



# City of Duluth

## Meeting Agenda

### Planning Commission.

*Council Chambers*

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Tuesday, November 14, 2023

5:00 PM

Council Chambers

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#### CALL TO ORDER AND ROLL CALL

#### APPROVAL OF PLANNING COMMISSION MINUTES

[PL 23-1010](#) Minutes 10/10/23

**Attachments:** [10-10-2023 PC Minutes \(not approved yet\)](#)

#### PUBLIC COMMENT ON ITEMS NOT ON AGENDA

#### CONSENT AGENDA

[PL 23-169](#) Variance from Side Yard Setbacks for a Deck at 4225 Gladstone Street by Jennifer and Daniel Anderson

**Attachments:** [PL 23-169 Staff report and attachments](#)

[PL 23-172](#) Variance to Side Yard Setback to Rebuild Covered Porch at 219 N 15th Avenue E by Christina M. Anderson

**Attachments:** [PL 23-172 Staff Report with attachments](#)

[PL 23-176](#) Interim Use Permit for a Vacation Dwelling Unit at 325 S Lake Avenue #1301 by Lake Superior Enterprises, LLC

**Attachments:** [PL 23-176 Staff Report and Attachments](#)

[PL 23-177](#) Variance to Front Yard Setback for a Home Addition at 1515 E 7th Street by Craig and Margaret Lilja

**Attachments:** [PL 23-177 Staff Report and Attachments](#)

[PL 23-179](#) Minor Subdivision at 407 Stoll Avenue by Duluth Rental Depot, LLC

**Attachments:** [PL 23-179 Staff report and attachments](#)

[PL 23-180](#) Variance to Side Yard Setback to Rebuild a House at 122 E 8th Street by Kyle Landwehr

**Attachments:** [PL 23-180 Staff Report with attachments \(updated\)](#)

[PL 23-183](#) Interim Use Permit for Vacation Dwelling Unit at 727 W 2nd Street by Justin and Alyssa Voegele

**Attachments:** [PL 23-183 Staff Report with attachments](#)

[PL 23-184](#) Minor Subdivision at 2330-2400 London Road by ZMC Hotels, LLC

**Attachments:** [PL 23-184 Staff report and attachments](#)

## **PUBLIC HEARINGS**

[PL 23-185](#) Concurrent Use Permit for Skywalk in the Right of Way of 10th Avenue E by St. Luke's Hospital

**Attachments:** [PL 23-185 Staff Report and Attachments](#)

[PL 23-186](#) Planning Review for New Skywalk in an MU-I District Over 10th Avenue E by St. Luke's Hospital

**Attachments:** [PL 23-186 Staff Report and Attachments](#)

## **OTHER BUSINESS**

[PL 23-178](#) UDC Analysis - Vacation Dwelling Units in RR-1 near MU-C

**Attachments:** [PL23-178 Memo - UDC Analysis - addendum](#)

## **COMMUNICATIONS**

Land Use Supervisor Report

Historic Preservation Commission Report

Joint Airport Zoning Board Report

Duluth Midway Joint Powers Zoning Board Report

# City of Duluth Planning Commission

**October 10, 2023 – City Hall Council Chambers  
Meeting Minutes**

## **Call to Order**

President Margie Nelson called to order the meeting of the city of Duluth planning commission at 5:00 p.m. on Tuesday, October 10th, 2023 in the Duluth city hall council chambers.

## **Roll Call**

### **Attendance:**

Members Present: Jason Crawford, Gary Eckenberg, Brian Hammond, Margie Nelson, Danielle Rhodes, Michael Schraepfer, and Andrea Wedul (arrived after the approval of minutes)  
Member Absent: Jason Hollinday

Staff Present: Adam Fulton, Jean Coleman, Jenn Moses, Kyle Deming, John Kelley, Chris Lee, and Cindy Stafford

## **Approval of Planning Commission Minutes** -

Planning Commission Meeting – September 12, 2023

**MOTION/Second:** Crawford/Hammond approved

**VOTE: (6-0)**

## **Public Comment on Items Not on Agenda**

None

## **Consent Agenda**

(Item PL 23-161 was removed from the consent agenda and voted on separately.)

PL 23-139 Variance to shoreland setback requirements at 11xx N 27<sup>th</sup> Avenue W by Shaun and Sara Floerke

PL 23-149 Interim Use Permit for a new vacation dwelling unit at 5830 London Road by Meredith Anderson

PL 23-151 Vacation of a portion of 67<sup>th</sup> Avenue W adjacent to 6630 Grand Avenue by James Williams

PL 23-152 Variance to side yard setback at 803 N 57<sup>th</sup> Avenue W by Jesse Merrill

PL 23-156 Interim use permit for a new vacation dwelling unit at 4218 Lombard Street by Jeremy and Carolyn Dick

PL 23-159 Interim use permit for a new vacation dwelling unit at 5808 London Road Unit 1 by 5808 London Road LLC

PL 23-165 Interim use permit for the renewal of a temporary parking lot at 830 E 1<sup>st</sup> Street by St. Luke's Hospital

PL 23-168 Interim use permit for a temporary parking lot at 4600 Stebner Road by Cirrus Design

**Commissioners:** Danielle Rhodes asked for clarification regarding interim use permits for vacation rentals. Senior planner Jenn Moses explained the process and described how the waiting list drawing was held. She emphasized that it was truly random, and did not favor an applicant or area over another.

**Public:** No speakers.

**MOTION/Second:** Crawford/Rhodes approved the consent agenda items as per staff recommendation

**VOTE: (7-0)**

(Commissioner Michael Schraepfer recused himself from the following item.)

PL 23-161 Interim use permit for a new vacation dwelling unit at 4712 Glenwood Street by Chelsea and Kyle Anderson

**Public:** No speakers.

**MOTION/Second:** Crawford/Wedul approved as per staff recommendation

**VOTE: (6-0, Schraepfer Abstained)**

### Public Hearings

#### PL 23-153 Special Use Permit for a day care at 1533 W Arrowhead Road by Building Blocks Learning Center

**Staff:** John Kelley introduced the applicant's request for a special use permit for a daycare facility for 82 children in the lower level of the Vineyard Christian Fellowship Church, and a new outdoor playground. The applicant is proposing to use a 3,000 square foot area of an existing gravel parking lot located on the west central portion of the property for a temporary fenced playground. Staff recommends approval with the conditions listed in the staff report.

**Commissioners:** Brian Hammond asked about the limitations placed on operating hours. He doesn't think the hours of operation needs to be dictated by the city. Kelley noted the hours were set by the applicant.

**Applicant:** Jody Keppers (architect representing the applicant) addressed the commission. He noted there will be no exterior changes other than the playground. He welcomed questions. They aren't opposed to extending the hours. Commissioner Hammond reiterated he would like the day care to set their own hours and not have the hours listed as a condition.

**Public:** No speakers

**Commissioners:** Gary Eckenberg agrees about not dictating hours, and would support striking the condition.

**MOTION/Second:** Wedul/Rhodes approved as per staff recommendation with added condition they have the option to extend operation hours to 9 p.m.

**VOTE: (6-1, Hamond Opposed)**

#### PL 23-166 Planning Review for a restaurant with drive-through at 1600 Miller Trunk Highway by HR Green, Inc.

**Staff:** Chris Lee introduced the applicant's proposal for a planning review for a free-standing restaurant development of a former bank building. The project will consist of a 6,110 square foot restaurant with a two-lane drive through and related parking and landscaping. The proposed rapid-service restaurant will be 6,110 square feet with indoor seating and drive through system for service. The drive through will contain two separate canopies, one for the ordering system, and one for the pick-up window. The site plan shows 41 parking spaces with

other parking available in the mall parking lot. The plan also shows a pedestrian connection from the mall entrance to the site through the parking lot with a separate sidewalk between parking rows. Another connection on the northeast side of the proposed restaurant will connect to the existing sidewalk near Highway 53. Staff recommends approval with the conditions listed in the staff report.

**Commissioners:** Andrea Wedul asked about the lighting. Lee noted the lighting will be solidified at building permit state, but will be cut-off and downcast.

**Applicant:** Joe Vavrina of HR Green, Inc. addressed the commission. He welcomed questions. Commissioner Hammond asked about the access roads. Lee noted they are maintained by the mall, and the restaurant will be leasing from the mall.

**Public:** No speakers.

**MOTION/Second:** Crawford/Schraepfer approved as per staff recommendation

**VOTE: (7-0)**

PL 23-133 Variance from front yard setback for an accessory structure at 2221 Norton Road by Troy Hendrickson

**Staff:** Jenn Moses introduced the applicant's proposal for a variance to reduce the front yard setback from the required 60' setback to 40' to construct a 2,520 square foot accessory structure adjacent to Norton Road in the RR-1, Rural Residential zone district. Staff had no recommendation for this item but summarized the findings in favor of approving and in favor of denying in the staff report.

**Commissioners:** Eckenberg asked about the proposed location, and noted it is in the same location as the building that was demolished. Moses noted it would be easier to build on given the flat location close to the road. There are wetlands located in other locations. Wedul asked if they could slide the location back. She noted the applicant can't create his own reason for a variance and wondered what the practical difficulty would be. Eckenberg noted it is rare for staff not to make a recommendation and asked for the reasoning behind it. Moses stated staff had conflicting thoughts. The applicant proposed the design this way, but it would not impact the neighborhood. Staff wanted the planning commission to weigh-in. Commissioner Rhodes asked if access from the road was needed to the structure, and if it was going to be used for business purposes.

**Applicant:** Troy Hendrickson addressed the commission. He stated the structure will not be used for business. He noted the need and reasoning to place the structure on the proposed demo site, and noted is already stress tested. There are water shed concerns in other places.

**Public:** No speakers.

**MOTION/Second:** Rhodes/Wedul denied stating there are adequate areas for other placement

**VOTE: (2-5, Crawford, Eckenberg, Hammond, Nelson, and Schraepfer Opposed) – Motion Failed**

**Staff:** City attorney, Jean Coleman gave a recap of the state statutes regarding practical difficulty and the condition may not be created by the land owner.

**Commissioners:** Wedul noted she is stuck on finding a practical difficulty.

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

**VOTE: (4-3, Nelson, Rhodes and Wedul Opposed)**

PL 23-164 Variance to UDC 50-21.3 to allow an accessory structure between a street and a primary building at 2221 Norton Road by Troy Hendrickson

**Staff:** Jenn Moses introduced the applicant's proposal for a variance to allow placement of a 42' x 60' accessory structure in the area between the front of the home and Norton Road in the RR-1, Rural Residential zone district. (Item discussed in conjunction with previous item.)

**Public:** No Speakers.

**MOTION/Second:** Eckenberg/Schraepfer approved

**VOTE: (4-3, Nelson, Rhodes and Wedul Opposed)**

PL 23-157 UDC Map Amendment from Residential-Traditional (R-1) to Mixed Use Neighborhood (MU-N) at 4831 Grand Avenue by Our Saviors Lutheran Church

**Staff:** Jenn Moses introduced the applicant's proposal for a UDC map amendment (rezoning) to change the zoning of four parcels adjacent to 4831 Grand Avenue from Residential-Traditional (R-1) to Mixed Use – Neighborhood (MU-N). This proposal is consistent with the comprehensive plan. Staff recommends approval of three of the parcels, but recommends parcel 010-3610-10050 not be included due to the potential for adverse material impacts.

**Commissioners:** Rhodes asked if screening will be required. Per Moses, there is no site plan yet. Hammond asked what is being protected by leaving the one parcel out of the rezoning. Per Moses, the separate parcel does not include the church building and has historically been used as parking for the church. As a separate parcel, this property could easily be sold or transferred, and it is directly adjacent to a neighboring residential property.

**Applicant:** Kane Tewes of Architecture Advantage addressed the commission. The applicant is agreeable to keeping the one parcel as R-1 zoning.

**Commissioners:** Eckenberg noted future use of housing people in the basement. There was other discussion regarding future use. Moses stated there is not an official proposal yet.

**Public:** Monica – manager of Faith Haven Apartments addressed the commission. She is concerned about the future plan, but understand this item is just for zoning.

**MOTION/Second:** Hammond/Eckenberg recommended approval as per staff recommendation

**VOTE: (7-0)**

PL 23-129 UDC Map Amendment from Mixed Use – Business (MU-B) North of Sherburne Avenue and East of 64<sup>th</sup> Avenue W by the City of Duluth

**Staff:** Jenn Moses introduced the applicant's proposal for a UDC map amendment (rezoning) to change the zoning of one-half block from Mixed Use – Business (MU-B) to Mixed Use – Neighborhood (MU-N). The proposed rezoning was initiated by One Roof Community Housing who owns an adjacent parcel. They plan to use the rezoned parcel to build a single-family home. Staff recommends approval and lists the reasons in the staff report.

**Public:** Debbie Freedman of One Roof addressed the commission. They are the applicant and are in support of the rezoning, so they can build a single-family home. Steve Soderlund – Sherburne St - addressed the commission. He lives across the street and is wondering how one roof acquired the property. He thought the neighboring properties would be offered a chance to purchase it. He is opposed to their proposal. Dennis Howard – 314 S 64<sup>th</sup> Ave W – addressed the commission. He also wanted to acquire the land. He doesn't want to see his neighborhood deteriorate. He is opposed.

**Applicant:** Debbie Freedman of One Roof noted they acquired the land by working with the city off of their vacant property list. It is not their vision to convert this into multi-family housing.

**MOTION/Second:** Wedul/Hammond recommended approval as per staff recommendation

PL 23-170 UDC Text Amendments for sections: 50-31, related to exterior lighting standard; 50-19.8 related to accessory uses in MU-B and I-G districts; 50-41, related to definitions for elevator penthouses and stair penthouses, and accessory childcare and accessory retail or service uses; 50-14.5 and 50-14.6 related to minimum depth of rear yard

**Staff:** Kyle Deming introduced the city's proposal for a UDC Text Amendment for accessory day care, accessory retail/showroom, equipment penthouse and roof access stairway, and alley lighting. Deputy Director Fulton noted it would be okay to pass part of these amendments, so it can move forward. There is no need to keep all as a group.

**Commissioners:** Wedul asked if clarification should be made for occupied space in stairway access. Rhodes asked about the outdoor exercise clause. Discussion about the new uses after May 1, 2019 and commissioners wanted to change to make current.

**Public:** No speakers.

**MOTION/Second:** Rhodes/Wedul recommended approval as per staff recommendation with the omission of fenced outdoor exercise area language with the added condition of all new uses after October 10, 2023, and the removal of the penthouse language section

**VOTE: (7-0)**

PL 23-003 UDC Text Amendments to off-street parking requirements by the City of Duluth

**Staff:** Jenn Moses gave an overview. She discussed the staff report memo and the changes that have undergone further evaluation. Staff recommends approval of these changes. An ordinance with these changes will then go to the city council, and will required two readings before passage.

**Commissioners:** Rhodes referred to UDC 50-20.1 regarding new construction and parking. She would like the plan to come to the planning commission as reviewable. She would like to see a check and balance of some sort. Discussion followed on bike parking, EV's, rental licensing parking.

**Public:** Pete of Devonshire Street asked about the Northern Lights Express.

**Staff:** Fulton noted the goal to coordinate with St. Louis County

**MOTION/Second:** Wedul/Crawford recommended approval as per staff recommendation

**VOTE: (6-1, Eckenberg Opposed)**

### Other

PL 23-174 Conformance to the Comprehensive Plan for tax increment financing on 1<sup>st</sup> Street for Development District No. 17

**Staff:** Deputy Director Adam Fulton introduced the city's proposal. In order to facilitate development of two new vertical multifamily projects along the First Street corridor between Lake Avenue and Third Avenue, the city needs to create a new tax increment financing (TIF) redevelopment district. The role of the planning commission is to make sure the proposed development and its uses are consistent with the Comprehensive Plan, the UDC. The project will consist of the redevelopment of the First Street corridor with a new multifamily building that includes no fewer than 130 new housing units. The project will also include enhanced streetscapes and pedestrian corridors to maximize participation in the Superior Street commercial corridor.

**MOTION/Second:** Wedul/Hammond TIF is in conformity with the Comp Plan

**VOTE: (7-0)**

PL 23-178 UDC Analysis – Vacation Dwelling Units in RR-1 near MU-C

**Staff:** Kyle Deming gave an overview of his memo dated October 2, 2023. Is it a good land use practice to exempt vacation dwelling units (VDUs) in those portions of Rural Residential (RR-1) districts in close proximity to Mixed Use Commercial (MU-C) districts from the cap on VDU permits? A recommendation was proposed to make no change to the VDU cap because:

- i. The change doesn't serve an overwhelming need in the community (only 7 residences and one business would be affected), and
- ii. Expanding the exemption to the cap will increase the likelihood of getting more requests to be exempted from the cap.

If a change to the cap is desired, the commission was asked to consider the following conditions:

- i. Limit exemption to parcels within 300 feet of an existing MU-C district.
- ii. Before issuing the VDU interim use permit, require inspection and certification that the septic system is functioning property.
- iii. Require periodic septic system inspection.
- iv. Require notices be posted within the VDU regarding proper usage of the septic system

**Public:** Ben Fye – Osage Ave – addressed the commission. He is directly affected and noted the hotel should not be allowed next an RR-1 zone. This is going to diminish his home value.

**Commissioners:** Eckenberg noted this situation was created by city council. He would to see the pc remove this item from the agenda. There was no second. He also motioned to table the item. There was no second. Hammond suggested passing on the memo with no recommendation. Rhodes first agreed to second, but then withdrew her motion. President Nelson agreed to second the motion for a vote.

**MOTION/Second:** Hammond/Nelson forward Memo to city council with no recommendations

**VOTE: (3-4, Crawford, Eckenberg, Schraepfer and Wedul Opposed) – Did not Pass**

**MOTION/Second:** Schraepfer/Crawford Send memo back to staff to re-evaluate

**VOTE: (4-3, Eckenberg, Hammond and Nelson Opposed)**

### Communications

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview.

Heritage Preservation Commission – Gary Eckenberg noted they have not met since June.

Joint Airport Zoning Board – No updates.

Duluth Midway Joint Powers Zoning Board – No updates.

### Adjournment

Meeting adjourned at 9:18 p.m.

Respectfully,

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Adam Fulton – Deputy Director  
Planning & Economic Development



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

<b>File Number</b>	PL 23-169	<b>Contact</b>	John Kelley	
<b>Type</b>	Variance from side yard setback	<b>Planning Commission Date</b>	November 14, 2023	
<b>Deadline for Action</b>	<b>Application Date</b>	September 14, 2023	<b>60 Days</b>	November 13, 2023
	<b>Date Extension Letter Mailed</b>	October 19, 2023	<b>120 Days</b>	January 12, 2024
<b>Location of Subject</b>	4225 Gladstone Street			
<b>Applicant</b>	Jennifer and Daniel Anderson	<b>Contact</b>		
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	See Attached	<b>Sign Notice Date</b>	October 31, 2023	
<b>Site Visit Date</b>	November 3, 2023	<b>Number of Letters Sent</b>	56	

**Proposal**

The applicant is seeking a side yard variance to reduce the setback from the required 6' setback to 1.3' to construct a 5' wide side yard deck wrapping around to a 12' x 24' deck on the north side of the existing home.

**Staff Recommendation**

Staff recommends that the Planning Commission approve the variance.

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

**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 from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

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

Governing Principle #5: Promote reinvestment in neighborhoods: this project allows a homeowner to make property improvements to increase value in their home.

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

Future Land Use

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

History

The house is 1,180 square feet in size and was constructed in 1947. The property currently functions as a single-family residence.

**Review and Discussion Items:**

- 1) The applicant is seeking a side yard variance to reduce the setback from the required 6’ setback to 1.3’ to construct a 5’ wide side yard deck wrapping around to a 12’ x 24’ deck on the north side of the house. The home is 6.6’ from the east property line at the northeast corner of the home and 4.9’ feet from the southeast corner of the home with a side entrance.
- 2) The applicant stated that there was a deck and walkway of the exact same size in the same location as proposed but was removed in preparation for its replacement. The deck and walkway were existing nonconforming structures that could have been replaced within a year of its removal, however the applicant was not able to replace the deck due to time, cost and material constraints.
- 3) The applicant states that the house is not centered on the property and the southeast corner of the home is angled closer to the east side lot line with a side entrance to the home. The applicant states that the variance is requested due to the structure being “off center” on the lot and that the homes second entrance is located at the narrowest area between the east lot line and the structure.
- 4) The applicant is proposing to use the property in a reasonable manner by constructing a wraparound deck from the side door to the rear of the home.
- 5) The applicant’s practical difficulty was not created by the landowner but rather is due to the existing structures location on the property.
- 6) The variance will not alter the essential character of the neighborhood as there are homes with similar decks.
- 7) The variance will not impair an adequate supply of light and air to adjacent properties as the deck is open with an existing row of established cedar trees providing screening from the adjacent house to the east. The proposed deck will not increase congestion in public streets or unreasonably diminish or impair established property values within the surrounding areas.
- 8) No public, agency, or other City comments were received.
- 9) Per UDC Section 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

**Staff Recommendation**

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

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



PL 23-169  
 Variance  
 4225 Gladstone Street

4220 COOKE ST

301005060 4222 COOKE ST

825 N 43RD AVE E

PC Packet 11-14-2023

Cooke St Alley

**Legend**  
 Zoning Boundaries

301005120

4217  
GLADSTONE ST

4221  
GLADSTONE ST  
301005110

4225  
GLADSTONE ST  
301005100  
**R-1 (Residential  
 Traditional)**

4229  
GLADSTONE ST  
301005090

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

Aerial photography flown 2016



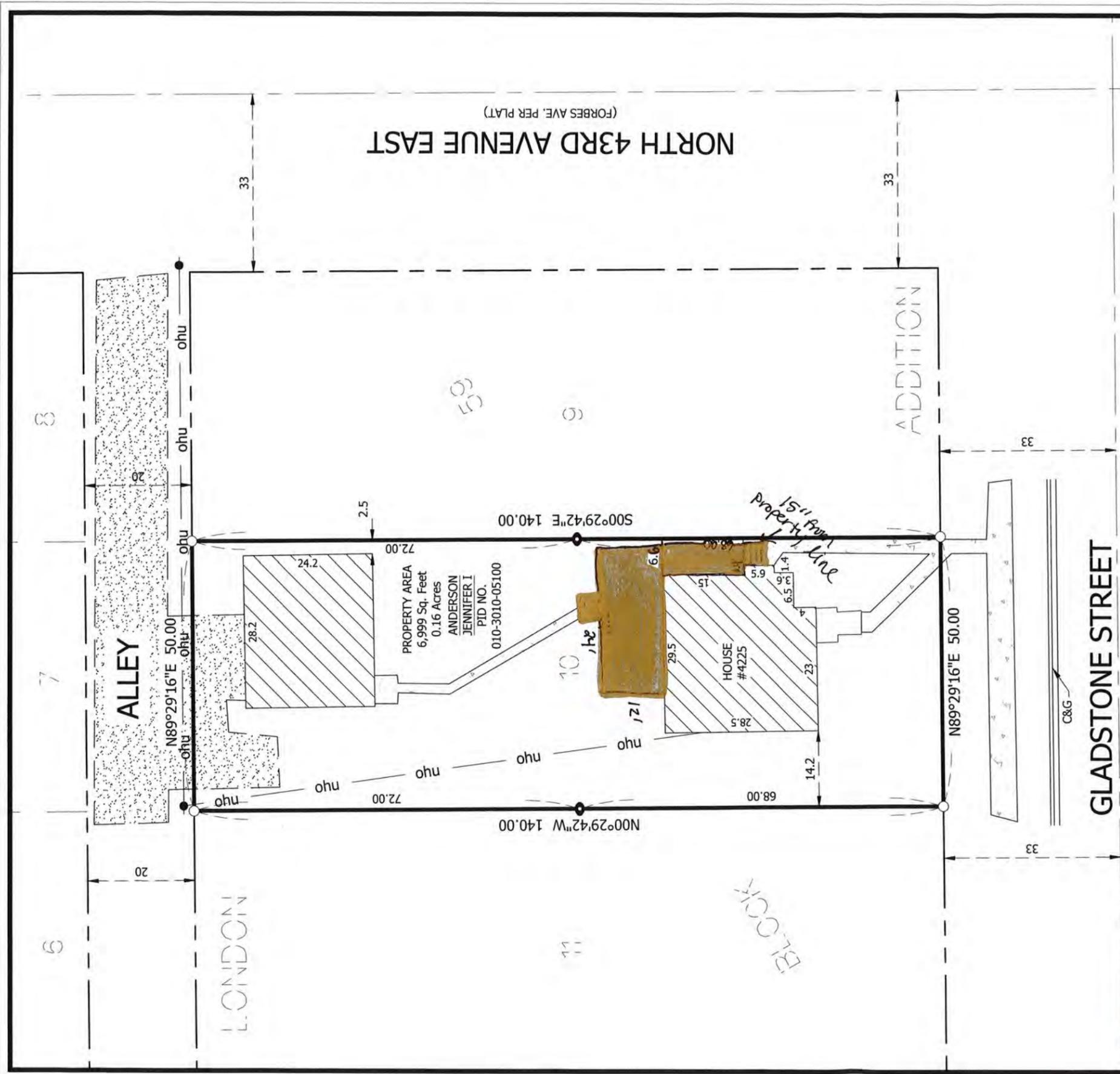
Gladstone St



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Prepared by: City of Duluth Community Planning Division, May 3, 2019, Source: City of Duluth.





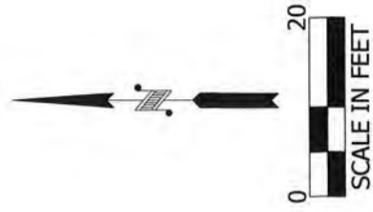
- purposed deck & walk way to side entrance.

**LEGEND**

- CONCRETE SURFACE
- GRAVEL SURFACE
- EXISTING BUILDINGS
- C&G-CONCRETE CURB & GUTTER
- OHU
- OVERHEAD UTILITIES
- CENTER LINE
- RIGHT OF WAY LINE
- BOUNDARY LINE AS SURVEYED
- EXISTING PLAT LINE
- SET SPIKE
- SET CAPPED REBAR RLS. NO. 49505
- UTILITY POLE

LEGAL DESCRIPTION PER DOCUMENT NO. 1314156

Lot Ten (10), Block Fifty-Nine (59), LONDON ADDITION TO DULUTH, St. Louis County, Minnesota.



**SURVEYOR'S NOTES**

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



**CERTIFICATE OF SURVEY**

CLIENT: JENNIFER ANDERSON	REVISIONS:
ADDRESS: 4225 GLADSTONE STREET	
DULUTH, MN 55804	
DATE: 06-13-2023	JOB NO: 23-155 - SHEET 1 OF 1

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.  
**David R. Evanson**  
David R. Evanson  
MN License #49505  
DATE: 06-13-2023



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

<b>File Number</b>	PL 23-172	<b>Contact</b>	Jason Mozol	
<b>Type</b>	Variance from side yard setback	<b>Planning Commission Date</b>	November 14, 2023	
<b>Deadline for Action</b>	<b>Application Date</b>	September 22, 2023	<b>60 Days</b>	November 21, 2023
	<b>Date Extension Letter Mailed</b>	October 12, 2023	<b>120 Days</b>	January 20, 2024
<b>Location of Subject</b>	219 N 15 <sup>th</sup> Ave E			
<b>Applicant</b>	Christina Anderson	<b>Contact</b>		
<b>Agent</b>	Dan Traylor	<b>Contact</b>		
<b>Legal Description</b>	See Attached	<b>Sign Notice Date</b>	October 31, 2023	
<b>Site Visit Date</b>	November 3, 2023	<b>Number of Letters Sent</b>	48	

**Proposal**

The applicant is seeking a side yard variance to reduce the setback from the required 6’ setback to 0’ to construct a 4’ x 16’ 1.5” covered porch on the front side of the existing home.

**Staff Recommendation**

Staff recommends that the Planning Commission approve the variance.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-2	Residential	Urban Residential
<b>North</b>	R-2	Residential	Urban Residential
<b>South</b>	R-2	Residential	Urban Residential
<b>East</b>	R-2	Residential	Urban Residential
<b>West</b>	R-2	Residential	Urban Residential

**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.

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

Governing Principle #5: Promote reinvestment in neighborhoods: this project allows a homeowner to make property improvements to increase value in their home.

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

Future Land Use

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

History

The house is 1418 square foot row house and was constructed in 1891. The property currently functions as a single-family residence.

**Review and Discussion Items:**

- 1) The applicant is seeking a side yard variance to reduce the setback from the required 6’ setback to 0’ to construct a 4’ x 16’ 1.5” covered porch on the front side of the existing home in the footprint of an existing, uncovered deck. The existing home itself sits on both north and south property lines
- 2) The applicant states that the variance is requested due to the structure being located close the north and south property lines and the exceptional narrowness of the lot. The applicant is proposing to use the property in a reasonable manner by constructing a covered porch off of the front of home.
- 3) The applicant’s practical difficulty was not created by the landowner but rather is due to the existing structures location on the property and the narrow, 18’ lot width.
- 4) The variance will not alter the essential character of the neighborhood. The construction of a covered porch will return the home to the initial design when built in 1891 and will match the design of two neighboring row houses.
- 5) The variance allowing an open porch will not impair an adequate supply of light and air to adjacent properties. The proposal will not increase congestion in public streets or unreasonably diminish or impair established property values within the surrounding areas.
- 6) Four comments were received in support of the application. No other public, agency, or other City comments were received.
- 7) Per UDC Section 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

**Staff Recommendation**

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

- 1) The project be limited to a 4’x16’ open, covered porch with steps as shown on the site plan and accompanying drawings.
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL23-172

Variance to front yard setback  
219 N 15th Ave E

PC Packet 11-14-2023

216 N 15TH  
AVE E

1430 E 3RD ST

N 15th Ave E

E 3rd  
Alley

225 N 15TH  
AVE E

223 N 15TH  
AVE E

221 N 15TH  
AVE E

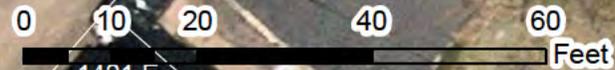
219 N 15TH  
AVE E

E 3rd Alley

1422 E 3RD ST

1429 E 2ND ST

1427 E 2ND 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.

Aerial photography flown 2019

Prepared by: City of Duluth Planning & Economic Development, October 23, 2023 | Source: City of Duluth

# CERTIFICATE OF SURVEY

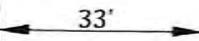
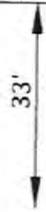
THE SOUTHERLY 17.60 FT.  
OF LOTS 7 AND 8, BLOCK 86  
ENDION DIVISION OF DULUTH  
DULUTH, MINNESOTA



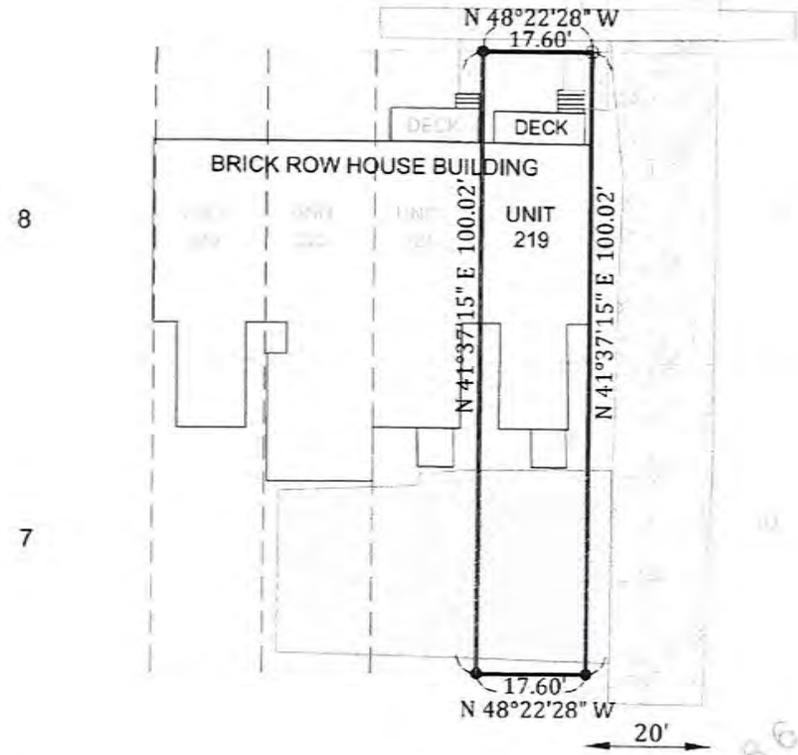
Bearings Referenced to  
St. Louis County  
Transverse Mercator 96  
Coordinate System.

C/L NORTH 15TH AVE. EAST

C/L EAST THIRD STREET



BACK OF CURB LINE



## LEGEND

- SET 3/4 IN. DIA. REBAR WITH ALUMINUM CAP STAMPED "NELSON LS 49578"
- ⊕ SET DRILL HOLE IN CONCRETE AT SOUTHEASTERLY PROPERTY CORNER.

- CONCRETE
- GRAVEL
- ASPHALT



1 in. = 30 ft.

BLOCK 86

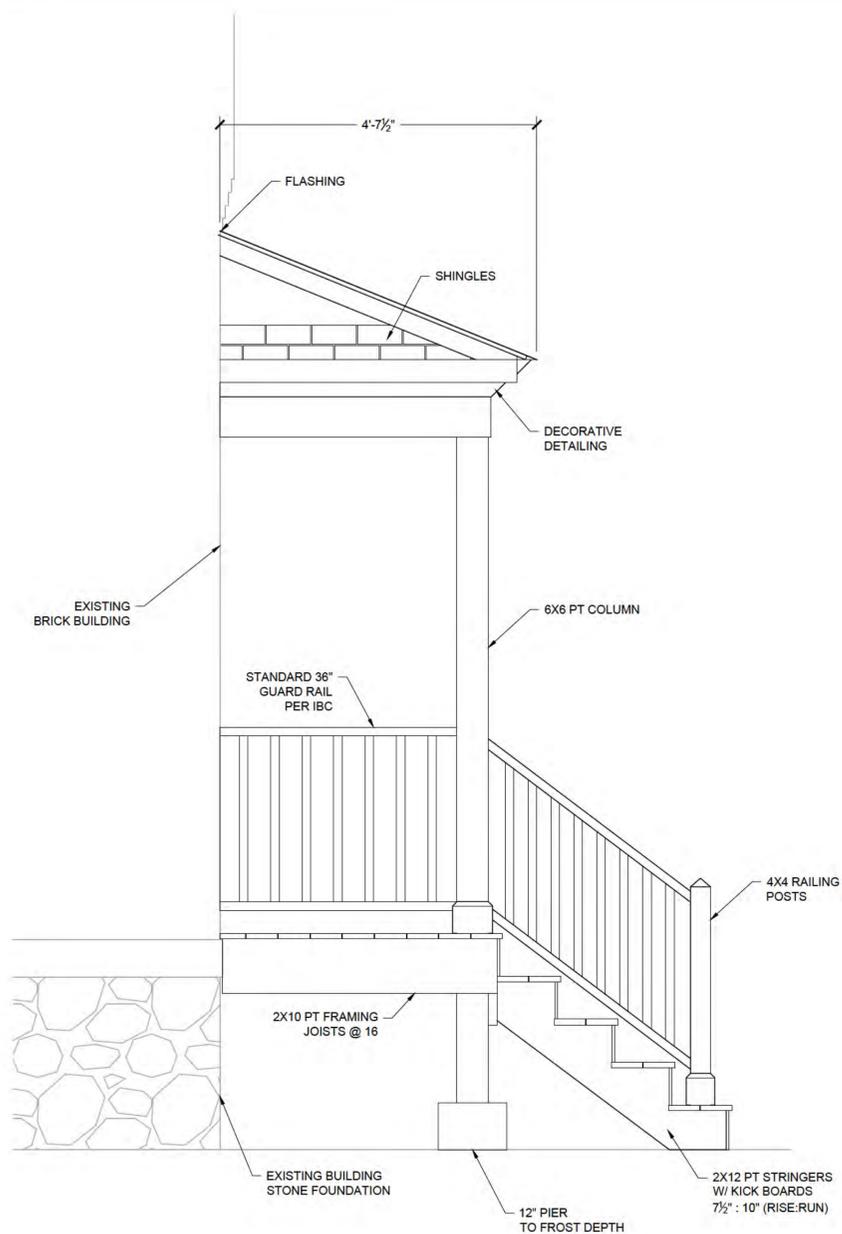
SurveyScience Land Surveying, LLC  
Duluth, Minnesota  
(218) 428-4327

Survey for: Christina Anderson  
219 N. 15th Ave. East

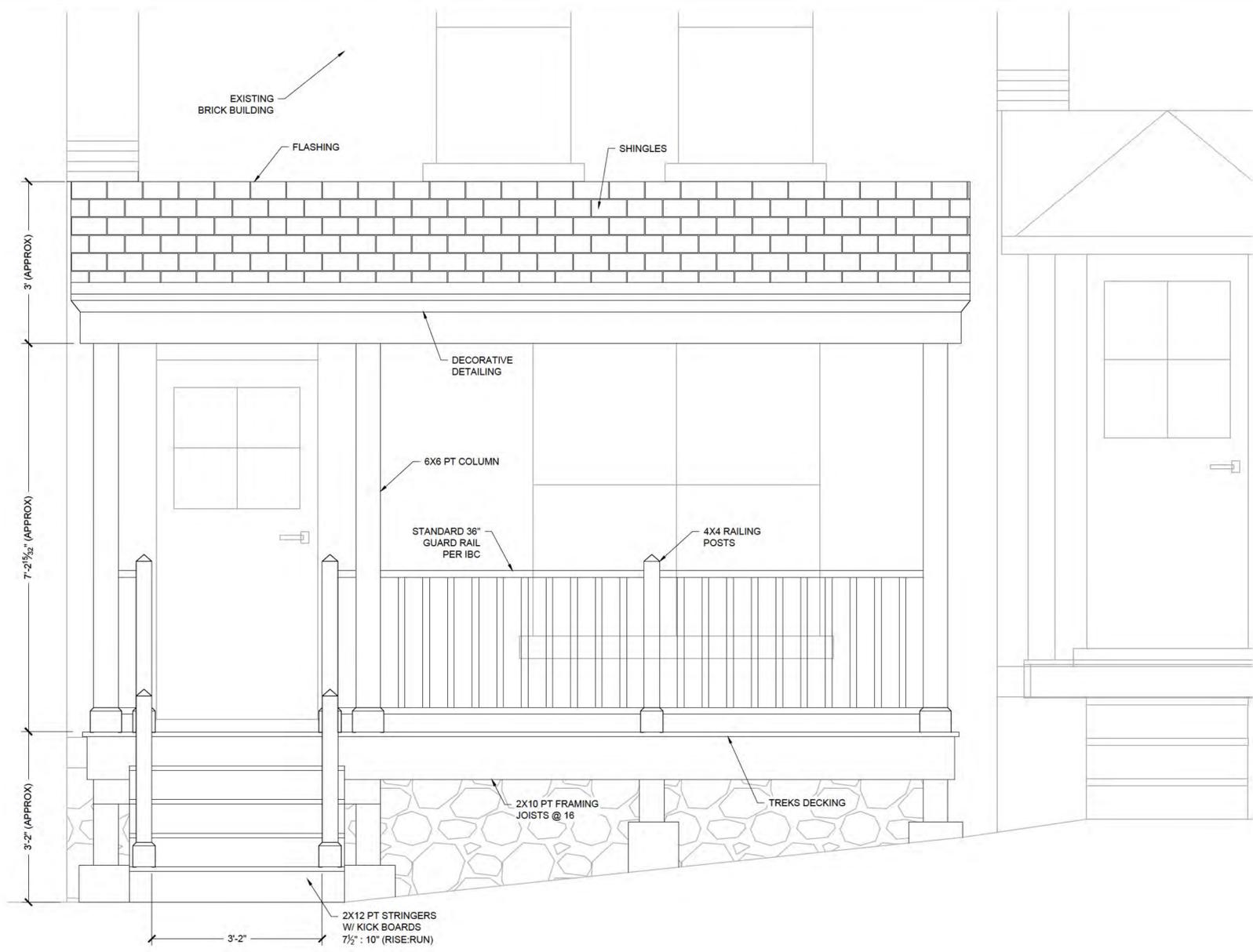
I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the state of Minnesota.

*James T. Nelson*  
James T. Nelson

Date: 9/22/2023  
License Number: 49578



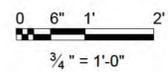
**A** SIDE VIEW



**B** FRONT VIEW



**C** EXISTING PICTURE



REV	DATE	DWN	CHK	DESCRIPTION
A	07/24/23	DTH	DT	FOR PERMIT

**PORCH REBUILD  
ELEVATION VIEWS**

**RED BETA**  
 RED BETA, LLC  
 ENGINEERING CONSULTING SERVICES  
 336 4TH ST NE, AUBURN, WA 98002  
 (253) 506-0214

DRAWN BY: DTH	SCALE: AS NOTED
DATE: 07/12/23	
PROJECT #: 0009	
DRAWING #: S0-01	

**S0-01**



...communicated by our subscribers to any outside interests. The U. S. Espion incumbent upon possessors of information rel Defense to take all possible precautions to prev into the hands of interests inimical to the Unit

PC Packet 11-14-2023

## KEY

	NUMBER OF STORIES... 1	Fire proof construction		SKYLIGHT LIGHTING TOP STORY ONLY
	SINTE OR TIN ROOF... 2	Iron building		SKYLIGHT LIGHTING TWO STORIES
	COMPOSITION ROOF... 3	Brick building with metal cornice		SKYLIGHT LIGHTING THREE STORIES
	SHINGLE ROOF... X	" " " frame		D = DWELLING
	FRAME PARTITION	" " " side		F = FLAT
	HEIGHT OF BUILDING	" " " stone front		S = STORE
	HANGING ROOF	Frame building		H = HANGING ROOF
	" " "	" " iron clad		C = COUNTING FROM LEFT TO RIGHT, LOOKING TOWARD BUILDING BUT REPRESENTS OPENING
	" " "	Adobe building		
	WALL 1ST ONLY	Wall 1st no openings through it		
	WALL 2ND ONLY	" " with openings		
	Horizontal steam boiler			
	Vertical			
	A.F.A. Automatic			
	I.E.P.			
	Brick chimney			
	Iron			
	Hydrant			



2:37



< All Inboxes



**Siri Found an Email**

Juliet Homme  
juliethomme@gmail.com

**Update**



**Juliet Homme**

To: PAUL ANDERSON >

2:17 PM

## **Porch Project**

To whom it may concern:

Juliet Homme and Jon Phillips, neighbors of Paul and Tina, approve of the porch construction they wish to do.

Please reach out with questions or if further discussion is needed.

Juliet Homme and Jon Phillips  
223 N 15th Ave E  
Duluth, MN 55805





**Carol Parsons**  
To: PAUL ANDERSON >

9:32 AM

**219 n 15th ave East Duluth 55805**

Hello

I live at 221 n 15<sup>th</sup> ave East Duluth 55805 and have no issues with my neighbor putting their poarch back on to their property

Yours truly,

Carol Parsons



**Anderson Porch Reno**

To whom it may concern,  
As a neighbor of Tina Anderson I am writing to express my support in the rebuilding of her front porch to original size. I own the 4th rowhouse on the opposite end of Tina. I feel the porch renovation will serve to improve the esthetics and value of the neighborhood.

Sincerely,  
Suzanne Frantti  
225 N 15th Ave E  
Duluth, Mn



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 23-176	<b>Contact</b>	Chris Lee	
<b>Type</b>	Interim Use Permit– Vacation Dwelling Unit in Form District	<b>Planning Commission Date</b>		November 14, 2023
<b>Deadline for Action</b>	<b>Application Date</b>	September 29, 2023	<b>60 Days</b>	November 28, 2023
	<b>Date Extension Letter Mailed</b>	October 11, 2023	<b>120 Days</b>	January 27, 2024
<b>Location of Subject</b>	325 South Lake Avenue, Unit 1301			
<b>Applicant</b>	Lake Superior Enterprises, LLC	<b>Contact</b>	Stefanie Peters	
<b>Agent</b>	Fran Spears	<b>Contact</b>		
<b>Legal Description</b>	CIC #29 Waterfront Plaza Condominiums (010-4444-00330)			
<b>Site Visit Date</b>	November 1, 2023	<b>Sign Notice Date</b>	October 31, 2023	
<b>Neighbor Letter Date</b>	October 25, 2023	<b>Number of Letters Sent</b>	44	

**Proposal**

Applicant is proposing a new interim use permit for a vacation dwelling unit. The permit would allow for a 3-bedroom vacation dwelling unit with a maximum of 7 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 approve.

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

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:**

Staff finds that:

- 1) Applicant's property is located at 325 South Lake Avenue, Unit 1301. The unit is located on the third floor of The Suites Hotel in Canal Park. The proposed vacation dwelling unit contains 3 bedrooms that would allow for a maximum of 7 guests.
- 2) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicants have listed Northshore Management as the managing agent.
- 3) The site is not required to provide parking. However, the applicant has stated that there will be two parking spaces in the rear of the building for guests. Additional parking is available at other paid parking lots.
- 4) The site does not have any outdoor amenities and no screening is required as the unit is within an existing condominium/hotel building.
- 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 approve the Interim Use Permit subject to the following:

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



PL23-176  
Interim Use Permit  
325 Lake Ave S. #1301

**Legend**

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



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

140 Feet

**F-3 (Mid-Rise Community Shopping)**  
**F-5 (Mid-Rise Community Shop and Office)**



WINDOW  
EGRESS

WINDOW  
EGRESS

WINDOW  
EGRESS  
REVISED 1-14-2023

13'

15.5'

MASTER BEDROOM  
- Sleeps 2.

GUEST BEDROOM  
- Sleeps 4.

17.5'

17.5'

BATHROOM  
ENTRANCE

Door

Door



MASTER  
BATH

Shower

Sink

tub &  
Shower

Stove

KITCHEN

Sink

fridge

ELECTRIC  
PANEL  
121

Closet

Sink

Closet

LAUNDRY

TV Room

LIVING ROOM

13'

DINING  
Room

12'

14.5'

Door

UNIT ENTRANCE

## Vacation Dwelling Unit Worksheet

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

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two. You may rent no more than four bedrooms.

How many legal bedrooms are in the dwelling?

THREE

What will be your maximum occupancy?

7

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

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

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

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

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

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

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

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

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

18303 Glenbridge Ave, Lakeville MN 55044

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

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

FRAN SPEARS, 2232 Roslyn Ave, Duluth 218-391-6090

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

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

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

In the Guest Book located on Dining Room table,  
That's required to be read by two guest the first day of Arrival.  
We check up on if they've read it the 2nd day of their stay.

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

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



Unit Location

Parking

Parking



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

<b>File Number</b>	PL 23-177	<b>Contact</b>	Chris Lee, clee@duluthmn.gov	
<b>Type</b>	Variance from front yard setback	<b>Planning Commission Date</b>	November 14, 2023	
<b>Deadline for Action</b>	<b>Application Date</b>	October 2, 2023	<b>60 Days</b>	December 1, 2023
	<b>Date Extension Letter Mailed</b>	October 13, 2023	<b>120 Days</b>	January 30, 2024
<b>Location of Subject</b>	1515 E 7 <sup>th</sup> St			
<b>Applicant</b>	Craig & Margaret Lilja	<b>Contact</b>		
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	See Attached	<b>Sign Notice Date</b>	October 30, 2023	
<b>Site Visit Date</b>	November 1, 2023	<b>Number of Letters Sent</b>	39	

**Proposal**

The applicant is seeking a front yard variance to reduce the setback from the required 25' on the front to 19' to build a home addition.

**Staff Recommendation**

Staff recommends that the Planning Commission approve the variance.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Traditional Neighborhood
<b>North</b>	R-1	Residential	Traditional Neighborhood
<b>South</b>	R-1	Utilities	Transportation and Utilities
<b>East</b>	R-1	Right of Way	Traditional Neighborhood
<b>West</b>	R-1	Residential	Traditional Neighborhood

**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.

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

Governing Principle #5: Promote reinvestment in neighborhoods: this project allows a homeowner to make property improvements to increase value in their home.

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

Future Land Use

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

History

The house is 960 square foot single story constructed in 1958. The property currently functions as a single-family residence.

**Review and Discussion Items:**

Staff finds that:

- 1) The applicant is seeking a front yard variance to reduce the setback from the required 25’ in the front to 19’. This variance is requested to construct a 16’ x 22’ addition to the front corner of the existing home.
- 2) The application states that the applicant’s proposed addition may also require a side yard setback variance. However, subsequent research by City staff has shown that parcel 010-1480-10815 is City-owned property and does not constitute right of way. Thus, the applicant’s side yard setback is 6’ and no side yard variance is needed for this proposed addition.
- 3) The applicant states that the variance is requested due to the structure being located close the front property line that is created from the construction of E 7<sup>th</sup> St. The applicant is proposing to use the property in a reasonable manner by constructing a modest addition off of the front of home. This would be in character to similar homes in the area.
- 4) The applicant’s practical difficulty was not created by the landowner but rather is due to the construction of E 7<sup>th</sup> St. that created a wide right of way.
- 5) The variance will not alter the essential character of the neighborhood. The construction addition will match similar homes in the immediate area.
- 6) The variance allowing an addition will not impair an adequate supply of light and air to adjacent properties. The proposal will not increase congestion in public streets or unreasonably diminish or impair established property values within the surrounding areas.
- 7) One comment was received in support of the application. The Property & Facilities Management Department has requested that the property owner work with staff for driveway permissions in the event a future garage is constructed in the rear yard. This garage is shown on the site plan but is not part of the variance request. No other public, agency, or City comments were received.
- 8) Per UDC Section 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

**Staff Recommendation**

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

- 1) The project be limited to a 16’x22’ addition as shown on the site plan and accompanying drawings.
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



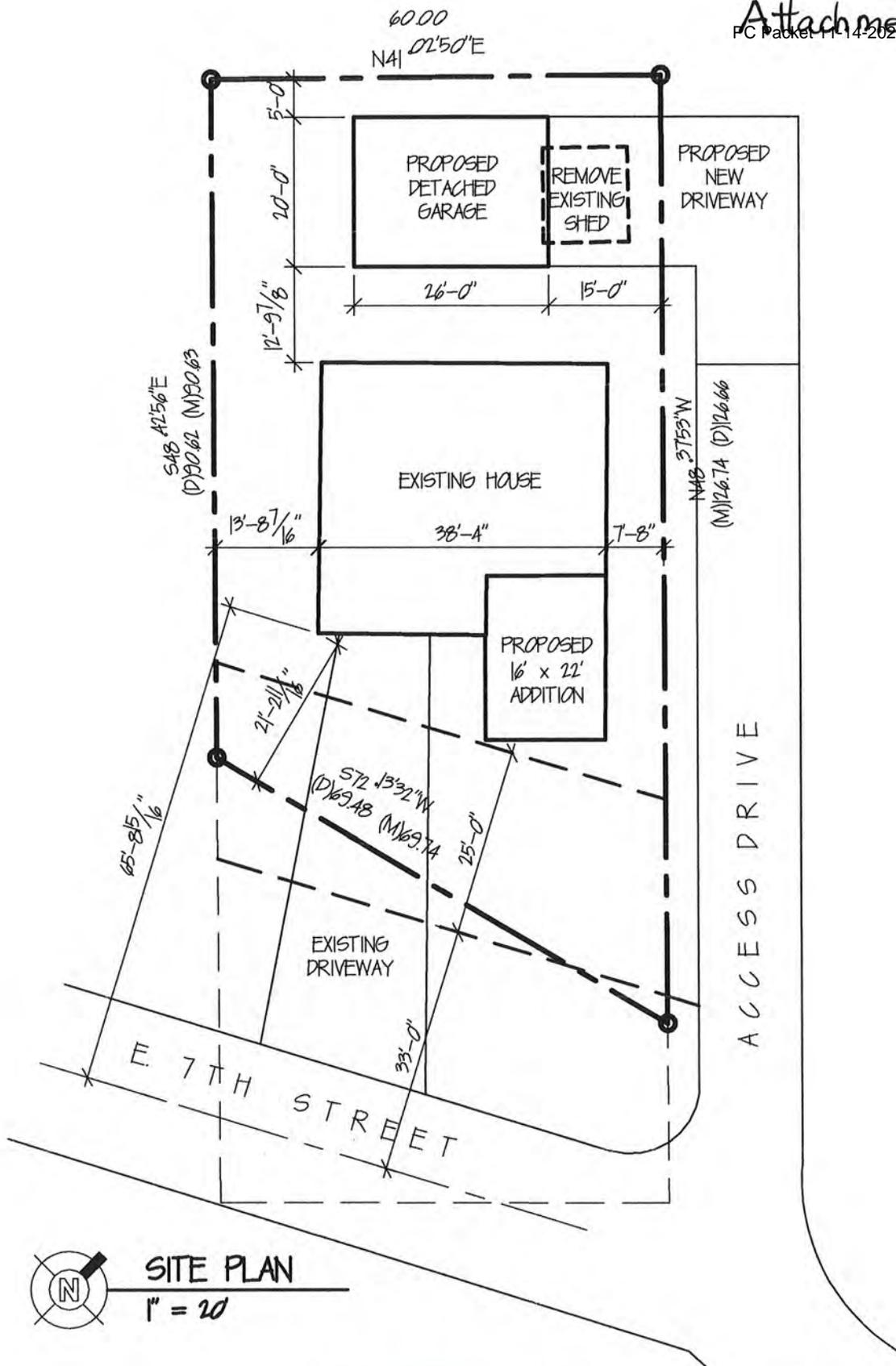
PL23-177  
Variance to Setbacks  
1515 E 7th St

**Legend**

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



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 **SITE PLAN**  
1" = 20'

 5255 Maple Grove Road Hermantown, MN 55811 (218) 391-7466 hhiner@msn.com	<p><b>Lilja residence</b>                  1515 E 7th Street                  Duluth, MN</p>
	<p><b>VARIANCE SITE PLAN</b>                  September 27, 2023                  Page 35 of 94</p>



Planning & Development Division  
Planning & Economic Development Department

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"):

*We are seeking relief and/or clarification of setback requirements as we plan an addition to our existing house in an R-1 district...as described in Section 50-14.5*

**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:**

*See attached "Supporting Documentation..." narrative*

**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:**

*See attached "Supporting Documentation..." narrative*

**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:**

*See attached "Supporting Documentation..." narrative*

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 existing home is approximately 900~~sq~~ (footprint) and we would like to add space to make this our 'forever' home with modifications and additions to accommodate wheel chair space, add guest bedrooms, etc.

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

The existing stand-alone house was built in 1958 and there is significant space between the house and nearest neighbors. The house, as it exists and as we would like to modify, would have no effect on the supply of light or air to our neighbors.

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:

We believe the appearance of the house when modified would not detract from the essential character of the neighborhood. In fact, we believe the house... With the assistance of our architect/designer, Heather Hiner... will enhance the character of the neighborhood.

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: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**SUPPORTING DOCUMENTATION TO THE  
'APPLICATION COVER SHEET'  
APPLICATION INFORMATION REQUEST**

**Reason for this Request:**

We are requesting a variance to the front setback and a variance and affirmation that the side setback of the existing house can remain as the side setback for an addition, as described below:

**Request for Front Setback Variance**

We purchased the house on Lot 13, Block 111 of Endion Division (1515 East 7<sup>th</sup> Street) on June 7<sup>th</sup> this year with the intent of renting the home out until June of next year (see **Attachment A**, copy of City of Duluth Rental License # LS-1-8985) and then remodeling and adding on to the house; eventually moving in late fall next year. We had the lot surveyed on June 13<sup>th</sup> this year (see **Attachment B**, copy of 'Certificate of Survey') to assess the location of the home on the lot as it relates to City Ordinances setback requirements (see **Attachment C**, copy of Lilja residence VARIANCE SITE PLAN).

In reviewing the lot configuration, we were surprised at the location of the front property line. In the original 1897 plat, the lot is rectangular in shape (see **Attachment D**) and the streets are shown to be within 66' rights-of way. For some reason, at some point, the angle of the front property line was dramatically revised from a rectangular shape to its current configuration, possibly to accommodate a future street that would be necessary as the area was being developed (the original plat showed East 7<sup>th</sup> Street continuing northwest 2 ½ blocks (again, see **Attachment D**), which ultimately turned out to be impossible, considering the close proximity to Chester Creek...something the original survey must have not taken into consideration).

In Duluth's Unified Development Chapter of City Zoning Regulations, Article 6, Section 50-41, a "Lot, Front" is described as, "The area of a lot that abuts a public street...". Definitions of the word abut, generally include phrases such as "having a common border", "adjacent to", and "share a boundary". Our front lot line does not "abut" East 7<sup>th</sup> Street. If there is no record in City archives of the reason for the change in the front property line configuration OR if the reason is no longer valid or necessary, we respectfully request that a line parallel to and 33' from the centerline of East 7<sup>th</sup> Street (a common determiner of front property lines) be used to establish the 25' front setback.

Finally, the front setbacks of the neighboring homes to the southeast...Lot 11, 1521 East 7<sup>th</sup> St and Lot 10, 1525 East 7<sup>th</sup> Street...are approximately 10' and 20' from the front property line, respectively, (scaled dimensions). Knowing that the City of Duluth is cognizant of maintaining the continuity of the front setbacks in all neighborhoods, if we are allowed to use a line 33' from the centerline of East 7<sup>th</sup> Street to determine a 25' setback (as described above), our home would still be set back further than any of the homes in close proximity to our home.

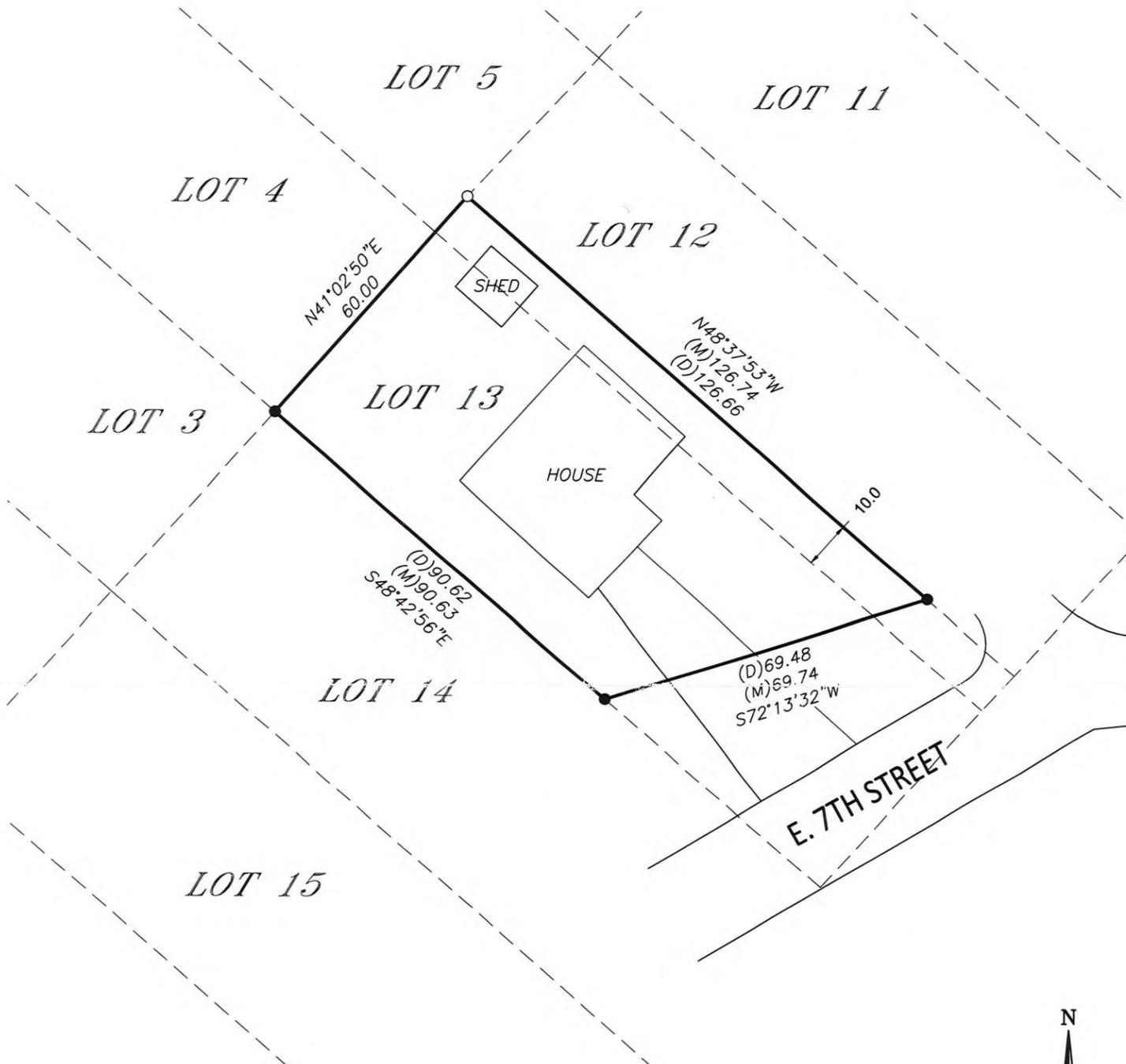
**Request for Side Setback Variance**

The survey done on our lot shows that our home is 7'-8" from the property line on the southeast side of our property which is well beyond the City's 6' side setback from lot line requirement. There is an unplatted paved road adjacent to that property line. According to a conversation with City personnel, this road is not a dedicated right-of-way. Since the referenced road is not a dedicated right-of-way, it is not a street (per City definition in Duluth's Zoning Regulations, Article 6, Section 50-41) . In fact, the two homes which face the road have East 7<sup>th</sup> Street addresses (1521 and 1523), and the road essentially functions as a driveway to service the two homes.

In other conversations, it was mentioned that our lot may be considered a corner lot. Since the road is not a "street", by City definition our lot would not be considered a corner lot (per Article 6 as mentioned above) since a corner lot is defined as, "A lot abutting upon two or more streets at their intersection." We respectfully request that the City affirm that the existing 7'-8" setback be allowed to continue to define the foundation location for a possible addition to our home.

# CERTIFICATE OF SURVEY

PART OF LOTS 12 AND 13, BLOCK 111,  
 ENDION DIVISION OF DULUTH,  
 ST. LOUIS COUNTY, MINNESOTA



**SCALE**  
 1" = 30'



BEARINGS ARE BASED ON NAD83(96)  
 SLCTM96 COUNTY COORDINATE SYSTEM

- DENOTES FOUND IRON MONUMENT
- SET 1/2" IRON REBAR WITH RLS CAP STAMPED "STANG 52591"

**LEGAL DESCRIPTION AS PROVIDED:**

All that part of the W'y 10' of Lot 12, Block 111, described as follows: Beginning at the NW corner of said Lot 12; thence S'y along the W'y line of said Lot 12, for a distance of 120.81' to a point, said point being 29.19' N'y of the SW corner of said Lot 12; thence E'y for a distance of 11.58' to a point, said point being 23.34' N'y of the S'y line of said Lot 12; thence N'y and parallel with the W'y line of said Lot 12, for a distance of 126.66' to a point on the N'y line of said Lot 12; thence W'y along the N'y line of said Lot 12, for a distance of 10' to the NW corner of said Lot 12, said point being the point of beginning, and All that part of Lot 13, Block 111 described as follows: Beginning at the NE corner of said Lot 13, thence W'y along the N'y line of said Lot 13, for a distance of 50 feet to the NW corner of said Lot 13, thence S'y along the W'y line of said Lot 13, for a distance of 90.62' to a point, said point being 59.38 feet N'y of the SW corner of said Lot 13, thence E'y for a distance of 57.90' to a point on the E'y line of said Lot 13, said point being 29.19' N'y of the SE corner of said Lot 13, thence N'y along the East line of said Lot 13, for a distance of 120.81 feet to the NE corner of said Lot 13, said point being the point of beginning, Endion Division of Duluth, in Book "A" of Plats, Page 120.

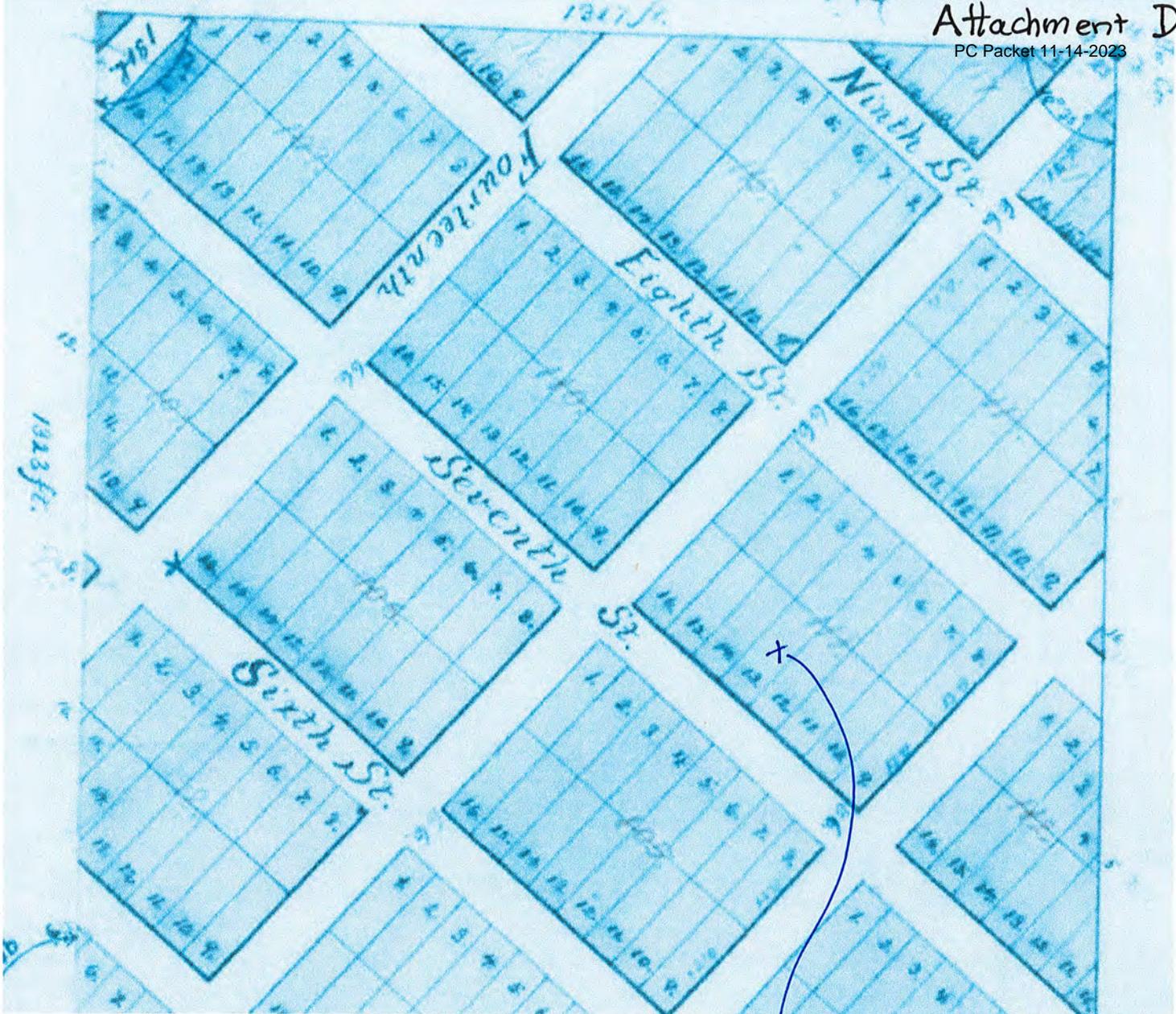


**CRAIG LILJA**  
 PT. OF LOTS 12 & 13,  
 ENDION DIV. TO DULUTH,  
 ST. LOUIS COUNTY, MN

JOB#:	23310	DRAWN BY:	TJB
FILENAME:	23310 CRAIG LILJA	DATE:	
REV#	DESCRIPTION	DATE	

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

*Michael A. Stang*  
 MICHAEL A. STANG (LIC. NO. 52591)      6/13/2023  
 DATE:



1515 East 7th St

**From:** [Esther Derby](#)  
**To:** [planning](#); [Chris Lee](#)  
**Subject:** Variance for 1515 E 7th (PL 23-177)  
**Date:** Tuesday, October 31, 2023 10:53:30 AM

---

Hello.

I received a letter regarding a requested variance for the property at 1515 E 7th Street.

I went by the property this morning and don't see any problem with granting the variance. I imagine it will make the property more inline with the size of other houses in the area and increase the value. Both seem like a good thing for the owners, the neighborhood and the city.

Is the meeting public? Is it typical to have neighbors attend the variance meeting?

Sincerely,

Esther Derby  
800 Chester Park Drive  
Duluth. MN

---

Esther Derby  
esther@estherderby.com  
+1 612 239 1214  
www.estherderby.com

Check out the latest episode of my podcast, [Change by Attraction](#).

Now available on Amazon:

[7 Rules for Positive Productive Change: Micro Shifts, Macro Results](#)



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 23-179	<b>Contact</b>	John Kelley	
<b>Type</b>	Minor Subdivision	<b>Planning Commission Date</b>	November 14, 2023	
<b>Deadline for Action</b>	<b>Application Date</b>	October 3, 2023	<b>60 Days</b>	December 2, 2023
	<b>Date Extension Letter Mailed</b>	October 19, 2023	<b>120 Days</b>	January 31, 2024
<b>Location of Subject</b>	PID # 010-0400-00420 – 407 Stroll Avenue			
<b>Applicant</b>	Duluth Rental Depot LLC	<b>Contact</b>	Dean Jablonsky	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	See Attached			
<b>Site Visit Date</b>	November 3, 2023	<b>Sign Notice Date</b>	N/A	
<b>Neighbor Letter Date</b>	N/A	<b>Number of Letters Sent</b>	N/A	

**Proposal**

Applicant is requesting a Minor Subdivision to divide one vacant parcel into two lots in the Duluth Heights neighborhood. Both parcels will have frontage on Stroll Avenue.

**Recommended Action:** Approval with conditions.

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

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):****Principle #1**

Reuse previously developed lands. 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 .... 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.

**Future Land Use: Traditional Neighborhood** - Characterized by grid or connected street pattern... Limited commercial, schools, churches, and home businesses... Includes many of Duluth 's older neighborhoods, infill projects, neighborhood extensions, and new traditional neighborhood areas.

**History:** The site is made up of one vacant parcel. There was a house located on the property but was torn down in 2014. The parcel is located in the Duluth Heights neighborhood. The underlying plat is "Central Acres 2<sup>nd</sup> Division."

**Review and Discussion Items**

Staff finds that:

1. Applicant is requesting a Minor Subdivision to divide one parcel into two lots. The land is owned by the applicant.
2. The subdivision will create lots that meet the zoning requirements of the R-1 district. Minimum lot area in the R-1 district is 4,000 square feet. Each lot will meet the minimum lot area requirements.
3. The parcels have the required street frontage along Stroll Avenue. 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:

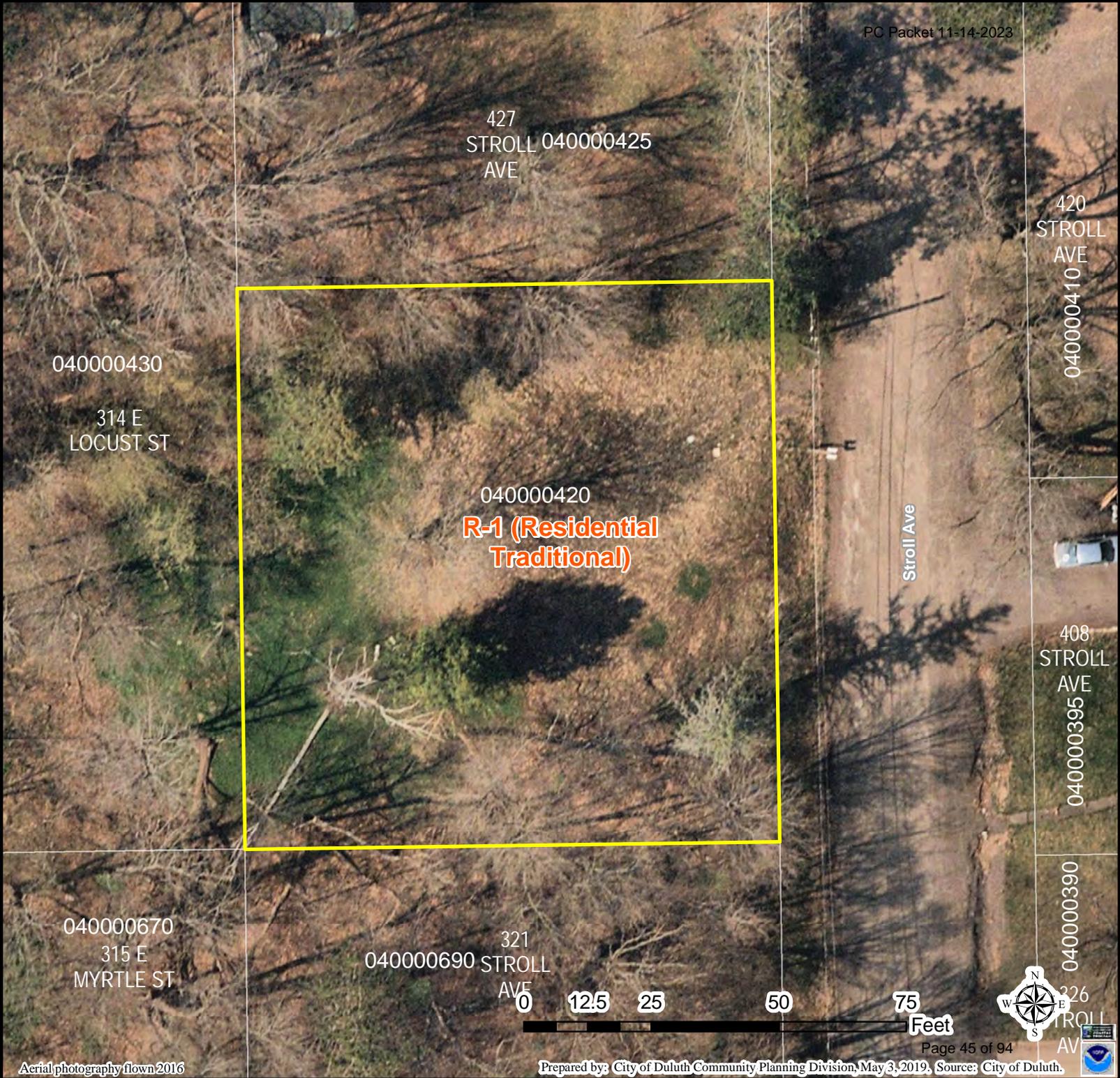
1. Appropriate deeds be filed with St. Louis County within 180 days. Prior to recording the deed that results from this adjustment, the Planning Division will need to stamp the deed, indicating compliance with the local zoning code.
2. Any alterations to the approved plans that do not alter major elements 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.



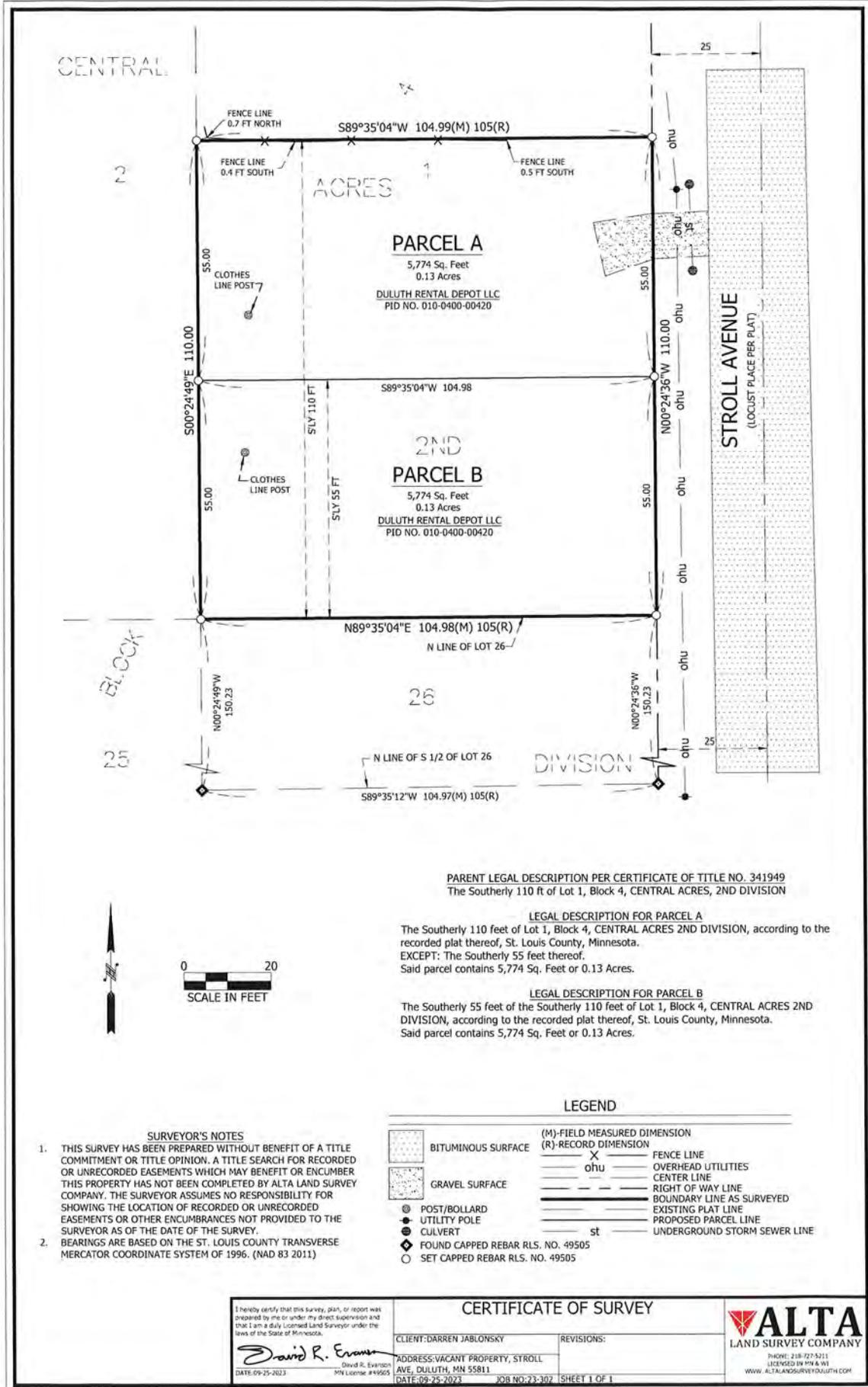
PL 23-179  
 Minor Subdivision  
 PID # 010-0400-00420

PC Packet 11-14-2023

**Legend**  
 Zoning Boundaries



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





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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 23-180	<b>Contact</b>	Jason Mozol	
<b>Type</b>	Variance from side yard setback	<b>Planning Commission Date</b>	November 14, 2023	
<b>Deadline for Action</b>	<b>Application Date</b>	October 10, 2023	<b>60 Days</b>	December 9, 2023
	<b>Date Extension Letter Mailed</b>	October 16, 2023	<b>120 Days</b>	February 7, 2024
<b>Location of Subject</b>	122 E 8 <sup>th</sup> St			
<b>Applicant</b>	Kyle Landwehr	<b>Contact</b>		
<b>Agent</b>	Alliance Inc	<b>Contact</b>		
<b>Legal Description</b>	See Attached	<b>Sign Notice Date</b>	October 30, 2023	
<b>Site Visit Date</b>	October 17, 2023	<b>Number of Letters Sent</b>	58	

**Proposal**

The applicant is seeking a side yard variance to reduce the setback from the required 6' setback to 2.2' to reconstruct a single-family home on an existing foundation.

**Staff Recommendation**

Staff recommends that the Planning Commission approve the variance.

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

**Summary of Code Requirements**

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

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

Governing Principle #1: Reuse previously developed lands: This project will remove a blighted building and make use of a previously impacted site.

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

Future Land Use

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

History

A fire occurred in the existing structure in 2021 resulting in considerable water and fire damage. The property is currently condemned.

**Review and Discussion Items:**

- 1) The applicant is seeking a side yard variance to reduce the setback from the required 6’ to 2.2’ to reconstruct a single-family home on the existing foundation.
- 2) The applicant states that the variance is requested because the challenges with relocating a building on the lot due to existing ledge rock that will impede the ability to install utilities and a new foundation. Staff notes a large rock outcropping on the adjacent parcel and reasonably assumes shallow soils exist on the subject property.
- 3) The applicant is proposing to use the property in a reasonable manner by constructing a single-story home using the existing foundation.
- 4) The applicant’s practical difficulty was not created by the landowner but rather is due to the existing structures location on the property.
- 5) The variance will not alter the essential character of the neighborhood where many homes are on narrow lots built close to lot lines.
- 6) The variance allowing a reduction of a setback will not impair an adequate supply of light and air to adjacent properties and will remove a potentially hazardous structure from the neighborhood.
- 7) The proposal will not increase congestion in public streets or unreasonably diminish or impair established property values within the surrounding areas.
- 8) One comment was received in support of the application. No other public, agency, or other City comments were received.

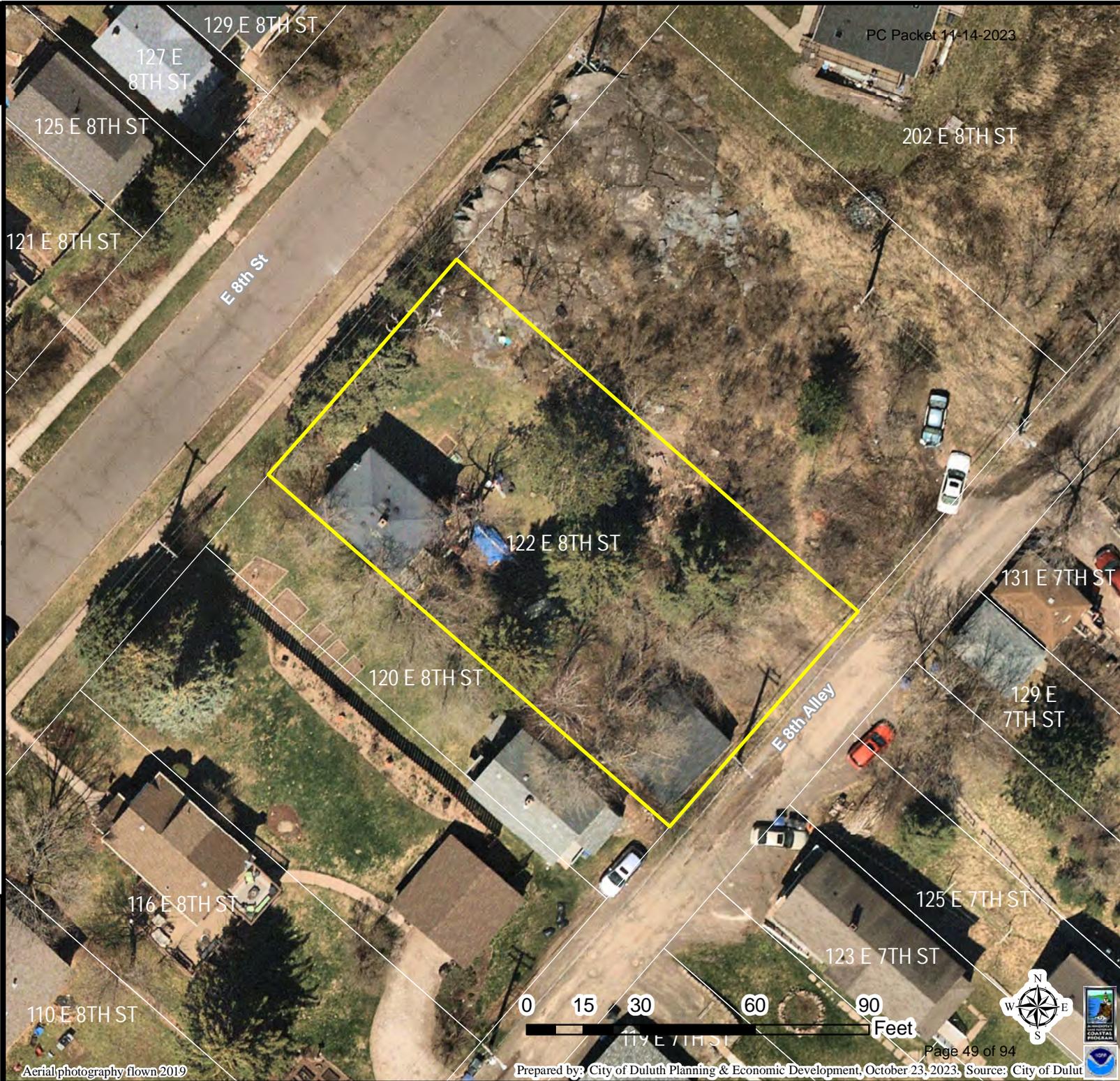
9) Per UDC Section 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun within one year.

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

- 1) The project be limited to using the existing foundation to build a dwelling that is no less than 2.2’ from the west property line as shown in the attached survey.
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL23-180  
 Variance to side yard setback  
 122 E 8th St



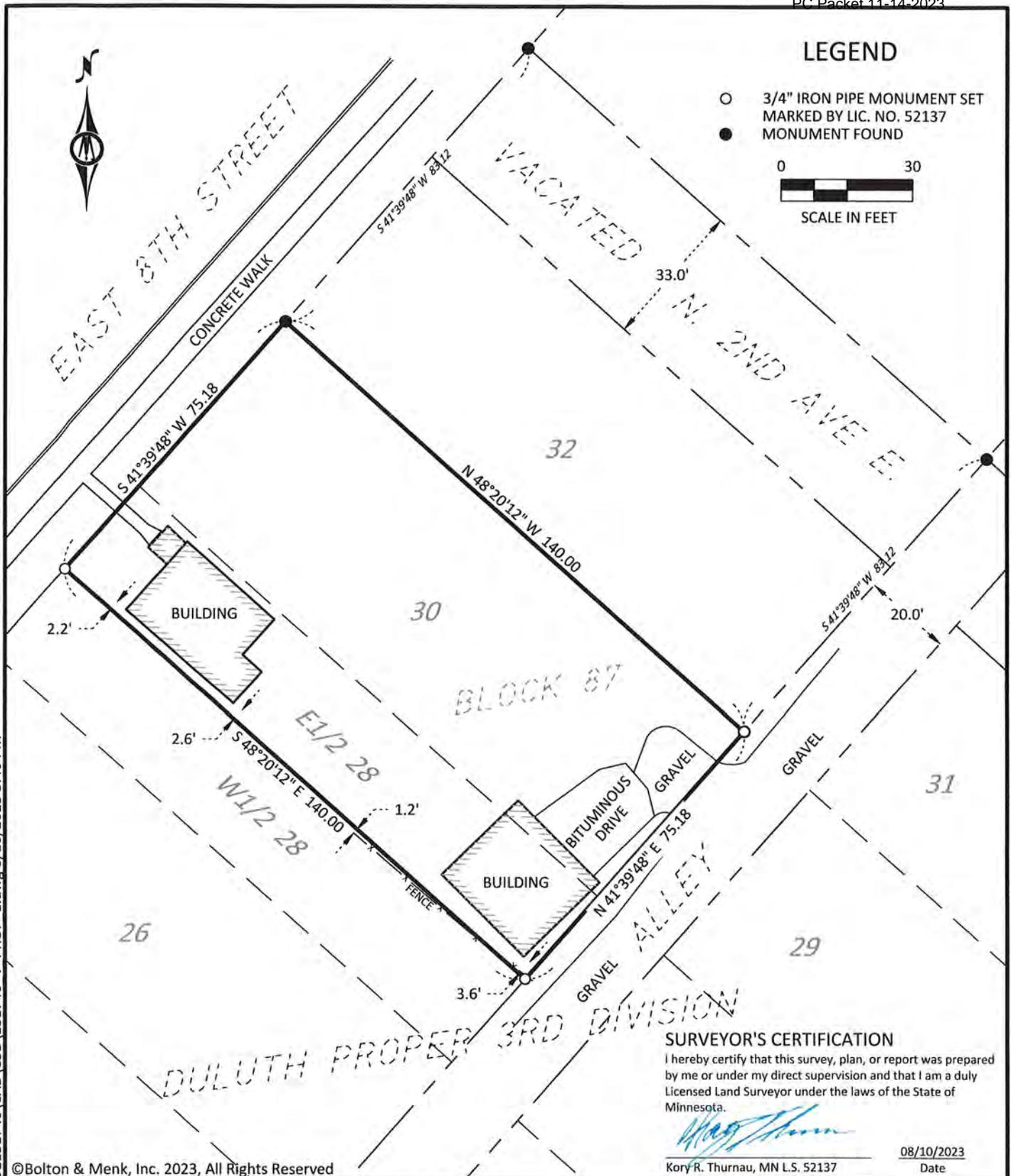
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used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

### LEGEND

- 3/4" IRON PIPE MONUMENT SET MARKED BY LIC. NO. 52137
- MONUMENT FOUND



SCALE IN FEET



#### SURVEYOR'S CERTIFICATION

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.

*Kory R. Thurnau*  
 Kory R. Thurnau, MN L.S. 52137

08/10/2023  
 Date

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### CERTIFICATE OF SURVEY

DULUTH, MINNESOTA

LOT 30 & E1/2 LOT 28, BLOCK 87  
 DULUTH PROPER 3RD DIVISION  
 SAINT LOUIS COUNTY, MINNESOTA

FOR: ALLIANCE MASONRY  
 OWNER: KYLE LANDWEHR



4960 MILLER TRUNK HWY  
 SUITE 550  
 DULUTH, MN 55811  
 (218) 729-5939

JOB NUMBER: 131740

FIELD BOOK:

DRAWN BY: KRT

H:\ALLIANCE PR\01131740\CAD\C3D\131740 V PROP 1.dwg 8/10/2023 3:46 PM

To whom it may concern,

I, Dan Pueringer with Twin Ports Investments, LLC and owner of 120 E 8th St. Duluth, MN 55805 am OK with my neighbor at 122 E 8th St. Duluth, MN keep his foundation walls.

Regards,

Dan Pueringer



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 23-183	<b>Contact</b>	Jason Mozol, jmozol@duluthmn.gov	
<b>Type</b>	Interim Use Permit – Vacation Dwelling Unit	<b>Planning Commission Date</b>	November 14 <sup>th</sup> , 2023	
<b>Deadline for Action</b>	<b>Application Date</b>	October 10, 2023	<b>60 Days</b>	December 9, 2023
	<b>Date Extension Letter Mailed</b>	October 24, 2023	<b>120 Days</b>	February 7, 2023
<b>Location of Subject</b>	727 W 2 <sup>nd</sup> St			
<b>Applicant</b>	Justin and Alyssa Voegele	<b>Contact</b>	507-339-0652	
<b>Agent</b>	Claire Musech	<b>Contact</b>	218-721-6459	
<b>Legal Description</b>	010-1240-00292			
<b>Site Visit Date</b>	November 6, 2023	<b>Sign Notice Date</b>	October 23, 2023	
<b>Neighbor Letter Date</b>	October 23, 2023	<b>Number of Letters Sent</b>	33	

**Proposal**

The applicant proposes use of 3-bedroom single-family home as a vacation rental property.

**Recommended Action:** Staff recommends that Planning Commission approve the interim use permit.

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

**Summary of Code Requirements:**

UDC Section 50-19.8. Permitted Use Table. A vacation dwelling unit is an Interim Use in the R-2 zone district.

UDC Section 50-20.3. Use-Specific Standards. Lists all standards specific to vacation dwelling units.

UDC Sec. 50-37.10.E . . . the commission 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.



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planning@duluthmn.gov

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

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

A short-term rental allows property owners to generate income and provides a service for tourists.

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

- **S9:** Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth.

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

**History:** The subject property, 727 W 2<sup>nd</sup> St, was a single-family home built in 1895 that has been renovated into a duplex. A vacation dwelling unit permit was approved for the upper unit in 2022.

**Review and Discussion Items:**

- 1) Applicants' property is located at 727 W 2<sup>nd</sup> St. The vacation dwelling unit is the lower level duplex unit that contains 2 bedrooms, which allow for a maximum of 5 guests.
- 2) A parking space will be located in an adjacent lot owned by the applicants. There is also on street parking available.
- 3) The applicant has indicated they will not allow motorhome or trailer parking.
- 4) The site plan indicates a rear deck/entryway and a front deck for guest use. The applicant has received buffering waivers from neighbors on both sides.
- 5) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed Claire Musech to serve as the managing agent.
- 6) 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.
- 7) Applicant must comply with Vacation Dwelling Unit Regulations, including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 8) There are currently 141 licensed vacation dwelling units in the city, with 68 of those in form districts; the remaining 73 are subject to the cap of 90.
- 9) No City, agency, or public comments were received.
- 10) The permit will lapse if no activity takes place within 1 year of approval.



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

Room 160  
411 West First Street  
Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

**Staff Recommendation:**

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

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



PL23-183  
Interim Use Permit for VDU  
727 W 2nd St

PC Packet 11-14-2023



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

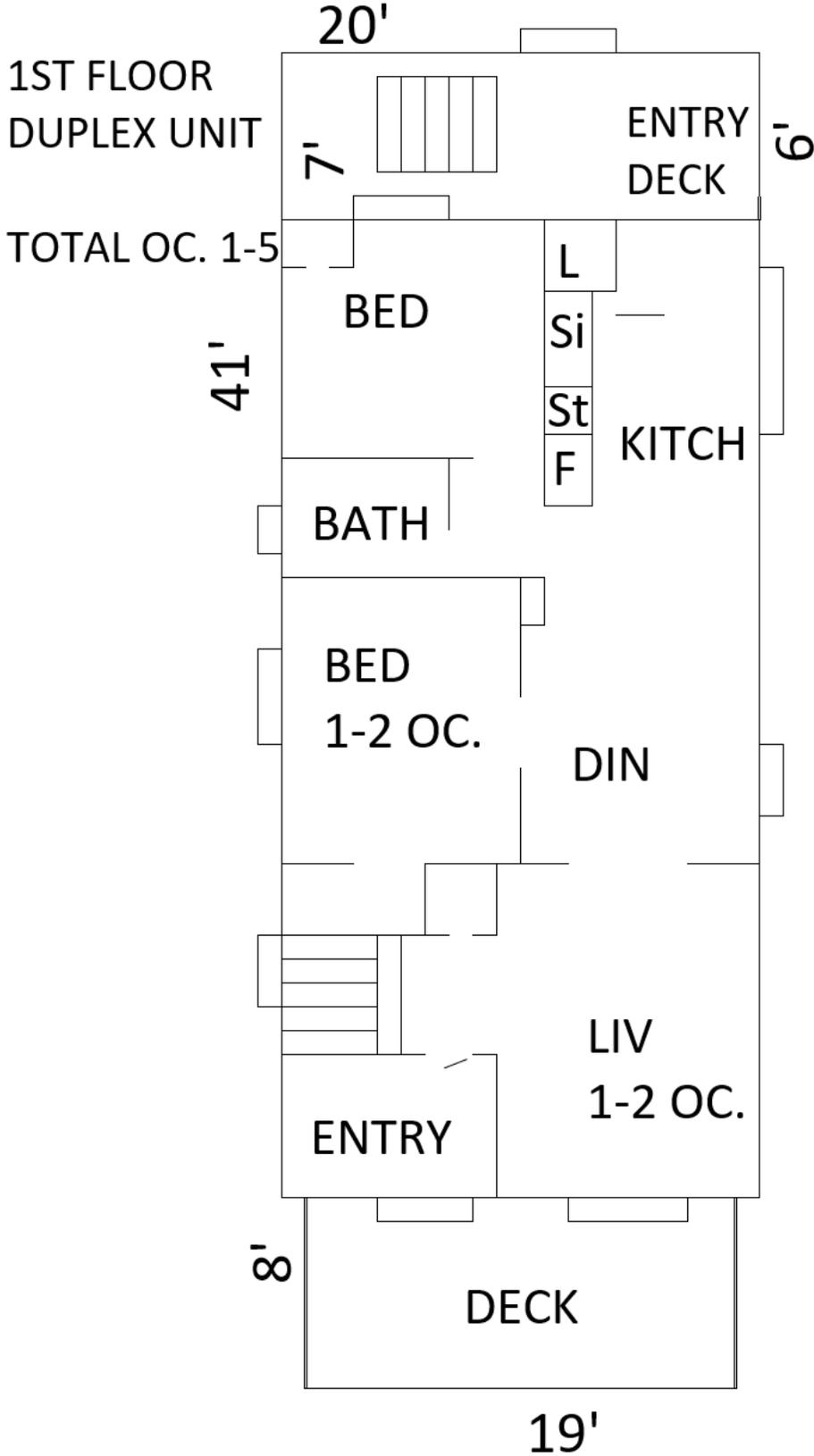
Aerial photography flown 2019



Page 5 of 94

Prepared by: City of Duluth Planning & Economic Development, October 23, 2023. Source: City of Duluth

727 W 2ND ST



## Vacation Dwelling Unit Worksheet

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

2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two. You may rent no more than four bedrooms.

**How many legal bedrooms are in the dwelling?**  
      2      

**What will be your maximum occupancy?**  
      5      

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

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

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

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

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

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

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

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

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

EXCEL SPREADSHEET SAVED TO A GOOGLE DRIVE

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

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

CLAIRE MUSECH: 218.721.6459; CLAIRE@SUPERIORSHORESCLEANING.COM; 821 N 4TH AVE E DULUTH

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

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

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

WILL BE LISTED ON THE VACATION RENTAL LISTING SITE, EMAILED, AND KEPT IN A BINDER ON SITE

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

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



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 23-184	<b>Contact</b>	John Kelley	
<b>Type</b>	Minor Subdivision	<b>Planning Commission Date</b>	November 14, 2023	
<b>Deadline for Action</b>	<b>Application Date</b>	October 10, 2023	<b>60 Days</b>	December 9, 2023
	<b>Date Extension Letter Mailed</b>	October 19, 2023	<b>120 Days</b>	February 7, 2024
<b>Location of Subject</b>	PID # 010-1460-01410, 010-1460-01570, 010-1460-01670, 010-1460-01490, 010-1460-0453, 010-1460-01550, 010-1460-01560			
<b>Applicant</b>	ZMC Hotels, LLC	<b>Contact</b>		
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	See Attached			
<b>Site Visit Date</b>	November 3, 2023	<b>Sign Notice Date</b>	N/A	
<b>Neighbor Letter Date</b>	N/A	<b>Number of Letters Sent</b>	N/A	

**Proposal**

Applicant is requesting a Minor Subdivision to combine 7 parcels and create 2 new parcels in the Endion neighborhood. Parcel A will have frontage on London Road and South 23<sup>rd</sup> Avenue East and Parcel B will have frontage on London Road.

**Recommended Action:** Approval with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-C	Hotel	Central Business Secondary
<b>North</b>	MU-N	Residential	Neighborhood Mixed Use
<b>South</b>	MU-B	I-35	Transportation and Utilities
<b>East</b>	MU-B, MU-N	I-35	Transportation and Utilities
<b>West</b>	MU-N	Commercial	Neighborhood Mixed Use

**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: (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.

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):****Principle #1**

Reuse previously developed lands. 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 .... 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.

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

**History:** The site is made up of seven parcels with an existing hotel building on the northeast portion of the site, a recently torn down portion of the hotel, and outdoor amenities including a miniature golf course. The parcels have frontage on London Road and South 23<sup>rd</sup> Avenue East, and along the unimproved portion of South Street. The parcel is located in the Endion neighborhood. The underlying plat is "Endion Division of Duluth."

**Review and Discussion Items**

Staff finds that:

1. Applicant is requesting a Minor Subdivision to combine seven parcels and create two parcels. The land is owned by the applicant. Parcel A is vacant land on the northern portion of the parcel and has an outdoor patio area, basketball court and miniature golf course located on the southeast portion of the lot. Parcel B of the minor subdivision has an existing hotel structure, parking lot and outdoor amenities including a pool and playscape located on the southwest corner of the parcel.
2. The subdivision will create lots that meet the zoning requirements of the MU-C district. Dimensional standards for each lot meet minimum frontage and lot area requirements.
3. The parcels have the required street frontage along London Road and South 23<sup>rd</sup> Avenue East. Parcel A and B will have frontage on London Road and South 23<sup>rd</sup> Avenue East and Parcel B will have frontage on London Road.
4. The existing basketball court and miniature golf course on Parcel A are not permitted without a primary use or structure on the lot and will need to be removed prior to the recording of the minor subdivision or the applicant provide a financial security to cover removal of the basketball court and miniature golf course within 2 years if no primary use is constructed on the parcel.
5. The proposed subdivision, if approved, would not make the parcels non-conforming due to lot frontage, lot area, or similar bulk standard.
6. No public, agency, or other City comments were received.
7. The attached exhibit demonstrates compliance with Minnesota statutes 462.358 and 505 or 508, as applicable.
8. 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.

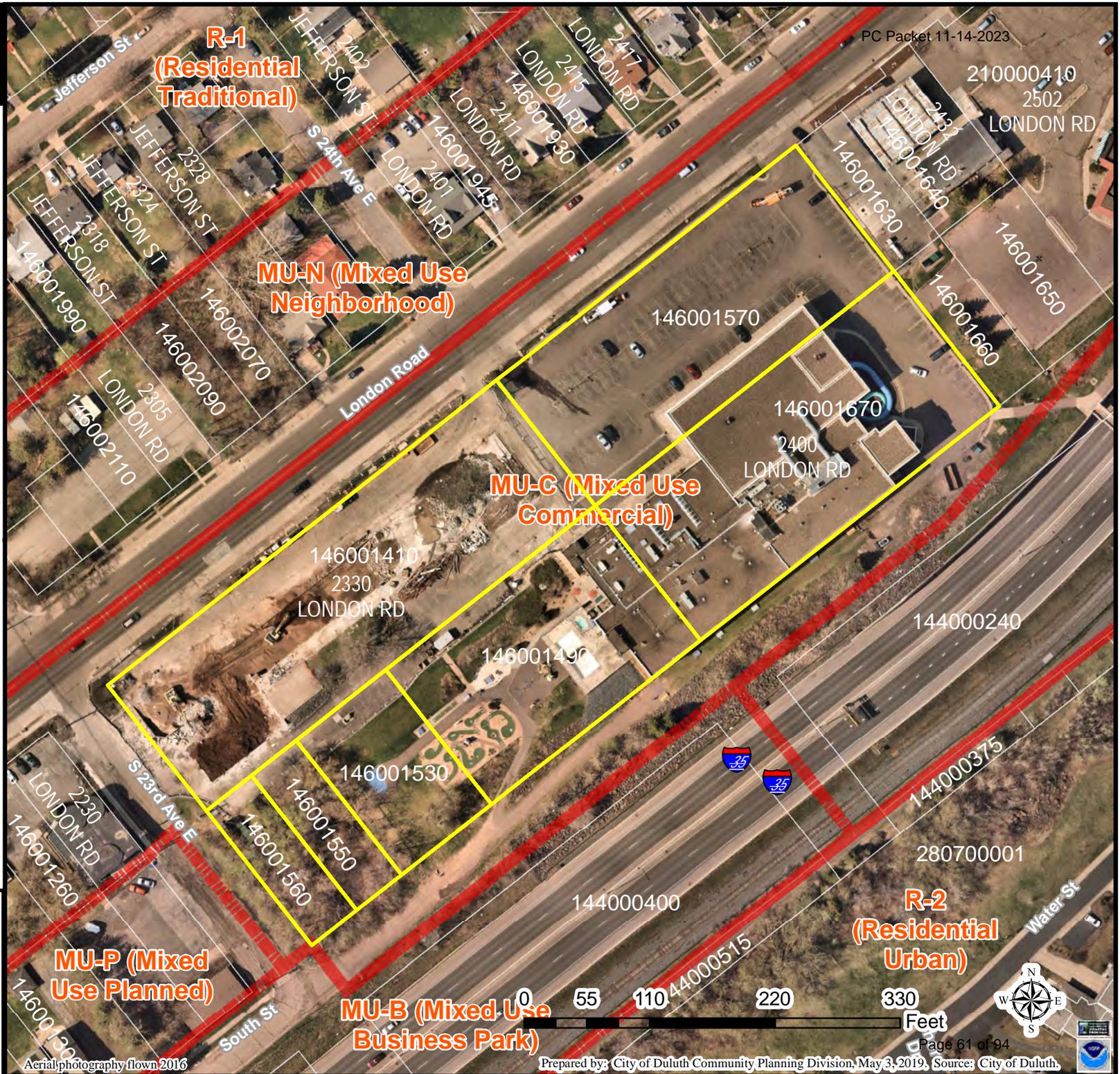
**Staff Recommendation**

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

1. The existing basketball court and miniature golf course on Parcel A are not permitted without a primary structure on the lot and will need to be removed prior to the recording of the minor subdivision or the applicant provide a financial security to cover removal of the basketball court and miniature golf course within 2 years if no primary use is constructed on the parcel.
2. Appropriate deeds be filed with St. Louis County within 180 days. Prior to recording the deed that results from this adjustment, the Planning Division will need to stamp the deed, indicating compliance with the local zoning code.
3. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



210000410  
2502  
LONDON RD



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

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 Duluth, Minnesota 55802

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<b>File Number</b>	PL 23-185	<b>Contact</b>	Jenn Moses, jmoses@duluthmn.gov	
<b>Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	November 14, 2023	
<b>Deadline for Action</b>	<b>Application Date</b>	October 19, 2023	<b>60 Days</b>	N/A
	<b>Date Extension Letter Mailed</b>	N/A	<b>120 Days</b>	N/A
<b>Location of Subject</b>	1012 E 2 <sup>nd</sup> Street			
<b>Applicant</b>	St. Luke's Hospital	<b>Contact</b>	Mike Boeselager	
<b>Agent</b>	Erdman Company	<b>Contact</b>	Neil Bright	
<b>Legal Description</b>	See attached	<b>Sign Notice Date</b>	October 31, 2023	
<b>Site Visit Date</b>	October 31, 2023	<b>Number of Letters Sent</b>	N/A	

**Proposal**

The applicant is seeking a concurrent use permit to build a skywalk over an existing skywalk over the right of way of 10<sup>th</sup> Avenue E, connecting St. Luke's Hospital to Building A.

**Staff Recommendation**

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

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

**Summary of Code Requirements**

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

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

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

**Governing Principle #4 – Support economic growth sectors.** This includes the medical sector. Skywalk provides an important connection for St. Luke’s Hospital between the hospital building and Building A.

**Future Land Use – Institutional.** Applicable to medical, university/college, public school, religious, or governmental campuses.

**History:** In 2014, St. Luke’s received a Concurrent Use Permit for the skywalk located directly below the proposed skywalk.

**Review and Discussion Items:**

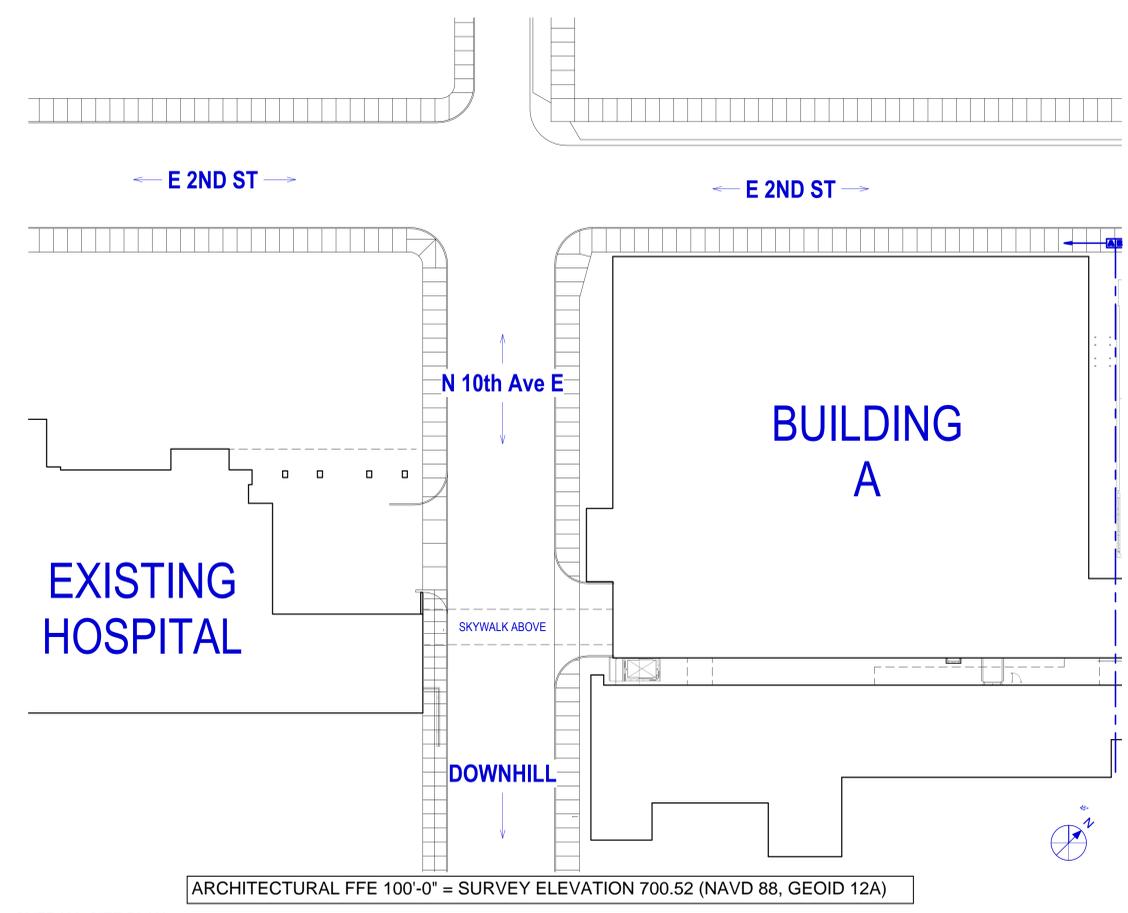
Staff finds that:

- 1) The applicant is seeking a concurrent use permit to construct a skywalk directly above an existing skywalk over 10<sup>th</sup> Avenue E, connecting St. Luke’s Hospital to Building A. The floor of the skywalk will be approximately 40’ above the road surface.
- 2) The skywalk will be used by hospital staff and patients, improving the connectivity within the hospital campus.
- 3) The area proposed for the concurrent use permit will not take away from the public’s ability to use the public right-of-way, nor will it harm or inconvenience the health, safety and general welfare of the city. This area is already occupied with a skywalk, and extending the structure vertically will allow for hospital campus connectivity without impeding travel of vehicles or pedestrians.
- 4) Concurrent use permits are approved by the City Council via an ordinance. Unlike street right-of-way vacations, concurrent use permits are not recorded at with St. Louis County as they are voidable agreements between the City and property owners.
- 5) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against all occurrences in the right-of-way. Other protections for the city and the public are typically included in the ordinance that is submitted for the City Council’s review.
- 6) No comments were received from the public or other government agencies at the time this staff report was written.
- 7) Per UDC Sec. 50-37.1.N, approved concurrent use permits lapse if the project or activity authorized by the permit has not begun within one year.

**Staff Recommendation**

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

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



1 OVERALL SITE PLAN  
SCALE: 1" = 30'-0"



2 SITE CONTEXT - LOOKING EAST  
SCALE: 12" = 1'-0"

No.	Description	Date
1	CITY PLANNING	10/9/23

Document Release

INTERIM REVIEW  
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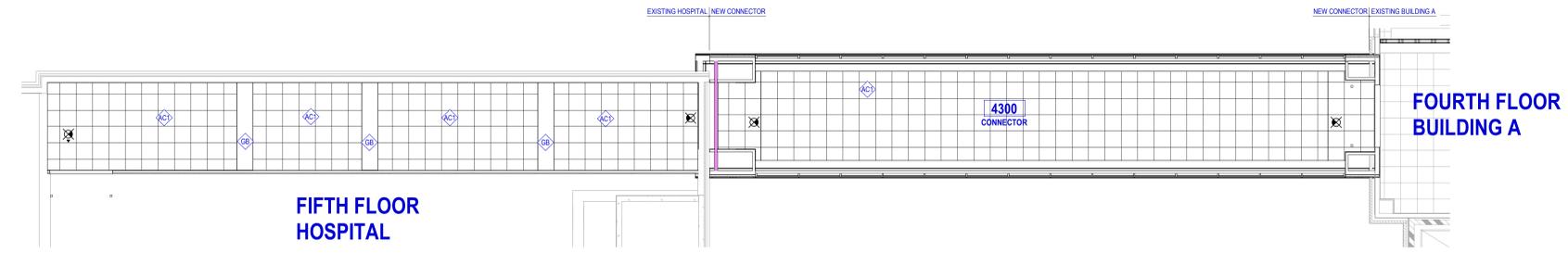
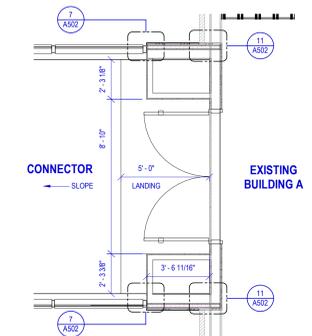
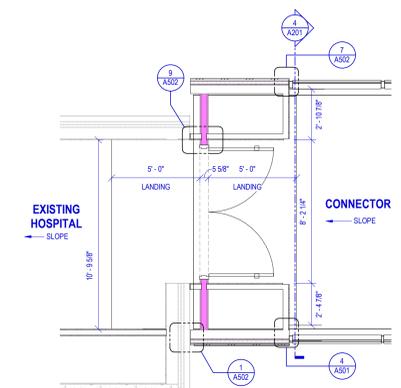
Sheet Name  
**ARCHITECTURAL SITE PLAN & CONTEXT**

Dm: Author      Ck: Checker

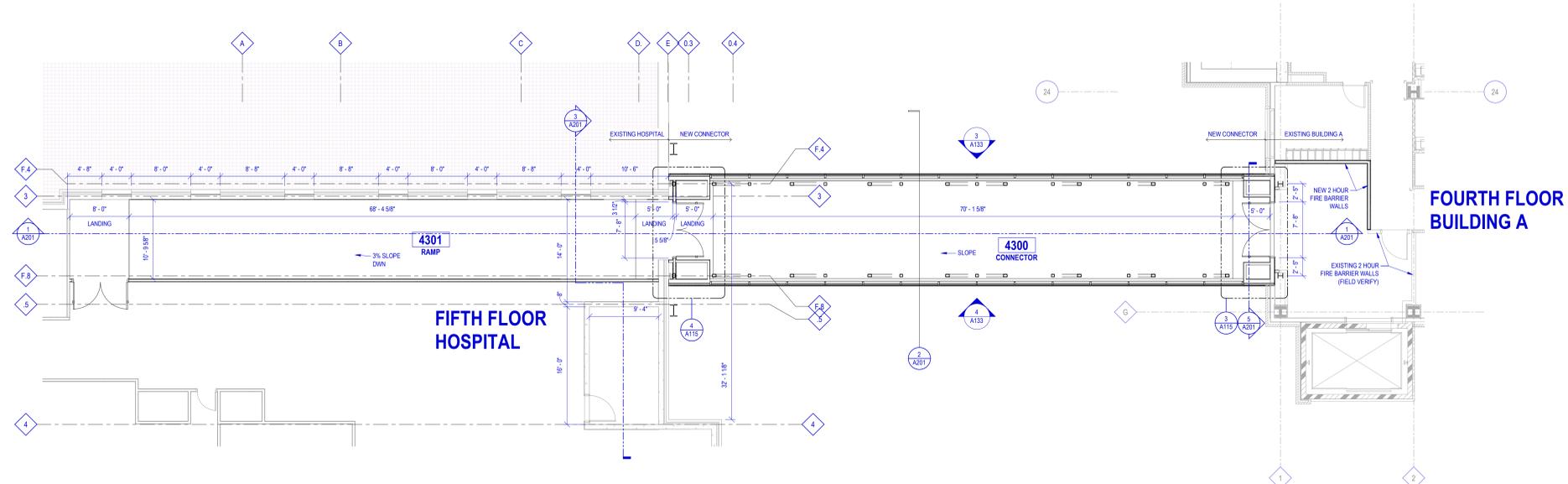
Sheet Number

# A100

JOB # 672420



2 CONNECTOR CEILING PLAN  
SCALE: 1/8" = 1'-0"



1 BLDG A FOURTH FLOOR CONNECTOR PLAN  
SCALE: 1/8" = 1'-0"

No.	Description	Date
1	CITY PLANNING	10/9/23

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Sheet Name  
**FOURTH FLOOR PLAN BLDG A - PEDESTRIAN WALKWAY**

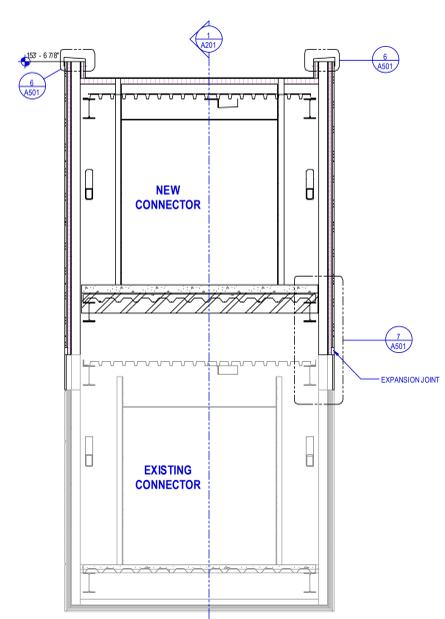
Dm: Author Chk: Checker

Sheet Number

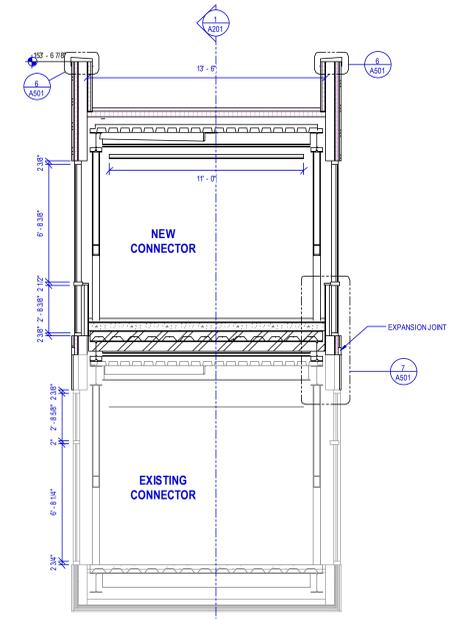
# A115

JOB # 672420

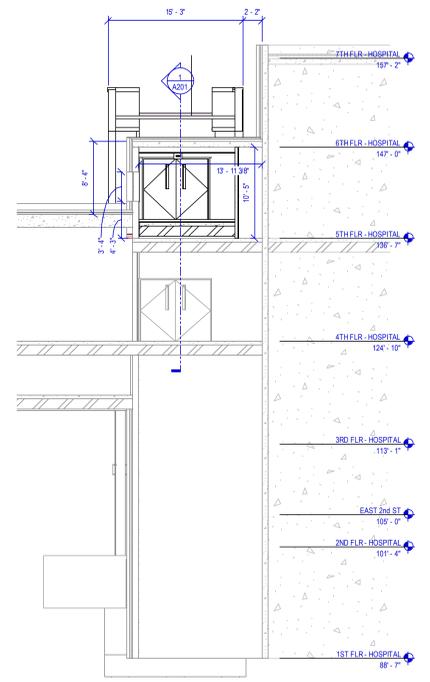




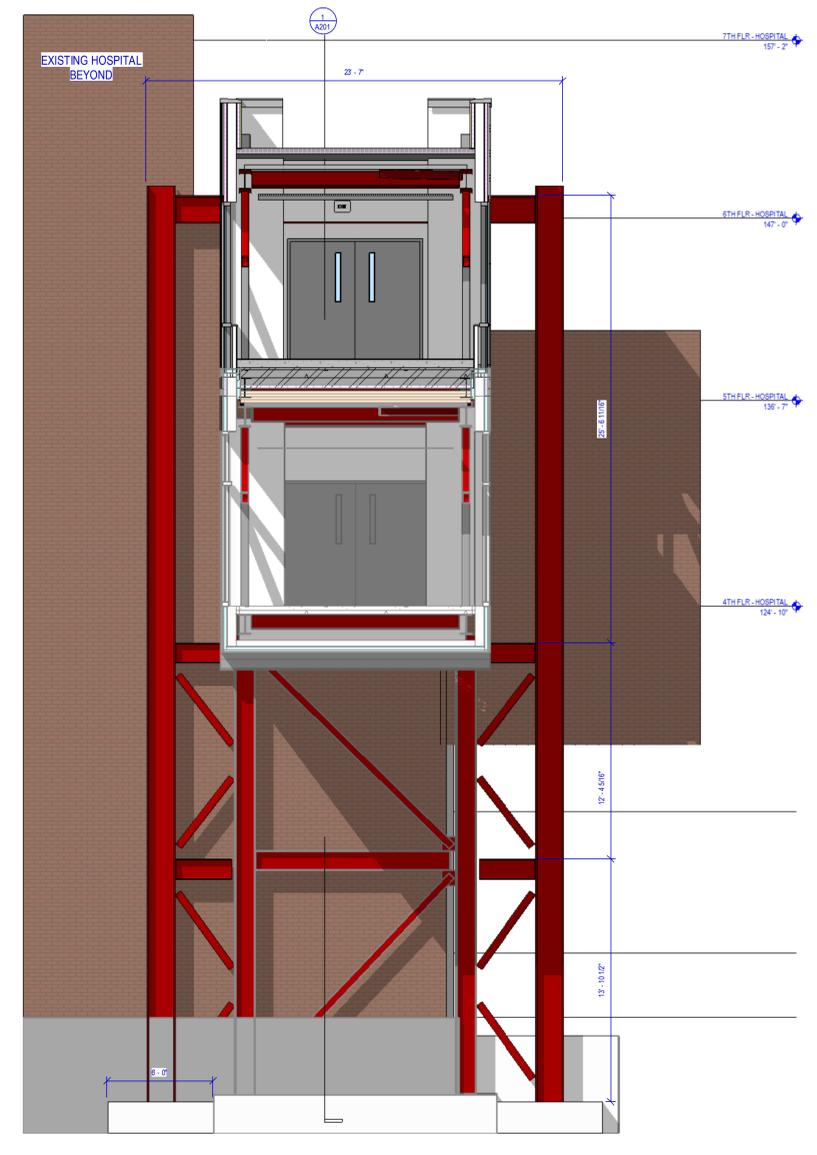
**5 WEST SECTION**  
SCALE: 1/4" = 1'-0"



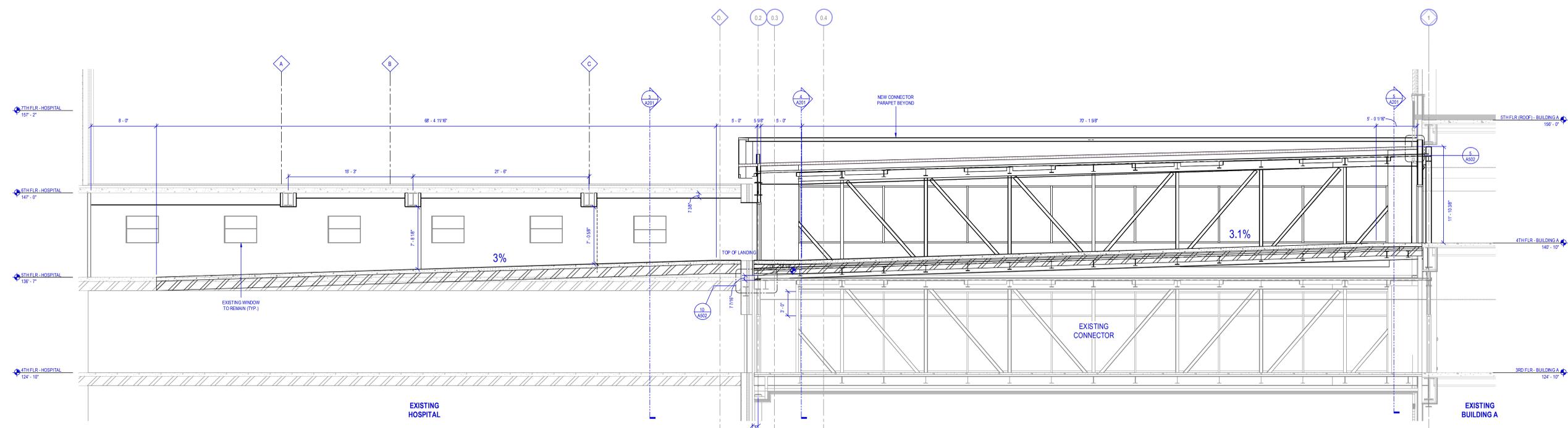
**4 EAST SECTION**  
SCALE: 1/4" = 1'-0"



**3 HOSPITAL LOBBY SECTION**  
SCALE: 1/8" = 1'-0"



**2 WEST SECTION**  
SCALE:



**1 LONGITUDINAL SECTION**  
SCALE: 3/16" = 1'-0"

No.	Description	Date
1	CITY PLANNING	10/9/23
	Document Release	

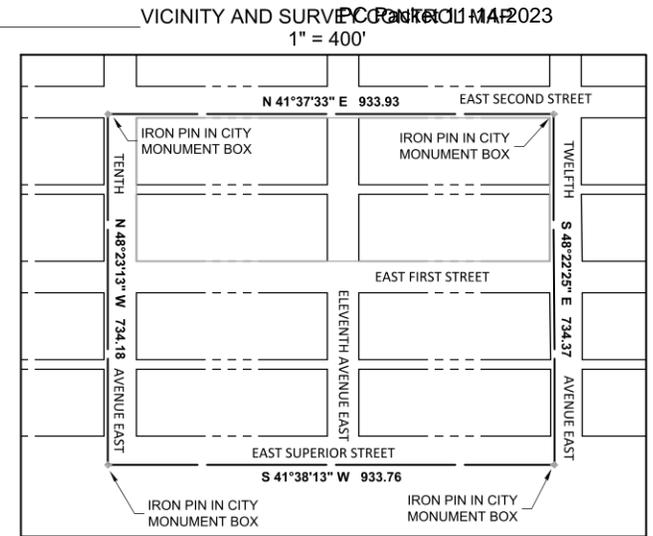
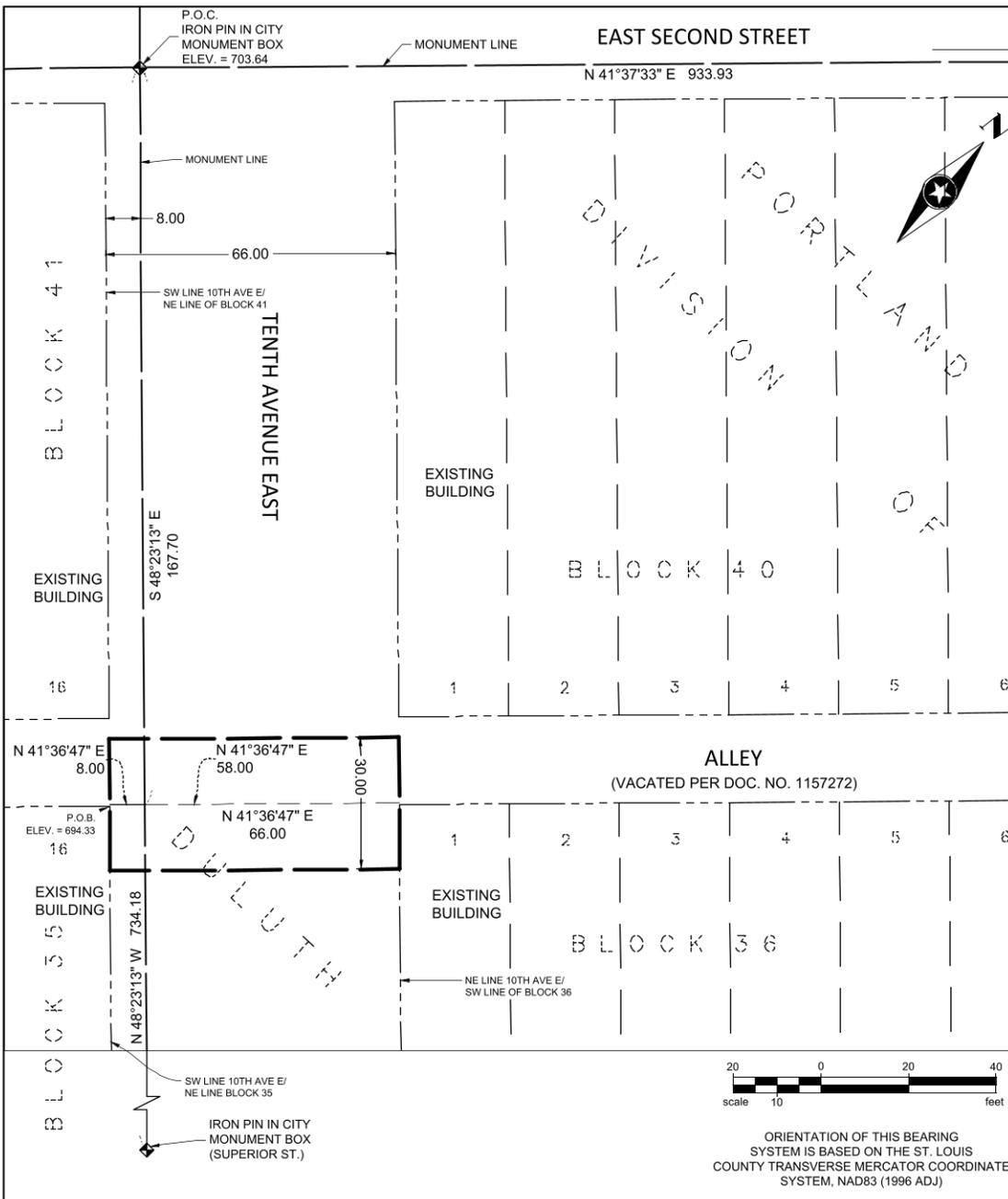
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Sheet Name  
**CONNECTOR SECTIONS**

Drn:ERDMAN Chk:ERDMAN  
Sheet Number

**A201**

JOB # 672420



Proposed Pedestrian Skywalk Description:

An elevated 30.00 foot wide strip of land, over and across the public street right of way known as Tenth Avenue East, lying between Blocks 40 and 41, and between Blocks 35 and 36, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, Saint Louis County, Minnesota, being referenced to NAVD 88, Geoid 12A, having an upper limit of 752.0 feet and lower limit of 722.0 feet, and lying within 15.00 feet on each side of the following described centerline:

Commencing at the existing City of Duluth monument situated within the public street right of way intersection of East Second Street and Tenth Avenue East, said monument being assigned a benchmark elevation of 703.64 feet, thence South 48 degrees 23 minutes 13 seconds East, assigned bearing, along the City of Duluth Monument Line, a distance of 167.70 feet; thence South 41 degrees 36 minutes 47 seconds West a distance of 8.00 feet to a point on the southwesterly line of said Tenth Avenue East, said line also being the northwesterly extension of the northeasterly line of said Block 35, and said point being the POINT OF BEGINNING, with said Point of Beginning being assigned a reference surface elevation of 694.33 feet; thence returning North 41 degrees 36 minutes 47 seconds East a distance of 66.00 feet to the southwesterly line of said Block 36, said line also being the northeasterly line of Tenth Avenue East, and there terminating.

All reported distances are horizontal. The sidelines of said strip of land shall be shortened or prolonged so as to terminate on the said northeast and southwest lines of Tenth Avenue East. Containing approximately 1,980 square feet, or 0.045 acres. Subject to restrictions, reservations, and easements of record.

ARCHITECTURAL FFE 100'-0" = SURVEY ELEVATION 700.52 (NAVD 88, GEOID 12A)

SEH Project  
Drawn By  
Surveyed By  
Checked By

I hereby certify that this exhibit has been checked and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

Signature: \_\_\_\_\_  
City Engineer  
Printed Name: \_\_\_\_\_ Date: \_\_\_\_\_

I hereby certify that this exhibit 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.

DRAFT  
Date: \_\_\_\_\_ OCTOBER 9, 2023 \_\_\_\_\_ Lic. No. \_\_\_\_\_ 45848 \_\_\_\_\_





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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

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 planning@duluthmn.gov

<b>File Number</b>	PL 23-186	<b>Contact</b>	Jenn Moses	
<b>Type</b>	MU-I Planning Review	<b>Planning Commission Date</b>		November 14, 2023
<b>Deadline for Action</b>	<b>Application Date</b>	October 19, 2023	<b>60 Days</b>	December 18, 2023
	<b>Date Extension Letter Mailed</b>	N/A	<b>120 Days</b>	February 16, 2024
<b>Location of Subject</b>	1012 E 2 <sup>nd</sup> St			
<b>Applicant</b>	St. Luke's Hospital	<b>Contact</b>	Michael Boeselager	
<b>Agent</b>	Erdman Company	<b>Contact</b>	Neil Bright	
<b>Legal Description</b>	See attached	<b>Sign Notice Date</b>		October 31, 2023
<b>Site Visit Date</b>	October 31, 2023	<b>Number of Letters Sent</b>		4

**Proposal**

Applicant is proposing a new skywalk directly above an existing skywalk over 10<sup>th</sup> Avenue E, connecting St. Luke's Hospital to Building A.

**Staff Recommendation**

Staff is recommending Planning Commission approve the Planning Review subject to conditions.

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

**Summary of Code Requirements**

50-15.4 MU-I Planning Review

50-23 Connectivity and Circulation – Focuses on pedestrian and bicycle accommodations. Includes design requirements for skywalks.

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, & Fences – Includes requirements for commercial containers & mechanical equipment

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 – Requires lighting to be downcast, full-cutoff fixtures.

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 #4 – Support economic growth sectors.** This includes the medical sector. Skywalk provides an important connection for St. Luke’s Hospital between the hospital building and Building A.

**Future Land Use – Institutional.** Applicable to medical, university/college, public school, religious, or governmental campuses.

**History:** In 2014, St. Luke’s received a Concurrent Use Permit for the skywalk located directly below the proposed skywalk.

**Discussion**

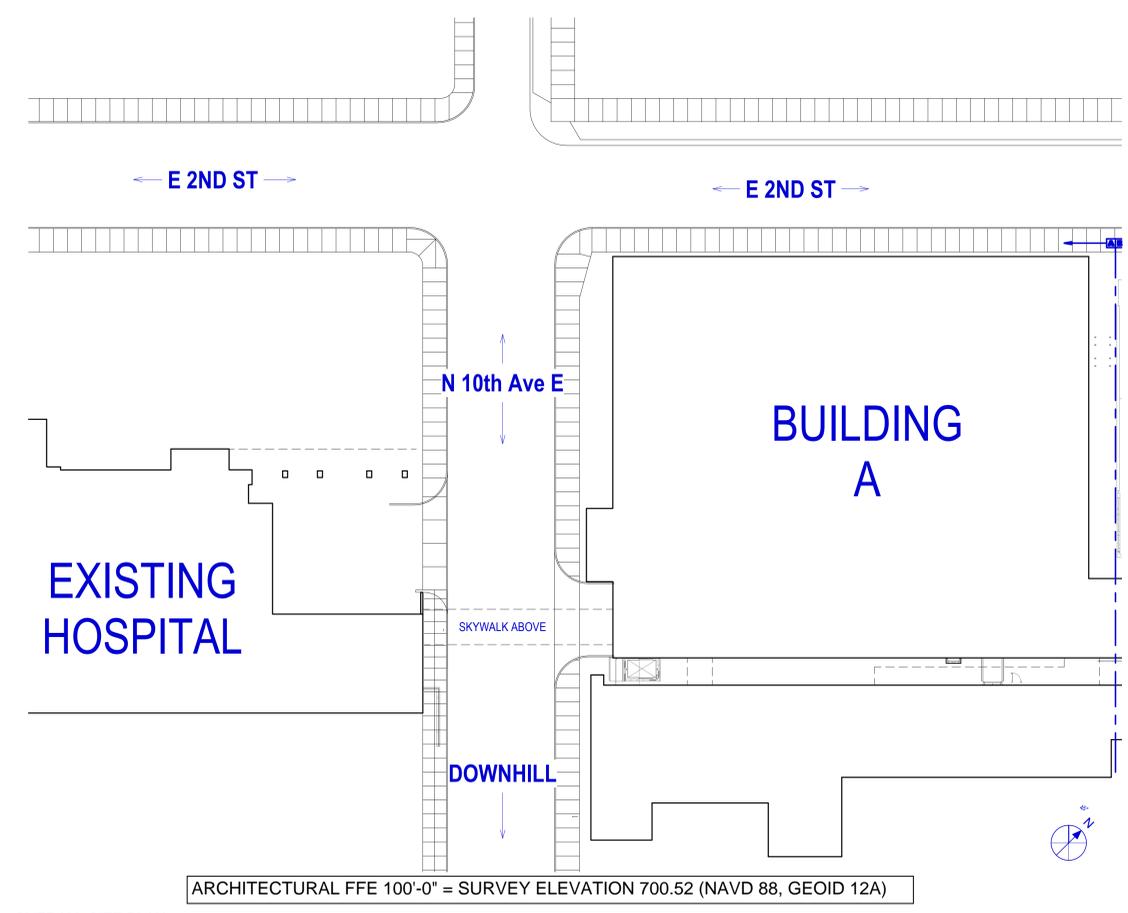
Staff finds that:

- 1) The applicant is seeking approval of a Planning Review for the MU-I district to construct a skywalk directly above an existing skywalk over 10<sup>th</sup> Avenue E, connecting St. Luke’s Hospital to Building A.
- 2) UDC Section 50-23.6, Skywalks, states that skywalks should not compromise the historic or architectural integrity of existing buildings, shall be approved based on architectural sensitivity and cohesiveness, and that 66% of each vertical side elevation shall be made of glass or transparent materials. The building elevations and 3D rendering submitted with the application show that this skywalk is designed with window openings that vertically line up with the skywalk directly below. Structural elements and exterior materials will blend with the connector below, giving these skywalk connections a unified feel within the hospital campus. Each window opening is approximately 50 square feet, for a total of 700 square feet per side. With the addition of spandrel glass, the skywalk provides 54% transparency. According to the applicant, “We would consider 66% infeasible due to the fact this connector will help bridge 4’ of vertical difference between the floors on the two buildings leading to a sloped floor and structure. We also are attempting to avoid roof penetrations in the form of roof drains which require maintenance and create leak points so the roof is sloped as well which also means the structure is sloped. With the sloped floor along with a sloped roof structure, we are limited in our ability to provide 66% transparency but will provide the minimum 50% or more as we continue to refine our design.”
- 3) No exterior lighting is planned for the skywalk.
- 4) UDC sections including parking, landscaping, screening, and sustainability do not apply to this project.
- 5) No public, agency, or City comments have been received.
- 6) According to UDC 50-37.1.N, an approved Planning Review will expire if the project or activity authorized by the permit is not begun within 1 year.

**Staff Recommendation**

Based on the above findings, Staff recommends that Planning Commission approve the MU-I Planning Review with the following conditions:

1. The project be constructed, limited to, and maintained according to the plans and building elevations submitted with this application.
2. The Planning Review shall only be effective upon approval and issuance of a Concurrent Use Permit for the placement of the structure in the right-of-way.
3. Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



1 OVERALL SITE PLAN  
SCALE: 1" = 30'-0"



2 SITE CONTEXT - LOOKING EAST  
SCALE: 12" = 1'-0"

No.	Description	Date
1	CITY PLANNING	10/9/23

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Sheet Name  
**ARCHITECTURAL SITE PLAN & CONTEXT**

Dm: Author      Ck: Checker

Sheet Number

# A100

JOB # 672420

Image before adding new skybridge.

Google Maps 123 N 10th Ave E



Duluth, Minnesota  
 Google Street View  
 Sep 2019 See more dates

Image capture: Sep 2019 © 2023 Google

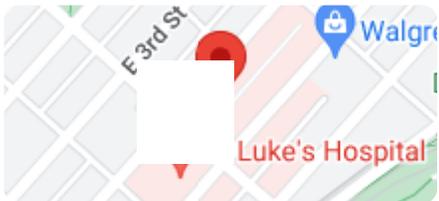


Image showing new, proposed skybridge conceptually

C Packet 11-14-2023

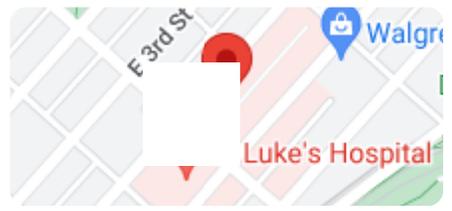
Google Maps 123 N 10th Ave E



Duluth, Minnesota  
 Google Street View  
 Sep 2019 See more dates

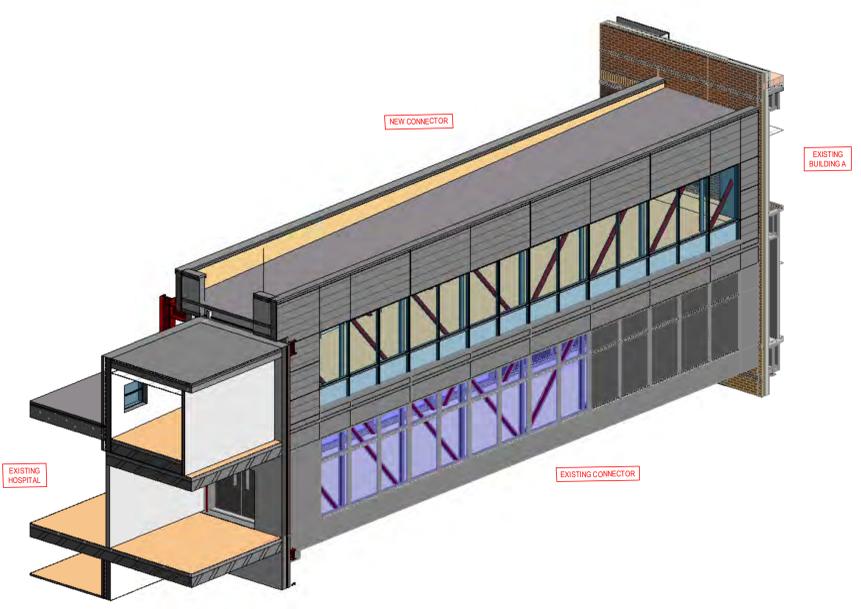
Google

Image capture: Sep 2019 © 2023 Google

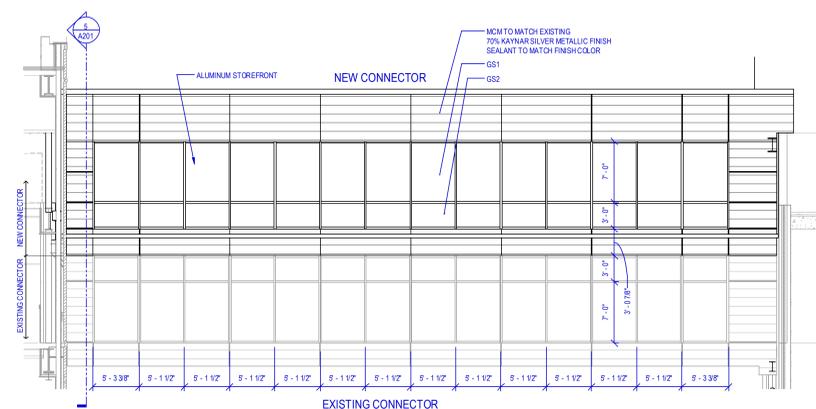


**EXTERIOR MATERIALS**

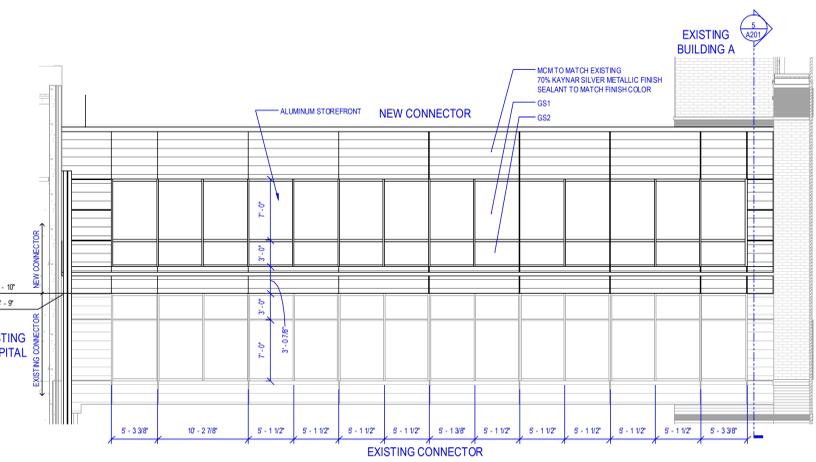
- 04 77300 - MANUFACTURED MASONRY VENEER - CULTURED STONE  
CS-1 CULTURED STONE
- 074200 - ALUMINUM COMPOSITE METAL PANEL  
ACM-1 ALUMINUM COMPOSITE METAL PANELS
- 074600 - EXTERIOR INSULATION AND FINISH SYSTEM - EIFS  
EIFS-1 XX EIFS
- NOTE:  
ALIGN EIFS REVEALS WITH ARCHITECTURAL ELEMENTS AS SHOWN UNLESS NOTED OTHERWISE
- 074800 - FIBER CEMENT PANEL S  
FC-1 FIBER CEMENT SIDING  
FC-2 FIBER CEMENT TRIM
- 077100 - MANUFACTURED ROOF SPECIALTIES  
DS-1 DOWNSPOUT
- ALUMINUM COPING CAP  
ACC-1 PREFABRICATED TAPERED METAL COPING
- 084110 - GLAZED ALUMINUM CURTAINWALL  
CW-1 1" ALUMINUM CURTAIN WALL SYSTEM  
CW-2 1" ALUMINUM CURTAIN WALL SYSTEM
- CWC-1 CURTAINWALL STRUCTURAL GLAZED MULLION CAP  
CWC-2 CURTAINWALL FULLY CAPTURED MULLION CAP  
CWC-3 CURTAINWALL METAL PANEL FIN
- MP-1 CURTAINWALL METAL PANEL INFILL
- 088000 - GLAZING
- IG-1 VISION GLASS WITH LOW REFLECTIVITY
- IG-1S VISION GLASS WITH LOW REFLECTIVITY - SAFETY GLAZING
- IG-1P SPANDREL GLASS WITH LOW REFLECTIVITY
- IG-2 VISION GLASS WITH HIGH REFLECTIVITY
- IG-3S VISION GLASS - CLEAR - SAFETY GLAZING
- IG-F FROSTED GLASS
- 091000 - PAINTS  
P-1 HIGH PERFORMANCE PAINT ON STEEL (TO MATCH ACM-1)
- MISCELLANEOUS  
CJ CONTROL JOINT  
EJ EXPANSION JOINT



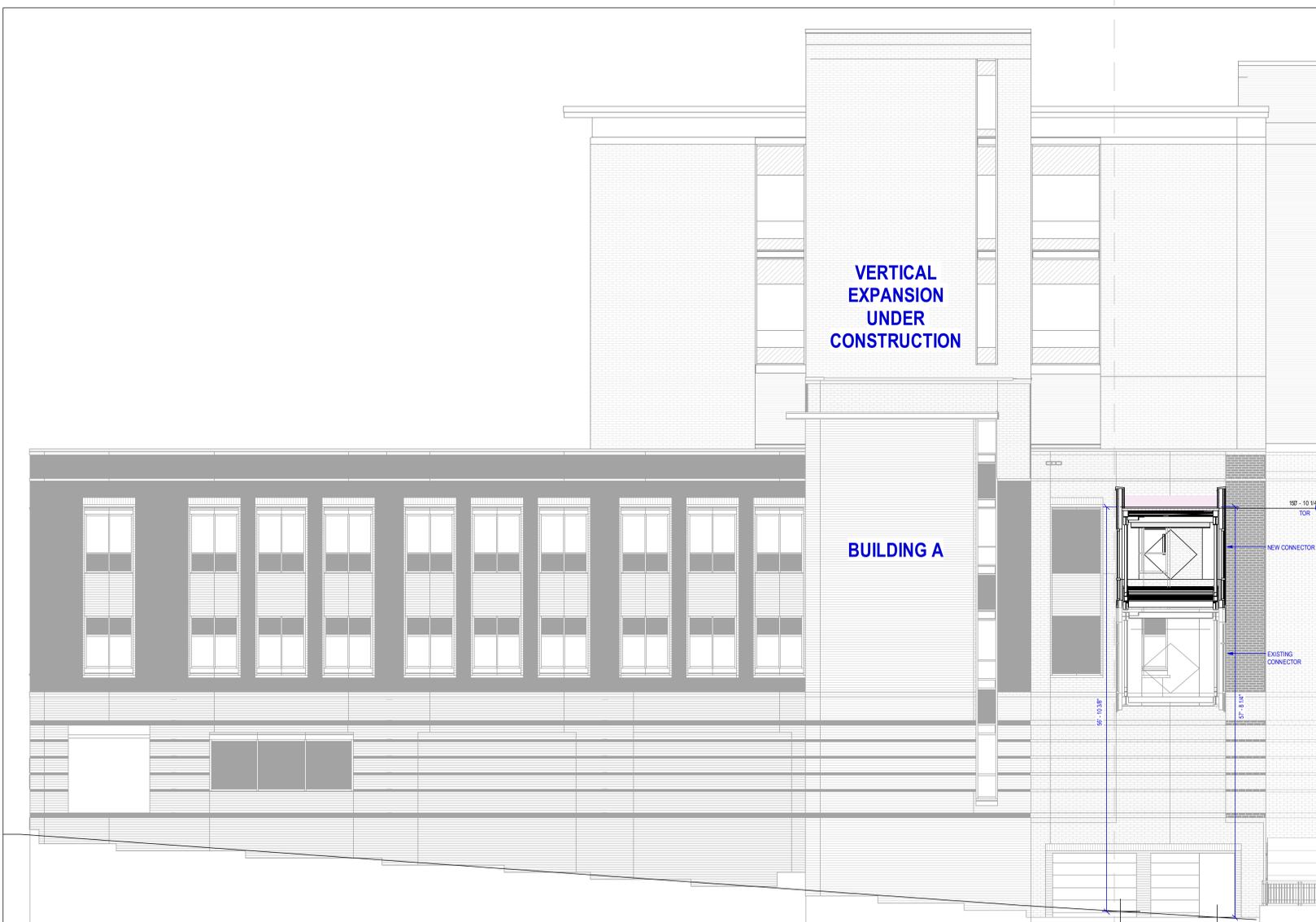
2 CONNECTOR ISOMETRIC VIEW



3 NORTH ELEVATION  
SCALE: 1/8" = 1'-0"



4 SOUTH ELEVATION  
SCALE: 1/8" = 1'-0"



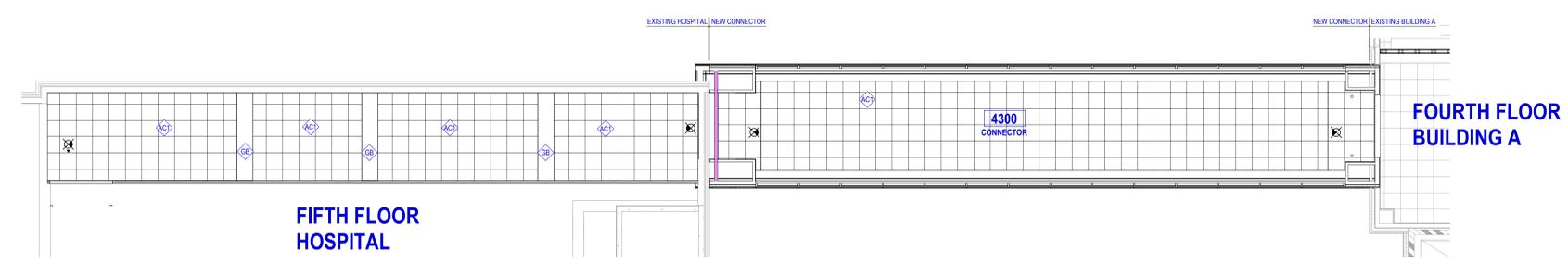
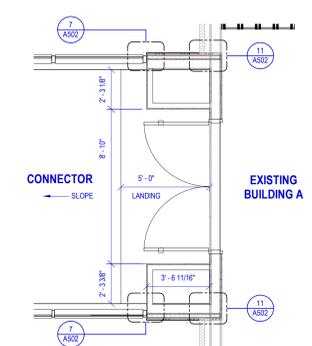
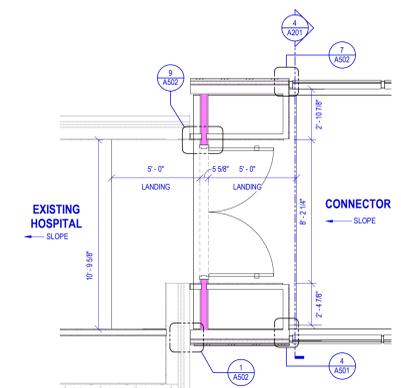
1 EXISTING BUILDING A ELEVATION  
SCALE: 1/8" = 1'-0"

No.	Description	Date
1	CITY PLANNING	10/9/23
Document Release		

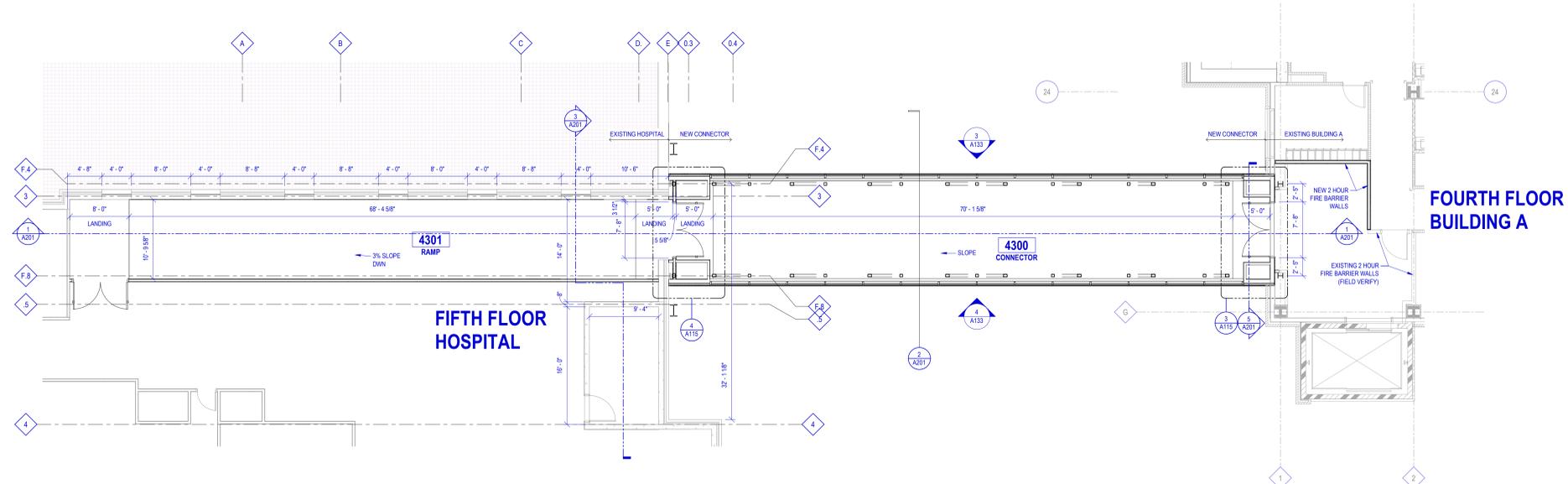
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Sheet Name  
**ELEVATIONS AND 3D RENDERING**

Drn/Author Chk: Checker  
Sheet Number  
**A133**  
JOB # 672420



2 CONNECTOR CEILING PLAN  
SCALE: 1/8" = 1'-0"



1 BLDG A FOURTH FLOOR CONNECTOR PLAN  
SCALE: 1/8" = 1'-0"

No.	Description	Date
1	CITY PLANNING	10/9/23

Document Release

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Sheet Name  
**FOURTH FLOOR PLAN BLDG A - PEDESTRIAN WALKWAY**

Dm: Author Chk: Checker

Sheet Number

# A115

JOB # 672420

FIRE RATING TABLE			
LOCATION	UL DESIGN NUMBER	FIRE RATING	REMARKS
VERTICAL INTERFACE AT EXISTING BUILDING "A"	U425 EXISTING U415 WHERE NEW	2 HOUR	EXTERIOR WALL SURROUNDING CONNECTOR
ROOF ASSEMBLY		NONE REQUIRED	
CONNECTOR STRUCTURE	INUMESCENT COATING PER ASTM E 119	1 HOUR	COLUMNS AND BEAMS SUPPORTING CONNECTOR
FLOOR-CEILING ASSEMBLY		NONE REQUIRED	
VERTICAL INTERFACE AT EXISTING HOSPITAL	U986 EXISTING U415 WHERE NEW	2 HOUR	EXTERIOR WALL SURROUNDING CONNECTOR
BEARING WALLS		NOT APPLICABLE NO BEARING WALLS	

- NOTES:
1. UL REFERENCE NUMBERS HAVE BEEN BASED UPON A PARTICULAR MANUFACTURERS PRODUCT. SUB CONTRACTOR SHALL SUBMIT MANUFACTURERS DESIGNS WHICH REFERENCE THE MOST RECENT UL FIRE RESISTANCE DIRECTORY.
  2. CONNECTOR AND BUILDING FINISHES: ALL FLOOR CEILING AND WALL MATERIAL SHALL BE CLASS A / CLASS 1 FLAME SPREAD AND SMOKE DEVELOPMENT RATED. ANY WOOD VENEER PANELS SHALL BE BONDED TO A SUBSTRATE WITH A CLASS A FLAME SPREAD AND SMOKE DEVELOPMENT RATING.
  3. EXISTING FIRE SEPARATION AND RATINGS BASED ON DRAWINGS OF THE EXISTING BUILDING. CONTRACTOR TO VERIFY SEPARATIONS AND RATINGS IN AREA OF CONSTRUCTION AND IN AREAS SEPARATING CONSTRUCTION FROM EXISTING.

BUILDING CODE INFORMATION		
GOVERNING BUILDING CODES:		
2020 MINNESOTA STATE BUILDING CODE (2018 IBC W/ AMENDMENTS)		
2020 MINNESOTA ENERGY CODE		
2020 MINNESOTA ACCESSIBILITY CODE (CHAPTER 11, 2018 IBC W/ AMENDMENTS)		
2020 MINNESOTA MECHANICAL AND FUEL GAS CODE		
2020 MINNESOTA PLUMBING CODE		
2020 MINNESOTA FIRE CODE		
2020 NATIONAL ELECTRICAL CODE		
2020 NFPA 70 - NATIONAL ELECTRICAL CODE		
2016 NFPA 72 - NATIONAL FIRE ALARM CODE		
2016 NFPA 110 - EMERGENCY & STANDBY POWER SYSTEMS		
2012 LIFE SAFETY CODE (NFPA 101)		
BUILDING USE GROUP:	PEDESTRIAN WALKWAY	
CONSTRUCTION TYPE:	TYPE 2A	
SEISMIC DESIGN CATEGORY:	CLASS A	
	ALLOWABLE:	ACTUAL:
AUTOMATIC SPRINKLERS:	YES	YES
FIRE ALARM SYSTEM:	YES	YES
BUILDING AREA CALCULATIONS (SQ.FT.):	NEW CONNECTOR	1140 SF
	AREA OF REMODEL	1251 SF

**DEMO PLAN GENERAL NOTES**

1. CONTRACTOR TO VERIFY ALL EXISTING CONDITIONS IN THE FIELD PRIOR TO DEMOLITION AND NOTIFY ARCHITECT OF ANY DISCREPANCIES.
2. CONTRACTOR TO PROVIDE SHORING AS NECESSARY TO FACILITATE DEMOLITION OF EXISTING CONSTRUCTION.
3. CONTRACT RESPONSIBLE FOR REPAIR OF ALL DAMAGES TO ADJACENT WORKING DAMAGED AREAS TO BE RESTORED TO ORIGINAL CONDITION.
4. CONTRACTOR TO VERIFY WITH OWNER PRIOR TO REMOVAL OR DISPOSAL OF ALL FURNISHINGS, HARDWARE, MILLWORK, LIGHTING FIXTURES, PLUMBING FIXTURES, INTERIOR ELEMENTS, ETC.
5. CONTRACTOR TO CLEAN, REPAIR AND PREPARE ALL EXISTING CONSTRUCTION AS REQUIRED TO PROVIDE SUITABLE CONDITIONS RELATIVE TO ALL MANUFACTURER SPECIFICATIONS FOR INSTALLATION OF NEW FINISHES.
6. CONTRACTOR TO TEST AND VERIFY THAT ALL MOISTURE CONDITIONS OF EXISTING AND NEW SUBSTRATES MEET MANUFACTURER TOLERANCES AND SPECIFICATION REQUIREMENTS PRIOR TO INSTALLATION OF NEW FINISHES.
7. CONTRACTOR TO PATCH, REPAIR AND LEVEL ALL EXISTING FLOOR SURFACES AS REQUIRED FOR INSTALLATION OF NEW FLOOR FINISHES AND ASSEMBLIES.
8. CONTRACTOR TO REPAIR ANY AREA OF EXISTING FIRE PROOFING DISTURBED BY CONSTRUCTION TO MAINTAIN EXISTING LEVEL OF PROTECTION.

**LIFE SAFETY WALLS**

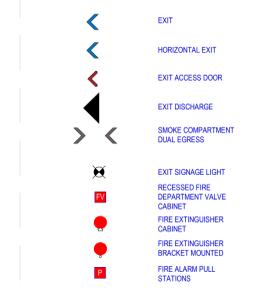


NOTE: ALL RATED WALLS ARE SMOKE RESISTANT  
NOTE: SMOKE BARRIERS TO MEET OR EXCEED EQUAL RATED FIRE BARRIER CONSTRUCTION

**LIFE SAFETY DOORS**



**LIFE SAFETY PLAN SYMBOLS**



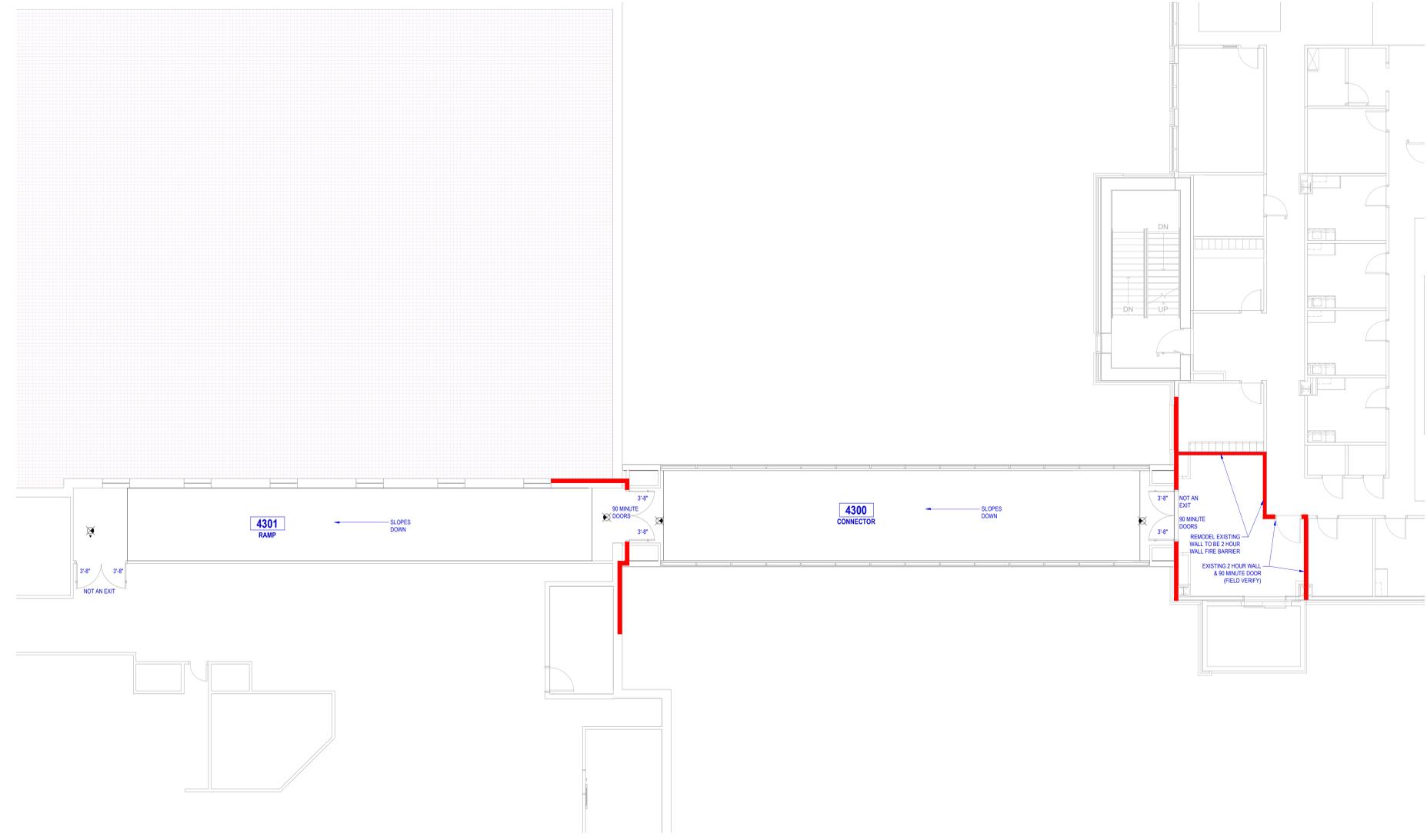
No.	Description	Date
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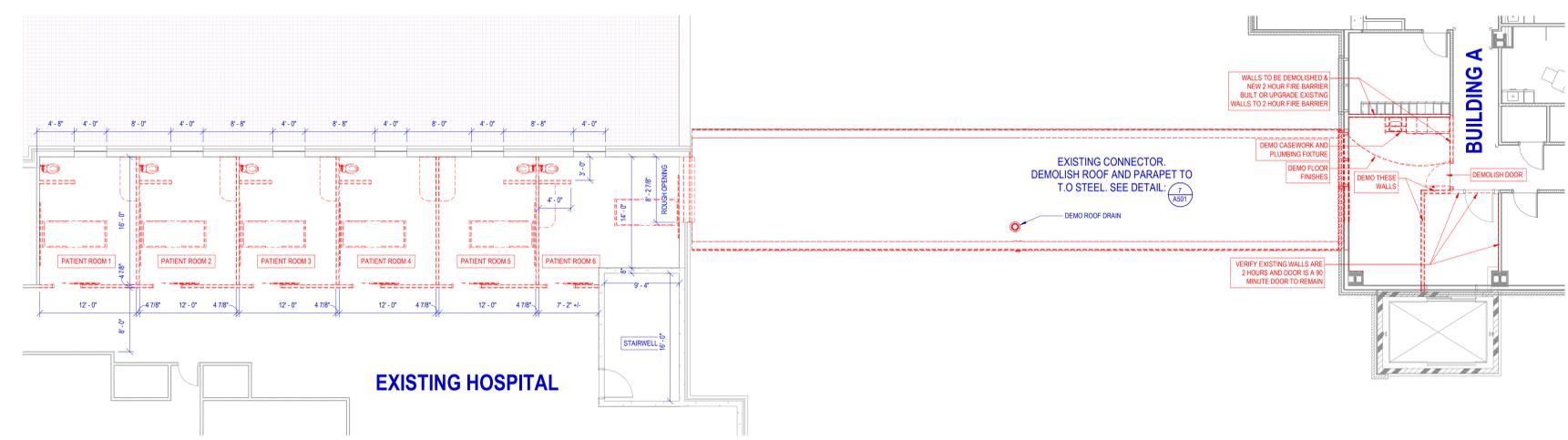
Sheet Name  
**FOURTH FLOOR BLDG A LIFE SAFETY & DEMO**

Dr: ERDMAN Ch: ERDMAN

Sheet Number  
**A114**  
JOB # 672420



**2 LIFE SAFETY PLAN**  
SCALE: 1/8" = 1'-0"



**1 DEMOLITION PLAN**  
SCALE: 1/8" = 1'-0"



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

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## MEMORANDUM

DATE: November 7, 2023  
 TO: Planning Commission members  
 FROM: Kyle Deming, Senior Planner  
 SUBJECT: Vacation Dwelling Units exemption expansion – additional options (PL23-178)

The attached memo was presented to the Planning Commission at their regular meeting on October 10, 2023. Commissioners considered the memo and testimony by a resident and requested staff provide additional options for consideration.

### Additional options include:

1. Expand the exemption from the cap on the Vacation Dwelling Units (VDUs) to include all rural residentially-zoned (RR-1 and RR-2) properties.
2. Expand the VDU cap exemption to include properties within 100 feet of a licensed hotel.

Option 1 would allow any of the 785 residential addresses (see attached map) in the RR-1 and RR-2 zones to apply for a VDU permit without waiting for their opportunity under the cap. While this change to the ordinance is relatively simple for the public to understand and staff to administer, it results in far too many sites being exempt from the cap which undermines the integrity of the cap. The reasons Council established the cap were to manage the number of permanent dwelling units being converted to short-term rentals and to reduce conflicts between permanent residents and VDU guests. Additionally, some RR-1 and RR-2 sites are not well-suited for the extra vehicle traffic and waste water processing (449 addresses are on private septic systems) that short-term rentals sometimes generate.

Option 2 would allow a VDU at any residential property within 100 feet of a licensed hotel by exempting those properties from the VDU cap. Because VDUs provide a service similar to, but less intense than a hotel, it may be appropriate to allow them adjacent to an existing hotel as is in keeping with good zoning practice of transitioning geographically from more intense to less intense uses. This approach would also reduce conflicts between permanent residences and VDUs by locating them in areas close to existing hotels. This approach would result in 56 properties being exempt from the cap (see attached map).

### Summary and Recommendation:

Option 1 results in a very large expansion in the number of properties being made eligible for VDUs which is inconsistent with the purpose of the cap on VDUs (reduce pressure on permanent housing stock and reduce land use conflicts). While Option 2 creates a smaller cap expansion and does so in a way

that is more directly related to good zoning practice, this option still expands the cap in a somewhat unpredictable pattern and expanding the cap for any purpose increases the likelihood that the Council will need to field requests for additional exemptions. Therefore, staff continues to recommend against making a change to the VDU exemption cap.

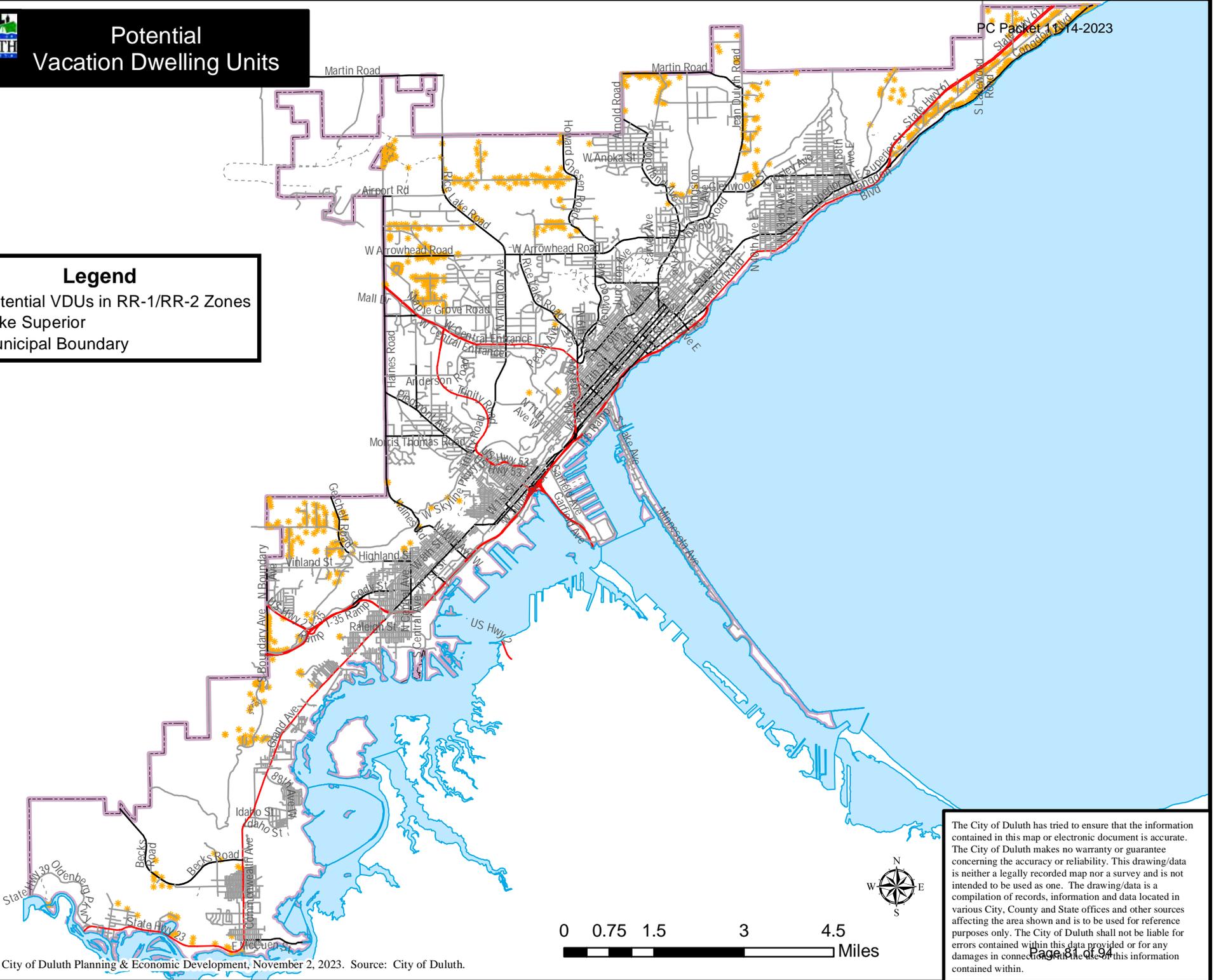
# APPENDIX



# Potential Vacation Dwelling Units

**Legend**

- \* Potential VDUs in RR-1/RR-2 Zones
- Lake Superior
- Municipal Boundary



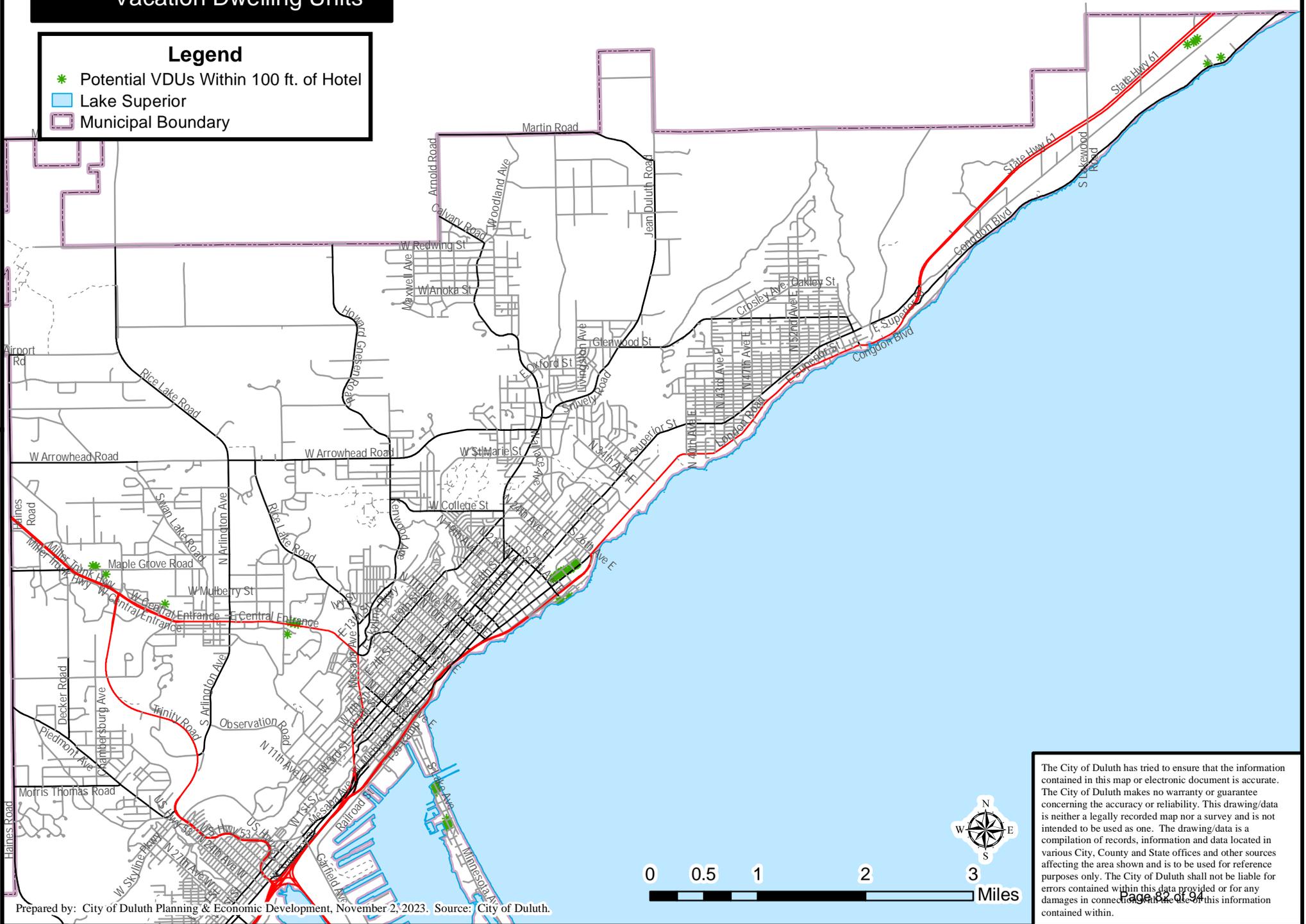
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# Potential Vacation Dwelling Units

## Legend

- \* Potential VDUs Within 100 ft. of Hotel
- Lake Superior
- Municipal Boundary



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

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## MEMORANDUM

**DATE:** October 2, 2023  
**TO:** Planning Commission members  
**FROM:** Kyle Deming, Senior Planner  
**SUBJECT:** Vacation Dwelling Units in RR-1 districts near MU-C districts (PL23-178)

Question: Is it good land use practice to exempt vacation dwelling units (VDUs) in those portions of Rural Residential (RR-1) districts in close proximity to Mixed Use-Commercial (MU-C) districts from the cap on VDU permits?

Summary and Recommendation: The cap on VDU permits was established to balance concerns about loss of permanent housing with the desire by landowners to provide a form of tourist accommodations in demand by the travelling public. Staff recommends making no changes to the VDU permit cap based on the analysis below, which finds that expanding the exemption will only benefit seven residences and one business and will increase the likelihood of getting more requests to be exempt from the cap.

### UDC ANALYSIS

1. Background: Vacation Dwelling Units (VDUs) are a form of short-term rental allowed as an Interim Use Permit by the Unified Development Chapter (UDC). The City Council established a cap on the number of VDUs that are permitted within the City and landowner interest in VDUs exceeds the cap. The number of VDU permits is allowed to increase annually based on the net increase of permanent residential dwelling units from the previous year. Form Districts are exempt from the VDU permit cap, and it has been asked if the exemption should be expanded to include VDUs in RR-1 Districts.
2. Brief history of VDU regulation in Duluth
  - a. City Council approved Ordinance 10192 on Dec. 17, 2012, providing for Vacation Dwelling Units (VDUs) and Accessory Vacation Dwelling Units (Accessory VDUs).
  - b. 2013 amended minimum stay of 5 nights during summer for all zone districts (6/15 – 9/15) to minimum stay of 3 nights during the summer for R-2, MU-N, and F-5 districts.
  - c. After a 10-month moratorium on VDU permits was put in place to allow a study by staff, City Council created Accessory Home Share permits April 11, 2016 (PL16-016). Council also set minimum rental period for VDUs to 2 nights for all zone districts, clarified screening requirements, and set a cap of 60 VDU permits.
  - d. In 2019 City Council provided an exemption from the cap on VDUs for properties in Form Districts (PL19-014).
  - e. In 2021 City Council amended the VDU and AHS ordinances to (PL21-136):

- i. Give the Planning Commission authority to approve VDU IUPs
- ii. Limited VDUs to 4 bedrooms per permit
- iii. Set the annual increase in the number of VDU permits to 10% of the net increase in housing units, with no more than 10 new permits per year, and set a maximum of 120 VDU permits total.
- iv. Established the Vacation Dwelling Unit, Limited, a short-term rental permit for homeowners to rent out a portion of their homes for 2-7 night stays up to 21 days per year.

f. Number of VDUs: The table at right shows the number of VDU permits in effect for each zone district. There are 68 VDU permits in Form Districts (shaded gray in the table) that are exempt from the VDU cap. There are 73 VDU permits (unshaded in the table) in MU-N, R-1, and R-2 districts that are subject to the cap on VDU permits.

<b>Vacation Dwelling Unit (VDU)</b>		
<b>Permits by Zone District</b>		
Zone District	Number of VDU Permits	
F-1	2	68 VDU Permits from Form Districts exempt from the cap
F-2	10	
F-3	4	
F-4	10	
F-5	24	
F-6	8	
F-7	3	
F-8	7	
MU-N	2	73 VDU Permits subject to the cap
R-1	65	
R-2	6	
<b>Total</b>	<b>141</b>	

g. Distribution of VDUs: Please see the Appendix for a map of existing permitted VDUs citywide.

3. Brief summary of Current VDU regulations: The Unified Development Chapter (UDC) establishes the parameters under which short term rentals, such as Vacation Dwelling Units (VDUs), are allowed. Current VDU rules, called Use Specific Standards, are found in the Appendix, but generally, standards include:
- a. A minimum rental period of two nights with the VDU’s maximum occupancy related to the number of bedrooms (two guests per bedroom, plus one additional person), and a maximum of 4 bedrooms allowed in a VDU.
  - b. Off street parking related to the number of bedrooms is required, except parking is not required for VDUs in Form Districts.
  - c. Screening is required to buffer neighbors from the VDUs outdoor activity areas, which must be shown on a site plan.
  - d. VDU permit holder must have a local contact within 25 miles that is capable of responding 24 hours per day and this contact info. must be provided to neighbors.
  - e. VDU permits terminate in six years or if the property is transferred.
  - f. In addition to a UDC Interim Use Permit, VDUs also need a building permit to recognize the altered use of the space. The Fire Department inspects the VDUs for safety and issues an Operational Permit. And the Treasurer collects appropriate lodging taxes from VDUs.
  - g. The State of Minnesota also inspects the facility and requires a lodging license as well.

4. Why VDUs are allowed in certain districts?

- a. When the VDU ordinance was originally established, VDUs were primarily in detached dwelling structures and so only those zone districts that primarily permitted detached dwellings were opened to VDU permits. Since detached dwellings are not allowed in more intense commercial (i.e. MU-C), industrial, and waterfront zones, VDUs were not permitted in those districts. This is to preserve sites in these high value zone districts and to minimize complaints that typically arise from locating sensitive land uses locating near uses that generate a lot of vehicle traffic and noise.
- b. With a change to the UDC in 2019 the Council expanded VDUs to be permitted in all Form Districts and it exempted VDUs in Form Districts from the cap on VDU permits.
- c. This expansion of the cap exemption was to satisfy demand for VDUs in areas of the city where noise and traffic conflicts with detached dwellings would not likely occur.
- d. Additionally, due to the abundance of vacant building space in Form Districts, conversions to VDUs would likely not displace permanent residents and the additional lodgers may benefit the surrounding tourist-oriented businesses.

5. Why exempt from the VDU cap those VDUs proposed to in a RR-1 zone near a MU-C zone?

- a. Good planning practice is to locate intense land uses adjacent to high-capacity transportation and utility areas, be they nodes or corridors. The practice is also to transition to medium and then lower intensity land uses as distance from the node or corridor increases.
  - i. Mixed Use-Commercial (MU-C) zoning is the most intense commercial-oriented zone district and is located primarily along the Central Entrance-Miller Trunk Highway corridor as well as parts of Haines Rd. between Maple Grove Rd. and Arrowhead Rd.
  - ii. There are also MU-C zones at the Spirit Valley Shopping Center and West Duluth Super One, in the vicinity of the Heritage Hockey Center-27<sup>th</sup> Ave. W. between Michigan St. and I-35, along Lower Michigan St. in Lincoln Park, and along London Rd. from 21<sup>st</sup> -26<sup>th</sup> Ave. E.
  - iii. Adjacent to these zones are Mixed Use-Neighborhood (MU-N) zones, Apartment Residential (R-2) zones, or mid-density Form Districts where lower intensity commercial uses mix with higher intensity residential uses. Beyond these zones are typically lower intensity residential zones such as Residential-Traditional (R-1).
- b. Rural Residential (RR-1) zones are typically located beyond R-1 zones, but there are places where MU-C zones abut RR-1 zones, as shown on the attached map. Below are some reasons to consider exempting RR-1 zones from the VDU cap when they are within close proximity to a MU-C zone.
  - i. Adjacent to intense land uses. MU-C zones are typically populated with uses that generate traffic and noise and so the additional intensity of a VDU may not be out of character for the adjacent RR-1 zone.
  - ii. Near transportation infrastructure. Since MU-C zones are typically near high-capacity transportation infrastructure, it may be a convenient location for VDU guests in an adjacent RR-1 district. Additionally, the guests may benefit from being

near amenities typically found in MU-C zones including retail stores, restaurants, and services.

- iii. Larger RR-1 lots allow space for buffering to adjacent permanent residences. RR-1 sites are typically larger, which allows space to buffer the potential noise and traffic generated by the VDU from adjacent residential uses.

#### 6. Why not exempt RR-1 zones from the VDU?

- a. RR-1 dwellings are typically on private septic systems and VDU guests may not be familiar with practices necessary to protect the septic system. Guests may deposit things that cannot be handled by the septic system or run too much water into the septic system at one time causing unwanted material to overflow into the leach field that is only supposed to handle liquids (hydraulic overload). The attached map shows RR-1 zoned address within 300 feet of a MU-C zone colored based on their method of wastewater treatment. Aside from the cluster of addresses in the Miller Creek Townhomes neighborhood, most addresses within 300 feet of MU-C zones are served by private septic systems.
- b. Another concern about expanding the exemption is that exceptions to the rules create complexity. People like predictability in regulations and adding another exception to the VDU cap, especially one that would apply on only part of a zone district, may cause frustration with determining eligibility. Additionally, creating this exception may cause other people interested in obtaining a VDU permit to request similar treatment.
- c. Creating the proposed cap exemption will benefit seven residential addresses and one commercial structure containing three addresses. The attached map shows RR-1 zoned addresses within 300 feet of MU-C zones. Aside from the cluster of addresses in the Miller Creek Townhomes neighborhood (whose Declaration and/or Bylaws likely prohibit owners from obtaining a VDU), there are few properties that would benefit from expanding the VDU cap exemption.

#### 7. Recommendation

- a. Make no change to the VDU cap exemption because:
  - i. The change doesn't serve an overwhelming need in the community (only 7 residences and one business would be affected), and
  - ii. Expanding the exemption to the cap will increase the likelihood of getting more requests to be exempted from the cap.
- b. If a change to the cap is desired, consider the following proposed conditions:
  - i. Limit exemption to parcels within 300 feet of an existing MU-C district.
  - ii. Before issuing the VDU Interim Use Permit, require inspection and certification that the septic system is functioning properly. Require the applicant to provide documentation of the septic system capacity and limit VDU occupancy to correspond accordingly.
  - iii. Require periodic (annual?) septic system inspection and filing of inspection results with the City.
  - iv. Require notices be posted within the VDU regarding proper usage of the septic system.



# APPENDIX



## RR-1 Zoned Areas Within 300 ft. of MU-C Zones and Existing Addresses

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

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

**R-2 (Residential Urban)**

**MU-P (Mixed Use Planned)**

**R-P (Residential Plan)**

**R-1 (Residential)**

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

**Legend**

- Address On Private Septic
- Address On Public Sewer
- RR-1 within 300 ft. of MU-C
- Zoning Boundaries

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



## APPENDIX

Duluth Legislative Code: Chapter 50  
Unified Development Chapter. Selected text

ARTICLE 3: PERMITTED USES.

Section 50-20: Use Specific Standards.

### Section 50-20.3.U. Vacation dwelling unit.

1. **Rental Period.** The minimum rental period shall not be less than two consecutive nights, nor more than a maximum of 29 consecutive nights. The minimum rental period shall not apply for vacation dwelling units in form districts,
2. **Maximum Number of Persons and Bedrooms.** The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two, which shall not exceed nine. The maximum number of bedrooms that may be rented may not exceed four. Vacation dwelling units licensed before December 1, 2021, that exceeded four bedrooms are entitled to continue operating, however, this exemption expires upon transfer of any ownership interest in the permitted property.
3. **Off Street Parking.** Off street parking shall be provided at the following rate:
  - (a) Vacation dwelling units licensed on May 15, 2016, shall provide the following minimum number of off street parking spaces:
    - 1-2 bedroom unit, one space
    - 3-4 bedroom unit, two spaces
    - 5+ bedroom unit, three spaces.
  - (b) Vacation dwelling units licensed after May 15, 2016, shall provide the following minimum number of off street parking spaces:
    - 1-2 bedroom unit, one space
    - 3 bedroom unit, two spaces
    - 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
  - (c) Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
  - (d) The minimum off-street parking requirements shall not apply for vacation dwelling units in form districts.
4. **Motorhome/ATV.** Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, off the street;
5. **Other Licenses Required.** In addition to the permit issued pursuant to this chapter, the property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property.
6. **Guest Records.** The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;
7. **Application Materials.** The property owner must provide a site plan, drawn to scale, showing parking and driveways, distance from lot line of proposed vacation dwelling to neighboring residential structures, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbecue grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen or fence that may be required to buffer these areas from adjoining properties. A dense urban screen or fence is required if the adjoining property is used as a residential use, as identified in 50-19.8. Prior to the permit being authorized, the fence or dense vegetative screen must be in place, and it must be continuously

maintained during the entire permit period. The requirement for a dense urban screen or fence may be waived if the adjoining property owner does not want it on or near their shared property line, and indicates this with a signed letter;

8. Vacation Rentals Within Multi Family Structures. Any vacation dwelling unit that will be located in a multi-family structure that has nine or more dwelling units shall:
  - (a) Make available 24-hour staffing at a front desk that is accessible to all tenants;
  - (b) If determined applicable by the Land Use Supervisor, provide a letter from a duly established Home Owner's Association stating the support of the Home Owner's Association Board of Directors for the vacation dwelling unit, and enumerating any Home Owner's Association rules to be incorporated into the interim use permit;
9. Termination. The interim use permit shall terminate upon change in ownership of the property or in six years after the date of issuance, whichever occurs first. Upon permit termination, property owner may reapply. The permit is only valid for the property and applicant or property owner that it was initially issued to and the permit shall not be transferred to a new applicant or property owner, or to a new property or different address.
10. Maximum Number of Vacation Dwelling Units. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units, excepting that the maximum number of permits that may be issued shall increase by 10 percent of the net increase in housing units constructed and issued certificates of occupancy in the city in the previous year, or no more than ten (10) new vacation dwelling units per year, whichever is less, provided that the total number of vacation dwelling units authorized shall not exceed 120 units. Permits for vacation dwelling units within Form Districts (F1-F9) are exempt from the maximum number of permits that may be issued.
11. Nuisance Reduction. The vacation dwelling permit holder shall ensure that all requirements for waste removal services and prohibitions on burning of trash is strictly adhered to by occupants of the vacation dwelling. The permit holder must designate in writing a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the city within 10 days of a change in the managing agent or local contact's contact information. The permit holder shall notify by letter all property owners within 100' of the property boundaries of the name, address, and phone number of the managing agent or local contact named above and provide the city with a copy of the letter. The permit holder must notify said property owners within 10 days of a change in the managing agent or local contact's contact information.
12. Advertisement. The permit holder must include the permit number on all print, poster or web advertisements.

## ARTICLE 5: ADMINISTRATION AND PROCEDURES.

### Section 50-39: Enforcement and Penalties.

#### Section 50-39.1.A. Violations defined.

It shall be a violation of this Chapter, and a public nuisance, to do any of the following:

12. Violations related to vacation dwelling units, accessory vacation dwelling units or accessory home shares.
 

To use any lot, structure, dwelling or dwelling unit as a vacation dwelling unit, accessory vacation dwelling unit, or accessory home share without the approvals or permits required by this chapter, in violation of the provisions of this chapter, or in violation of any other applicable provisions of city code;

#### Section 50-39.2.C. Enforcement tools.

The city may use any of the following tools and powers to enforce this Chapter, in any order, and the use of one tool or power shall not restrict the city from using an additional tool or power to remedy the same violation.

3. Enforcement of Vacation Dwelling Unit, Accessory Vacation Dwelling Unit, Accessory Vacation Dwelling Unit, Limited, or Accessory Home Share Violations
- (a) If the city determines that a vacation dwelling unit, accessory vacation dwelling unit, accessory vacation dwelling unit, limited, or accessory home share is a public nuisance, operating without approvals or permits required by this Chapter, or operating in violation of this Chapter or any other applicable provisions of city code, the city shall notify the holder of the interim use permit, accessory vacation dwelling unit, limited, or home share permit in writing and order the correction of the violation in accordance with this Section;
  - (b) Any vacation dwelling unit, accessory vacation dwelling unit, accessory vacation dwelling unit, limited, or home share permit issued pursuant to this chapter may be suspended for up to six (6) months or revoked by the city for good cause. If the city intends to suspend or revoke a permit, the land use supervisor shall issue written notice of such intent to the permit holder at least twenty-one (21) days before such suspension or revocation is set to begin. The permit holder may then demand a hearing before the land use supervisor. Such demand shall be made in writing to the land use supervisor within ten (10) days following issuance of the notice;
  - (c) For purposes of this section, "good cause" shall include, but not be limited to:
    - (i) failure to remedy a violation noted pursuant to 50-39.2.C.1;
    - (ii) issuance of three or more violation notices under section 50-39.2.C.1 within a single permit cycle;
    - (iii) the occurrence of one or more nuisance events as defined in Duluth City Code § 40-10;
    - (iv) use or operation of the dwelling unit or home share in a manner that imperils public health, safety or welfare, including, but not limited to, violation of this Chapter or any other provision of local, state, or federal law intended to protect the occupants of the dwelling or the surrounding neighborhood and community;
  - (d) Any permit holder whose license is suspended or revoked by the land use supervisor may appeal the final suspension or revocation to the Planning Commission in accordance with 50-37.1.O.

# MEMORANDUM

**DATE:** November 3, 2023

**TO:** Planning Commission

**FROM:** John Kelley, Planner II

**SUBJECT:** Public notification process

## Staff Recommendation

Staff recommends that the Planning Commission maintain the current UDC standards for public notification.

At the September 12, 2023 Planning Commission meeting staff presented a planning review for the expansion of Lake Superior College (LSC) in a Mixed Use Institutional (MU-I) zoning district. During the public hearing, a resident who lives adjacent to LSC property informed the Planning Commission they were not notified by mail of the planning review. The resident raised the question of public notification and the requirement to notify by mail all property owners within 350 feet of an applicant's property. The LSC's property is inclusive of several individual parcels that make up the college campus that abut residential property. Staff also identified the matter during their presentation of the planning review. Following a brief discussion by the Planning Commission regarding the notification requirements, Staff was directed by the Commissioners to review the Minnesota State Statute and City of Duluth Unified Development Chapter (UDC) public notice requirements for a zoning action and present their findings at the November 14, 2023 Planning Commission meeting.

Minnesota State Statute section 462.357 OFFICIAL CONTROLS allows for the regulation by municipalities of land use in Minnesota. Below are the Minnesota State Statute requirements for noticing public hearings regarding zoning actions (bold/underline emphasis added):

### **462.357 OFFICIAL CONTROLS: ZONING ORDINANCE.**

*Subd. 3. Public hearings. No zoning ordinance or amendment thereto shall be adopted until a public hearing has been held thereon by the planning agency or by the governing body. A notice of the time, place and purpose of the hearing shall be published in the official newspaper of the municipality at least ten days prior to the day of the hearing. When an amendment involves changes in district boundaries affecting an area of five acres or less, a similar notice shall be mailed at least ten days before the day of the hearing to **each owner of affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates**. For the purpose of giving mailed notice, the person responsible for mailing the notice may use any appropriate records to determine the names and addresses of owners. A copy of the notice and a list of the owners and addresses to which the notice was sent shall be attested to by the responsible person and shall be made a part of the records of the proceedings. The failure to give mailed notice to individual property owners, or defects in the notice shall not invalidate the proceedings, provided a bona fide attempt to comply with this subdivision has been made.*

The State statute requires that public hearings shall be noticed in an official newspaper and by a mailed notice depending on the zoning action that is being considered. The statute references a mailing notice to affected property and property situated wholly or partly within 350 feet of the property to which the amendment relates. State statute requires that the public hearing process be followed for zoning actions such as conditional (special use in Duluth) and interim uses.

The City of Duluth's UDC public notice requirements for zoning actions including planning reviews in the Mixed Use Institutional (MU-I) zone district are below:

**Unified Development Chapter, Section 50-37.1.H**

*H. Public notice.*

*1. Types of notice.*

*The city uses one or more of the following methods to notify the public about pending applications where there is an opportunity for public comment on the application. The type(s) of notice provided for different types of applications are shown in Table 50-35-1.*

*(a) Newspaper notice means the publication of one notice in a newspaper of general circulation within the city at least ten days before the date of the public hearing, except in the case of amendments to the text of this Chapter or zoning map, in which case the notice shall be published at least once each week for three successive weeks before the date of the public hearing;*

*(b) Mailed notice means a letter mailed by first class mail to property owners within 350 feet of the applicant's parcel at least ten days prior to the date of the public hearing. In the case of an application for vacation of a street, the notice shall be mailed to the owners of all properties abutting (a) the portion of the street proposed to be vacated, and (b) the portion of that street extending 350 feet from the ends of the portion proposed to be vacated. In the case of an application for rezoning an area of five acres or less, the notice shall be mailed to each property owner in the area to be rezoned and each owner of property located partly or entirely within 350 feet of the area to be rezoned. Failure to give mailed notice as required by this Section or any defect in the notice given shall not invalidate any action of the planning commission or council, provided that a bona fide attempt to comply with this Section has been made;*

*(c) Sign notice means a sign with minimum dimensions of 24 inches by 30 inches posted as close as reasonably possible to each street frontage on the applicant's property with the text between three and five feet above grade level, with a title line reading "Zoning Notice" in letters at least three inches tall, and with the remainder of the text in letters at least 1/2 inch tall. Each sign must be posted at least two weeks before the date of the public hearing, and must remain in place and legible through the date of the public hearing as shown on the sign. If the sign will not be legible at the stated height due to snow accumulations it may be placed higher, but at the lowest elevation that will be legible to the public. If snow obscures the sign during the posting period, the snow shall be removed and/or the sign shall be relocated so as to be legible within 24 hours after snowfall ends. Evidence produced at or before the public hearing that one or more of the required signs were not in place or legible throughout that period shall be grounds for postponement of the public hearing and a requirement to repost the property. Required signs may not be posted in any portion of the public right-of-way;*

UDC Section 50-37.1.H outlines the requirements for public notification on applications that require Planning Commission review. The city uses one or more methods to notify the public about pending applications depending on the review process requirements. These methods include a notice in a local newspaper, mailed notice, and a sign notice. In addition to notification in a newspaper and mailing notice the city requires the placement of a zoning notice sign on an applicant's property as part of the public notification process. The sign must be placed on the property two weeks prior to a scheduled Planning Commission meeting. The zoning notice sign is not mandated by state statute and provides an additional opportunity for the City to notify the public of a pending zoning action.

To comply with both State statute and UDC requirements, the City has established and consistently follows a reasonable, rational, and appropriate method for determining the addresses to which mailed public notice must be sent (i.e., those properties within 350 feet of a zoning applicant's subject parcel/property). using a geographic information system (GIS) mapping tool, the distance of 350 feet is measured from the exterior boundary lines of the parcel/property listed in the zoning application. The GIS mapping tool pulls mailing address data for parcels/properties from the St. Louis County property records database, which is the most accurate database available on parcel/property owner mailing addresses. The GIS mapping tool then generates a list of all mailing addresses which is used by City staff for the required

public notice mailing. For properties with structures, the mailing address is the address assigned to that structure. For vacant parcels, the mailing address is the address associated with the vacant parcel identification number.

Other than the current instance, Staff cannot recall other instances where concern over the notice distant have been brought forward.

Staff's review of the UDC mailed public notice requirement finds that:

1. The City UDC requirement is consistent with the state statutory rule of 350 feet for a mailed notice established by the Minnesota Legislature;
2. The method used to generate the mailing list for required public notices is appropriate and relies on the best mailing address database available; and
3. Enlarging the distance for notification would exceed that required by State statute, and would result in increased mailing costs and associated staff time.