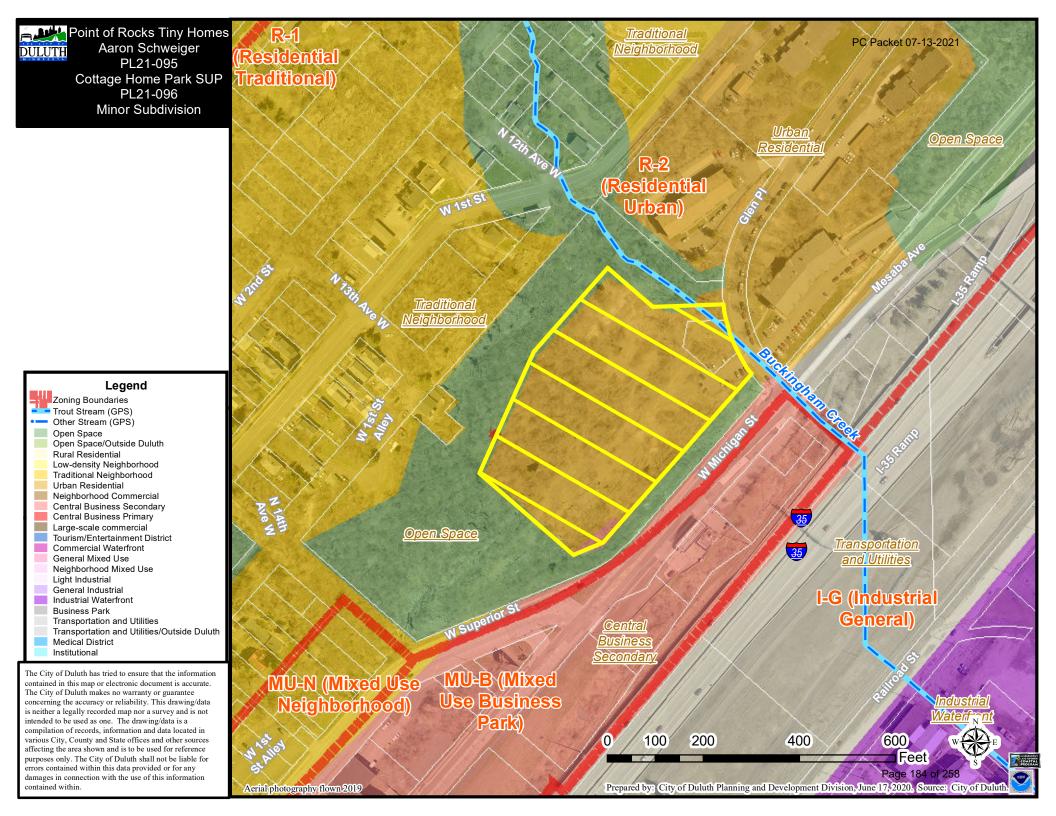
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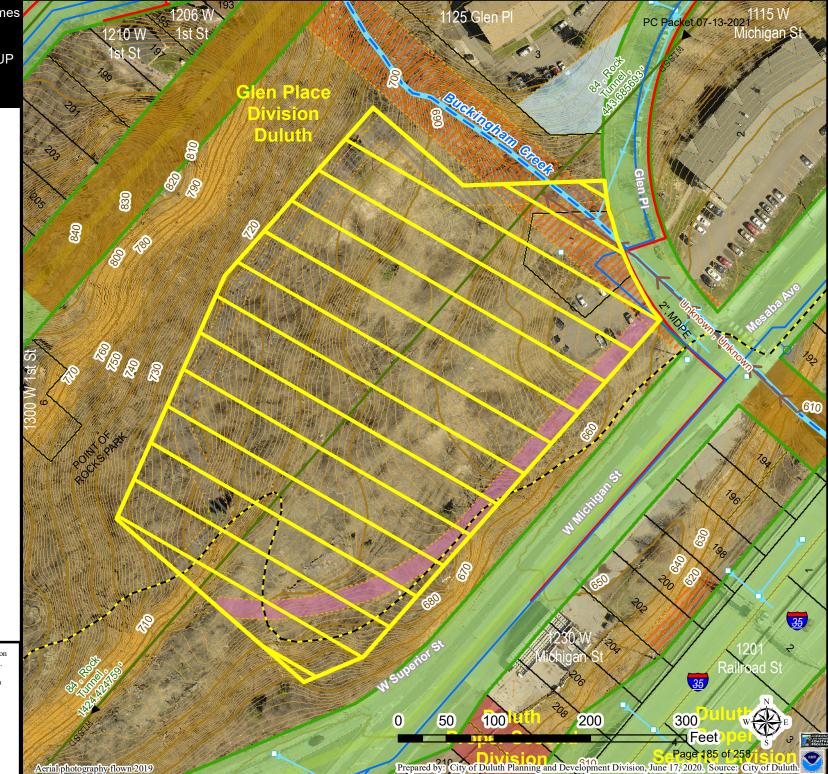
PC Packet 07-13-2021

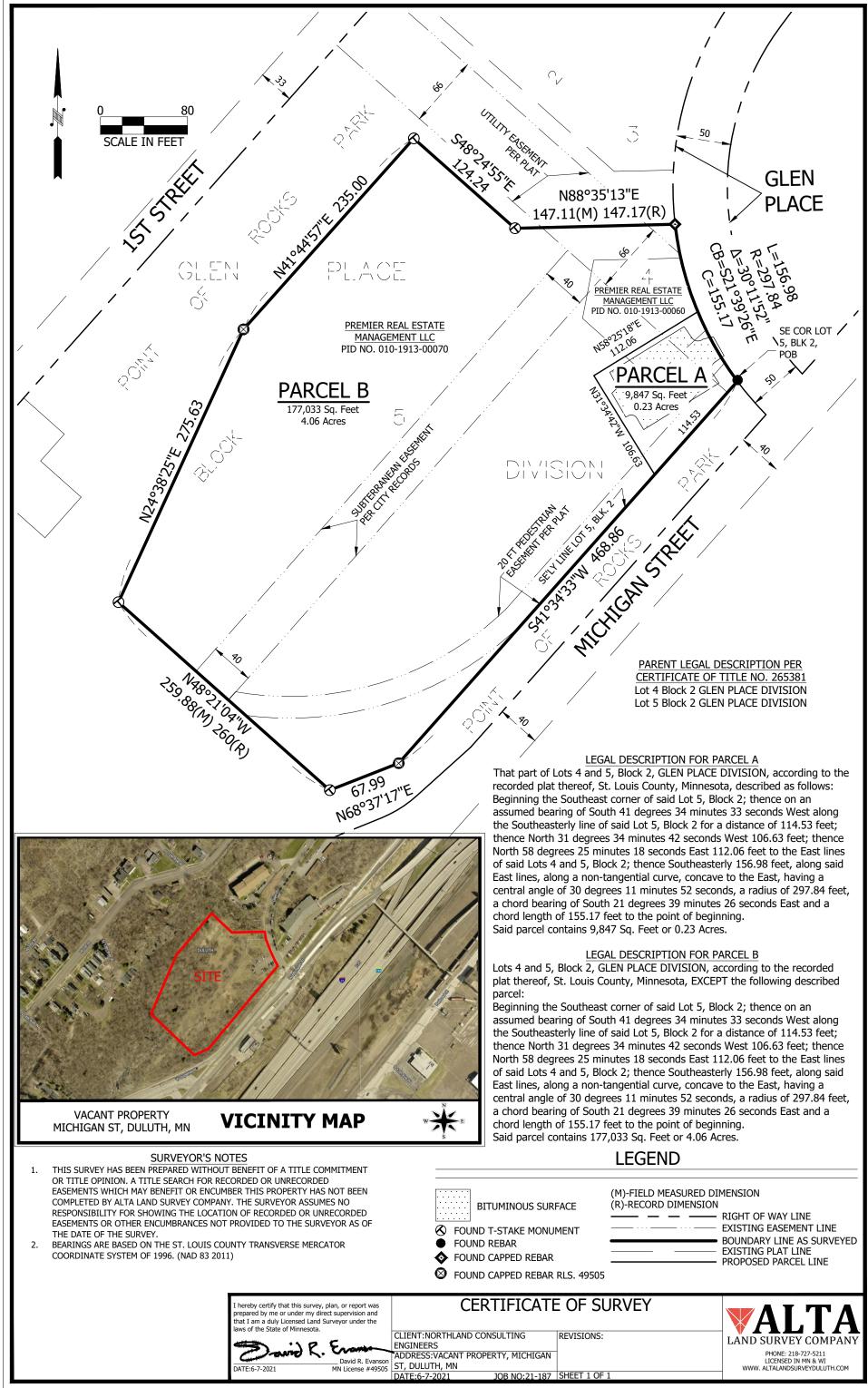


Point of Rocks Tiny Homes Aaron Schweiger PL21-095 Cottage Home Park SUP PL21-096 Minor Subdivision



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Planning & Development Division

Planning & Economic Development Department

218-730-5580

planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-097		Contact	Contact Steven		Robertson	
Туре	Preliminary Plat		Planning	Planning Commission Date		July 13, 2021	
Deadline	Application Date		June 24, 20	June 24, 2021 6		August 23, 2021	
for Action	or ActionDate Extension Letter MailedJune 25, 2021		120 Days	October 22, 2021			
Location of Subject 800 East Central Entrance		.					
Applicant	ISD 709		Contact	Availa	ilable, on file		
Agent	Northlar	nd Consulting Engineers	Contact	Availa	ailable, on file		
Legal Description See Attached Map							
Site Visit Date	9	June 25, 2021	Sign Notic	Sign Notice Date		June 25 2021	
NeighborLet	ter Date	June 25, 2021	Number o	Number of Letters Sent 58		58	

Proposal: Applicant is seeking approval of a preliminary plat in support of construction of new facilities in support of ISD 709 operations and administration, and in support of redevelopment of the remainder of the property.

Staff Recommendation

Approval of the preliminary plat, with conditions

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-P	Former school (vacant)	Business Park, Urban Residential, Recreation
North	MU-C, MU-N	Commercial	Central Business Secondary, General Mixed Use
South	R-1	Residential, Antenna Farm	Traditional Neighborhood
East	R-P	Residential	Urban Residential
West	R-1	Residential	Urban Residential

Summary of Code Requirements

The planning commission shall approve the application, or approve it with modifications if it determines that: (a) Is consistent with the comprehensive land use plan;

(b) Is consistent with all applicable requirements of MSA 462.358 and Chapter 505;

(c) Is consistent with all applicable provisions of this Chapter;

(d) Is consistent with any approved district plan covering all or part of the area of the preliminary plat;

(e) Is located in an area with adequate police, fire and emergency facilities available to serve the projected population of the subdivision within the City's established response times, or the applicant has committed to constructing or financing public facilities that will allow police, fire or emergency service providers to meet those response times;

(f) Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible;

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

Governing Principles

The following Imagine Duluth 2035 Governing Principles should be considered when reviewing the request:

Governing Principle 1, Reuse previously developed lands.

Reuse of previously developed lands, including adaptive reuse of existing building stock and historic resources, directs new investment to sites which have the potential to perform at a higher level than their current state. This strengthens neighborhoods and is preferred to a dispersed development pattern with associated alteration of natural landscapes and extensions of public services. Site preparation or building modification costs are offset by savings in existing public infrastructure such as streets and utilities, and transit, fire, and police services.

Governing Principle 2, Declare the necessity and secure the future of undeveloped places.

Undeveloped areas are an essential part of Duluth's municipal fabric, including urban plazas, neighborhood parks, large tracts of public ownership, and private lands zoned for minimal development. These minimally developed or undeveloped areas collectively create an open space system. These areas contribute to Duluth's cultural, health, recreational, and economic value and community identity. This open space system provides vistas, encourages active recreation, supplies natural infrastructure such as storm water retention, plant and animal habitat, and water quality, and is the strongest visual element defining Duluth's sense of place.

Governing Principle 5, Promote reinvestment in neighborhoods.

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

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

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

Future Land Use

Business Park: Primarily office and light industrial areas developed in a unified manner, with standards for site design and circulation patterns, signage, landscaping and building design. This land use category was specified for this particular site to provide for flexibility in redevelopment of the site, in support of ISD 709's intent to pursue sale of the property and redevelopment.

Site History or Previous Studies

Central High School at the top of the hill was built in 1971 as a replacement for the downtown Historic Old Central High School (HOCHS). The school terminated operations in 2011, and the building has been closed and vacant for that ten year period.

In late 2011 the City hosted two public meetings to gather input on future reuse of the site, with approximately 100 total attendees. Several scenarios were suggested to encourage public comment (Big Box Retail, Light Manufacturing, Casino, Nursing Home/Medical Care, Warehousing, Corporate Headquarters, Higher Education, and Heavy Industry).

In 2012 (PL 11-141) the future land use designation was changed. The site rezoned twice in 2013 (PL 13-037 and PL 13-117), in accordance with the previous future land use change. In 2014 it was rezoned again (PL 14-063) to a planned development, MU-P (Mixed Use Planned). As part of a planned development, a concept plan was required showing the proposed land uses to be allowed on the site, maximum density, and maximum height of structures. At the June 2014 Planning Commission meeting, the school district's representative offered to provide a buffer setback from residential properties on Blackman, to shield them from possible noise and light conflicts that may arise from future development.

At the June 2021 Planning Commission meeting, the commission recommend approval of the amendment to the concept plan (PL 21-069), which at the time this staff report was written had not reviewed by the City Council.

Review and Discussion Items

- 1) <u>Request.</u> The applicant is seeking Planning Commission approval of a preliminary plat. According to the application, "ISD 709 is realigning their parcels at the central high school property. After platting the property will be reduced to two parcels as shown...". The preliminary plat proposed to subdivide the property into three lots within Block 1, and one lot within Block 2 (at the very SE of the property).
- 2) <u>Character of Area</u>. This property is a mix of platted land that has already been subdivided (Clearview Park, Great View Addition to Duluth, Swenson's Division of Duluth) and unplatted land. The existing high school structure was constructed without addressing this incongruity, and is therefore constructed over several lots. One of the conditions of a previous rezoning action (PL 21-069) was that the entire area be platted, with the understanding that there may be further subdivisions of the property in the future as development plans mature. Lots to the east of this site are zoned R-P (Residential Planned), and are part of the Harbor Highlands Development. Lots to the west of this site are zoned R-1, and are traditional mid-sized residential lots, ranging between 28,000 to about 100,000 square feet for each lot. To the south of the development are a handful of single-family homes on mid-sized lots, and the tower farm.
- 3) <u>Site Plan.</u> The exhibits included proposed tentative locations for three new structures, and several new parking lots with approximately 200 off street parking spaces. The structures, off-street parking, and other associated items need to be reviewed and approved as part of the MU-P Regulating Plan, after the City Council approves the amendments to the Concept Plan.
- 4) <u>Vehicle Access.</u> The property has frontage on Central Entrance a Principal Arterial class of road, under the authority of the Minnesota Department of Transportation. An additional frontage can be found on Blackman Avenue, a City of Duluth local street. Vehicle access to Central Entrance and Blackman are both provided by existing private roads, not built to city standard and not on public right of way, with the Central Entrance access being regulated by an existing traffic stop light.
- 5) <u>Pedestrian Access.</u> Pedestrian access to the development is available from Central Entrance through an existing, deteriorating, sidewalk, on the east side of the private driveway. A five -foot wide replacement sidewalk is proposed on the western side of the driveway (proposed to be named Pecan Avenue, acting as an extension of the existing Pecan Avenue north of Central Entrance), running a distance of approximately 800 feet until it reaches the intersection of Portia Johnson Drive. UDC Section 50-23.2. requires a five-foot sidewalk or an eight foot multi-use trail in areas zoned MU-B. The proposed sidewalk will be placed along the edge of the curb, and will not allow any room for snow storage.

The sidewalk needs to be extended from the intersection going west to allow pedestrian access tot the proposed Facilities Building, Transportation Building, and District Services Center. Future development of this site will trigger more requirements to provide pedestrian access.

- 6) <u>Recreational Trails.</u> Access or pedestrian easements are needed for existing and planned future recreational trails on the eastern edge of the site. Trail/route flexibility is possible within the hillside, and most of the steep slopes are not developable. The public funding is in place to complete this trail segment next year, if granted formal access through the platting process
- Additional Connectivity. Future development of the rest of the site may require the expansion of Portia Johnson Drive to Blackman Avenue, as an improved public street built to city standards, especially if new highdensity residential housing is proposed.
- 8) <u>Public Right of Way.</u> Public Right of Way will be dedicated to the City over the two existing driveways (to be named Pecan Avenue and Portion Johnson Drive). Portia Johnson Drive will have 66 foot right of way, and Pecan Avenue will have 80 foot right of way, expanding to 140 feet right of way to allow for room for stormwater treatment facilities.

- 9) <u>Wetlands</u>. A wetland delineation has not been done on this site, at least not in the last five years (which is the effective duration of wetland delineations). Wetland boundaries within the plat are required to be shown on the final plat to be recorded.
- 10) <u>Environmental Review.</u> The proposed project does not trigger any mandatory EAW reviews. However, it is possible that future development of the rest of the site may trigger a mandatory EAW, especially if higher density residential housing is proposed.
- 11) <u>Mass Transit</u> The nearest transit service stop/shelter is at the southeast corner of Central Entrance and Pecan Avenue, approximately 1,800 feet from the entrance of the proposed facilities building.
- 12) <u>Natural Features.</u> The property declines 130 feet over 900 feet (average 14%) from the highest point of the site to the eastern edge of the property. There are no official streams or floodplains of note running through the property, but Brewery Creek is on the extreme northern edge of the property and Clarkhouse Creek is just beyond the southern edge of the property.
- 13) <u>Water/Sewer/Natural Gas.</u> The site is served by City sewer, water, and natural gas. A new water main will be installed. In general, there is sufficient infrastructure services available to support this preliminary plat.
- 14) <u>Open Space/Buffer.</u> At a June 2014 Planning Commission meeting, as part of a rezoning application, the school district's representative offered to provide a buffer setback from residential properties on Blackman to shield them from possible noise and light conflicts that may arise from future development. The proposed grading for a parking lot comes within approximately 50 feet of an existing single-family home.
- 15) <u>Impacts.</u> Staff finds there are no adverse material impacts to surrounding properties that cannot be adequately mitigated by permits required by this development and appropriate site design. Storm water permits will require appropriate treatment of storm water before discharge. Loss of tree cover will be mitigated through approval of tree preservation and replacement plan; the tree preservation plan is still under review by the City Forester. Preservation of open space between this project and the adjacent homes on Blackman Avenue will reduce land use impacts. Pedestrian and bicycle connectivity will be addressed through installation of sidewalks and providing space for future bike facilities.
- 16) <u>Conformance with UDC and State Statute</u>. The preliminary plat is consistent with the comprehensive land use plan designation of this site "business park" The preliminary plat is located in an area with adequate police, fire and emergency facilities available to serve the anticipated developments proposed for this site. Staff finds that, other than the items addressed above and referenced in the recommendations below, the preliminary plat conforms to the requirements of Sec 50-37.5. and is consistent with all applicable requirements of MSA 462.358 and Chapter 505.
- 17) <u>Development Agreement</u>. A development agreement for the improvement of public streets, sidewalks, or trails on the site, meeting applicable city standards, shall be reviewed by city staff and approved by the City Council.
- 18) <u>Public Comments.</u> No citizen comments have been received to date.
- 19) <u>City Staff Comments.</u> There was discussion to add a storm basin for flood control and water quality along the west side (Lot 2) of Pecan Ave as it climbs the hill from Central Entrance. There was also a discussion regarding a slope easement on the east side of Pecan Ave to prevent future development encroaching on the road stability/structure. If there is an easement for the proposed reconstructed Portia Johnson Drive closer to Blackman, there is no easement shown for storm water management facilities. A summary of other comments is attached to this staff report.

Staff Recommendation

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

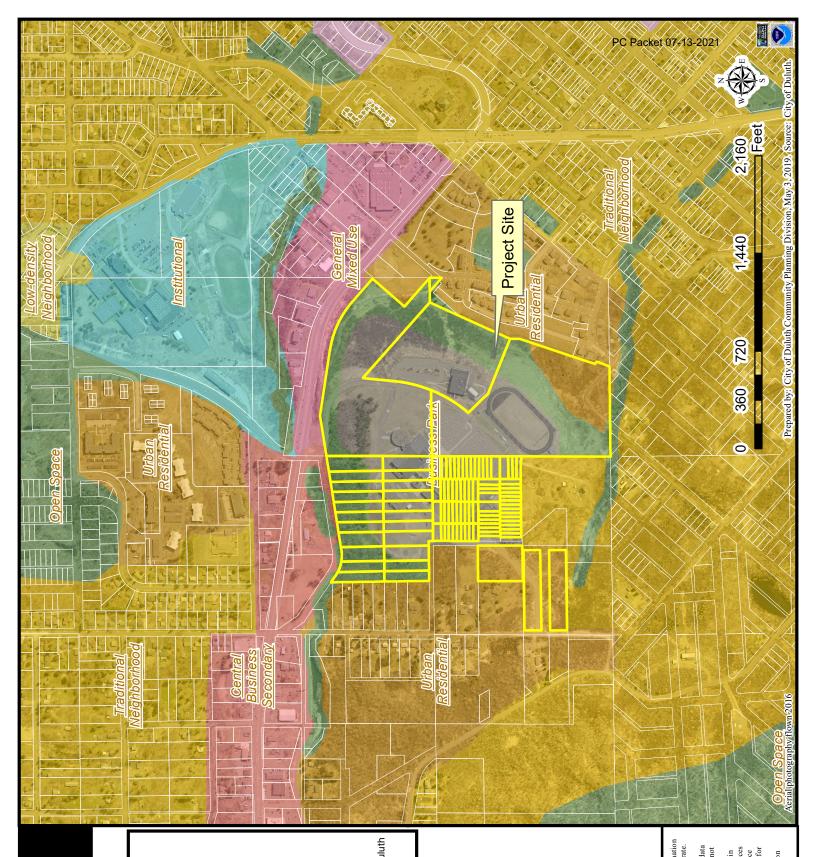
- 1. The applicant enter into a development agreement addressing terms as identified by City staff that is approved before the Final Plat is recorded. This also includes easements for a recreational trail on the eastern edge of the site.
- 2. The proposed sidewalk needs to be extended from the intersection going west to allow pedestrian access to the proposed Facilities Building, Transportation Building, and District Services Center.
- 3. A wetland delineation is required to show the boundaries of existing wetlands within the site. If wetlands are near areas of proposed grading, the applicant shall provide photographic evidence to the Land Use Supervisor to verify that a construction fence was installed around wetlands to be preserved.
- 4. The City Forester must approve the tree replacement plan and that trees to be preserved.
- 5. Open Space/Buffer be increased to approximately 125-150 feet along the western edge of the development adjacent to Blackman Avenue, to roughly approximate the open space presented with the rezoning application (PL 21-069), and should be preserved by an easement or similar tool.



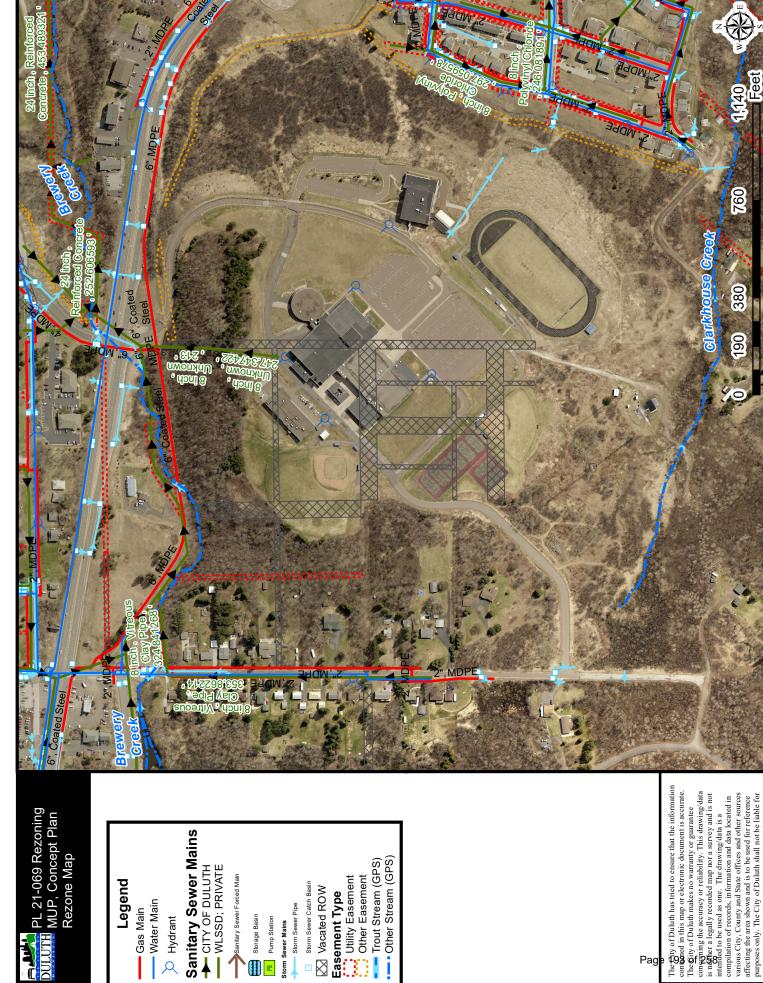
Transportation and Utilities Transportation and Utilities/Outside Duluth Tourism/Entertainment District Open Space/Outside Duluth Central Business Secondary Low-density Neighborhood Neighborhood Commercial **Central Business Primary** General Mixed Use Neighborhood Mixed Use Traditional Neighborhood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

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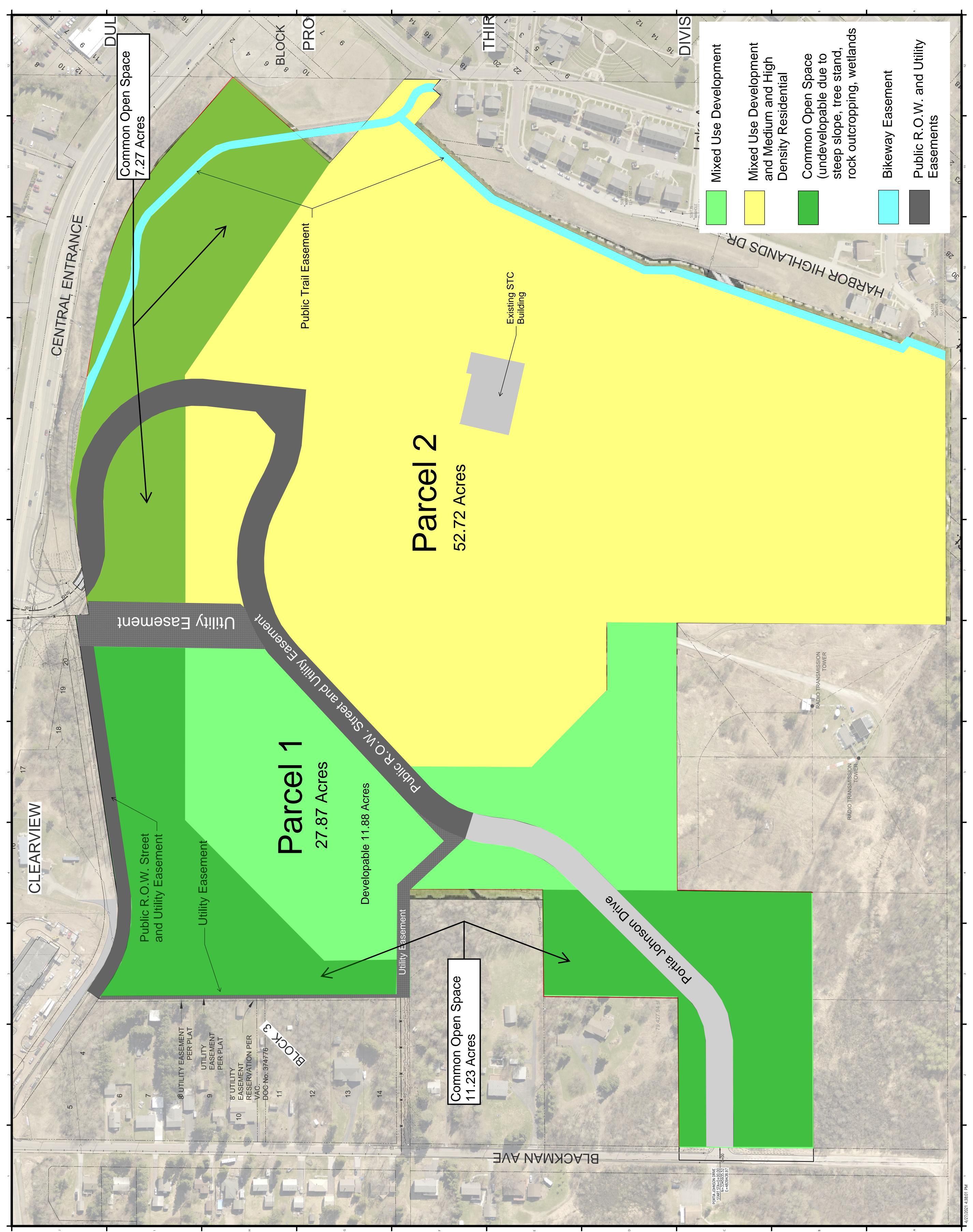
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purposes only. The City of Duluth shall not be liable for errors contained within this data provided or for any damages in connection with the use of this information contained within.

City of Duluth

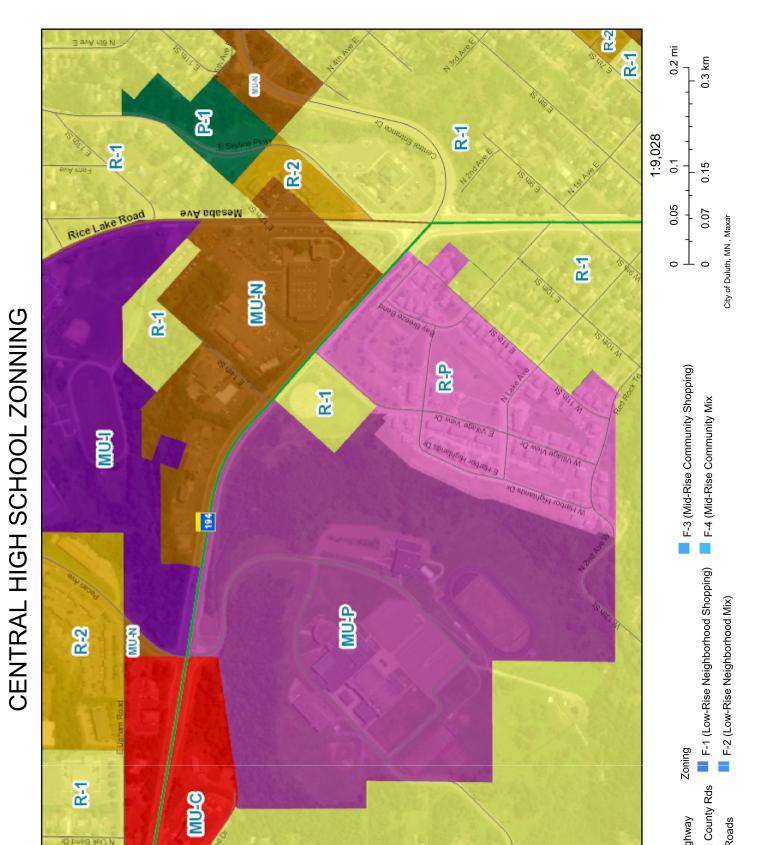
2019. Source:





OVERLOOK PRELIMINARY PLAT OF CENTRAL

LOCATED IN PART OF SEC. 21, TWP. 50, RGE. 14, ST. LOUIS COUNTY MINNESOTA



	6	LOT STANDARDS
Minimum lot are family) [1] [2]	Minimum lot area per family (One- family) ^{[1],[2]}	The smaller of 4,000 sq. ft. or average of developed 1-family lots an the block face
Minimum lot are family) mizers	Minimum lot area per family (Two- family) Milizipi	The smaller of 3,000 sq. ft. or average of developed 2-family lots on the block face
Minimum lot area per family (Townhouse) [1]	ea per family	3,000 sq. ft.
Minimum lot fro	Minimum lat frontage (one-family) [1]	The smaller of 40 ft. or average of developed lots with similar uses on the block face
Minimum lot fro townhouses) [1]	Minimum lot frontage (two-family and townhouses) [1]	The average of developed lots with similar uses on the block face, but not less than 40 feet.
Minimum depth of front yard	of front yard	The smaller of 25 ft. or a verage of adjacent developed lats facing the same street
9	General	óħ.
Minimum width of side yard (one-	Lots with less with 50 ft, but more than 25 ft frantage	Combined width of side yards must be at least 12 ft., with no side yard less than 3 ft. wide
family)	Lots with 25 ft or less of frontage	Combined width of side yards must be at least 8 ft., with no side yard less than 3 ft. wide
Ainimum width	Minimum width of side yard (all other	10 ft. if adjacent to another lat
principal structures)	ires)	25 ft, if adjacent to platted street
Corner Loti	Dwelling	15 ft.
width of front side yard	Detached accessory building	15 ft.
	All other Principal Structures	25 ft.
Minimum depth of rear yard	of rear yard	25 ft.
Maximum height of building	nt of building	30 ft.
¹¹ Determined v his calculation, ²¹ Lots without v ²¹ Existing struc nust meet minimu	⁽¹⁾ Determined using "Lots on the block face" definition. Wh this calculation, exclude the subject lot from the calculation. ⁽²⁾ Lots without municipal sewer must also meet requirements ⁽³⁾ Existing structures that have a drange of use from one-fa must meet minimum lot area and frontage, but not setbacks than the minimum lot frontage, refer to 50-38.5	¹¹ Determined using "Lots on the block face" definition. When doing this calculation, exclude the subject lot from the calculation. When doing ²¹ Lots without municipal sever must also meet requirements of 50-21.2. ²³ Existing structures that have a dhange of use from one-family to two-family must meet minimum lot area and frontage, but not setbacks. For iots with less than the minimum lot frontage, refer to 50-38.5

Table 50-1	Table 50-15.7-1: Modifications Allowed.
Chapter Requirement	Maximum Modification Allowed
Distance from property lines	No required yards
Building height	20% increase if not within 200' of an R-1 or R-2
Lot frontage	10% decrease
Buildings per lot	More than one building may be placed on one lot
Parking	10% decrease in addition to other allowable chapter reductions or a 10% increase over the maximum
Landscaping	20% decrease
Street width	As determined by City Engineer
Building design standards	Can propose alternative standards
Higher Education Overlay	Can propose alternative standards

OWNER/DEVELOPER DULUTH PUBLIC SCHOOLS CITY OF DULUTH BOARD OF	215 N. 151 AVENUE EAST DULUTH, MN 55802 PHONE (218) 336-8700 EMAIL INFO@ISD709.ORG	civil Engineer Northland Consulting Engineers L.L.P. David Bolf Pe 102 S 21 Avenue West, ste 1	PHONE (218) 727-5995 EMAIL INFO@NCE-DULUTH.COM
	215 N. DULUTI PHONE EMAIL	CIVIL E NORTH DAVID 102 S 2	PHONE

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COMPANY

PRELIMINARY PLAT BY ALTA LAND SURVEY COMPANN ON OCTOBER 25, 2019 P.O. BOX 161138 102 S. 21ST AVE. W. SUITE 4 DULUTH, MN 55816-1138 PHONE (218) 727-5211 DAVID R. EVANSON, MINNESOTA STATE REG. NO. 49!

REVISED 6-23-2021 NEW LAYOUT PER CLIENT SHEET 1 OF 3 SHEETS



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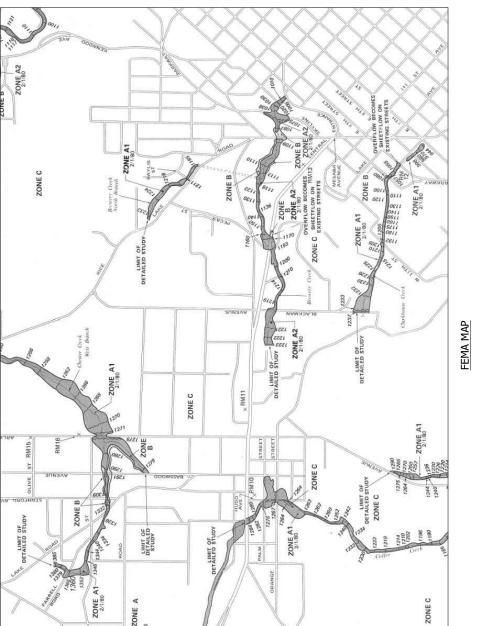
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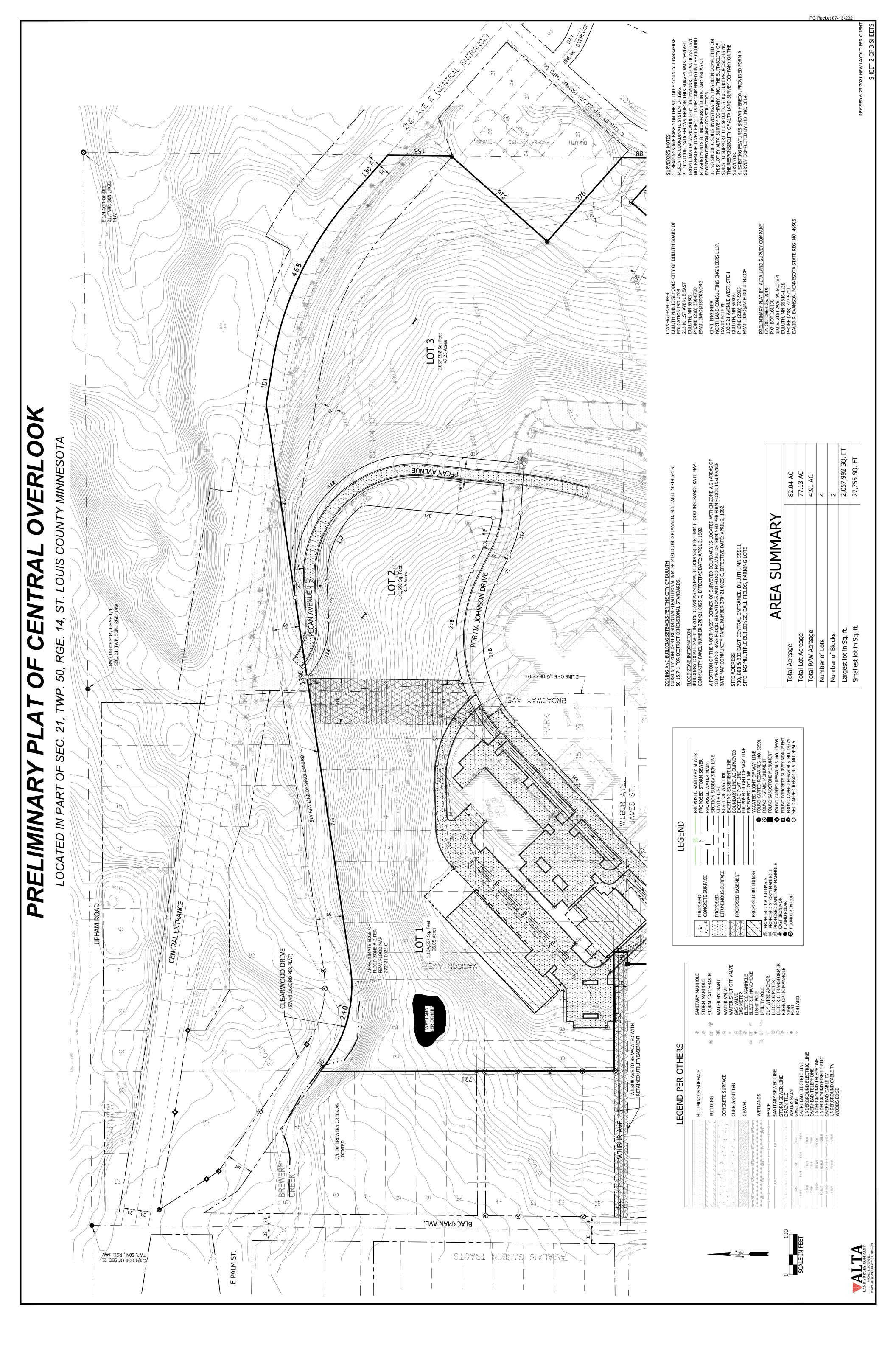
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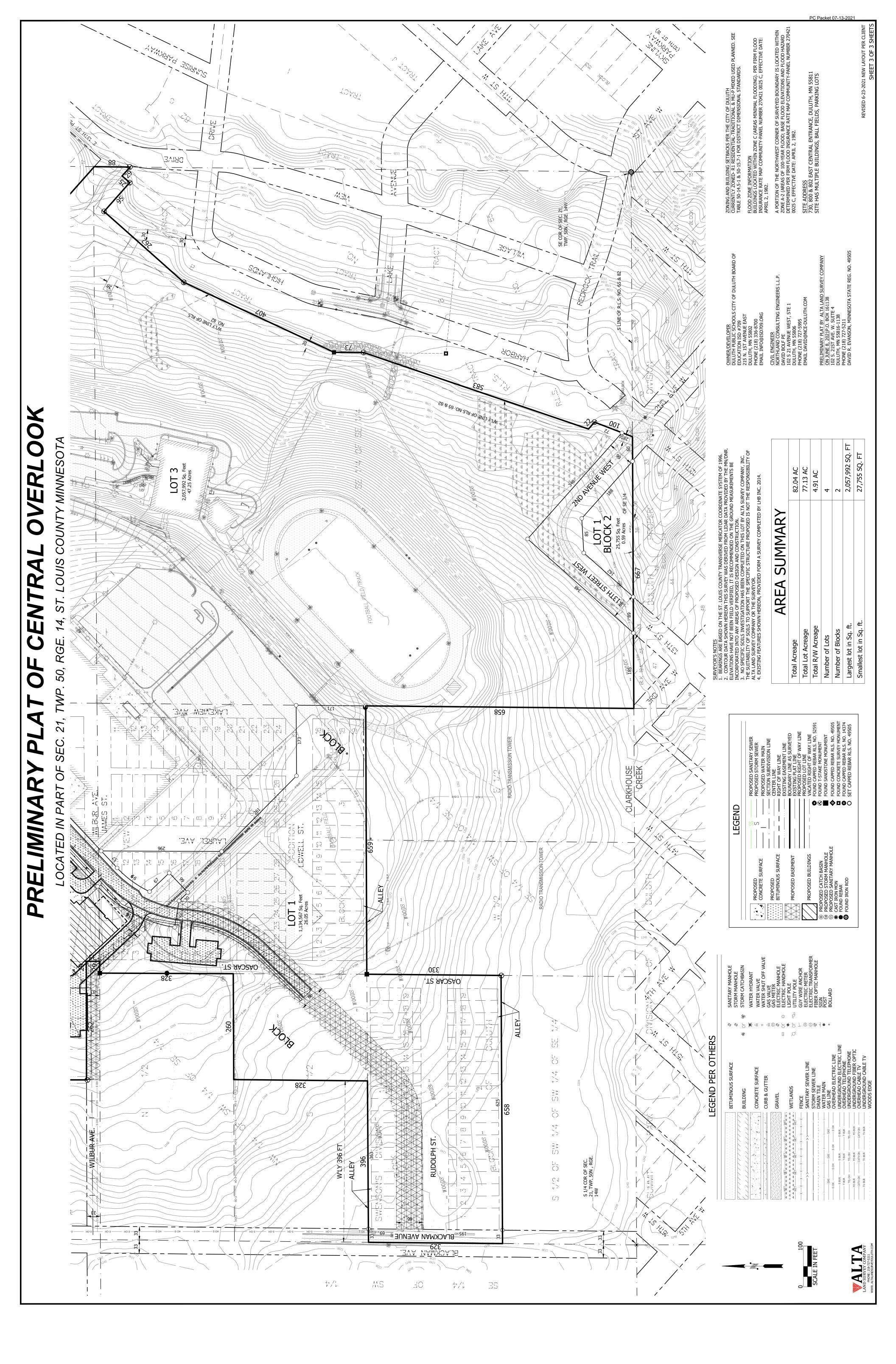
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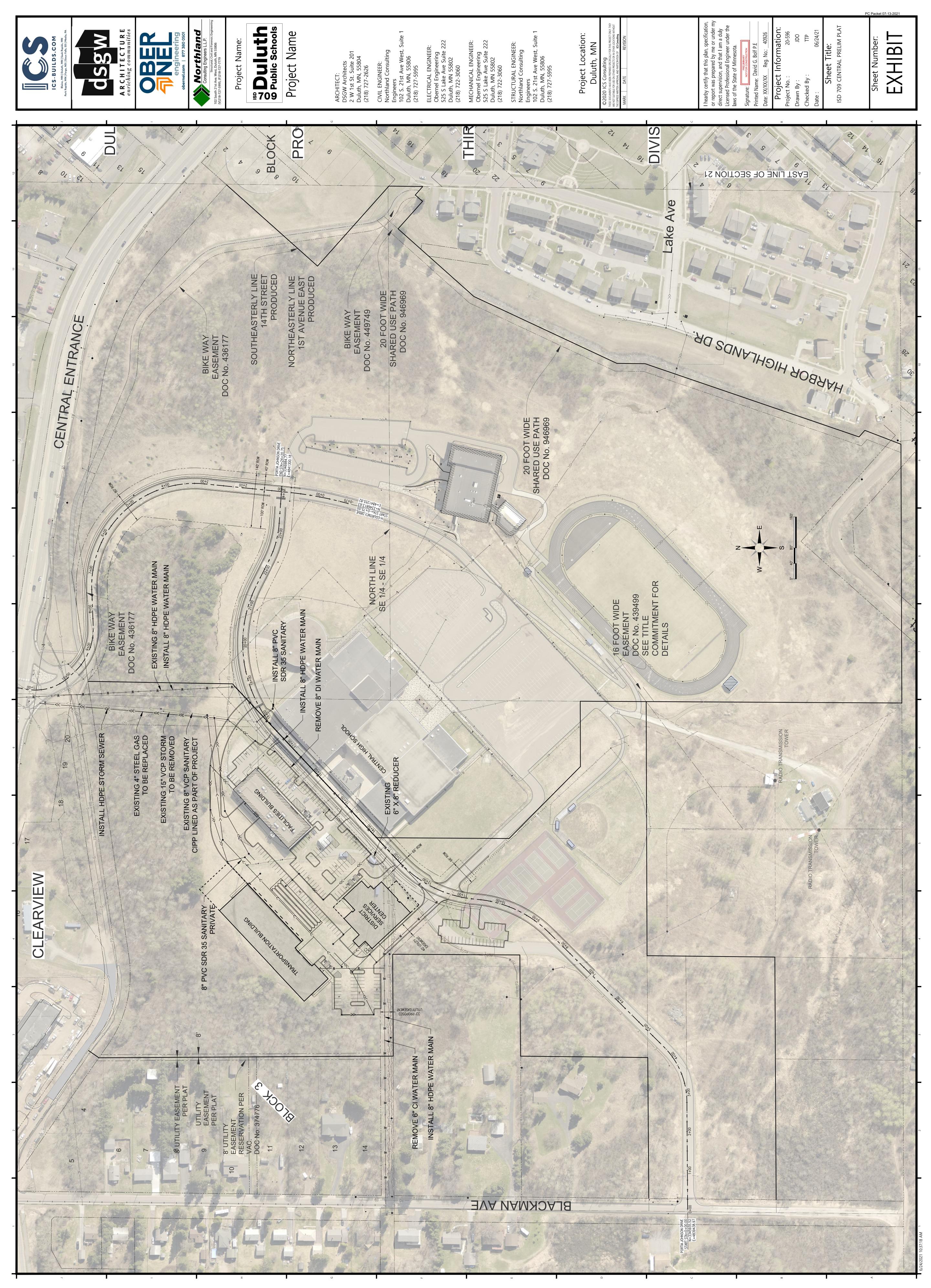


/ PARK. he Fourth Principal Meridian; thence North 05 degrees to distance of 410.24 feet; thence North 89 degrees conds West 275.00 feet to the Point of Beginning; degrees 31 minutes 51 seconds West 746.25 feet; a atogential curve concave to the West, having a distance of 604.17 feet; thence South 48 degrees 39 ds East 425.17 feet to the point of beginning and there	N OF DULUTH NN OF DULUTH NN OF DULUTH NN OF DULUTH SION OF DULUTH SION OF DULUTH NN OF DULUTH NN OF DULUTH NN OF DULUTH SION OF DULUTH	of the Fourth Principal Meridian described as follows: North 5 degrees 00 minutes 00 seconds West, ence North 89 degrees 57 minutes 00 seconds West a s 00 seconds West a distance of 275.00 feet; thence of beginning of the parcel of land to be described; feet to the North line of said SE1/4 of SE1/4; thence 66 feet; thence South 53 degrees 55 minutes 21 West a distance of 25.00 feet; thence North 53 rees 04 minutes 39 seconds West a distance of 262.03	cipal Meridian EXCEPT those parts described as follows: 1 scribed as follows: e 14 described as follows: hence North 5 degrees 00 minutes West (magnetic cre of 410.24 feet to a concrete monument; monument, thence North 19 degrees 59 minutes East along 3 degrees 55 minutes East, a distance of 134.61 feet to a segrees 00 minutes East, a distance of 134.61 feet to a press of minutes East along said Section line, a distance of Range 14 West of the Fourth Principal Meridian lying onstructed over and across said SE1/4; westerly in the same straight line until it intersects the ht line; on the Southwest by the Northeasterly line of Firsl e Southeasterly line of Fourteenth Street produced lock 193, Duluth Proper, Third Division according to the by the Award of Condemnation, dated September 17, tober 13, 1909, in Book 292 of Deeds on page 120, as bed lines: 4 West of the Fourth Principal Meridian; the Southerly line of 4; th, Range 14 West of the Fourth Principal Meridian; the East line of said Section 21 a distance of 410.24 feet; 05 degrees 00 minutes 00 seconds West 275.00 feet to 649.90 feet; thence Southerly along a tangential curve	es 51 minutes 37 seconds for a distance of 604.17 h 73 degrees 17 minutes 13 seconds East 425.17 feet 21, Township 50 North of Range 14.	AP
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LAND SURVEY COMPANY







Steven Robertson

Subject:

RE: Central - City Engineering Meeting

From: David Bolf <<u>david@nce-duluth.com</u>>

Sent: Thursday, June 10, 2021 2:45 PM

To: Cindy Voigt <<u>cvoigt@DuluthMN.gov</u>>; 'cpedersen@duluthmn.gov' <<u>cpedersen@duluthmn.gov</u>>; Tom Johnson <<u>tajohnson@DuluthMN.gov</u>>; 'eshaffer@duluthmn.gov' <<u>eshaffer@duluthmn.gov</u>> Cc: Trent Prigge <<u>trent@nce-duluth.com</u>>; Jacob Oetterer <<u>jacob@nce-duluth.com</u>>; Nathan Norton <<u>nathan.norton@ics-builds.com</u>>; John Erickson <<u>JErickson@dsgw.com</u>>; David Spooner <<u>david.spooner@isd709.org</u>>; Adam Fulton <<u>afulton@DuluthMN.gov</u>>; 'davee@altasurveyduluth.com' <<u>davee@altasurveyduluth.com</u>> Subject: Central - City Engineering Meeting

All, I met with Cindy Voigt, Cari Pedersen and Tom Johnson this morning. Here is a summary of our discussions:

- 1. New public roadway will be 28' wide with curb and gutter
 - a. There will be new storm sewer along most of the length of it
 - b. The guardrail will be removed
 - c. A new 5' sidewalk will be constructed on the south or downhill side of the new roadway, target 4-5' blvd
 - d. Cindy said she will not allow Demo traffic of the old school on a new roadway. Therefore we need to plan to build the new road after the demo of the old school.
 - e. NCE to coordinate intersection of central entrance with MNDOT
- 2. Utilities (items a-e are planned to be constructed in ROW or easement and conveyed to COD)
 - a. Sanitary sewer will be CIPP down the hillside, new PVC SDR 35 will be connected to each end.
 - i. There will be a private main that serves both the (2) new buildings
 - b. Watermain we will pipe burst old 6" CI and installed 8" HDPE in its place down the hillside
 - i. We will replace the WM in all other areas.
 - ii. Ultimately there will be new WM from Blackman Ave thru the site to Pecan Ave
 - iii. Our limit will be the West side of intersection of Central Entrance and Pecan. COD plans to replace crossing as part of central entrance reconstruction project
 - iv. WM will need to be phased, because of timing of bldg. demo
 - c. Gas Main Eric will determine if any upgrades are necessary. Likely some new main because of alignment and grade changes.
 - d. Storm Sewer The entire site will get new storm sewer. There will be both public and private.
 - i. A drainage report and SWPPP will be prepared for the entire site.
 - ii. All flow will be conveyed to 24" RCP at intersection of Pecan/ Central Entrance, which ties directly into box culvert.
 - iii. Likely storm water pond in new ROW
 - iv. Tom wants map showing existing conditions and where all the water goes.
 - v. NCE to consider a Sump structure to treat water from roadway above central entrance
 - vi. NCE needs to design a BMP to treat storm water on Portia Johnson Drive
 - e. Street Lights lighting needs to meet the current COD standard
 - i. ONE needs to provide lighting plan to COD for review and approval
 - f. Private Wire Utilities they are planning to submit to NCE a replacement plan for review and approval at

3. Plat

- a. We need to provide a ROW for all legs of the hammer head turn around on portia johnson drive
- b. Provide ROW on 2^{nd} ave west and 13^{th} street west

- c. Vacate all of Wilbur Ave and retain utility easement
- d. Make sure bike path is in easement, if not need to dedicate new easement
- e. ROW will need to be wider going down hill to account for slope easement, NCE will cut cross sections and make recommendation on the width
- f. ISD 709 and design team, need resolution from City (**ADAM**) ASAP on whether or not there is a 175' buffer to parcels off blackman ave

City staff please confirm that my summary is accurate and the design team moves forward with the items above.

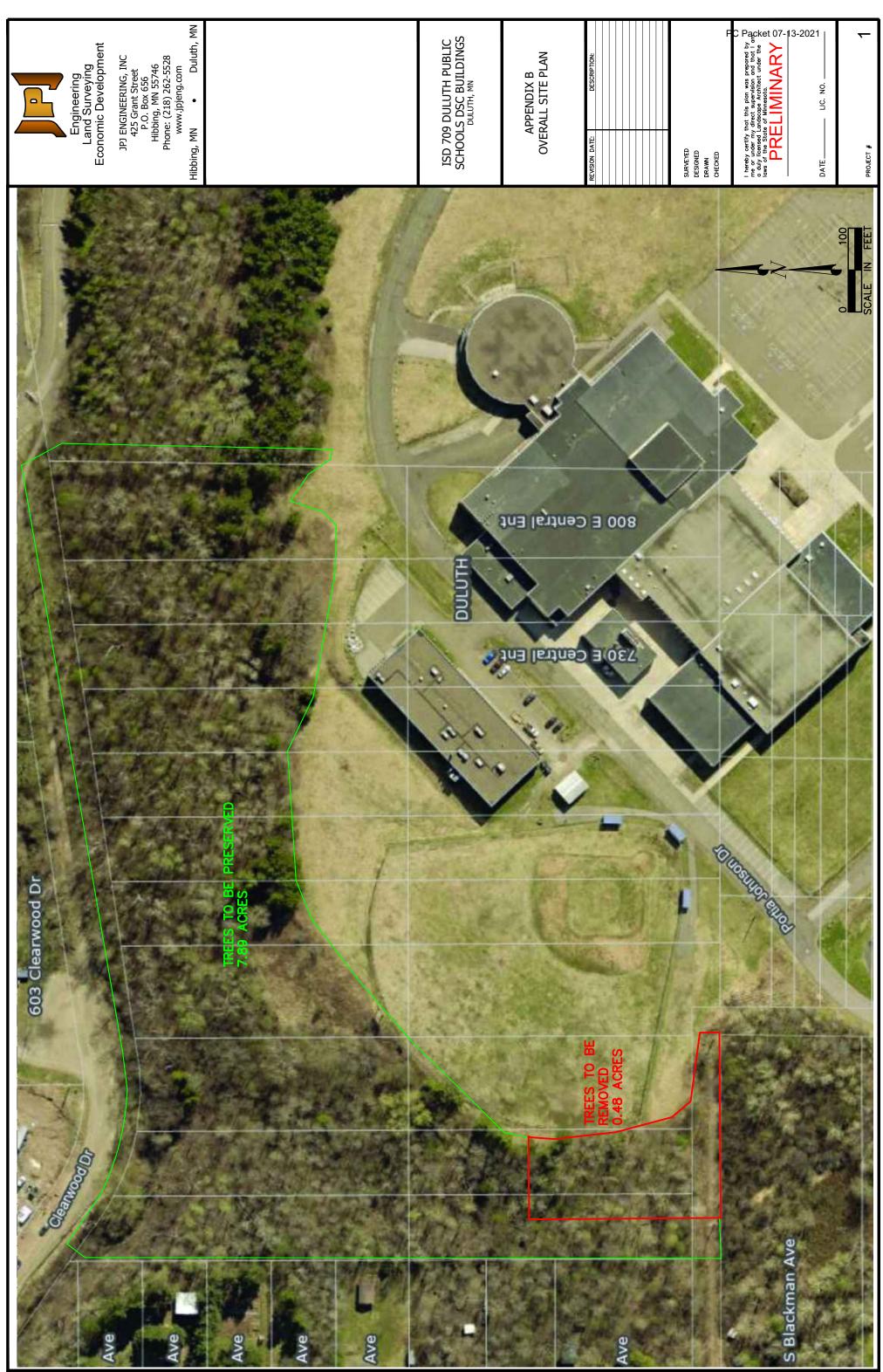
David Bolf, P.E. Principal Partner - Civil Department Manager 102 South 21st Avenue West, Suite 1 Duluth, MN 55806 <u>david@nce-duluth.com</u> 218.727.5995 (office) 218.349.7485 (cell) 218.727.7779 (fax)



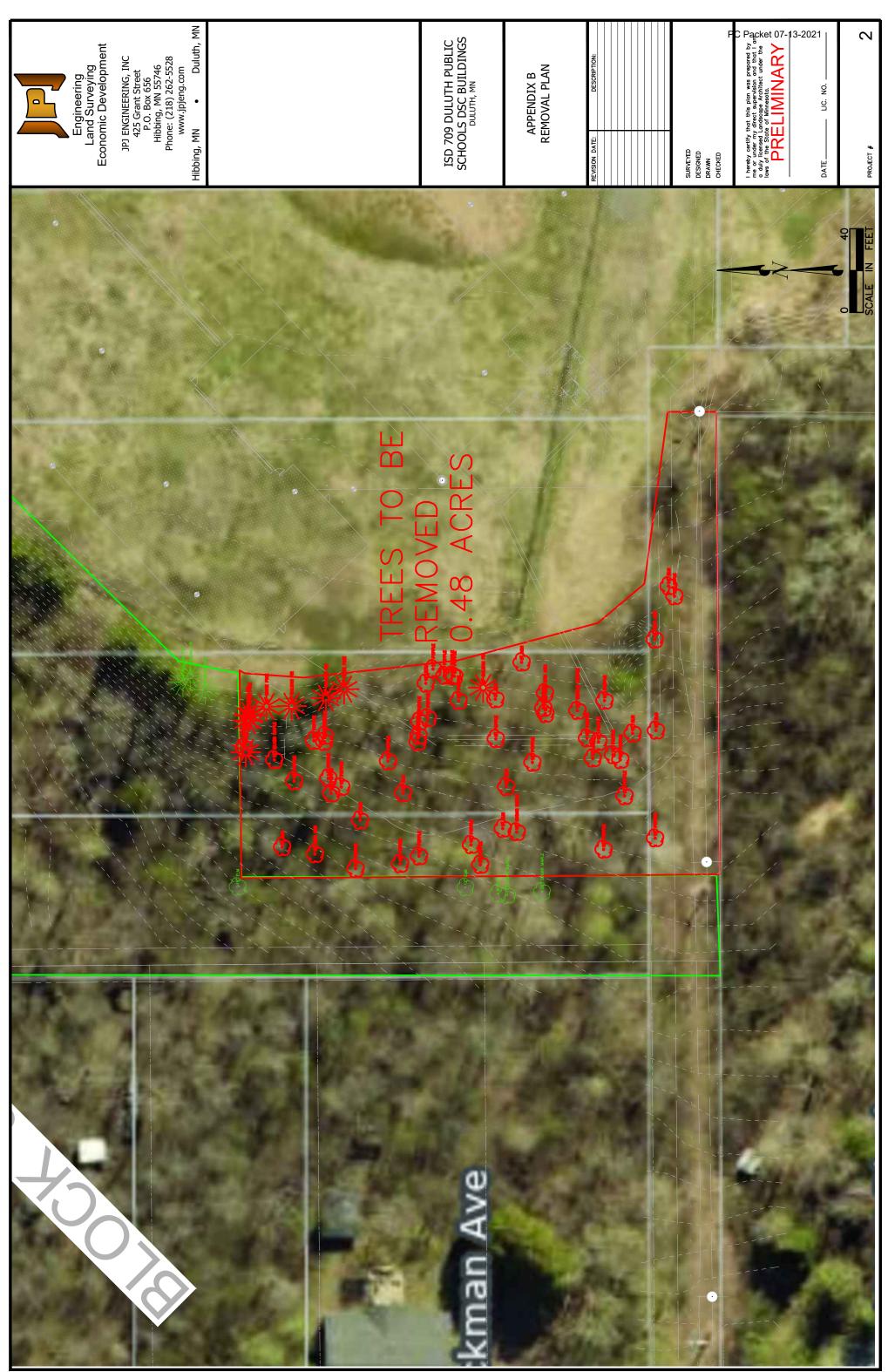
APPENDIX C- SITE PHOTOS

PC Packet 07-13-2021

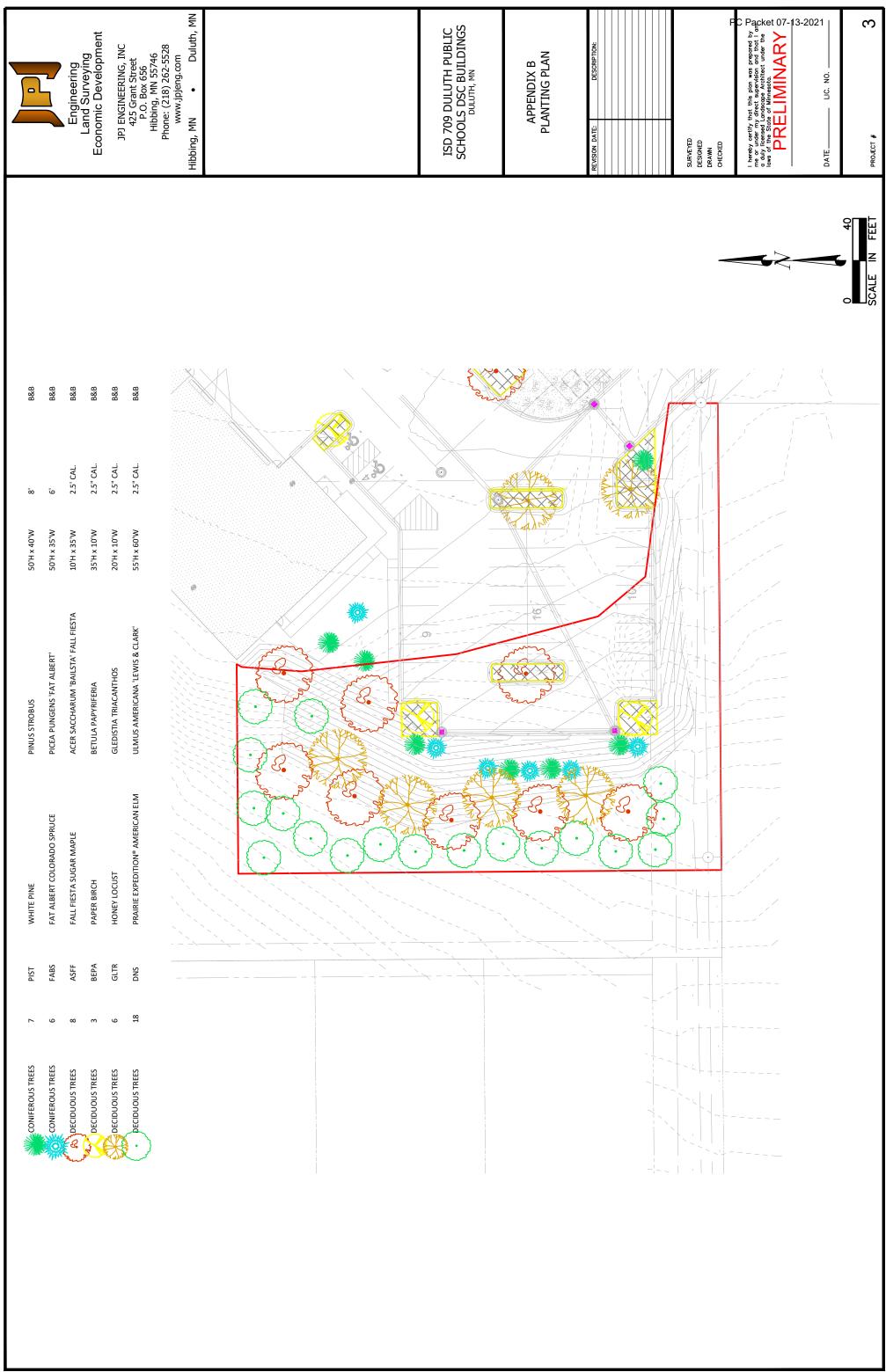




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PC Packet 07-13-2021



Planning & Development Division

Planning & Economic Development Department

218-730-5580

planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-099		Contact Kyle D		Kyle Demii	ming	
Туре	Preliminary Plat		Planning Commission Date		sion Date	July 13, 2021	
Deadline	Application Date		June 4, 2021 6		60 Days	August 3, 2021	
for Action Date Extension		tension Letter Mailed	June 24, 2021 1		120 Days	October 2, 2021	
Location of Subject Between Arrowhead Rd. and			/larble St. 660) feet v	vest of Arlir	ngton Ave. (Duluth Heights)	
Applicant	Unique Opportunities, LLC		Contact	Samuel Herzog			
Agent		Contact					
Legal Descript	Legal Description W ½ of NE ¼ of the NE ¼ of Section 17, Township 50 N, Range 14 W				e 14 W		
Site Visit Date		June 25, 2021	Sign Notice Date			June 25, 2021	
Neighbor Lette	er Date	June 28, 2021	Number of Letters Sent		s Sent	20	

Proposal

Subdivide 20 acres into 4 lots and 1 outlot with one new street and completing streets that were parts of adjacent plats.

Staff recommends approval, with conditions

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N and R-1	Vacant/Undeveloped	Neighborhood Mixed Use, Low-Density Neighborhood
North	MU-N	Commercial	Neighborhood Commercial
South	R-1	Dwellings	Low-Density Neighborhood
East	MU-N and R-2	Vacant/Assisted Living	Neighborhood Mixed Use, Urban Residential
West	MU-P, R-1, R-P	Vacant/Dwelling	Low-Density Neighborhood, Urban Residential

Summary of Code Requirements

The planning commission shall approve the application, or approve it with modifications if it determines that: (a) Is consistent with the comprehensive land use plan;

- (b) Is consistent with all applicable requirements of MSA 462.358 and Chapter 505;
- (c) Is consistent with all applicable provisions of this Chapter;
- (d) Is consistent with any approved district plan covering all or part of the area of the preliminary plat;

(e) Is located in an area with adequate police, fire and emergency facilities available to serve the projected population of the subdivision within the City's established response times, or the applicant has committed to constructing or financing public facilities that will allow police, fire or emergency service providers to meet those response times;

(f) Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible; Page 207 of 258

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

Governing Principle #7 – Create and maintain connectivity.
Governing Principle #8 – Encourage a mix of activities, uses, and densities.
Governing Principle #9 – Support private actions that contribute to the public realm.
Governing Principle #12- Create efficiencies in delivery of public services.
Housing Policy #2 - Provide affordable, attainable housing opportunities
Housing Policy #4 – Improve the quality of the city's housing stock and neighborhoods

Zoning:

-- Mixed Use-Neighborhood (MU-N): A mix of neighborhood-scale, neighborhood serving non-residential uses and a range of residential uses located in close proximity. Non-residential uses may include small-scale retail, service and professional offices that provide goods and services to the residents of the surrounding neighborhood -- Residential-Traditional (R-1): traditional neighborhoods of single-family, duplexes and townhouses on moderately sized lots. Intended to be used primarily in established neighborhoods. Dimensional standards require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas.

Future Land Use:

-- Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. 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.

-- Low Density Neighborhood: Single-family housing with urban services. Typified by curvilinear streets, houses with longer dimension parallel to street, and attached garages. Includes a range of house sizes and lot sizes. Non-residential uses are mainly uses such as schools and churches. Parks and open space are located within or adjacent. 3 -4 units/acre (future study). Conservation development an option, required with SLO. Limited number of secondary/granny flats.

Related files: PL 20-168 Wetland Delineation, PL 21-060 Concept Plan

Review and Discussion Items

Staff finds:

- 1) This land was previously a farm with a dwelling near Marble St. The land has never been subdivided. The area to be platted is 663 feet wide by 1,325 feet deep.
- 2) Lots around the new street, Herzog Ct., are zoned Mixed Use Neighborhood (MU-N) and are 2.30 ac., 2.95 ac., and 3.24 ac., with a 2.95 ac. outlot for storm water treatment. Lot 1, Block 2, near Marble St. is zoned Residential Traditional (R-1) and is 5.44 ac. All of the lots are sized to permit development consistent with the underlying zoning. The applicant has stated that he would like to develop each of the MU-N zoned lots with an apartment building and that he intends to convey Lot 1, Block 2 to another party to develop according to the current zoning.
- 3) The property has frontage on Arrowhead Rd., a Minor Arterial class of road and a County State Aid Highway. Additional frontages are Marble St., a City local street, and Stanford Ave., a City local street that has been improved as a single lane, north-bound only street from Mission Dr. to the north. The portion of Stanford Ave. south of Mission Dr. is only platted 33 feet wide in the Harbor Light and Kensington Place Addition. The development agreement that was adopted with the Harbor Light plat outlines the decision-making process and cost allocation for various improvements at the intersection of Arrowhead Rd. with Stanford Ave. and Evergreen Cir. (in the Harbor Light plat).

- 4) The Arrowhead Acres plat provides needed space for the north half of Marble St., the south half of Arrowhead Rd. and the east half of Stanford Ave. and Herzog Ct. The Fire Marshall commented that additional information is needed regarding the dimensions of the cul-du-sac to verify the City's largest fire truck will fit.
- 5) Though the applicant is providing space for Stanford Ave. to traverse from Arrowhead Rd. to Marble St., the developer is planning for construction of just that part from Arrowhead Rd. to Herzog Ct. with a two-way street and sidewalk. Extension of the street will depend on development on Lot 1, Block 2 and future needs of the city.
- 6) As Arrowhead Rd. is a County roadway, County Traffic Engineer Victor Lund requests that the turn lane configuration on Stanford Avenue at West Arrowhead Road include dedicated outbound right-turn and left-turn lanes, and a single inbound lane. Lund also requests that the full width turn lanes be a minimum of 150 ft in length. This may necessitate dedication of additional space for Stanford Ave. near Arrowhead Rd., at the discretion of County and City staff based on the traffic study that is under development.
- 7) Pedestrian access to the plat is via a sidewalk along the south side of Arrowhead Rd. and a multi-use path/sidewalk along Mission Dr. The applicant is proposing sidewalks be constructed on both sides and around the cul du sac on Herzog Ct. A sidewalk is proposed for the east side of Stanford Ave. from Arrowhead Rd. to Marble St. to provide pedestrian connectivity.
- 8) Additional connectivity will be provided via a 20-foot-wide pedestrian and utility easement from the end of Herzog Ct. extending southeast to the east property line and continuing south to Marble St. No improvements are planned for this pedestrian way at this time. To provide additional space for an enhanced pedestrian/bike facility the applicant has provided a 10-foot-wide trail easement along the south side of Arrowhead Rd. No improvements are planned for this space at this time.
- 9) The nearest regular route transit service is approximately 2,000 feet east of the site at the southerly leg of Rice Lake Rd. at Arrowhead Rd. According to the Duluth Transit Authority, there are no plans to extend transit to this site at this time.
- 10) The property declines 94 feet over 1,360 feet (average 7%) from southwest to northeast. Several storm sewer discharges from Arrowhead Rd. are directed to the northeast part of the site where there is a wetland area and an informal stream that flows to the east. There are no official streams or floodplains on the property. Chester Creek is the nearest stream located 900 feet to the north of the site. Future development will include stormwater controls to address city requirements.
- 11) The applicant has an approved wetland delineation for the site (PL20-168) identifying a Type 2/6 Wet Meadow/Shrub Swamp on the northeast part of the site and a Type 7 Wooded Swamp above that along the east property boundary. The proposed development of the site is not anticipated to impact the 3.7 ac. of identified wetlands and the plat shows a drainage and utility easement on the wetlands to provide additional protection.
- 12) The site was previously a farm, but trees have grown in over the years since the agricultural use ended. The applicant has submitted a tree inventory report showing primarily spruce, ash, scotch pine, and poplar with lesser quantities of paper birch, sugar maple, and white cedar. The significant trees on the site, including 9 trees greater than 20 inches trunk diameter, are on Lot 1, Block 2. The applicant's apartment developments on the balance of the site will impact few trees. However, staff recommends that, prior to tree removal activities on Lots 1, 2, and 3, Block 2, the Land Use Supervisor approve the tree replacement plan and that trees to be preserved be fenced, including the area of the tree's dripline.

- 13) City water and sanitary sewer mains exist in Stanford Ave. at Mission Dr. Natural gas is on the south side of Arrowhead Rd. Water and gas are also in Marble St. and a water main extends along the west side of the plat in Stanford Ave. The plat shows extending water and sewer mains into Herzog Ct. from Stanford Ave. and a future sewer main in Stanford Ave. to serve Lot 1, Block 2. A 20-foot-wide utility easement is combined with the pedestrian easement connecting the end of Herzog Ct. to the east property boundary and running along that to Marble St. This easement has some bends in it that may make utility installation difficult, and so staff recommends that this be resolved for the Final Plat. Chief Engineer for Utilities Eric Shaffer estimates that adequate capacity exists to serve the proposed development and requests the applicant's engineer contact him for additional detailed comments on planned utility infrastructure.
- 14) The applicant is showing a combined storm water treatment basin in the outlot that will accept water from the street and lots. City storm water engineer Tom Johnson commented that "it should be noted that 95% of the private side of the development must be captured and conveyed to the storm best management practice." There is adequate space on the lots and within the plat to accommodate storm water treatment.
- 15) Staff finds there are no adverse material impacts to surrounding properties that cannot be adequately mitigated by permits required by this development and appropriate site design. Storm water permits will require appropriate treatment and attenuation of storm water before discharge, loss of tree cover will be mitigated through approval of tree preservation plans, potential traffic impacts will be identified in the traffic study and City and County staff will work with the developer to implement appropriate solutions, pedestrian and bicycle connectivity will be addressed through installation of sidewalks and providing space for future pedestrian and bike facilities.
- 16) The preliminary plat is consistent with the comprehensive land use plan designation of this property "neighborhood mixed use" as the project is expected to result in the construction of apartment dwellings, which are included in the definition. Likewise, Lot 1, Block 2, near Marble St., has a comprehensive plan designation of "low density neighborhood" and the platted lot and zoning are consistent with that land use designation. The project implements Housing Policies #2 and #4 by providing opportunities for affordable and attainable housing as well as improving the quality of the city's housing stock.
- 17) The preliminary plat is located in an area with adequate police, fire and emergency facilities available to serve the projected population. Emergency services can be provided by the UMD fire station with Duluth Heights and Downtown providing backup. The additional dwelling units will not make it unreasonable to serve the area according to the City's Fire Marshall. The police headquarters is less than ¼ mile from the site.
- 18) Staff finds that, other than the items addressed above, the preliminary plat conforms to the requirements of Sec 50-37.5. and is consistent with all applicable requirements of MSA 462.358 and Chapter 505.

19) No citizen or City comments have been received to date.

Staff Recommendation

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

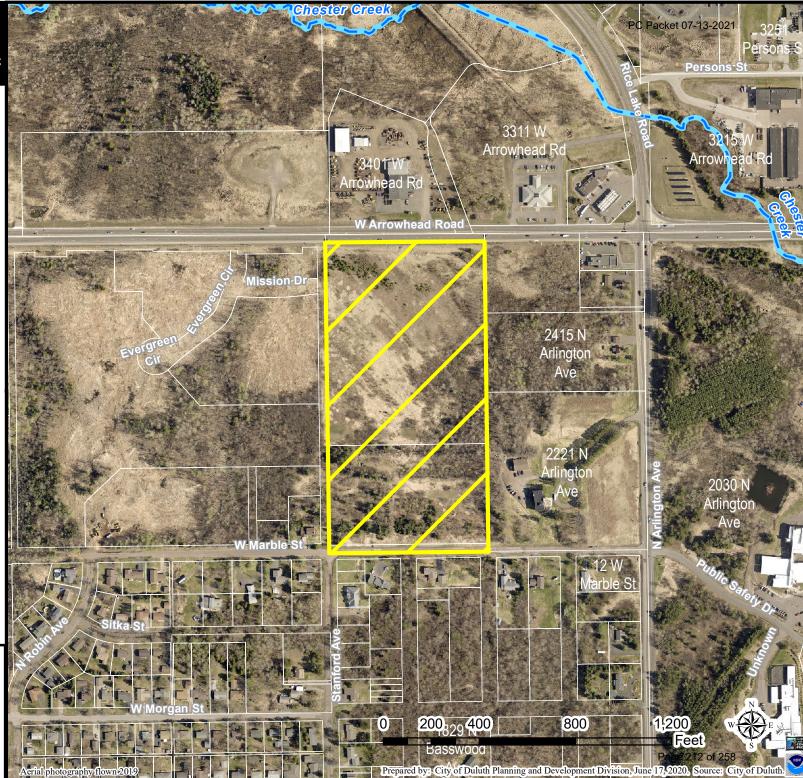
- 1. The applicant provide any additional space needed for Stanford Ave. and Herzog Ct. cul du sac as required by City and County Engineers.
- 2. The applicant enter into a development agreement addressing terms as identified by Gity staff that is

approved by City Council before the Final Plat is recorded.

- 3. The alignment of the utility easement extending southeast from the end of Herzog Ct. be adjusted to ease installation of utilities.
- 4. Prior to tree removal and site grading, the applicant provide photographic evidence to the Land Use Supervisor to verify that construction fence was installed around wetlands to be preserved.
- 5. Final drainage and utility easements shall be established prior to consideration of the final plat.
- 6. Prior to tree removal activities on Lots 1, 2, and 3, Block 2, the Land Use Supervisor approve the tree replacement plan and that trees to be preserved be fenced, including the area of the tree's dripline.



PL21-099 Preliminary Plat Arrowhead Acres Unique Opportunities LLC



Legend 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.



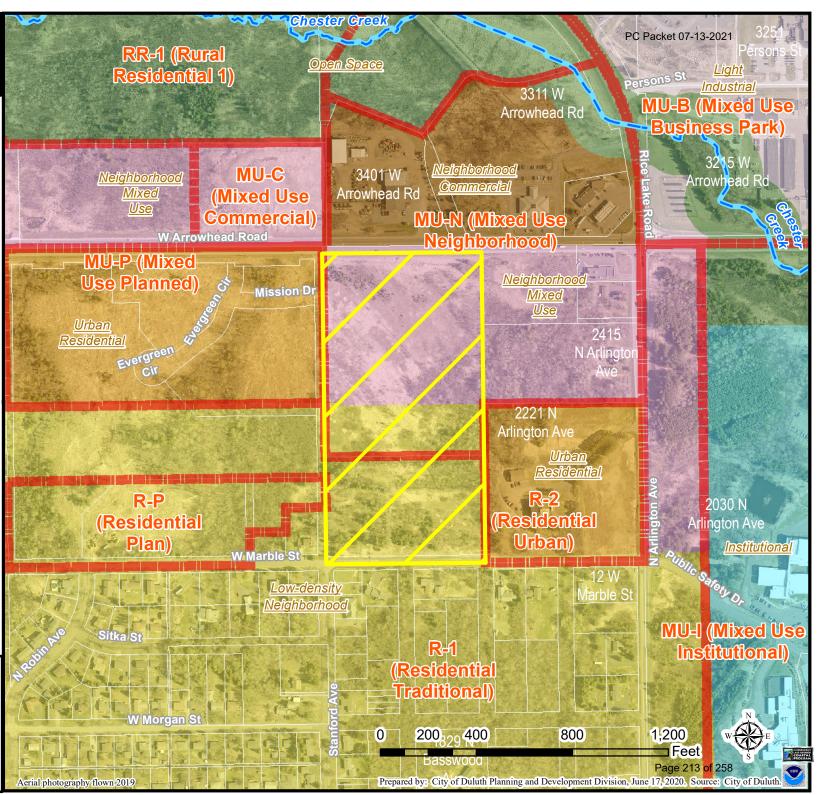
Preliminary Plat Arrowhead Acres Unique Opportunities LLC

PL21-099

Zoning Boundaries Trout Stream (GPS) Other Stream (GPS) Open Space Open Space/Outside Duluth Rural Residential Low-density Neighborhood Traditional Neighborhood Urban Residential Neighborhood Commercial Central Business Secondary Central Business Primary Large-scale commercial Tourism/Entertainment District Commercial Waterfront General Mixed Use Neighborhood Mixed Use Light Industrial General Industrial Industrial Waterfront Business Park Transportation and Utilities Transportation and Utilities/Outside Duluth Medical District Institutional The City of Duluth has tried to ensure that the information

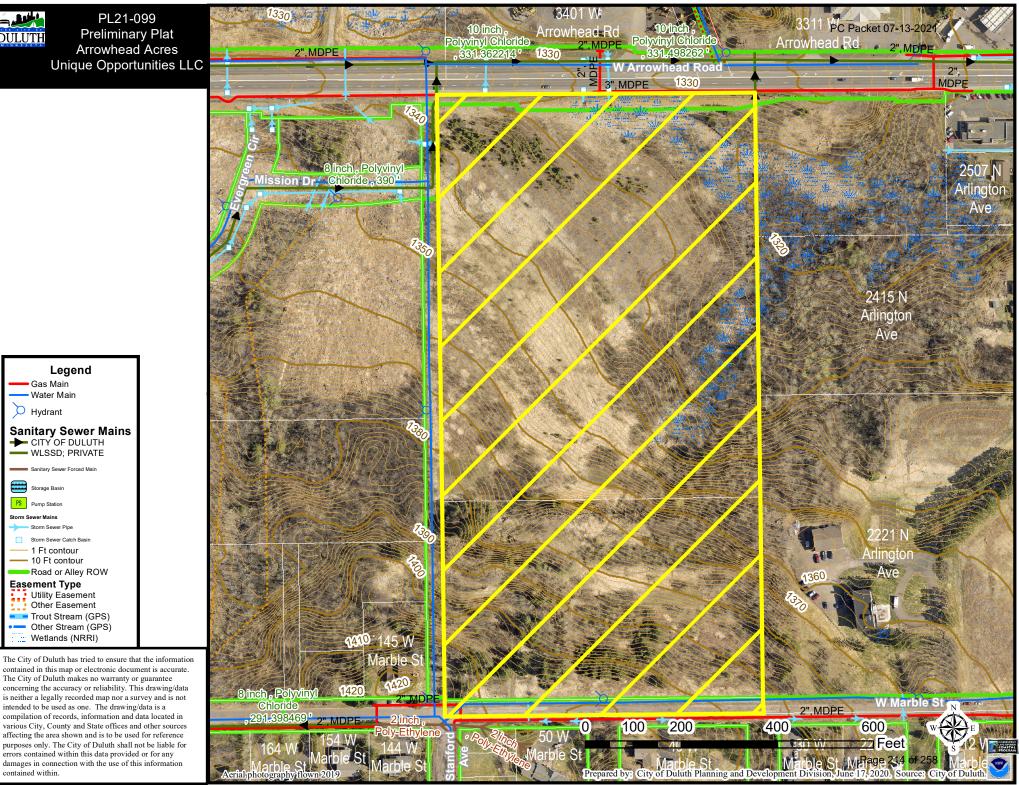
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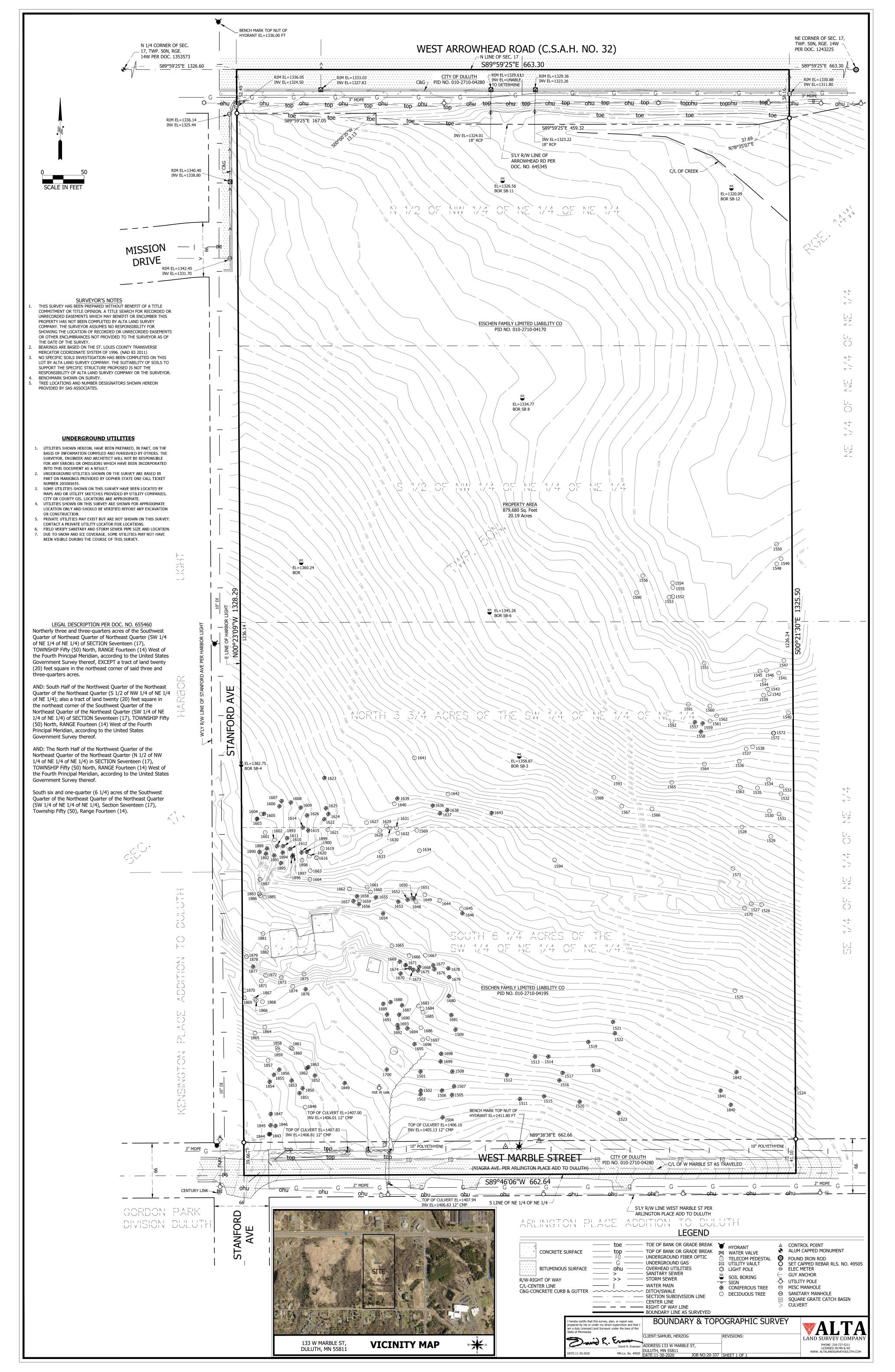
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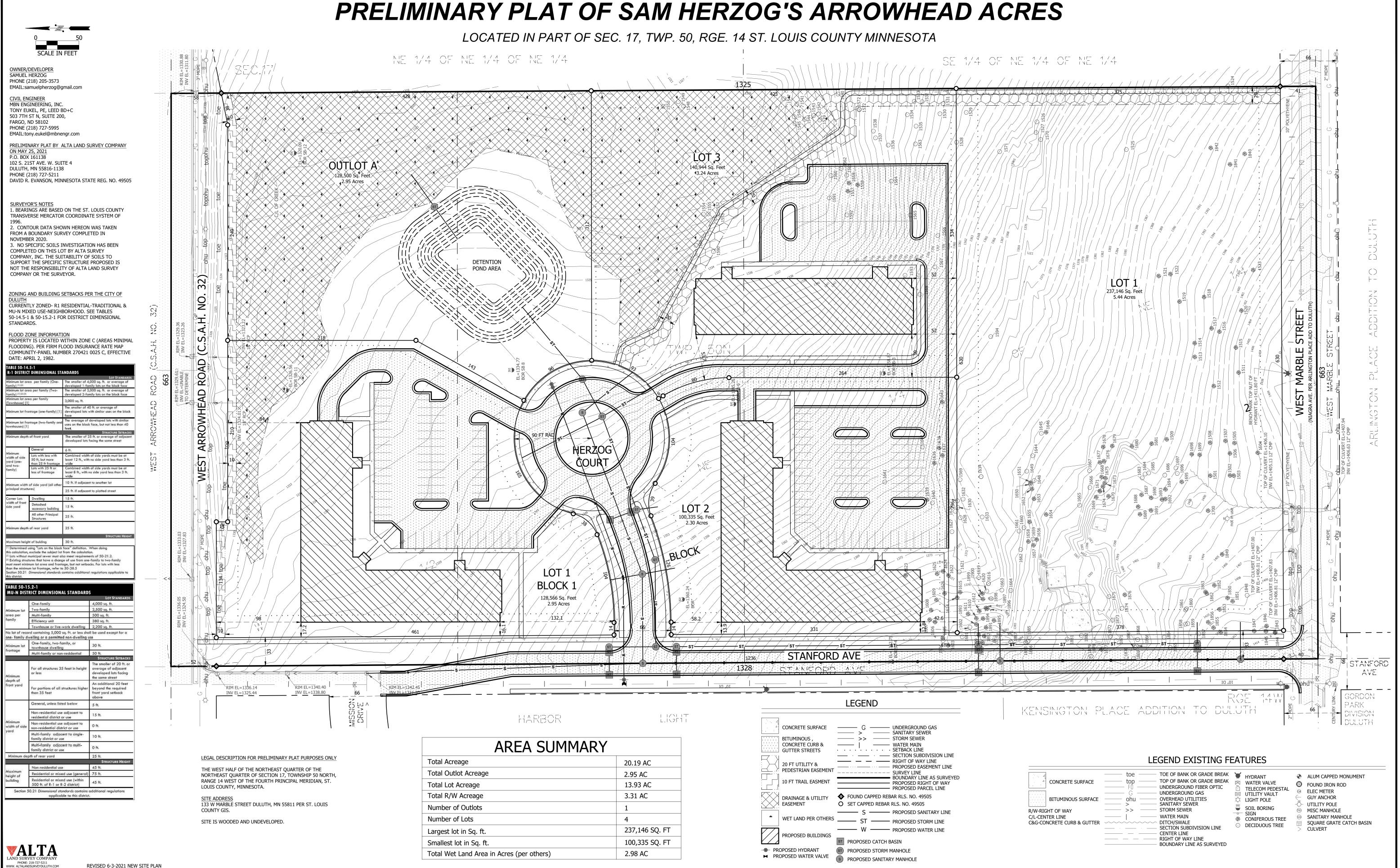
To whom it may concern,

Unique Opportunities LLC requests the subdivision of parcels 010-2710-04170 and 010-2710-04195. We would like to develop the north side of this property and build 3 multifamily apartment complexes of up to 275 units total to help meet the current demand in the community of Duluth. The south side will be left as an outlot and we will look to sell to a developer who could build lower density residential that is more fitting to that site. At this time we are not requesting any subdivision variances and we believe this project fits well with Duluth's long term vision for this site.

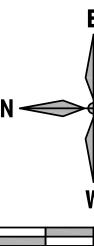
The only commonly owned property on this site will be the storm retention ponds. The long term responsibility will be shared equally based on unit count with the 3 buildings on this site.

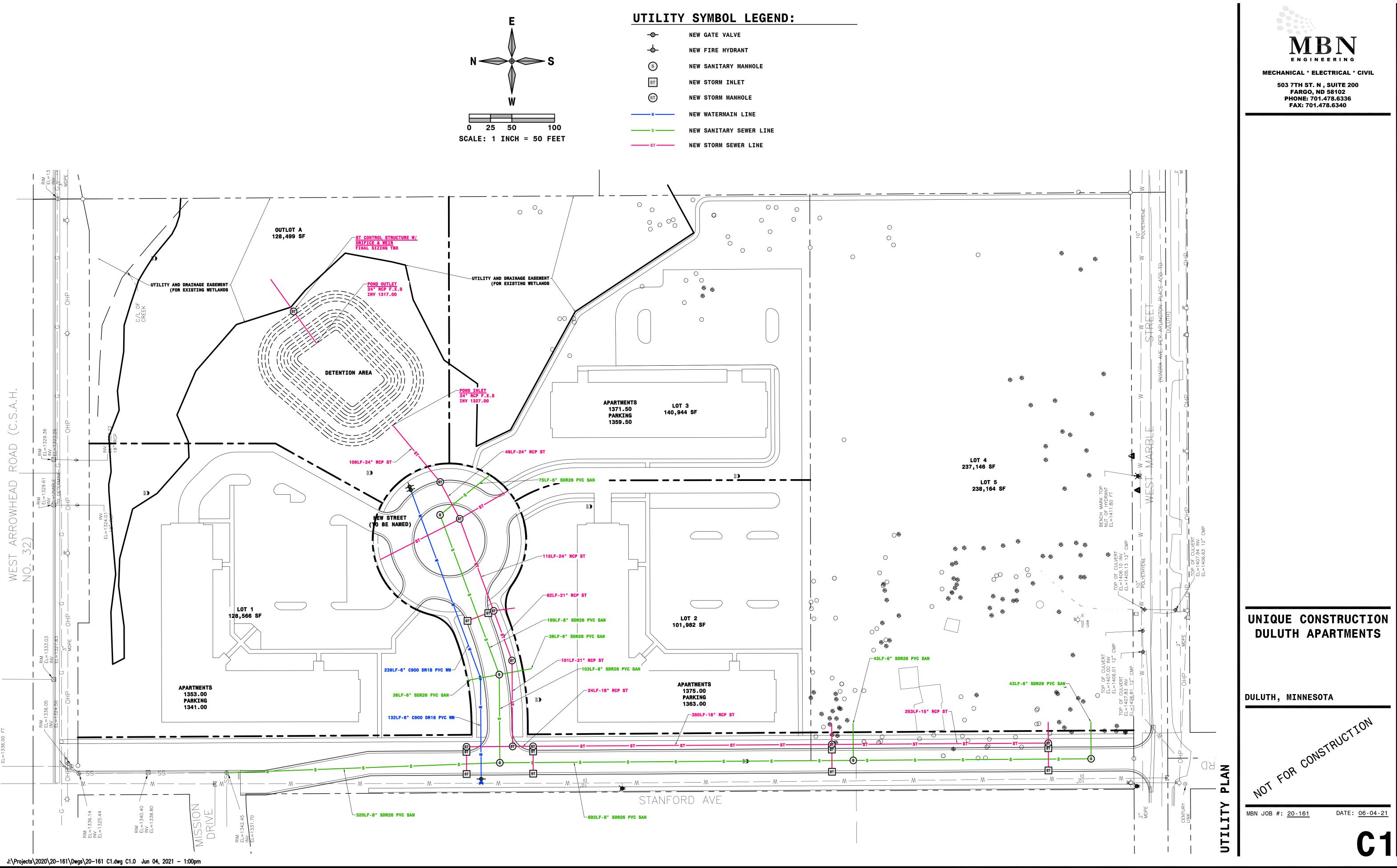
At this time we expect to begin development of the first building in the fall of 2021 or spring of 2022 and it will take 18 months to 2 years to build. The second building will start in 2024 and the final building will start in 2026 if everything goes as planned.

Sincerely, Samuel Herzog

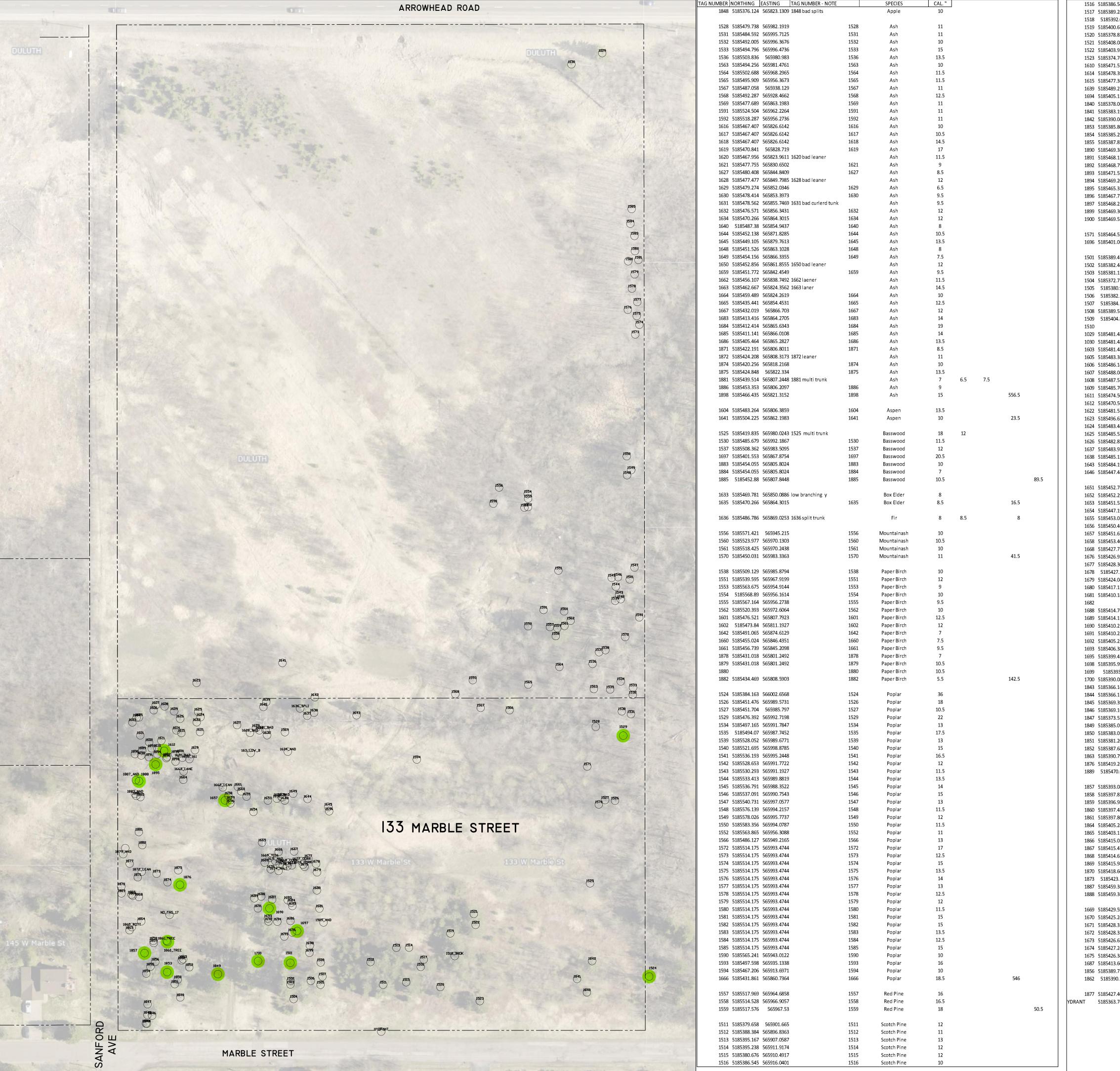


REVISED 6-3-2021 NEW SITE PLAN

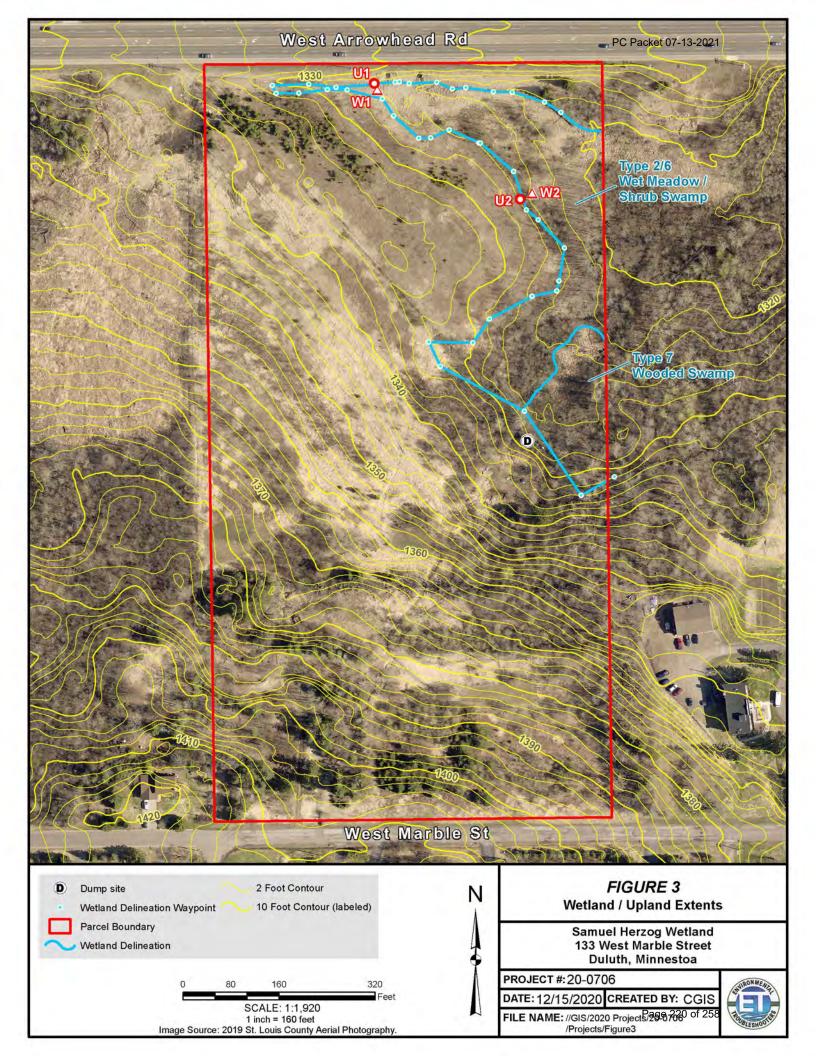








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Planning & Development Division Planning & Economic Development Department



Room 160 411 West First Street Duluth, Minnesota 55802

MEMORANDUM

DATE: July 7, 2021

TO: Planning Commission

FROM: Steven Robertson, Senior Planner

RE: Citizen Petition for An Environmental Assessment Worksheet (EAW) Related to a Potential Housing Development at Vassar Street

On June 16, 2021, the Minnesota Environmental Quality Board (EQB) notified the City of Duluth that a citizen petition for an Environmental Assessment Worksheet (EAW) had been submitted. The petition stated:

As concerned citizens and neighbors, we are writing in regards to our concerns of a requested rezoning of an approximately 16 acre parcel of land in Duluth, MN from rural residential (RR-1) to residential (R-1). This parcel is currently completely forested and undeveloped. The resulting rezoning would change the density from a potentially one home/ five acres, to 4000 square foot parcels. This particular land is on a steep grade directly above the Amity Creek watershed and trout stream, and the surrounding forest consists of mature trees with very few invasive species. We are requesting a discretionary environmental assessment worksheet (EAW) or Alternative Areawide Urban Review be completed to assess the significance regarding the potential environmental impacts of the placement of an increased density of housing in this area. Amity Bluffs is a proposed residential development of 25-30 homes on a combined 25-26 acres of forested land (proposed rezoned 16 acres plus an additional adjacent 10 acre parcel).

According to Section 2-41 of the City Code, the planning commission shall serve as the responsible governmental unit and conduct environmental reviews pursuant to Minnesota Statutes Chapter 116D and the applicable state regulations.

The threshold for a mandatory EAW is if a residential project meets or exceeds 250 unattached units or 375 attached units. The most recent residential EAW was for Kayak Bay (PL 17-085, 105,000 square feet of retail space, 175,000 square feet of office space, 540 units of attached dwellings, or 65 units of unattached dwellings (townhomes), and the most recent commercial/industrial EAW was for Essentia Vision Northland (PL 18-120, 920,000 square foot multi-story tower). A formal preliminary plat application has not been submitted for this project yet, but according to the EAW petition 25-30 unattached homes was suggested as the size of a future potential housing development. A mandatory EAW is not required for this project based on the information available to date, but the City may require a discretionary EAW based upon the potential for significant environmental effects.

It is the Planning Commission's task to review the submitted petition and the scope of the proposed project, and determine if there is a potential for significant environmental impacts, and determine if an EAW is required. When deciding whether a project has the potential for significant environmental effects, the following factors shall be considered: <u>A. type, extent, and reversibility of environmental effects</u>; B. <u>cumulative potential effects</u>; C. <u>the extent to which the environmental effects</u> are subject to mitigation by ongoing public regulatory authority; and D. <u>the extent to which environmental effects</u> can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer.

Existing regulatory and mitigation standards in the UDC include: floodplain standards; wetland avoidance, minimization, and replacement standards; shoreland setback standards; tree protection standards including replacement, setback standards for zoning districts, and stormwater management standards. Based on the available project information, it is the recommendation of City Staff that there are sufficient regulatory and mitigation standards in place to minimize environmental impacts, and that an EAW is not needed and the petition should be denied.

What is the purpose of the environmental review process?

The Minnesota Environmental Policy Act of 1973 established a formal process for reviewing the environmental impacts of major development projects. The purpose of the review is to provide information to units of government on the environmental impacts of a project before approvals or necessary permits are issued. After projects are completed, unanticipated environmental consequences can be very costly to undo, and environmentally sensitive areas can be impossible to restore. Environmental review creates the opportunity to anticipate and correct these problems before projects are built. The process operates according to rules (legally binding regulations) adopted by the EQB, but it is carried out by a local governmental unit or state agency (which is termed the RGU, for Responsible Governmental Unit). The Duluth City Planning Commission is the RGU for the City of Duluth. The primary role of the EQB is to advise local units and state agencies on the proper procedures for environmental review.

What is an Environmental Assessment Worksheet (EAW)?

An EAW is a document designed to provide a brief analysis and overview of the potential environmental impacts for a specific project and to help the RGU determine whether an Environmental Impact Statement (EIS) is necessary. The EAW consists of a standard list of questions and is meant to set out the basic facts of the project's environmental impacts. The EAW is not meant to approve or disapprove a project, but is simply a source of information to guide other approvals and permitting decisions. The information in the EAW process has two functions: to determine whether an EIS is needed, and to indicate how the project can be modified to lessen its environmental impacts; such modifications may be imposed as permit conditions by regulatory agencies.

What are significant environmental effects?

In deciding whether a project has the potential for significant environmental effects, the RGU "shall compare the impacts that may reasonably be expected to occur from the project with the criteria in this rule," considering the following factors (part 4410.1700, subparts 6 and 7):

- A. Type, extent, and reversibility of environmental effects;
- B. Cumulative potential effects of related or anticipated future projects;
- C. The extent to which environmental effects are subject to mitigation by ongoing public regulatory authority; and
- D. The extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other Environmental Impact Statements.

Can the RGU's decision be appealed?

The decision of the RGU to prepare or not prepare an EAW can be appealed in the county district court where the project would take place. The appeal must be filed within 30 days of the date on which the RGU makes its decision. There is no administrative appeal of an RGU; the EQB has no jurisdiction to review an RGU's decision.

RESOLUTION DENVING PETITON TO ORDER AN EAW FOR THE REZONING OF CERTAIN PROPERTY ADJACENT TO VASSER STREET.

WHEREAS, on May 3, 2021, Kevin Christiansen (the "Applicant") submitted a valid application, PL21-064 (the "Application") to rezone certain property therein described (the "Property") from Rural Residential 1 (RR-1) to Residential-Traditional (R-1), which Application was heard by the Duluth Planning Commission (the "Commission") and approved after hearing on June 8, 2021; and

WHEREAS, on June 16, 2021, the Minnesota Environmental Quality Board (the "EQB") notified the City of Duluth that a citizen petition (the "Petition") meeting the requirements of Minn Rules 4410.1100 had been filed with the EQB requesting that an Environmental Assessment Worksheet ("EAW") be required before the proposed rezoning was approved; and

WHEREAS, that the EQB identified the City of Duluth as the Responsible Governmental Unit ("RGU") for the Petition; and

WHEREAS, pursuant to Section 2-41 of the City Code, the planning commission serves as the responsible governmental unit (the "RGU") pertaining to the conduct of environmental reviews pursuant to Minnesota Statutes Chapter 116D and the applicable state regulations; and

WHEREAS, pursuant to Section 4410.1100 Subp. 6, the RGU shall order the preparation of an EAW if the evidence presented by the petitioners, proposers, and other persons or otherwise known to the RGU demonstrates that, because of the nature or location of the proposed project, the project may have the potential for significant environmental effects but the RGU shall deny the petition if the evidence presented fails to demonstrate the project may have the potential for significant environmental effects, and in considering the evidence, the RGU must take into account the factors listed in part Minn Rule 4410.1700, subpart 7.

WHEREAS, as part of an informational presentation to the Commission at the abovereferenced hearing, Applicant discussed general plans for a 25-30 unit residential development on the Property but, to date, has not filed an application to replat the Property or for any other permit or authorization to proceed with any development of the Property; and

WHEREAS, the Petition alleges five areas of environmental consideration related to a proposed residential development of 25-30 homes: 1) stormwater, pollutants, and peak flows, 2) climate emergency and carbon sequestration, 3) forest fragmentation, 3) wetland loss, hydrology, and increased peak flows, and 5) traffic, noise, and road access. An abbreviated version of the petition is included with this resolution; and

WHEREAS, pursuant to Minn. Rules 4410.1700 Subp. 7, the RGU is required to consider the following criteria in deciding whether a project has the potential for significant environmental effects:

A. type, extent, and reversibility of environmental effects;

§

B. cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation

measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project;

C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and

D. the extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

RESOLVED, that based on the application for the rezoning of the Property and the Applicant's presentation to the Commission and the evidence adduced at the above-referenced public hearing, the Commission hereby makes the following findings:

A. That the proposed rezoning of the Property is in conformance with the City's Comprehensive Plan.

B. That the proposed rezoning of the Property and any development of the Property will not necessarily result in any negative environmental effects.

C. That any negative environmental effects, including cumulative effects, that could potentially arise out of the future development of the Property can be adequately prevented, controlled or mitigated by means of the City's various permitting processes.

FURTHER RESOLVED, that the Petition of petitioners herein to require an EAW prior to the adoption of the proposed rezoning of the Property is hereby denied.

RESOLUTION AFFIRMING PETITON TO ORDER AN EAW FOR THE REZONING OF CERTAIN PROPERTY ADJACENT TO VASSER STREET.

WHEREAS, on May 3, 2021, Kevin Christiansen (the "Applicant") submitted a valid application, PL21-064 (the "Application") to rezone certain property therein described (the "Property") from Rural Residential 1 (RR-1) to Residential-Traditional (R-1), which Application was heard by the Duluth Planning Commission (the "Commission") and approved after hearing on June 8, 2021; and

WHEREAS, on June 16, 2021, the Minnesota Environmental Quality Board (the "EQB") notified the City of Duluth that a citizen petition (the "Petition") meeting the requirements of Minn Rules 4410.1100 had been filed with the EQB requesting that an Environmental Assessment Worksheet ("EAW") be required before the proposed rezoning was approved; and

WHEREAS, that the EQB identified the City of Duluth as the Responsible Governmental Unit ("RGU") for the Petition; and

WHEREAS, pursuant to Section 2-41 of the City Code, the planning commission serves as the responsible governmental unit (the "RGU") pertaining to the conduct of environmental reviews pursuant to Minnesota Statutes Chapter 116D and the applicable state regulations; and

WHEREAS, pursuant to Section 4410.1100 Subp. 6, the RGU shall order the preparation of an EAW if the evidence presented by the petitioners, proposers, and other persons or otherwise known to the RGU demonstrates that, because of the nature or location of the proposed project, the project may have the potential for significant environmental effects but the RGU shall deny the petition if the evidence presented fails to demonstrate the project may have the potential for significant environmental effects, and in considering the evidence, the RGU must take into account the factors listed in part Minn Rule 4410.1700, subpart 7.

WHEREAS, as part of an informational presentation to the Commission at the abovereferenced hearing, Applicant discussed general plans for a 25-30 unit residential development on the Property but, to date, has not filed an application to replat the Property or for any other permit or authorization to proceed with any development of the Property; and

WHEREAS, the Petition alleges five areas of environmental consideration related to a proposed residential development of 25-30 homes: 1) stormwater, pollutants, and peak flows, 2) climate emergency and carbon sequestration, 3) forest fragmentation, 3) wetland loss, hydrology, and increased peak flows, and 5) traffic, noise, and road access. An abbreviated version of the petition is included with this resolution; and

WHEREAS, pursuant to Minn. Rules 4410.1700 Subp. 7, the RGU is required to consider the following criteria in deciding whether a project has the potential for significant environmental effects:

A. type, extent, and reversibility of environmental effects;

§

B. cumulative potential effects. The RGU shall consider the following factors: whether the cumulative potential effect is significant; whether the contribution from the project is significant when viewed in connection with other contributions to the cumulative potential effect; the degree to which the project complies with approved mitigation

measures specifically designed to address the cumulative potential effect; and the efforts of the proposer to minimize the contributions from the project;

C. the extent to which the environmental effects are subject to mitigation by ongoing public regulatory authority. The RGU may rely only on mitigation measures that are specific and that can be reasonably expected to effectively mitigate the identified environmental impacts of the project; and

D. the extent to which environmental effects can be anticipated and controlled as a result of other available environmental studies undertaken by public agencies or the project proposer, including other EISs.

RESOLVED, that based on the application for the rezoning of the Property and the Applicant's presentation to the Commission and the evidence adduced at the above-referenced public hearing, the Commission hereby makes the following findings:

Α.

Β.

C.

FURTHER RESOLVED, that the Petition of petitioners herein to require an EAW prior to the adoption of the proposed rezoning of the Property is hereby affirmed.



Minnesota Environmental Quality Board 520 Lafayette Road North Saint Paul, MN 55155 VIA E-MAIL (cover letter & petition)

June 16, 2021

City of Duluth Adam Fulton Interim Director, Planning & Economic Development afulton@duluthmn.gov

RE: Petition for an Environmental Assessment Worksheet for the proposed Vassar Street project

Dear Mr. Fulton,

The Environmental Quality Board (EQB) has received a petition requesting that an Environmental Assessment Worksheet (EAW) be prepared for the project described in the petition, and has determined the City of Duluth is the appropriate governmental unit to decide the need for an EAW.

The requirements for environmental review, including the preparation of an EAW, can be found in Minnesota Rules, chapter <u>4410</u>. The procedures to be followed in making the EAW decision are set forth in part <u>4410.1100</u>. Key points in the procedures include:

- No final governmental approvals may be given to the project named in the petition, nor may
 construction on the project be started until the need for an EAW has been determined. Project
 construction includes any activities which directly affect the environment, including preparation
 of land. If the decision is to prepare an EAW, final governmental approval must be withheld until
 either a negative declaration on the need for an Environmental Impact Statement (EIS) is issued
 or an EIS is determined adequate. See part <u>4410.3100</u>, subparts 1 and 2 for the prohibitions on
 final governmental decisions.
- To make the decision on the need for an EAW, compare the project to the mandatory EAW, EIS, and exemption categories listed in parts <u>4410.4300</u>, <u>4410.4400</u>, and <u>4410.4600</u>, respectively. If the project should fall under any of these categories, environmental review is automatically required or prohibited. If this should be the case, proceed accordingly:
 - a. If the project meets or exceeds the thresholds of any mandatory EAW or EIS category, then environmental review is required for the project. Please see the guidance documents on the <u>EQB website</u> for preparing an EAW or EIS.
 - b. If the project is exempt from environmental review, please document the reason for the exemption in writing and notify both the petitioners' representative and EQB of your conclusion.
- 3. If preparation of an EAW is neither mandatory nor exempted, the City of Duluth has the option to prepare a discretionary EAW in accordance with part <u>4410.1000</u>, subpart 3, item B. The standard for making the decision on the need for an EAW is provided in part <u>4410.1100</u>, subpart

6. When considering the evidence provided by the petitioners, proposers, or other persons, the City of Duluth must take into account the factors listed in part <u>4410.1700</u>, subpart 7. Note that this requires that a record of decision, including specific findings of fact, be maintained.

- 4. You are allowed up to 30 working days (Saturdays, Sundays and holidays do not count) for your decision if it will be made by a council, board, or other body which meets only periodically, or 15 working days if the decision will be made by a single individual. If the decision will be made by an individual, the individual may request an additional 15 working days from the EQB in accordance with part <u>4410.1100</u>, subpart 7.
- 5. You must provide written notification of your decision to the proposer, the petitioners' representative, and the EQB, within 5 working days as described in part <u>4410.1100</u>, subpart 8. Please provide written notification to these parties even in cases where an EAW or EIS will be prepared according to part <u>4410.1000</u>, subparts 2 or 3, or the project is found to be exempt from environmental review.
 - a. To notify the EQB of your decision on the need for an EAW, complete the <u>EQB Monitor</u> <u>submission form</u> found on the EQB website. The EQB requests that you upload a copy of your record of decision using the same electronic submission form, including instances where environmental review is mandatory, voluntary, or exempt.
- 6. If for any reason you are unable to act on the petition at this time (e.g., no application has yet been filed or the application has been withdrawn or denied), the petition will remain in effect for a period of one year, and must be acted upon prior to any final decision concerning the project identified in the petition. It is recommended that you notify in writing both the petitioners' representative and the EQB if you are unable to act on the petition at the time it is received.

Notice of the petition and its assignment to your unit of government will be published in the *EQB Monitor* on June 22, 2021.

If you have any questions or need any assistance, please do not hesitate to contact us at <u>env.review@state.mn.us</u> or 651-757-2873.

Sincerely,

Katrina Hapka

Katrina Hapka Environmental Review Program Coordinator Environmental Quality Board

cc: Jennifer Marksteiner, Petitioner's Representative Katie Pratt, EQB Executive Director Denise Wilson, Director of Environmental Review Program

Jennifer Marksteiner



June 14th, 2021

Minnesota Pollution Control Agency

% Environmental Quality Board - Environmental Review Program

520 Lafayette Road North

Saint Paul, MN 55155

Subject: Request that Responsible Governmental Unit (RGU) be Appointed to Complete Environmental Assessment Worksheet (EAW) or Alternative Areawide Urban Review for Duluth's Vassar Street Project and Undeveloped Lands Adjacent to Amity Creek. Review of Conversion of Approximately 16 acres of land from low density residential to high density residential zoning

Dear EQB Staff -

As concerned citizens and neighbors, we are writing in regards to our concerns of a requested rezoning of an approximately 16 acre parcel of land in Duluth, MN from rural residential (RR-1) to residential (R-1). This parcel is currently completely forested and undeveloped. The resulting rezoning would change the density from a potential one home/ five acres, to 4000 square foot parcels. This particular land is on a steep grade directly above the Amity Creek watershed and trout stream, and the surrounding forest consists of mature trees with very few invasive species. We are requesting a discretionary environmental assessment worksheet (EAW) or Alternative Areawide Urban Review be completed to assess the significance regarding the potential environmental impacts of the placement of an increased density of housing in this area.

Amity Bluffs is a proposed residential development of 25-30 homes on a combined 25-26 acres of forested land (proposed rezoned 16 acres plus an additional adjacent 10 acre parcel-see figure 1). The project is located in the City of Duluth, MN in the Upper Woodland neighborhood, which is in St. Louis County. The proposed project is located at the east end of Vassar Street that extends east, north, and then turns west back behind the homes on Vassar Street. Vassar Street is a narrow dead end road with 20 homes. The developer has proposed additional access off of a platted paper street on Woodland

PC Packet 07-13-2021

Avenue, which is a major thoroughfare. Part of the proposed development runs on a steep grade directly above and adjacent to Amity creek, a state designated trout stream and headwater stream to the Lester River. The mature woods including the above parcel and adjacent forest are also home to several pockets of wetlands. Kevin Christenson, the developer, indicated in writing to the planning commission and in his comments at the Duluth Planning Commission meeting on June 8th, 2021 that he intends to develop 25-30 "individual residential lots" by combining the proposed rezoned area (16 acres) with an additional 10 acre undeveloped parcel to the west which is already zone r-1 residential. The planning commission approved the initial measure for rezoning at the aforementioned meeting and the measure will go before the Duluth City Council for discussion and approval at upcoming meetings on June 17th and 21st, 2021.

Further, the City of Duluth has a long standing tradition of using the rural or five acre zoning standard as a way to protect the "Greenbelt" and to manage the physical form of neighborhoods. This standard has persisted from administration to administration from the late 1950s until the City adopted a more permissive standard through its Unified Development Code. The Greenbelt concept, as is common knowledge, is a planning concept borrowed from Europe. Besides managing a city's physical form, it provides a variety of ecosystem benefits that benefit the population at large. These benefits include improved air quality, noise reduction, visual screening, erosion control, stream protection, and improved wildlife habitat.

Environmental Considerations Identified to Date:

1. Stormwater, Pollutants, and Peak Flows

This Vassar Street project has several concerning environmental impacts. As mentioned, a portion of this property runs on a steep grade directly downhill to Amity Creek, which is a state designated cold water trout stream. This area has shallow soils underlain by dense bedrock that limits infiltration. As such, snowmelt and rainfall runoff will be routed to storm sewers that will likely go directly into Amity Creek. This increased runoff will deliver fertilizer, salt, nutrients, sediment, trace metals, and bacteria to an already impaired stream. These stormwater contributions will likely lead to higher peak flows, contributing to increased erosive capability, channel instability, and lead to the delivery of pollutants. Increased runoff will increase stream destabilization. If stormwater is routed directly to the stream, setback requirements do little to mitigate the timing, quality or quantity of water discharged to Amity Creek. Increased housing density so close to and on this grade would create additional rivulets or channels that also have the potential to convey yard waste, salt, and road runoff that could harm Amity Creek and eventually deliver pollutants to the Lester River and Lake Superior. (Figure 2)

2. Climate Emergency and Carbon Sequestration

On May 5, 2021 the City of Duluth passed a Climate Emergency Declaration. One of the tenants of this emergency was the recognition of the importance of carbon sequestration. The Vassar Street project

land is mature and undeveloped woodland, disrupted by few invasive plant species. Large swaths of the forest would be cleared to make way for construction sites, home foundations, roads and utilities. This proposal and the continued loss of forest canopy and understory are completely at odds with this objective. The attached report in I-Tree Canopy (Figure 3) gives a very rough estimate of just the carbon sequestration of existing trees on this property. If three quarters of these trees are lost to development, this carbon sink will be released to the atmosphere and forever lose its function to store carbon. Likewise, forests are well known for their ability to improve micro-climates, increase humidity, filter pollutants, and deliver cold water to trout streams like Amity Creek.

3. Forest Fragmentation

Forest fragmentation is another consideration of the proposed rezoning and eventual development of the Vassar Street site. Fragmentation occurs through three principal mechanisms. These include the direct loss of wildlife habitat, reduction of patch size and spatial isolation or islands of forest habitat (Hack et al, 2020). The Vassar Street rezoning and project development would impact 26 acres of a larger riverine corridor on the south side of Amity Creek. The project would sever this forest corridor and linkage to larger areas of habitat to the north and east of the Forest Hill Cemetery location. The maintenance of forested habitat along river corridors is essential because they provide habitat and conduits for the movement of animals and birds through highly altered urban landscapes (Hack, et al, 2020). Residents have observed moose, black bear, coyote, and a wide variety of birds in the vicinity of the Vassar Street site. This observation, while anecdotal, provides credence to the importance of this site and adjoining lands to urban wildlife. The setback requirements in the State Shoreland Management Act, while preserving some protection to streams, do not provide this same habitat function. This area is also in the migratory flight path of raptors that fly along the escarpment above Lake Superior. It is just south of the internationally recognized Hawk's Ridge, where visitors gather each fall to observe raptors. The project's resulting loss of tree canopy and habitat may lead to a decrease of available prey and resting areas. Songbirds and waterfowl, which typically migrate at night, may also be influenced by additional areas of light pollution from the development. (Cabrera-Cruz, et al, 2018).

4. Wetland Loss, Hydrology, and Increased Peak Flows

Due to high bedrock composition, there are areas of perched water and wetlands scattered throughout the Vassar Street site. This entire hillside area has several large pockets of wetland and ponds. The destruction of these areas, even with off site remediation required by law, will reduce water storage and aquatic biodiversity. The loss of storage areas will contribute to higher peak flows, which leads to more channel instability and higher peak flows. The MPCA states that, while large sections of the Amity Creek Watershed are forested, developed land uses are likely the major source of sediment in Amity Creek and the Lester River (MPCA, 2020). Additionally, much work has already gone into the protection and restoration of Amity creek for these above reasons (Axler, et al, 2014). Additional development in this area would likely undo much time, energy, and financial contribution already put into protection of this watershed.

5. Traffic, Noise, and Road Access

Vassar Street is currently the only access to the site and would see significant increases in construction traffic and trips per day once constructed. While it has yet to be described through a subdivision plat, these trips will increase noise, dust, and exhaust fumes. The residents who live near Vassar Street will be subjected to the brunt of these impacts. It is also likely that the street itself will be heavily impacted and will require upgrades, potentially leading to financial hardships (assessments) to existing land owners who will have to pay to subsidize the Vassar Street development. Emergency access will likely require a second access point or road. This road, while undefined, will also have additional impacts to both the neighborhood and forest. These impacts need to be described, defined and quantified to get a complete picture of the project impacts.

For the reasons briefly presented above, we are asking the Environmental Quality Board and the City of Duluth to complete an Environmental Assessment Worksheet (EAW) or Alternative Areawide Urban Review for the proposed Vassar Street development. In light of the relationship of the proposed development to adjoining public resources, the more comprehensive Alternative Areawide Urban Review appears to be the best tool for this assessment. You will find attached photos of the street, woodlands, stream, and area wildlife. I am available for any questions or additional information you may need. Thank you for your consideration.

Sincerely-



Jennifer Marksteiner, Petition Representative

Attachments:

- A. (Figure 1) Area map with outlined proposed zoning and project areas
- B. (Figure 2) Lester-Amity Stressor map.
- C. (Figure 3) i-Tree Canopy Project Area Report

D. Hack et. al. (2020). Conceptual Approach to Modeling the Geospatial Impact of Typical Urban Threats on the Habitat Quality of River Corridors.

E. Cabrera-Cruz et al. (2018). Light pollution is greatest within migration passage areas for nocturnally-migrating birds around the world.

F. MPCA report (2020). Duluth Area Streams Total Maximum Load.

G. Axler et al. (2014). Amity Creek Restoration Initiative presentation

H. Citizen Petition Signers (11 pages). An additional 400+ signatures showing the interest in this review can be found at https://www.change.or/Amitycreekrezoning

I. Visual narrative including: Aerial drone view of the Amity Creek valley and impacted hillside,

Photo of Vassar Street, Photos of wildlife seen on Vassar Street and in forest

J. Letter to Developer regarding admission of petition

References:

 Axler, R., Brady, V., Gran, K., Host, G., & Schomberg, J. et al (2014). Amity Creek Restoration Initiative. Retrieved from <u>http://www.lrcd.org/uploads/1/6/4/0/16405852/amitystream_symposium_2014.pdf</u>

2. Cabrera-Cruz, S.A., Smolinsky, J.A. & Buler, J.J. (2018). Light pollution is greatest within migration passage areas for nocturnally-migrating birds around the world. Sci Rep 8, 3261 (2018).

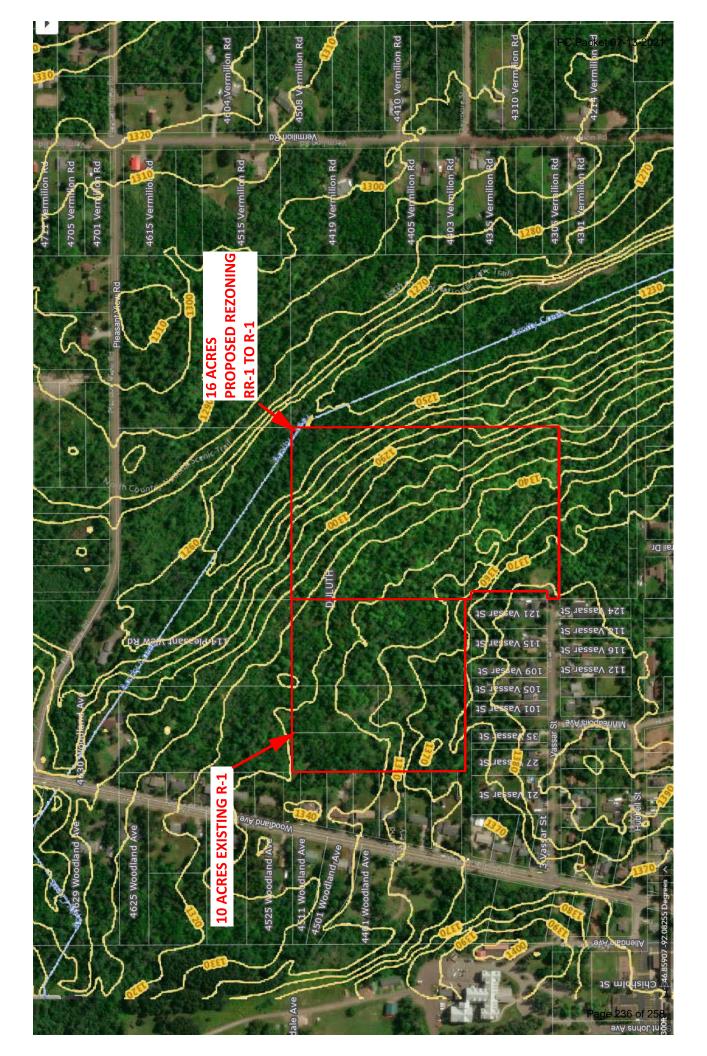
passage areas for nocturnally-migrating birds around the world. Sci Rep 8, 3261 (2018). https://doi.org/10.1038/s41598-018-21577-6.

- Hack, J., Molewijk, D., Beißler, Manuel R.A., (2020). Conceptual Approach to Modeling the Geospatial Impact of Typical Urban Threats on the Habitat Quality of River Corridors. Journal of Remote Sensing. April 2020. <u>https://www.mdpi.com/2072-4292/12/8/1345</u>.
- 4. i-Tree Canopy. Accessed from <u>https://canopy.itreetools.org/</u> on 6/10/2021
- Lester-Amity Stressor Map. Accessed at <u>https://www.lakesuperiorstreams.org/weber/images/lesterAmityStress_lg.jpg</u> on 6/12/2021
- 6. Minnesota Pollution Control Agency. Duluth Area Streams Total Maximum Load. October 2020. https://www.pca.state.mn.us/duluth-urban-area-streams-watershed.
- 7. Aerial drone photo, surrounding forest and creek photos, wildlife photos (Credit Adam Marksteiner)
- 8. Planned rezoning map. St. Louis County Land Explorer Cadastral Map with MnTOPO Lidar Map overlay

Attachment A.

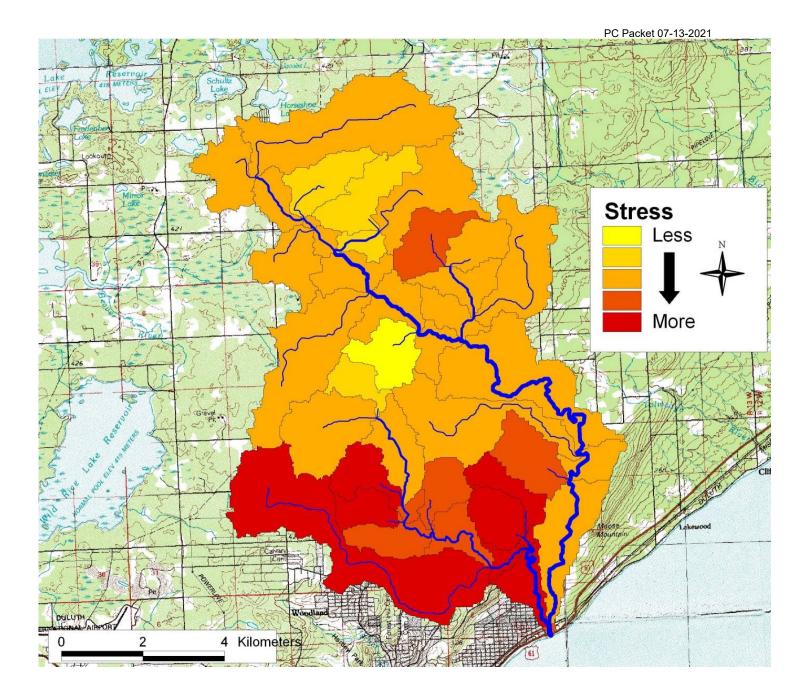
Area Map With Outlined Proposed Zoning and Project

Areas



Attachment B.

Lester-Amity Watershed and Stressor Map



Attachment C.

i-Tree Canopy Carbon Sequestration Estimate

Attachment D.

Hack et. al. (2020). Conceptual Approach to Modeling the Geospatial Impact of Typical Urban Threats on the Habitat Quality of River Corridors

Attachment E.

Cabrera-Cruz et al. (2018). Light pollution is greatest within migration passage areas for nocturnally-migrating birds around the world.

Attachment F.

MPCA report (2020). Duluth Area Streams Total Maximum Load.

Attachment G.

Axler et al. (2014). Amity Creek Restoration Initiative presentation

linnesota, USA: Demonstration project to help restore and protect north shore ity Creek Restoration Initiative, AM

e Lake Superior Basin trout streams

of Minnesota-Duluth (NRRI);

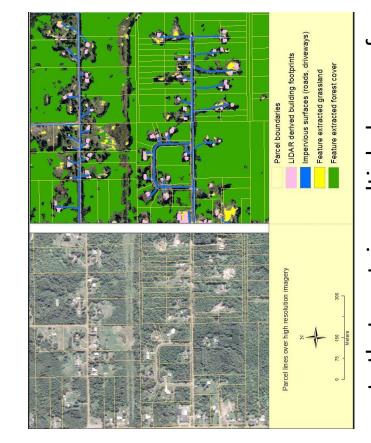
Control Agency (Duluth) - **MN Pollution** of Minnesota-Duluth; Story **B**. and

OUTREACH

Duluth Township Land Use Internet Map Server Tool

image analysis to classify land use within land ownership parcels in three north shore townships. The resulting data will provide inputs to decision We are using LiDAR imagery and object-oriented Calculator and the MN PCA Minimal Impact tools such as the EPA National Stormwater Design Standards program.

friendly Internet Map Server "tool" that will allow landowners to easily generate working base maps LakeSuperiorStreams.org will feature a user of their property.



information, landowners can develop a stormwater management plan required by their township and do their part in keeping Lake Superior and its watersheds clean. The goal is to allow easy access to base maps of property that contain multiple layers of the best existing data, such as aerial photographs, topography and wetlands. With this

Duluth Rain Garden Workshops

attendees participated in a walking tour of the rain gardens previously installed in 2009 in constructed on a willing property owners yard just outside the study area. All workshop of growth. A rain garden workshop was held, complete with planting a rain garden that we the study neighborhood, which looked very nice even after just one year





Roadside Ditch Maintenance Guidebook

This manual will address issues in ditch design specifically for the clay soils in northern Minnesota





Lake Superior Streams Website



LakeSuperiorStreams.org







Kubiak -South St. Louis SWCD; J. Jasperson, J. Magner, D. Breneman, -MN Sea Grant; K. Gran, G. Neitzel, M. Wick, J. Geissler Brady, G. Host, L. Johnson , J. Henneck, E. Ruzycki, N. Will- U mberg-

primarily made by multiple agencies, organizations, individuals, and UM-Duluth to determine the source and solution to Amity Creek is a cold-water trout stream on the northeast side of Duluth, MN. The upper reaches of its watershed consist of thick glacial tills and glaciolacustrine deposits while the lower reaches flow over primaril bedrock before reaching Lake Superior. Its watershed is mostly undeveloped (~4 % rural-urban, 6 – 8% impervious surface), but faces increasing urban and rural development. The creek was listed as *Impaired* (303(b)) in 2004 due to excess turbidity from suspended sediment, and fish-Hg. Since then, an effort has been the turbidity problem.

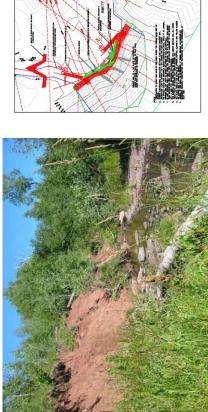
< 1) Stream restoration using BMPs in critical areas; 2) Social tools to reduce erosion and stormwater runoff; 3) *i* regional ditch design and maintenance handbook; 4) Geomorphic assessment of banks and bluffs using aerial and ground-based Lidar scanning; 5) Assessing potential for increased groundwater storage to reduce flashiness; 5) Water quality, habitat, and biological assessments; 7) Outreach activities.

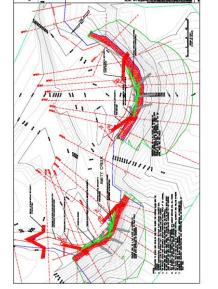
urban runoff, and tool (left) shows the response of current rent data flow (blue line) and turbid or muddy water (brown background). These data are from in-stream, the creek to a rain event. Two days of rain (green bars) at the end of May 2006 led to very high continuous sensors that deliver data daily to the website. The figure on the right shows curr stream turbidity data combined with the historical range bands to illustrate how the current Sources of fine-grained sediment are thought to be from eroding stream banks, compares with the values from previous years for the same days. The LakeSuperiorStreams.org data viewer increased peak flows.

RESTORATION

Upper Amity Bank Stabilization

Conservation District led an effort to mitigate two of the largest sediment sources and Eroding banks were identified from NRRI surveys, and the South St. Louis Soil & Water the first such project on the Superior North Shore. redirect high flows using J-vanes





21. TORIZ COMULA' NUMEROLY COMULA ROLF WILL CONSERVED DELINCL VALLE COLEXE WWX REMITYLICH DELINCL



Graves Road Creek channel stabilization

This intermittent tributary discharged a muddy plume during rainstorms and snowmelt runoff since a 1946 flood destroyed the road. The City of Duluth carried out a restoration including new culverts, flow rerouting, bank slope reductions, and sediment stabilization.







Lakeside Stormwater Runoff Reduction

residential neighborhood. This project will investigate the techniques that reduce runoff the most and their ease of maintenance for homeowners. The ultimate goal is to use what works best to reduce runoff contributing to problems in Amity Creek and other sensitive streams in the region. homeowners in Lakeside to determine the best ways to reduce stormwater runoff from a Duluth UMD scientists, city utilities staff, and local environmental engineers have teamed up with





Tree planting throughout the watershed

We know that planting trees along streams helps keep the water clean, but we don't know which trees are the best choices. As of 2013 over 2800 trees have been planted throughout the watershed. Amity Creek is also a the site for a study to determine which species can withstand animal browsing, competition from other plants, and are most costeffective. Volunteers will plant white spruce, white cedar, white pine and tamarack, which researchers will monitor the trees monthly to determine their success rates, along with will be assigned animal-browsing restraints and weed control treatments. NRRI the expense associated with each species and treatment



















HLINING

UNIVERSITY OF MINNESOTA DULUTH



Axler, V. Schon $\mathbf{\Sigma}$ **K**. Boheim,

R. C.

Anderson,

×.

INTRODUCTION

increasing water and sediment runoff, openings in riparian cover/canopy, impervious surfaces, road crossings, and construction runoff. Impacts from watershed disturbance would likely be exacerbated by concurrent especially sensitive to potential impacts from urbanization and rural development: rising water temperature, trends in warming and increased frequency of severe storms, that climate change models predict will persist There are an estimated 720 perennial and 127 intermittent streams that flow into ultra oligotrophic Lake Superior, including 309 trout streams and their tributaries along the Superior north shore and St. Louis River Estuary. Bedrock escarpments create a high density of stream corridors in forested watersheds with steep gradients, thin, erodible soils, typically low productivity, and "flashy" hydrology. These trout streams are and worsen

(www.lakesuperiorstreams.org/weber) with a goal of restoring and protecting Superior Basin trout streams using the Amity Creek watershed as an ideal demonstration project for restoration, assessment, and extension education activities. Projects carried out by the Partnership from 2005-2011 included two stream bank/channel stabilizations, a neighborhood stormwater reduction experiment, comprehensive water, habitat, and biological monitoring and outreach programs, and developing GIS landscape stressor maps highlighting areas of higher Initiative Stream Restoration spawned the Weber private gift to NRRI-UMD environmental risk σ 2005,

Additional efforts since 2011 have focused on:

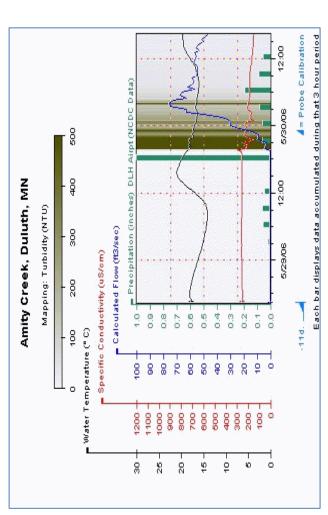
PROBLEM

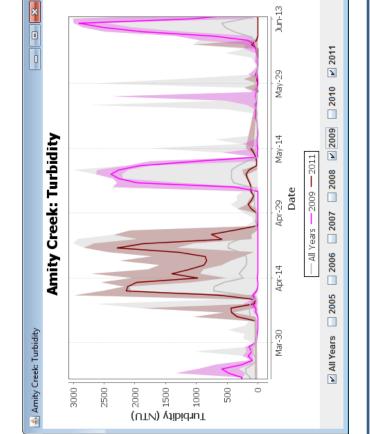
 \Box Excessive turbidity and suspended sediment in Amity Creek.





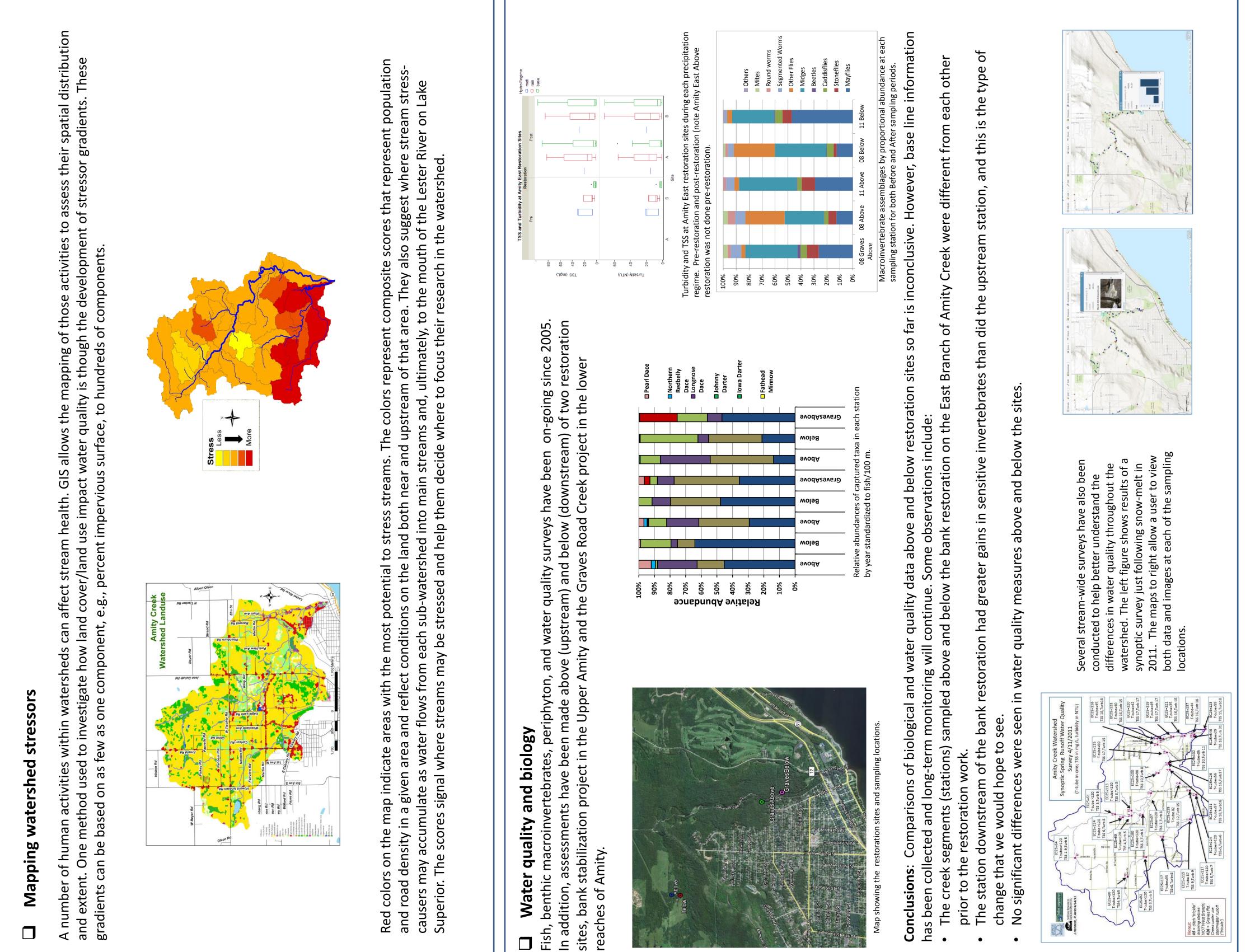






NATURAL RESOURCES RESEARCH INSTITUTE

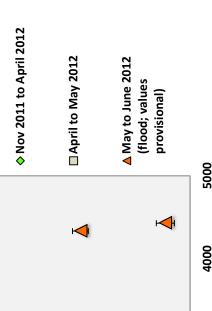
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Great Lakes Restoration Initiative

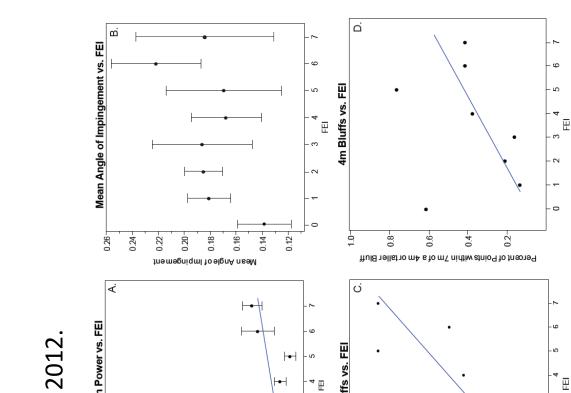
ASSESSMENTS





Conclusions: There is a relationship between peak flow between scans and average retreat distance of each bluff, with higher peak flows resulting in greater bluff erosion. Retreat distance was calculated as the volume of sediment eroded divided by the area of analysis on each bluff. This relationship is complicated in part by antecedent conditions and whether bank failure material is removed during the event (common in June event) or deposited at the base of the bluff (common in May event).

bedrock data. The predictor variables Erosion hotspots predictions utilized high-resolution Lidar DEM, soils (NRCS-SSURGO), and focused on:



an example of unit stream power: $\omega = kA^{0.5}S$

threshold-based model, predicting tions with high stream power, bluffs in proximity, and no bedrock, was able to accurately predict erosion over 70% of the channel, while over predicting 10% of all hotspots.

erosion in locations

Conclusions: A

Without knowledge of where bedrock reaches are located, however, high stream power and bluff proximity alone cannot accurately predict erosion

hotspots

sites, bank stabilization project in the Upper Amity and reaches of Amity.









YECTONVE





INITIATIVE

WEBER

Measuring bluff erosion

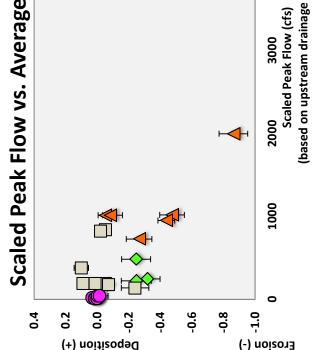
The loss of material from stream bluffs/banks was measured using portable terrestrial laser that provided detailed characterization of erodable bluffs which are an abundant features o shore streams.

Data were collected for change detection over a range of time periods:
Over-winter, low spring melt flood (Nov. 2011 – April 2012)

- Large flood in May 2012 Flood of record in June 2012 • •
- Low base-flow period (June- Nov. 2012)

D.

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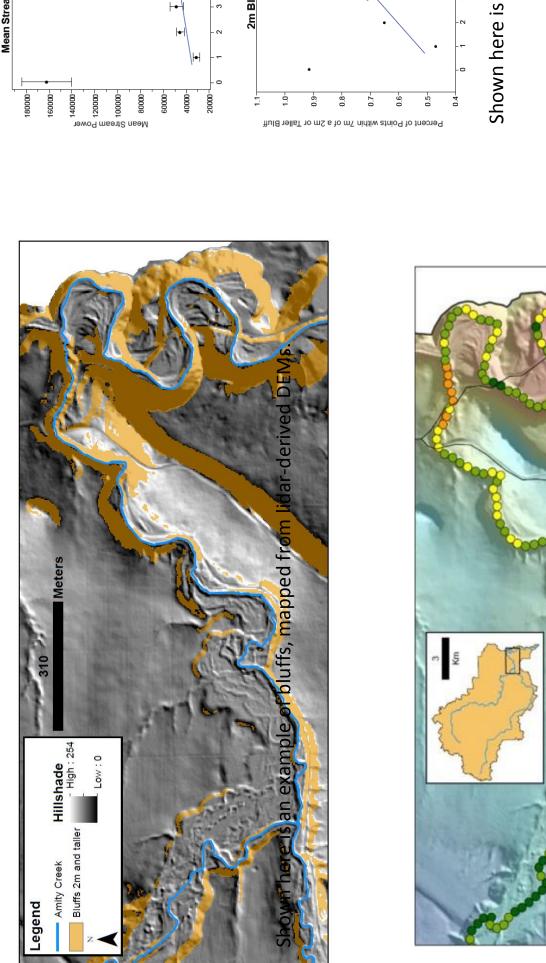


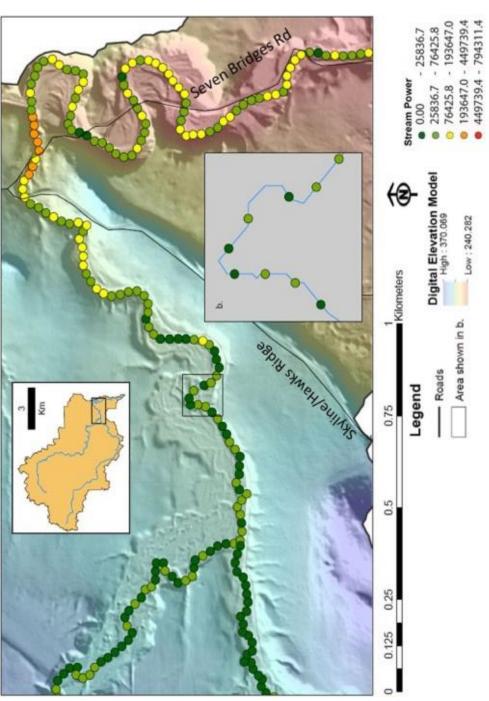
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Predicting erosion hotspots

- Driving forces: Stream power, Angle of impingement
 - Resisting forces: bedrock and soils •
- Sediment availability: proximity to high bluffs •

Erosion predictions were compared with erosion mapped after the flood of record in June





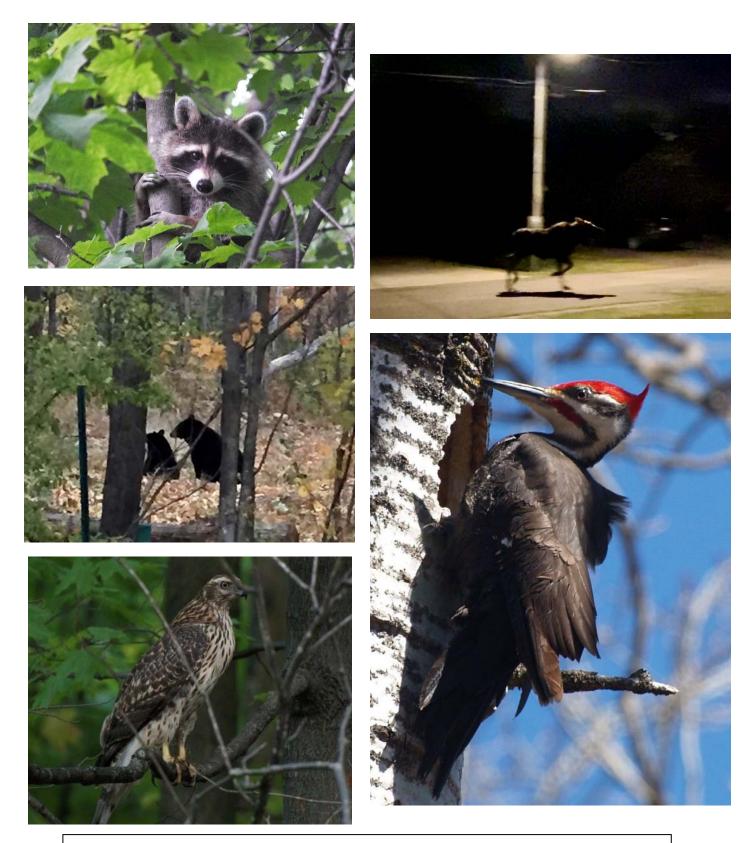


Attachment H.

Citizen Petition with 100 signatures

Attachment I.

Visual Narrative



Photos 1: Wildlife Photos from Vassar Street and surrounding woods. (Credit: Adam Marksteiner)





Photos 3: Aerial photos of Amity Creek between Woodland Ave. and Vermillion Rd. looking North-West (top) and South-East (bottom). (Credit: Adam Marksteiner)



Photos 2: Amity Creek between Woodland Ave. and Vermillion Rd. (Credit: Adam Marksteiner)



Photos 4: Vassar Street looking East (top) and West (bottom). (Credit: Adam Marksteiner)

Attachment J.

Copy of Letter Sent to Developer



Planning & Development Division

Planning & Economic Development Department

218-730-5580

🛛 🖂 plan

planning@duluthmn.gov

Room 160 411 West First Street Duluth, Minnesota 55802

File Number	PL 21-064	1	Contact	John Kelley	ey, jkelley@duluthmn.gov		
Type Rezone f		rom RR-1 R-1	Planning Commis	ssion Date	June 8, 2021		
Deadline	Application Date		May 3, 2021	60 Days	July 2, 2021		
for Action	on Date Extension Letter Mailed		May 13, 2021	120 Days	August 31, 2021		
Location of Sub	ject Woodland neighborhood – Vass		assar Street				
Applicant Kevin Chi		istiansen	Contact				
Agent			Contact				
Legal Description	on	See Attached Map					
Site Visit Date		May 28, 2021	Sign Notice Date		May 25, 2021		
Neighbor Lette	r Date	May 25, 2021	Number of Letter	rs Sent	29		

Proposal

The applicant is proposing to rezone property from the current zoning of Rural Residential 1 (RR-1) to Residential-Traditional (R-1)

Staff Recommendation

Staff is recommending approval of the proposed rezoning to RR-1 and R-1.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1	Vacant land	Traditional Neighborhood/Open Space
North	RR-1	Vacant land	Open Space
South	RR-1	Vacant land	Traditional Neighborhood/Open Space
East	RR-1	Vacant land/Amity Creek	Open Space
West	R-1	Vacant land	Traditional Neighborhood

Summary of Code Requirements

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

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

- UDC Sec. 50-37.3.C: The Planning Commission shall review the application, and Council shall approve the application or approve it with modifications, if it determines that the application: Is consistent with the Comprehensive Land Use Plan; Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use; 3. Is required by public necessity, convenience, or general welfare, or good zoning practice; 4.Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

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

Governing Principles

Governing Principle #5 - Promote reinvestment in neighborhoods.

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

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. The future land use category of Traditional Neighborhood is most commonly reflected in the City's zoning map as R-1.

Open Space

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

Review and Discussion Items:

1) The Applicant is proposing to rezone approximately 16 acres from the current zoning of Rural Residential 1 (RR-1) to Residential-Traditional (R-1).

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

3) State Statute requires that a community's zoning map implement the general objectives of the Comprehensive Plan. The future land use category of Traditional Neighborhood is most commonly reflected in the City's zoning map as R-1. The future land use category of Open Space is described as having high natural resource or scenic value, with substantial restrictions and development limitations. The area shown as Open Space is within the shoreland of Amity Creek, which is governed by the Natural Resources Overlay district that provides additional protection for shoreland and other important resources. Thus, the proposal meets the guidance provided by the Comprehensive Plan. Any future development will take into account the zoning restrictions for the Overlay.

4) Other criteria for zoning include considering existing land use patterns and if the rezoning is related to the needs to the community or existing land use. The property lies within the Woodland neighborhood and is contiguous with the existing traditional neighborhood, also zoned R-1.

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

5) The applicant has stated that the intent of this rezoning of the 16 acres to R-1 along with an adjacent 10 acres already zoned the same would allow for the development of a 25-30 individual residential lots. The applicant has also stated that the developable area of the property for rezoning is consistent with the future land use category of Traditional Neighborhood. Additionally the applicant believes the rezoning will allow for more housing opportunities and the future land use category of the applicant believes the rezoning will allow for more housing opportunities and the future land use category of the applicant believes the rezoning will allow for more housing opportunities and the future land use category of the applicant believes the rezoning will allow for more housing opportunities and the future land use category of the applicant believes the rezoning will allow for more housing opportunities and the future land use category of the applicant believes the rezoning will allow for more housing opportunities and the future land use category of the applicant believes the rezoning will allow for more housing opportunities and the future land use category of the applicant believes the rezoning will allow for more housing opportunities and the future land use category of the future l

demand for more services in the Woodland Core Investment Area.

6) The property will make efficient use of available street connections and better utilize available utility infrastructure in this neighborhood of the city.

7) Based on the development pattern of adjacent areas and the purpose statement of R-1 zone districts, rezoning as proposed in the attached map is appropriate for this area. The proposed rezoning to R-1 would allow for residential development to complement the existing single family housing type in the Woodland neighborhood.

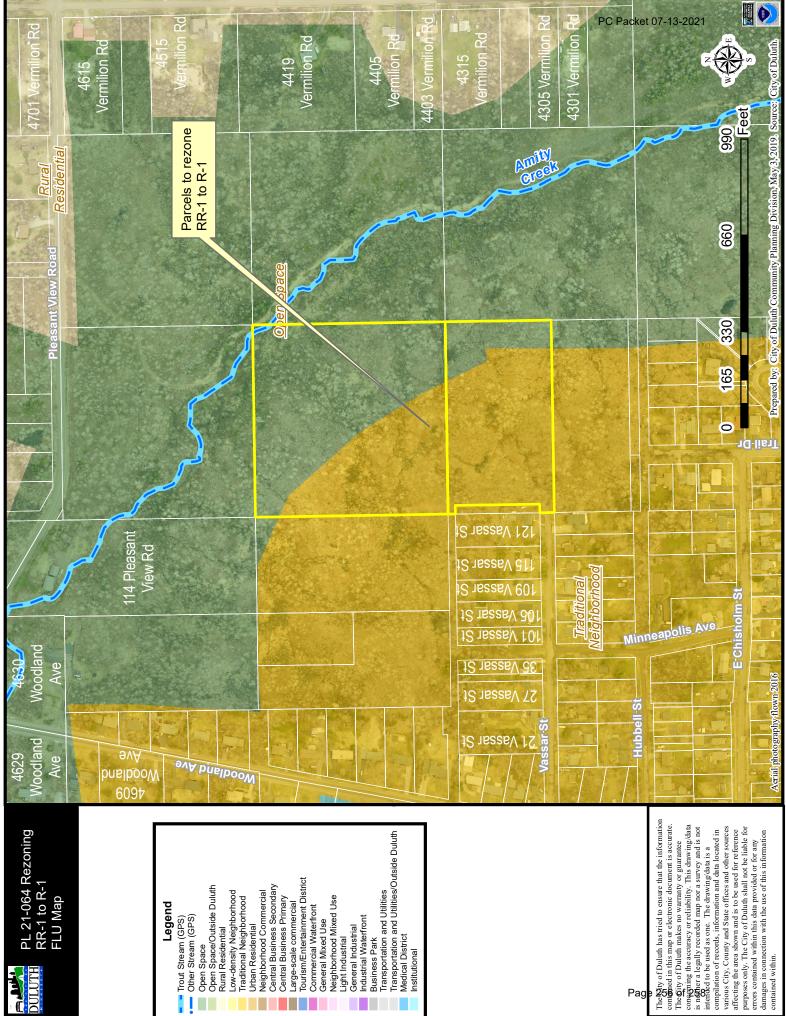
8) Three emails were received regarding the rezoning as of June 1, 2021 and are attached to this report.

Staff Recommendation:

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

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

2) The proposed zone district is consistent with the existing land use pattern and meets the needs of the community.3) Material adverse impacts on nearby properties are not anticipated.



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PL 21-064 Rezoning RR-1 to R-1 Zoning Map



The Rive of Duluth has tried to ensure that the information The Rive of Duluth has tried to ensure that the information comparing the importance of the relative of Duluth makes no warranty or guarance in Rive Sing of Duluth makes no warranty or guarance consoring the accuracy or reliability. This drawing data is in differ a legally recorded map nor a survey and is not interfaced to be used as one. The drawing data is a compilation of records, information and data located in various City. County and State or firces 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.



May 14th, 2021

City Planning Commission,

My name is Kevin Christiansen, a long time Duluth resident and business owner. Over the past 18 years I have owned and operated several local businesses. Throughout my career I have worked closely with the City of Duluth, where I've built strong and respected business relationships, assisting a variety of Commercial and Residential companies with planning and executing land development.

It is my pleasure to submit this letter of intent to seek approval for the rezoning of parcels 010-2720-00340 and 010-2720-00260. Rezoning these parcels from Low Density Residential (RR-1) to Traditional Neighborhood(R-1), along with the adjacent 10 acre parcel currently zoned Traditional Neighborhood (R-1) will allow the development of approximately 25 to 30 individual residential lots also known as Amity Bluffs. The implementation of this development follows the core values of the City of Duluth's Comprehensive Plan (Imagine Duluth 2035). In the future land use map, the developable area of the above-mentioned parcels is designated to Traditional Neighborhood as outlined in the Imagine Duluth 2035 development. The current demand for housing in Duluth is substantial. Expanding residential building sites to this desirable location will not only attract new residents but will increase the demand for services in the Woodland Core Investment Area, as well as, the positive economic benefits.

Amity Bluffs land development is potentially one of the last development opportunities in the highly sought-after Woodland neighborhood. As someone who grew up in this neighborhood, I know how vital it is to preserve the character and continuity of the area. Local residents have been using these parcels to access nearby hiking and snowmobiling trails for years. It is my vision to provide safe and easy access to these trails. Rezoning this property will also allow the use of City Utilities, eliminating of the need for a septic and well on these parcels.

If the rezoning to accommodate this proposal is approved, I'm confident the development and progress of this area will reflect the goals and initiatives the City of Duluth has envisioned. I appreciate your time and consideration of this proposal.

Sincerely,

Kevin Christiansen