

Planning Commission Agenda
City Council Chambers, 3rd Floor Duluth City Hall
Tuesday, August 14, 2018 – 5:00 PM

Call to Order and Roll Call

Approval of Planning Commission Minutes (July 10, 2018)

Consent Agenda

Items that are perceived to be non-controversial or routine will be placed on the consent agenda. There will not be an individual public hearing on each of these items unless the applicant or a member of the public wishes to speak to the matter. These items on the consent agenda will be approved by the Planning Commission with one vote.

1 PL 18-076 Variance from Use Specific Standards for an Elementary School at 5401 East Superior Street by Spirit of the Lake Community School

2 PL 18-089 Variance from Coldwater Stream Setback at 114 South Central Avenue by Scott Stempihar of Krech Ojard and Moline Machine LLC

3 PL 18-092 Variance from Corner Side Setback in Residential-Urban (R-2) District at 3111 Church Place by St. Francis Health Services

4 PL 18-097 Minor Subdivision to Split One Existing Tax Parcel into Two Parcels at 1801 MacFarlane Road by St. Louis County

5 PL 18-105 Vacation of Utility Easement on Outlot D at the Corner of Idaho Street and 93rd Avenue West by City of Duluth

Public Hearings

6 10 Minute Presentation and Optional Public Hearing for the Environmental Assessment Worksheet (EAW PL 18-104) for the Pastoret Terrace. Public Comment Period Monday July 9 to Tuesday August 15, 2018, Decision at Special Meeting on Tuesday, August 28 at 5:00 PM

7 PL 18-090 Special Use Permit for 18 Stall Surface Parking Lot at 17 North 2nd Avenue East (Carter Hotel) by Lake Superior Consulting LLC and Fond du Lac Band of Lake Superior Chippewa

8 PL 18-100 Amend the Future Land Use Map from Neighborhood Mixed Use and Urban Residential to Urban Residential and Traditional Neighborhood Near the Intersection of Kenwood and Arrowhead Road

- 9 PL 18-068 UDC Map Amendment to Rezone Portions of Arrowhead Road and Kenwood Avenue from Residential-Traditional (R-1) and Residential-Urban (R-2) to Mixed Use-Neighborhood (MU-N) by the City of Duluth by the City of Duluth
- 10 PL 18-095 UDC Map Amendment to Rezoning Portions of 4610 West Arrowhead Road to Mixed Use-Business (MU-B) by Lisa and Matt Mahoney
- 11 PL 18-007 Nomination by the Heritage Preservation Commission for Designation of the Lake Superior and Mississippi Rail Road as a Local Historic Resource
- 12 PL 18-081 Preliminary Plat at 3800 West Superior Street by Superior Industrial LLC
- 13 PL 18-094 Special Use Permit for Office Use in a Residential-Urban (R-2) District at 1830 East First Street by Zenith City Investments
- 14 PL 18-093 Mixed Use-Commercial (MU-C) Planning Review for Hotel Expansion at 909 Cottonwood Avenue
- 15 PL 18-087 Variance from Corner Side Setback in Residential-Traditional (R-1) Setback at 3801 Lake Avenue South by Patricia and Shelley Kuszler
- 16 PL 18-091 Variance from General Development Stream Setback at 1701 N 43rd Avenue East by Gayle Koop Foster Care LLC
- 17 PL 18-067 UDC Text Amendment by the City of Duluth

Communications

- A Manager's Report
- B Reports of Officers and Committees
-Heritage Preservation Commission Representative
- C Adjournment
-Special Planning Commission Meeting in the City Council Chambers on Tuesday, August 28, 2018, at 5:00 PM

City of Duluth
Planning Commission
July 10, 2018 Meeting Minutes
Council Chambers - Duluth City Hall

Call to Order

Vice-President Janet Kennedy called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, July 10, 2018, in city hall council chambers.

Roll Call

Attending: Jason Crawford, Gary Eckenberg, Janet Kennedy, Tim Meyer, Margie Nelson, Luke Sydow, Sarah Wisdorf, and Zandra Zwiebel

Absent: Mike Schraepfer

Staff Present: Keith Hamre, Adam Fulton, Robert Asleson, Steven Robertson, John Kelley, Chris Lee, and Cindy Stafford

Approval of Planning Commission Minutes – June 12, 2018

MOTION/Second: Zwiebel/Wisdorf approve the minutes

VOTE: (8-0)

Zenith Awards (C.A.I.R, Endi, Center for Changing Lives)

Director Keith Hamre introduces the award recipients and thanks them for their outstanding achievements:

Mike Murray – Center for American Indian Resources – Fond Du Lac Reservation – for implementing urban design principles consistent with the comprehensive plan.

Peggy Walsh and Tina Marici – Endi - Harbor Bay Real Estate Advisors – for this development implementing the mixed-use vision and addressing the housing needs of the city of Duluth.

Dean Minardi – Lutheran Social Services – Center for Changing Lives – for implementing urban design principles consistent with the comprehensive plan.

Consent Agenda and hearing

Items that are perceived to be non-controversial or routine will be placed on the consent agenda. There will be no staff presentations on these items; the Planning Commission will be acting upon the staff recommendation and conditions written in the staff reports. There will not be an individual public hearing on each of these items unless the applicant or a member of the public wishes to speak to the matter. Instead there will be one public hearing for all the items on the consent agenda, and they will be addressed by the Planning Commission with one vote.

1. PL 18-077 Vacation of Building Line Easement at 2031 London Road by Marvin Development IV, LLC
2. PL 18-075 Variance from Front Yard Setback in a Rural Residential 1 (RR-1) District at 3902 Norton Road by Leah Collette

3. PL 18-084 Variance from Side Yard Setback in a Rural Residential 1 (RR-1) District at 711 Howard Gnesen Road by Christopher and Lindsay Theis

Staff: N/A

Public: No speakers.

MOTION/Second: Wisdorf/Sydow approve staff's recommendations for consent agenda items.

VOTE: (8-0)

Public Hearings

4. PL 18-078 Final Plat for Kayak Bay at Approximately the Intersection of Warwick Street and Grand Avenue by Spirit Valley Land Company LLC

(The following two items are connected and were introduced together. The vacation is needed for the Final Plat.)

Staff: Steven Robertson introduces the applicant's proposal for a final plat to subdivide the previously platted property in preparation for a future mixed use development (Kayak Bay). Staff recommends approval with the conditions listed in the staff report. The EAW was completed.

Applicant: Brad Johnson of Lotus Realty and Spirit Valley Land Company addresses the commission. He welcomes questions. Zandy Zwiebel asks about the construction of the private road and the significant grade. Will it interfere with the Munger Trail? Johnson shares a map. Meetings with DNR determined there will be an easement from the Munger Trail. They are trying to be as far away from trail as possible. There will be a retaining wall and will look quite nice. There will not be a lot of traffic. Zwiebel asks the applicant to give an overview of the project. Johnson states there will be 33 townhomes which will include some villas for sale or rent. There will be retail spaces including ski hut and a hotel. The project area is called River West. Robertson shares a map of the rezoning from January of 2017. The design is relatively the same. Luke Sydow asks about parcel H. Is this public or private? Robertson states private. Robertson states there will need to be a temporary easement for the city. Sydow suggests making the decisions now versus coming back later.

Public: No speakers.

Commissioners: Zwiebel asks about planned communities. What are the benefits that they are adding to the community? Robertson states the rezoning standards are put aside and considerations for the final plat are much more limited. He notes condition #2 which states no ground will be disturbed until the pale sedge report is completed.

Manager Adam Fulton states the Riverside plan was previously approved and is intended to benefit riverside and the spirit mountain area. The intent of this project was well through and will broadly create neighborhood benefits.

MOTION/Second: Meyer/Nelson approved as per staff's recommendations.

VOTE: (8-0)

5. PL 18-079 Vacation of Public Right of Way for Kayak Bay Final Plat by Spirit Valley Land Company LLC

Staff: Steven Robertson introduces the applicant's proposal to vacate platted, but unimproved right of way, in preparation for a replatting of the subject area, with subsequent dedication of a new right of way and utility and drainage easements. Staff recommends approval with the conditions listed in the staff report.

Applicant: (See above item #4).

Public: No speakers.

Commissioners: (See above item #4).

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

VOTE: (8-0)

6. PL 18-086 Variance from Minimum Lot Frontage Requirement in a Rural Residential 1 (RR-1) District at 10013 West Skyline Parkway by Edward and Candace Barbo
Staff: Adam Fulton introduces the applicant's proposal for a variance to reduce the minimum lot frontage from 250 feet to 0 feet to construct a single-family dwelling in the RR-1 zone district. The lot has no frontage on a city street. This request mirrors a request by the applicant in 2017, and is made based on new information and determinations by the city related to site access. A memo was shared which lists the parks department does not want another road extended through the Magney-Snively Natural Area. A single-family dwelling is permitted in this area. Staff recommends approval with the conditions listed in the staff report. Correspondence was received in opposition. The DNR has also commented. Gary Eckenberg questions why there is a reversal of recommendation. Per Fulton, it hinges on the January 3rd memo stating the inability to construct the public street. Zwiebel recalls past discussion, which included a cartway. Manager Fulton states the cartway was part of the first application. The new application does not include any discussion of the cartway, because a cartway does not constitute a public street under the UDC, and is just a means of access. Fulton states currently the use of an existing easement is proposed. Per Fulton this request would not be a flag lot. Zwiebel asks how they can guarantee this is the only home to go into the area. Fulton states there is potential for construction on other sites. This is a unique situation since it already has a barn with a road leading to it. But it could potentially constitute a precedent in the future. Robert Asleson states it affects reasonableness which would use the same access. It creates an element which may make denying a future application difficult. Eckenberg questions the pathway and what has changed. Fulton refers back to the 1/3/18 memo. Eckenberg asks about the level of traffic. Would it increase with a home? Tim Meyer asks what the practical difficulty is. Fulton notes because of the topography and natural bedrock condition that make the extension of Gogebic Street infeasible. Meyer asks if the state could override the city. Fulton notes the state has authority over streams, but doesn't have land use authority. Sarah Wisdorf asks if staff has addressed the DNR's concerns. Manager Fulton notes there is compliance with the DNR's conditions in regards to equine activity. The water and sewage would be private. Meyer asks if the parks and rec department made a recommendation. Fulton states no. Eckenberg asks about flag lots. Fulton states that Duluth doesn't allow flag lots, but that other cities do. It could create a driveway access only, and would be shaped like a flag.

Applicant: Ed Barbo addresses the commission. They sold their house in 1991. The neighbors contested the easement. The applicant shares a map with the commissioners. There was a 3-day hearing with the district court. It was unanimously decided Gogebic would not work, thus granting the current easement for life. Whether he builds a house or not, he's been using it for 25 years. Underground power has been brought in and there is an 8-stall barn. The house will go on a slab located further up the hill than the barn. The first time it failed because no hardship was determined. Now a hardship was

determined that public street could not be built. Eckenberg asks Barbo to articulate what the hardship is. Barbo states they could not build the other street. Eckenberg asks about what the applicant understood in 1991. Barbo stated he understood they either needed a street or an easement. They have been working on it all along. Zwiebel asks if they will leave the equestrian services as they are. Barbo states no. They don't anticipate having horse borders. They personally own three horses. Meyer questioned the email in opposition. Why continue? Barbo states he is frustrated and has made efforts to get along with his neighbors. He butted heads with his neighbors that are cross country skiers. Meyer states eight neighbors are opposed. Barbo thinks his neighbors don't want boarded horses there. Horse trails can be considered to conflict with pedestrian trails. Barbo isn't against bikers. Meyer states he has difficulty understanding why Barbo wishes to proceed when so many people are against it. Barbo wants to work with his neighbors and will try to be the best neighbors possible.

Public: John Bray, 31 W. Superior St. #402, addresses the commission. He represents the Franklins who are opposed to the variance. He doesn't feel they met the conditions of practical difficulty. The city didn't say a road CAN'T go through, they just don't WANT it to go through. There is no road frontage at all, which would create safety issues. Uniqueness – the applicants' bought a lot they knew they could not build a house on. He does feel it is in harmony with comp plan, or Duluth's future plans. He thinks last year's findings were much more complete. Scott Johnson, 4110 99th Ave. W., doesn't agree with the variance. It opens up the precedent for more growth. He doesn't like horses. Manager Fulton states horses are a permitted use in an RR-1. There is not a limit to the number of horses specified. Johnson states that the Barbos are great neighbors. He is concerned about a lot more horses being brought in the area. He cares about the area. Fulton cites the UDC section regarding agriculture general – RR-1, 50-19.8. Mychal Franklin, 4215 N. 100th Ave W., addresses the commission. They purchased their home in 1988. He and his wife are against the variance. They have not changed their position from a year ago. He is concerned about more homes being allowed in. He shares a site plan (handout) depicting to commissioners of what could come in for development. Tawni Hawkedahl, 5307 Medina Street, addresses the commission. She is friends with the Barbos. She is in favor of the variance. She doesn't see all these new properties popping up. Fulton states there is a five-acre minimum. As it stands today, not many new houses would not be allowed because of the lot size requirement and frontage requirement. Hawkedahl states that the neighbors moved into RR-1 knowing there are horses there. Franklins also have boarded horses. She notes the city council precedent. If Gogebic is buildable the commission can't grant the variance. Alice Stover, 9601 W. Skyline Pkwy., addresses the commission. They own the property in-between the two properties. They are the most effected with the easement going through, but are in full support. Russ Stover, 35 2nd St. Proctor, MN, addresses the commission. He is a former Duluth resident, and has served on the city council. One house is not going to change anything. Every 5 acres is capable of having a home. Traffic will not increase. He is in favor of the variance. Zach Golkowski, 5307 Wadena St., addresses the commission. He thinks the opposition is overstating the number of houses by stating 7 new houses could be allowed. The current application meets all requirements. The people in opposition are against horses. 7 houses – 3 of which are on Franklin's property. The most potentially could be 3. This is the Barbos' dream. The variance is the only thing the pc should consider. Greg Gilbert, Barbos' attorney, addresses the commission, and is in support of the variance. He reiterates the hardship. Stewart Creek prohibits the extension of

Gogebic Street. The practical difficulty is the extension of Gogebic Street must go through natural areas. The plan all along was for a horse barn with a small home. Todd McFadden, 4129 100 Ave W., addresses the commission. He bought land at county auction. There is no easement along Gogebic St. He asks about planning for the future. He states there are 35 total acres which could allow for 7 houses. He is opposed. 100th Avenue ends at Gogebic street. The city's map is incorrect. He has pictures of horse manure on 100th Ave. W. 100% of the people who live on 100th Ave. W. are opposed. He feels for the Barbos, but urges the commissioners to consider the future.

Commissioners: Wisdorf asks for clarification on driveway. Fulton states it's gravel driveway and needs to be clear for access for safety/fire and police purposes. Sydow states that the easement passes through three parcels. Who does the maintenance? Fulton states that city engineer would need to approve road design and safety, but that it would remain private. A development agreement could be added as a condition. It's a private easement, so maintenance would be the responsibility of the driveway owner. Sydow asks about the means or methods to control future development. Manager Fulton states if this is granted tonight, it is a unique situation which would not apply to future applicants. Future applicants do not have a horse barn. The requirement for a street for future development would need to be considered. Asleson says the basic requirement is 5 acres. Additional parcels could be approved, but access is an issue. The Stover property has no more street access than the Barbo parcel under consideration. Some of the same arguments could apply. In his opinion there is not a mandatory precedent created, but a question of fairness could be argued for future development. Future development will be met with the same level of scrutiny. Manager Fulton notes the RR-1 zoning intent is to be rural. Rural means different things to different people. These lots were created when St. Louis county did not have to meet city approval when granting subdivisions of property, so the city did not approve creation of this lot. Eckenberg states if the Franklins want to sell to create a subdivision, they would need to meet codes which would include stormwater considerations. This particular situation has a level of uniqueness. Zwiebel doesn't want to set precedence she is not comfortable with. Eckenberg notes the map with red dots of potential house builders. Asleson says it could end up on court, but wouldn't necessarily end up in court. Eckenberg states that neighbors moved into a rural situation and that local government could eventually be asked to take on road considerations such as maintenance. Wisdorf is not concerned about setting precedent. It's not simple or inexpensive. She can't deny based what may or may not happen in the future. She doesn't see denying houses which are allowed according to zoning rules. She is concerned with the DNR's finding and who will maintain the road.

MOTION/Second: Zwiebel/Meyer to deny the variance, which is opposed to staff's recommendations.

VOTE: (6-2, Wisdorf and Crawford Opposed)

Communications

10. Manager's Report – Adam Fulton gives an overview. The Comprehensive Plan was adopted by the city council on June 25, 2018. Implementation action will begin over next several months. Housing and the city flag are under consideration. Benchmarks will be developed. The Pastoret Terrace Environmental Assessment Worksheet (EAW) is available for viewing online. The planning commission will see this at their next meeting on August 14, 2018. There was a public meeting held for the Kenwood

Avenue/Arrowhead Road Rezoning held on June 7, 2018. Staff is evaluating elements of the area before recommendation come to the planning commission at their August 14, 2018 meeting. Vice Chair Kennedy asks staff to let them know when public meetings are happening. Fulton agrees. Nelson asks if the Commission will be getting paper copies of the EAW? Fulton confirm with Robertson that there will be paper copies of the EAW provided.

11. Reports of Officers and Committees

-Heritage Preservation Commission Representative – Zwiebel gives an overview. Next month the planning commission will see the railroad designation. Questions are related to if the administration, parks, and pollution control agencies are on board. There will be an HPC member present at the next meeting to talk about the Pastoret Terrace.

12. Meeting adjourned at 7:28 p.m.

Respectfully,

Keith Hamre - Director
Community Planning and Construction Services

DATE: August 8, 2018
TO: President Schraepfer and Planning Commissioners
FROM: Adam Fulton, Community Planning Manager
RE: Status of Ongoing and Upcoming Planning Projects

Projects:

Imagine Duluth 2035

Staff is undertaking document finalization and has developed an internal process for prioritizing implementation actions with other departments. Following a meeting with departments, the intent is to complete dialogue about which implementation actions can be immediately prioritized by mid-September. A document related to 2018/2019 implementation actions, including a summary of actions by various city departments (including Community Planning) is anticipated to come before the Planning Commission in October with those details.

Pastoret Terrace Environmental Assessment Worksheet (EAW)

The comment period for this EAW is over on August 15th. Following the comment period, staff will work with the project consultant to evaluate and provide responses to all comments received. The final action, or “Record of Decision” is anticipated to be considered by the Planning Commission at a Special Meeting on August 28th.

Medical District Updates

Planning continues within Duluth’s medical district, encompassing both St. Luke’s and Essentia campuses. Staff is working with partners to consider a Mixed-Use Institutional Plan, with a planning process beginning in the next few months. Additionally, an EAW is anticipated related to potential modifications to the Essential Health campus. To provide more information and obtain neighborhood feedback, a preliminary meeting date of September 12th is proposed for a neighborhood meeting. More details, including a meeting agenda, more specific timing, and meeting location, will be forthcoming.

Imagine Canal Park – Summer Pilot Projects

Imagine Canal Park pilot projects continue this summer with additional activities in the Canal Park area. The projects are being led by the Community Planning division with support by many other divisions and departments, including Parks and Recreation, and with participation and leadership from the Canal Park Business Group and businesses in the DeWitt-Seitz building. 2018 pilot projects in Canal Park will take place during the month of September, and will include modifications to Lake Avenue South to enhance vehicle circulation during times when the Aerial Lift Bridge is in operation; a two-week temporary pilot activation of the Light House parking lot (nearest the Marine Museum), which will include play activities, seating, shaded spaces, and music; and the creation of Buchanan Plaza from the partial closure of Buchanan Street, to include additional seating, shade, temporary landscaping, and music. Temporary wayfinding signage is also planned for the Canal Park area, to be installed in August in advance of the pilot activities. A kick-off for all the September pilot activities is planned for the weekend of September 7 – 9.

Previous work in Canal Park included the Cold Front February event, which was successful largely through partnerships between City groups. The Cold Front February event was awarded a League of Minnesota Cities “City of Excellence Award” for its activation of underutilized space during the winter season, seeking to create more equitable access and appeal among the neighborhood, inclusive of all residents, regardless of background or income levels. More than 1,800 guests participated in the Cold Front event during its four-day activity period. Work is underway to consider how to put on the Cold Front event again in 2019.

Harbor Light Development

Planning Commission acted on a variety of approvals related to the Harbor Light development, located on Arrowhead Road just west of Arlington/Rice Lake Roads during 2017 and 2018. The developer has proceeded with the project and is now at the stage of development that tree removal and other site work may begin over the coming months. Please feel free to refer any questions about this project to staff.

Kayak Bay EAW

An EAW was completed for Kayak Bay in 2018, conditional on an analysis of several potential environmental factors cited by respondents to the EAW, including:

- The presence of pale sedge, an endangered species in Minnesota.
- Unsurveyed historic and archeological elements.

The evaluation of the site for presence of pale sedge and for historic and archeological objects and characteristics was completed, and none of the potentially listed factors was discovered on the site. For this reason, it has been determined that all conditions of the EAW have been met.



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL18-076	Contact	Jenn Moses, jmoses@duluthmn.gov	
Type	Variance from Setback	Planning Commission Date	August 14, 2018	
Deadline for Action	Application Date	July 9, 2018	60 Days	September 7, 2018
	Date Extension Letter Mailed	July 24, 2018	120 Days	November 6, 2018
Location of Subject	5401 E Superior Street			
Applicant	Spirit of the Lake Community School	Contact		
Agent	First United Methodist Church	Contact		
Legal Description	PIN # 010-2840-00570			
Site Visit Date	August 1, 2018	Sign Notice Date	July 31, 2018	
Neighbor Letter Date	July 24, 2018	Number of Letters Sent	46	

Proposal

Applicant seeks a variance from the 40-foot setback requirement for schools to reuse an existing structure, formerly a church, as an elementary school. Existing building is an approximate 3' setback from the side property line and 9' setback from the rear property line, located in the Lakeside neighborhood.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N	Vacant (former church)	Neighborhood Mixed Use
North	R-1	Residential	Traditional Neighborhood
South	MU-N	Residential	Neighborhood Mixed Use
East	MU-N	Residential	Neighborhood Mixed Use
West	R-1	Residential	Traditional Neighborhood

Summary of Code Requirements

Sec. 50-20.2 – Use Specific Standards for School: Buildings shall be located not less than 40 feet from any side or rear lot line.

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

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

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

Governing Principle #1: Reuse previously developed lands, including adaptive reuse of existing building stock. This is a former church building, now vacant.

Governing Principle #11: Consider education systems in land use actions. A school located near a residential neighborhood reduces impacts on transportation and infrastructure systems.

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

History: Site was owned and used by the Lester Park United Methodist Church for over 100 years. In early 2018, the church use was discontinued.

Review and Discussion Items

Staff finds that:

- 1) The UDC per Section 50-20.2 requires schools to be placed not less than 40 feet from any side or rear lot line in most residential and mixed use districts, which minimizes noise and aesthetic impacts on surrounding properties.
- 2) Original structure was built in 1924; combined with a later addition, building is located approximately 3' from the side property line (along 54th Avenue E) and 9' from the rear property line.
- 3) Public traffic uses a public gravel alley located partially on the rear of the subject property, leaving very limited space between the driving surface and building. This alley allows two-way traffic until it dead-ends just past the school property. It also provides egress from the one-way parking area shown as Parcel B on the site plan. In the future, this alley may need improvements depending on traffic levels and access, and may be evaluated for traffic flow and right of way considerations.
- 4) 58th Avenue E creek flows just to the east of this property. The gravel parking area on Parcel B is located within the impervious surface setback; it is allowed to remain but not be expanded. Any future improvements to this parking will trigger all zoning and shoreland regulations, requiring landscaping, stormwater treatment, and a 50' naturally vegetative buffer from the creek.
- 5) Plans for the property include creation of 9 classrooms and an assembly space for 100 seats within the existing building. The parking area to the east of the building will become a playground, surrounded by fencing; other parking will remain in place, and meets minimum parking requirements of the UDC.
- 6) Staff finds that use of property in an MU-N district as a school is a reasonable and permitted use.
- 7) The building has existed in this location for decades; thus, the need for relief is due to circumstances unique to the property and not caused by the landowner. Requiring the applicant to demolish the building to meet the property setbacks would cause a practical difficulty.
- 8) This area of E Superior Street is characterized by a mixture of commercial and residential uses, including a gas station, fitness center, and dental office. This building was formerly used as a church with associated classrooms and parking areas. A school with 9 classrooms and associated traffic will not alter the essential character of the area; however, any future expansion of this school use could result in greater impacts on the neighborhood.
- 9) Variances to setbacks require a landscaping and buffering plan to reduce impacts on adjacent properties. Due to limited space along the rear property line, and public street frontage along 54th Avenue E, opportunities for buffering are limited. Applicant proposes a fence along the east property line. All trees and shrubs on the property, including the gravel parking area/alley located on "Parcel B" to the rear, will remain. Property to the north is also buffered by trees and vegetation between the house and alley.
- 10) Site plan meets all other UDC requirements, including parking amounts and dimensions. School plans to continue use of accessible parking in the right of way along 54th Avenue E.
- 11) Two comments were in support of the application. No other public, agency, or City comments have been received.
- 12) Per UDC Section 50-37.1. N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

Staff Recommendation

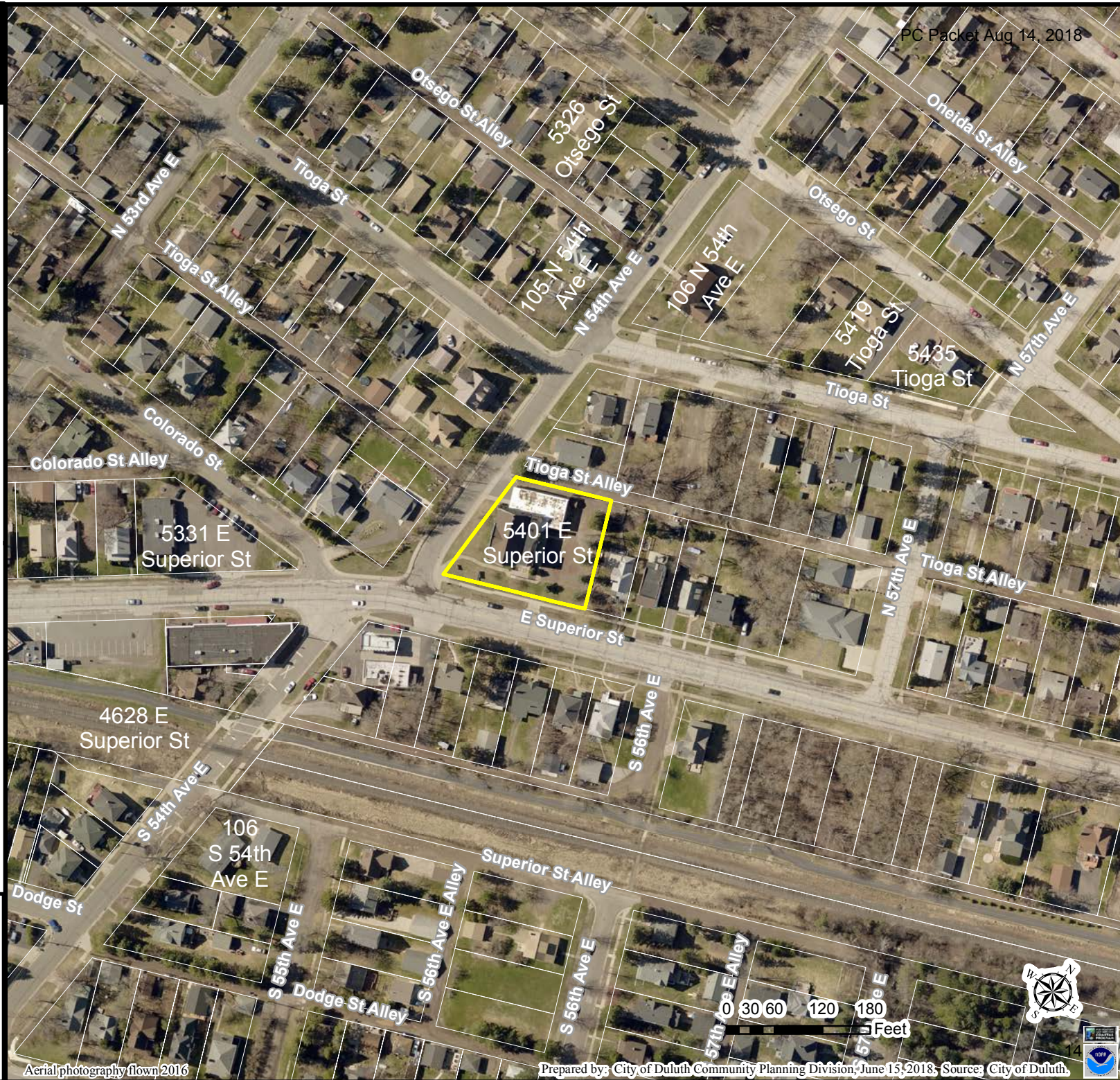
Based on the above findings, Staff recommends that Planning Commission grant the variance with the following conditions:

- 1) The project be limited to, constructed, and maintained according to site plan submitted with this application.
- 2) The school use be limited to 9 classrooms and 100 seats in the main assembly space to minimize impacts on surrounding properties and neighborhood.
- 3) Any future alterations to the parking areas and alley shall be conducted in a way that brings them into conformance with zoning and engineering regulations, including shoreland regulations.
- 4) If it is determined in the future by the Land Use Supervisor and City Engineer that school drop-off conditions pose a safety hazard or nuisance to the area, the school will participate in further dialogue and construct improvements, as necessary.
- 5) Applicant will resolve parking in the right of way by applying for and receiving a concurrent use permit or removing the parking, no later than 1 year after approval of the variance.
- 6) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission action; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL 18-076
 Variance
 5401 E Superior St

PC Packet Aug 14, 2018



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

Prepared by: City of Duluth Community Planning Division, June 15, 2018. Source: City of Duluth.

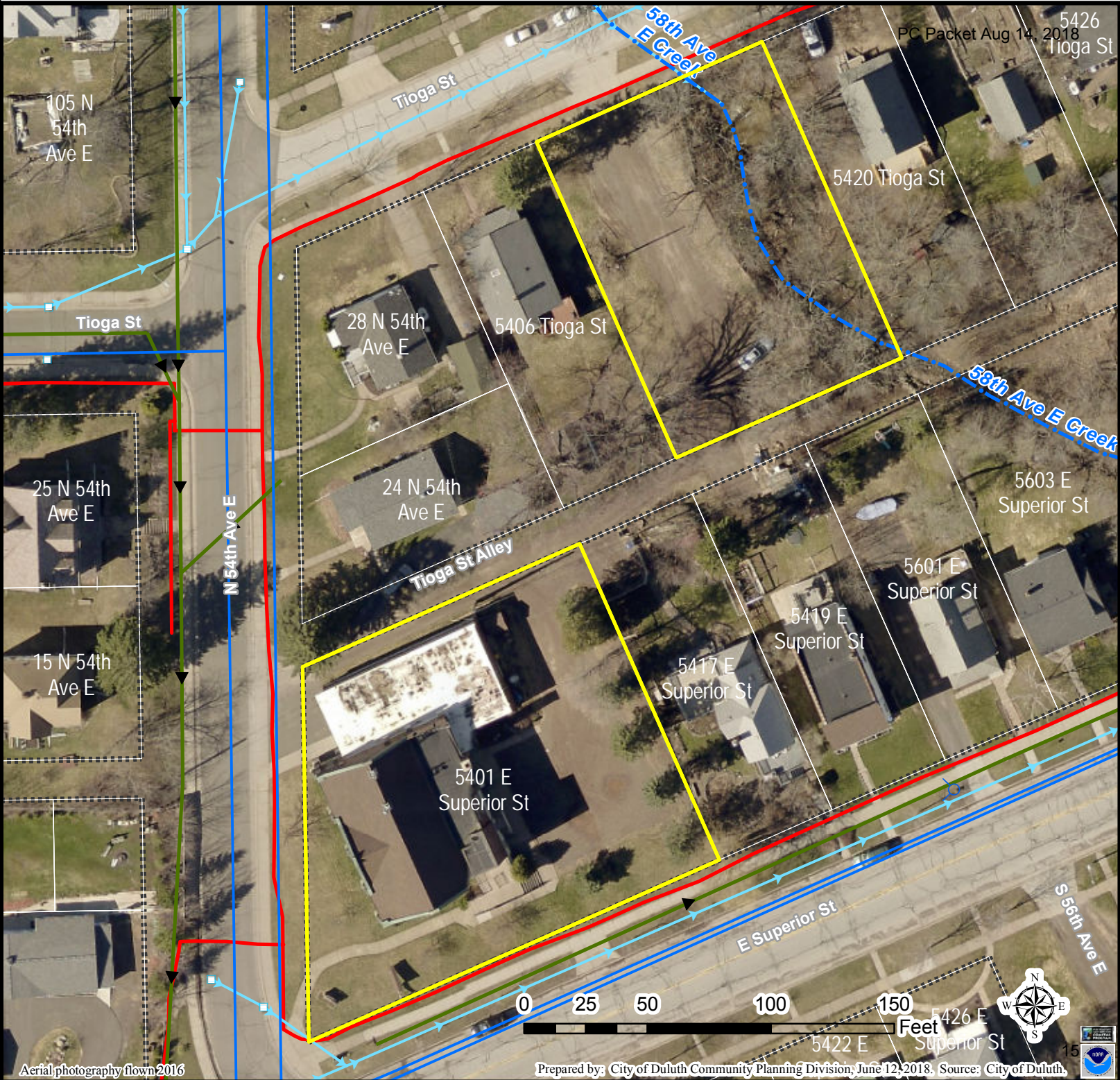


PL 18-075 Variance:
5401 E Superior St

PC Packet Aug 14, 2018
5426 Tioga St

Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Road or Alley ROW
- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- Trout Stream (GPS)
- Other Stream (GPS)



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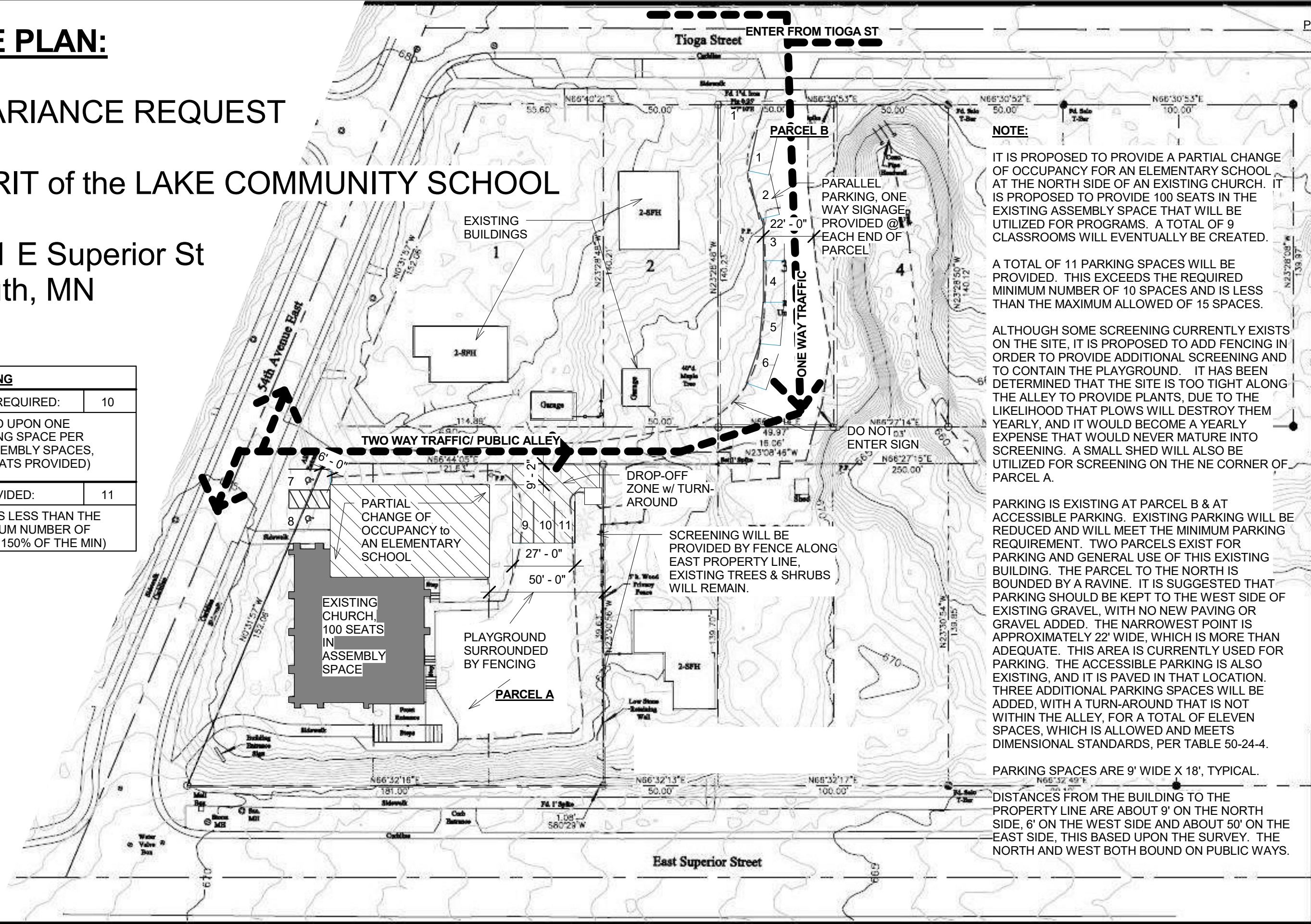
Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division; June 12, 2018. Source: City of Duluth.

SITE PLAN:

a VARIANCE REQUEST
for
SPIRIT of the LAKE COMMUNITY SCHOOL
at
5401 E Superior St
Duluth, MN

PARKING	
MIN # REQUIRED:	10
(BASED UPON ONE PARKING SPACE PER 10 ASSEMBLY SPACES, 100 SEATS PROVIDED)	
# PROVIDED:	11
(THIS IS LESS THAN THE MAXIMUM NUMBER OF 15, OR 150% OF THE MIN)	



NOTE:

IT IS PROPOSED TO PROVIDE A PARTIAL CHANGE OF OCCUPANCY FOR AN ELEMENTARY SCHOOL AT THE NORTH SIDE OF AN EXISTING CHURCH. IT IS PROPOSED TO PROVIDE 100 SEATS IN THE EXISTING ASSEMBLY SPACE THAT WILL BE UTILIZED FOR PROGRAMS. A TOTAL OF 9 CLASSROOMS WILL EVENTUALLY BE CREATED.

A TOTAL OF 11 PARKING SPACES WILL BE PROVIDED. THIS EXCEEDS THE REQUIRED MINIMUM NUMBER OF 10 SPACES AND IS LESS THAN THE MAXIMUM ALLOWED OF 15 SPACES.

ALTHOUGH SOME SCREENING CURRENTLY EXISTS ON THE SITE, IT IS PROPOSED TO ADD FENCING IN ORDER TO PROVIDE ADDITIONAL SCREENING AND TO CONTAIN THE PLAYGROUND. IT HAS BEEN DETERMINED THAT THE SITE IS TOO TIGHT ALONG THE ALLEY TO PROVIDE PLANTS, DUE TO THE LIKELIHOOD THAT PLOWS WILL DESTROY THEM YEARLY, AND IT WOULD BECOME A YEARLY EXPENSE THAT WOULD NEVER MATURE INTO SCREENING. A SMALL SHED WILL ALSO BE UTILIZED FOR SCREENING ON THE NE CORNER OF PARCEL A.

PARKING IS EXISTING AT PARCEL B & AT ACCESSIBLE PARKING. EXISTING PARKING WILL BE REDUCED AND WILL MEET THE MINIMUM PARKING REQUIREMENT. TWO PARCELS EXIST FOR PARKING AND GENERAL USE OF THIS EXISTING BUILDING. THE PARCEL TO THE NORTH IS BOUNDED BY A RAVINE. IT IS SUGGESTED THAT PARKING SHOULD BE KEPT TO THE WEST SIDE OF EXISTING GRAVEL, WITH NO NEW PAVING OR GRAVEL ADDED. THE NARROWEST POINT IS APPROXIMATELY 22' WIDE, WHICH IS MORE THAN ADEQUATE. THIS AREA IS CURRENTLY USED FOR PARKING. THE ACCESSIBLE PARKING IS ALSO EXISTING, AND IT IS PAVED IN THAT LOCATION. THREE ADDITIONAL PARKING SPACES WILL BE ADDED, WITH A TURN-AROUND THAT IS NOT WITHIN THE ALLEY, FOR A TOTAL OF ELEVEN SPACES, WHICH IS ALLOWED AND MEETS DIMENSIONAL STANDARDS, PER TABLE 50-24-4.

PARKING SPACES ARE 9' WIDE X 18', TYPICAL.

DISTANCES FROM THE BUILDING TO THE PROPERTY LINE ARE ABOUT 9' ON THE NORTH SIDE, 6' ON THE WEST SIDE AND ABOUT 50' ON THE EAST SIDE, THIS BASED UPON THE SURVEY. THE NORTH AND WEST BOTH BOUND ON PUBLIC WAYS.

KIRKAUS LLC
Clarity
Brightness
Brilliant!
218-728-4826
raho@KIRKAUS.com
Robert Aho, AIA
4540 Carey Rd
Duluth, MN 55803

Spirit of the Lake
Community School
Duluth, MN

CONSTRUCTION DOCUMENTS

1 PROPOSED SITE PLAN
1" = 40'-0"

DATE: 6/29/2018	JOB NO.: 18013	DRAWN BY: RA	REVISED: 7/6/2018	APPROVED BY: RA
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SHEET:
SITE
16
©2018 Robert Aho

Site Photos

5401 E Superior Street



Former church building viewed from corner of Superior St & 54th Avenue E



Accessible parking off 54th Avenue E



Alley facing east (subject building on right)



Parcel B parking area facing north



Parcel B parking area facing south

Jennifer Moses

From: Aili Hakala
Sent: Friday, July 27, 2018 5:41 PM
To: Jennifer Moses
Subject: Public Hearing for Variance 5406 E Superior St

Hello,

My name is Aili Hakala, and I received a notice about the public hearing for a variance for 5401 E. Superior St. I live very close to this building and I am so happy to hear that it will be used for an elementary school.

Currently I work at a school 45 minutes away in Culver, MN. Are there are any job openings available for this new school? Please let me know if there is any information about that to share.

Thank you,

Aili

July 29, 2018

RE: Notice of Variance for 5401 E. Superior St.
(PL18-076)

Dear Jenn Moses,

We support a variance to allow
the spirit of the Lake Community
School to occupy the former
Methodist Church at 5401 E.
Superior St.

Sincerely,
Abeda & Jeff Aylford
5426 E. Superior St.



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL18-089	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Variance, Shoreland	Planning Commission Date	August 14, 2018	
Deadline for Action	Application Date	July 10, 2018	60 Days	September 8, 2018
	Date Extension Letter Mailed	July 25, 2018	120 Days	November 7, 2018
Location of Subject	114 S. Central Ave. (Irving)			
Applicant	Moline Machinery	Contact	Gary Moline	
Agent	Krech Ojard & Associates, LLC	Contact	Scott Stempihar	
Legal Description	All of Blocks 50 and 51, including vacated alley, West Duluth First Division			
Site Visit Date	July 30, 2018	Sign Notice Date	July 26, 2018	
Neighbor Letter Date	July 31, 2018	Number of Letters Sent	12	

Proposal

Variance to shoreland structure and impervious surface setbacks to construct a building addition with a 17,000 sq. ft. footprint and make improvements to existing parking lot and driveways. Mitigation measures include site landscaping and storm water controls.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	I-G	Industrial	General Mixed Use/Preservation
North	I-G	Keene Creek/WLSSD pump	Preservation/General Industrial
South	MU-B	Power line/Industrial	General Mixed Use
East	I-G	Keene Creek/Paper Mfg.	Preservation/General Industrial
West	MU-N/R-1	Parking/Power Line/Creek	General Mixed Use/Preservation

Summary of Code Requirements

Sec. 50-18.1.D-1 – Minimum Shoreland Area Standards from Cold Water Rivers: 1) Minimum structure setback, 150 feet, 2) Minimum impervious surface setback, 75 feet, 3) Maintain a 50-foot wide naturally-vegetative buffer.

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

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

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

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

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

Principle #1 – Reuse previously developed lands

Principle #3 – Support existing economic base

Principle #5 – Promote reinvestment in neighborhoods

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

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

Principle #14 – Integrate fairness into the fabric of the community

Site Context: The site has been a manufacturing facility since 1917. Moline purchased the site and began operations in 1955. The applicant operates out of five buildings in the Irving neighborhood including a 31,000 sq. ft. manufacturing and office facility at 114 S. Central Ave., a 45,000 sq. ft. manufacturing, final assembly, and office facility at 200/204 S. Central Ave., an 18,000 sq. ft. sales demonstration and R&D facility at 211 S. Central Ave., and a 16,000 sq. ft. finishing facility at 602 S. 59th Ave. W.

The proposed reinvestment in the Moline facility is supported by the adopted Irving Fairmount Brownfield Revitalization Plan (IFBRP), which calls for additional industrial development in the neighborhood. The proposed design of the site in relation to Keene Creek is also supported by the IFBRP.

Review and Discussion Items

Staff finds that:

- 1) Applicant is seeking the following shoreland setback variances to allow construction of a building addition with a 17,000 sq. ft. footprint and make improvements to existing parking lot and driveway:
 - a) Structure setback of 50 feet rather than the required 150 feet;
 - b) Impervious surface setback of 9 feet rather than the required 75 feet;
 - c) Naturally vegetative setback of 9 feet rather than the required 50 feet.
- 2) Keene Creek is a Cold Water River that flows along the north side of the applicant's property. Additionally, the floodway for Keene Creek and an area of wetlands is on the northern portions of the property. No impacts to the floodway are planned. A wetland delineation has been approved (PL 18-085) and the wetland map is attached. No impacts to wetlands are planned.
- 3) The southerly 100 feet of the property is encumbered with a 100-foot wide easement ordered by court action in 1943 for MN Power's high-tension power line.
- 4) The shape of the lot, regulatory restrictions not of the applicant's making, and MN Power easement create severe impediments to any reasonable use of the property. Please see Krech Ojard's Sheet EX B depicting the amount of the 3.23-acre property that is constrained by the 150-foot shoreland structure setback, the MN Power easement, the current building, and UDC building setbacks. Those constraints consume 95% of the property and the remaining buildable area (6,700 sq. ft.) is irregularly-shaped significantly limiting expansion opportunities.
- 5) The applicant is proposing a reasonable use of the site. The current zoning of the parcel (Industrial-General) implements the Comprehensive Plan vision for the site, that being a mix of uses including industrial and office uses. The current building and parking area occupy only half of the site, and with the proposed building expansion and parking reconfiguration, impacts to the site increase only slightly.
- 6) Relief is required from circumstances unique to the property, including the shape of the parcel, the site's slope, and the presence of the MN Power powerline through the site.
- 7) The size and shape of the proposed building is similar in size and shape to surrounding similarly zoned sites. The proposal will not alter the essential character of the area.

- 8) Variances to shoreland setbacks require mitigation of impacts. The applicant has minimized disturbance of natural vegetation in the steeply-sloped ravine to the creek and limited site development to the area above the ravine. The proposed building expansion is planned for an area that is currently primarily impervious surfaces. With associated reductions in driveways and parking areas, the amount of site impervious surface is only slightly higher than the current condition. The applicant will be installing best management practices (BMPs) to meet or exceed City storm water requirements to protect Keene Creek where today there is no storm water treatment (see attached "Preliminary Design Submittal Worksheet). These include a water quality pond to treat parking lot runoff and a water quality manhole to treat runoff from the existing pavements near the stream. Additional mitigation will be in the form of landscape around the parking lot to provide shade and cool rainwater runoff.
- 9) No other public, agency or City comments were received.
- 10) Per UDC Section 50-37.1. N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

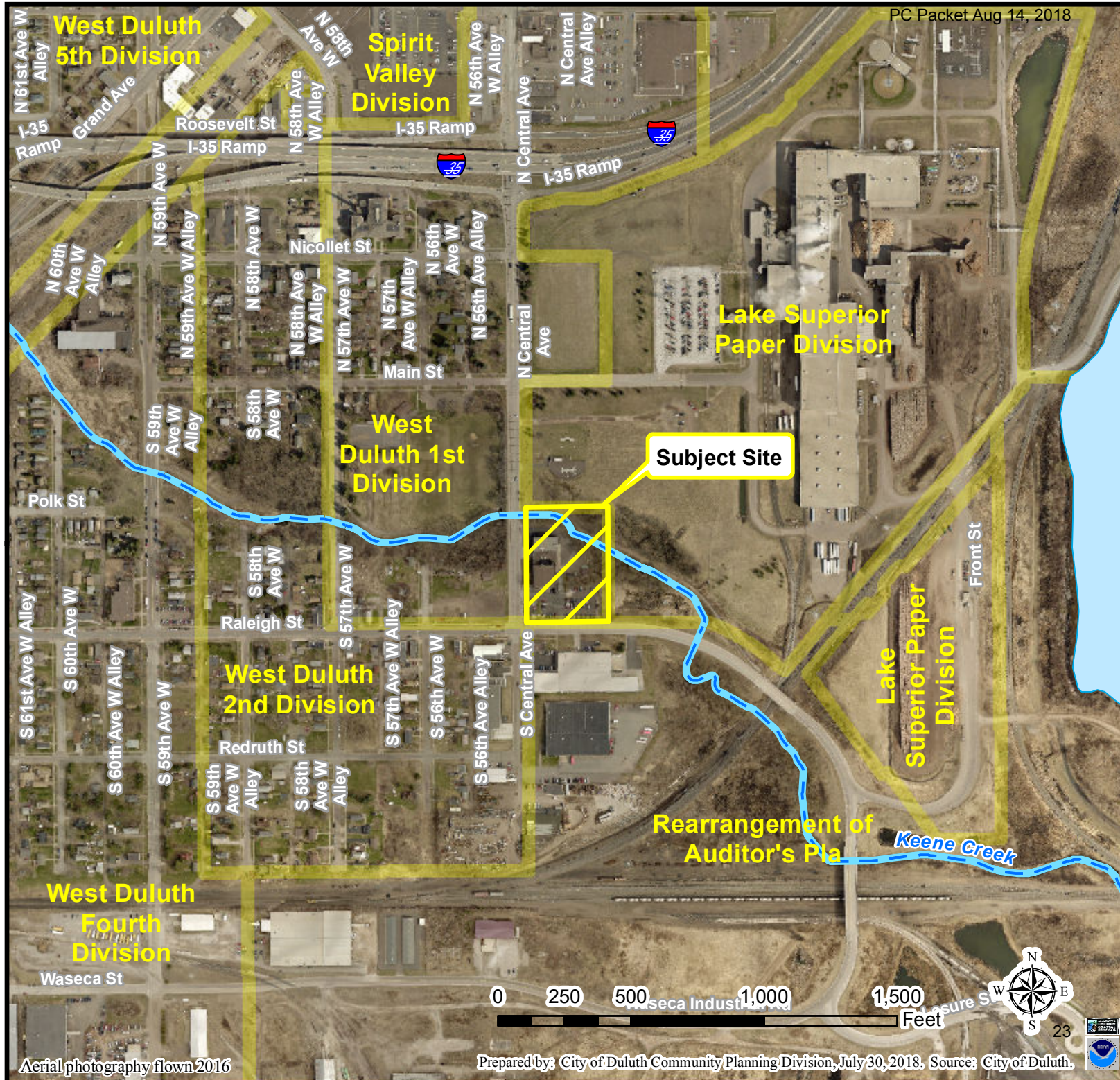
Staff Recommendation

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

- 1) The project be limited to, constructed, and maintained according to plans by Krech Ojard titled "Moline 114 Building Expansion," Sheet EX B dated 7/10/2018, and Sheet, CSK 3 dated 6/7/2018, and plans by SAS + Associates titled "Moline Building 22," Sheets L-1 and L-2 dated 6/10/2018 and 7/10/2018 respectively.
- 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.



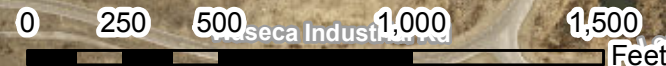
PL18-089
Moline Stream Setback Variance
114 S. Central Ave.



Legend

- Subdivision Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)

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PL18-089
Moline Stream Setback Variance
114 S. Central Ave.

PC Packet Aug 14, 2018

Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
 - CITY OF DULUTH
 - WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Lots
- Parcels
- 1 Ft contour
- 10 Ft contour
- Subdivision Boundaries

Boundary Lines

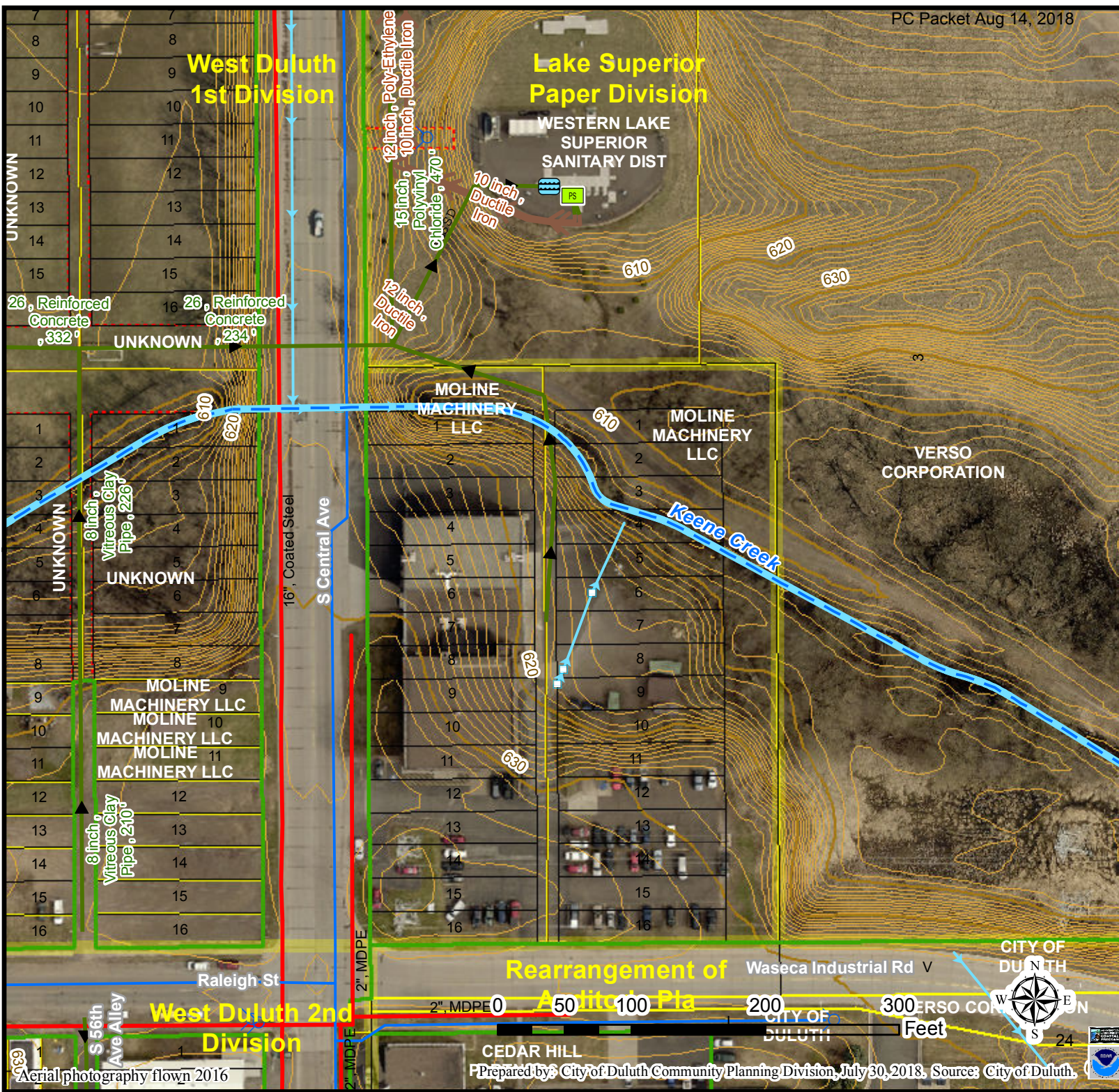
- <all other values>

Subtype, ROW_TYPE

- Lot Line
- Parcel Line
- ROW (Road)
- ROW (Not Road)
- Subdivision Line
- Water Line
- Survey Line
- Municipal Boundary

Easement Type

- Utility Easement
- Other Easement
- Trout Stream (GPS)
- Other Stream (GPS)



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PL18-089

Moline Stream Setback Variance
114 S. Central Ave.

PC Packet Aug 14, 2018

Legend

Easement Type

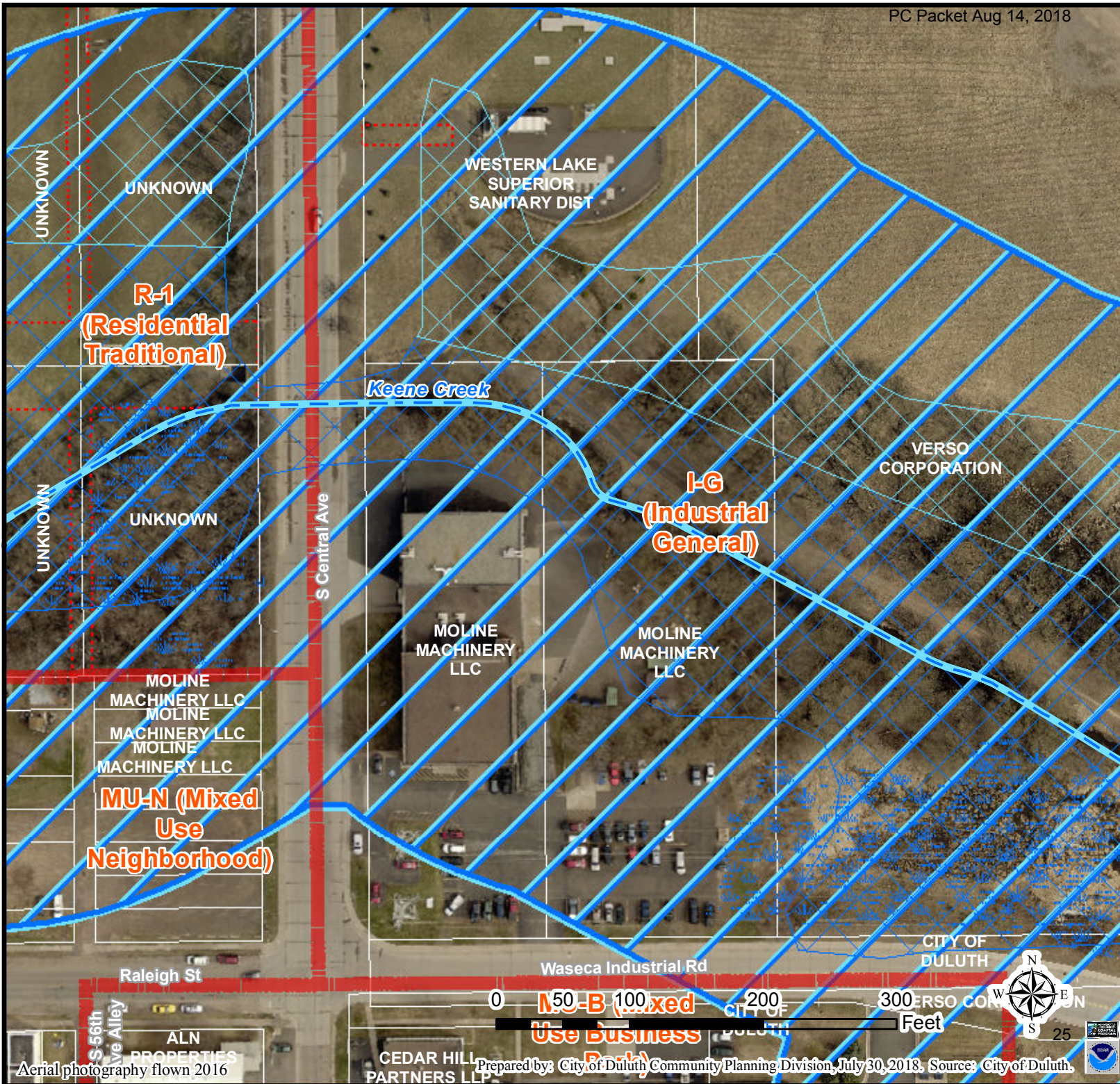
- Utility Easement
- Other Easement
- Zoning Boundaries

Floodplain (UDC)

- General Flood Plain
- Flood Way
- Flood Fringe

Shoreland (UDC)

- Cold Water
- Natural Environment
- General Development
- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRR1)



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Aerial photography flown 2016

CEDAR HILL PARTNERS LLP

Prepared by: City of Duluth Community Planning Division, July 30, 2018. Source: City of Duluth.





PL18-089

Moline Stream Setback Variance
114 S. Central Ave.
Future Land Use

PC Packet Aug 14, 2018

Legend

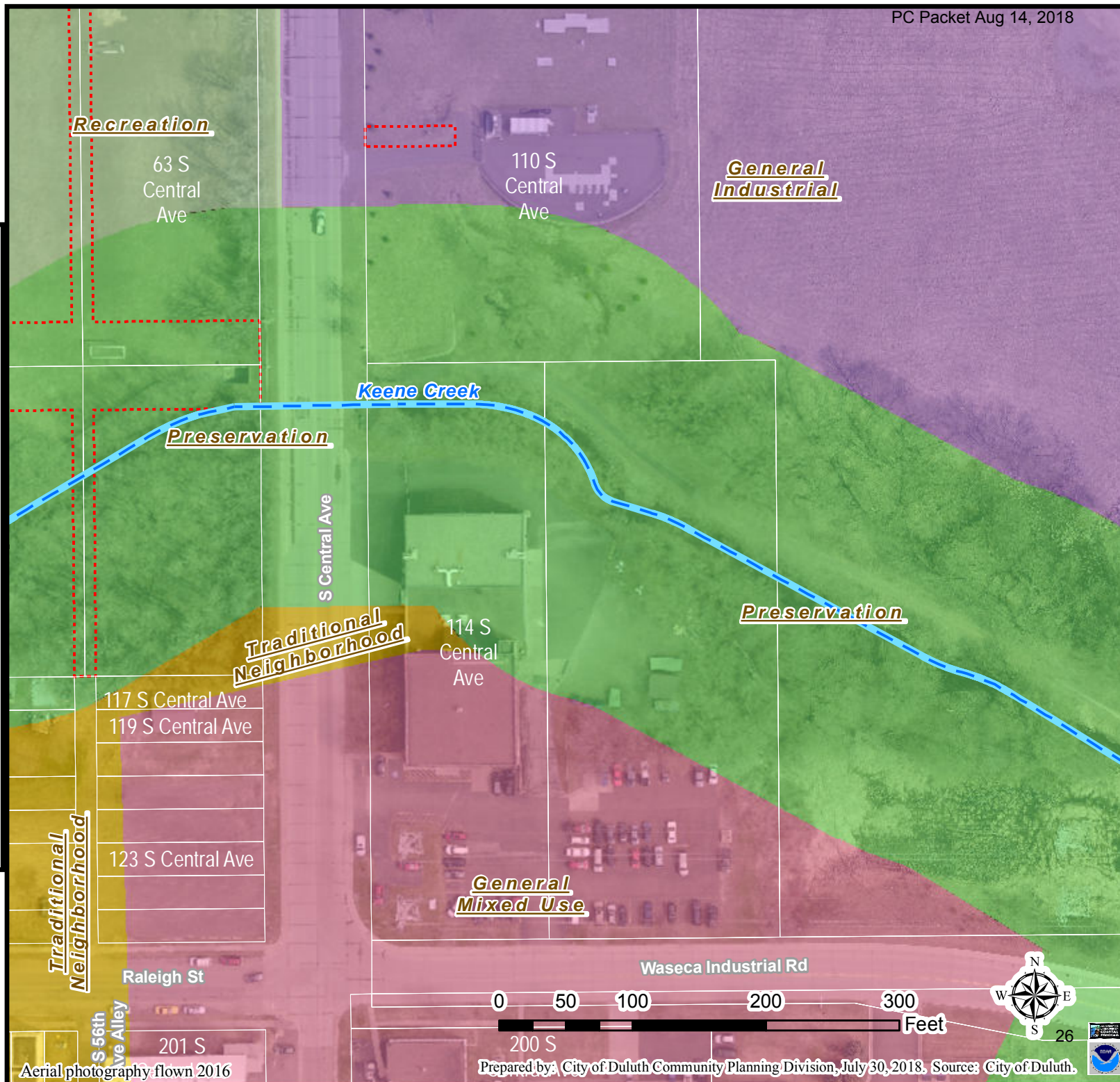
Easement Type

- Utility Easement
- Other Easement
- Trout Stream (GPS)
- Other Stream (GPS)

Future Land Use - Plus

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

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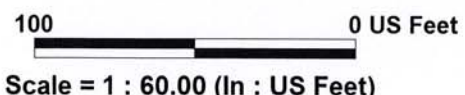
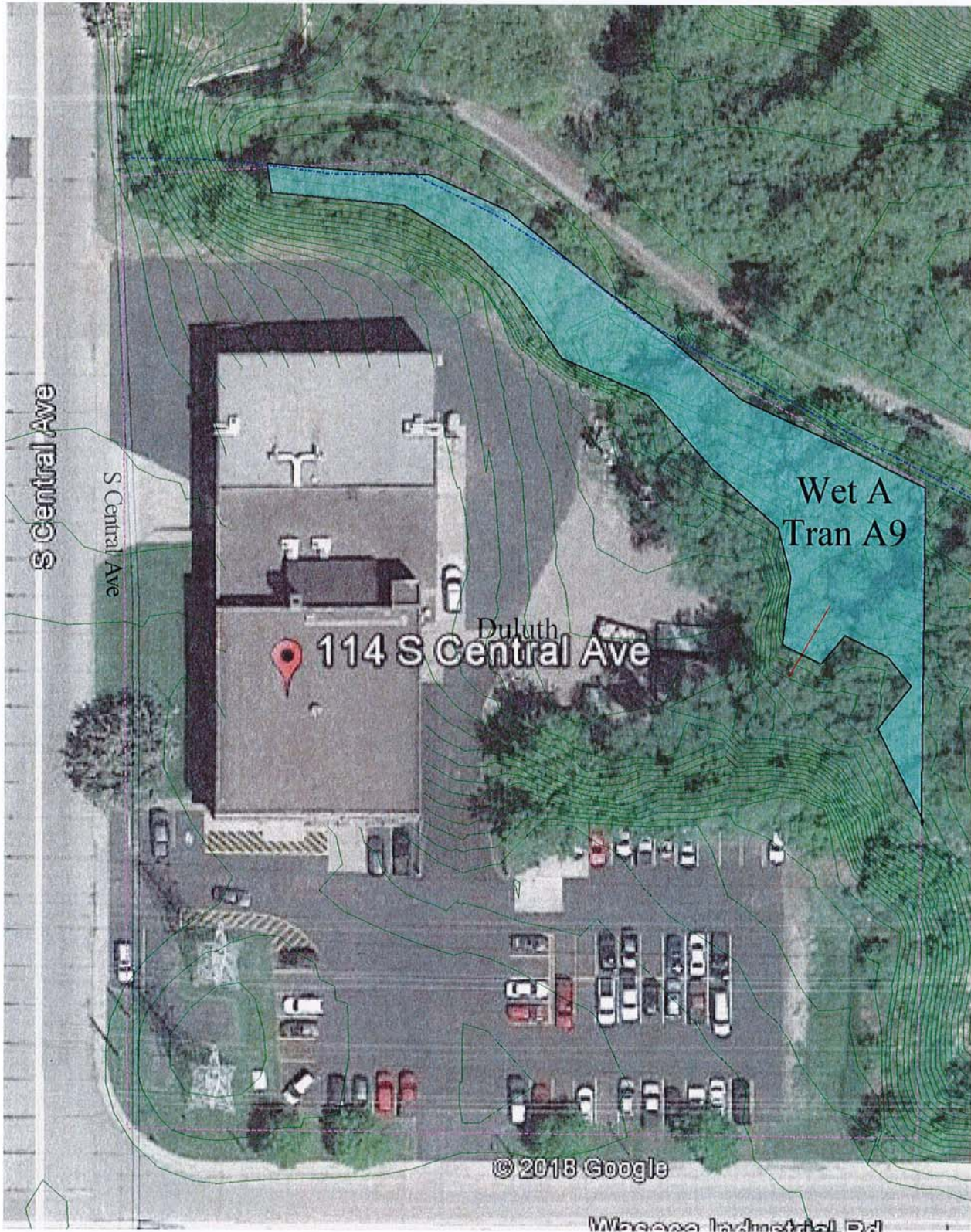


Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, July 30, 2018. Source: City of Duluth.



Wetlands over 1' contour + 6-5-18 Photo. Moline Machinery, 114 S Central Ave, Duluth, S18, T49N, R14W





City of Duluth

DEPARTMENT OF PUBLIC WORKS/UTILITIES
Engineering Division
211 City Hall • Duluth MN 55802
(218) 730-5200 Fax: (218) 730-5907

PRELIMINARY DESIGN SUBMITTAL WORKSHEET AND MEETING

A preliminary storm water management design meeting is required for all projects that must meet the requirements of the UDC and Engineering Guidelines. This process allows for a discussion of the proposed development in the context the Community Drainage System and the temporary and permanent stormwater management requirements by the MPCA and the City of Duluth.

Date: 6/7/18 Date of Meeting: 6/7/18 Est. Project Start Date: Summer 2019

Project Name/Owner: Moline Building Addition / Moline

Project Location: 114 S. Central Ave. Duluth, MN

Engineering Firm/Engineer: Krech Ojard & Associates / Scott Stempihar

Project Narrative: (Include the scope of project and clearly describe predevelopment and post development site conditions. Discuss UDC requirements; water quality treatment, and discharge rate, volume and temperature controls. Discuss how project will consider Conservation/Low Impact Design Methods to the Maximum Extent Practical).

SEE ATTACHED

The PSP doesn't have to be CADD developed as long as it is clearly drawn showing a minimum of:

- PSP to be on 11 x 17 sized sheets
- Overall concept(s) of Development
- Predevelopment site plan with existing utilities and roads, and topography
- All existing and proposed catchment areas roughly delineated with flow arrows
- NR-O Map (floodplain type, shoreland class and stormwater rate control zone)
- All wetlands both delineated and potential areas shown
- Show down gradient conveyance routes from site (property ownership, receiving waters...)

PRELIMINARY DESIGN SUBMITTAL WORKSHEET AND MEETING

Moline Building Addition

Date: June 7, 2018

(Revision B, 06/07/18)

PROJECT NARRATIVE:

Moline is proposing a 17,000 s.f. building addition to their current 16,000 s.f. building and make improvements to the existing parking lot and driveways. The projects property is approximately 2.9 acres with 1.6 acres of existing impervious surface. Keene Creek, which is a designated cold water/trout stream, runs through the northern part of the property; therefore, the property is located within a Shoreland and Food Plain Overlay District. Currently, there are no stormwater BMP's to control runoff rate, volume, temperature or pollutants prior to discharging to Keene Creek. Overall, the post development impervious surface conditions will not differ all that drastically from the pre-development conditions as the building addition is planned for area that is mostly impervious surface to begin with. The driveways and parking lots have proposed modifications that will reduce the amount of pavement from the current condition; therefore, helping to offset some of the added impervious surface from the building addition. Also, as part of the redevelopment, stormwater BMP's will be installed to comply with the City's stormwater regulations. To mitigate the negative impacts the current site has on the Creek, the proposed project is considering the following BMP's and Low Impact Design Methods. The methods and designs listed or shown on the preliminary plans are subject to change during the design process; however, the project team is committed to meeting the regulations and improving the overall quality of stormwater runoff leaving the site.

- Consider Installing a Detention/Biofilter Area
- Consider Installing a Water Quality Manhole
- Attempt to reduce impervious surface from existing conditions if not, minimize net the gain to the maximum extent practicable.
- Attempt to Reduce the amount of runoff that directly discharges to Keene Creek
- Focus on treating high pollutant generating areas (Parking Lots/Driveways) as a priority.

PRELIMINARY STORMWATER MANAGEMENT CODE SUMMARY

DEVELOPMENT TYPE:..... Redevelopment
 ZONE: B (Below the Bluff Line)
 OVERLAY DISTRICTS WITHIN PROPERTY: Shoreland Area – Coldwater River (Keene Creek)
 Flood Plain

TOTAL SITE AREA:..... 2.90 AC
 PRE-DEVELOPMENT IMPERVIOUS SURFACE AREA: 1.61 AC
 POST DEVELOPMENT IMPERVIOUS SURFACE AREA: 1.67 AC
 CHANGE IN IMPERVIOUS SURFACE AREA:..... 0.07 AC

July 10th, 2018

RE: Moline Building Addition - Variance Application
114 S. Central Ave.
Duluth, MN 55807

Project Background

Moline Machinery LLC (Moline) identified the need to make long term facility improvements in 2015 and has been working for 3 years to develop the proper plan. Early in the process Moline recognized that their existing facilities, consisting of 5 buildings in West Duluth, all have land constraints that create development challenges. Moline also looked at other big picture options to consolidate into a single site or a dual site operation. Two attractive new sites were identified and vetted. Factors considered in the decision-making process included UDC requirements, environmental impacts, cost, debt requirements, impact on existing business operations, employees and other factors. After much consideration, Moline selected to further pursue expansion at their existing 114 S Central Avenue site as their preferred option. All options considered are summarized below.

Option 1 - North Waseca Industrial Park-Duluth, MN

This is a site close to 9 acres consisting of 3 parcels owned by Hallett Dock Co. and Boxer Investments. The properties are available for purchase and development and they are located ½ mile from Moline's existing facilities. Rail/utility easements and wetlands on the site reduce the actual buildable space to approximately 5 acres. This property is near the St. Louis River/Interlake Tar Superfund site and has known soil contamination and poor geo-technical structure for an industrial facility foundation. Moline invested significant time and money in the site to develop a 45,000-sq.-ft. parts fabrication facility and retain its modern assembly and R&D Center nearby on 200 S Central Avenue. Moline engaged DEDA for economic development assistance, but the package offered was not enough to offset the high costs to develop this site so Option 1 was abandoned in early April 2018.

Option 2 - Winter Street Site-Superior, WI

This is a 9-acre site owned by The City of Superior which would accommodate a 110,000-sq. ft. single site manufacturing facility. The investment required is in the \$15mm range and is supported by attractive TIF and Land Grant incentives with The Redevelopment Authority of The City of Superior. Moline invested in site development planning, engineering and legal costs to purchase an option on the site and incentives that run until 12/31/18 with the City of Superior. Option 2 is still a possibility for Moline if they are unable to reasonably expand in Duluth.

Option 3 – 114 S. Central Ave- Duluth, MN (Preferred Option)

This is property currently owned by Moline which has a 16,000 sq.- ft. building used for their manufacturing process. Moline commissioned a study to add approximately 17,000 -sq. ft. to this facility to create a dual site operation similar to Option 1 for parts fabrication. This site is greatly restricted by setback requirements, largely due to Keene Creek (a coldwater river) that bisects the property and a MN Power Transmission line easement on the south end of the property. However, after some preliminary study, this option does have a lot of potential pending less restrictive setbacks. The proximity to their other buildings keeps the “campus” feel and creates better overall efficiencies; The area of proposed expansion is mostly developed which will lessen overall environmental impacts; and it appears to make financial sense from construction and operational standpoints.

Option 4—602 59th Ave West-Duluth, MN

This is property currently owned by Moline which has a 16,000 sq. – ft. building used for their manufacturing process. Moline commissioned a study to add approximately 18,000 sq.- ft. to this facility to create a dual site operation similar to Option 1 for parts fabrication. Moline would need to acquire adjacent property from Hallett Dock Co. for the addition, parking and BMP for storm water. This is possible, but the property owned by Hallett in this area has been re-plotted and much of it is under contract with IPS Cranes limiting Moline’s design options. It is also located within the St. Louis River/Interlake Tar Superfund site with corrective soil requirements and thus, difficult and costly to develop. This Option has not been fully rejected, but due to the above issues and increased distance from our S Central Avenue facilities, it is not a desirable option.

Variance Application Supplemental Form Attachment

Moline Machinery is seeking relief from the Shoreland Dimensional Standards for structures and impervious surfaces from a coldwater river per table 50-18.1.D-1 of the Unified Development Code (UDC). The required setback for structures is 150’ from the ordinary high-water level (OHWL). Moline asking for relief to build 50’ from the OHWL. The required setback for impervious surface is 75’ from OHWL. Moline is asking for relief to allow 9’ from the OHWL.

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

The shoreland setback requirements, along with a Minnesota Power Transmission line easement/setback, roadway right-of-way, the I-G zoning district setbacks and existing building footprint greatly restrict the buildable area for expansion on the property. The total property is approximately 3.23± acres in area (See Exhibit A), over half (1.85± acres) of which is in the 150’ shoreland structure setback area. When combined with the aforementioned restrictions on the property, approximately 95% (134,000± sq.ft.) of the property is constrained. The remaining buildable area (6,700± sq. ft.) is not only

limited in size, but also geometrically (irregular); therefore, inhibiting expansion opportunity. See Exhibit B for property restrictions and setbacks. The strict application of the UDC requirements would prevent the owner's ability to reasonably add on to their existing building to accommodate their growing business operation.

The existing impervious driveway and parking/laydown area servicing the rear side of the existing facility falls within the 75' shoreland impervious surface setback. This surface was built prior to the creation of the setback restrictions and is therefore technically grandfathered in; however, Moline is officially seeking relief from this standard to ensure that this area can remain as impervious surface indefinitely. Strict application of the UDC requirements would limit functionality of the building by restricting access for material transport and storage. In addition, fire emergency access to the back of the building would be limited, causing a concern for public safety.

- 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:*

The setback requirements were not created by the owner or its predecessors-in-interest, but rather by the city standards following DNR guidelines. The setbacks were established after the original buildings were built; therefore, any reasonable building expansion outside of the transmission line easement falls within the shoreland setback area. The transmission line location/easement was not created by the owner or its predecessors-in-interest, but rather petitioned in court by Minnesota Power & Light Company in 1943. There is no opportunity for Moline to request relief from the power company easement/setback. This space is currently occupied by their transmission line and is restricted for maintenance and more importantly, for safety reasons.

- 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.*

The special circumstances applying to this property are limited to only a select few properties in the area. Very few properties in the general vicinity have a coldwater river traveling through or near their property to where they are restricted by such a large setback. There are even fewer properties that are restricted by shoreland setbacks from the coldwater river AND the Minnesota Power transmission line easement to such a degree as this property.

- 4. Please explain how the application proposes to use the property in a reasonable manner, that not is permitted by this code.*

The applicant proposes to continue to use the property as it is currently being used, therefore the variance relief will not create an unreasonable use of the property, but rather allow for growth opportunities. The expansion will create much needed floor space to move additional equipment and material into this building and combine certain

process under one roof. As a result, this will free up room at their other nearby building locations; therefore, improving those building efficiencies and creating the ability to grow as a company.

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 proposed development is modest in scale and meets building height restrictions and setbacks from property lines; therefore, it will not impair an adequate supply of light and air to adjacent properties. It's intended for manufacturing activity which will not result in an unreasonable increase to congestion in public streets. The building will be designed to meet fire code and other building safety codes to limit the danger of fire or put the public at greater risk. In conjunction with the new addition, the exterior of the existing building will be renovated to create one clean uniform look that will meet or exceed the general character of the neighborhood. In addition, Moline Machinery strives to maintain a well-kept site that is visually pleasing to the public. This will reduce the risk of diminishing property values within the surrounding area. Overall, the proposed project meets the other prescriptive requirements of the UDC and will not negatively impact its neighbors or impair the health, safety or public welfare of the inhabitants of the City of Duluth.

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

The project is otherwise proposed to be in compliance with other requirements of the zoning code to not substantially impair the intent of this Chapter, official zoning map and will not alter the essential character of the neighborhood.

7. *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. Section L. (Shorelands) applies to the variance request. The setback variance for a coldwater river requested is mitigated by the following site improvements to the existing property.

Stormwater Management:

To mitigate the impacts of the stormwater runoff from the site to Keene Creek, stormwater Best Management Practices (BMPs) will be installed to meet or exceed the City's stormwater regulations. Currently, there are no stormwater BMPs on the existing site to control runoff rate, volume, temperature or pollutants prior to discharging to

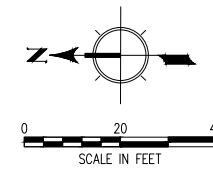
Keene Creek. Overall, the post development impervious surface conditions will not drastically differ in quantity from the pre-development conditions as the building addition is planned for an area that is mostly impervious surface. The driveways and parking lots have proposed modifications that will reduce the amount of existing pavement; therefore, helping to minimize the amount of new impervious surface created. See attached "Preliminary Stormwater Management Design Submittal Worksheet and Meeting" package for conceptual information.

Landscaping

To mitigate the setback variance for impacts of impervious surfaces and buildings in the shoreland setback area, landscaping is proposed around the existing parking lot that is planned to be reconfigured through removal of impervious surface, resurfacing and re-striping. Typically, this work would not trigger additional landscaping requirements, however as a mitigation measure for the structure setback, the project is proposing to incorporate measures to the extent practicable and allowable due to site restrictions (Power Transmissions Lines). See attached landscaping plan for conceptual ideas.

Environmental Stewardship

Moline Machinery is not only vested in the community, but the environment as well. They are good stewards to the creek by regularly cleaning out debris (which routinely consists of shopping carts from the nearby Super One). They have been and will continue to be good neighbors to the stream and surrounding neighborhood.



LEGEND

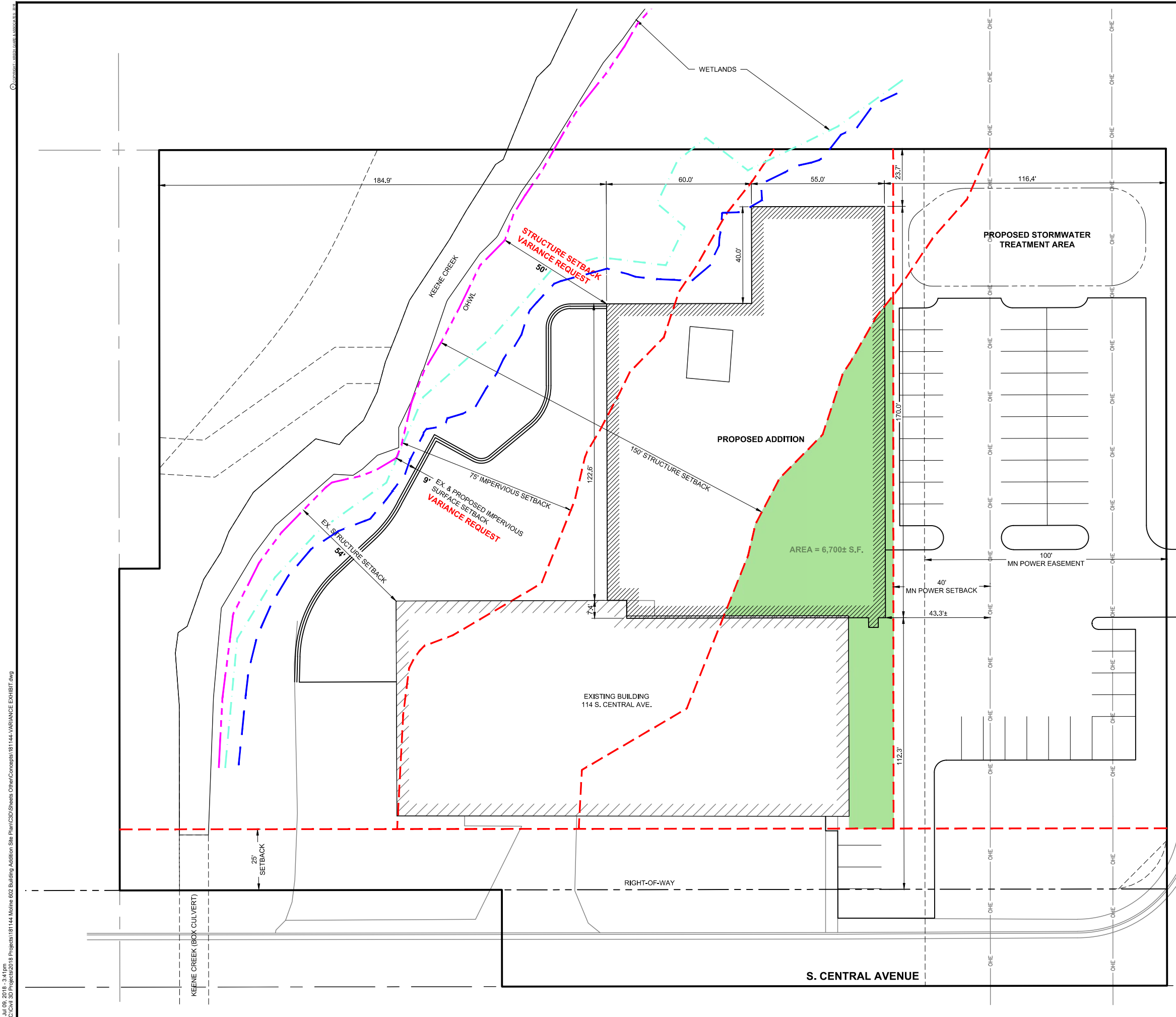
- OHE — OHE — TRANSMISSION LINE (CENTERLINE)
- PROPERTY BOUNDARY
- RIGHT-OF-WAY
- EASEMENT
- WETLAND BOUNDARY
- SETBACK LINE
- *100-YR* FLOOD PLAIN
- BUILDABLE STRUCTURE AREA (IF ADHERING TO SETBACK REQUIREMENTS)

NOTES:

1. WETLANDS DELINEATED BY SOIL & WATER - ENVIRONMENTAL CONSULTING (SWEC REPORT JUNE 12, 2018)
2. FLOOD PLAIN ELEVATION DETERMINED FROM INTERPOLATION OF FLOOD INSURANCE RATE MAP 270421 0040 D (NOV 4, 1992). FLOOD ZONE A "100-YR" = 612.5 NGVD 29 (612.58 NAVD 88).
3. FIELD SURVEY PERFORMED BY KRECH OJARD & ASSOCIATES TO ESTABLISH FLOOD ZONE BOUNDARY.
4. FIELD SURVEY PERFORMED BY KRECH OJARD & ASSOCIATES TO DETERMINE ORDINARY HIGH WATER LEVEL (OHWL).

PRELIMINARY
NOT FOR CONSTRUCTION

WASECA INDUSTRIAL ROAD



KRECH OJARD
Engineers & Architects
& ASSOCIATES, INC.
REGIONAL OFFICE
910 HAMMOND AVENUE
SUITE 300
DULUTH, MINNESOTA 55802
PH: 218.272.8282
FAX: 218.272.1216
www.krechojard.com

NAME: SCOTT L. STEPHAN
SIGNATURE:
DATE: 07/10/18
LIC. No.: 47565

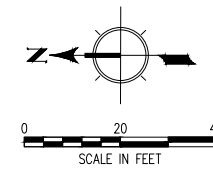
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DATE	REV.	DESCRIPTION	DWN. BY:	CKD. BY:
07/10/18	A	VARIANCE APPLICATION	STS	STS

MOLINE
114 BUILDING EXPANSION
DULUTH, MINNESOTA
STRUCTURE AND IMPERVIOUS SETBACKS

REV: JOB No: 181144
SHEET:

EX B



LEGEND

- 602 --- EXISTING MINOR CONTOUR
- 610 --- EXISTING MAJOR CONTOUR
- SS SS EXISTING STORM SEWER
- □ EXISTING STORM STRUCTURE
- S — EXISTING SANITARY SEWER
- EXISTING SANITARY STRUCTURE
- - - - - WETLAND BOUNDARY
- ===== PROPERTY LINE
- ===== RIGHT-OF-WAY
- - - - - DRAINAGE AREAS
- FLOW ARROW
- [Pattern] PRE-DEVELOPMENT GRAVEL
- [Pattern] PRE-DEVELOPMENT PAVEMENTS

SITE SUMMARY:

SITE AREA: 2.90± ACRES

PRE-DEVELOPMENT IMPERVIOUS:
 PAVEMENTS: 46,200 S.F.
 BUILDINGS: 16,500 S.F.
 GRAVEL: 7,400 S.F.
TOTAL: 70,100 S.F. (1.61 ACRES)

PRELIMINARY
 NOT FOR CONSTRUCTION

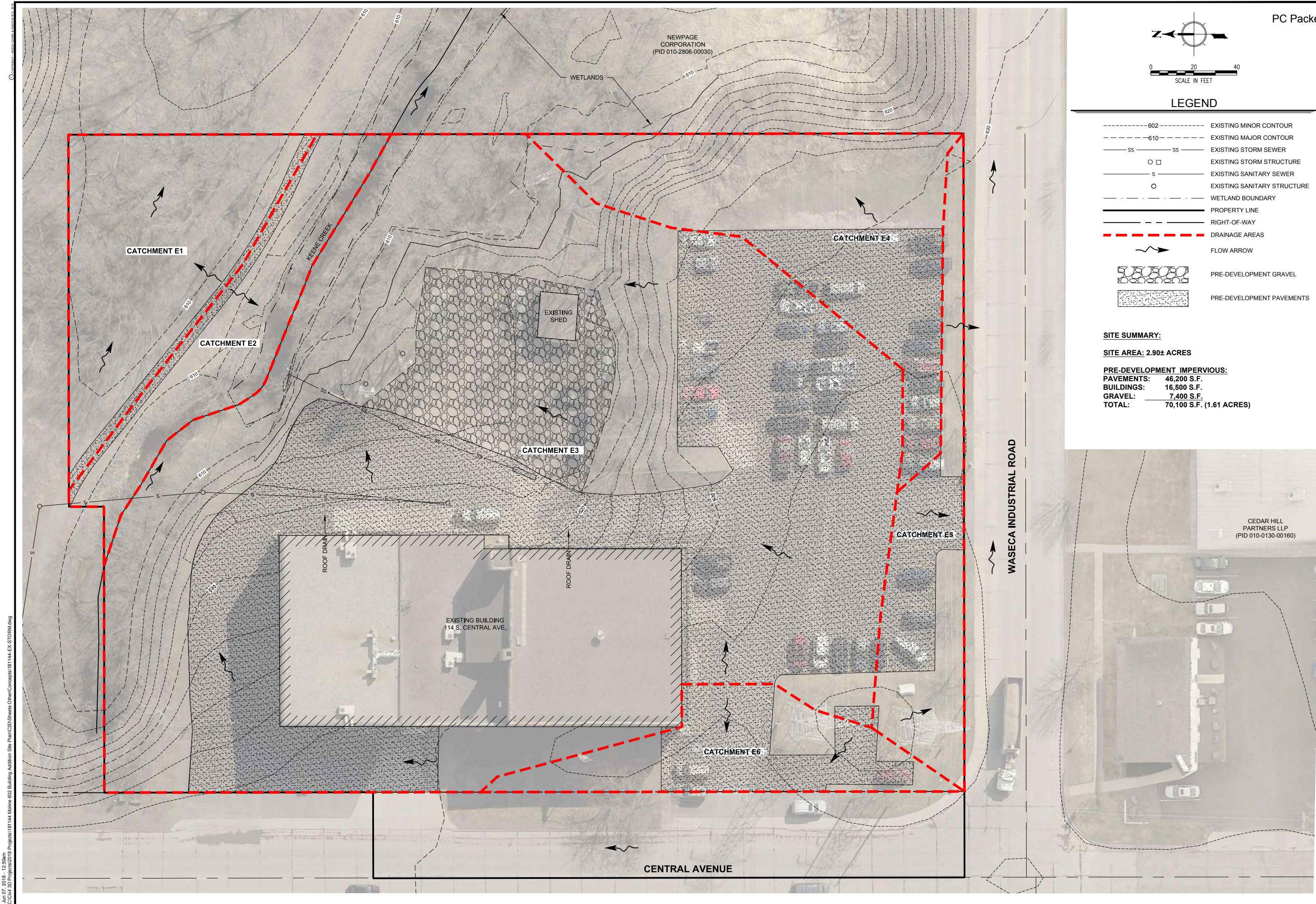
DATE	REV.	DESCRIPTION	DWN. BY:	CKD. BY:
06/07/18	A	PRELIMINARY DESIGN SUBMITTAL	STS	STS

MOLINE
114 BUILDING EXPANSION
 DULUTH, MINNESOTA

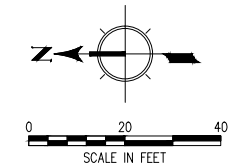
PRE-DEVELOPMENT DRAINAGE CONDITIONS

REV: JOB No: 181144
 SHEET:

CSK₃₆ 1



Jun 07, 2018 - 12:50pm
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LEGEND

- 602 --- EXISTING MINOR CONTOUR
- 610 --- EXISTING MAJOR CONTOUR
- SS SS EXISTING STORM SEWER
- □ EXISTING STORM STRUCTURE
- S — EXISTING SANITARY SEWER
- EXISTING SANITARY STRUCTURE
- - - - - WETLAND BOUNDARY
- — — — — PROPERTY LINE
- — — — — RIGHT-OF-WAY
- - - - - DRAINAGE AREAS
- FLOW ARROW
- █ POST-DEVELOPMENT PAVEMENTS

SITE SUMMARY:

SITE AREA: 2.90± ACRES
EXISTING IMPERVIOUS PAVEMENTS: 39,800 S.F.
BUILDINGS: 33,200 S.F.
TOTAL: 73,000 S.F. (1.68 ACRES)

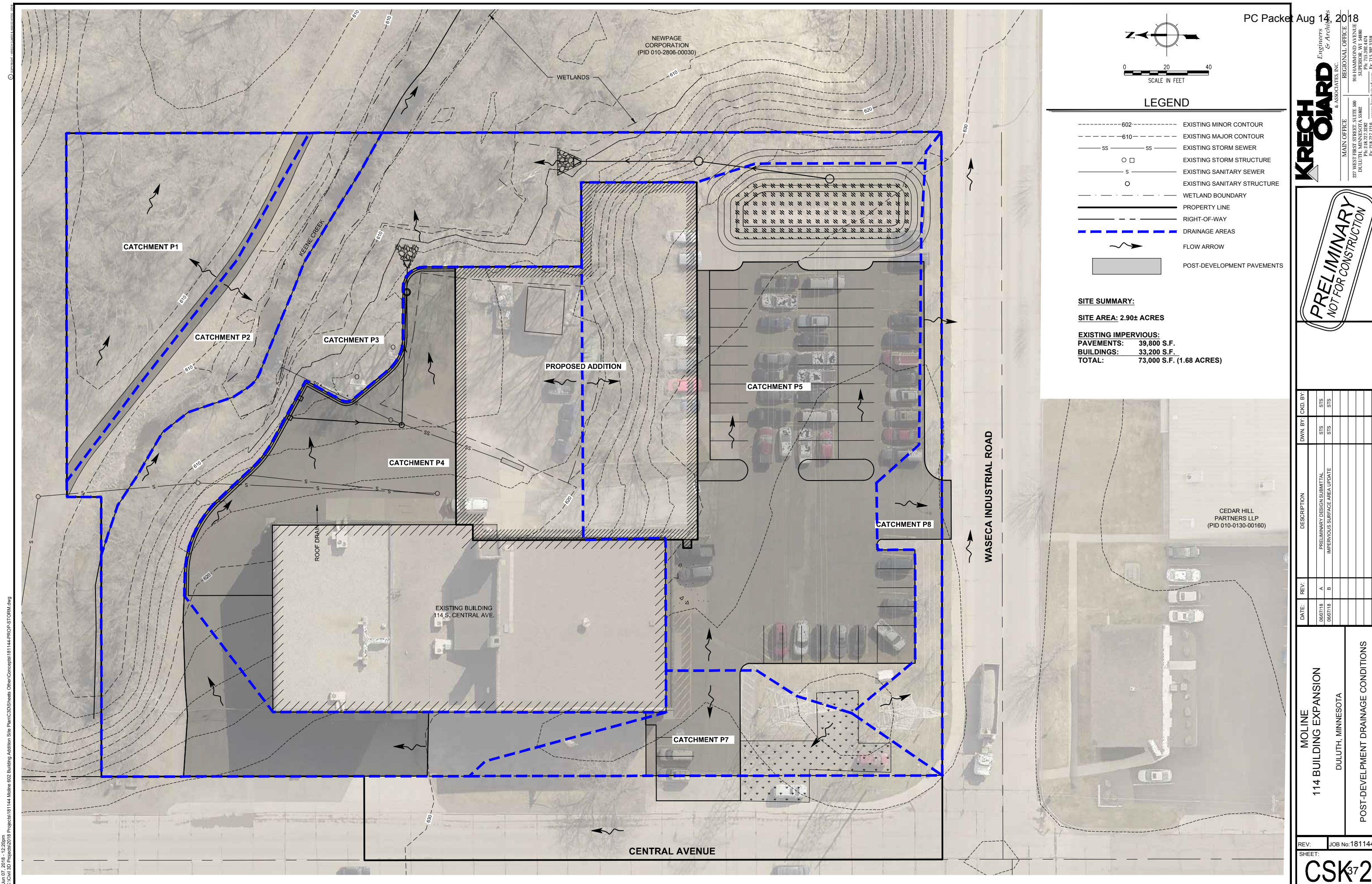
PRELIMINARY
NOT FOR CONSTRUCTION

DATE	REV.	DESCRIPTION	DWN BY	CKD BY
06/07/18	A	PRELIMINARY DESIGN SUBMITTAL	STS	STS
06/07/18	B	IMPERVIOUS SURFACE AREA UPDATE	STS	STS

MOLINE
114 BUILDING EXPANSION
 DULUTH, MINNESOTA
 POST-DEVELOPMENT DRAINAGE CONDITIONS

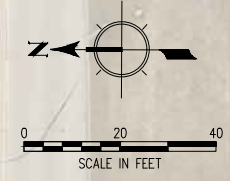
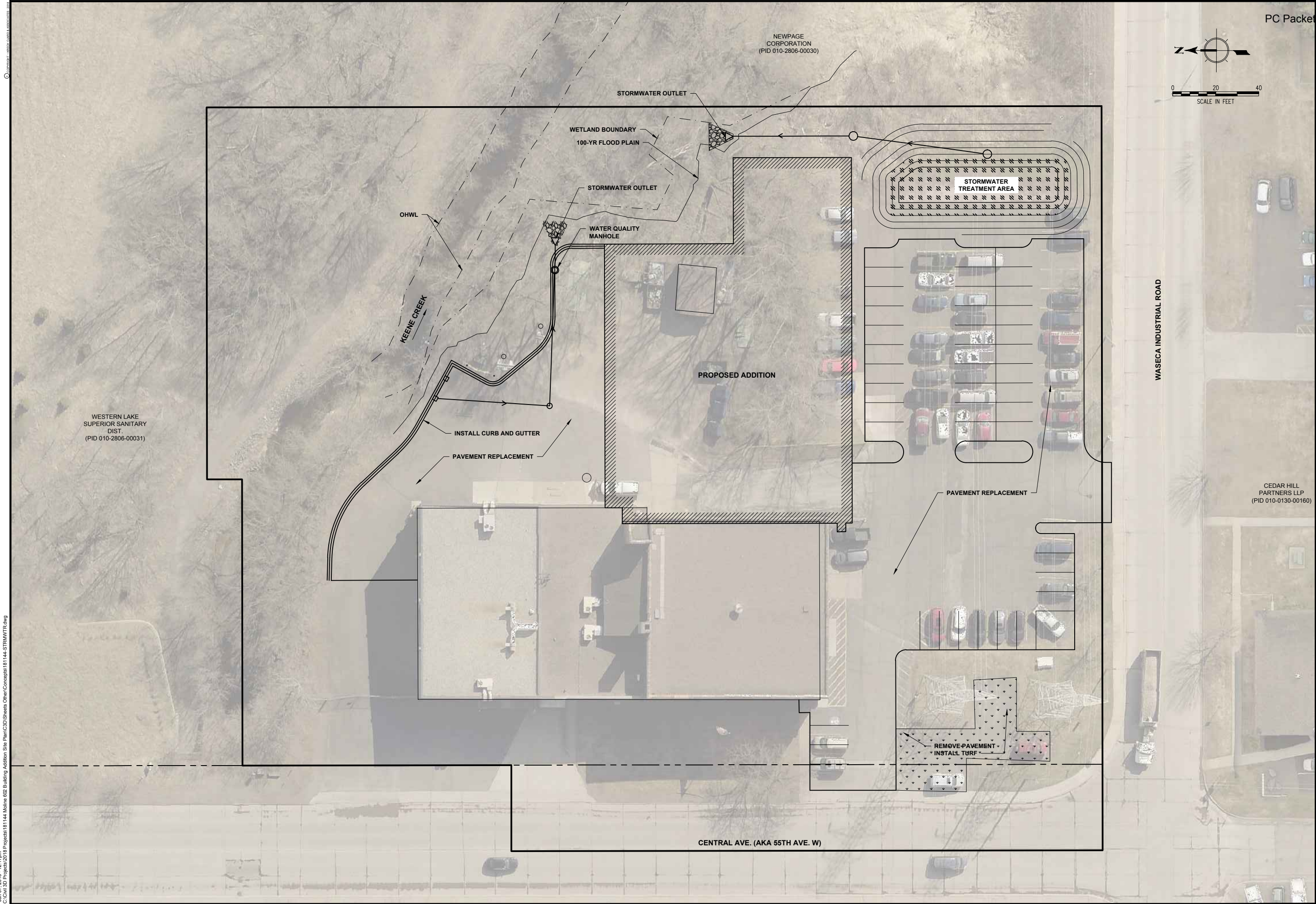
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 SHEET:

CSK72



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Jun 07, 2018 - 12:17pm
 C:\Civi 3D Projects 2018 Projects\181144_Moline 602 Building Addition Site Plans\CAD\Sheets Other\Concepts\181144-STRMWR.dwg



KRECH OJARD Engineers & Architects
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 SUPERIOR, WI 54880
 PH: 218.727.3282
 DULUTH, MINNESOTA 55802
 PH: 218.727.3282
 WWW.KRECHOJARD.COM FAX: 715.392.4338

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 NOT FOR CONSTRUCTION

DATE	REV.	DESCRIPTION	OWN BY	CHK. BY
06/07/18	A	PRELIMINARY DESIGN SUBMITTAL	STS	STS
06/07/18	B	PARKING AREA ADJUSTMENT AND WQ MANHOLE	STS	STS

MOLINE
114 BUILDING EXPANSION
 DULUTH, MINNESOTA
CONCEPT STORMWATER PLAN

REV: JOB No: 181144
 SHEET:
CSK 3

SAS

LANDSCAPE ARCHITECTURE

+ ASSOCIATES

WWW.SASLANDARCH.COM

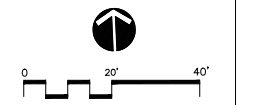
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(F) 218.722.6697

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REVISIONS

NO.	DATE	DESCRIPTION

**MOLINE BUILDING 22
CENTRAL AVE DULUTH, MN
DULUTH, MN**



I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A FULLY LICENSED "LANDSCAPE ARCHITECT" UNDER THE LAWS OF THE STATE OF MINNESOTA.

NAME: LUKE W. SYDOW
SIGNATURE: [Signature]
DATE: 6.01.2018 LIC. NO. 25866

Sheet Title
UDC PLAN

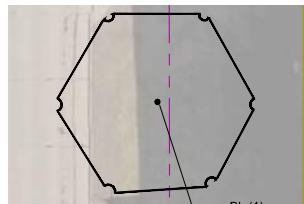
Date: 10 JUNE 2018

Drawn By: LWS

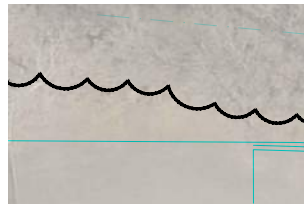
Checked By: LWS

Project Number 18180

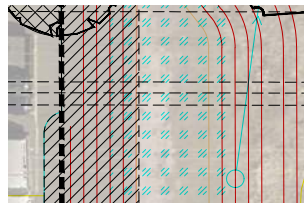
Sheet Number **L-1**



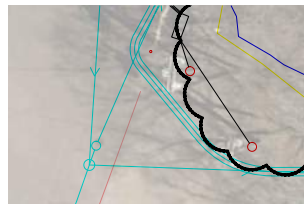
PROPOSED TREE



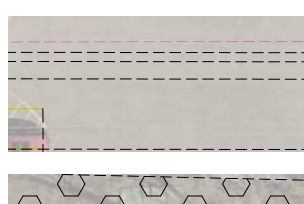
EXISTING TREES TO REMAIN



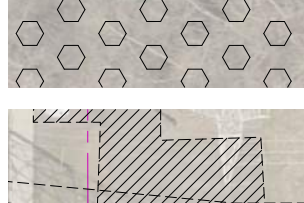
NEW STORMWATER POND



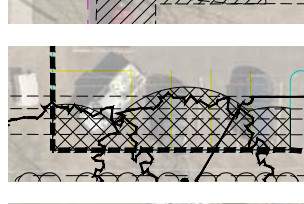
NEW STORMWATER SEDIMENT TRAP - CATCH BASINS



HIGH VOLTAGE POWER LINES - TREE PLANTING RESTRICTED



EXISTING PERVIOUS - +/- 6,450

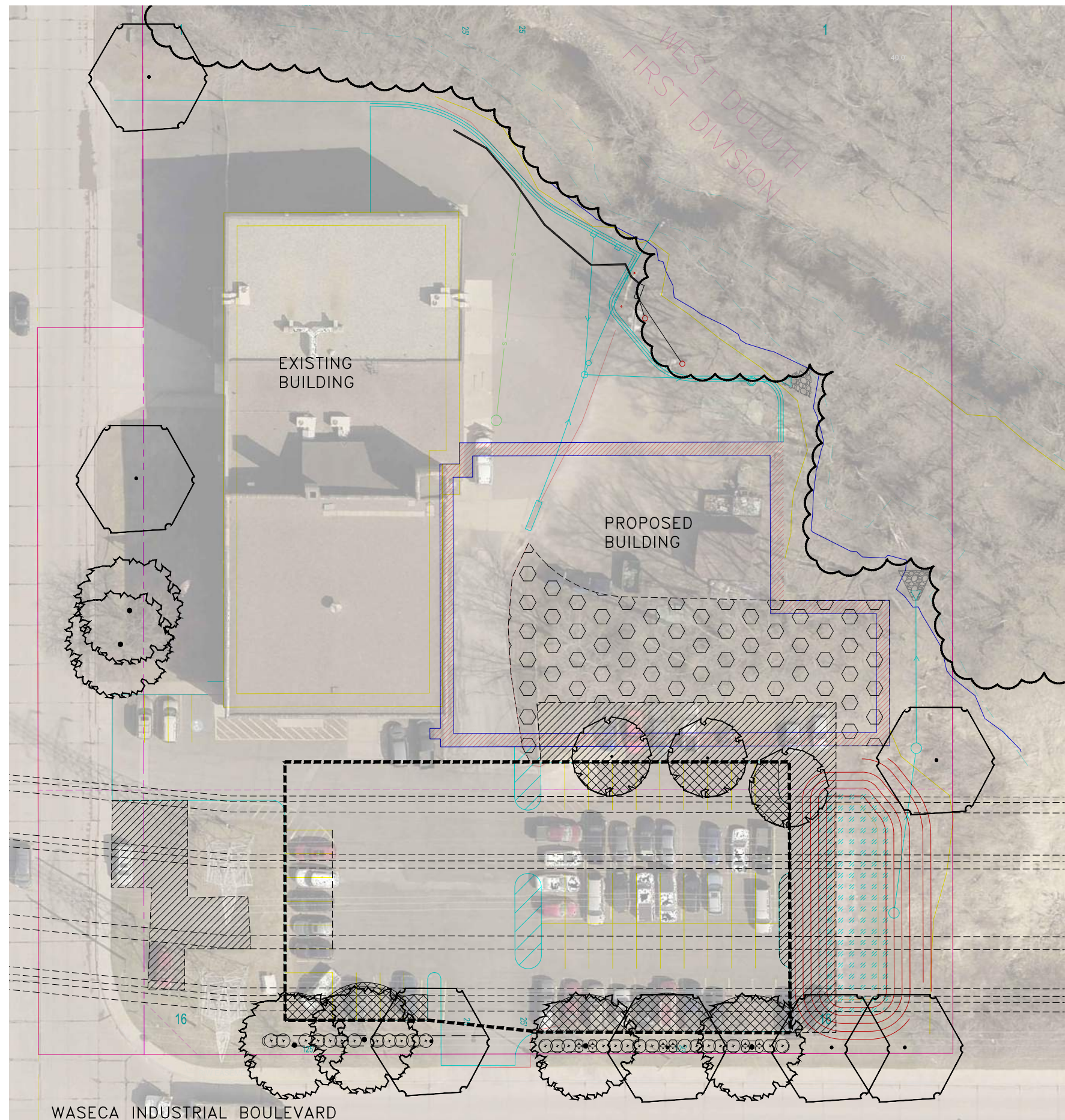


PROPOSED PERVIOUS - +/- 6,460



SHADED AREA +/- 15%

INTERNAL ISLANDS - PAINTED EXISTING ASPHALT LOT

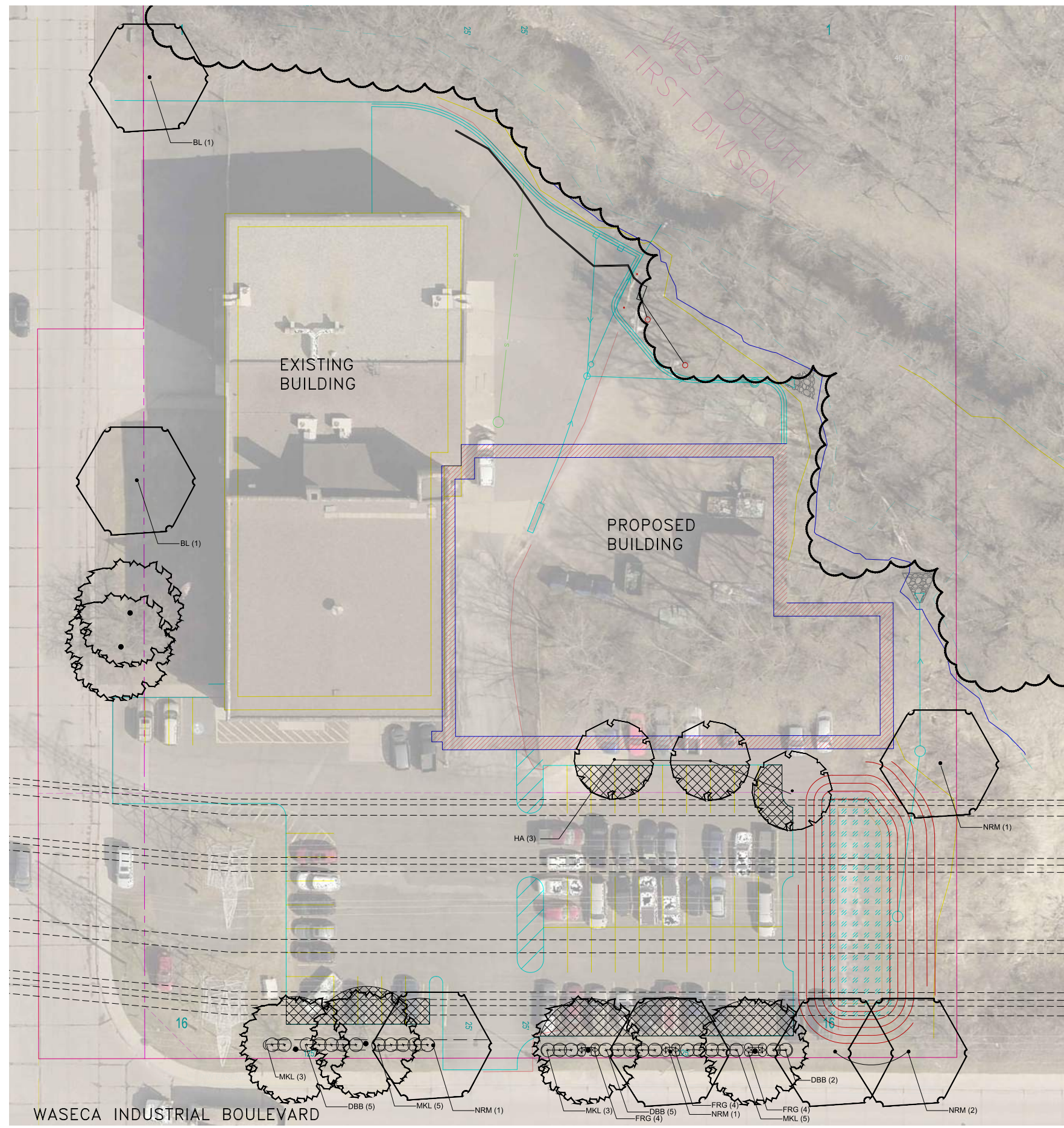


1 UDC AREAS - PLAN
SCALE: 1"=20'

Monday, July 09, 2018 12:58:28 PM 18180 - Moline Addition B1-18180 - Moline Addition.dwg

CALCULATIONS	
PARKING LOT SIZE:	19149 SF (43 SPACES)
INTERIOR LANDSCAPING:	MINIMUM 30% TREE CANOPY REQUIRED REQUIRED: 5744 SF PROVIDED: 2540 SF (15% OF REQUIRED)
INTERIOR ISLANDS:	NA EXISTING PARKING LOT
STREET FRONTAGE #1	WASECA INDUSTRIAL BOULEVARD
LINEAR STREET FOOTAGE: (FOR ADDITION LENGTH)	305 LF
TREES:	1 TREE/35 FT. LINEAR FRONTAGE REQUIRED: 8 TREES PROVIDED: 8 TREES
SHRUBS:	3 LARGE SHRUBS/25 FT. LINEAR FRONTAGE REQUIRED: 36 LARGE SHRUBS/GRASSES PROVIDED: 39 LARGE SHRUBS/GRASSES
ALL SHRUB PLANTING BEDS TO INCLUDE 4" 1" ROCK MULCH WITH LANDSCAPE FABRIC	
ALL DISTURBED AREAS NOT PLANTED WITH SHRUBS/TREES ARE TO BE SODDED	

Landscape Key					
	Common Name	Scientific Name	Size	Type	Qty
Shade Trees					
BL	Boulevard	Tilia americana 'Boulevard'	2.5"	B&B	2
HA	Hackberry	Celtis occidentalis	2.5"	B&B	4
NRM	Northwoods Red	A. rubrum 'Northwoods'	2.5"	B&B	5
Deciduous Shrubs					
MKL	Miss Kim Lilac	Syringa patula 'Miss Kim'	#5	Pot	16
DBB	Dwarf Burning Bush	Euonymus alatus 'Compactus'	#5	Pot	12
Ornamental Grass					
FRG	Feather Reed Grass	C. x acutiflora 'Karl Foerster'	#1	Pot	12
Notes:					
1) The above table is for reference only contractor to bid plans.					
2) Only UDC plantings are shown, additional plantings will be submitted with the construction plans.					



ASSOCIATES

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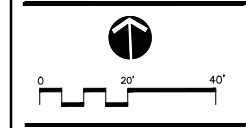
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REVISIONS

NO.	DESCRIPTION

MOLINE BUILDING 22
CENTRAL AVE DULUTH, MN
DULUTH, MN



I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A FULLY LICENSED "LANDSCAPE ARCHITECT" UNDER THE LAWS OF THE STATE OF MINNESOTA.

NAME: LUKE W. SYDOR
SIGNATURE: [Signature]
DATE: 6.01.2018 LIC. NO. 25966

Sheet Title
UDC LANDSCAPE / PLAN

Date: 10 JULY 2018

Drawn By: LWS

Checked By: LWS

Project Number: 18180

Sheet Number: L-2



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL18-092	Contact	Chris Lee, clee@duluthmn.gov	
Type	Variance, setbacks	Planning Commission Date	August 14, 2018	
Deadline for Action	Application Date	July 10, 2018	60 Days	September 8, 2018
	Date Extension Letter Mailed	July 15, 2018	120 Days	November 7, 2018
Location of Subject	3111 Church Street			
Applicant	St Francis Health Services	Contact	Ben Ryan	
Agent		Contact		
Legal Description	PIN # 010-2710-07751			
Site Visit Date	July 30, 2018	Sign Notice Date	July 31, 2018	
Neighbor Letter Date	July 26, 2018	Number of Letters Sent	41	

Proposal

The applicant is proposing a variance from the corner lot side yard setback to construct a 9,182 square foot addition to an existing structure. The new addition will serve the attached assisted living facility on the property. Approximately 12 feet by 60 feet of the structure will be in the side yard setback from the Leonard Street easement. This addition will reduce the setback from the required 25 feet to 13 feet.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	Residential Care Facility	Neighborhood Mixed Use
North	R-2	Multi-Family Dwellings	Neighborhood Mixed Use
South	R-1	School	Neighborhood Commercial
East	R-2	Religious Assembly/Field	Neighborhood Mixed Use
West	R-1 / R-2	Residential Care Facility	Neighborhood Mixed Use

Summary of Code Requirements

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

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

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

Governing Principle #3 Support existing economic base.

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

Governing Principle #13 Develop a healthy community.

Policy #3 – Prioritize inclusive housing policies to reflect the city’s social, cultural, economic, and historic diversity and development patterns

Policy #5 – Expand the cohesiveness of “One Duluth” by expanding a variety of housing opportunities throughout the city while maintaining unique community characteristics within distinct individual neighborhoods

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

The project site is owned by St. Francis Health Services and currently contains a 56,548 square foot care facility constructed in 1960.

Review and Discussion Items

Staff finds that:

- 1) The Applicant is seeking a corner side yard setback variance to build addition that would provide support services to the attached residential care facility. The proposed addition will have a 12-foot by 60-foot part crossing into the highway right of way on Leonard Street. The setback from the Leonard Street right of way is 25-feet. This addition will reduce that setback to 13-feet.
- 2) The applicant is proposing a reasonable use of the site and a residential care facility is a permitted use in an R-2 district. The current zoning of the parcel implements the Comprehensive Plan vision for the site, that being a medium- to high-density residential building and care facility. The proposed addition and the current use fit within that vision and the zoning.
- 3) The parcel is bordered by highway easement on both Leonard Street and Church Place. The addition to the structure is to compliment the uses currently in this part of the building by adding office space, kitchen, laundry, and a stairwell.
- 4) Relief is required from circumstances unique to the property, including the shape of the parcel and the location of the existing building. Currently the south side of the property has the required parking for the use and structure. The proposed construction for building renovations will include a new dining, laundry, physical and occupational therapy rooms, and offices. The foundation on this side of the structure is also deteriorating and this new addition will eliminate the basement and allow for a new foundation with new utilities. The variance area is necessary for providing adequate space to meet accessibility requirements in the proposed addition and will provide uninterrupted service while the remainder of the building gets renovated in the future.
- 5) The proposal will not alter the essential character of the area.
- 6) The applicant will need to provide landscaping plans for future construction including for the parking lot.
- 7) The applicant will need to remove or build a structure around the shipping containers on the southern portion of the parcel.
- 8) No other public, agency or 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 Planning Commission grant the Variance with the following conditions:

- 1) The project be limited to, constructed, and maintained according to the plan submitted by Northland Consulting and Prairie Design dated 7/9/2018.
- 2) A landscaping plan must be submitted with the application for a building permit.
- 3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.

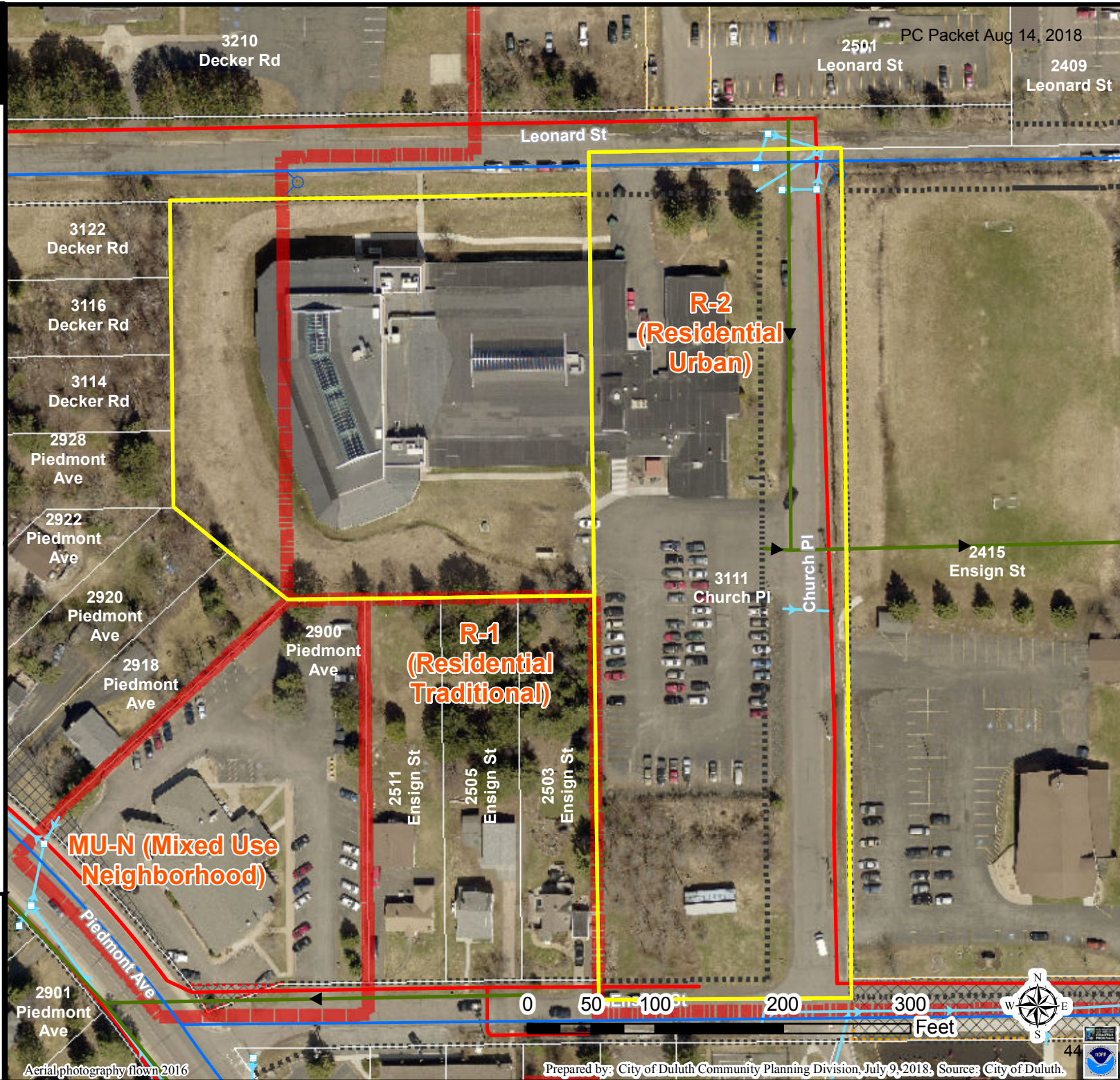


PL 18-092: Setback Variance
3111 Church Place

PC Packet Aug 14, 2018

Legend

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



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

Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, July 9, 2018. Source: City of Duluth.



3111 Church Place

PC Packet Aug 14, 2018

Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

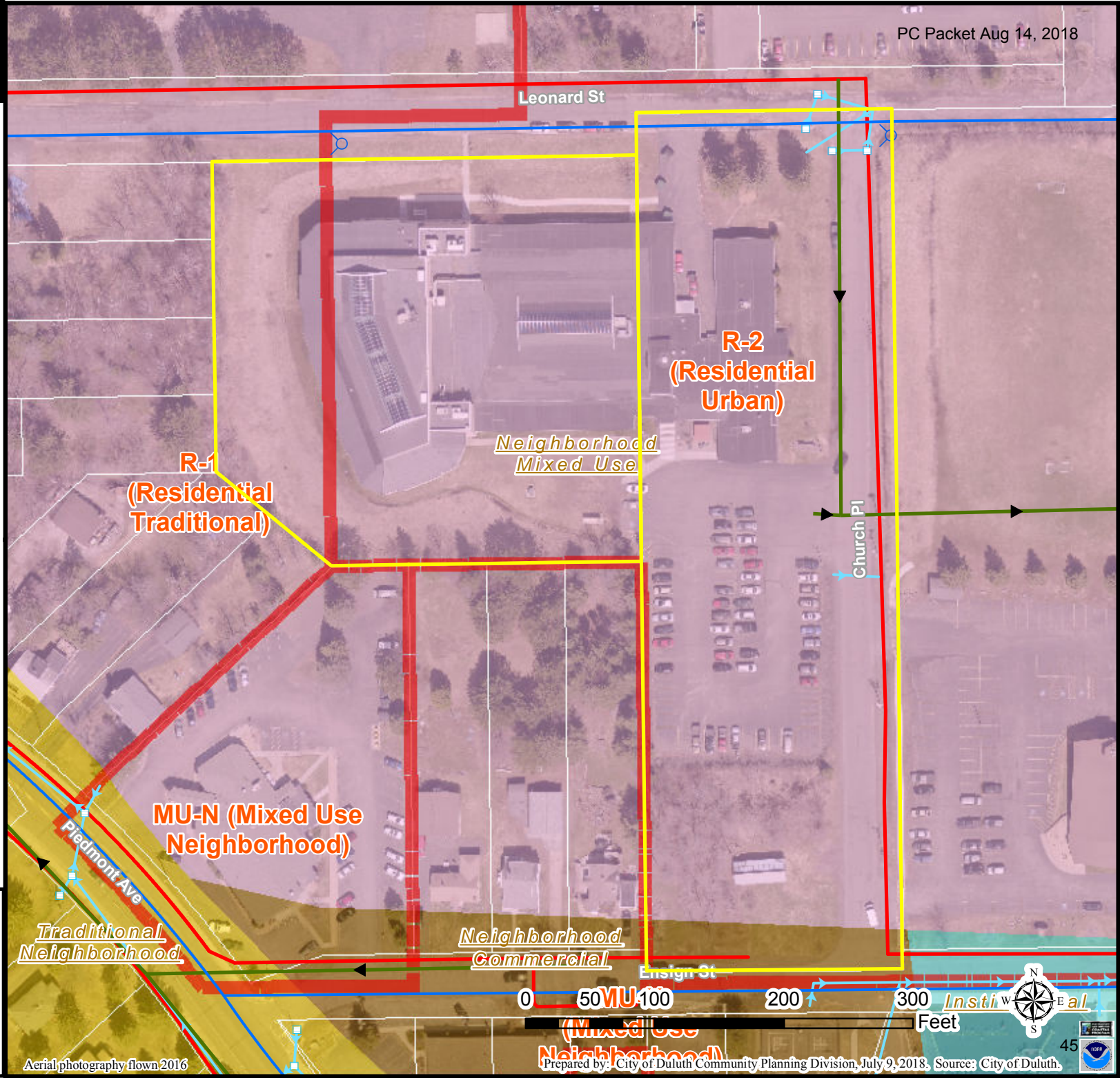
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin

Zoning Boundaries

- Trout Stream (GPS)
- Other Stream (GPS)



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Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, July 9, 2018. Source: City of Duluth.



3111 Church Place

Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

Storm Sewer Mains

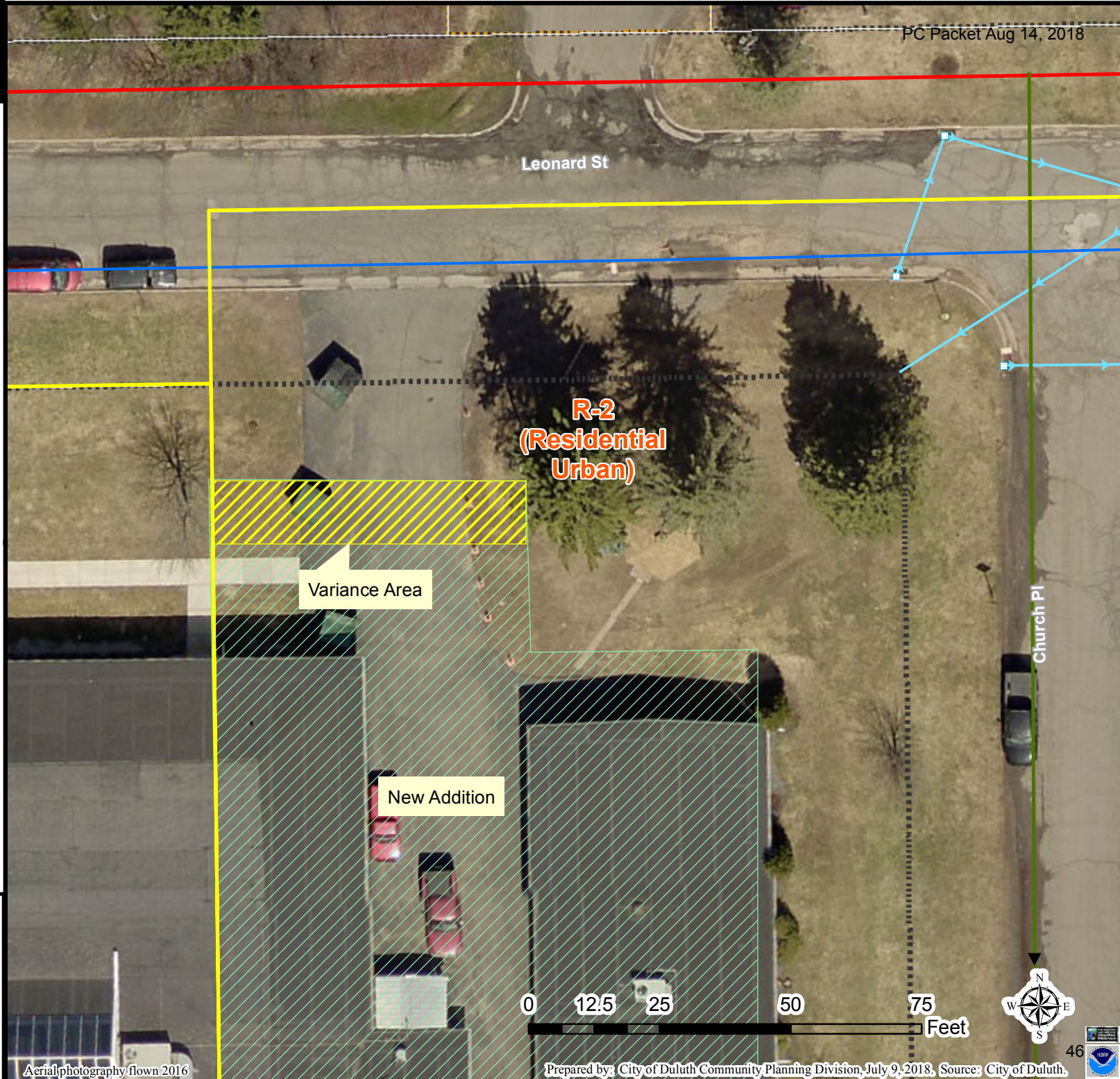
- Storm Sewer Pipe
- Storm Sewer Catch Basin

Road or Alley ROW

-

Easement Type

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



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Northland
 Consulting Engineers, LLP
 103 South 21st Ave, West Duluth, MN 55805
 MN 18-227-9995, 87218-227-7779

DATE: 07-09-18
 PROJECT NO.: 18-278
 DRAWN BY: TIP
 CHECKED BY: DGB

REVISIONS:
 DATE:

PLEASE CHECK THIS PLAN FOR ALL SPECIFICATIONS ON DRAWING AND ALL APPLICABLE PROFESSIONAL STANDARDS AND REGULATIONS OF THE STATE OF MINNESOTA.
 Engineer: David C. Bell Reg. # 4026

PRAIRIE DESIGN STUDIO
 601 SHEPHERD ST., HORACE, ND 58047 / 701-282-2850

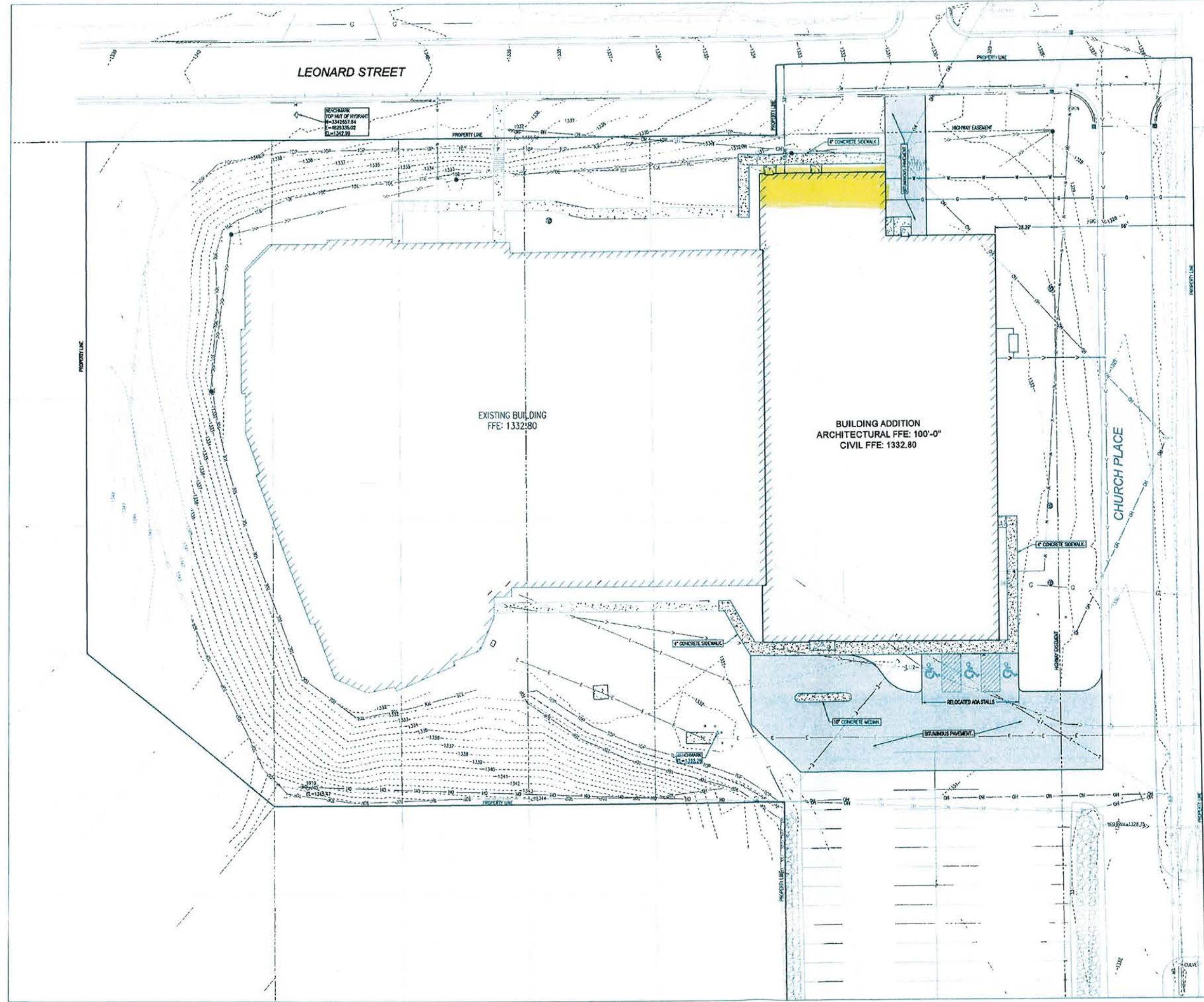
VIEWCREST HEALTH CENTER
 DULUTH, MN
 SITE AND GRADING PLAN

ST. FRANCIS HEALTH SERVICES
 MORRIS, MN

C4.0

SITE LEGEND	
DESCRIPTION	SYMBOL
PROPOSED BITUMINOUS	[Pattern]
PROPOSED CONCRETE	[Pattern]
FLOWLINE	[Symbol]
TRUNCATED DOME	[Symbol]
LIGHT POLE: SEE ELECTRICAL FOR DETAILS	[Symbol]
STOOP: SEE STRUCTURAL FOR DETAILS	[Symbol]
SPILL CURB	[Symbol]
CATCH CURB	[Symbol]

Proposed New Civil



REVISIONS	DATE

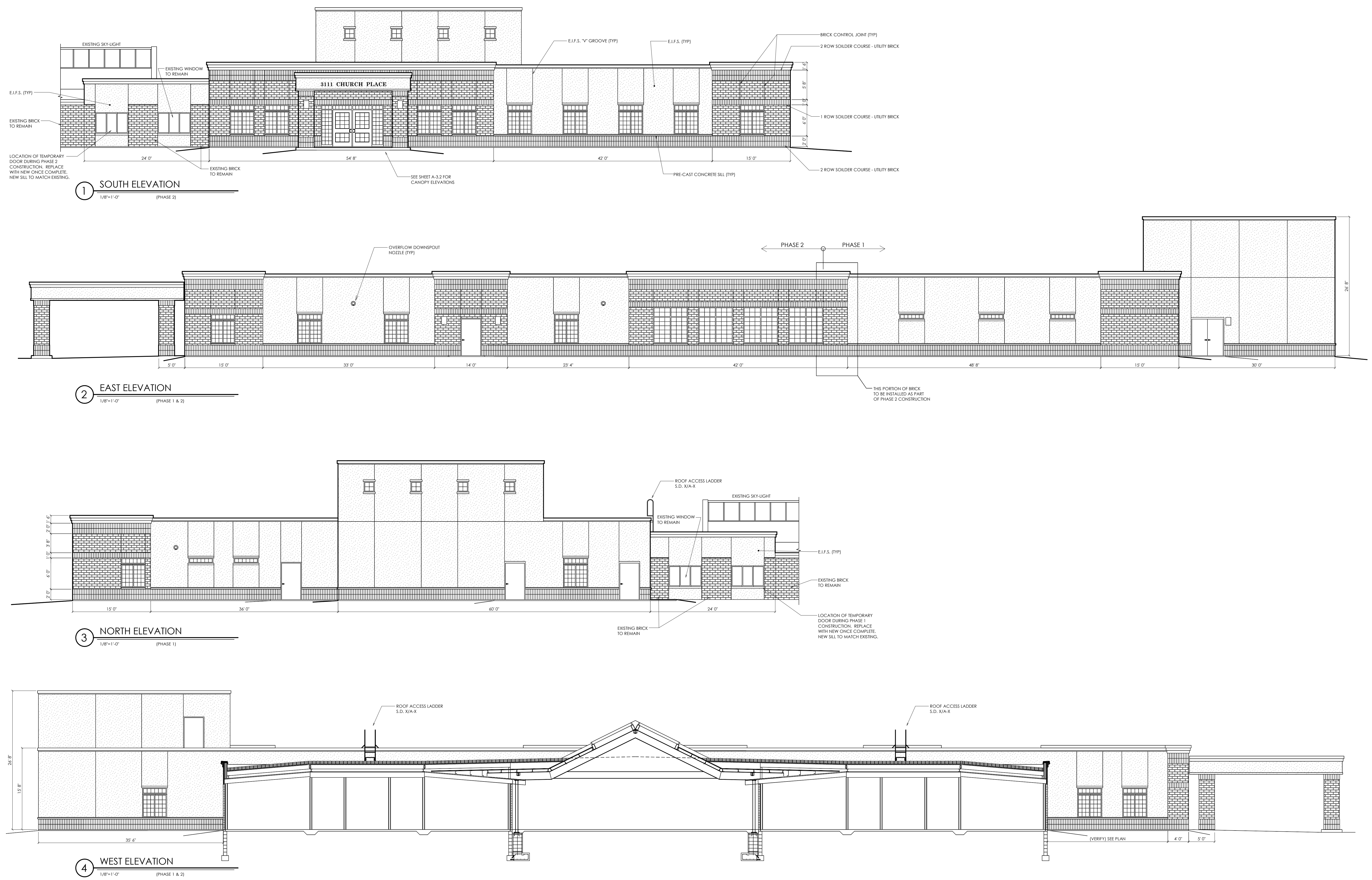
I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION, AND THAT I AM A DULY LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.

DATE: _____ REG. NO.: _____
 KAC: STOKES

PRAIRIE DESIGN STUDIO
 601 SHEYENNE ST., HORACE, ND 58047 / 701-282-2850

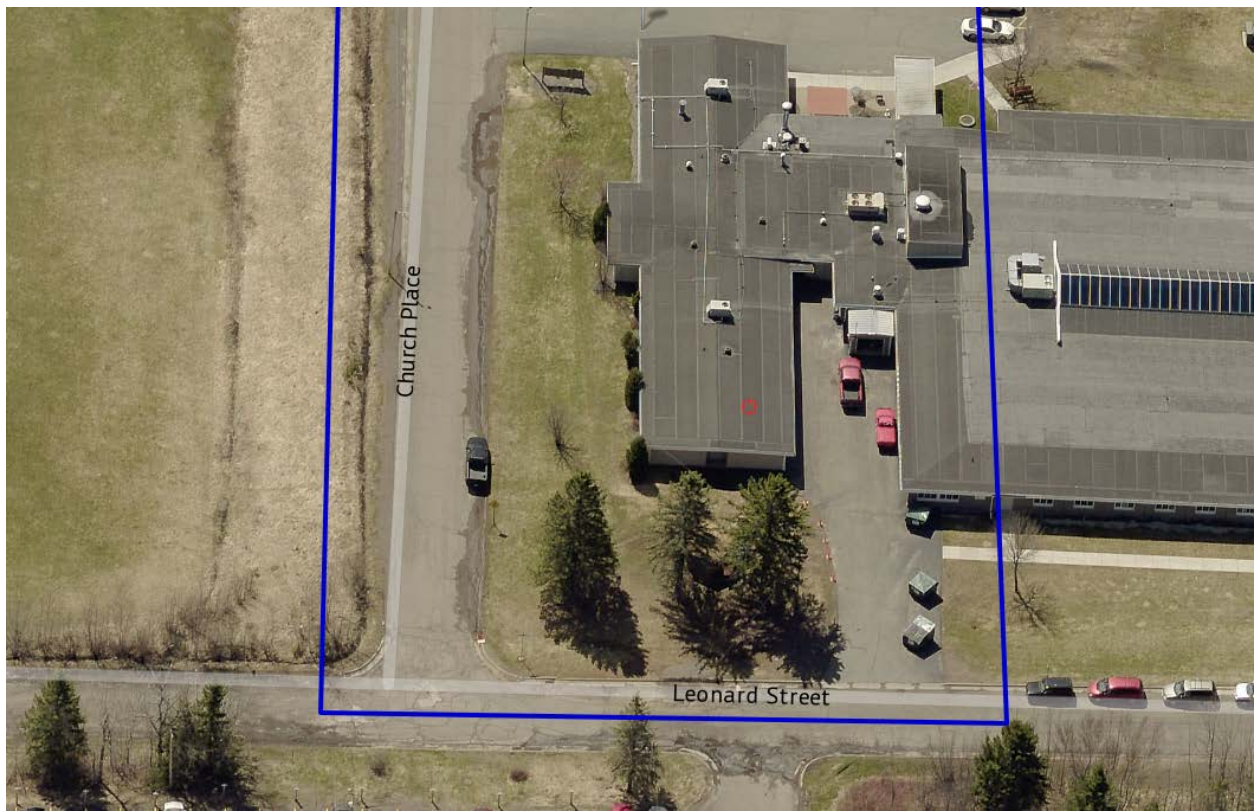
VIEWCREST HEALTH CENTER - EXTERIOR ELEVATIONS -
 DULUTH, MN

ST. FRANCIS HEALTH SERVICES
 MORRIS, MN



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**CITY OF DULUTH**

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-097	Contact	Chris Lee, 730-5304	
Type	Minor Subdivision-RLS	Planning Commission Date	August 14, 2018	
Deadline for Action	Application Date	July 16, 2018	60 Days	August 14, 2018
	Date Extension Letter Mailed	July 31, 2018	120 Days	November 13, 2018
Location of Subject	1801 MacFarlane Road			
Applicant	St. Louis County	Contact	218-726-2356	
Agent	Mark Hudson	Contact	hudsonm@stlouiscountymn.gov	
Legal Description	See attached			
Site Visit Date	July 31, 2018	Sign Notice Date	N/A	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal

This is an application requesting a Minor Subdivision of an existing single tax parcel into two tax parcels to be combined for a sale. The proposed tax parcels will match the dimensions of the existing platted lots. The end result will be a one parcel west of Howard Gnesen Road and one parcel east of Howard Gnesen. These lots will still be considered buildable lots.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Undeveloped	Low Density Residential
North	R-1	Undeveloped	Low Density Residential
South	RR-2	Undeveloped	Low Density Residential
East	R-1	Single Family Home	Low Density Residential
West	R-1	Undeveloped	Low Density Residential

Summary of Code Requirements

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

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

- (a) The lot or lots to be subdivided or combined have frontage on an improved public street;
- (b) Each proposed lot meets the minimum zoning requirements of the district that it is in.
- (c) If an existing structure on a lot complies with the requirements of this Chapter, then after the minor subdivision structures on each of the resulting lots will still comply with the requirements of this Chapter; and
- (d) If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any existing nonconformity between the requirements of this Chapter.

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

Governing Principle #1 - Reuse previously developed lands.
 Governing Principle #7 – Create and maintain connectivity

Future Land Use – Low-Density Neighborhood: Single-family housing with urban services. Typified by curvilinear streets, houses with longer side parallel to street, and attached garages. Includes a range of house sizes and lot sizes. Non-residential uses are mainly uses such as schools and churches. Parks and open space are located within or adjacent to the neighborhood.

Review and Discussion Items

Staff finds that:

1. The applicant is requesting a Minor Subdivision of an existing single tax parcel, Lot 142, into two tax parcels. This new piece will then be combined with Lot 143. The proposed tax parcels will match the dimensions of the existing platted lots. The proposed two parcels will still have street frontage and access on Howard Gnesen Road and McFarlane Road. The proposed subdivision, if approved, would not make the parcels non-conforming due to lot frontage, lot area, or similar bulk standard. If approved, the lot would be buildable under UDC standards for a R-1 district.
2. There are no previously designated wetlands on this property, but no delineation or determination has been performed to verify.
2. The applicant (St. Louis County) has sold lot 143 and the westerly piece of 142 (west of Howard Gnesen). The buyer wants to combine them into a single tax lot for development.
3. No additional public, agency, or City comments were received. Howard Gnesen Road identifies as Highway 34 in St. Louis County and would require permission for access from St. Louis County.
4. The attached exhibit demonstrates compliance with Minnesota statutes 462.358 and 505 or 508, as applicable.
5. 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 subject to 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, indication 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.



Legend

- 1 Ft contour
- 10 Ft contour
- Zoning Boundaries
- Floodplain (UDC)**
- General Flood Plain
- Flood Way
- Flood Fringe
- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRR1)

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For Sale

PC Packet Aug 14, 2018

Buildable City Lot Available for Immediate Purchase \$11,500
For Information Call 725-5085 or 343-3505



Parcel is Approximately 0.8 acres in size.

Utilities: Sewer and water are available with a cost estimated to be \$18,000. Natural Gas Service is also available with no assessment.

This does not include the cost of connecting to these utilities.



Prepared By: **Planning & Development**
Planning, Research, & GIS Division
(218) 725-5000
www.stlouiscountymn.gov

Team Credits: Planning, Land, PW, 911

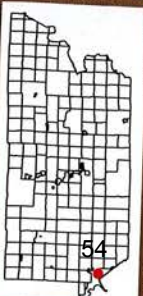
Source: St. Louis County, DNR

Map Created: 10/31/2014

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Disclaimer

This is a compilation of records as they appear in the Saint Louis County Offices affecting the area shown. This drawing is to be used only for reference purposes and the County is not responsible for any inaccuracies herein contained.





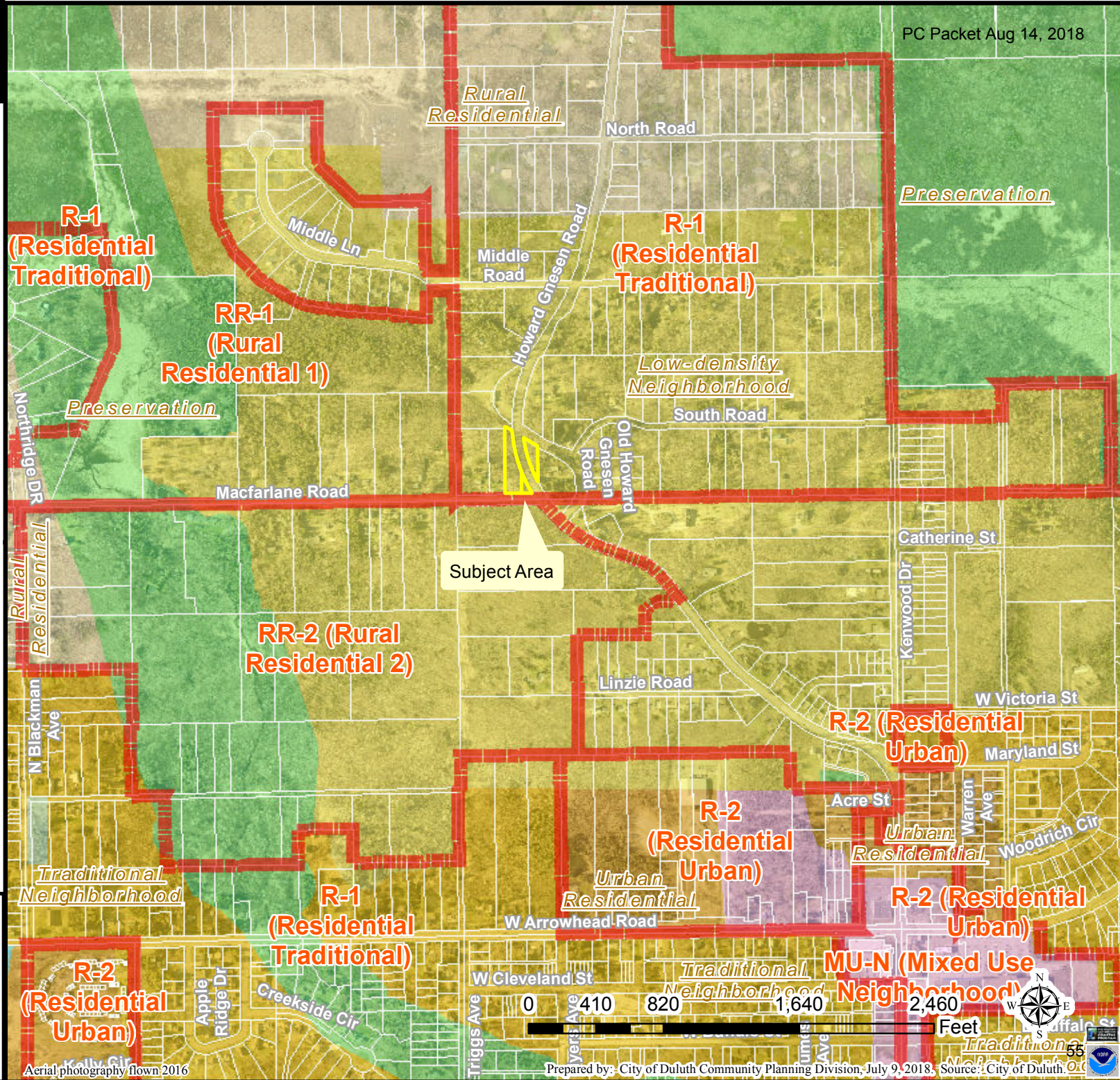
1801 Macfarlane Road

PC Packet Aug 14, 2018

Legend

Zoning Boundaries

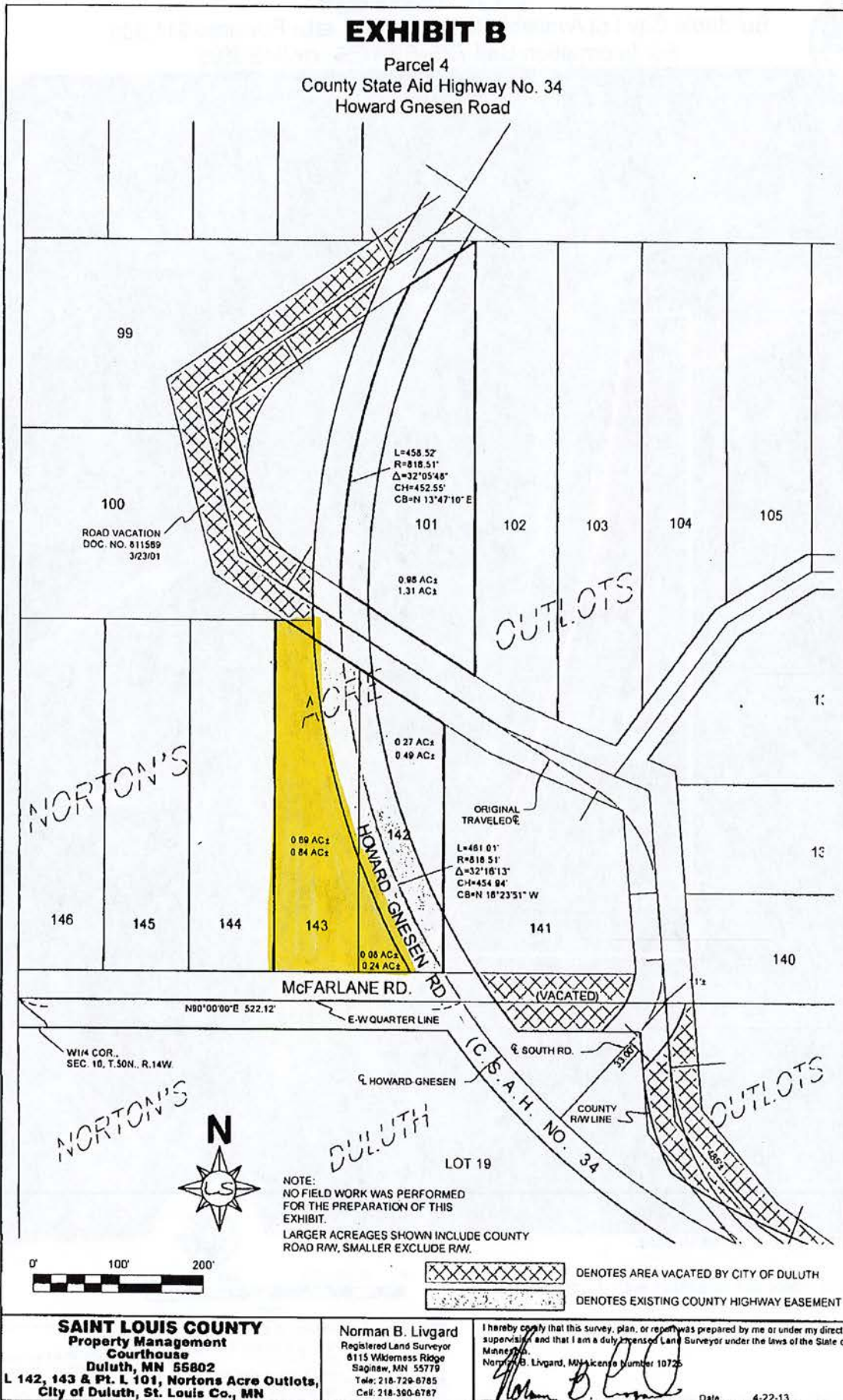
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1218984

EXHIBIT B

Parcel 4
County State Aid Highway No. 34
Howard Gnesen Road



SAINT LOUIS COUNTY
Property Management
Courthouse
Duluth, MN 55802
L 142, 143 & Pt. L 101, Nortons Acre Outlots,
City of Duluth, St. Louis Co., MN

Norman B. Livgard
Registered Land Surveyor
8115 Wilderness Ridge
Saginaw, MN 55779
Tele: 218-729-6785
Cell: 218-360-6787

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.
Norman B. Livgard, MN license number 10725
Norman B. Livgard
Date: 4-22-13



CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL18-105	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Vacation of Utility Easement	Planning Commission Date	August 14, 2018	
Deadline for Action	Application Date	July 31, 2018	60 Days	September 29, 2018
	Date Extension Letter Mailed	August 1, 2018	120 Days	November 27, 2018
Location of Subject	Outlot D near Idaho St. and 93 rd Ave. W. (Morgan Park)			
Applicant	City of Duluth, Community Planning	Contact	Adam Fulton	
Agent		Contact		
Legal Description	Utility easement in Outlot D, Morgan Park			
Site Visit Date	July 31, 2018	Sign Notice Date	July 31, 2018	
Neighbor Letter Date	July 31, 2018	Number of Letters Sent	22	

Proposal

Vacation of a utility easement around an abandoned sanitary sewer pipe to facilitate construction of a group residential facility.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	Forested	General Mixed Use
North	R-2	Single Family Residential	Traditional Residential
South	R-2	Forested/stream	General Mixed Use
East	R-2	Single Family Residential	General Mixed Use/Industrial
West	MU-B	Former RR grade	General Mixed Use

Summary of Code Requirements

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

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

1. Is not and will not be needed for the safe and efficient circulation of automobiles, trucks, bicycles or pedestrians or the efficient supply of utilities or public services in the city;
2. Where the street terminates at a waterfront or shoreline, the street is not and will not be needed to provide pedestrian or recreational access to the water;
3. Is not otherwise needed to promote the public health, safety or welfare of the citizens of Duluth.

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

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

Principle #7 – Create and maintain connectivity

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

Principle #12 – Create efficiencies in delivery of public services

Principle #14 – Integrate fairness into the fabric of the community

Review and Discussion Items

Staff finds that:

- 1) The proposal is to vacate a utility easement that is no longer needed. The sanitary sewer pipe that is located in the easement has been abandoned by the City and the City does not need the easement for any other utility purposes.
- 2) The easement was transferred to the City in 1933 when the Morgan Park Company (U.S. Steel) divested itself from ownership of property and facilities in Morgan Park.
- 3) City comments: Email from Eric Shaffer, Chief Engineer for Utilities stating that the easement is not needed for any City purposes and that the sanitary sewer has been abandoned. No other public or agency comments were received.
- 4) Vacations of streets lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

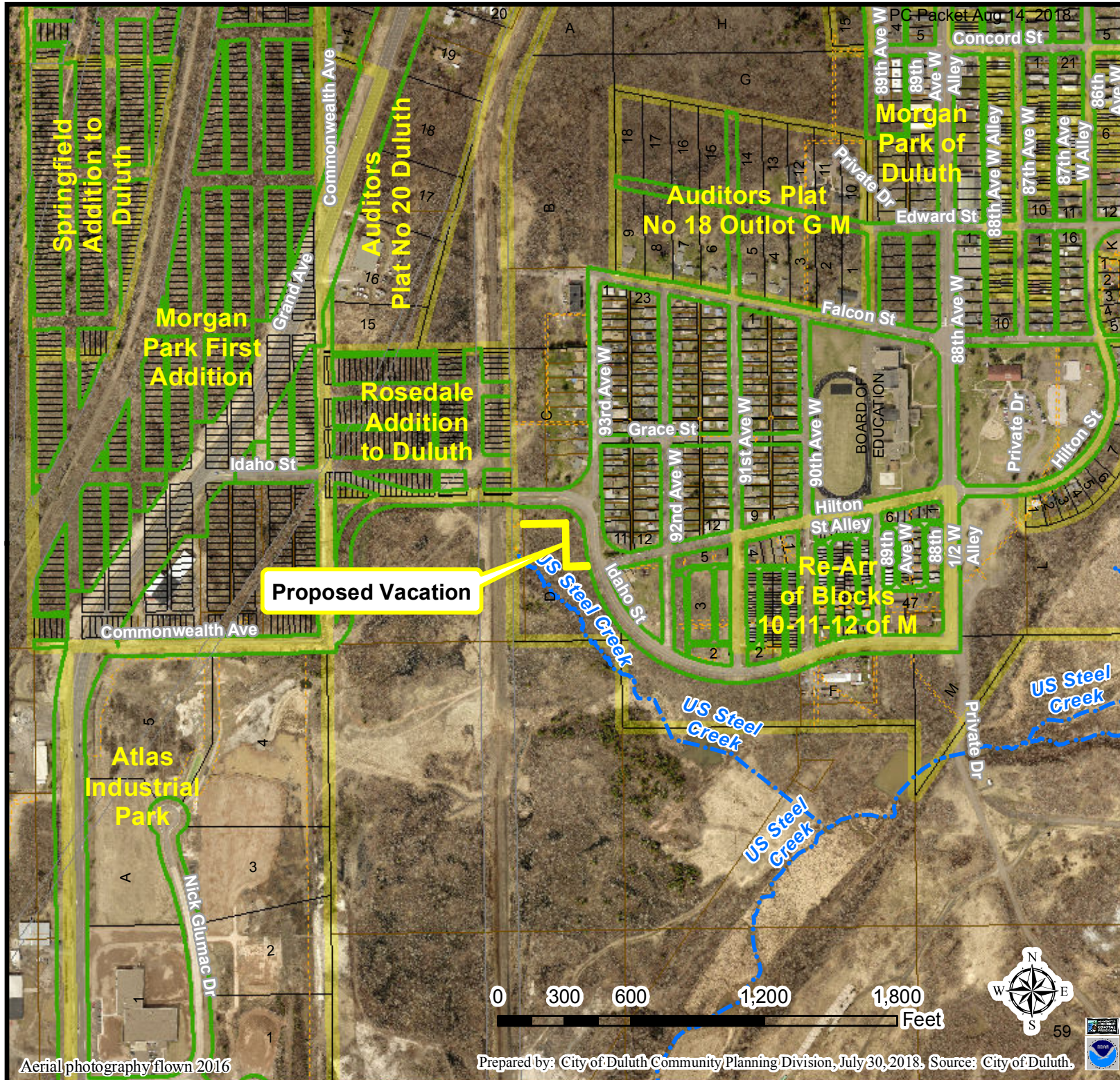
Staff Recommendation

Based on the above findings, Staff recommends that the Planning Commission recommend approval of the vacation of the utility easement.



PL18-105

Utility Easement Vacation
Outlot D, Morgan Park



Legend

- Lots
- Subdivision Boundaries
- Boundary Lines**
- <all other values>
- Subtype, ROW_TYPE**
- Lot Line
- Parcel Line
- ROW (Road)
- ROW (Not Road)
- Subdivision Line
- Water Line
- Survey Line
- Municipal Boundary
- Trout Stream (GPS)
- Other Stream (GPS)

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PL18-105
Utility Easement Vacation
Outlot D, Morgan Park

Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Lots
- Parcels
- 1 Ft contour
- 10 Ft contour
- Subdivision Boundaries

Boundary Lines

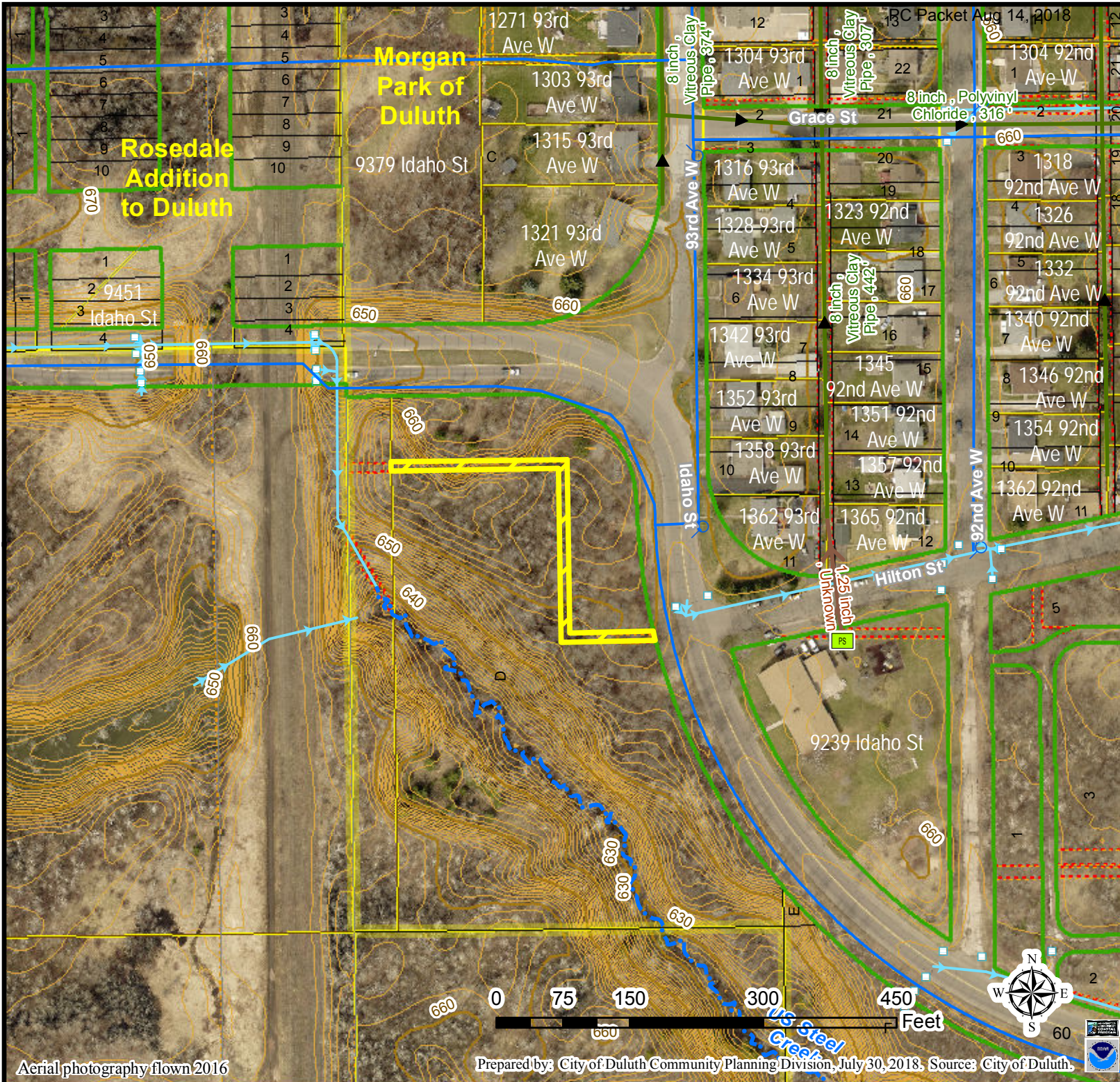
- <all other values>

Subtype, ROW_TYPE

- Lot Line
- Parcel Line
- ROW (Road)
- ROW (Not Road)
- Subdivision Line
- Water Line
- Survey Line
- - - Municipal Boundary

Easement Type

- Utility Easement
- Other Easement
- Trout Stream (GPS)
- Other Stream (GPS)



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Aerial photography flown 2016

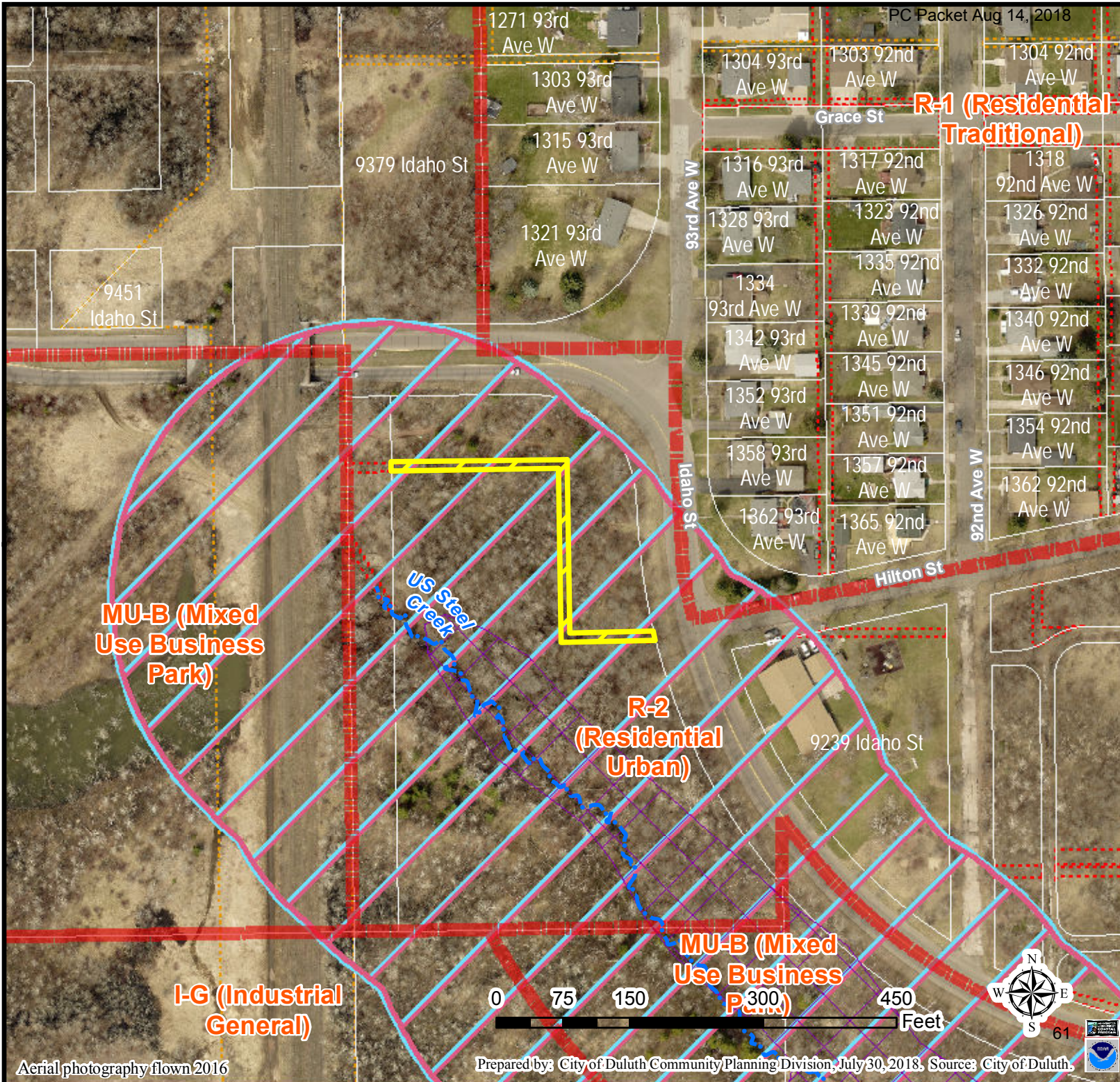




PL18-105

Utility Easement Vacation
Outlot D, Morgan Park

PC Packet Aug 14, 2018



R-1 (Residential Traditional)

MU-B (Mixed Use Business Park)

R-2 (Residential Urban)

MU-B (Mixed Use Business Park)

I-G (Industrial General)

Legend

Easement Type

- Utility Easement
- Other Easement
- Zoning Boundaries

Floodplain (UDC)

- General Flood Plain
- Flood Way
- Flood Fringe

Shoreland (UDC)

- Cold Water
- Natural Environment
- General Development
- Trout Stream (GPS)
- Other Stream (GPS)

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PL18-105

Utility Easement Vacation
Outlot D, Morgan Park

Traditional
Neighborhood

PC Packet Aug 14, 2018

Legend

Easement Type

- Utility Easement
- Other Easement
- Trout Stream (GPS)
- Other Stream (GPS)

Future Land Use - Plus

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

General
Industrial

General
Mixed Use

- | | | | |
|-----------------|-----------------|-----------------|-----------------|
| 1271 93rd Ave W | 1304 93rd Ave W | 1303 92nd Ave W | 1304 92nd Ave W |
| 1303 93rd Ave W | | Grace St | |
| 1315 93rd Ave W | 1316 93rd Ave W | 1317 92nd Ave W | 1318 92nd Ave W |
| 1321 93rd Ave W | 1328 93rd Ave W | 1323 92nd Ave W | 1326 92nd Ave W |
| | 1334 93rd Ave W | 1335 92nd Ave W | 1332 92nd Ave W |
| | 1342 93rd Ave W | 1339 92nd Ave W | 1340 92nd Ave W |
| | 1352 93rd Ave W | 1345 92nd Ave W | 1346 92nd Ave W |
| | 1358 93rd Ave W | 1351 92nd Ave W | 1354 92nd Ave W |
| | 1362 93rd Ave W | 1357 92nd Ave W | 1362 92nd Ave W |
| | | 1365 92nd Ave W | |

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Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, July 30, 2018. Source: City of Duluth.





City of Duluth
Planning Division

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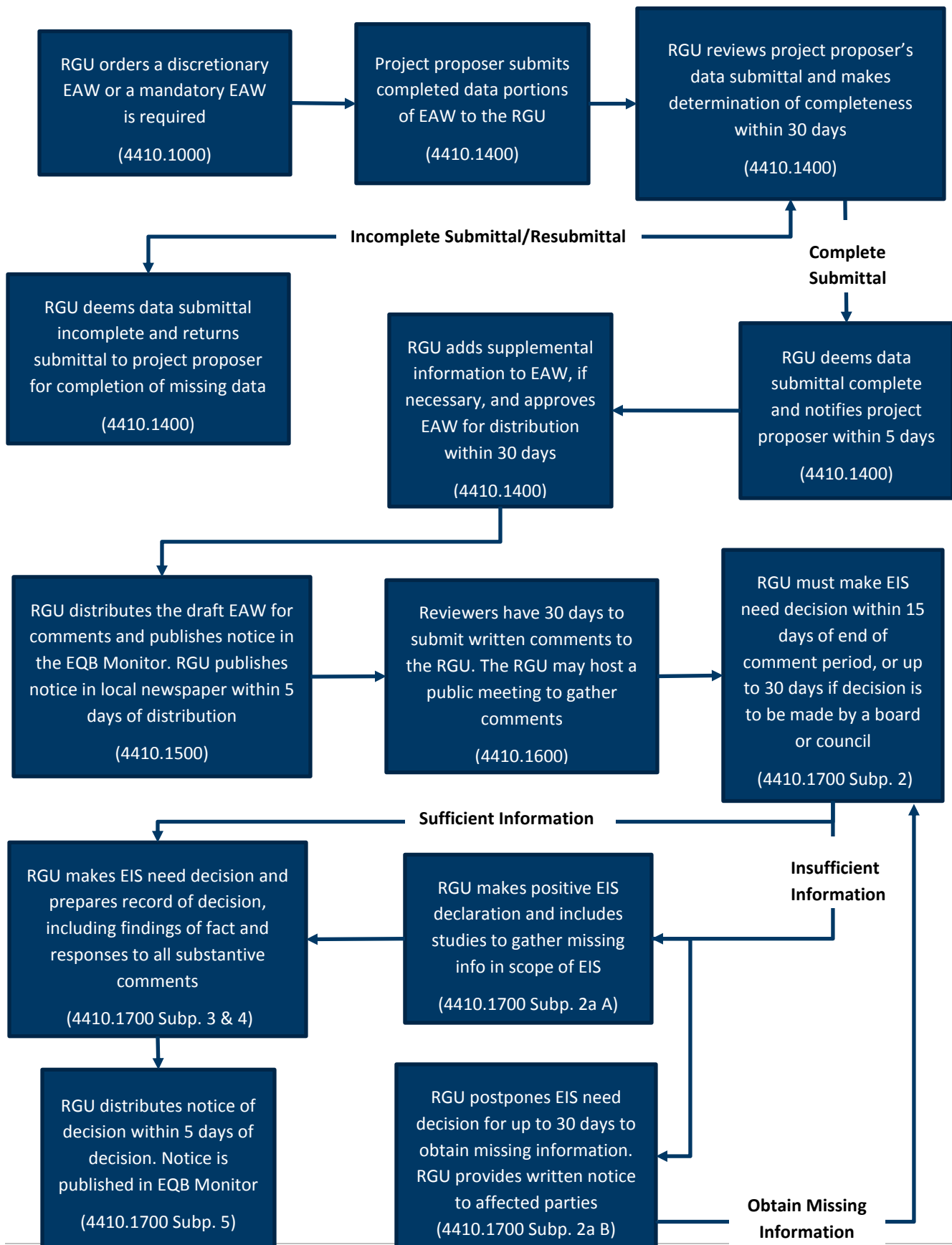
DATE: August 7, 2018
TO: Planning Commission
FROM: Steven Robertson, Senior Planner
RE: Optional Public Hearing for Pastoret EAW (PL 18-104)

At your regular Planning Commission meeting on August 14, you will be holding an optional public hearing to gather oral comments from the public on the Environmental Assessment Worksheet (EAW) for the Pastoret Terrace Building Potential Demolition. Amy Denz from Wenk and Associates will be making a brief 5 to 10-minute presentation. The EAW has been posted online, and hardcopies were mailed to Planning Commissions on Monday, July 30, 2018

You need not respond to any of the comments at the August 14 meeting except to ask for clarification on any comment made by the public. Responses to all substantive comments will be drafted after the end of the comment period by Wenck and Associates. Comment responses will be provided to you, and those who have submitted comments, prior to the special meeting on Tuesday, August 28, 2018.

For your information, here is the timeline for the rest of the EAW process:

July 9, 2018	Notice published in the July 9, 2018 EQB Monitor. Beginning of the comment period; the comment period is normally 30 days, but the comment period is 37 days for this EAW. According to EQB: "any interested person can review the EAW and submit written comments to the RGU for 30 days following the Monitor notice. Comments may address the accuracy and completeness of information, additional environmental effects or corrective actions that should be considered and the potential for significant environmental effects due to the project".
August 14, 2018	Optional public hearing at the Planning Commission
August 15, 2018	End of comment period (4:30 pm).
August 28, 2018	Planning Commission reviews comments received, and responses to the comments, and makes a decision on the need for an Environmental Impact Statement (EIS). From EQB: "the RGU considers the EAW information and the comments received and officially decides if the project has the potential for significant environmental effects. If not, the environmental review process is over".



Press Release

Pastoret Terrace Building Potential Demolition

Duluth Economic Development Authority (DEDA) is proposing the demolition of the Pastoret Terrace building located at 109 North 2nd Ave East in Duluth, Minnesota. The Pastoret Terrace building was constructed in 1886 by Michael Pastoret and has been considered a contributing resource to the Duluth Commercial Historic District (DCHD). The building has been modified over the years from its original construction. In 2010, the entire building suffered a fire that left the building vacant of its tenants and has remained vacant and in disrepair since that time. In 2011, the building suffered a second fire resulting in further property damage. The property became tax-forfeit in 2016 at which time DEDA acquired the property from St. Louis County. The building condition has continued to deteriorate beyond feasible rehabilitation, and therefore, the DEDA proposes to demolish it. Due to the potential demolition a contributing building to the DCHD, a mandatory EAW is required under Minnesota Rules 4410.4300, subpart 31.

The EAW is available for public review and comment starting on July 9, 2018. The City of Duluth will accept written comments on the EAW during the public review and comment period, which concludes Wednesday, August 15, 2018 at 4:00 p.m. Written comments should be submitted to Keith Hamre, City of Duluth, 411 West First Street, Duluth, Minnesota 55802. Electronic/email comments may be submitted to khamre@duluthmn.gov with Pastoret Terrace EAW in the subject line. If submitting comments electronically, please include your name and mailing address.

The EAW is available for public review at:

- City of Duluth City Hall, 411 West First Street, Office 402, Duluth, MN
- Duluth Public Library, 520 W Superior St, Duluth, MN

The EAW is posted on the City's website: <http://www.duluthmn.gov/community-planning/eaw/>



CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL18-090		Contact	John Kelley, jkelley@duluthmn.gov	
Type	Special Use Permit – Parking lot (primary use)		Planning Commission Date	August 14, 2018	
Deadline for Action	Application Date	July 10, 2018	60 Days	September 8, 2018	
	Date Extension Letter Mailed	July 23, 2018	120 Days	November 7, 2018	
Location of Subject	17 North 2 nd Avenue East (former Carter Hotel)				
Applicant	Fond Du Lac Band of Lake Superior Chippewa		Contact	Michael Murray	
Agent	Lake Superior Consulting		Contact	Les Mateffy	
Legal Description	PID # 010-0930-00700				
Site Visit Date	August 3, 2018		Sign Notice Date	July 31, 2018	
Neighbor Letter Date	July 27, 2018		Number of Letters Sent	35	

Proposal

Applicant requests a Special Use Permit to construct a parking lot as a primary use at the former Carter Hotel property. The applicant will be demolishing the existing building located at 17 North 2nd Avenue East and constructing a parking lot. As a primary use parking lot, site features such as drive aisles and accesses must function independently of other neighboring sites and businesses. A Special Use Permit is required to construct a primary use parking lot in an F-8 Form District.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-8	Vacant Building	Central Business Primary
North	F-8	Vacant Building	Central Business Primary
South	F-7	Commercial	Central Business Primary
East	F-8	Commercial/Office	Central Business Primary
West	F-8	Commercial	Central Business Primary

Summary of Code Requirements

UDC Section 50-19.8. Special Use Permit required for a Parking lot (primary use) in an F-8 form district.

UDC Section 50-20.3.O. Use Specific Standards – Parking lot or parking structure (primary use)

UDC Section 50-37.10. Special Use Permits. The Planning Commission shall approve the application or approve it with modifications if the commission determines that the application meets the following criteria:

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

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

Future Land Use – Central Business Primary - Encompasses a broad range of uses and intensities including governmental campus, significant retail, entertainment and lodging, opportunities for high-density housing, central plaza, public/open space, and public parking facilities.

Governing Principle #1 - Reuse previously developed lands.

General Development Strategy S6 – Avoid surface parking between buildings and the street to reduce the visual impact of parking lots and provide landscape screening from public areas for all surface parking areas.

The Carter Hotel building was constructed in 1928. The structure is one of 107 buildings within the Duluth Commercial Historic District and was listed in the National Register of Historic Places in May of 2006.

The Fond du Lac Band Od Lake Superior Chippewa is in compliance with Section 106 of the National Historic Preservation Act for the removal of the existing structure.

The facility will provide access to parking for local work force and visitors to the area. Applicant has indicated that it will be important for parking during Superior Street reconstruction.

Review and Discussion Items

Staff finds that:

- 1.) 50-19.8 (F-5 Form District) - A primary use parking lot is allowed as a special use in the F-8 Form district.
- 2.) 50-23 (Connectivity) – The parking lot can be accessed via an existing sidewalk along North 2nd Avenue East.
- 3.) 50-24 (Parking) - Site contains 17 parking stalls. There are no minimums or maximums for primary use parking lots. Standard parking space size is 9' x 17'. The site plan depicts 9' x 19' parking stalls. The drive isle meets the required 24 feet in width to accommodate two-way traffic.
- 4.) 50-25 (Landscaping) - The site is less than 10,000 square feet and has less than 25 parking spaces. Therefore, internal landscaping is not required. Parking lots with less than 25 spaces must provide 30% tree canopy coverage. The parking lot canopy coverage plan show three sugar maple trees along the northeast property line. The three sugar maple trees would exceed the requirement for 30% tree canopy coverage at maturity.
- 5.) 50-26 (Screening) - Not applicable as the project does not include a structure.
- 6.) 50-29 (Sustainability) and 50-30 (Building Design Standards) - These do not apply as the proposed project does not include a structure.
- 7.) 50-31 (Exterior Lighting) – There is no lighting planned for this project.
- 8.) The parking lot drainage will utilize existing stormwater catch basins on North 2nd Avenue East. A storm water management plan and erosion control permit will be needed prior to construction.
- 9.) No public, City or agency comments were received.
- 10) UDC 50-37.1.N. states that an approved Special Use Permit will expire if the project or activity authorized by the permit has not begun within one-year.

Staff Recommendation

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

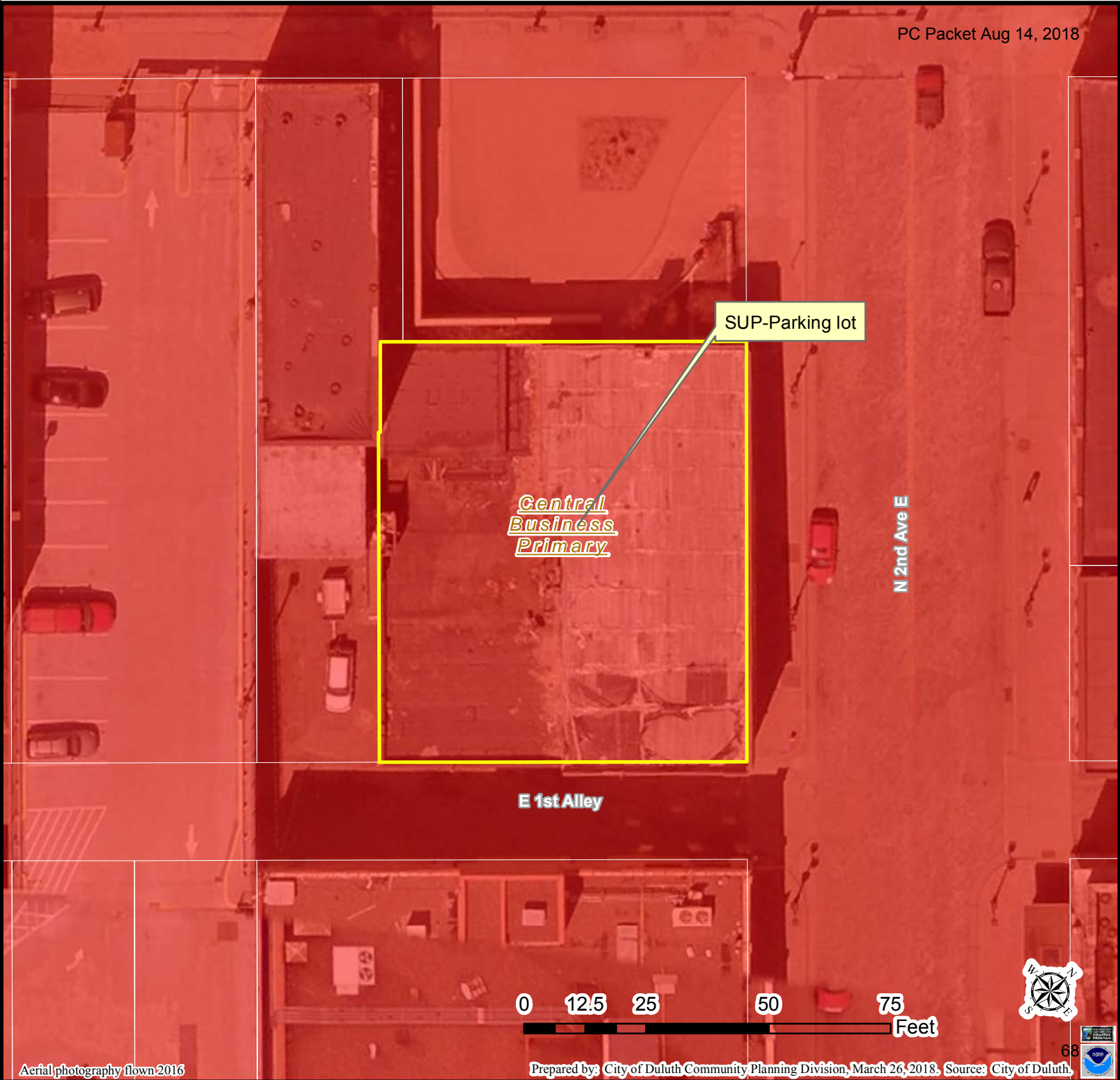
- 1) The project must be limited to, constructed, and maintained according to the Site Plan and Canopy Coverage Plan submitted with the special use permit application and dated July 20, 2018.
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



Legend

**Future Land Use - Plus
Future Land Use**

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities



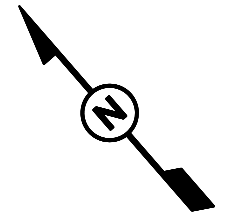
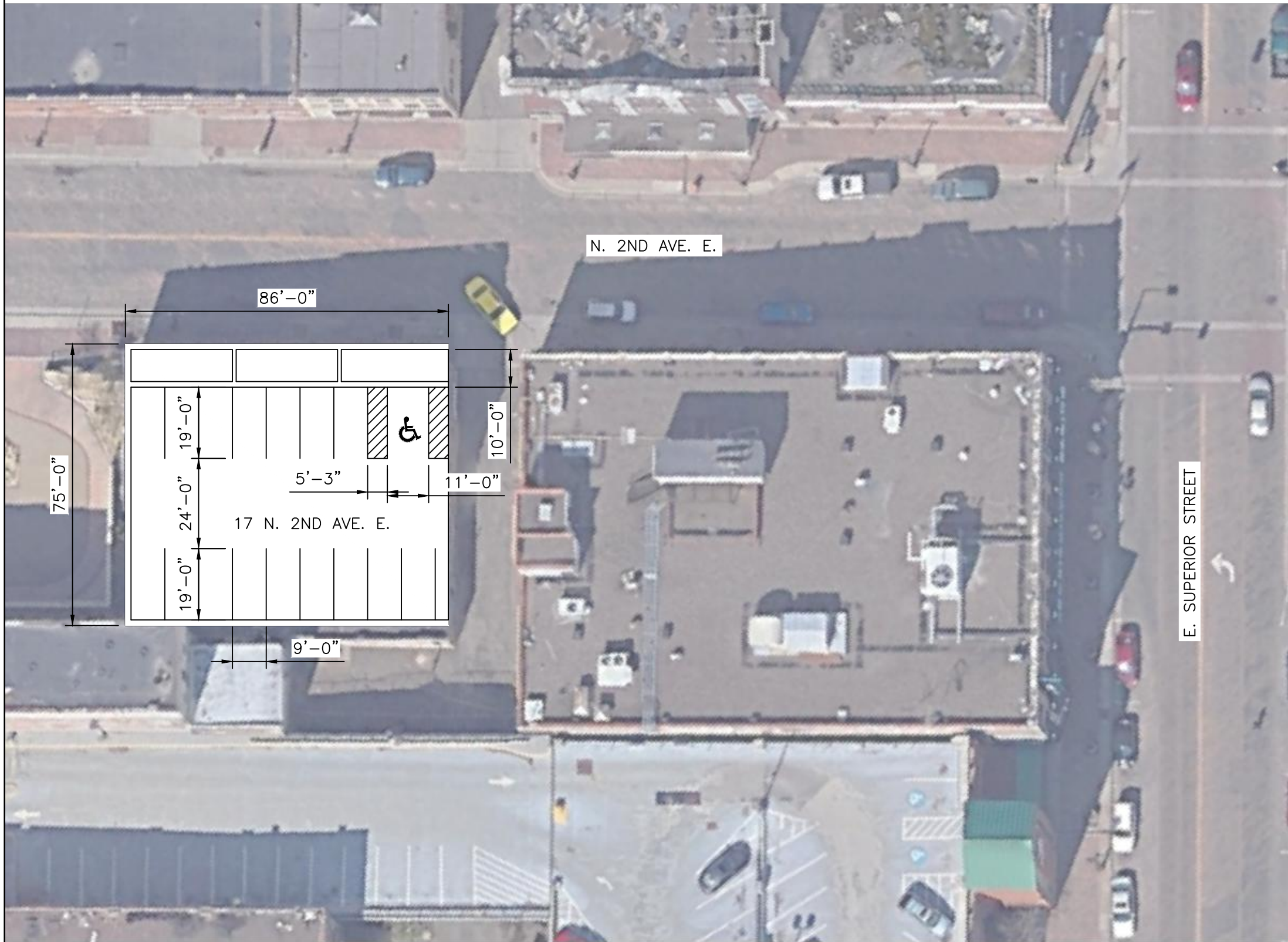
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Legend
Zoning Boundaries



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SCALE: 1" = 30'-0"



REVISION		DESCRIPTION
REV No	DATE	
0	6/28/18	ISSUED FOR REVIEW
R1	07/20/18	ISSUED FOR REVIEW

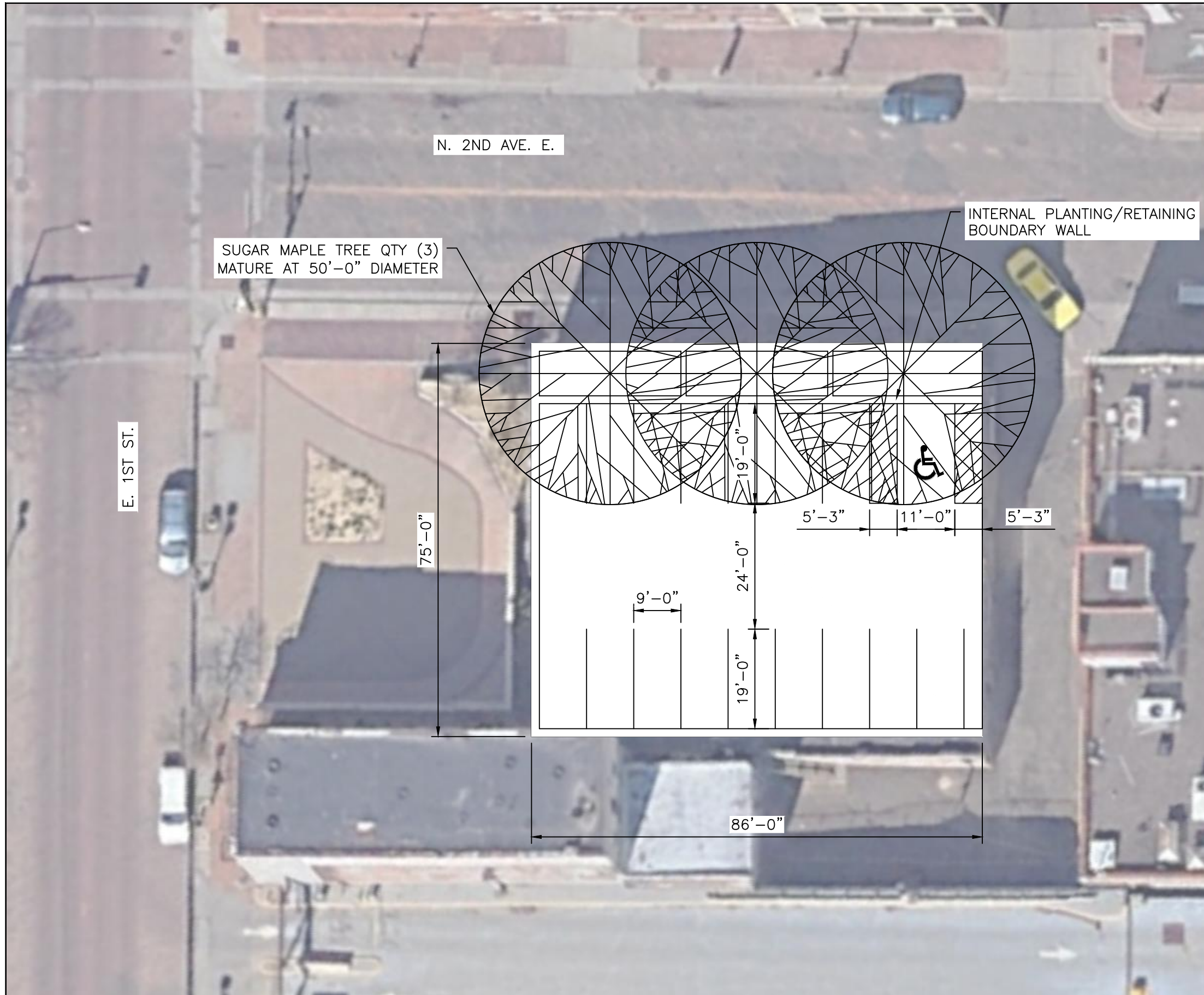
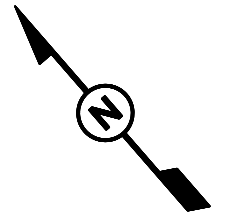
APPROVAL				
CAD	CHK	ENG	APP	PM
ENR	CAJ	LHM	LHM	LHM
SMS	CAH	LHM	LHM	LHM

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 130 West Superior Street, Suite 500, Duluth, MN 55802
 www.LSCmn.com
 218.727.3141



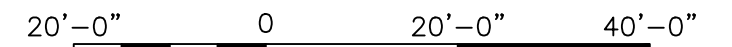
PROJECT INFORMATION	
CARTER HOTEL 17 NORTH 2ND AVE EAST, DULUTH, MN	
LSC PROJECT NUMBER	18317600621

DRAWING INFORMATION	
PROPOSED PARKING LOT	
SCALE	1"=30'-0"
	70



NOTES

1. LOT DIMENSIONS: 75'x86', 6,450 SQUARE FOOT.
2. 30% CANOPY REQUIRED, 1,935 SQUARE FEET.
3. COVERAGE OF ONE SUGAR MAPLE TREE IS 1926 SQ. FT.
COVERAGE OF TWO SUGAR MAPLE TREES IS 1962x2 = 3924 SQ. FT.
EFFECTIVE COVERAGE OF THREE SUGAR MAPLE TREES ON THIS SITE IS 4606 SQ. FT.
4. OWNER MAY DROP DOWN TO ONE SUGAR MAPLE TREE TO MEET 30% CANOPY REQUIREMENT.



SCALE: 1" = 20'-0"



REVISION		APPROVAL					
REV No	DATE	DESCRIPTION	CAD	CHK	ENG	APP	PM
0	07/20/18	ISSUED FOR REVIEW	ENR	CAJ	LHM	LHM	LHM
R2	07/20/18	ISSUED FOR REVIEW	SMS	CAJ	LHM	LHM	LHM

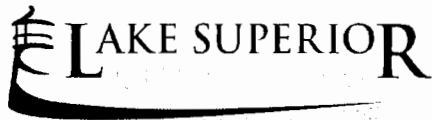
APPROVAL				
CAD	CHK	ENG	APP	PM
ENR	CAJ	LHM	LHM	LHM
SMS	CAJ	LHM	LHM	LHM

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PROJECT INFORMATION	
CARTER HOTEL 17 NORTH 2ND AVE EAST, DULUTH, MN	
LSC PROJECT NUMBER	18317600621

DRAWING INFORMATION	
PROPOSED PARKING LOT CANOPY COVERAGE	
SCALE	1"=20'-0"
71	



130 West Superior Street, Suite 500
Duluth, MN 55802
218.727.3141
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Carter Hotel

Date: **July 6th, 2018**

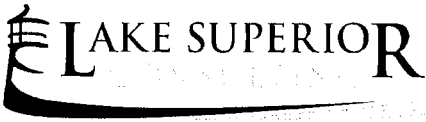
Statement of Comprehensive Plan Compliance:

- 1) The current use of the boarded up Carter Hotel is not productive for the area. Converting the dilapidated building to a needed temporary parking facility with shade trees will provide visual appeal to this area of town that is also undergoing redevelopment.



- 2) While a parking facility is not a glamorous focus point it is a needed function to help support local businesses.
- 3) Parking facilities are needed component of any economic system based on brick and mortar trade or businesses.
- 4) The purpose of this facility is to allow travel access for local work force and visitors to the area.
- 5) This facility is intended to help increase revenue to local establishments and strengthen the support required by the brick and mortar trade.
- 6) This particular spot has been surrounded by large structures that prevent views of the lake. Redevelopment of this lot into a parking facility is an appropriate use of the property.





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- 7) A parking facility will increase the availability of this area. Vehicular traffic is the main means to move the majority of the visitors and workers to this area. Increased parking availability will promote vehicular traffic and trade in the area.
- 8) Virtually all land uses in developed districts need support services to attract visitors. Parking facilities are a resource that enables vehicular traffic to all mixes of properties.



- 9) This facility will provide parking that is back from the sidewalk and thus help minimize any negative effects of a parking lot.
- 10) This facility is tentatively planned to reuse existing walls to maintain surrounding properties. Effective reuse of portions of the existing structure will minimize use of finite resources.
- 11) The function of this facility is to lessen existing and short term impacts on the local shortage of parking spaces.
- 12) Construction of a parking lot in this area will help alleviate future costs to increase space in the existing City parking lot.

Positive impacts on Community:

The existing outdated structure is not a useful building for the community. Installation of a parking facility, even as small as this one is, will help reduce needed support in the area.

If you have any questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Leslie H. Mateffy".

Leslie H. Mateffy P.E.

Lake Superior Consulting, LLC
218-491-7328 office
218-349-5085 cell
lmateffy@lsconsulting.com

Carter Hotel

Legend
PC Packet Aug 14, 2018
🌲 Clayton-Jackson-McGhie Memorial



Carter Hotel

N 2nd Ave E



Carter Hotel

N. 2nd Ave. East

Legend

PC Packet Aug 14, 2018



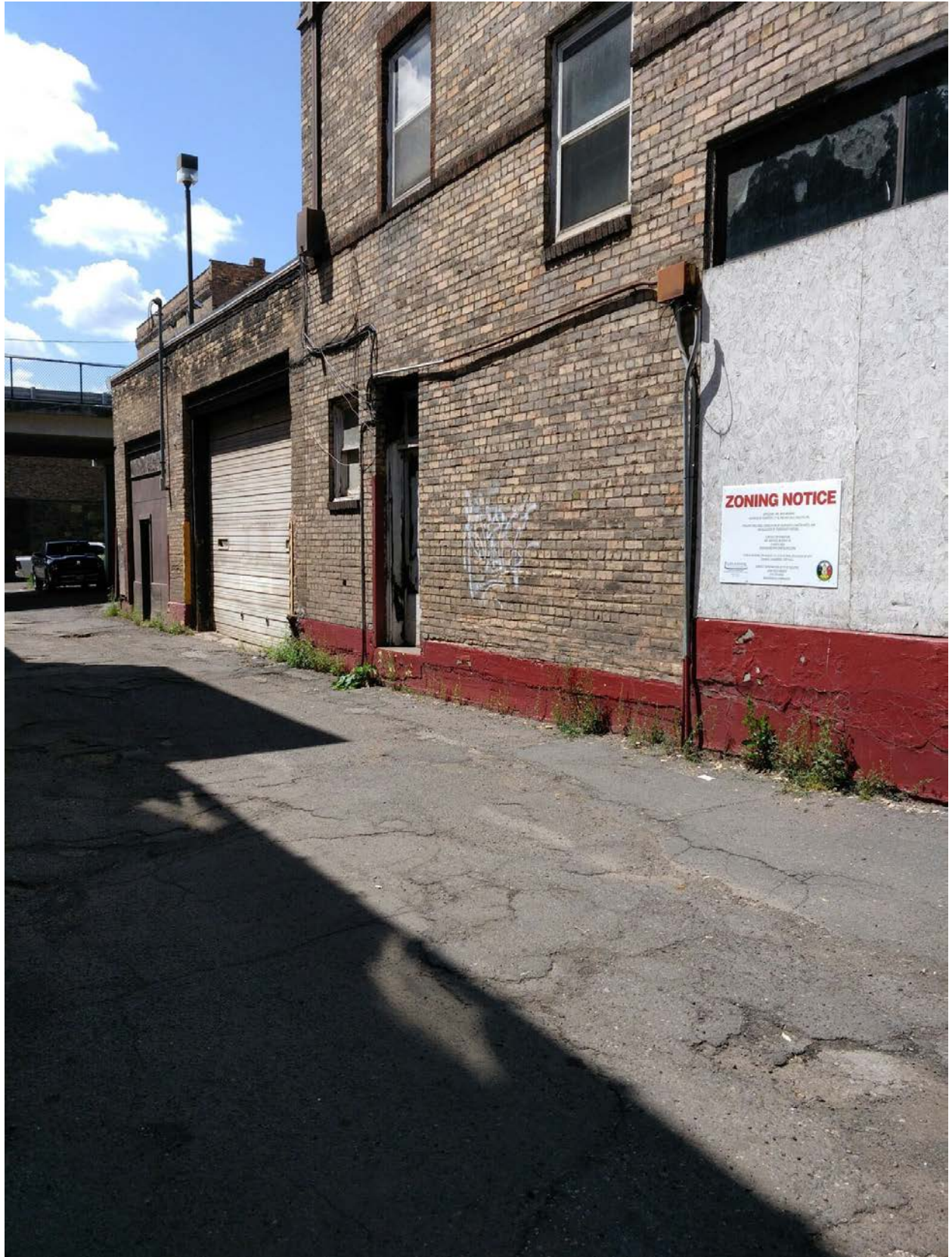
Carte Hotel

Google Earth

© 2018 Google



8.56 ft





CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-100	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Comprehensive Plan – Future Land Use Map Amendment	Planning Commission Date	August 14, 2018	
Deadline for Action	Application Date	N/A	60 Days	N/A
	Date Extension Letter Mailed	N/A	120 Days	N/A
Location of Subject	Parcels north of West Arrowhead Road, east of the Vineyard Church, west of the Walgreens site, and west of St. Benedicts Street and Acre Street, and parcels south of Maryland Street between Kenwood Ave and Dodge Ave.			
Applicant	City of Duluth	Contact	John Kelley	
Agent		Contact		
Legal Description	See attached map			
Site Visit Date	July 31, 2018	Sign Notice Date		
Neighbor Letter Date		Number of Letters Sent		

Proposal

Amend the Comprehensive Land Use Map from Neighborhood Mixed Use to Urban Residential and Urban Residential to Traditional Neighborhood

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1/R-2	Residential/Commercial	Urban Residential/Neighborhood Mixed Use
North	R-1, R-2	Residential Traditional	Low-density Neighborhood/Urban Res.
South	R-1	Rural Residential	Traditional Neighborhood/Urban Res
East	R-1, MU-N	Residential Traditional	Traditional Neighborhood
West	R-1, R-2, MU-N	Residential/Church	Urban Residential

Summary of Code Requirements:

- UDC Sec. 50-37.2.A Pursuant to state law, only the planning agency (planning commission or planning staff) or council may initiate amendments to the Comprehensive Land Use Plan.
- UDC Sec. 50-37.2.B The proposal shall be reviewed by the land use supervisor, who shall forward a recommendation to the planning commission. The planning commission shall then review the proposal and make a recommendation to council. Council shall then make a decision to adopt, modify, or not adopt the plan or amendment pursuant to the criteria in subsection C below. Council action shall be by resolution, with affirmative votes of at least two-thirds of those members constituting a quorum required to take action.
- UDC Sec. 50-37.2.C The planning commission shall review the proposal, and council shall make a decision, based on whether the proposal promotes the best interests of the city and the general health, safety, and welfare of the citizens of Duluth.
- MSA 462.355. Adopt, Amend Comprehensive Plan; Interim Ordinance. Subd.3. Adoption by governing body. A proposed comprehensive plan or an amendment to it may not be acted upon by the governing body until it has received the recommendation of the planning agency or until 6 days have elapsed from the date an amendment proposed by the governing body has been submitted to the planning agency for its recommendation. Unless otherwise provided by charter, the governing body may by resolution by a two-thirds vote of all its members adopt

and amend the comprehensive plan or portion thereof as the official municipal plan upon such notice and hearing as may be prescribed by ordinance.

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

Governing Principle #5 - Promote reinvestment in neighborhoods: Duluth is strongly defined by its neighborhoods. This system should be supported through land use and transportation that fosters neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the character.

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

Future Land Use – 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 and neighborhood extensions, and new traditional neighborhood areas.

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.

The City recognizes this neighborhood as a core investment area in the Imagine Duluth 2035 Comprehensive Land Use Plan based on the existing character and redevelopment potential for the area. To help achieve priorities and opportunities for this core investment area the City is proposing to rezone property in the general area of Kenwood Drive and West Arrowhead Road.

Review and Discussion Items:

- 1) The Planning Division is proposing that the City amend the Comprehensive Land Use Plan-Future Land Use Map from Neighborhood Mixed Use to Urban Residential and another portion from Urban Residential to Traditional Neighborhood.
- 2) The City recognizes the Kenwood Neighborhood as a Core Investment Area (CIA) in the Imagine Duluth 2035 Comprehensive Land Use Plan based on the existing character and redevelopment potential for the area. The CIAs are intended to serve as neighborhood focal points, enhancing access by current residents to retail and service businesses, and protecting existing housing types outside the core zone. During the Imagine Duluth 2035 plan process specific sites were not evaluated within this commercial node because there were no specific parcels the City understood change to be imminent at that time. The proposed future land use changes will help lay the ground work for establishing a CIA in the Kenwood neighborhood.
- 3) The city's neighborhood commercial nodes are compact in size and generally service the immediate residential areas for goods and services. During the 2006 Comprehensive Plan implementation process, this area of Duluth was not given the same amount of attention to detail regarding future land uses as other parts of this City. The act of aligning the Future Land Use map with the current zoning helps to remedy the details that were missed in 2006. The case of aligning uses is shown in having differing future land use categories such as Neighborhood Mixed Use and Urban Residential cover parcels that are zoned R-1 and R-2.
- 4) Map amendment area #1 would change the future land use category west of Kenwood Avenue and north of W. Arrowhead Road (between Walgreens and the Vineyard Church area) from Neighborhood Mixed Use to Urban Residential. This would be consistent with the land use category to the west and east. The Urban Residential land use category most often translates into R-2 zoning. The amount of land area identified for neighborhood mixed use is substantial in size and has significant challenges in terms of topography, connectivity and market demand for development. This action will also retain the existing character and redevelopment potential of the Kenwood core investment area.
- 5) The R-2 is established to accommodate multi-family apartments and townhouses, in an urban setting. This district also allows for single-family detached dwellings, duplexes and group living accommodations. The district is intended primarily for locations closer to commercial and mixed use activity centers, and may serve as a transition between lower-density residential areas and more intense commercial and mixed use neighborhoods.
- 6) Map amendment area #2 would change the future land use category south of Maryland Street and between Kenwood Avenue and Dodge Avenue from Urban Residential to Traditional Neighborhood. This will reduce the intensity of future land use from encroaching into the neighborhood and to maintain the existing residential character of the area. The Traditional Neighborhood land use category most often translates in to R-1 zoning.
- 7) The R-1 district is established to accommodate traditional neighborhoods of single-family detached residences, duplexes and townhouses on moderately sized lots. This district is intended to be used primarily in established neighborhoods. Many of the dimensional standards in this district require development and redevelopment to be consistent with development patterns, building scale, and building location of nearby areas.
- 8) Recent mixed use development has been focused on the core area of the commercial node along Kenwood Avenue and West Arrowhead Road. The future land use changes will align the land use categories with the existing zoning, reduce intensity of land use and maintain the existing residential character. The change of the Future Land Use map will help support a future CIA.

Staff Recommendation:

Based on the above findings, staff recommends to the Planning Commission that the following change to the Comprehensive Future Land Use Map be recommended for approval by City Council.

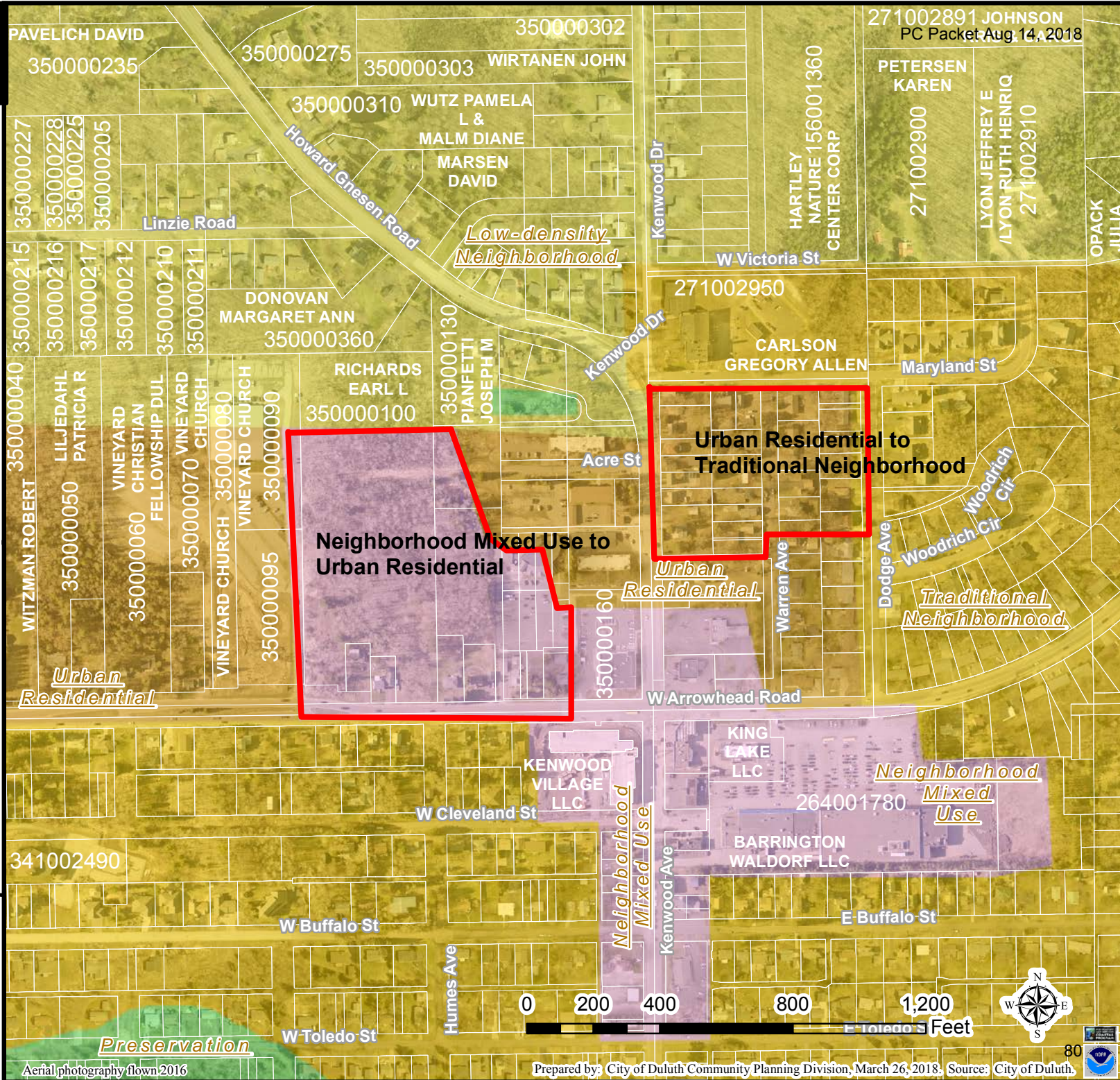
The Future Land Use Map be amended from Urban Residential to Traditional Neighborhood and Neighborhood Mixed Use to Urban Residential.



Legend
Future Land Use - Plus
Future Land Use

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

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PAVELICH DAVID 350000235
350000275
350000302 WIRTANEN JOHN
350000310 WUTZ PAMELA L & MALM DIANE
MARSEN DAVID

350000227
350000228
350000225
350000205
Linzie Road
Howard Ghesen Road
Low-density Neighborhood

350000215
350000216
350000217
350000212
350000210
350000211
DONOVAN MARGARET ANN 350000360
RICHARDS EARL L 350000100
350000130 PIANFETTI JOSEPH M

350000040
350000050
350000060
350000070
350000080
350000090
350000095
WITZMAN ROBERT
LILJEDAHN PATRICIA R
VINEYARD CHRISTIAN FELLOWSHIP DUL
VINEYARD CHURCH
VINEYARD CHURCH
VINEYARD CHURCH
Urban Residential
Neighborhood Mixed Use to Urban Residential

341002490
W Buffalo St
W Toledo St
Humes Ave
Kenwood Village LLC
W Cleveland St
Kenwood Ave
Neighborhood Mixed Use

271002900
271002910
HARTLEY NATURE 156001360 CENTER CORP
PETERSEN KAREN
LYON JEFFREY E / LYON RUTH HENRIQ
OPACK JULIA

271002950
CARLSON GREGORY ALLEN
Maryland St
Urban Residential to Traditional Neighborhood
Woodrich Cir

350000160
W Arrowhead Road
Warren Ave
Dodge Ave
Woodrich Cir
Traditional Neighborhood
Neighborhood Mixed Use

264001780
KING LAKE LLC
BARRINGTON WALDORF LLC
E Buffalo St
Kenwood Ave



MEMORANDUM

DATE: July 23, 2018

TO: Keith Hamre

FROM: John Kelley, Planner II

SUBJECT: UDC Map Amendment & Imagine Duluth 2035 Future Land Use Map Amendment

The City recognizes the Kenwood Neighborhood as a Core Investment Area (CIA) in the Imagine Duluth 2035 Comprehensive Land Use Plan based on the existing character and redevelopment potential for the area. The CIAs are intended to serve as neighborhood focal points, enhancing access by current residents to retail and service businesses, and protecting existing housing types outside the core zone. These neighborhood nodes should include functional, modern utility infrastructure to allow for new construction and business expansion; quality streets and sidewalks; bicycle access and parking; a reduction in illegal uses and dilapidated properties; transit service with appropriate, accessible pedestrian connections; and a mix of housing types, including senior housing, as well as multi-story housing with retail, services, and offices facing the street. To help achieve priorities and opportunities for this core investment area the City is proposing to rezone property in the general area of Kenwood Drive and West Arrowhead Road. In addition to the rezoning, Staff is proposing changes to the Future Land Use Map to better align those areas and the land use categories with existing zoning and land use.

In advance of the proposed map amendments, Staff has reviewed the areas of interest for the proposed changes with a more detailed analysis of the area north of W. Arrowhead Road (Areas A & B on the attached map). This analysis was specific for general land evaluation to potentially accommodate future development and/or redevelopment of the area. Area C east of the Kenwood Shopping Center and Area D south of W. Arrowhead and west of Kenwood Avenue were not analyzed by parcel size or property value.

Land/Building Value

The St. Louis County Land Explorer was used to acquire specific land information. Homes within the area evaluated were constructed in the 1950s and 1960s. Parcel size for the homes averaged .25 acres +/- (approximately 10,000 square feet). Land values generally were in the \$30K range with the high value being \$50K. Home values were in the \$130K to \$170K with the high value being \$223K.

Land Area/Parcel Size

To accommodate a practical redevelopment opportunity a minimum parcel size of 2 acres is necessary; it is also important that the redevelopment parcel shape be considered. On this size parcel it is possible to provide adequate space for applicable zoning requirements such as parking, stormwater management, buffering, and landscaping. Area A and B proposed for rezoning from R-1 and R-2 to MU-N have a combined land area of 2.8 acres +/- . Area C proposed rezoning from R-1 to MU-N is 2.7 acres +/- . Similar sized parcels with recent

development in the general area include the Walgreens site at 1.6 acres +/- and the Kenwood Village site at 2.3 acres +/- . The existing US Bank property adjacent to the rezoning area is 1.7 acres +/-.

The areas proposed for rezoning are considered the minimum practicable size and shape to allow for redevelopment. If modified, future spatial challenges will likely arise when property owners seek to redevelop their sites, and variances or other modifications from neighborhood design standards in the UDC may be necessary.

Recommendations

1. Change the future land use category north of the proposed rezoning Area A from Urban Residential to Traditional Neighborhood. This will reduce the intensity of future land use from encroaching into the neighborhood and to maintain the existing residential character of the area. The Traditional Neighborhood land use category most often translates in to R-1 zoning.
2. Change the future land use category west of Kenwood Avenue and north of W. Arrowhead Road from Neighborhood Mixed Use to Urban Residential. The Urban Residential land use category most often translates into R-2 zoning. The amount of land area identified for neighborhood mixed use is substantial in size and has significant challenges in terms of topography, connectivity and market demand for development. This action will also retain the existing character and redevelopment potential of the Kenwood core investment area.
3. Rezone Areas A, B, C and D identified on the attached map from R-1 and/or R-2 to MU-N. The rezoning will allow a minimal amount of growth for mixed use development of residential and commercial development/redevelopment.

General Core Investment Area (CIA) Development Standards

Final standards for the CIA at Kenwood and Arrowhead will be adopted during a future planning process in coordination with the neighborhood. However, establishing certain parameters at this time will assist in setting forth the context for the future process. These recommendations for the Kenwood and Arrowhead CIA include:

1. Minimum parcel sizes of 2 acres for development/redevelopment.
2. Requirement for shared parking and shared access to development sites.
3. Siting and orientation of buildings to streets and adjacent properties to enhance neighborhood character and encourage walkability.
4. The massing and scale of structures should relate to the topography and character of the surrounding area.
5. Establish design standards to create desired building forms for new construction.
6. Develop buffer area and landscape standards to mitigate impacts to adjacent properties and enhance the relationship between single family and multi-family or commercial structures in the CIA.



CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-068	Contact	John Kelley	
Type	UDC Map Amendment, Rezone R-1/R-2 to MU-N	Planning Commission Date	August 4, 2018	
Deadline for Action	Application Date	N/A, City Action	60 Days	N/A, City Action
	Date Extension Letter Mailed	N/A, City Action	120 Days	N/A, City Action
Location of Subject	Kenwood Avenue and West Arrowhead Road in the Kenwood Neighborhood			
Applicant	City of Duluth, Community Planning	Contact	John Kelley	
Agent	N/A	Contact		
Legal Description	See attached map			
Site Visit Date	July 31, 2018	Sign Notice Date	July 31, 2018	
Neighbor Letter Date	July 27, 2018	Number of Letters Sent	148	

Proposal

The City is proposing to rezone properties in the general area of West Arrowhead Road, Kenwood Avenue and Warren Avenue from Residential-Traditional (R-1) and Urban Residential (R-2) to Mixed Use-Neighborhood (MU-N), in conformance with the Comprehensive Plan's Future Land Use map.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1, R-2	Residential	Urban Res, Trad Res, Nghbrd Mixed Use
North	R-1, MU-N	Residential/Commercial	Urban Res, Trad Res, Nghbrd Mixed Use
South	R-1, MU-N	Residential/Commercial	Urban Res, Nghbrd Mixed Use
East	MU-P/MU-N/R-1	Commercial/Residential	Nghbrd Mixed use, Trad Nghbrd
West	R-1, MU-N	Commercial/Residential	Urban Res, Trad Res, Nghbrd Mixed Use

Summary of Code Requirements

- UDC Sec. 50-37.3.B: Planning Commission shall review the application, conduct a public hearing ... with public notice ... and make a written recommendation to council.
- UDC Sec. 50-37.3.C: The Planning Commission shall review the application, and Council shall approve the application or approve it with modifications, if it determines that the application:
 1. Is consistent with the Comprehensive Land Use Plan; 2. Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use; 3. Is required by public necessity, convenience, or general welfare, or good zoning practice; 4. Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.
- The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or else be considered arbitrary and capricious.

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

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 and neighborhood extensions, and new traditional neighborhood areas.

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

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

Economic Development: Policy #2: S1 - Prioritize redevelopment efforts in the Core Investment Areas. Encourage collaboration between existing businesses in individual Core Investment Areas to support increased business activity overall and to improve its aesthetic and social environment. Recognize Core Investment Areas as hubs of the sharing and remote-work economy.

Governing Principle #4 - Support emerging economic growth sectors

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

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

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

The City recognizes this neighborhood as a core investment area in the Imagine Duluth 2035 Comprehensive Land Use Plan based on the existing character and redevelopment potential for the area. To help achieve priorities and opportunities for this core investment area the City is proposing to rezone property in the general area of Kenwood Drive and West Arrowhead Road.

Recent History:

FN 11-042 Rezone R-2 to MU-N – Northwest corner area of West Arrowhead Road and Kenwood Avenue

FN 11-105 Rezone R-1 to R-2 – North side of West Arrowhead Road between Warren Avenue and Dodge Avenue

PL 12-008 Rezone R-1 to R-2 – Kenwood/Edison School, 1750 Kenwood Avenue

PL 15-060 Rezone R-1 to MU-N – Southwest corner of West Arrowhead Road

Review and Discussion Items

Staff finds that:

1) State Statute requires that a community's zoning map implement the general objectives of the Comprehensive Plan. The City recognizes the Kenwood Neighborhood as a Core Investment Area (CIA) in the Imagine Duluth 2035 Comprehensive Land Use Plan based on the existing character and redevelopment potential for the area. The CIAs are intended to serve as neighborhood focal points, enhancing access by current residents to retail and service businesses, and protecting existing housing types outside the core zone. The proposed rezoning will help lay the ground work for establishing a CIA in the Kenwood neighborhood.

2) This proposed rezoning is to update the city's zoning map so that it matches the community's vision in the Imagine Duluth 2035 Comprehensive Land Use Plan. The City will be amending the zoning map throughout the city to align with the future land use changes, and this is one of the many rezoning actions implementing the

comprehensive plan, both large and small, being proposed to the Planning Commission over the next several months.

- 3) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the Comprehensive Plan, and appellate courts have issued decisions that zoning must comply with the Comprehensive Plan or be considered arbitrary and capricious. Good zoning practice requires that zone districts be consistent with the future land use category identified for the area.
- 4) Area A (in the purple box of the Proposed Rezoning Area Map) has a future land use designation of Urban Residential, which can translate into the Unified Development Chapter's R-2, Residential-Urban and Mixed Use-Neighborhood (MU-N) zoning district. It is zoned R-1, Residential Traditional. All the parcels are privately owned with single family homes.
- 5) Area B (in the blue box of the Proposed Rezoning Area Map) has a future land use designation of Urban Residential, which can translate into the Unified Development Chapter's R-2, Residential-Urban and/or Mixed Use-Neighborhood (MU-N) zoning district. It is currently zoned R-2, Residential-Urban. The two parcels are privately owned and were rezoned from R-1 to R-2 in 2011. The current land use is office and single family home.
- 6) Area C (in the yellow box of the Proposed Rezoning Area Map) has a future land use designation of Traditional Neighborhood, which can translate into the Unified Development Chapter's R-1 or R-2 zoning districts. All the parcels are privately owned with single family homes.
- 7) Area D (in the red box of the Proposed Rezoning Area Map) has a future land use designation of Neighborhood Mixed Use, which can translate into the Unified Development Chapter's Mixed Use-Neighborhood (MU-N) zoning districts. All the parcels are privately owned with single family homes and one office building.
- 8) The MU-N district is established to accommodate a mix of neighborhood-scale, neighborhood serving non-residential uses and a range of residential uses located in close proximity. This district accommodates both horizontal (uses located in separate structures) and vertical (uses located in the same building) types of mixed use. Non-residential uses may include small-scale retail, service and professional offices that provide goods and services to the residents of the surrounding neighborhood or the unique development needs and impacts of major medical, educational and research institutional development.
- 9) The R-2 district is established to accommodate multi-family apartments and townhouses, in an urban setting. This district also allows for single-family detached dwellings, duplexes and group living accommodations. The district is intended primarily for locations closer to commercial and mixed use activity centers, and may serve as a transition between lower density residential areas and more intense commercial and mixed use neighborhoods.
- 10) The City intends to finalize the boundary of the Kenwood Commercial area. There are not presently any proposals for commercial redevelopment in the area. Finalizing the boundary of the Kenwood Commercial node was an unfinished item from the 2006 Comprehensive Land Use plan, and will allow the City to proceed with CIA planning in the future.
- 11) New development in the MU-N zone district would be mitigated by implementing UDC development standards such as buffering and landscaping, as well as storm water treatment and detention. In addition, access management controls (reducing conflict points on roads) would help to reduce additional vehicle traffic into adjacent residential neighborhoods.
- 12) Based on the policies and objectives of the Imagine Duluth 2035 Comprehensive Land Use Plan future land use, character and development history of this neighborhood and the purpose statements of the R-2 and MU-N zone districts, rezoning as proposed in areas A, B, C and D identified on the attached map, titled Proposed Rezoning Area Map, is appropriate for this neighborhood.
- 13) The city, as of the date this was written, has received 2 formal written comments in regard to this proposal from citizens and has had several emails and phone calls with residents and business of the area.

Staff Recommendation

Based on the above findings, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning as shown on the map titled Proposed Rezoning Area Map.

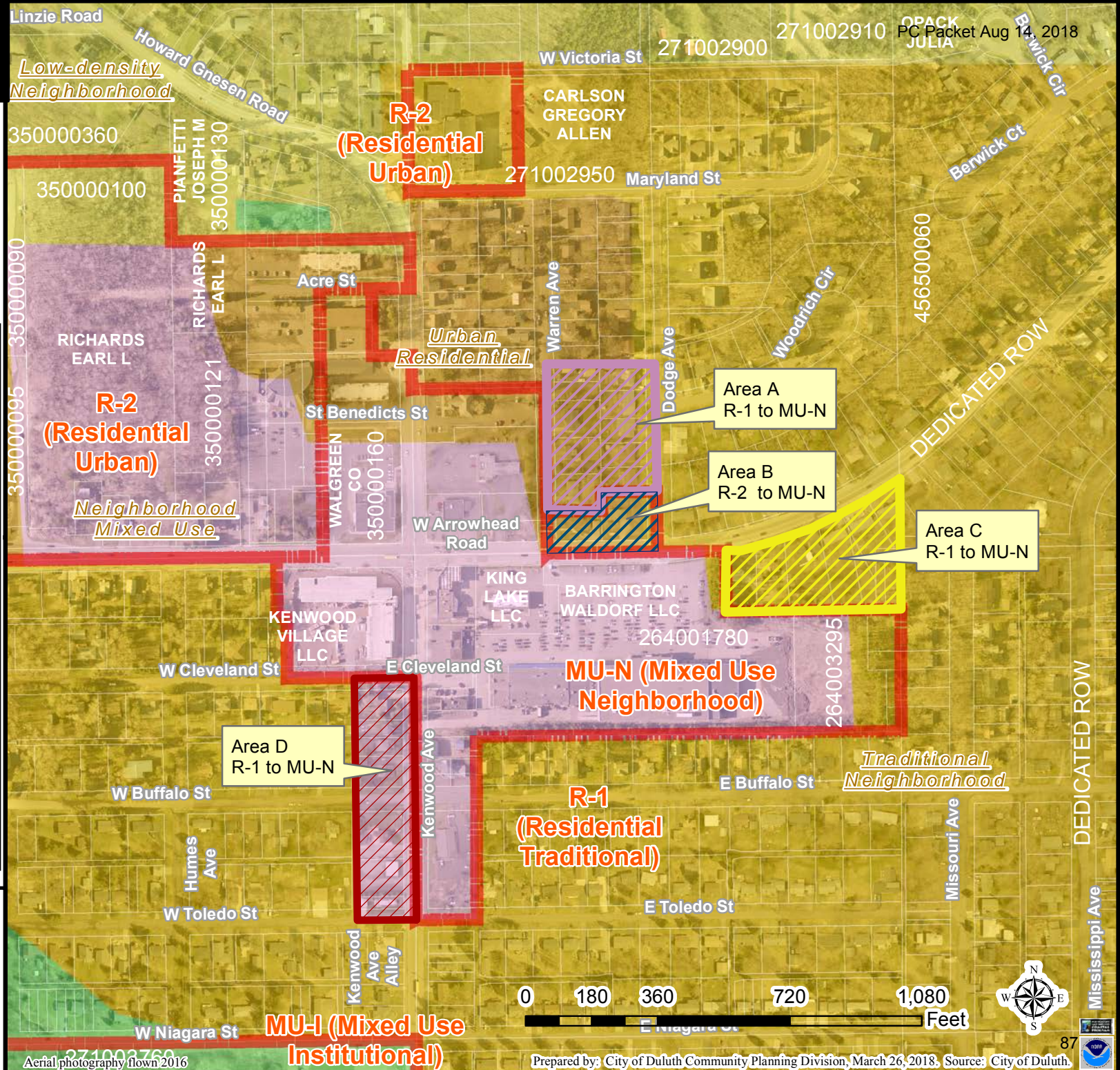
- 1) The rezoning is consistent with the Imagine Duluth 2035 Future Land Use Map.
- 2) The City recognizes this neighborhood as a core investment area in the Imagine Duluth 2035 Plan based on the existing character and redevelopment potential for the area.
- 2) The proposed zone district is most reasonably able to implement the objectives of the Imagine Duluth 2035 Plan related to the proposed land use for this area.
- 3) Material adverse impacts on nearby properties are not anticipated.



Legend

- Zoning Boundaries
- Future Land Use - Plus**
- Future Land Use**
- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto-Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

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.



DEDICATED ROW

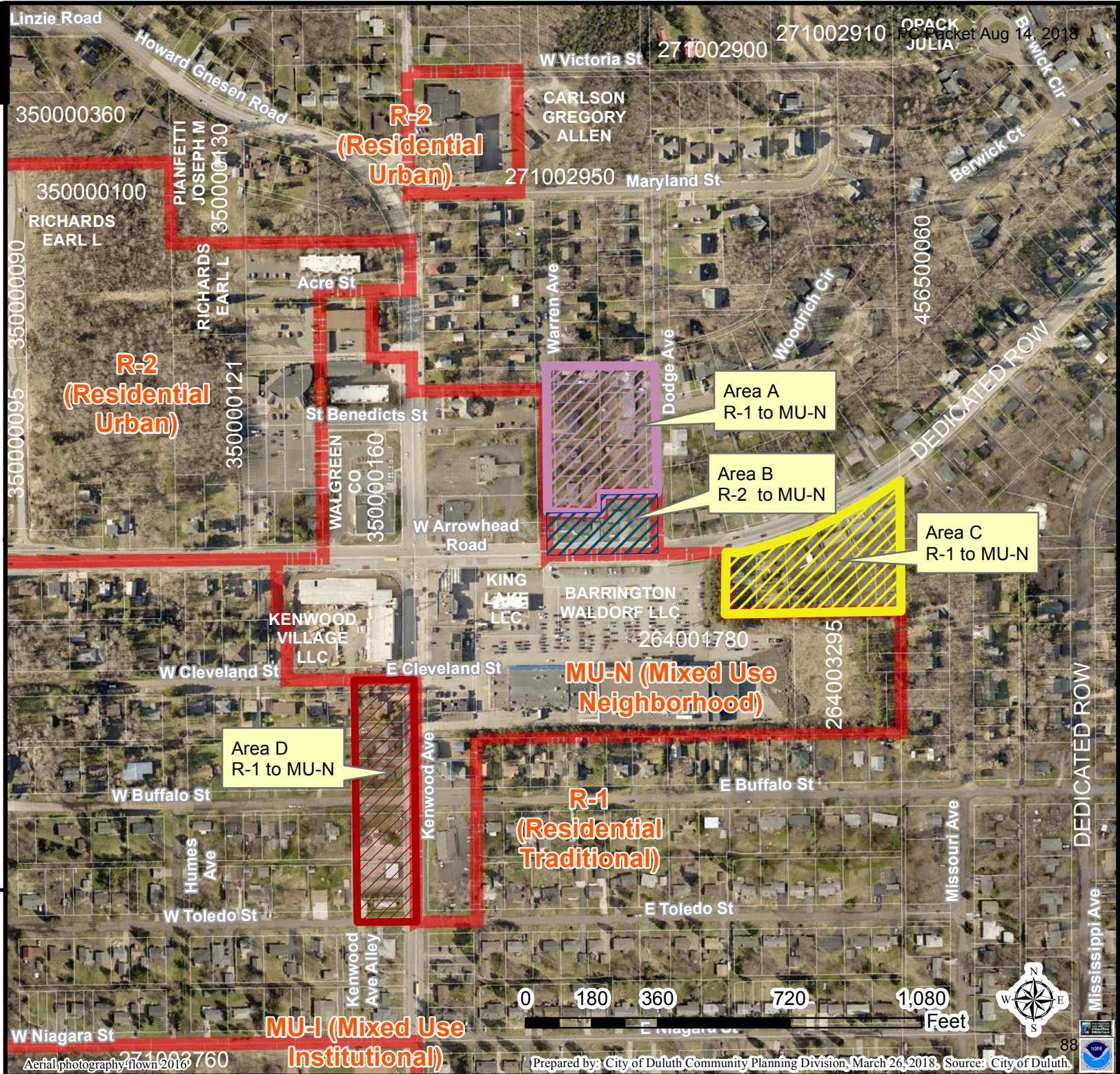
Mississippi Ave



Legend

 Zoning Boundaries

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CITY OF DULUTH

DEPARTMENT OF PLANNING & CONSTRUCTION SERVICES
Community Planning Division
411 West First Street – Room 208 - Duluth, Minnesota 55802-1197
218-730-5580 – An Equal Opportunity Employer

MEMORANDUM

DATE: July 23, 2018
TO: Keith Hamre
FROM: John Kelley, Planner II
SUBJECT: UDC Map Amendment & Imagine Duluth 2035 Future Land Use Map Amendment

The City recognizes the Kenwood Neighborhood as a Core Investment Area (CIA) in the Imagine Duluth 2035 Comprehensive Land Use Plan based on the existing character and redevelopment potential for the area. The CIAs are intended to serve as neighborhood focal points, enhancing access by current residents to retail and service businesses, and protecting existing housing types outside the core zone. These neighborhood nodes should include functional, modern utility infrastructure to allow for new construction and business expansion; quality streets and sidewalks; bicycle access and parking; a reduction in illegal uses and dilapidated properties; transit service with appropriate, accessible pedestrian connections; and a mix of housing types, including senior housing, as well as multi-story housing with retail, services, and offices facing the street. To help achieve priorities and opportunities for this core investment area the City is proposing to rezone property in the general area of Kenwood Drive and West Arrowhead Road. In addition to the rezoning, Staff is proposing changes to the Future Land Use Map to better align those areas and the land use categories with existing zoning and land use.

In advance of the proposed map amendments, Staff has reviewed the areas of interest for the proposed changes with a more detailed analysis of the area north of W. Arrowhead Road (Areas A & B on the attached map). This analysis was specific for general land evaluation to potentially accommodate future development and/or redevelopment of the area. Area C east of the Kenwood Shopping Center and Area D south of W. Arrowhead and west of Kenwood Avenue were not analyzed by parcel size or property value.

Land/Building Value

The St. Louis County Land Explorer was used to acquire specific land information. Homes within the area evaluated were constructed in the 1950s and 1960s. Parcel size for the homes averaged .25 acres +/- (approximately 10,000 square feet). Land values generally were in the \$30K range with the high value being \$50K. Home values were in the \$130K to \$170K with the high value being \$223K.

Land Area/Parcel Size

To accommodate a practical redevelopment opportunity a minimum parcel size of 2 acres is necessary; it is also important that the redevelopment parcel shape be considered. On this size parcel it is possible to provide adequate space for applicable zoning requirements such as parking, stormwater management, buffering, and landscaping. Area A and B proposed for rezoning from R-1 and R-2 to MU-N have a combined land area of 2.8 acres +/- . Area C proposed rezoning from R-1 to MU-N is 2.7 acres +/- . Similar sized parcels with recent



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development in the general area include the Walgreens site at 1.6 acres +/- and the Kenwood Village site at 2.3 acres +/- . The existing US Bank property adjacent to the rezoning area is 1.7 acres +/- .

The areas proposed for rezoning are considered the minimum practicable size and shape to allow for redevelopment. If modified, future spatial challenges will likely arise when property owners seek to redevelop their sites, and variances or other modifications from neighborhood design standards in the UDC may be necessary.

Recommendations

1. Change the future land use category north of the proposed rezoning Area A from Urban Residential to Traditional Neighborhood. This will reduce the intensity of future land use from encroaching into the neighborhood and to maintain the existing residential character of the area. The Traditional Neighborhood land use category most often translates in to R-1 zoning.
2. Change the future land use category west of Kenwood Avenue and north of W. Arrowhead Road from Neighborhood Mixed Use to Urban Residential. The Urban Residential land use category most often translates into R-2 zoning. The amount of land area identified for neighborhood mixed use is substantial in size and has significant challenges in terms of topography, connectivity and market demand for development. This action will also retain the existing character and redevelopment potential of the Kenwood core investment area.
3. Rezone Areas A, B, C and D identified on the attached map from R-1 and/or R-2 to MU-N. The rezoning will allow a minimal amount of growth for mixed use development of residential and commercial development/redevelopment.

General Core Investment Area (CIA) Development Standards

Final standards for the CIA at Kenwood and Arrowhead will be adopted during a future planning process in coordination with the neighborhood. However, establishing certain parameters at this time will assist in setting forth the context for the future process. These recommendations for the Kenwood and Arrowhead CIA include:

1. Minimum parcel sizes of 2 acres for development/redevelopment.
2. Requirement for shared parking and shared access to development sites.
3. Siting and orientation of buildings to streets and adjacent properties to enhance neighborhood character and encourage walkability.
4. The massing and scale of structures should relate to the topography and character of the surrounding area.
5. Establish design standards to create desired building forms for new construction.
6. Develop buffer area and landscape standards to mitigate impacts to adjacent properties and enhance the relationship between single family and multi-family or commercial structures in the CIA.

Uses Allowed in Residential-Traditional (R-1) Zone District Revised September 25, 2017

Permitted Uses

- | | |
|--|---|
| <ul style="list-style-type: none"> - Dwelling, one-family - Dwelling, two-family - Residential care facility/assisted Living (6 or fewer) - Park, playground or forest reserve | <ul style="list-style-type: none"> - School, elementary - Agriculture, community garden - Day care facility, small (14 or fewer) |
|--|---|

Special or Interim Uses

- | | |
|--|---|
| <ul style="list-style-type: none"> - Dwelling, townhouse - Manufactured Home Park - Co-housing facility - Residential care facility/assisted living (7 or more) - Cemetery or mausoleum - Government building or public safety facility - Museum, library, or art gallery - Religious assembly, small (less than 50,000 sq. ft. or more) - Religious assembly, large (50,000 sq. ft. or more) | <ul style="list-style-type: none"> - School, middle or high - Agriculture, urban - Bed and breakfast - Preschool - Day care facility, large (15 or more) - Electric power transmission line or substation - Major utility or wireless telecommunication facility - Water or sewer pumping stations/reservoirs |
|--|---|

Interim Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> - Vacation dwelling unit | <ul style="list-style-type: none"> - Accessory vacation dwelling unit |
|--|--|

Uses Allowed in Mixed Use-Neighborhood (MU-N) Zone District Revised September 25, 2017

Permitted Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> - Dwelling, one family - Dwelling, two-family - Dwelling, townhouse - Dwelling, multi-family - Dwelling, live-work - Co-housing facility - Residential care facility/assisted living (6 or fewer) - Residential care facility/assisted living (7 or more) - Rooming house - Bus or rail transit station - Club or lodge (private) - Government building or public safety facility - Museum, library, or art gallery - Park, playground, or forest reserve - Religious assembly, small (less than 50,000 sq. ft. or more) | <ul style="list-style-type: none"> - Religious assembly, large (50,000 sq. ft. or more) - Business, art, or vocational school - School, elementary - Medical or dental clinic - Nursing home - Agricultural, community garden - Veterinary or animal hospital - Bed and breakfast - Office - Preschool - Day care facility, small (14 or fewer) - Day care facility, large (15 or more) - Personal service and repair, small (less than 10,000 sq ft) - Grocery store, small (less than 15,000 sq ft) - Retail store not listed, small (less than 15,000 sq ft) |
|--|--|

Special Uses

- | | |
|--|--|
| <ul style="list-style-type: none"> - Manufactured Home Park - Cemetery or mausoleum - School, middle or high - Bank - Data Center - Agricultural, farmers' market - Agricultural, urban - Restaurant (less than 5,000 sq ft) - Theater - Hotel or motel - Funeral Home or Crematorium | <ul style="list-style-type: none"> - Personal service and repair, large (10,000 sq ft or more) - Automobile and light vehicle repair and service - Filling Station - Parking Lot (primary use) - Electric power transmission line or substation - Major utility or wireless telecommunication facility - Water or sewer pumping stations/reservoirs |
|--|--|

Interim Uses

- Vacation dwelling unit

6/7/18

Arrowhead and Kenwood Rezoning Community Informational Meeting

Vineyard Church

- Rezoning will not have an impact on the amount of taxes charged to the property; the use of the property/structure dictates the taxes to a greater amount than the zoning.
- Major concerns about traffic and parking on the streets that are no Arrowhead and Kenwood
- Front yard parking on Arrowhead Road needs to be enforced, the rules are in place and now there needs to be follow-through
- Have the property values immediately adjacent to Kenwood Village seen any changes (positive or negative)?
- Too much traffic going too fast on Warren Ave, specifically to and from the bank and many people using the Warren as a way to avoid lights leaving the bank
- Problems crossing Arrowhead Road from Warren Ave with too much traffic
- Too much density in an area that has a difficult time supporting the already dense development
- Push development down Arrowhead Road near the new Kwik Trip site. Transit and traffic flow is more ideal at that location
- The parking and circulation problems on Cleveland St need to be address. Parking on both sides of the street cause navigation problems for residents in the area

We are here tonight to ask you to address the problem we have on West Cleveland Street before you rezone an area on Kenwood Avenue that may bring even more parking problems to our area.

We residents are tax paying families and are not against future development in our area, but here are some of the problems we are dealing with since the large development was constructed on the Arrowhead Road/Kenwood Housing Development corner.

This stretch of Cleveland Street is a two-lane dead-end street. The only place to turn around is in the private driveways of the residents, which soon damages them. We have had many large delivery trucks and construction trucks regularly needing a place to turn around. On the days or nights that the Crooked Pint has specials, (and that is at least twice a week!) their patrons park all the way up to the dead end.

Because our road has only two lanes and there are vehicles parked in front of the resident's homes, it is difficult to back out of our driveways and impossible to back out a trailer or boat. We should not have to deal with that! And please know that this situation is even more difficult in the winter!!

Another problem with the excessive parking at these times are the vehicles which park on the southern road that is a right turn from Arrowhead Road to Cleveland Street. If they park on that short road it no longer will accommodate both up and down traffic and is an accident spot waiting to happen!

We certainly think that RESIDENTIAL PARKING ONLY signs would be a place to start. There are many empty parking spaces underneath the development that we have noticed when driving by at these special times. Maybe the patrons could be encouraged to use them instead of in front of our homes!

We encourage you to take our situation and find a solution before rezoning for additional businesses. Thank you very much for your attention to this matter!

Marlene & Larry Zwak
105 West Cleveland St.
Duluth MN 55811

City Of Duluth

Planning Division

PL 18-068 Rezoning, Area A

To: The members of the Planning Commission

From: Jim and Andrea Palumbo

We received a letter postmarked May 23, 2018 that informed us of a "Planning Activity" near our home. We attended the meeting on June 7, 2018 and it was obvious at that time that those of us affected by Area A are vehemently opposed.

Since that meeting, our city councilor Joel Sipress has come out to meet with members of the neighborhood, as well as Zack Filipovich, Noah Hobbs and Barb Russ who wanted to see the neighborhood and better understand what our neighborhood concerns were.

Those of us who live on Warren, Dodge and Woodrich bought our homes in a quiet residential neighborhood never imagining it would ever be subject to rezoning. This is a healthy, functioning neighborhood made up of well kept, single family homes. We have personally lived in our home for 30 years. We raised our family here and have watched other families do the same. This neighborhood has always had a wonderful mixture of young families, middle age and retired people.

On the front page of the News Tribune dated 7-29-18, there was an article which basically stated that there is a real shortage of affordable, single family homes in Duluth. So why rezone Area A, which could potentially get rid of 8 nice single family homes? I have heard the term population density used lately in regards to the City Of Duluth and another of the city's goals. If you rezone Area A and the neighborhood believes it will be used for another development like Kenwood Village, aren't you taking an existing achieved goal and replacing it with another goal?

In closing, just because you can doesn't mean you should. In this case we are asking, Please Don't. Because if you do, you're telling our neighborhood that our established homes are not as important as the new high density housing you may be building, our families are not as important as the people you hope to attract to move into these buildings and the lives we live and where we have chosen to live them are irrelevant.

Thank you for your time and consideration.

Jim and Andrea Palumbo

Dear Planning Commission,

I purchased my house at 1710 Warren Avenue in Kenwood four years ago. The family that built the house, lived in it for 55 years. I purchased the house from them for myself and my two young teenagers. The family was thrilled to sell to me, as they said my children would be the first children to live in it! Pretty amazing for a house that is almost 60 years old. This is what the whole neighborhood is like. Homes that have been filled with the same owners and their families for many years! There is such a sense of pride all along Warren Avenue and our backyard neighbors on Dodge Avenue. We all know each other. We help each other. We bring each other cookies at Christmas. We even know the name of everyone's dog as they walk the neighborhood in the evenings.

This rezoning idea goes against provisions for Mixed Use Neighborhood development in Chapter 50 of the City of Duluth Legislative Code. One of the purposes of establishing a Mixed Use Neighborhood District is to, "Encourage mixed use redevelopment, conversion and reuse of aging and underutilized areas, and increase the efficient use of commercial land in the city."

I attended the public meeting about rezoning our neighborhood to Mixed Use and I am disgusted that such an established family residential neighborhood is even being considered for this. Our city is filled with blighted neighborhoods. Many dilapidated houses that are in condensed areas. The majority of houses along Arrowhead Road, on both sides from Carver to Rice Lake Road are run down and used as rentals (possibly not even know to the city as licensed rentals). I would ask to please consider redevelopment in areas other than the established family neighborhood we live in.

Sincerely,

Andrea Simonette
1710 Warren Avenue
Duluth, MN. 55811

Dear Planning Commission,

I recently attended the public meeting about rezoning my neighborhood from Traditional Residential to Mixed Use held by the City Planning Division. I feel it makes no sense to rezone an established neighborhood to a Mixed Use Neighborhood and invite more development right into the middle of Warren and Dodge Avenues which would force many families to move from an area that has businesses like a supermarket, drug store, restaurants and a gas station readily available within walking distance.

I have lived in my house since 1990, I rented from my Brother (second owner) who bought it from the original owner, I bought it from him about 2005, Over that time frame my wife created a daycare business that started in 2006, the 3 lots I have proved to be a great place to let kids play in the back yard, my father built a swing set which the kids loved. The other houses are well maintained and it is a safe place to live, I have lived in West Duluth where I had several vehicle broken into, so feeling secure and safe is a huge factor in my decision to continue living where along with having neighbors are friendly, we actually had block parties back in the 90s. The street was full of long-term residents who cared about their community and their neighbors and still is to this day.

I am the 3rd owner of my home, the original owner owned many properties adjacent to mine, the woman that sold the house was actually born in it (Kitten Jensen) who was forced to move into nursing home in the late 80`s, her father was a carpenter who built the house with his own hands and farmed some of it, he also had farm animals. There has been numerous update to my house including remodeling the inside of the house, adding siding, slider doors, 3 decks, new windows and a new 32 x30 garage.

This summer, I had plans to invest more, but if rezoning occurs and a retail or apartment development goes in, I would be a fool to make that investment in a property that may one day be torn down and made into an apt complex or condo`s.

I will agree that looking at properties going west from Kenwood Av and from Arlington Av and Arrowhead Rd west to Swan Lake Rd (which have a lot of unused properties) would be a much better decision to expand and fit the comprehensive city plan through 2035 because of the access to the Arrowhead corridor.

I work for Spectrum (formerly Charter Communications) and travel to Rosemount/Lakeville, Rochester and Buffalo MN and see firsthand farm land being swallowed up by commercial development, strip malls everywhere which is very sad to see, farming is slowly being pushed out to make room for more businesses.

This rezoning idea goes against provisions for Mixed Use Neighborhood development in Chapter 50 of the City of Duluth Legislative Code. One of the purposes of establishing a Mixed Use Neighborhood District is to, "Encourage mixed use redevelopment, conversion and reuse of aging and underutilized areas, and increase the efficient use of commercial land in the city."

I would also like to express my concern about the decision to move the bank driveways to flow onto Warren Av, since that has been done the traffic has doubled on Warren Av, as I expressed during the public meeting, folks using the banks will very often turn left to avoid long waits to access Arrowhead Rd, they turn left and go up Warren Av and will access Kenwood Av off Maryland St then drive down to the lights. They ignore speed limits, heavier vehicle like buses, UPS, FEDX vehicles will cause the road to deteriorate much faster, my question to you is would you like to pay for replacement/repair every couple years??

I urge you to protect the remaining character of Warren and Dodge Avenues and home property values by rejecting plans to rezone the neighborhood along with forcing my wife and I having to relocate.

Sincerely,

Scott & Nita Wentz

1702 Warren Av.

Duluth MN 55811

June 14, 2018

City of Duluth Planning Commission
411 W First St., Rm 208
Duluth, MN 55802

Dear Planning Commission,

When I bought my house on Warren Avenue 19 years ago, one of the major selling points was the “quiet neighborhood” where it was located. My friends and acquaintances who heard about my new home congratulated me. “It’s the nicest street,” they said. And it proved true. The street was full of long-term residents who cared about their community and their neighbors. We helped each other during snowstorms, floods, and ice storms.

Even 19 years later with new residents, the helpfulness is still there. My neighbors in this Second Council District are invested in their homes and in making the neighborhood a good place to live.

What has changed is the amount of traffic. We can no longer say that it’s a quiet neighborhood. The traffic increase started when the Edison Charter School opened in the old Kenwood School. It has continued with the switch to apartments in the school. The recent change in the outlet for Wells Fargo Bank onto Warren, while well-intentioned and safer for bank customers, it is not safer for residents and has also caused increased traffic. People exiting the bank often forget to stop before they enter onto Warren to get to Arrowhead Road.

After several close calls, I have stopped using that side of Warren Ave. to access Arrowhead all together. I access it by Maryland and Howard Gnesen Road instead. I would suggest installing a stop sign on the bank driveway to help with this problem.

Any new development on Warren Ave. would no doubt add to the congestion and would require a detailed traffic study to avoid adding to the chaos.

I recently attended the public meeting about rezoning my neighborhood from Traditional Residential to Mixed Use held by the City Planning Division. I agree with the woman who said that it makes no sense to rezone an established neighborhood to a Mixed Use Neighborhood and invite more development right into the middle of Warren and Dodge Avenues.

The other plans to rezone areas along Arrowhead and Kenwood Ave. to Mixed Use make more sense because they are already along busy corridors, but the change on Warren and Dodge Aves. would be much more intrusive, and I am against this plan.

My home was built almost 100 years ago by Swan Gustaf Anderson when he was 72 years old. His \$450 mortgage was held by the Supreme Lodge of the Sons of Norway. I am the eighth owner of the house. Last summer, I invested \$40,000 into maintenance and remodeling. This summer, I had plans to invest \$50,000 more, but if rezoning occurs and a retail or apartment development goes in, I would be a fool to make that investment in a property that may one day have a view of dumpsters or a parking lot instead of big trees and homes.

This rezoning idea goes against provisions for Mixed Use Neighborhood development in Chapter 50 of the City of Duluth Legislative Code. One of the purposes of establishing a Mixed Use Neighborhood District is to, "Encourage mixed use redevelopment, conversion and reuse of aging and underutilized areas, and increase the efficient use of commercial land in the city."

Our neighborhood is not "underutilized." It is home to families who have lived there many years. Our homes may be aging, but they are all in good shape because we have invested in them. I would also argue that it is **not** an efficient use of commercial land in the city to displace people from an established neighborhood.

Also, after the empty promises by the developer of the Nature Trail Apartments at the end of Warren, I am skeptical of any new developments. That developer touted that the grounds would feature a park-like setting and maybe even a playground that the neighborhood children could use. Instead, what we got looks more like a used car lot and junk trailer storage area with a huge, ugly brush pile that gets bulldozed back into the forest periodically. Dented cars with flat tires and cracked windshields sit there for years, and are an eyesore for the neighborhood.

I urge you to protect the remaining character of Warren and Dodge Avenues and home property values by rejecting plans to rezone the neighborhood.

Sincerely,

Marie Zhuikov
1718 Warren Ave.
Duluth, MN 55811



7/10/2018

To: Duluth Planning Division

*Tom Boman
Mary Boman*

From: Tom and Mary Boman, 1231 Maryland St., Duluth, MN 55803.

Subject: Reconsidering the Rezoning in the Kenwood Neighborhood

We write to ask you to reconsider your proposal to rezone the neighborhood in the Kenwood area bounded by Dodge Ave. and Warren Ave. from residential to commercial.

This neighborhood is a functioning neighborhood, the kind your master plan for the City of Duluth espouses. The area being proposed for rezoning from residential to commercial is part of much larger and vibrant neighborhood.

All lots in the proposed rezoning site have single family houses on them. There are families of all ages ranging from those with young children to those who are happily retired living in those houses. They do not want their neighborhood rezoned to commercial. And the neighbors who surround this neighborhood oppose the rezoning.

Traffic on Arrowhead Road at the intersection of Kenwood Ave already is at a point of dangerous, especially considering the volume of traffic entering the shopping complex which includes a Super One grocery store and traffic serving both the campuses of UMD and St. Scholastica.. Adding more traffic volume due to additional high density housing could overload the system.

We respectfully ask you to withdraw your proposal to rezone the area between Dodge Ave and Warren Ave.

Bretmin Corporation

Edgewater Services, Inc. Infinity Management, Inc.

5979 Birch Point Road

Saginaw, MN 55779

Phone (218)-348-1782

Email bretmin@gmail.com

August 1, 2018

Planning Commission
City of Duluth
411 West First St
Room 208
Duluth, MN 55802



Dear Members of the Duluth Planning Commission,

I received the letter from the Duluth Planning Division dated July 27, 2018 regarding the re-zoning of R-1 to MU-N in the Kenwood/Arrowhead area. Since I will not be available to attend the meeting on August 14, 2018 I would like to offer my response to the re-zoning.

As a commercial property owner at 1520 Kenwood Avenue I am not usually opposed to additional commercial development. However, in the plan submitted with the letter I received there are 4 residential zoned areas that would be re-zoned to commercial. All 4 of these areas would abut residential homes and neighborhoods or would encroach upon residences depending on the scope and size of the commercial development. The impact on the neighborhoods now zoned residential and the neighborhoods that would be next to commercial zones if re-zoning occurs could ultimately be of a major impact on those residential properties.

The Kenwood area is a small commercial area surrounded by residential properties. The impact of re-zoning so many residential areas would bring substantially more noise, traffic, congestion and commercial impact to what is currently a bedroom community area. Having a commercial property directly within feet of a residential home could be devastating to the privacy and wellness of the property owner and have a severe overall impact on the neighborhoods involved.

For the above reasons, I would ask the Commission to review the proposal with the current residences and neighborhoods in mind. The residential property owners deserve to be considered above all else.

Sincerely,

Daniel J Thompson
President
Infinity Management, Inc.



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL18-095	Contact	Jenn Moses, jmoses@duluthmn.gov	
Type	UDC Map Amendment	Planning Commission Date	September 11, 2018	
Deadline for Action	Application Date	July 25, 2018	60 Days	September 23, 2018
	Date Extension Letter Mailed	August 1, 2018	120 Days	November 22, 2018
Location of Subject	4610 W Arrowhead Rd, Duluth, MN			
Applicant	Lisa & Matt Mahoney	Contact		
Agent	N/A	Contact		
Legal Description	See attached			
Site Visit Date	August 1, 2018	Sign Notice Date	July 30, 2018	
Neighbor Letter Date	August 1, 2018	Number of Letters Sent	15	

Proposal

Rezone the remaining portion of 4610 W Arrowhead Road in the Duluth Heights neighborhood from RR-1 to MU-B so the parcel has one zoning designation and is consistent with adjacent properties.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-B and RR-1	Equipment dealership	Central Business Secondary
North	MU-C	Undeveloped	Business Park
South	RR-1	Undeveloped, residential	Central Business Secondary
East	MU-C	Religious assembly	Central Business Secondary
West	MU-B	Office/contractor shop	Central Business Secondary

Summary of Code Requirements

UDC Sec. 50-37.3. A: Any property owner may petition the planning commission to amend the district boundaries in which the property is located.

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

UDC Sec. 50-37.3. C: The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that the application:

1. Is consistent with the Comprehensive Land Use Plan;
2. Is reasonably related to the overall needs of the community, to existing land use, or to a plan for future land use;
3. Is required by public necessity, convenience, or general welfare, or good zoning practice;
4. Will not create material adverse impacts on nearby properties, or if material adverse impacts may be created they will be mitigated to the extent reasonably possible.

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

Future Land Use – Central Business Secondary: An area adjacent to and supporting the primary central business 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 1980 Miller Hill Corridor Plan recommended this site as a rural residential designation. The subsequent Northwest Corner Study recommended this area as business park, with a greenbelt buffer to the east and medium density residential to the south. In 2002, applicant applied to rezone all 3.4 acres of land to M-1, but due to a desire for a buffer between this and surrounding properties, only 2.4 acres were rezoned (Ordinance 9569, PL 02-070). After adoption of the UDC in 2010, all property in the city was rezoned to new zone districts, and the M-1 zone designation was reclassified as MU-B.

The 2006 Comprehensive Land Use Plan identified the Future Land Use for the area as Auto-Oriented Commercial. With the recently adopted comprehensive plan, Imagine Duluth 2035, the Future Land Use category of Auto-Oriented Commercial was deleted, and the Future Land Use for this site was amended to Central Business Secondary.

Review and Discussion Items

Staff finds that:

- 1) The Minnesota Planning Act provides that zoning (an "official control") should implement the general objectives of the comprehensive plan, and appellate courts have issued decisions that zoning must comply with the comprehensive plan or be considered arbitrary and capricious. Good zoning practice requires that zone districts be consistent with the future land use category identified for the area.
- 2) Applicant is requesting to rezone to Mixed Use-Business. The intent of the MU-B district is to accommodate modern light industrial and technology-based developments of attractive integrated design and function. This district allows many of the uses suggested by the future land use category of Central Business Secondary.
- 3) While the zone district most closely aligned with the future land use designation is Mixed Use-Commercial, such a zone district would not align with the remainder of this property, which is zoned MU-B. Therefore, staff finds the MU-B zone district a reasonable continuation of the zoning designation that exists on the remainder of the property.
- 4) This request is reasonably related to the plan for future land use and to current use of the property.
- 5) As surrounding properties are zoned MU-B and MU-C, this zone designation will not result in adverse impacts.

Staff Recommendation

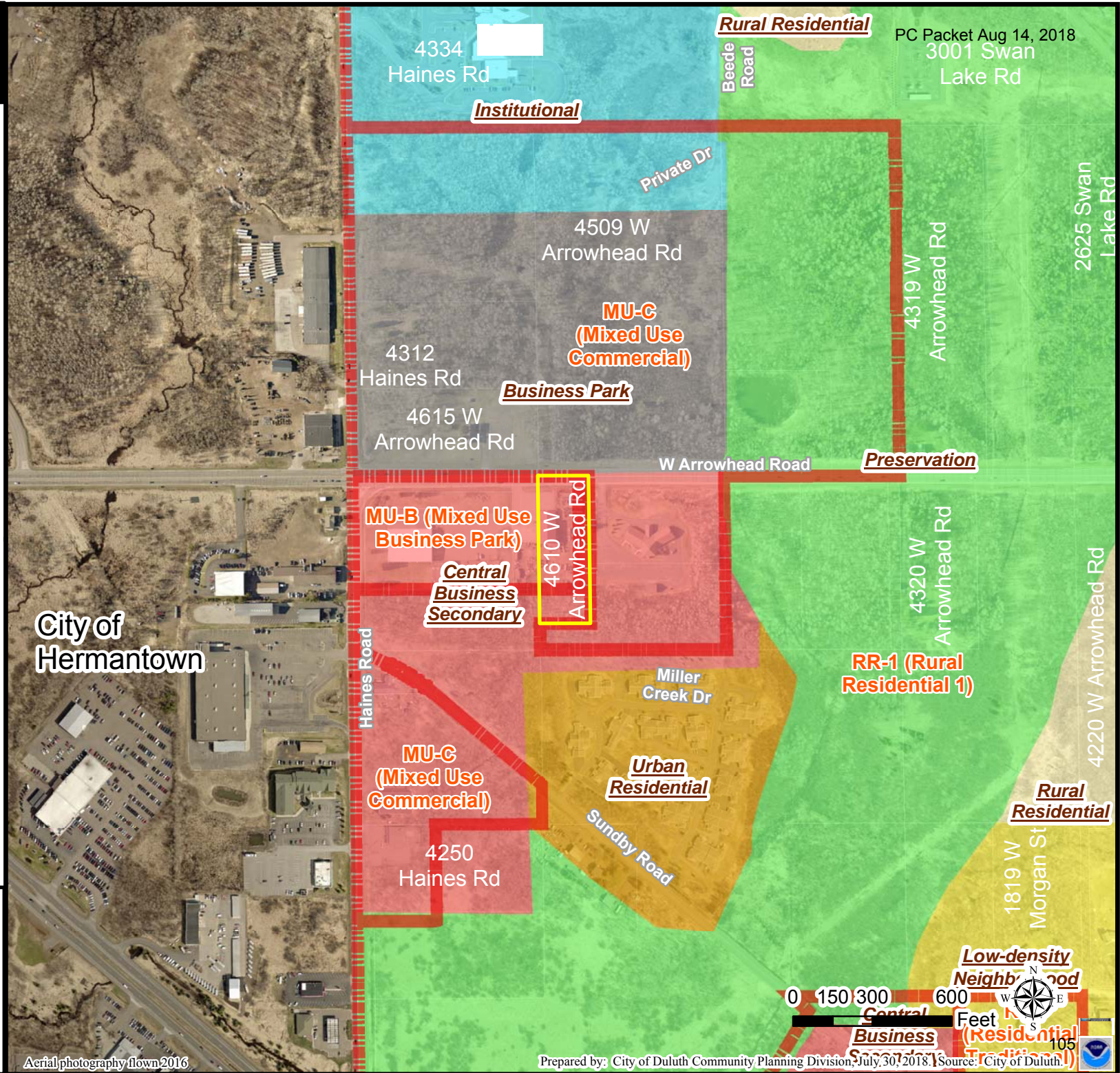
Based on the above findings, staff recommends that the Planning Commission recommend approval to the City Council of the rezoning, to be consistent with the attached exhibits, for the following reasons:

- 1) The rezoning is consistent with the comprehensive plan.
- 2) The proposed zone district is reasonably able to implement the objectives of the Comprehensive Plan related to the proposed land use for this area.
- 3) Material adverse impacts on nearby properties are not anticipated.



Legend

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



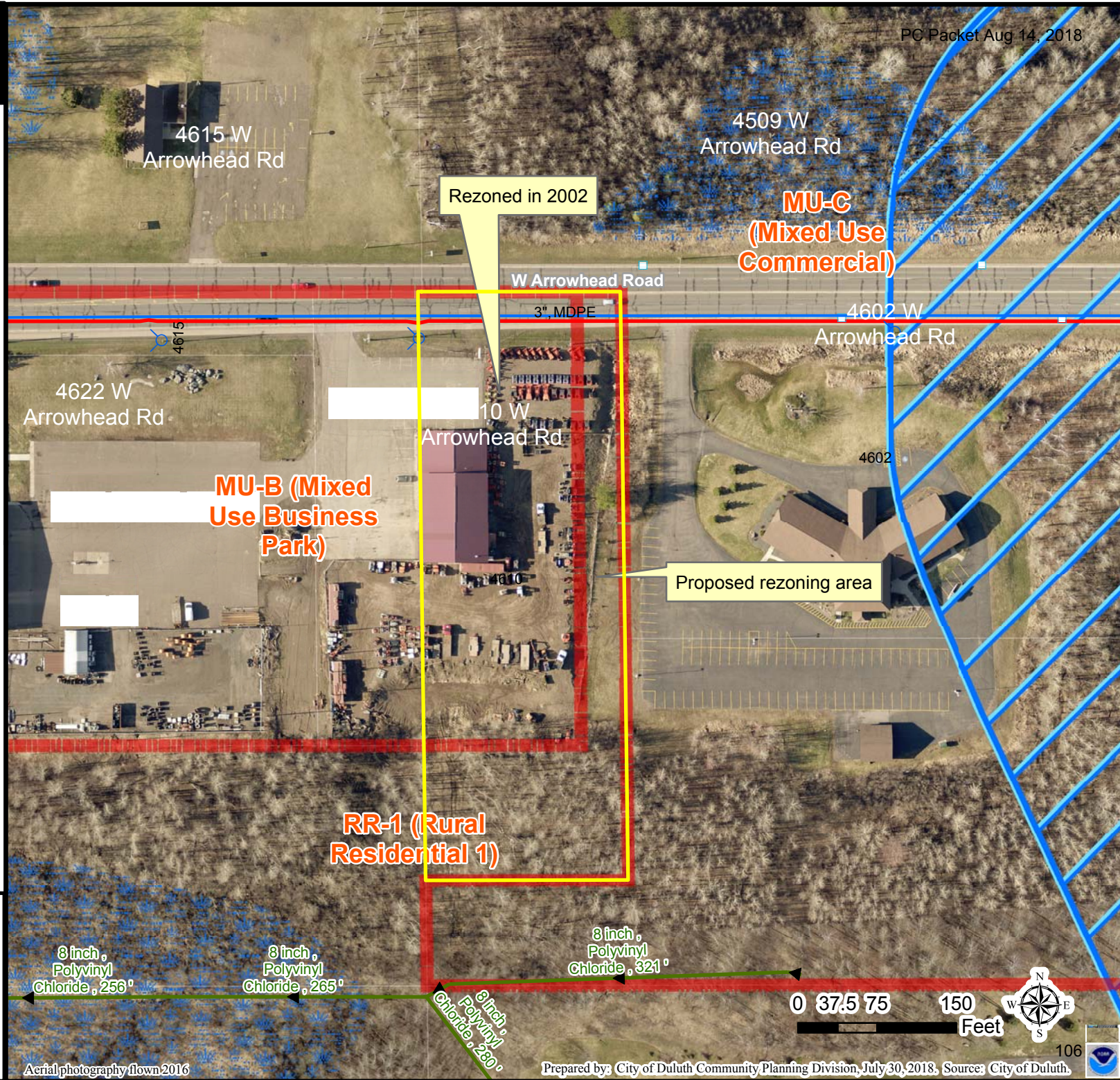
Aerial photography flown 2016

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

- Zoning Boundaries
- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Floodplain (UDC)**
- General Flood Plain
- Flood Way
- Flood Fringe
- Shoreland (UDC)**
- Cold Water
- Natural Environment
- General Development
- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRR1)

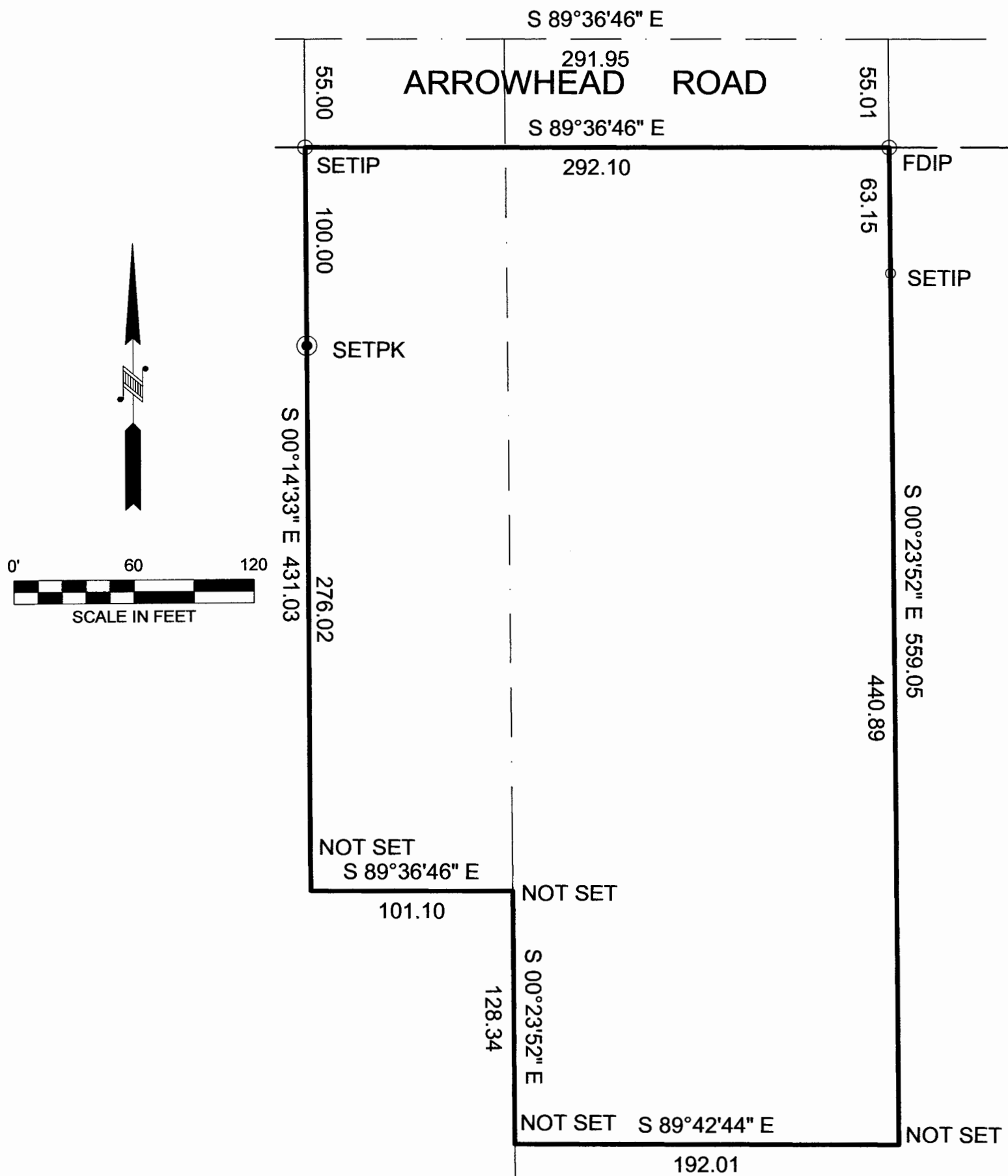


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Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, July 30, 2018. Source: City of Duluth.

CERTIFICATE OF SURVEY FOR: MATT MAHONEY



LEGAL DESCRIPTION

The North 431.00 feet of the Northwest Quarter of the Northwest Quarter of the Northwest Quarter of Section 18, Township 50, Range 14, EXCEPT the Westerly 602.35 feet thereof.

Also the Westerly 192.00 feet of the Northeast Quarter of the Northwest Quarter of the Northwest Quarter Section 18, Township 50, Range 14 EXCEPT the Southerly 100.00 feet thereof, all in St. Louis County Minnesota.

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 RON KRUEGER, LAND SURVEYOR.

DATE: 6/28/18
SCALE: 1 IN = 60 FEET
PROP ADD: ARROWHEAD ROAD
PROJECT NO: 18-05

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

Date: 6-28-18
Ronald L. Krueger
Ronald L. Krueger MN License No. 14374

RON KRUEGER
Land Surveyor
7066 HIGHWAY 8
SAGINAW, MN 55779
Phone: 218-390-4030

Site Photos

4610 W Arrowhead Rd



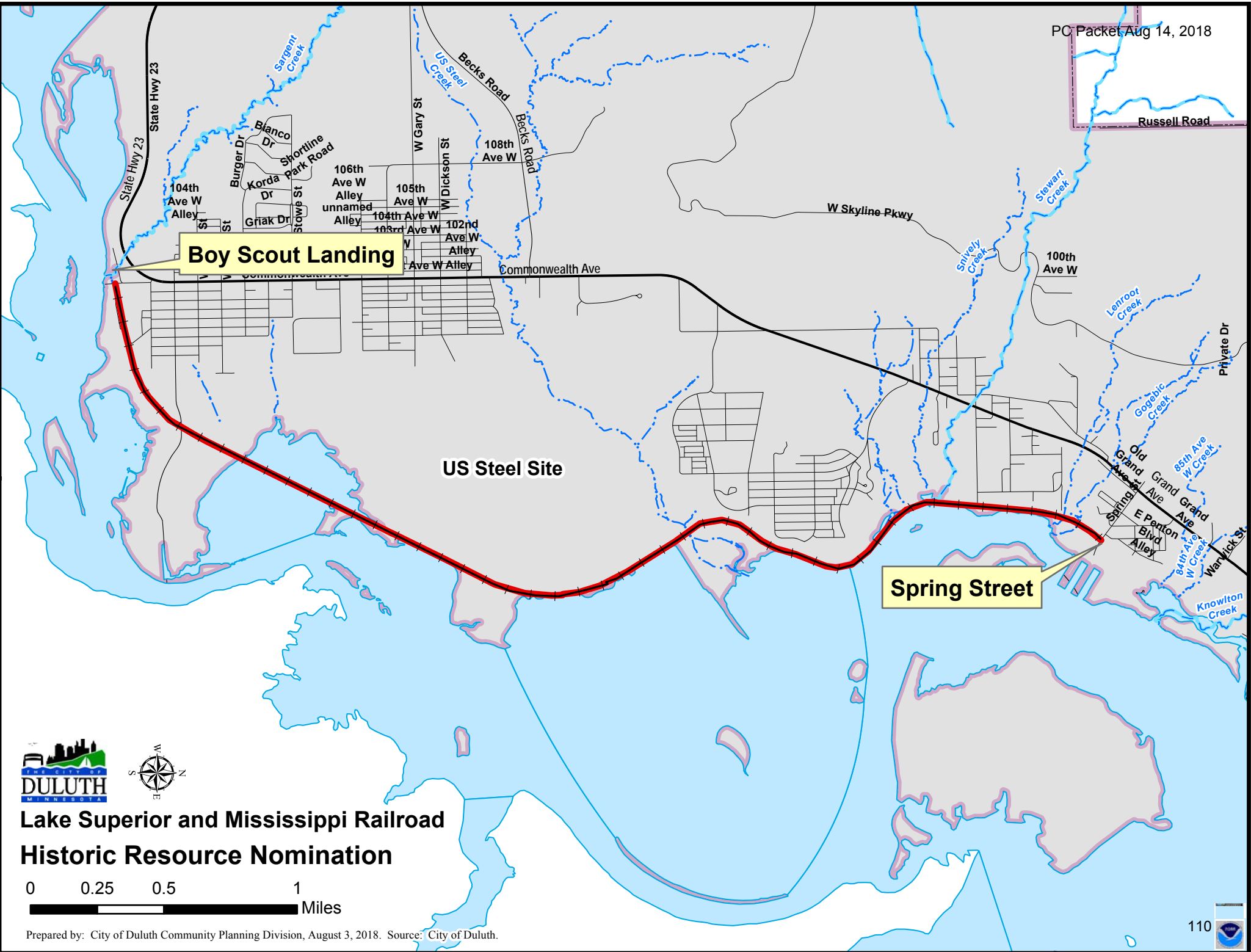
DATE: August 3, 2018
TO: Planning Commission
FROM: Jenn Moses, Planner II
RE: Historic Nomination of Lake Superior and Mississippi Railroad (PL 18-007)

The Heritage Preservation Commission (HPC) of the City of Duluth voted on November 28, 2017, to nominate the Lake Superior and Mississippi Railroad (LSMRR), from Boy Scout Landing on the west to Spring Street on the east, as a historic resource. A map of the area being designated is attached.

As part of the nomination, the HPC has submitted the attached nomination form for the property. The nomination form with all appendices is available under the Heritage Preservation Commission section of the City's web site, at <http://www.duluthmn.gov/community-planning/commissions-committees/>.

Per UDC Section 50-37.8, all nominations for Historic Resource Designation shall be forwarded to the Planning Commission, which shall review the application and make a recommendation to the HPC. In its review and recommendation, the Planning Commission shall consider potential effects on the surrounding neighborhood, economics, environment, and other planning considerations.

If Planning Commission makes a recommendation at its August 14, 2018 meeting, it is anticipated that the HPC will hold a public hearing on the nomination at its September meeting, and that the nomination would be forwarded to city council shortly thereafter.



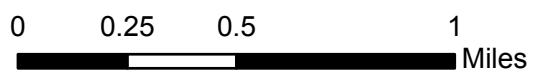
Boy Scout Landing

Spring Street

US Steel Site



**Lake Superior and Mississippi Railroad
Historic Resource Nomination**



Lake Superior & Mississippi Railroad

City of Duluth

Heritage Preservation Commission

Local Landmark Designation Presentation

Local Landmark Nomination Application

Property Information

Findings on Designation Criteria

Conclusions

Bibliography

Legal Description - Appendix A

Artifacts & Landmarks – Appendix B

Maps & Photos – Appendix C

November

2017

City of Duluth
Heritage Preservation Commission
Local Landmark Nomination Application

- I. Name of Property
 - A. Historic: **Lake Superior & Mississippi Railroad Company**
Name of first railroad into Duluth in 1870
 - B. Common: **Lake Superior & Mississippi Railroad Company**
Current name of tourist railroad in same location originating in 1979

- II. Location
 - A. Mailing address: LS&M, P.O. Box 16211, Duluth, MN 55816
 - B. Legal Description: See Appendix A (separate document)
 - A-1 Donation Deed – September 23, 1977
 - A-2 Donation Bill of Sale – November 15, 1982
 - A-3 Easement, Parcels Descriptions 1-11, November 15, 1982

- III. Classification
 - A. Type of Property: Linear railroad grade
 - B. Current use: Historical Excursion train
 - C. Current zoning:

- IV. Current Owner
 - A. Name: City of Duluth
 - B. Address: 411 W First Street, Duluth, MN 55802
 - C. Nomination brought forth through Duluth Heritage Preservation Commission

- V. Property Status
 - A. Occupied: LS&M tourist train operational weekends June – October
 - B. Assessed Value:
 - C. Condition: Track is Federal Railroad Administration approved as an operational Class I Railroad Track

- VI. Historical Background
 - A. Year Built: Original line from St Paul into Duluth completed August 1, 1870
 - B. Builder: The LS&M was financed by Jay Cooke and its president was William Banning, both well-known names in this area.
 - C. Original Site: Yes
 - D. Unaltered: Original alignment is unaltered. Rail, ties, switches and other materials have been replaced as required.
 - E. Architectural Style: Standard gauge rail

EA Engineering, Science, and Technology, Inc., PBC September 2016
Lake Superior and Mississippi Railroad Evaluation and Determination of Eligibility
Duluth, St. Louis County, Minnesota

THE LAKE SUPERIOR AND MISSISSIPPI RAILROAD HISTORY

The following describes the construction and operation of the Lake Superior Railroad. A full historic context for railroads in Minnesota, and from which this evaluation is tiered, can be found in the Railroads in Minnesota, 1862–1956 National Register of Historic Places Multiple Property Documentation Form on file at the Minnesota State Historical Society (Minnesota State Historical Society 2002). The context is not repeated in this report.

Until the late 1800s, the 10,000 lakes and countless numbers of rivers and streams in Minnesota created a vast network of waterways to provide transportation throughout the state. The waterways fell into three drainage areas—the Red River to the north, the Mississippi River, and Lake Superior. Each of these drainages represents a distinct and totally separate water system with no connecting links between them (Luecke 2005). The river route from the Head of Lakes (Lake Superior) south toward the Mississippi River system was difficult, and sometimes impossible to traverse. The arrival of the railroad would end the region’s reliance on waterborne transportation and establish the Head of the Lakes as a transportation gateway to all points in Minnesota (Luecke 2005).

Minnesota’s earliest railroads were incorporated in 1857. Of the possible routes for the first railroads in the region, the concept of linking the territory’s three major watersheds received considerable interest. The link between the Head of the Lakes and the head of navigation of the Mississippi River at St. Paul received considerable backing, but only as a part of a much grander scheme: a rail line from the Head of Lakes via St. Paul to the Missouri River at Omaha. On 23 May 1857, the Nebraska and Lake Superior Railroad Company was incorporated as one of the first original 31 territorial railroads (Luecke 2005, Prosser 1966). Of the 31 railroads chartered in this period, the four land grant roads managed to grade about 180 miles of potential railroad (Luecke 2005).

The Minnesota territorial legislature gave the Nebraska and Lake Superior Railroad Company a grant of swamp lands; however, the Panic of 1857 resulted in no work being completed on Minnesota’s railroad system beyond the initial 180 miles of grading. By 1860, the Nebraska and Lake Superior Railroad silently slipped into receivership and the hopes of early completion of the “Portage Railroad” disappeared (Luecke 2005). By 1861, the exportation of small grains, particularly wheat, was becoming increasingly important to the economy of the state, and the need of central Minnesota for a trade outlet to the East created pressures which led to a legislative act reviving the company under a new name. On 8 March 1861, the Nebraska and Lake Superior was re-organized and emerged as the Lake Superior and Mississippi Railroad Company (LS&M) inhering the swamp land grant (Harnsberger 1960, Luecke 2005, Prosser 1966).

Events once again interfered with the company’s second bid to complete the “Portage Road.” One month after the LS&M was formed, the Civil War began. No progress would be made by the LS&M. In 1863, the legislature extended the time limits governing the construction of the road with the hope that time would allow the LS&M to recover from the effects of the war.

(Luecke 2005).

Minnesota had three railroads in operation in 1864. In the spring of that year, the LS&M became Minnesota's fourth railroad by breaking ground in St. Paul in early July and letting contracts for the grading of the first 21 miles of the line (Luecke 2005).

To keep the road construction moving, the Board of Directors voted to assess each stockholder the sum of \$2 per share in June 1865; however, funds quickly ran out and construction was again halted. The LS&M slipped into another period of dormancy. The state of Minnesota tried to push the project in 1865, by authorizing a land grant of seven sections on either side of each completed mile in support of the "Portage Road." Even this land grant of more than 694,000 acres along the proposed route to Duluth, combined with the end of the Civil War, were not enough to result in immediate resumption of construction¹. The project wallowed through 1866 and 1867 without appreciable progress. The deadline for completion was extended a third time. In an attempt to raise additional working capital, the road's Board of Directors attempted another emergency assessment. This proved to be the undoing of the project when many stockholders gave up their shares rather than invest more money (Luecke 2005).

The LS&M president, William L. Banning, scrambled for outside backers to support the construction of the road. Mr. Banning went to Jay Cooke and Company of Philadelphia. Mr. Cooke was one of the leading financiers in the United States at the time (Luecke 2005). In late 1867, Mr. Cooke backed the LS&M. The LS&M railroad would become strategically important to Cooke and the Northern Pacific (Lubetkin 2006).

On 5 May 1868, the first rail was spiked into place on the LS&M, and on 20 June 1868, the LS&M became Minnesota's sixth operating railroad with the arrival of its first locomotive at the St. Paul levee (Luecke 2005). Rail construction progressed northward to about 4 miles south of White Bear Lake during Summer 1868. On 27 July 1868, the railroad was "inspected" by a party of Eastern railroad gentlemen. This excursion was the first movement of passenger cars over the LS&M (Luecke 2005). The completion of the line to White Bear Lake was celebrated on 10 September 1868, with regular passenger service to White Bear Lake beginning on 16 September 1868 on a 6-day-per-week schedule. The train departed St. Paul at 6:45 a.m. and 6:45 p.m. from White Bear Lake. On 9 December, 1868, the LS&M opened regular passenger service to the railhead at the town of Wyoming. Track-laying continued north out of Wyoming on 26 May 1869 (Figure 2). Regular service was extended to Rush City on 26 June 1869. On 20 October, trains began running to within 1 mile of Pine City. It took more than a week for the railhead to reach Pine City due to a sinkhole which developed south of the city (Luecke 2005).

While the construction in St. Paul began in 1864, building from Duluth southward did not begin for another 5 years. In June 1869, grading operations began along the shores of Lake Superior at Rice's Point near Duluth. The geography of the shoreline was less than ideal for construction of the railroad due to high bluffs. A series of ridges and valleys ran down the slope to the very edge of the water. The route was interspersed with marshy, swampy back waters which would have to be crossed on piles. Much of these back waters were later filled, but in 1869, crossing them meant driving innumerable timber piles to support the railroad (Luecke 2005). The Duluth Bay did offer one advantage: Rice's Point. The low, relatively flat peninsula projected deep into the St. Louis River near its mouth, forming a natural meeting point for the railroads and ships. Since

Duluth was also to be its eastern terminal for the Lake Superior to Puget Sound railroad, the importance of the port increased accordingly. It was expected that the new city would not only compete with Chicago for the trade of central and southern Minnesota, but that it would become in time the single great outlet to the east for the Red River Valley and the plains of North Dakota (Harnsberger 1960). The LS&M realized the advantages of the point and based its Duluth operation on the point (Luecke 2005).

On 1 January 1870, the first 77 miles of the LS&M railroad were completed and a passenger and freight train ran from St. Paul to the newly platted town of Hinckley, which is located approximately halfway between Duluth and St. Paul. The train left St. Paul at 7:15 a.m. and arrived at Hinckley at 12:05 p.m., with stops at White Bear, Centreville, Forrest Lake, Wyoming, North Branch, Rush City, and Pine City. The train returned to St. Paul the same day at 6:00 p.m. (Luecke 2005).

As early as 1853, Minnesota legislators created a railroad charter for a line to run from Lake Superior to Puget Sound in Washington State. In 1864 President Lincoln approved an Act of Congress that essentially created the Northern Pacific Railroad (Dierckins and Norton 2012). On 1 January 1870, Jay Cooke and Company agreed to become the financial agent of the Northern Pacific Railroad.

In 1870, the Northern Pacific had made arrangements to use the LS&M mainline from a point near Thomson into Duluth. This rail link would provide the Northern Pacific with a supply line to Duluth and St. Paul for its own construction. The deal resulted in the decision to push construction of the LS&M throughout the winter (Luecke 2005).

As spring came, the LS&M was nearing completion. By 10 March, rails ran to within 10 miles north of Hinckley, or 87 miles north of St. Paul. Seven miles of track were in place on the Duluth division. Crews worked on the trestle along the St. Louis River at Fond du Lac, and at building culverts, retaining walls, and fills. A bridge at the St. Louis River crossing just below Thomson was completed (Luecke 2005). During the first week of April, the railroad reached the Kettle River, 96 miles north of St. Paul. Massive delays came on the Duluth side in late April when the winter frost thawed and poor engineering decisions made over the winter resulted in cuts and fills giving way, leaving tons of earth to be re-excavated (Luecke 2005).

When the LS&M was built in the late 1860s, the engineers chose the most obvious route for the railroad to leave the Duluth Harbor area: the route along the St. Louis River. This choice merely adhered to one of the most basic theories of railroad engineering: the easy grade offered by a water-level route. Countless railroads had made use of this theory prior to the LS&M. The St. Louis River route not only represented the easiest and most economical grade, but also the only gap in the hills surrounding Duluth that would allow the LS&M to build in the direction of St. Paul. While the line along the St. Louis River was much easier to complete, its physical characteristics required very expensive annual maintenance. The western portion above Fond du Lac was extremely difficult. Five great timber trestles, numerous smaller bridges and culverts, and thousands of feet of shoring and retaining walls were needed to complete this section of road. The steep grade between Fond du Lac and Thomson strained the capacity of the locomotives (Luecke 2005).

The Duluth division reached Fond du Lac on the evening of 22 June. On 1 August 1870, the final spike was driven near the town of Thomson, and the first railroad connecting the Twin Cities to Duluth was completed (Dierckins and Norton 2012; Martin 2010). The work crew had to scramble to meet the deadline, and 4 hours after the laying of the last rail, the first train from St. Paul to Duluth arrived. The first train consisted of a locomotive, baggage car, two passenger coaches, and two freight cars (Dierckins and Norton 2012).

The first regular schedule for the 154-mile portage route went into effect on 17 August 1870. By the end of the year, trains ran between Duluth and St. Paul every day (Dierckins and Norton 2012). The train started from the St. Paul station that day at 7:15 a.m. and arrived in Duluth at 11:30 p.m., making the 154-mile trip in 16 hours and 15 minutes (less than 10 miles per hour) (Carroll and Wisuri 2006).

Within a year, the time from St. Paul to Duluth was reduced to 12 hours, and progress was made as the equipment and the tracks were improved, although it was claimed by some that LS&M meant “long, slow & miserable.” Throughout the 1870s, there was a daily day-time passenger train from St. Paul to Duluth, returning to St. Paul overnight. There was also a separate daily day-time freight train from St. Paul to Duluth, returning to St. Paul overnight (LS&M time schedule 1871, 1874, and 1876).

The LS&M provided wheat growers with a link to a vital grain port. In 1886, Duluth elevators transferred 22 million bushels of grain from railroad to ships on Lake Superior (Schmidt et al. 2013). The LS&M also provide transportation for tourists to destination outside of, but close to, the major cities, including White Bear Lake, Chisago Lakes, Taylor Falls, Center City, Lindstrom, and Forest Lake (Schmidt et al. 2013).

After the LS&M was completed, Jay Cooke began significant construction on the Northern Pacific as men became available for work (Lubetkin 2006). In the economic crash of 1873, the banking firm of Jay Cooke and Company failed, and the economic growth in Duluth ceased. Duluth lost half of its inhabitants between 1873 and 1875 (Schmidt et al. 2013). Duluth did become an important port for the Great Lake’s trade with the completion of the Northern Pacific, the opening of the Red River Valley and the Great Plains to wheat production, and the development of the Minnesota mining industry in the 1880s and 1890s (Harnsberger 1960).

The Northern Pacific broke their lease with the LS&M. The LS&M managed to hang on without Cooke’s money and the lease, but in 1877, the railroad failed. It reorganized as the St. Paul and Duluth Railroad on 17 July 1877 (Dierckins and Norton 2012, Prosser 1966). In 1886, the St. Paul and Duluth Railroad built a new line from West Duluth to Thomson to reduce the road’s grade, remove some turns, and shorten the distance by 2½ miles. The original line continued to provide commuter train serve to Fond du Lac until the 1930s.

The St. Paul & Duluth Railroad was sold to the Northern Pacific Railroad on 15 June 1900, and the Northern Pacific acquired all of the track and facilities and integrating them into their system (Prosser 1966, Carroll and Wisuri 2006). The Northern Pacific was succeeded by Burlington Northern. Because Burlington Northern already had railways in place, much of the original

LS&M line was considered redundant. Most of the track was abandoned, and many segments have since been turned into rail trails, including the Willard Munger Trail which was the realigned section built by the St. Paul and Duluth (Dierckins and Norton 2012). On 19 September 1977, Burlington Northern donated the 6-mile track to the City of Duluth (LS&M Railroad Company 1983).

Beginning in the 1910s and increasing during the 1920s, the automobile became the preferred mode of travel for Minnesota tourists. As highways improved, automobiles carried increasing numbers of tourists, and train travel decreased (Schmidt et al. 2013).

¹ By the time the railroad was completed, the land grant made by the federal government and the state of Minnesota, in aid of construction of this road was the largest in quantity and most valuable in kind ever made in aid of any railroad in the U.S. to date. The grant amounted to 17 square miles or sections (10,880 acres) of land for each mile of road, totaling 1,632,000 acres of land (Coffin 1870). Between the value of the land grant received and the bonuses from St. Paul and St. Louis County to be the terminus for the line, the railroad received approximately \$4.8 million in gratuities (Prosser 1966).

VII. Description of Property

The LS&M track includes approximately 6.2 miles of original LS&M track alignment as described below.

DESCRIPTION OF THE SIX-MILE SEGMENT OF THE LAKE SUPERIOR & MISSISSIPPI RAILROAD

The original Lake Superior and Mississippi Railroad had its northern terminus in downtown Duluth and its southern terminus in St. Paul. The railroad ran south, southwest out of Duluth following the St. Louis River shoreline until the town of Thomson. From Thomson, the rail headed west of Carton for approximately 2 miles then turned south, southwest and followed what is today the Interstate 35 (I-35) and I-35E corridors into St. Paul. The segment from New Duluth to Thomson was rerouted in the 1880s farther to the north and followed what is now the Willard Munger Trail (Martin 2010).

The segment of the Lake Superior and Mississippi Railroad used by the Lake Superior and Mississippi Railroad Company currently for tourist rides and the subject of this evaluation begins at South 67th Avenue West at the Lake Superior and Mississippi Railroad Company parking lot and ticketing booth in West Duluth, and terminates at Commonwealth Avenue at the Boy Scout Landing parking lot in New Duluth. The roadway segment is approximately 6 miles in length and approximately 30 feet (ft) wide.

The location and design of the corridor is influenced by the natural shoreline of the St. Louis River. This section of the St. Louis River provided a relatively flat grade, and a gently meandering corridor. The railroad configuration is a single track on a railroad bed. The railroad roadway consists of ground modification (cut, fill, ditches, drainage features, and grade changes), although the cuts and fills are minimal along this section of rail due to minimal grade changes. The roadway comprises ballast, tracks, ties, and ditches. The ballast is primarily crushed stone. The top of the road bed varies, but averages 16 to 20 ft wide.

The tracks are standard gauge steel rails (photograph no. 2) spaced 4 ft, 8½ inches apart, mounted to wooden ties (photograph no. 4). The ties are imbedded into the ballast, and in some cases covered by the ballast. The rails are secured to the ties with spikes through steel plates (photograph no. 33). There are switch stations at each end of the rail line to re-position the engine (photograph no. 29 and 41). There is also a switch station approximately 300 ft south of Spring Street where another railroad line separates from the main line to the southwest. Materials have been replaced over the years with modern materials; however the overall design and installation techniques are similar to the original design and materials.

The following is a more detailed description from north to south. Photographs are included in Appendix C.

This segment of the Lake Superior and Mississippi railroad begins on the north end at the crossing of the main line with South 67th Avenue West (photograph no. 42). Adjacent to the northwest side of the railroad and just south of South 67th Avenue is the modern Lake Superior and Mississippi Railroad Company parking lot and ticket booth (photograph no. 43). There are also other modern businesses and residential areas visible on both sides of the railroad in the area.

Approximately 700 ft southwest of the parking lot, the Western Waterfront Trail crosses the tracks, and approximately 200 ft beyond the trail crossing is a modern concrete railroad bridge that spans Kingsbury Creek (photograph no. 44). Approximately 700 ft beyond Kingsbury Creek, the railroad crosses Pulaski Street and begins paralleling Bayhill Drive passing near residential and small commercial and retail businesses. Bayhill Drive continues for about 0.6 mile and ends at a warehouse. The railroad then parallels the Western Waterfront Trail and St. Louis River for another 0.6 mile and crosses Spring Street at the Spirit Lake Marina. Continuing in a southwest direction, the railroad follows the St. Louis River for less than ½ mile (0.47 mile) and crosses Clyde Avenue. This area also contains small commercial businesses, residential areas, and wooded areas with occasional views of the St. Louis River.

Nine hundred feet south of Clyde Avenue, the railroad crosses Stewart Creek with an open concrete culvert with separate track (steel) and pedestrian (timber) crossings (photograph nos. 36 and 39). The railroad curves to the southeast, and approximately 1,000 ft from Stewart Creek is an open wooden culvert to allow water on the west side of the track to drain water through the railroad bed into the St. Louis River. The culvert is spanned by the single track.

The railroad continues to follow the St. Louis River shoreline for approximately 2.3 miles in a more rural setting with no vehicular road crossings. In this section, the railroad passes along the east side of Morgan Park with only a few modern houses visible from the track (photograph nos. 5, 7, 8, and 9). The railroad then crosses the U. S. Steel property. There are six corrugated steel modern pipes that form a culvert at the Unnamed Creek (photograph no. 11). There are views of Spirit Lake to the east and wooded areas to the west.

The railroad then crosses Mud Lake for approximately 0.38 mile (photograph no. 23). This area was originally spanned by a timber pile trestle bridge but has been replaced (date unknown) by infilled railroad roadway. The roadway is approximately 30 ft wide at the top and 60 ft wide on

the lake bed. There is a wooden culvert approximately half way across the Mud Lake span (photograph no. 24). The views are of Mud Lake and wooded areas.

From the south end of Mud Lake, in approximately 0.2 mile, the railroad passes under an overhead steel beam Canadian National railroad bridge (Martin 2010) (photograph no. 25) and then, in 250 ft, crosses East McCuen Street (photograph no. 27). The railroad continues for another 0.6 mile and terminates at Commonwealth Avenue adjacent to residential apartments and the River Place campground. There is a 1,000-ft spur track with a switch station to reposition the engine (photograph no. 29). The track beyond this point has been removed (photograph no. 32).

VIII. Present Condition

The LS&M track is Federal Railroad Administration compliant for train operation. As with all operating railroads, as soon as a track is put in service, tracks and roadbeds must be regularly inspected and continually repaired and upgraded to comply with current regulations. Throughout the life of the LS&M, such improvement has taken place. Currently, twice-weekly track inspection is ongoing with ballast, tie and rail replacement as required. Although virtually no railroad operates without upgrades and replacements, a rail has been located on the LS&M stamped as original Carnegie rail from 1893 as well as a switch stand stamped 1889 (Appendix B) In addition, the earthen causeway which allows the LS&M to cross Mud Lake was built on the original 1890's trestle which was filled in during the 1950's.

IX. Statement of Significance

As the first railroad into Duluth, the LS&M connected Duluth with St Paul and later other railroads allowing the trading of goods. The railroad was critical to the economic growth of Duluth as well as the establishment of other towns along the route providing a vital economic driver and transportation system for the State of Minnesota.

Andrew Schmidt is quoted in the EPA Study as saying, "The LS&M Duluth Corridor retains integrity of location, design, materials, setting feeling and association. The shoreline of the St Louis River dictated the placement of the alignment and the swamp land required the placement of culverts and bridges. The linear roadway, road bed, tracks, road crossings, bridges, overhead bridge, switch equipment and spur tracks all convey the feeling of traveling on a late nineteenth/early twentieth century railroad.

The LS&M was the catalyst in opening up commerce in Duluth allowing both rail and shipping opportunities to increase the population in Duluth many fold. Thus, the LS&M is significant historically, culturally and socially by connecting Duluth with the other centers of population as well as bringing the advent of the technically advanced steam engine into use in the City.

By 1869, Duluth was gaining population. One of the new arrivals “counted only 14 families in Duluth in January 1869, but “by the 4th of July 1869 there were 3,500 people in place and still they are coming”

Luke Marvin would recall: “This rush of people comprised all classes. Most of them were from the Eastern states. Some came to work on the railroad; some came to engage in business, others in lumbering.”

State Representative, James J Eagan, who visited Duluth in 1869, stated:

“The lifeless corpse of Duluth.....touched by the wand of Jay Cooke, sprang full armed from the tomb; Banning, Branch and James Smith Jr. [executives of the LS&M and promoters of an all Minnesota railroad] had won the good fight and henceforth the sun of prosperity gilded the lake and your bluffs echoed and re-echoed back the acclaim: “Minnesota has triumphed!”

X. Findings On Designation Criteria

The following criteria are established by ordinance as the basis for designation of a site/district, with the requirement that the property proposed for designation meet at least one of the criteria.

Findings responding to each of the criteria are as follows:

A. It has character, interest, or value as part of the development, heritage, or cultural characteristics of the City of Duluth, State of Minnesota, or the United States.

FINDING:

Almost the entire modern history of Duluth begins with the LSMRR and its tracks. The Lake Superior and Mississippi Railroad, though only running for a short time before being reorganized and renamed, served as the foundation of what was to become one of the most important cities in Industrial America.

Prior to the train, people who wanted to go from Superior (WI) to St. Paul had to endure a 3-4 day rugged stagecoach ride on the Military Road, and pay more than the equivalent of \$900 per person. That severely limited growth to the Northland area. As the idea for the train developed, many people hoped it would go through parts of Wisconsin on its journey to Superior. State political powers were able to keep it entirely in Minnesota (which, of course, makes the train and right-of-way significant to Minnesota History). The terminus of the trains would be in Minnesota, not Wisconsin.

As a result, the Duluth area expanded and at one time rivaled the city of Chicago in several ways (both being located at the tip of a Great Lake, with access to shipping and other forms of transportation). These tracks, and the

Excursion Train, show and tell a story of greatness that would flourish in the industrial city of Duluth at the turn of the century. Riding along the same path that millions of people (some with millions of dollars!) have taken, even though it is now down to only a few miles in Duluth out of its' original 146 miles, has enlightened thousands of visitors to the Duluth area about our historical past. We hear countless times, "I never knew that about Duluth's past!" and would hope that anyone reading this will come on board.

B. Its location was a site of a significant historical event

FINDING:

The arrival of the first train from St. Paul to Duluth was considered a extraordinarily major event on August 1, 1870. It was so important that in addition to the President of the Train and some other key officials, the Chief Justice of the United States Supreme Court, Salmon P. Chase, was there to "witness the iron marriage of our highest geographical circles." (The Northern Pacific in Minnesota, page 32).

The St. Paul Press (newspaper) printed the following on August 2, 1870.

"At thirty-five minutes past 11 o'clock p.m. of August 1st, 1870, the First Through Train [sic] on the Lake Superior & Mississippi Railroad arrived at Duluth—having left St. Paul at seven o'clock and fifteen minutes the same morning. Late was the hour crowds of the people of Duluth lined the track and surrounded the Depot on the Lake Shore [sic], and bonfires blazed and human voices cheered as the locomotive that had in the morning drank of the waters of the Mississippi stood smoking panting, and thirsty on the shores of our Inland Sea and replenished its tank from its crystal waters alongside the track."

Trevanion Hugo, who would be a popular Duluthian at the turn of the century, described the cacophony of the railroad whistle and the more familiar steamboat whistle that summer of 1870 as "a Wagnerian chant of commercial triumph." That it was. The Lake Superior & Mississippi provided the missing element that would make the Twin Ports actual twin ports.

Additionally, the Lake Superior & Mississippi Railroad rescued hundreds of people in the Hinckley and Moose Lake fires by transporting them away from the fire.

The original 1870 tracks were replaced in the 1890s (and the tracks with the name CARNEGIE and dates in the 1890s are still visible). As mentioned above, many people have ridden those tracks including Carnegie himself, Rockefeller, Jay P. Morgan, and more of the "Men Who Built America" (on the History Channel).

C. It is identified with a person or persons who significantly contributed to the cultural development of the City of Duluth, State of Minnesota, or the United States.

FINDING:

See above—just about all of the famous US industrial giants of the 1900s were involved in the creation or and/or have ridden on the train at some time. Thomson, Miller, Morgan, Jay Cooke, Rockefeller, Carnegie, Oliver, and more.

Extremely famous architects such as Clarence Johnson and Oliver Traphagen have ridden on these tracks. Master wood carvers, including Olaf Ahlberg and “nationally recognized furniture maker and interior decorator” William French would also have ridden on the train to complete work on the Glensheen Mansion. Because Duluth is a haven for historical buildings, numerous artisans traveled the railroad to work in the city.

Additionally, the Chief Justice of the United States Supreme Court (Salmon P. Chase) apparently felt it was important enough to come to Duluth to welcome the first train to Duluth from St. Paul.

D. It embodies a distinguishing characteristic of an architectural type.

FINDING:

Not applicable for standard gauge railroad track. However original 1870’s trestle can be found under the earthen causeway which crosses Mud Lake. The trestle was filled in in the 1950’s.

E. It is identified as the work of an architect or master builder whose individual work has influenced the development of the City of Duluth or the State of Minnesota.

FINDING:

Not applicable.

F. It embodies elements of architectural design, detail, materials, and craftsmanship which represent significant architectural innovation.

FINDING:

Not applicable

G. Its unique location or singular physical characteristics [sic] represent an established and familiar visual feature of a neighborhood, community, or the City as a whole.

FINDING:

The tracks go through many old neighborhoods in the area, and these are discussed at length during the historical narration on the train. Without the narration (such as “walking a trail and looking at signs”) would in no way convey in depth the historical nature of the area. For example, Riverside and Morgan Park have deep and rich histories which impacted the United States in countless ways. Smithville (and the 1880s resort-turned-Socialist-college at the turn of the century) are discussed, Slag Point, the Boat Club(s), Oliver Bridge (crucial to the World Wars), Gary/New Duluth, and much more are a vital part of the narration on the LSMRR. All were or are located along the right-of-way corridor which we have been using since 1980. Volunteers have also explored various areas to uncover remnants of trestles, fire hydrants, foundations, ties, and much more connected with the train.

Without the Lake Superior and Mississippi Railroad, Duluth and NE Minnesota’s history would be far different. U.S. Steel and the Iron Range depended upon the trains which used the right-of-way our historical excursion train uses every season. We are such a minute part of the original 154 mile trip, yet we bring historical knowledge to people from all over the world. Over and over we hear comments such as, “I had no clue about the importance of Duluth!” “I learned more on this train than I ever learned in history class.” “I can’t wait to read more about this!” “I have lived here all my life and was so surprised to learn about my home town!”

XI. Conclusions

A. Points in Favor:

- The LS&M meets four criteria for designation as a Heritage Preservation Landmark by being:
 - A significant part of the heritage of Duluth as well as Minnesota and was instrumental in Duluth's early growth by allowing the transportation of goods and opening up the opportunity for commerce.
 - Associated with the well documented event of the crowds waiting for the first LS&M train in the middle of the night August 1, 1870.
 - Identified with significant persons who contributed to the development of Duluth, Minnesota and the United States.
 - Uniquely located and represents an established visual feature of the community.
- The LS&M is eligible to be on the National Register of Historic Places as evaluated by EA Engineering, Science and Technology, Inc. PBC in the document "Evaluation and Determination of Eligibility for Listing of the Lake Superior and Mississippi Railroad in Duluth, St Louis County, Minnesota on the National Register of Historic Places"
- The LS&M is referred to as a "historic rail corridor" in MNDOT Environmental Categorical Exclusion document for I-35 reconstruction 2009 where SHPO is to be consulted before project plans are finalized.

B. Points in Opposition:

There is abundant documentation found throughout the history of Duluth and St Louis County referencing the significance of the Lake Superior & Mississippi Railroad.

It would be difficult to deny the historical, cultural & social contributions of this railroad to the City of Duluth, the State of Minnesota and the United States of America at the time it came into being.

XII. Attachments

- A. Bibliography
- B. Legal Description (Appendix A)
- C. Artifacts & Landmarks (Appendix B)
- D. Maps & Photos (Appendix C)



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-081	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Preliminary Plat	Planning Commission Date	August 14, 2018	
Deadline for Action	Application Date	June 18, 2018	60 Days	August 17, 2018
	Date Extension Letter Mailed	June 28, 2018	120 Days	October 16, 2018
Location of Subject	38 th Avenue West between W. Michigan St. and W. Superior St.			
Applicant	Superior Industrial LLC	Contact	Victoria Perbix	
Agent	Egan, Field & Nowak, Inc.	Contact	Eric Roeser	
Legal Description	See Attached			
Site Visit Date	July 20, 2018	Sign Notice Date	July 23, 2018	
Neighbor Letter Date	July 30, 2018	Number of Letters Sent	8	

Proposal

Requested is approval of the preliminary plat (a re-platting) of 2.1 acres of Mixed Use-Business Park land in Oneota into one building lot, one outlot, and land for a street in a new plat called "Interstate West Addition." This is to facilitate the redevelopment of the site for a warehouse/showroom business.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	Mixed Use-Business Park	Vacant	Light Industrial
North	Mixed Use-Business Park	Industrial	General Mixed Use
South	Mixed Use-Business Park	I-35	Transportation and Utilities
East	Mixed Use-Business Park	Vacant	Light Industrial
West	Mixed Use-Business Park	Industrial	Light Industrial

Summary of Code Requirements

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

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

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

Governing Principle Principal #1 - Reuse previously developed lands,
 Principle #2 – Declare the necessity and secure the future of undeveloped places,
 Principle #3 – Support existing economic base,
 Principle #5 – Promote investment in neighborhoods,
 Principle #7 – Create and maintain connectivity,
 Principle #8 – Encourage a mix of activities, uses and densities,
 Principle #9 – Support private actions that contribute to the public realm
 Principle #10 - Take actions that enhance the environment, economic and social well-being of the community,
 Principle #12 – Create efficiencies in delivery of public services,
 Principle #14 – Integrate fairness into the fabric of the community.

Future Land Use – Light Industrial – Areas for manufacturing, warehousing and distribution; uses that have few outside impacts, and can be located in relative proximity to non-industrial uses.

History:

1. This area was originally residentially developed as part of the Oneota neighborhood in a traditional grid street pattern.
2. With the 1958 zoning ordinance this block and the area to the east was zoned M-2 Manufacturing due to its adjacency to the railroad to the northeast.
3. Starting in the 1980's and continuing to now the residential uses were removed and parts of the area replatted and redeveloped into the Oneota Industrial Park made up of commercial and industrial uses. The site has been vacant for many years.

Review and Discussion Items**Staff finds:**

- 1) The area to be replatted is a complicated pattern of lots and blocks from two different plats that don't match the intended development pattern. The replat creates a single building lot for a new warehouse/showroom business (Lot 1, 1.7 acres) and a small unbuildable lot (Outlot A, 0.03 acres) to someday be combined with other land on northeast side of 38th Ave. W.
- 2) The site is 2.1 acres in size and is generally flat and treeless.
- 3) The proposed plat will dedicate land for 38th Ave. W. and W. Superior St. Both Lot 1 and Outlot A in the proposed plat will have frontage on public streets.
- 4) No utility easements are being dedicated as part of the proposed plat
- 5) There are no shoreland, wetland, or flood plain areas in the proposed plat.
- 6) Staff find that the preliminary plat conforms to the requirements of Sec 50-37.5. The preliminary plat is consistent with the comprehensive land use plan, is consistent with all applicable requirements of MSA 462.358 and Chapter 505.
- 7) No citizen comments have been received on this project.

Staff Recommendation

Based on the above findings, staff recommends that Planning Commission approve the Preliminary Plat.



PL18-081
 Preliminary Plat
 Interstate West Addition
 Superior Industrial LLC

PC Packet Aug 14, 2018



Legend

- Subdivision Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)

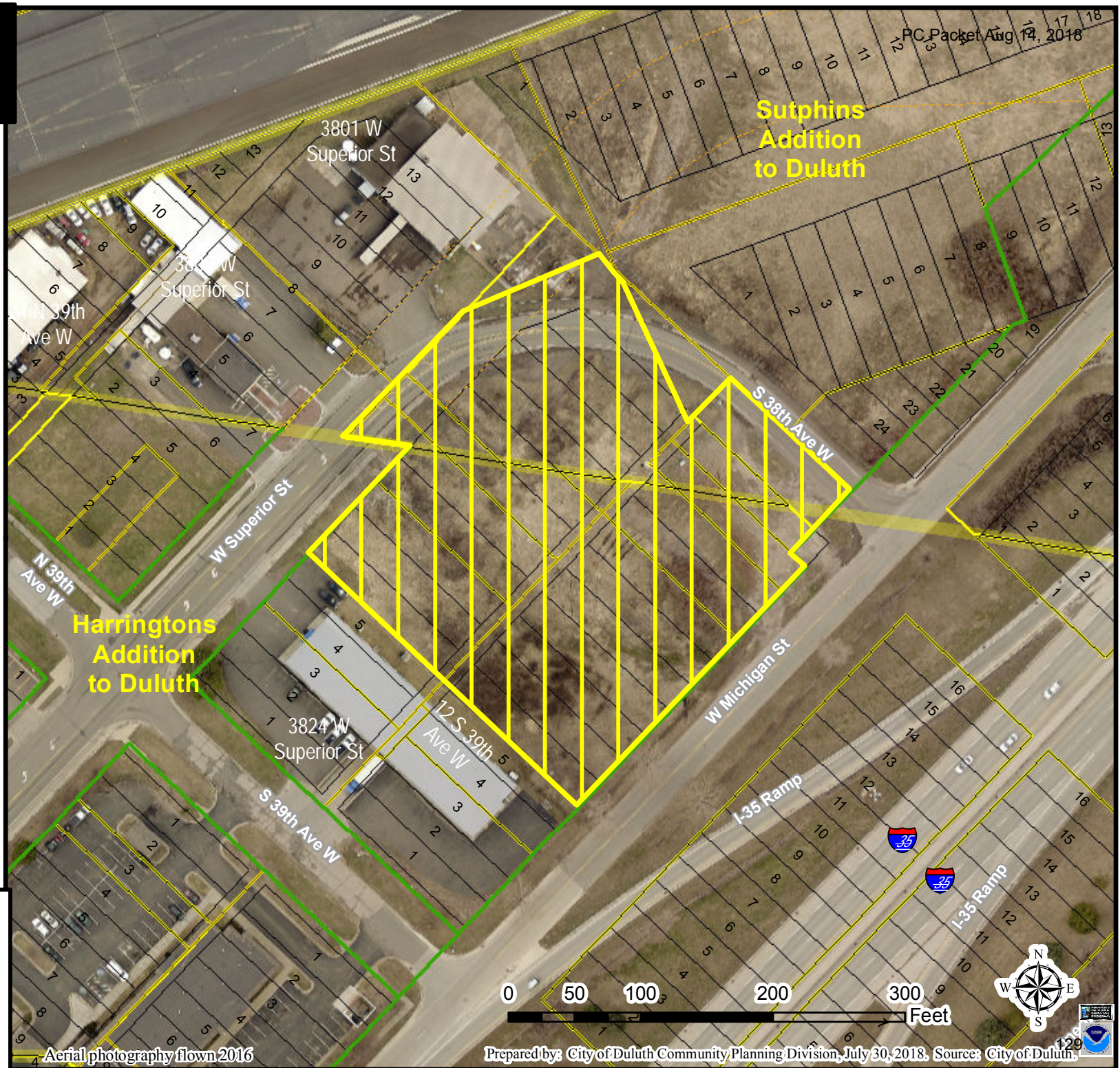
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used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

0 250 500 1,000 1,500 Feet



PL18-081
 Preliminary Plat
 Interstate West Addition
 Superior Industrial LLC

PC Packet Aug 14, 2018



Legend

- Lots
- Parcels
- Subdivision Boundaries
- Boundary Lines**
- <all other values>
- Subtype, ROW_TYPE**
- Lot Line
- Parcel Line
- ROW (Road)
- ROW (Not Road)
- Subdivision Line
- Water Line
- Survey Line
- Municipal Boundary
- Trout Stream (GPS)
- Other Stream (GPS)

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Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, July 30, 2018. Source: City of Duluth.



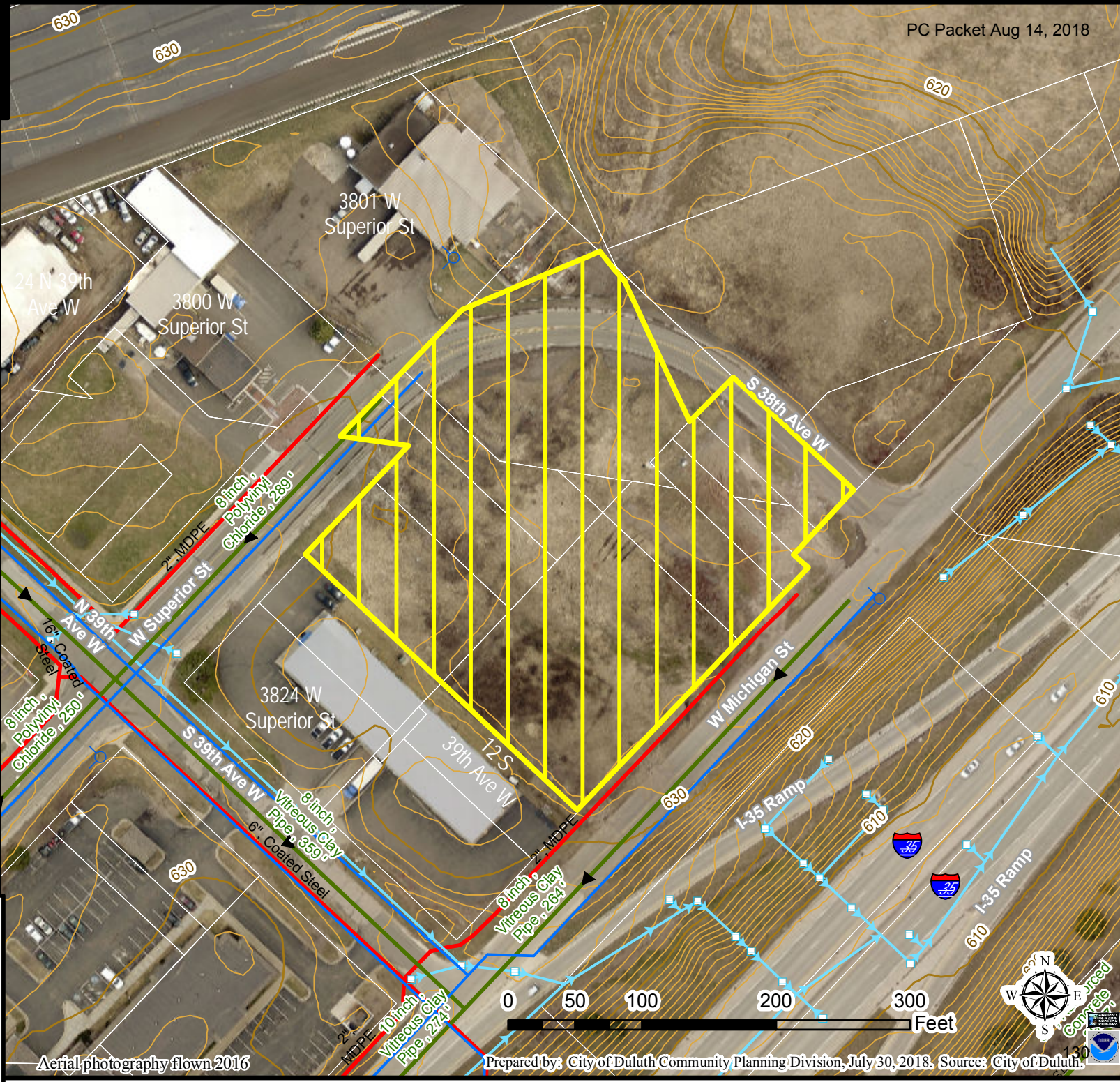
PL18-081
 Preliminary Plat
 Interstate West Addition
 Superior Industrial LLC

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Legend

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

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PL18-081
 Preliminary Plat
 Interstate West Addition
 Superior Industrial LLC

PC Packet Aug 14, 2018

General Mixed Use

Light Industrial

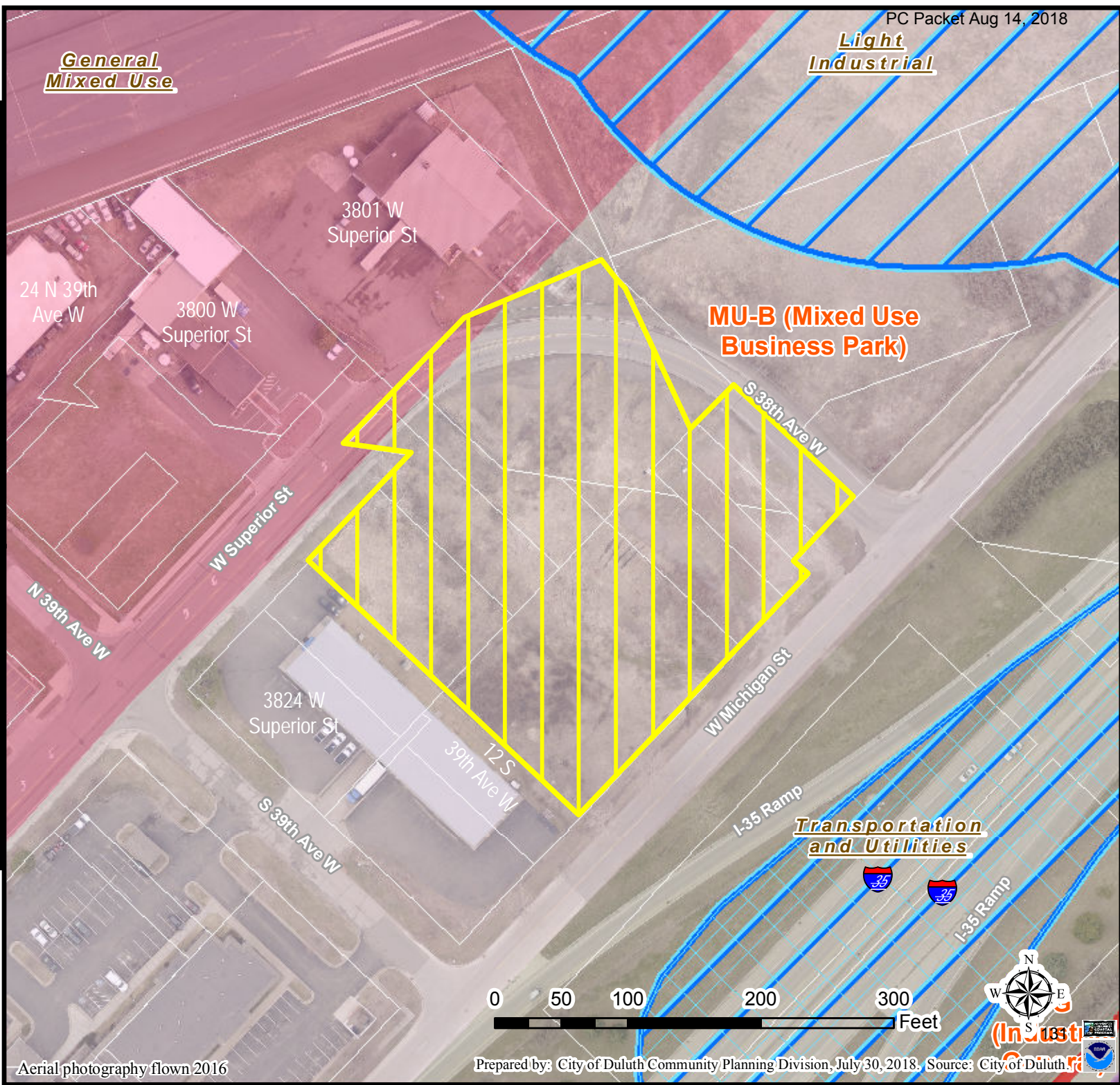
MU-B (Mixed Use Business Park)

Transportation and Utilities

Legend

- Zoning Boundaries
- Floodplain (UDC)**
- General Flood Plain
- Flood Way
- Flood Fringe
- Shoreland (UDC)**
- Cold Water
- Natural Environment
- General Development
- Trout Stream (GPS)
- Other Stream (GPS)
- Future Land Use - Plus**
- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

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Aerial photography flown 2016

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Property identification numbers:

010-2070-00680
010-2070-00710
010-2070-00730
010-2070-00750
010-2070-00960
010-2070-00950
010-4300-00390
010-4300-00320
010-2070-00860
010-2070-00930

Legal Descriptions-Viking Electric Site-Duluth, Minnesota

PARCEL A:

Lot 6, Block 6, Harrington's Addition to Duluth, together with that part of the Northwesterly half of the vacated alley adjoining said Lot 6, lying between the Southeasterly extensions of the Northeasterly and Southwesterly lines of said Lot 6.

(Abstract Property)

PARCEL B:

Lot 7, Block 6, including vacated portion of alley attaching thereto, Harrington's Addition to Duluth, EXCEPT minerals.

(Torrens Property)

PARCEL C:

Lots 8, 9, and 10, Block 6, Harrington's Addition to Duluth, together with that part of the Northwesterly half of the vacated alley adjoining said Lots 8, 9, and 10, lying between the Southeasterly extensions of the Northeasterly line of said Lot 10 and the Southwesterly line of said Lot 8; and also Lot 1, Block 3, Sutphin's Addition to Duluth, together with that part of the Southeasterly half of Superior Street adjoining said Lot 1, lying between the northwesterly extension of the Northeasterly line of said Lot 1, and the northwesterly extension of the Southwesterly line of said Block 3, Sutphin's Addition to Duluth.

(Abstract Property)

PARCEL D:

Lot 11, Block 6, including vacated portion of alley attaching thereto, Harrington's Addition to Duluth.

AND

Lot 2, Block 3, including vacated portion of street attaching thereto, Sutphin's Addition to Duluth.

(Torrens Property)

PARCEL E:

Lots 12 and 13, Block 6, Harrington's Addition to Duluth, together with that part of the Northwesterly half of the vacated alley adjoining said Lots 12 and 13 lying between the easterly extension of the Northerly line of said Lot 13 and the Southeasterly extension of the Southwesterly line of said Lot 12.

(Abstract Property)

PARCEL F:

Lots 6 through 12 inclusive, Block 7, Harrington's Addition to Duluth, together with that part of the Southeasterly half of the vacated alley adjoining said Lots 6 through 12 lying between the Northwesterly extensions of the Northeasterly line of said Lot 12 and the Southwesterly line of said Lot 6.

(Abstract Property)

PARCEL G:

Lots 13, 14 and 15, Block 7, including vacated portion of alley attaching thereto, Harrington's Addition to Duluth, EXCEPT minerals to Lot 15, Block 7, Harrington's Addition to Duluth.

AND

Lot 2, Block 4, including vacated portion of alley attaching thereto, Sutphin's Addition to Duluth, EXCEPT minerals.

(Torrens Property)

PARCEL H:

Lot 16, Block 7, Harrington's Addition to Duluth; and also Lot 3, Block 4, Sutphin's Addition to Duluth; and also that part of the Southeasterly half of the vacated alley adjoining said Lot 3 lying between the Northwesterly extensions of the Northeasterly and Southwesterly lines of said Lot 3; and also that part of the Southwesterly half of vacated 38th Avenue West adjoining said Lot 16 and said Lot 3 (and the Southeasterly half of the vacated alley adjoining said Lot 3), lying between the Northeasterly extensions of the centerline of the vacated alley adjoining said Lot 3 and the Southeasterly line of said Lot 16.

Except that part of said Lot 16 and of vacated 38th Avenue West that lies Southeasterly of the following described line: Beginning at a point on the Southwesterly line of said Lot 16, distant 15 feet Northwesterly of the most Southerly corner thereof; thence run Northeasterly to a point on the Southeasterly line of Lot 8, Block 5, Sutphin's Addition to Duluth, distant 10 feet Southwesterly of the most easterly corner thereof and there terminating.

(Abstract Property)

PARCEL I:

Those parts of Lots 3, 4, 5, 6 and 7, Block 3, and Lot 1, Block 4, including the vacated streets, avenues and alleys, all in Sutphin's Addition to Duluth lying within the following description:

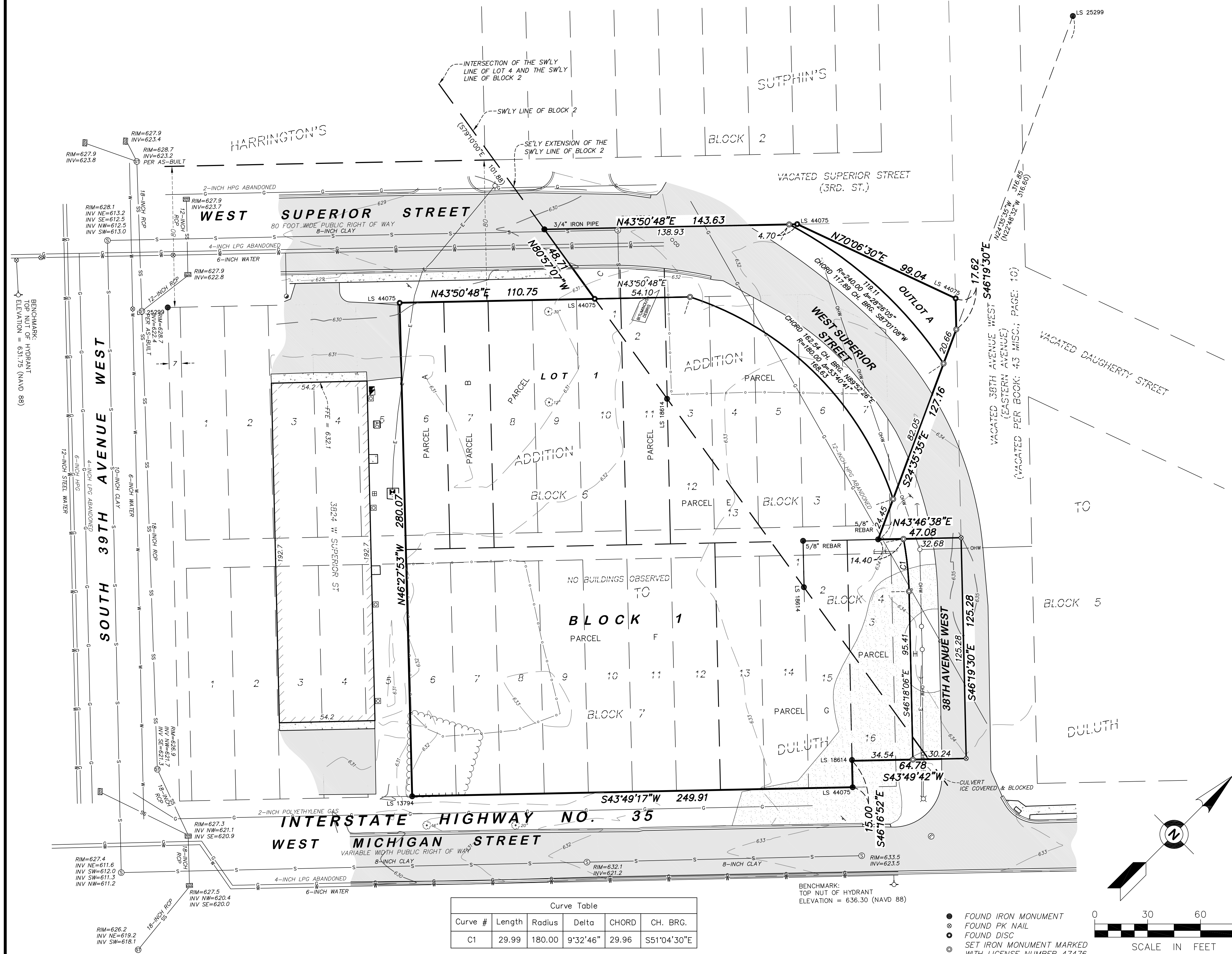
All those parts of Blocks 1, 2, 3, 4, 5 and 6 including the vacated streets, avenues and alleys, all in Sutphin's Addition to Duluth described as follows:

Beginning at the most W'ly corner of Lot 10, Block 1, thence South 44 degrees 35 minutes 00 seconds East (assumed bearing), along the SW'ly line of said Lot 10, a distance of 76.04 feet to the centerline of the vacated alley; thence South 45 degrees 33 minutes 00 seconds West, along the centerline of the vacated alley, a distance of 75.00 feet to the NW'ly extension of the SW'ly line of said Lot 4, Block 2; thence South 44 degrees 35 minutes 00 seconds East, along the NW'ly extension of the SW'ly line of Lot 4, Block 2 and the SW'ly line of said Lot 4, a distance of 96.26 feet to the SW'ly line of Block 2; thence South 79 degrees 10 minutes 00 seconds East, along said SW'ly line of Block 2 and the SE'ly extension of the SW'ly line of Block 2, a distance of 101.88 feet to the centerline of Superior Street (which is designated as Third Street in said plat); thence North 45 degrees 33 minutes 00 seconds East, along said centerline of Superior Street (which is designated as Third Street in said plat), a distance of 67.17 feet; thence South 44 degrees 35 minutes 00 seconds East, along the NW'ly extension of the SW'ly line of Lot 3, Block 3, and the SW'ly line of said Lot 3, a distance of 97.28 feet to the SW'ly line of said Block 3; thence South 79 degrees 10 minutes 00 seconds East, along said SW'ly line of Blocks 3 and 4, a distance of 132.13 feet to the intersection with the NE'ly line of Lot 1, Block 4; thence North 44 degrees 35 minutes 00 seconds West, along the NE'ly line of said Lot 1 and the NW'ly extension of said NE'ly line of Lot 1, a distance of 25.89 feet to the centerline of the alley between Blocks 3 and 4; thence North 45 degrees 33 minutes 00 seconds East, along said centerline of the alley, a distance of 43.00 feet; thence North 22 degrees 48 minutes 32 seconds West, a distance of 316.60 feet to the NW'ly line of vacated alley and said line also being the SE'ly right of way line of Burlington Northern, Inc. (formerly the Northern Pacific Railway); thence South 71 degrees 55 minutes 58 seconds West, along said NW'ly line of vacated alley and the NW'ly line of Block 1, a distance of 319.00 feet to the point of beginning, containing 2.01 acres of land, more or less.

All assuming vacated Superior Street (which is designated as Third Street in said plat) is running East and West.
(Torrens Property)

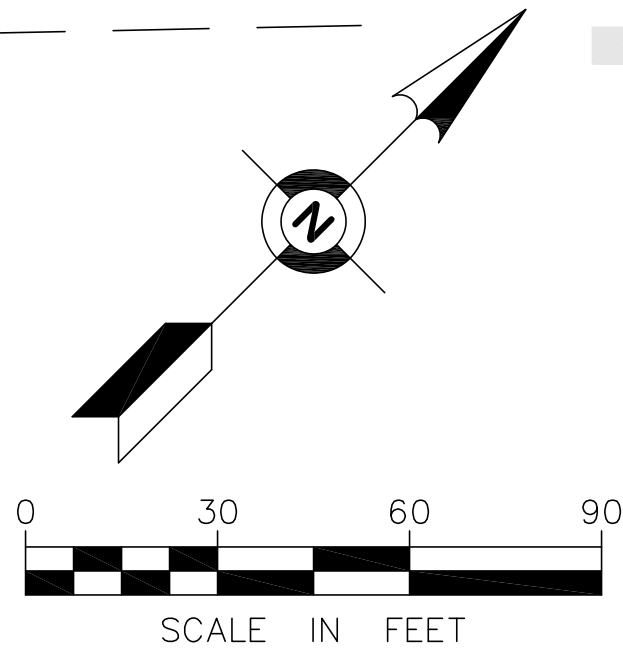
EXISTING SITE CONDITIONS & PROPOSED PLAT LAYOUT

PRELIMINARY PLAT OF INTERSTATE WEST ADDITION



Curve #	Length	Radius	Delta	CHORD	CH. BRG.
C1	29.99	180.00	9°32'46"	29.96	S51°04'30"E

- FOUND IRON MONUMENT
- FOUND PK NAIL
- FOUND DISC
- SET IRON MONUMENT MARKED WITH LICENSE NUMBER 47476



PROPOSED LEGAL DESCRIPTIONS:

Lot 1, Block 1, INTERSTATE WEST ADDITION
&
OUTLOT A, INTERSTATE WEST ADDITION

PROPOSED AREAS / PERIMETER:

The total area of Lot 1, Block 1, INTERSTATE WEST ADDITION is 73,559 square feet or 1.68868 acres. The perimeter of Lot 1, Block 1, INTERSTATE WEST ADDITION is 1,077 feet.
The total area of OUTLOT A, INTERSTATE WEST ADDITION is 1,478 square feet or 0.03393 acres. The perimeter of OUTLOT A, INTERSTATE WEST ADDITION is 261 feet.
The total perimeter of INTERSTATE WEST ADDITION is 1,329 feet.
The total area of INTERSTATE WEST ADDITION is 91,252 or 2.09486 acres.
The total area of dedicated right of way of WEST SUPERIOR STREET is 12,404 square feet or 0.28476 acres.
The total area of dedicated right of way of 38TH AVENUE NORTH is 3,810 square feet or 0.087466 acres.

PROPOSED OWNERSHIP & USE:

Lot 1, Block 1, INTERSTATE WEST ADDITION
Owner : Superior Industrial LLC, a Minnesota limited liability company
Proposed Use : Office, Warehouse and Showroom
OUTLOT A, INTERSTATE WEST ADDITION
Owner : Superior Industrial LLC, a Minnesota limited liability company
Proposed Use : Industrial

ZONING INFORMATION:

- Per the Zoning Letter prepared by Kyle Deming, Planner II, City of Duluth Planning Division, dated May 21, 2018;
RE: Viking Electric Project, 3800 W. Superior St., Duluth, MN
- The zoning ordinance for the City of Duluth is called the Unified Development Chapter (UDC) and it can be found at <http://duluthmn.gov/community-planning/land-use-zoning-applications/zoning-regulations/>.
 - The entire site described above in Exhibit A is zoned MU-B (Mixed Use-Business Park). The surrounding properties are all zoned MU-B.
 - A list of permitted uses and other development standards (setbacks, parking and landscaping requirements, etc.) for the MU-B zone district can be found at the link in #1 above. Permitted uses in the MU-B zone district include warehouse, showroom, and offices. Office uses are limited to the following - those uses in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those businesses are not permitted (Sec. 50-3.M.2). No special or conditional use permit is required for the operation of these uses.
 - Minimum parking requirements are 3 spaces per 1,000 sq. ft. gross floor area for showroom, 2.5 spaces per 1,000 sq. ft. gross floor area for office, and 1 space per 1,000 sq. ft. gross floor area for warehouse. Maximum parking limits are 150% of listed parking minimums.
 - The property will need to be replatted for this project. However, the City will make it a building permit condition for the proposed warehouse showroom that the replat be completed before the Certificate of Occupancy can be granted.
 - The property is not within the Airport, Historic Resources, Skyline Parkway, or Higher Education Overlay districts.
 - The property is not within a Shoreland overlay district and is not in a flood plain according to FIRM Panel 40 of 45 for Duluth, Community Panel Number 270241 0040 C.
 - There are no proposals at this time for widening, closing, or realigning of abutting roads, except that a 60-foot wide road easement is in process over a portion of the property and adjacent land, as shown on Exhibit D.

50-15.5 Mixed Use-Business Park (MU-B)
A. Purpose.
The MU-B district is intended to accommodate modern light industrial and technology-based developments of attractive integrated design and function. The development standards for this district are intended to ensure that projects minimize adverse impacts on surrounding uses and neighborhoods, reduce impacts on the natural environment, enhance the visual quality of development and ensure the provision of adequate and cost-efficient public facilities. Intended uses include wholesaling, industrial services, research laboratories, and light manufacturing needed to support the community and region at large, as shown in Table 50-19.6;

TABLE 50-15.5-1
MU-B DISTRICT DIMENSIONAL STANDARDS

Minimum depth of front yard	General	Structure Setbacks
Minimum width of side yard	General	25 ft.
Minimum depth of rear yard	General	Larger of 10 ft. or 10% of lot depth
Maximum Height of Building	General	6 ft.
	Within 500 ft. of R-1 or R-2 district	0 ft.
		6 ft.
		0 ft.
		Structure Height
		60 ft.
		45 ft.

Section 50.21 Dimensional standards contains additional regulations applicable to this district.
NOTE: Setback information provided would require interpretation by the surveyor and is not depicted hereon. (See Table A Item 6(b))

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.
Date of survey: March 15, 2018
Date of signature: July 3, 2018.

Eric A. Roesser
Minnesota License No. 47476

LEGEND:

- CLEAN OUT
- SANITARY MANHOLE
- STORM MANHOLE
- CATCH BASIN
- ROOF DRAIN (OUTLET)
- AIR CONDITIONER
- GATE VALVE
- HYDRANT
- STOP BOX
- ELECTRIC MANHOLE
- ELECTRIC BOX
- ELECTRIC METER
- UTILITY POLE
- GUY WIRE
- POWER POLE WITH LIGHT
- GAS METER
- SIGN
- CHAIN LINK FENCE
- SANITARY SEWER
- STORM SEWER
- WATERMAIN
- UNDERGROUND ELECTRIC
- OVERHEAD WIRE
- UNDERGROUND GAS
- TRENCH
- LOW LAND AREA
- EXISTING CONTOUR LINE
- TREE
- BITUMINOUS SURFACE
- CONCRETE SURFACE
- GRAVEL SURFACE

FIELD BOOK	PAGE	FIELDWORK CHIEF:	NO.	DATE	DESCRIPTION
2658	58	SK			
DRAWING NAME:		DRAWN BY:			
37807 Preliminary Plat		NCP			
JOB NO. 37807		PMD			
FILE NO. 6011		CHECKED BY:			
		ER			

REVISIONS

PRELIMINARY PLAT OF INTERSTATE WEST ADDITION

SURVEY FOR:
KIMLEY HORN & ASSOCIATES, INC.

PROPERTY ADDRESS:
3800 WEST SUPERIOR STREET
DULUTH, MINNESOTA 55807

1229 Tyler Street NE, Suite 100
Minneapolis, Minnesota 55413
PHONE: (612) 466-3300
FAX: (612) 466-3383
WWW.EFSURVEY.COM
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CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL18-094	Contact	John Kelley, 218-730-5326	
Type	Special Use Permit	Planning Commission Date	August 14, 2018	
Deadline for Action	Application Date	July 11, 2018	60 Days	September 9, 2018
	Date Extension Letter Mailed	July 23, 2018	120 Days	November 8, 2018
Location of Subject	1830 East 1 st Street			
Applicant	Zenith City Investments	Contact		
Agent	Arola Architecture Studio	Contact	Ryan Arola	
Legal Description	Parcel ID # 010-1480-01830			
Site Visit Date	August 3, 2018	Sign Notice Date	July 31, 2018	
Neighbor Letter Date	July 27, 2018	Number of Letters Sent	52	

Proposal

Applicant is seeking a Special Use Permit for office use in an R-2 zone district. The applicant is proposing office use of approximately 4,500 square feet within the lower level of an existing building, formerly used as a church, and continue residential use in an existing single-family dwelling located west of the office on the same parcel.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	Office and Residential	Urban Residential
North	R-2	Residential	Urban Residential
South	R-2	Commercial/Residential	Urban Residential
East	R-2	Residential	Urban Residential
West	R-2	Residential	Urban Residential

Summary of Code Requirements

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

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

UDC Section 50-20.3. M. Office: A special use permit is required for Office use within an R-2 district.

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

Governing Principles:

Principle #1 - Reuse previously developed lands

Reuse of previously developed lands, including adaptive reuse of existing building stock - residential structures suitable for rehabilitation, (creates individual improvement as well as contributes to neighborhood vitality).

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

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

The Imagine Duluth 2035 Comprehensive Plan Future Land Use Map indicates Urban Residential as the land use category for this property. Greatest variety of building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers, and waterfront residential areas. May include student housing areas, live/work units, and limited neighborhood retail.

The 6,399 square foot building was constructed in 1909 and was previously used as a church. The 2,016 square foot house was built in 1925.

Review and Discussion Items

Staff Finds that:

- 1) Applicant is proposing to use an existing church building for office purposes. Approximately 4,500 square feet of the lower level will be utilized for office space. Future plans are to use the Sanctuary level but will require considerable planning and modification before that is implemented. A single family dwelling is located west of the church building on the same parcel. The house will remain as a rental unit.
- 2) The office use requires a Special Use Permit to operate in a R-2 district. The property and buildings have been previously used as a church and a single family home. The proposed office use within the church building will not alter the essential character of the neighborhood, which includes a variety of uses including single-family homes, apartments, and office/commercial businesses.
- 3) UDC Sec. 50-20.3.M (Use Specific Standards – Office). There are no applicable use specific standards for office use in the R-2 district.
- 4) UDC Sec. 50-24 (Parking and loading). Parking is required at 2.5 spaces per 1000 sq. ft. of gross floor area for office use. Parking for the single family dwelling is one space and has been provided with a tuck under garage. In consideration of future use of the sanctuary level for office use, the applicant has determined parking calculations for the entire building. Total parking for office use based on the square footage would 24 space at full building capacity. With a 30% reduction in parking for being in proximity to a bus route 17 parking spaces are required. Due to existing site conditions and parking lot configuration the Land Use Supervisor may allow for the reduction of one parking space. The site plan depicts 16 parking spaces. The existing parking area is a mix of surface types including bituminous, concrete and gravel. Parking lots are required to be paved. The existing gravel portion of the parking lot must be paved. Staff is recommending that it be paved within one year of the effective date of the SUP.
- 5) UDC Sec. 50-25 (Landscaping). No additional landscaping is required as this project is not increasing the existing floor space by 25%. Therefore, internal landscaping is not required. Parking lots with less than 25 spaces must provide 30% tree canopy coverage. Due to existing site constraints and parking lot configuration the applicant can only achieve 18%-20% canopy coverage. The Land Use Supervisor may approve an alternative plan to the required landscaping. The site plan depicts an existing graveled/bituminous area adjacent to the south east corner of the building to be replaced with grass and new shrubs. This will reduce the overall impervious surface by 7%.
- 6) UDC Sec. 50-26 (Screening, Walls and Fences). Not applicable.
- 7) UDC Sec. 50-29 (Sustainability Standards) and 50-30 (Building Design Standards). These requirements do not apply for this project.
- 8) UDC Sec. 50-31 (Exterior Lighting). No additional lighting is being planned for this project.
- 9) No additional public, agency, or City comments were received.

Staff Recommendation

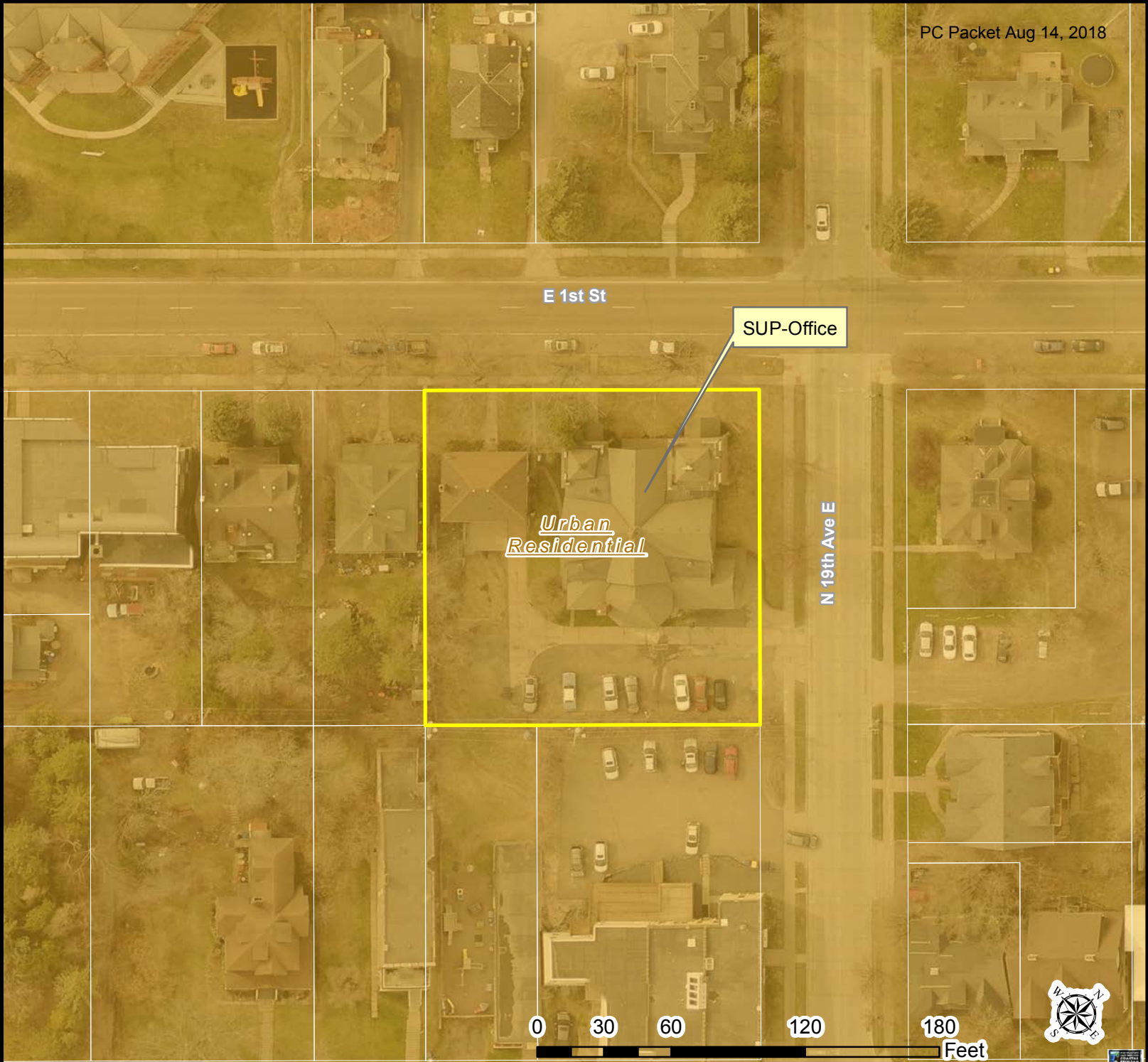
Based on the above findings, Staff recommends that Planning Commission recommend approval of the Special Use Permit subject to the following conditions:

- 1) The project be limited to, constructed, and maintained according to: Site Plan, dated July 27, 2018.
- 2) The existing gravel area located in the southwest corner of the parking lot shall be paved within one year of the approved Special Use Permit.
- 3) Land Use Supervisor to approve alternative landscaping plan and reduction in one parking space.
- 4) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.



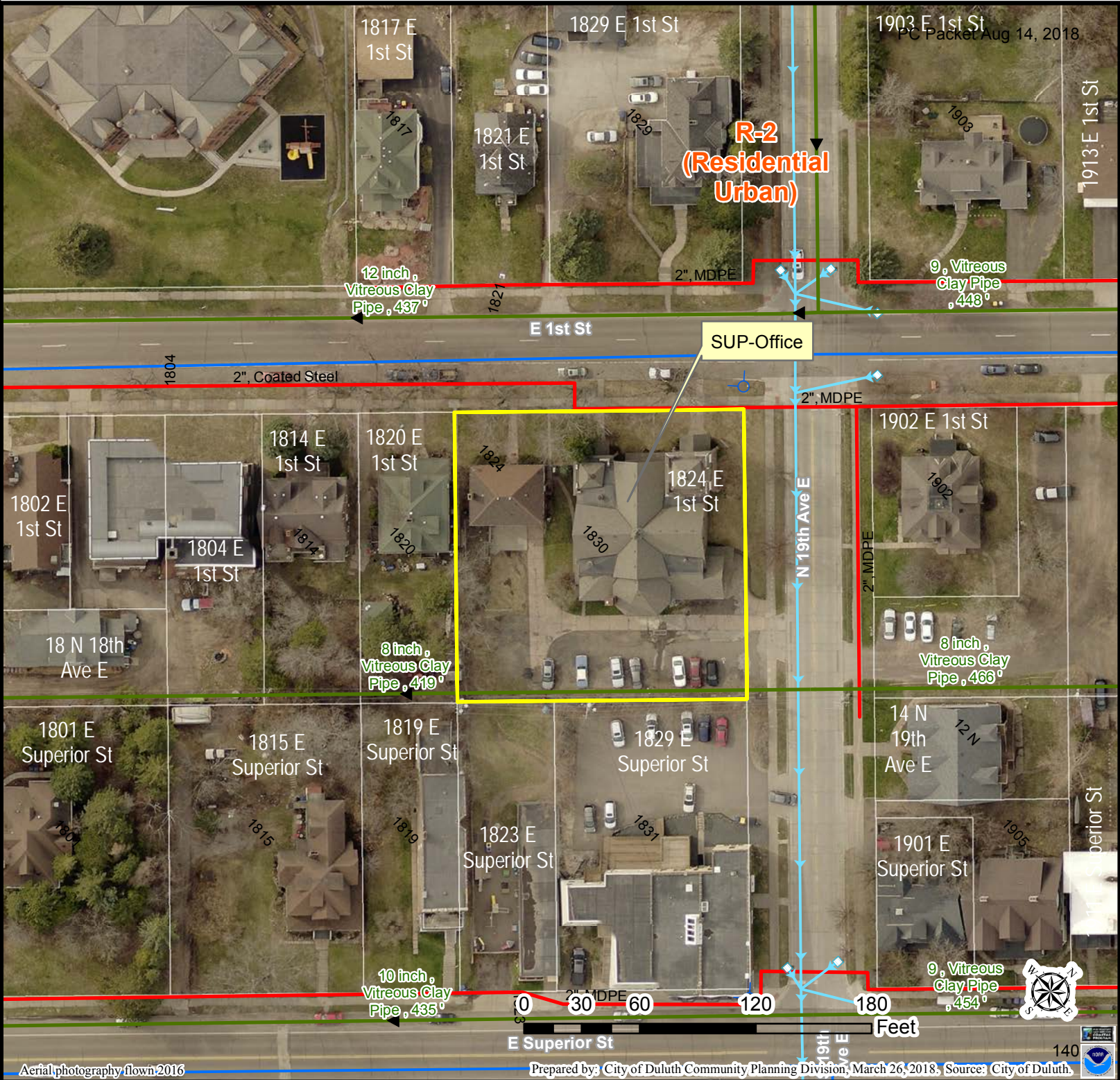
Legend
Future Land Use - Plus
Future Land Use

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities



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





PC Packet Aug 14, 2018

**R-2
(Residential
Urban)**

12 inch,
Vitreous Clay
Pipe, 437°

2", MDPE

9, Vitreous
Clay Pipe
, 448°

E 1st St

SUP-Office

2", Coated Steel

2", MDPE

1814 E
1st St

1820 E
1st St

1824
E 1st St

1830
E 1st St

1902 E 1st St

1802 E
1st St

1804 E
1st St

8 inch,
Vitreous Clay
Pipe, 419°

8 inch,
Vitreous Clay
Pipe, 466°

18 N 18th
Ave E

N 19th Ave E

1801 E
Superior St

1815 E
Superior St

1819 E
Superior St

1829 E
Superior St

14 N
19th
Ave E

1823 E
Superior St

1837
E Superior St

1901 E
Superior St

10 inch,
Vitreous Clay
Pipe, 435°

9, Vitreous
Clay Pipe
, 454°

E Superior St

180

120

60

30

0

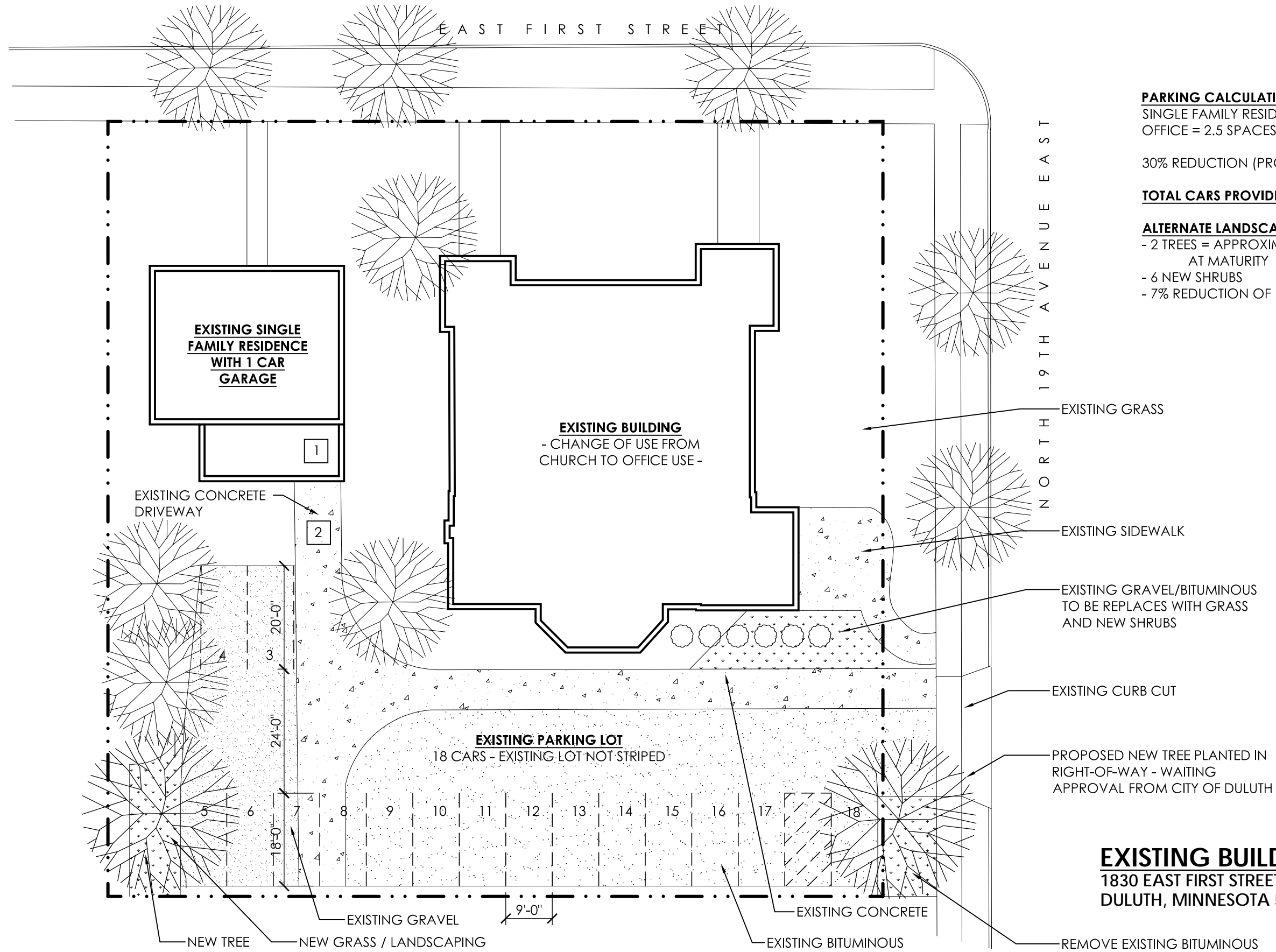
Feet



Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Zoning Boundaries

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.



PARKING CALCULATION (PER UDC 50-24):

SINGLE FAMILY RESIDENCE = 1 CAR
 OFFICE = 2.5 SPACES PER 1,000 SF = 9,682 SF = 24 CARS
 30% REDUCTION (PROXIMITY TO BUS ROUTE) = - 7.5 CARS

TOTAL CARS PROVIDED ON-SITE = 18 CARS

ALTERNATE LANDSCAPING PLAN:

- 2 TREES = APPROXIMATELY 18%-20% CANOPY COVERAGE AT MATURITY
 - 6 NEW SHRUBS
 - 7% REDUCTION OF IMPERVIOUS SURFACE

EXISTING BUILDING - CHANGE OF USE

1830 EAST FIRST STREET
 DULUTH, MINNESOTA 55812

SITE PLAN / ALTERNATE LANDSCAPING PLAN

1

1:20





MEMORANDUM

Date: July 26, 2018

Project: 1830 East First Street – Change of Use

Project No: 1829

Subject: Special Use Permit – Alternate Landscaping

The building at 1830 East First Street is located in the R-2 Zone District and will require a special use permit for the building to be converted into office space. The former church has an existing parking lot as well as a single family residence on site. The existing parking lot extends to the property line has a combination of surface materials. Base on the UDC code requirements for parking and taking the available reduction, all of the required cars are able to fit on site with minor changes.

We will need an Alternate Landscaping approval by the Land Use Supervisor to meet applicable UDC requirements. The existing nature of the parking lot and lack of area for new planting makes it very difficult to meet the canopy coverage requirement. There is area in the right-of-way for tree planting but verification with the appropriate City of Duluth department has not been received at this time.

The current plan is for the building owner to occupy the lower level of the building for offices. This can be done without any modifications to the existing building. The sanctuary level will require considerable planning and modification but is currently planned as a future project.

Copy: File

1830 East 1st Street

Existing Building
SUP -Office

Legend

PC Packet Aug 14, 2018

□ Feature 1

■ Superior St & 19 AE



1830 East 1st Street

Existing Building
SUP -Office

Legend

PC Packet Aug 14, 2018

□ Feature 1

■ Superior St & 19 AE



Google Earth

© 2018 Google



144

7.44 ft

1830 East 1st Street

Existing Building
SUP -Office

Legend

PC Packet Aug 14, 2018

□ Feature 1

■ Superior St & 19 AE



1830 East 1st Street

Existing Building
SUP -Office

Legend

PC Packet Aug 14, 2018

□ Feature 1

■ Superior St & 19 AE





CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-093	Contact	Emilie Voight, evoight@duluthmn.gov	
Type	Planning Review	Planning Commission Date	August 14, 2018	
Deadline for Action	Application Date	July 11, 2018	60 Days	September 9, 2018
	Date Extension Letter Mailed	July 20, 2018	120 Days	November 8, 2018
Location of Subject	909 Cottonwood Avenue, Duluth, MN 55811			
Applicant	Brutger Equities Inc.	Contact	lbrutger@brutgerequities.com	
Agent	Architecture Advantage LLC	Contact	melissa@architectureadvantage.com	
Legal Description	PID 010-2040-00030, -00040, -00050, -00060, -00070, 00080			
Site Visit Date	August 3, 2018	Sign Notice Date	July 31, 2018	
Neighbor Letter Date	August 1, 2018	Number of Letters Sent	6	

Proposal

The applicant proposes renovations to the existing hotel building which will include exterior cladding and insulation, window replacements, landscaping, and roofing parapets, interior finishes and ADA upgrades, and a pool addition of approximately 2,600 SF.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-C	Commercial	Large-scale Commercial
North	MU-C	Single-Family Residential	Large-scale Commercial
South	MU-C	Infrastructure (Highway)	Large-scale Commercial
East	MU-C/MU-N	Commercial/Multifamily	Large-scale Commercial/Neighborhood MU
West	MU-C	Undeveloped	Large-scale Commercial

Summary of Code Requirements

- 50-15.3 MU-C District – Planning review by the Planning Commission is required for most development and redevelopment.
- 50-18.1.E Storm Water Management – Addresses water runoff quality and quantity pre- and post-construction.
- 50-20.3 Use Specific Standards for Commercial Uses – Delineates use specific standards.
- 50-23 Connectivity and Circulation – Focuses on pedestrian and bicycle accommodations.
- 50-24 Parking and Loading – Addresses required minimum and maximum parking spaces and loading docks, dimensional standards, snow storage, and pedestrian circulation.
- 50-25 Landscaping and Tree Preservation – Landscaping standards such as materials, plant size, location, and tree preservation.
- 50-26 Screening, Walls, and Fences – Screening of mechanical equipment, loading areas, and commercial containers, plus regulations regarding fences and retaining walls.
- 50-31 Exterior Lighting – Directs the minimum and maximum illumination values and lighting fixtures for a site.
- 50-37.11 Planning Review – Planning Commission shall approve the Planning Review or approve it with modifications, if it is determined that the application complies with all applicable provisions of the Chapter.

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

Governing Principle #4 – Support economic growth sectors.

Governing Principle #5 – Promote reinvestment in neighborhoods.

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

Governing Principle #9 – Support private actions that contribute to the public realm.

Future Land Use – Large-scale Commercial. Mall, shopping center, and big box retail development, with associated surrounding retail and service uses, but only ancillary office uses and no residential uses. Oriented primarily to the motorist, with planned internal circulation patterns while still accommodating pedestrian movement. Requires access to regional transportation routes. May include regional green infrastructure for watershed protection.

Site History – The existing Days Inn hotel was built in 1976 and has a current gross floor area of 31,897 SF. It has 78 rooms.

Review and Discussion Items

Staff finds that:

- 1) 50-15.3 (MU-C District) – Site plan and building elevations show that the building will meet MU-C structure setbacks and dimensional standards. The pool addition will be connected to the existing building and have a minimum setback of 54 feet from the south property line. The pool house addition is the only proposed renovation that will change the structure's footprint. The addition of parapets to the roof will have an impact on the building's height, but the proposed height will meet MU-C standards.
- 2) 50-18.1.E (Storm Water Management) – The proposed pool addition will increase the site's impervious surface area by approximately 2,600 SF. Applicants have not proposed storm water treatment upgrades and must meet storm water requirements as stipulated in the UDC.
- 3) 50-20.3 (Use Specific Standards) – Use specific standards do not apply to hotels.
- 4) 50-23 (Connectivity) – Site plans provide for a new sidewalk connecting the existing sidewalk on the west side of Cottonwood Avenue to the existing sidewalk located between the building and the parking lot. Landscaping installation along the east edge of the property will occur between the parking lot boundary and the existing sidewalk on Cottonwood Avenue.
- 5) 50-24 (Parking and Loading) – The standard off-street parking requirement for a hotel is 2 spaces per 3 guest rooms, plus 1 space per 200 sq. ft. of gross floor area in all accessory uses including restaurants and meeting rooms. Site plans indicate the removal of two parking spaces for landscaping installation. According to the UDC, 78 guest rooms would require 52 off-street parking spaces (with a minimum required of 36 if near mass transit and a maximum allowed of 78). There are currently 86 parking spaces on the site, 4 of which are designated handicap. Improved parking spaces (paved and stripped) that were in place prior to the UDC being adopted in 2010 may remain as long as landscaping and stormwater standards are met, as applicable.
- 6) 50-25 (Landscaping and Tree Preservation) – Street frontage and interior parking lot landscaping will be provided and meet UDC requirements. A power line situated overhead along the parking lot's east edge restricts potential tree placement; the applicant proposes to install planters with large shrubs under the power line. Trees along the northern edge of the parking lot will be installed in landscaped islands with concrete curbs and mulch or sod infill; each island will be approximately the size of one parking space. The landscaping plan provided meets the UDC's 30% parking lot shading requirement.
- 7) 50-26 (Screening, Walls, and Fences) – Screening around dumpster/commercial containers must be provided and meet UDC regulations. The applicant will need to submit information showing adequate dumpster screening in compliance with UDC. As noted on the site plan, all rooftop mechanical equipment will be screened from view by parapets. The retaining wall shown on the site plan will need to meet regulations as stipulated in UDC 50-26.4.
- 8) 50-31 (Exterior Lighting) – The property exterior will be lit via wall-mounted lights. The site will need to meet all UDC lighting criteria.
- 9) To date, no City, public, or agency comments have been received.
- 10) Per UDC 50-37.1.N, an approved Planning Review will expire if the project or activity authorized is not begun within one year, which can be extended for one additional year at the discretion of the Land Use Supervisor.

Staff Recommendation

Based on the above findings, staff recommends approval of the Planning Review, subject to the following conditions:

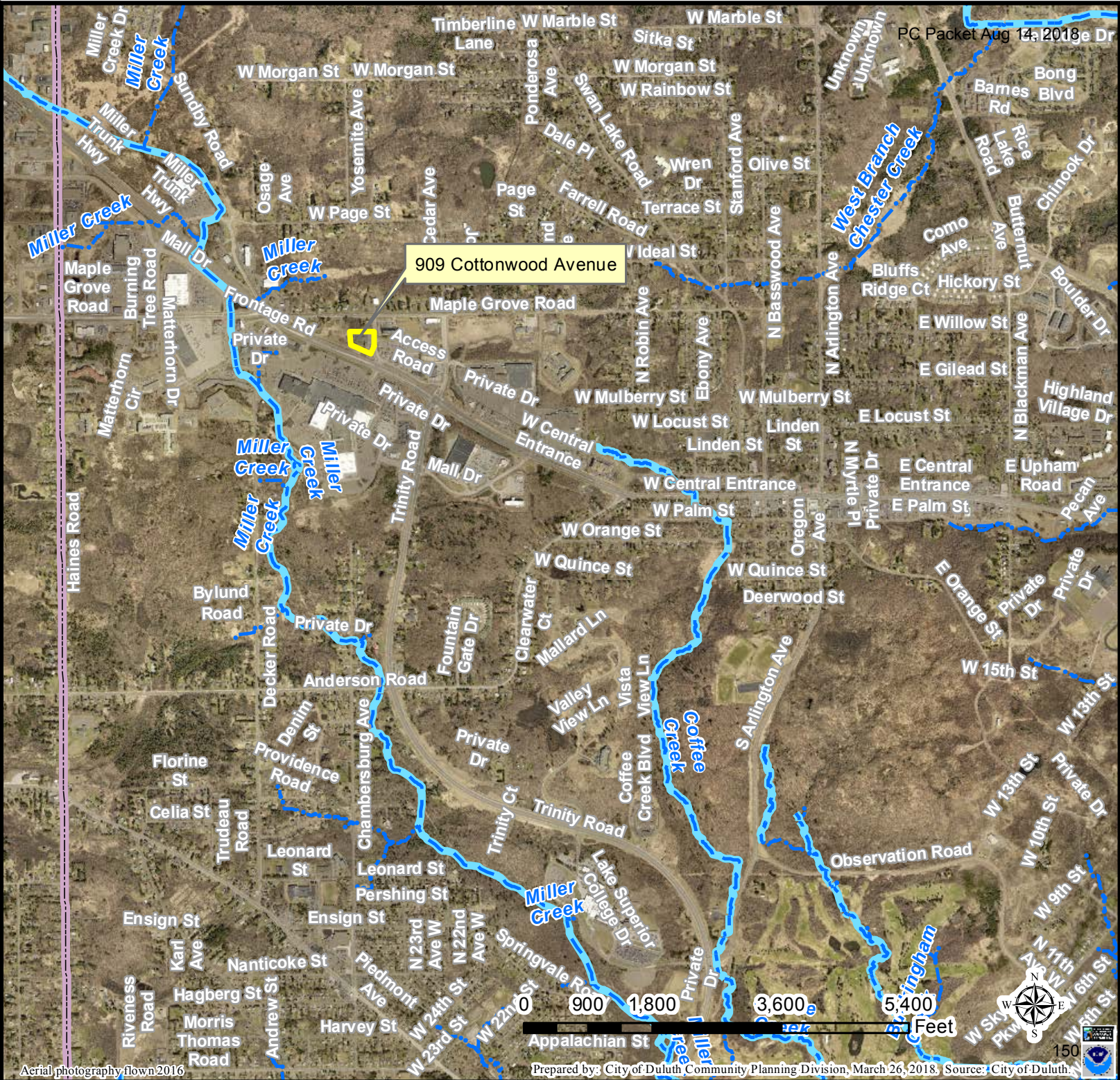
- 1) The project be limited to, constructed, and maintained according to the site plans, landscaping plans, and exterior elevations provided with this application and dated July 25, 2018;
- 2) The applicant must provide a photometric plan for all new and updated exterior lighting at the time of application for a building permit and comply with UDC lighting criteria in 50-31;
- 3) The applicant must submit a plan proposing adequate dumpster screening at the time of application for a building permit and comply with UDC screening criteria in 50-26;
- 4) The applicant must revise the landscape plan at the time of application for a building permit to clearly show the parking spaces being removed for the landscape islands in conformance with the UDC landscaping criteria in 50-25;
- 5) Any alterations to the approved plans that do not alter major elements of the plans may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of UDC Chapter 50.



909 Cottonwood Avenue
Neighborhood Map

Legend

- Municipal Boundary
- Trout Stream (GPS)
- Other Stream (GPS)



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Legend

- Municipal Boundary
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)

**Future Land Use - Plus
Future Land Use**

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

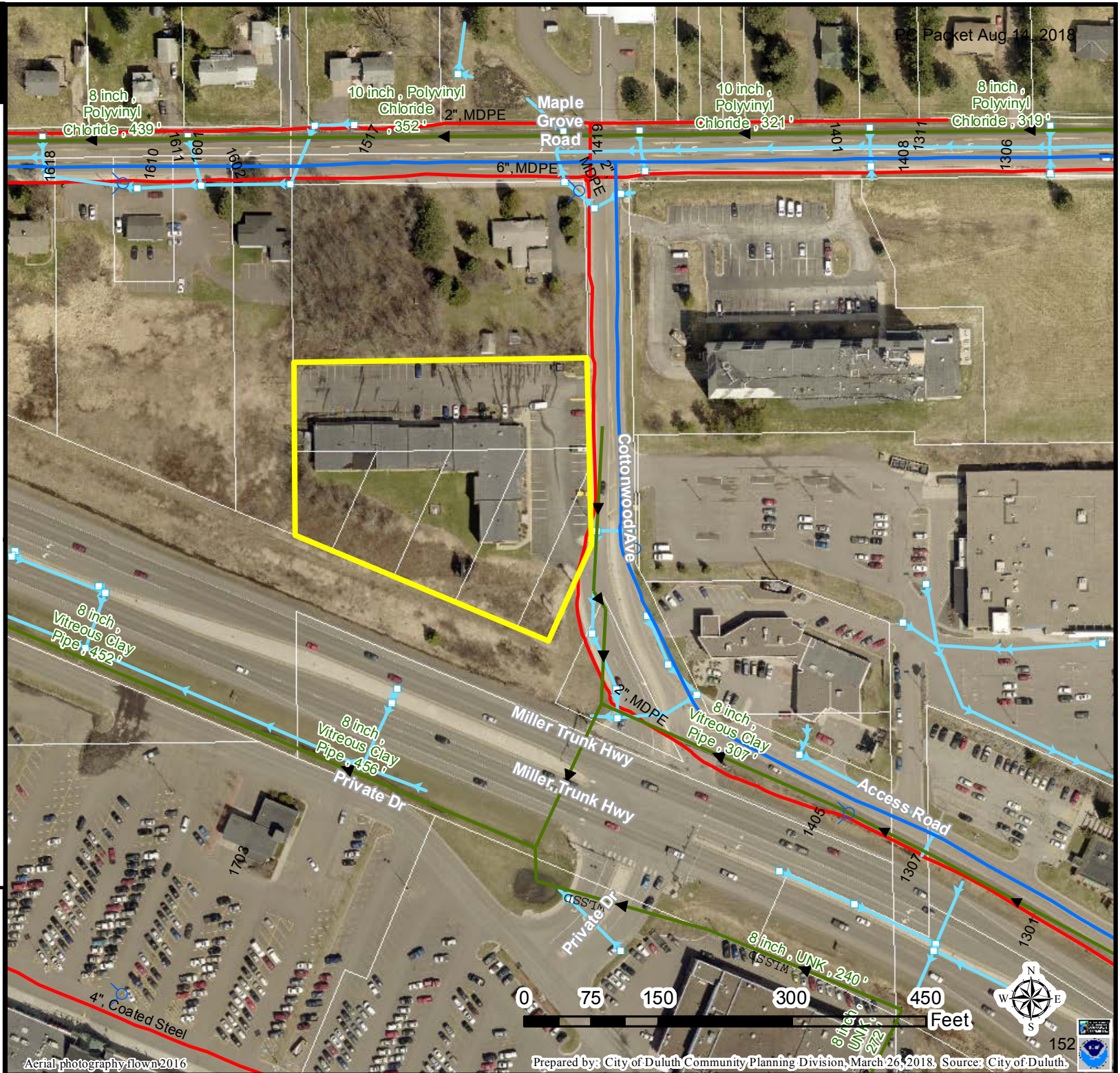


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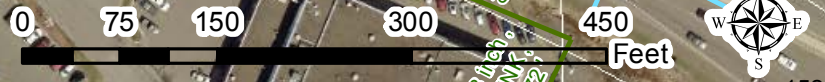


Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Municipal Boundary
- Shoreland (UDC)**
- Cold Water
- Natural Environment
- General Development
- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRR)



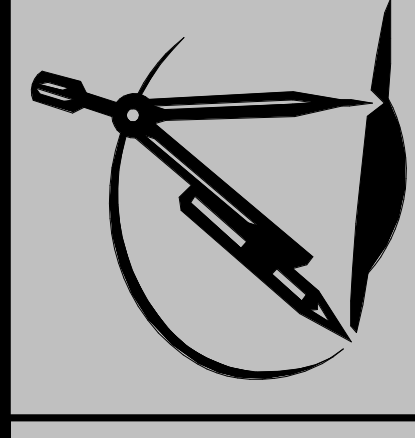
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1 SITE PLAN
SITE 1/16" = 1'-0"

architecture
A D V A N T A G E
a limited liability company



2715 Piedmont Avenue - Duluth, Minnesota 55811
Phone: 218.724.5868 - Fax: 218.724.5869 - Email: info@architectureadvantage.com

SHEET TITLE:
SITE PLAN

This sheet is not to be scaled. The bar above is 1" long on a full size sheet. Drawing scales apply to full scale sheets.

DULUTH DAYS INN
909 COTTONWOOD AVE
DULUTH, MN 55811

PROJECT NO: 1811
DRAWN BY: XX
CHECKED BY: XX

RELEASE DATE: 07.25.2018

REVISIONS:

SET NO.

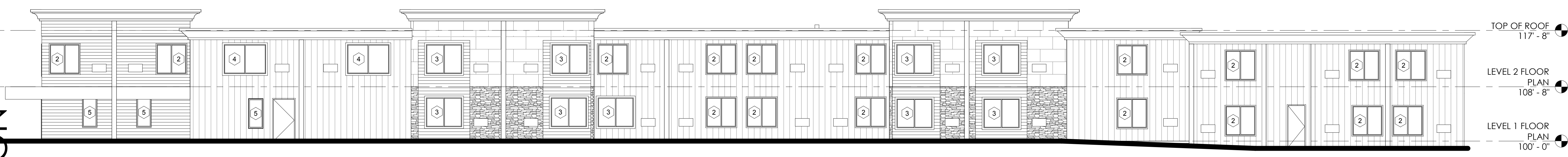
SHEET NO.

SITE
OF XX

PRELIMINARY - NOT FOR CONSTRUCTION



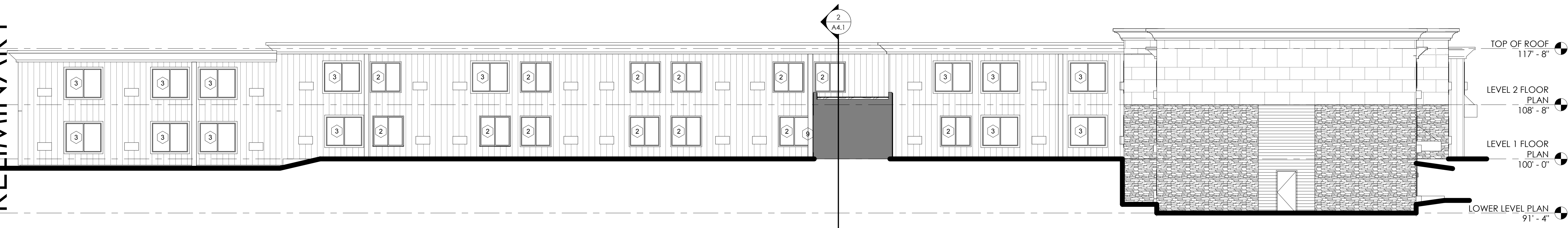
1 EAST ELEVATION
A3.2 1/8" = 1'-0"



2 NORTH ELEVATION
A3.2 1/8" = 1'-0"



3 WEST ELEVATION
A3.2 1/8" = 1'-0"



4 SOUTH ELEVATION
A3.2 1/8" = 1'-0"

architecture
A D V A N T A G E
a limited liability company

2715 Piedmont Avenue - Duluth, Minnesota 55811
Phone: 218.724.5568 - Fax: 218.724.5569 - Email: info@architectureadventure.com

SHEET TITLE:
EXTERIOR ELEVATIONS

This sheet may be subject to change. The bar above is 1" long on a full size sheet. Drawing scales apply to full scale sheets.

DULUTH DAYS INN
909 COTTONWOOD AVE
DULUTH, MN 55811

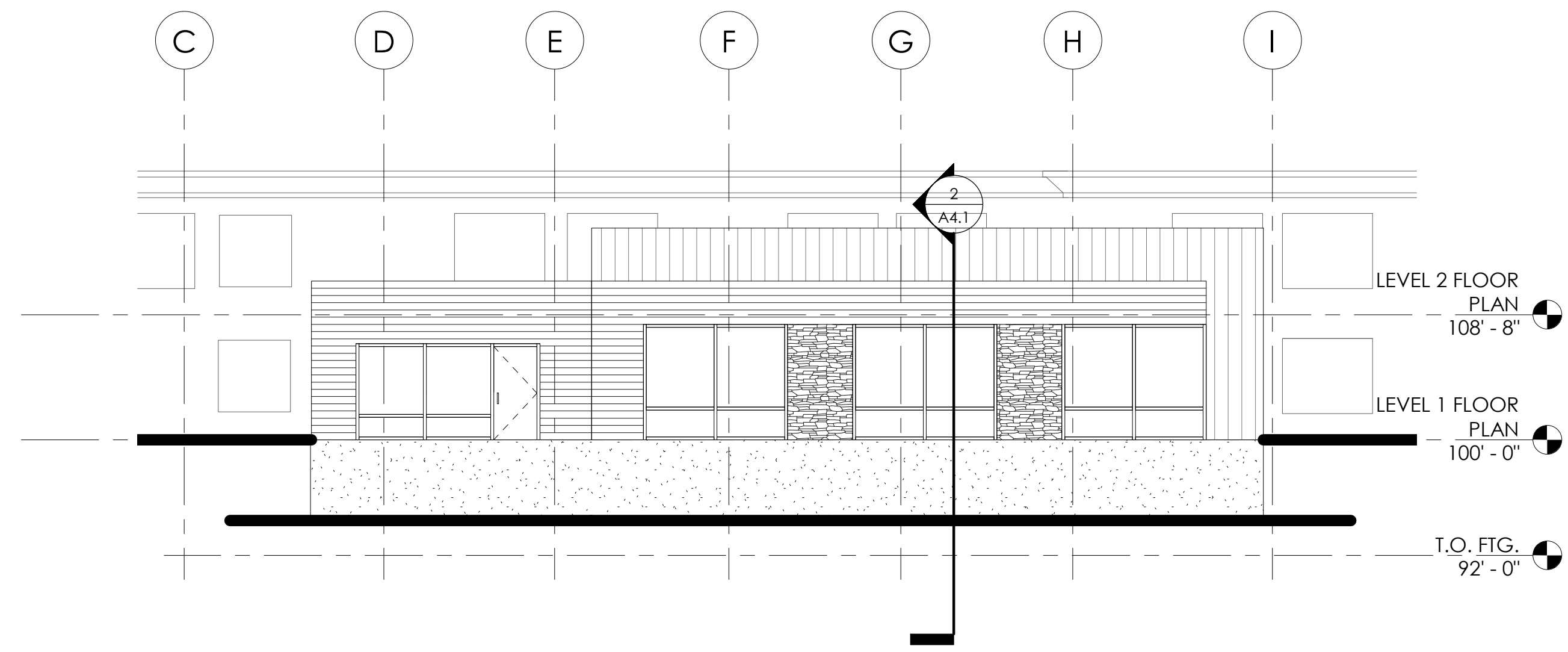
CHECKED BY: XX
DRAWN BY: XX
PROJECT NO: 1811

RELEASE DATE: 07.25.2018

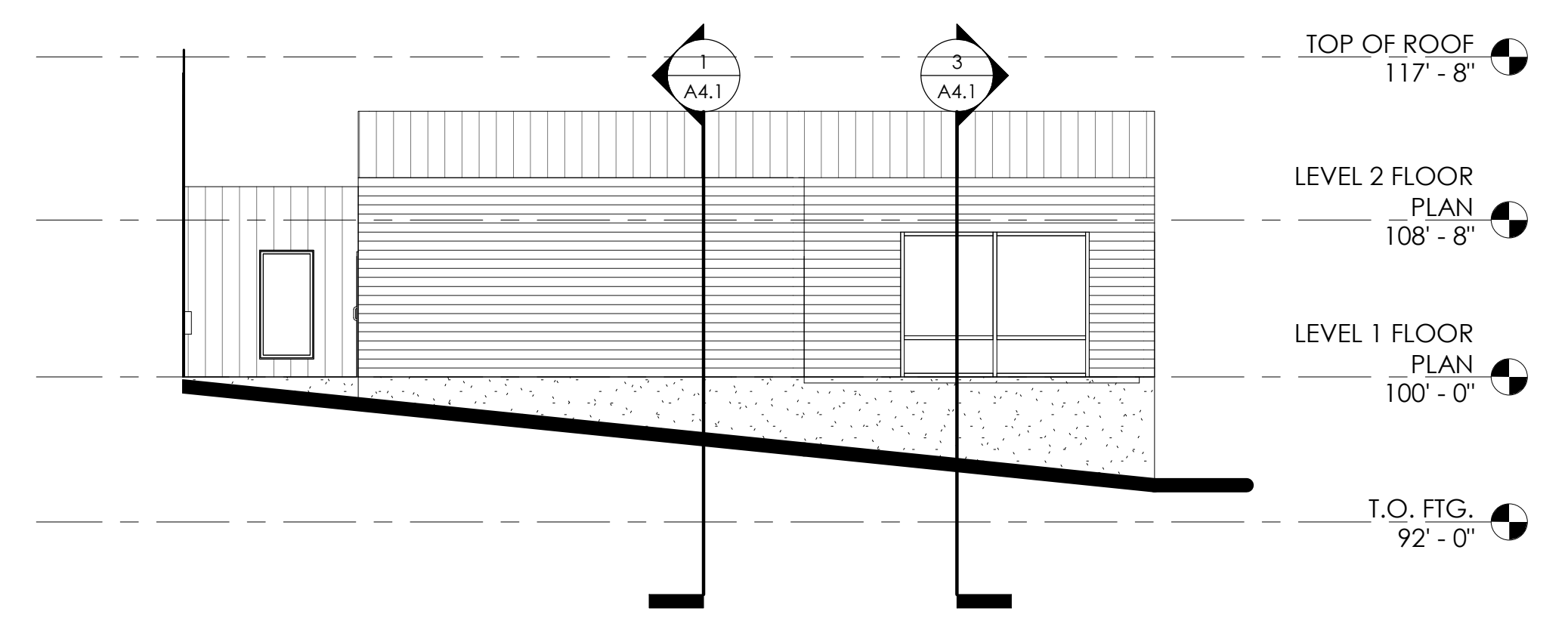
REVISIONS:

SET NO.

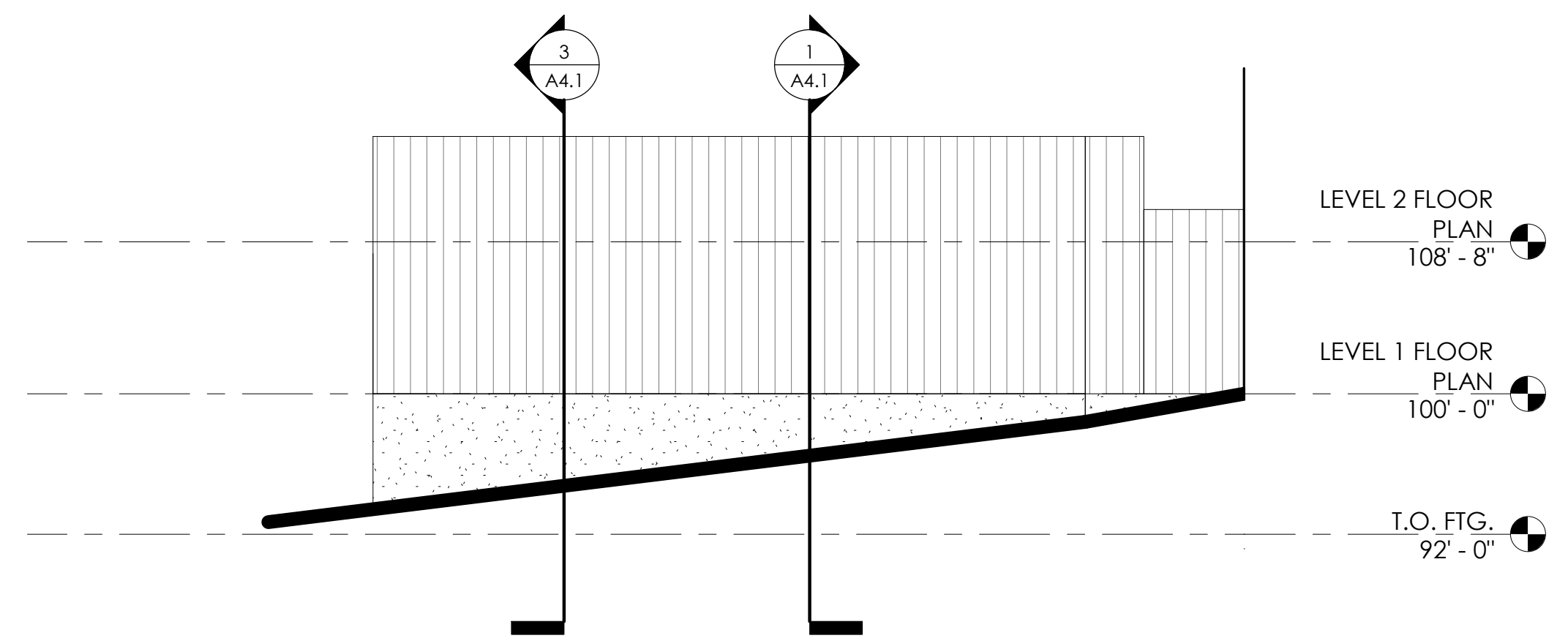
SHEET NO. **A3.2**
OF XX



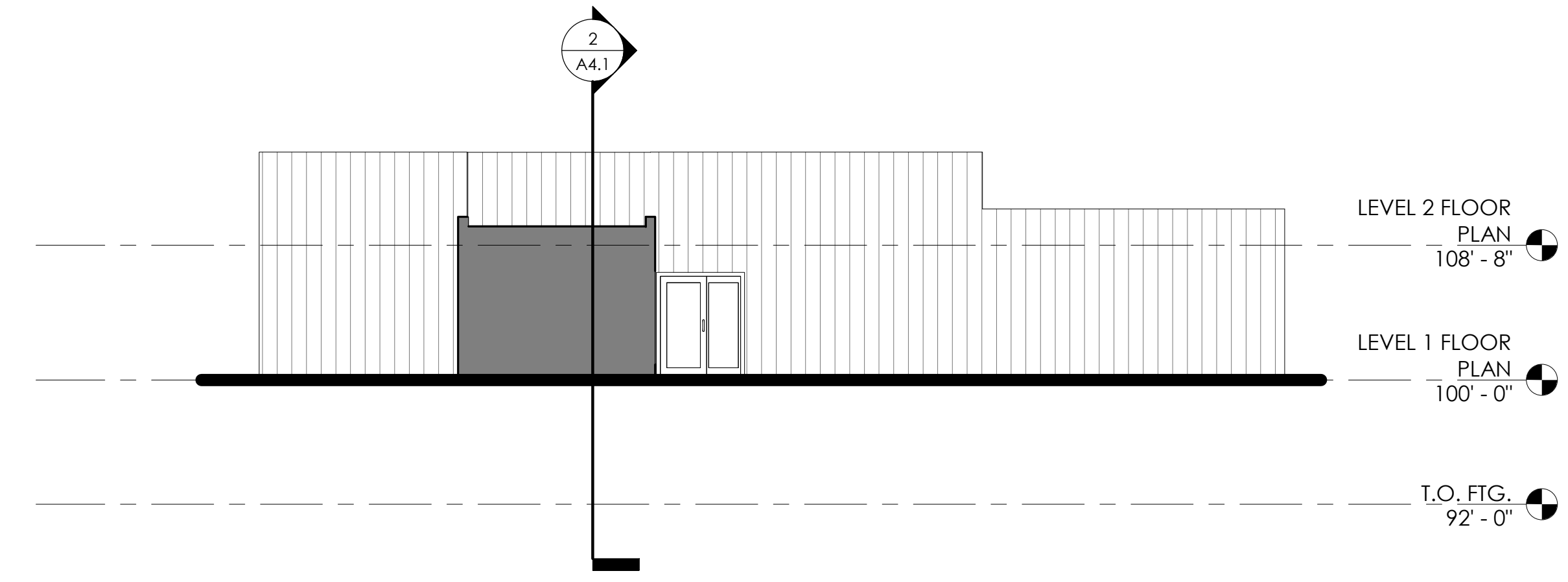
1 POOL ADDITION - SOUTH ELEVATION
A3.3 1/8" = 1'-0"



2 POOL ADDITION - WEST ELEVATION
A3.3 1/8" = 1'-0"



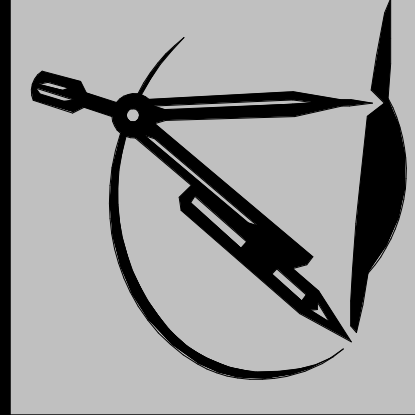
3 POOL ADDITION - EAST ELEVATION
A3.3 1/8" = 1'-0"



4 POOL ADDITION - NORTH ELEVATION
A3.3 1/8" = 1'-0"

PRELIMINARY - NOT FOR CONSTRUCTION

architecture
A D V A N T A G E
a limited liability company



2715 Piedmont Avenue - Duluth, Minnesota 55811
Phone: 218.724.5668 - Fax: 218.724.5669 - EMail: info@architectureadvantage.com

SHEET TITLE:
**EXTERIOR ELEVATIONS W/
POOL ADDITION**

This sheet may not be used for any other project. The bar above the title is for use on a full size sheet. Drawing scales apply to full scale sheets.

DULUTH DAYS INN
909 COTTONWOOD AVE
DULUTH, MN 55811

PROJECT NO: 1811
DRAWN BY: XX
CHECKED BY: XX

RELEASE DATE: 07.25.2018

REVISIONS:

SET NO.

SHEET NO. **A3.3**
OF XX



MEMORANDUM

PROJECT: Duluth Days Inn PROJECT NO.: 1811
 DATE: July 25th, 2018
 TO: Emilie Voight
 FROM: Shane Nies
 SUBJECT: Pre-Review Meeting
 COPIES TO: Kyle Deming, Steven Robertson, Melissa Graftaas

Design Narrative:

The Days Inn is an existing hotel located near the Miller Hill Mall on the corner of Cottonwood Ave & Hwy 53 in Duluth, MN. The building footprint is approximately 14,800 SF on 2 acres of land. The site is gradually sloped from the entry to the edge of the building on the highway side, and then significantly drops at the edge of the property line down to the highway right of way.

The building will undergo a complete exterior renovation of the cladding, exterior insulation to meet energy code, window replacements, and new roofing parapets to give the building more façade & height variation, and curb appeal to current hotel precedents.

The interior renovations will be mainly ADA upgrades, common space layout improvements and relocations, and finishes throughout the entire building.

There is a proposed wood frame construction pool addition of approximately 2,500 SF on the south side (mall side) of the existing 'L' shaped building. Soil borings have been performed on the outside corners and center of the proposed addition. The addition will branch out from an existing room that will be demoed and engage into the sloped site with the same exterior palette as the existing building exterior improvements.

Public restrooms will be relocated in the 'link' between the existing building and addition and be made available 24/7. Past the restroom core will be a private party room and a large open pool/spa area; both which will be restricted to certain hours and keycard access.

Along with the building addition, there will be access to a newly designed outdoor patio space as part of the existing site improvements.

Expected Budget:

Assessed Value = \$1,425,200; 75% = \$1,008,900; estimated construction \$1.8-2.2M

Parking Lot Landscaping – Tree Canopy Shading (30%min):

American Elm Shading: 11,000sf
 Parking Lot: 29,125sf
 % Coverage: 38%

Shane Nies, RA, AIA, NCARB
 Architecture Advantage

architecture
 A D V A N T A G E

2715 Piedmont Avenue | Duluth, MN 55811
 278 East 7th Street | St. Paul, MN 55101
 218.724.5568 | architectureadvantage.com



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL18-087	Contact	Kyle Deming, kdeming@duluthmn.gov	
Type	Variance, front yard setback	Planning Commission Date	August 14, 2018	
Deadline for Action	Application Date	June 27, 2018	60 Days	August 26, 2018
	Date Extension Letter Mailed	July 25, 2018	120 Days	October 24, 2018
Location of Subject	3801 S. Lake Ave.			
Applicant	Patricia Kuszler & Shelley Kuszler	Contact		
Agent		Contact		
Legal Description	Lots 381, 383, and 385, Lower Duluth, Lake Avenue			
Site Visit Date	July 30, 2018	Sign Notice Date	July 27, 2018	
Neighbor Letter Date	July 30, 2018	Number of Letters Sent	24	

Proposal

The applicant is proposing a variance from the front yard setback to construct a 24-foot by 28-foot by 16-foot tall two-stall garage located 9 feet from 38th Street rather than the required 25 feet.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	One-Family Dwelling	Traditional Neighborhood
North	R-1	Park Point Beach	Preservation
South	R-1	One-Family Dwelling	Traditional Neighborhood
East	R-1	One-Family Dwelling	Traditional Neighborhood
West	R-1	38 th Street	Traditional Neighborhood

Summary of Code Requirements

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

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

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

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 and neighborhood extensions, and new traditional neighborhood areas.

Principle #5 – Promote reinvestment in neighborhoods

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

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

Site Context: Existing 1,894 sq. ft. home was originally constructed in 1901 with the latest additions made in 2007. It sits on a 6,000 sq. ft. lot. Applicants own an additional 6,000 sq. ft. of land to the south. There are three small outbuildings on the lots.

Part of the home is located within the Lake Avenue street right of way for which a Concurrent Use Permit (Ord. #9831) was granted in 2007 for a 9-foot wide by 60-foot long encroachment (FN 07037).

Review and Discussion Items

Staff finds that:

- 1) The Applicant is seeking a front yard setback variance to build a 24-foot wide by 28-foot deep garage that is 16 feet tall located 9 feet from 38th Street rather than the required 25 feet.
- 2) 38th Street is the front yard because Lake Ave. is not improved with a public street.
- 3) The applicant is proposing a reasonable use of the site with a modest 2-stall garage located near the street.
- 4) The applicant states that relief is required from circumstances unique to the property, including the shape of the parcel and the location of the existing buildings on the applicant's and their neighbor's property.
- 5) The proposal will not alter the essential character of the area because, as the applicant has provided evidence of in their application, there are multiple similarly-located garages located near 38th Street as well as other locations on Minnesota Point.
- 6) The applicant is not proposing any additional landscaping as placement of the garage closer to the street will provide for less of an impediment to their neighbor to the west's view into the property.
- 7) Placement of the garage as required by the UDC would cause more of an impact on the neighbor to the west's access to light and air than where the applicant is requesting.
- 8) The applicant has provided emails from three neighbors who support the granting of the variance. No agency or 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.
- 10) The Park Point Small Area Plan identified 38th Street as being a Tier 2 access point to the Lake Superior Beach. Therefore, the City may need to use much of the right of way in the future for public improvements. If the applicant locates the garage 9 feet from the right of way there is not room to park a vehicle in front of the garage as is common throughout the community. Staff finds that the garage should be set back at least 15 feet to allow for a standard sized vehicle to be parked off the right of way in front of the garage.
- 11) If the Planning Commission approves the variance it will be necessary to properly place the garage for compliance. It is the department's policy require a property boundary survey with survey markers for variances.

Staff Recommendation

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

- 1) The applicant provide a property boundary survey that locates survey markers at the property corners;
- 2) The garage be placed at least 15 feet from the street right of way and at least 8 feet from the west property boundary;
- 3) That the garage be no more than 28 feet by 28 feet by 16 feet tall (average height of pitched roof);
- 4) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



PL18-087

Kuszler Corner Side Yard
Setback Variance
3801 Lake Ave. S.

PC Packet Aug 14, 2018



Legend

- Lake Superior
- Subdivision Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)

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Aerial photography flown 2016



Prepared by: City of Duluth Community Planning Division, July 30, 2018, Source: City of Duluth.





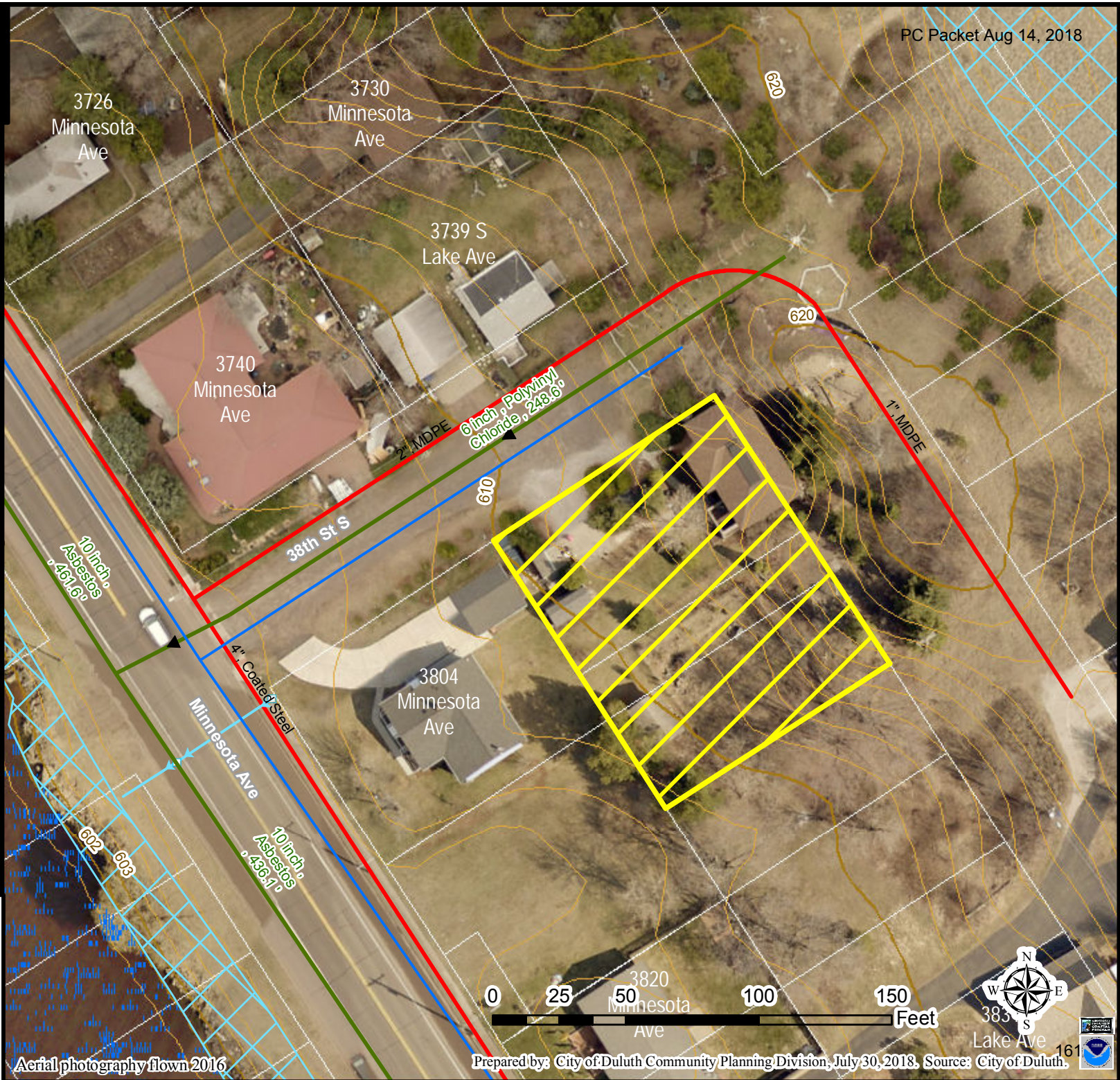
PL18-087

Kuszler Corner Side Yard
Setback Variance
3801 Lake Ave. S.

PC Packet Aug 14, 2018

Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
 - CITY OF DULUTH
 - WLSRD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- 1 Ft contour
- 10 Ft contour
- Vacated ROW
- Easement Type
 - Utility Easement
 - Other Easement
- Floodplain (UDC)
 - General Flood Plain
 - Flood Way
 - Flood Fringe
 - Trout Stream (GPS)
 - Other Stream (GPS)
 - Wetlands (NRR1)



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PL18-087

Kuszler Corner Side Yard
Setback Variance
3801 Lake Ave. S.

PC Packet Aug 14, 2018

Legend

- 1 Ft contour
- 10 Ft contour
- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRR)
- Future Land Use - Plus**
- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
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- Commercial Waterfront
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Aerial photography flown 2016

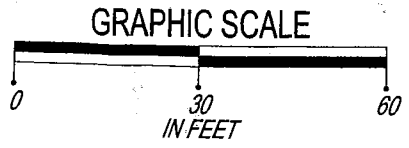
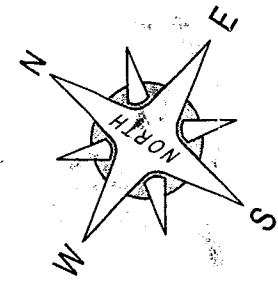
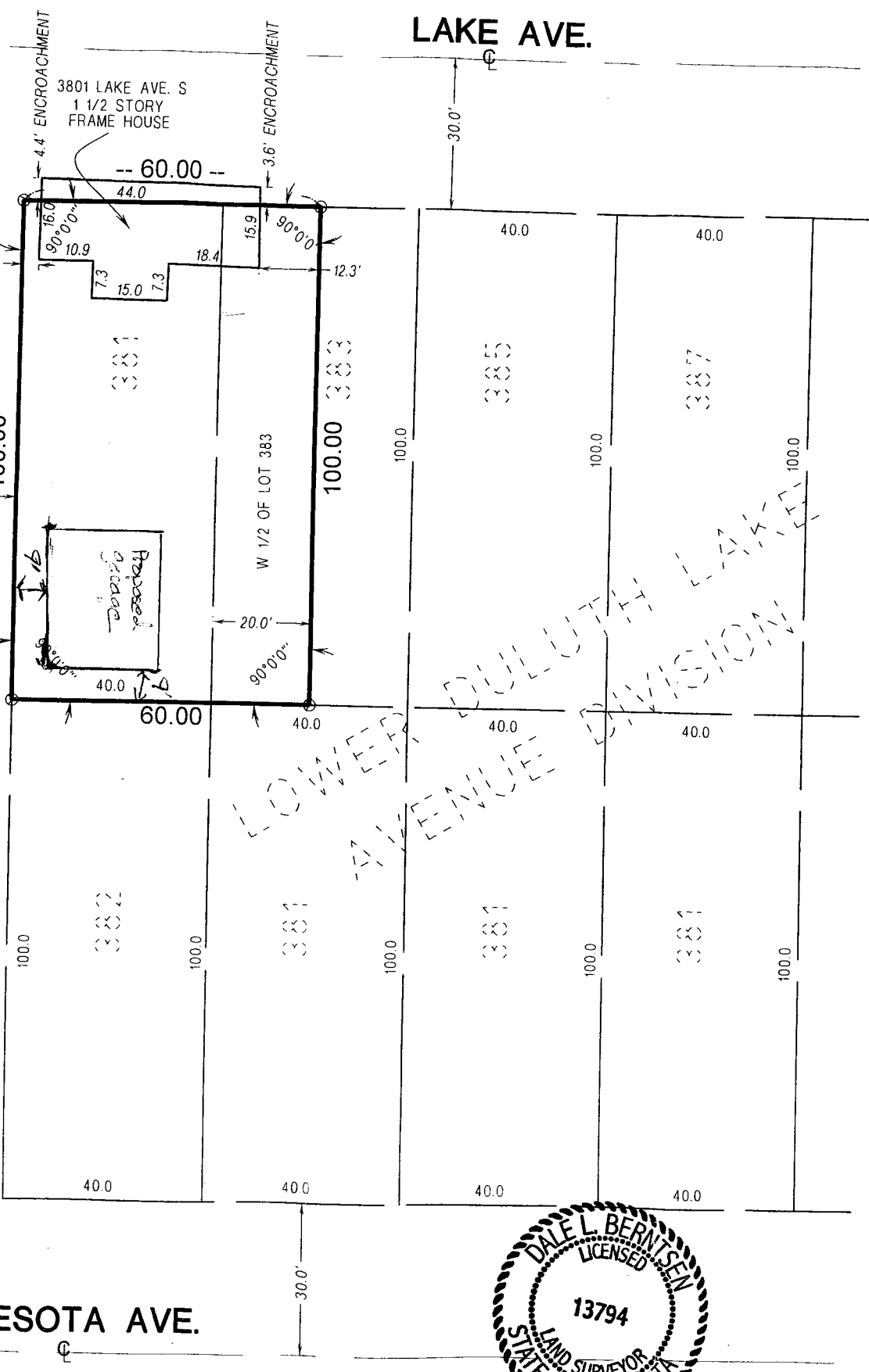
Prepared by: City of Duluth Community Planning Division, July 30, 2018. Source: City of Duluth.



LAKE AVE.

38TH ST.

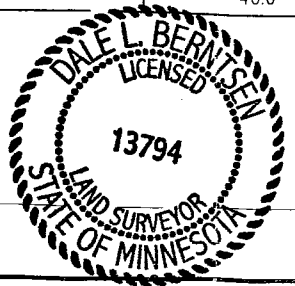
MINNESOTA AVE.



SURVEY OF LOT 381 & W 1/2 OF LOT 383,
LAKE AVENUE, LOWER DULUTH DIVISION

LEGEND

- PROPERTY LINE
- LOT LINE
- SET IRON SURVEY MARKER MN LIC. NO 13794



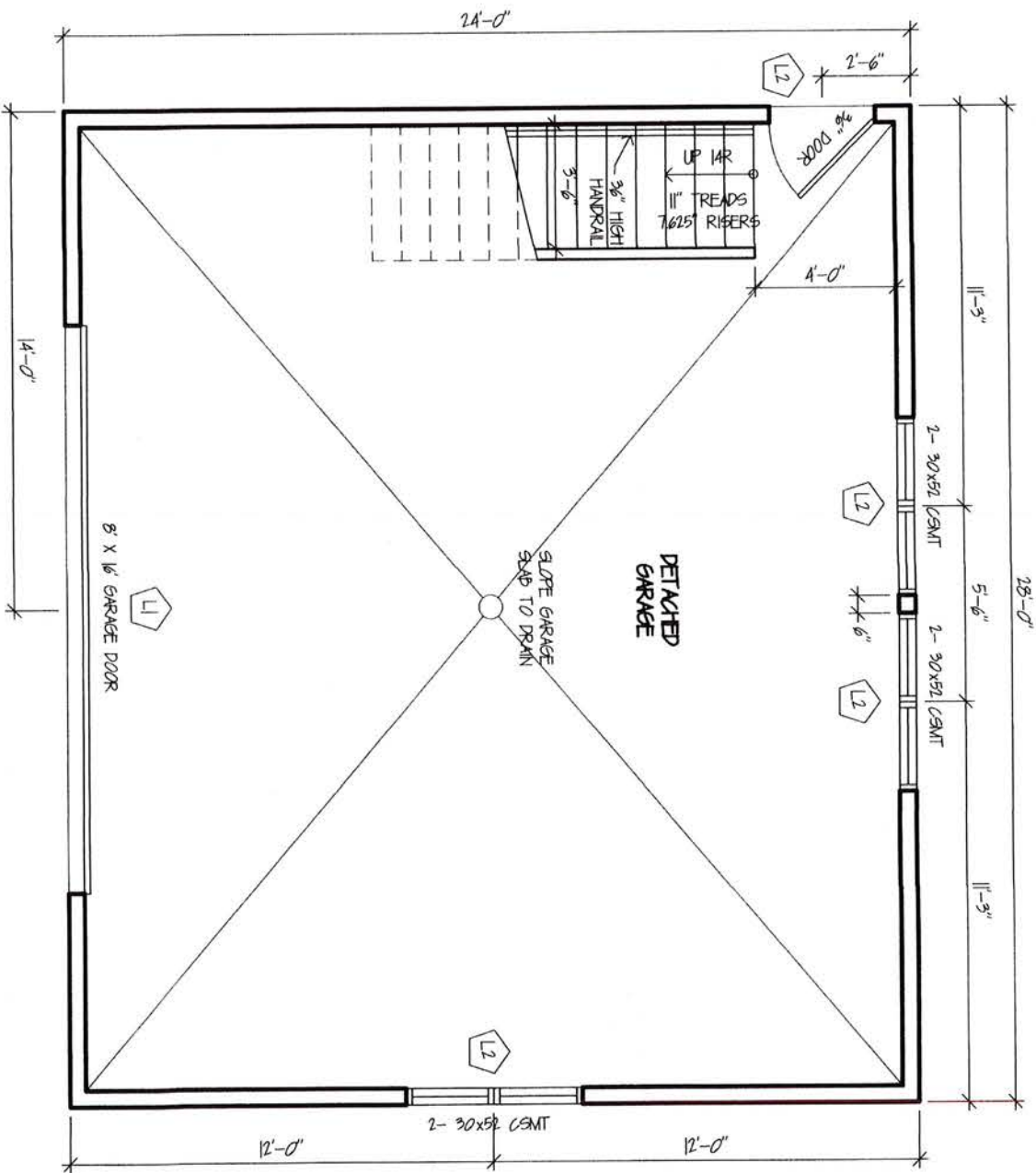
Q:\Ljobs\4400\dwg\L4400.dwg, 11 x 17, 1/18/2006 8:11:00 AM, Rlick

SALO ENGINEERING, INC.
ENGINEERS - SURVEYORS - PLANNERS
15 East First Street Duluth, Minnesota 55802 218/727-8796

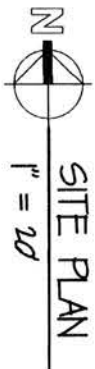
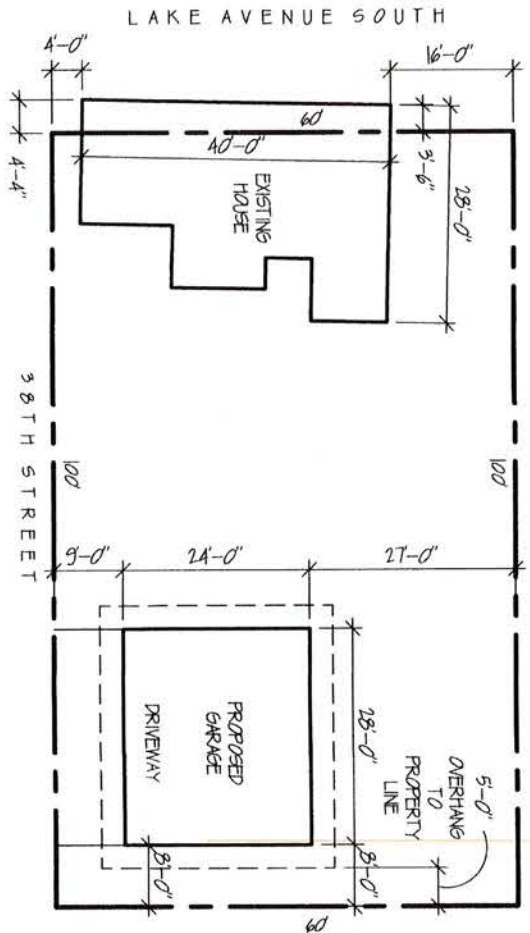
I HEREBY CERTIFY THAT THIS SURVEY WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND THAT I AM A DULY LICENSED LAND SURVEYOR UNDER THE LAWS OF THE STATE OF MINNESOTA.
Dale L. Bernitsen
DATE 1/19/06
MN. LIC. NO. 13794

NO	DATE	REVISION	BY
1			
2			
3			

BOUNDARY SURVEY FOR:
SHELLEY KUSZLER c/o DAVID KUSZLER



HEADER SCHEDULE:
 (1) 1/4" LVL
 (2) 2x10



ANY ENGINEERED LUMBER LAYOUTS, SIZES, SPECS AND CONNECTION DETAILS TO BE PROVIDED BY MANUFACTURER.
 ELECTRICAL, PLUMBING, AND MECHANICAL SUB-CONTRACTORS TO PROVIDE LAYOUTS PER CODE - TO BE FINALIZED AND APPROVED BY HOMEOWNER AND CONTRACTOR.
 EXTERIOR STUD WALLS TO BE 2x6 STUDS AND ARE DIMENSIONED TO THE FACE OF STUD.
 INTERIOR WALLS TO BE 2x4 STUDS UNLESS NOTED OTHERWISE AND ARE DIMENSIONED TO THE FACE OF STUD.
 WINDOWS ARE DIMENSIONED TO THE CENTER LINE OF ROUGH OPENING. VERIFY ROUGH OPENINGS WITH WINDOW MANUFACTURER PRIOR TO FRAMING. INSTALL PER MANUFACTURER'S ROUGH OPENING AND SPECIFICATIONS.
 WINDOW HEADS TO BE SET @ 7'-0" UNLESS NOTED OTHERWISE.
 SAFETY GLAZING, EGRESS WINDOWS, AND WINDOW FALL PROTECTION PER CODE.
 FLASHING AT EXTERIOR WALL ENVELOPE, WINDOWS & DOORS, & LEDGER BOARDS.

SHEET INDEX:
 A1 FLOOR PLANS
 FOUNDATION PLAN
 SITE PLAN
 A2 EXTERIOR ELEVATIONS
 WALL SECTION

DESIGNER:
 Howard Watts
 218-722-1147

DRAFTER:
 Hiner Home Designs
 Heather Hiner
 (218) 721-4396 / (218) 391-7466
 hhiner@msn.com

HINER HOME DESIGNS
 5532 Fish Lake Dam Road
 Duluth, MN 55803
 (218) 721-4396
 (218) 391-7466
 hhiner@msn.com

The homeowner(s) or licensed general contractor shall assume full responsibility for the following: 1.) Completion of all work in accordance with state and local building codes and ordinances. 2.) Obtain all required building permits prior to construction. 3.) Provide any necessary engineering work. Beams, columns, and structural members shown on drawings are for bid purposes only and should be sized by the manufacturer or a qualified structural engineer to insure the structural integrity of the building. 4.) Verify all plan dimensions prior to the start of the project and before ordering supplies. 5.) Verify all window and door rough openings and types as specified before ordering units and before the start of construction. Hiner Home Designs has made every effort in preparing and checking these drawings for accuracy and is not responsible for any discrepancies that result in error or omission from these drawings. These drawings have been reviewed and approved by the homeowner(s) or licensed general contractor.

Kuszler garage
 3801 Lake Avenue S.
 Duluth, MN

review set 7/19/17
 PRELIMINARY
 NOT FOR
 CONSTRUCTION

Floor Plans/
 Foundation/
 Site Plan
A1



City of Duluth
Planning and Construction Services

411 West First Street • Room 210 • Duluth, Minnesota • 55802-1194
218-730-5240 • Fax: 218-730-5901 • www.duluthmn.gov/onestop/

An Equal Opportunity Employer

Variance Application Supplemental Form: Patricia C. Kuszler & Shelley M. Kuszler 3801 Lake Ave South, Duluth, MN 55802

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.

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

We are seeking a variance from UDC 50-14.5 (front yard setback in an R-1) in order to build a double garage (24 feet x 28ft) that will be accessed from 38th street on Park Point. The proposed garage, which is designed to match the house in style, would be sited directly behind the garage of other house on the south side of 38th street. The proposed site is the least disruptive site and is fully in keeping with the essential character of the neighboring homes. Moreover, our proposed garage site is supported by all three of our neighbors on 38th Street.

There is some question and dispute over what constitutes a "front yard in this case. As shown in the accompanying documents, our home at 3801 Lake Ave South is sited in the far northeastern corner of the lot; in fact it is actually slightly off that corner of the lot. The house dates back to 1905. We discovered it was slightly off the west lot line, when we remodeled the home and required a variance to install a roof with a deeper eave in 2006. The 100 foot long north edge of the lot is adjacent to 38th street – essentially a side yard or even back yard, given the Lake Ave address. See attached diagrams and documents. The City Planning Office states that this is the front yard line and is applying a requirement of a 25' set back off 38th street to our proposed garage. We are seeking to place the garage as close as possible to 38th street with the aim of better access from the street, conformity with other garages on the street, and minimal impact of light and space for all residents on the street, especially the neighbor directly behind and adjacent at 3804 Minnesota Ave. See attached Diagrams A and B and attached aerial view.

We request a variance (50-37.9 H) to reduce the set back from 38th street to 7-9 feet as opposed to the 25 feet allegedly imposed by 50-14.5. The proposed reduced set back will place the garage directly behind the garage associated with 3804 Minnesota Ave (on Lot 3110044040). See Photo of proposed garage site as well as photo of 3804 garage. With the reduced setback requested, there will be limited, if any, need for landscaping and buffering to mitigate impact on the adjacent properties. In fact, and paradoxically, complying with the 25' setback imposed by the City, would impose an enormous impact on the adjacent homeowner's property at 3804 Minnesota, one that would be virtually impossible to remediate with

landscaping, buffering or decorative fencing.

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

The long edge of our property is along 38th street; it is only 60 feet deep; placing the garage 25 feet off 38th street will largely cover the bulk of the western part of the property consuming it with concrete driveway and garage, which will be unsightly, increase the impermeable surface substantially, markedly decrease the utility of the garage, and decrease the property value of our and adjacent properties.

Thirty Eighth Street is an unfinished street end. Although our home has a Lake Ave South address, Lake Avenue is a platted, but not paved or marked, nor it is finished in any way; in fact, it ceases to be a navigable street at the "S-curve" approximately at 12th Street. My home is in the far northeast corner of the lot (Lot 3100020000); indeed it actually is off the east edge of the platted lot. City authorities state that under the UDC, my proposed garage must be placed 25 feet back from the unpaved 38th street, in the farthest southwestern corner of the lot, placing it literally as far as possible from the house and from the only access road (38th street). This would render the garage largely unusable in the winter and essentially make it impracticable.

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:

The fact is that with a Lake Ave address deeming the front yard to be behind the house is largely an arbitrary decision, as is requiring the garage to be 25 feet away from the only access road. There are three other homes on 38th street, only one of which has a 38th street address and all of which have garages which are accessed off 38th street directly and are arrayed along and close in to 38th street to facilitate access from the unpaved street. See attached diagrams A and B, aerial view map and photos. We are seeking to build a garage which is comparable to those of the other homes on the street and will comport with the pattern of the three existing garages associated with the other homes on the street.

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:

Building the garage in the far SW corner of the property would mean that most of the green space of the current yard would be obliterated by driveway and garage itself, far increasing the area of impermeable surface. This would equate to making roughly 25% of the lot impermeable in addition to the approximately 13% that is covered by the house. See attachment showing increase in impermeable surface.

This garage site demanded by the UDC would also obliterate and shadow the view, sunlight and air for my neighbor whose home is on the corner of Minnesota Ave and 38th Street (3804 Minnesota Ave). There is no way that plantings or landscaping could remediate that problem. Our proposed plan would place the garage directly behind the garage of my neighbor at 3804 Minnesota and require little if any landscaping. I have attached a statement from my neighbor, Karla Moore, at 3804 Minnesota Ave affirming this point.

4. Please explain how the application proposes to use the property in a reasonable manner, that not is permitted by this code:

Our proposed garage site is far more reasonable and in keeping with the norms of the other homes on 38th street than the site prescribed by the UDC, as it is construed by the City Planning Office. See attached diagrams A and B, as well as aerial photos. The proposed site maintains and is in keeping with the essential character of our street and that of other similar unpaved street ends off Minnesota Ave South.

In fact, the site allegedly required under the UDC is patently unreasonable from a practical and aesthetic perspective.

All of my neighbors on 38th Street concur as demonstrated by attached documents. See attached documentation from Karla Moore (3804 Minnesota Ave. South), Marcia Hales (3739 Lake Ave. South), and Joe and Lisa Konicek (3740 Minnesota Ave South)

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:

Granting the variance will actually minimize impairment of light and air to the adjacent property and will have zero effect on the congestion on the street. As noted above (response to item 3) placing the garage as requested by this variance will minimize the impact upon my neighbor at 3804 Minnesota Ave. South. In contrast, conforming the garage to the UDC would significantly impair the supply of light and air to the nearby properties, especially that of 3804 Minnesota Ave. It would invariably decrease the market value of that home as well as our home.

With respect street congestion, 38th street is used to access only 4 homes and the garage will not interfere with access to any of the homes. Because it is unpaved dead end, there is little public traffic.

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

The garage site requested by the variance will not substantially impair the intent of the chapter,

will be fully within the property lines, will observe other relevant setbacks, and will fully conform to the essential character of the neighborhood. Indeed as reflected by the attached photos, the proposed garage in our desired site will be in line and consistent with other garages on the street.

The proposed garage site is actually substantially more conservative than many other extant garages on the Point, including some erected within the very recent past. See attached photo montage of front yard garages on Park Point.

7. 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:

Arguably, the requested variance implicates 50-37.9 H. However, as noted above, the requested variance actually would minimize the need for landscaping or other buffering while compliance with the 50-14.5 would maximize deleterious impact on my neighbor's home to a degree that would be largely impossible to remediate with landscaping, buffering or decorative fencing.

Diagram A

Lake Superior

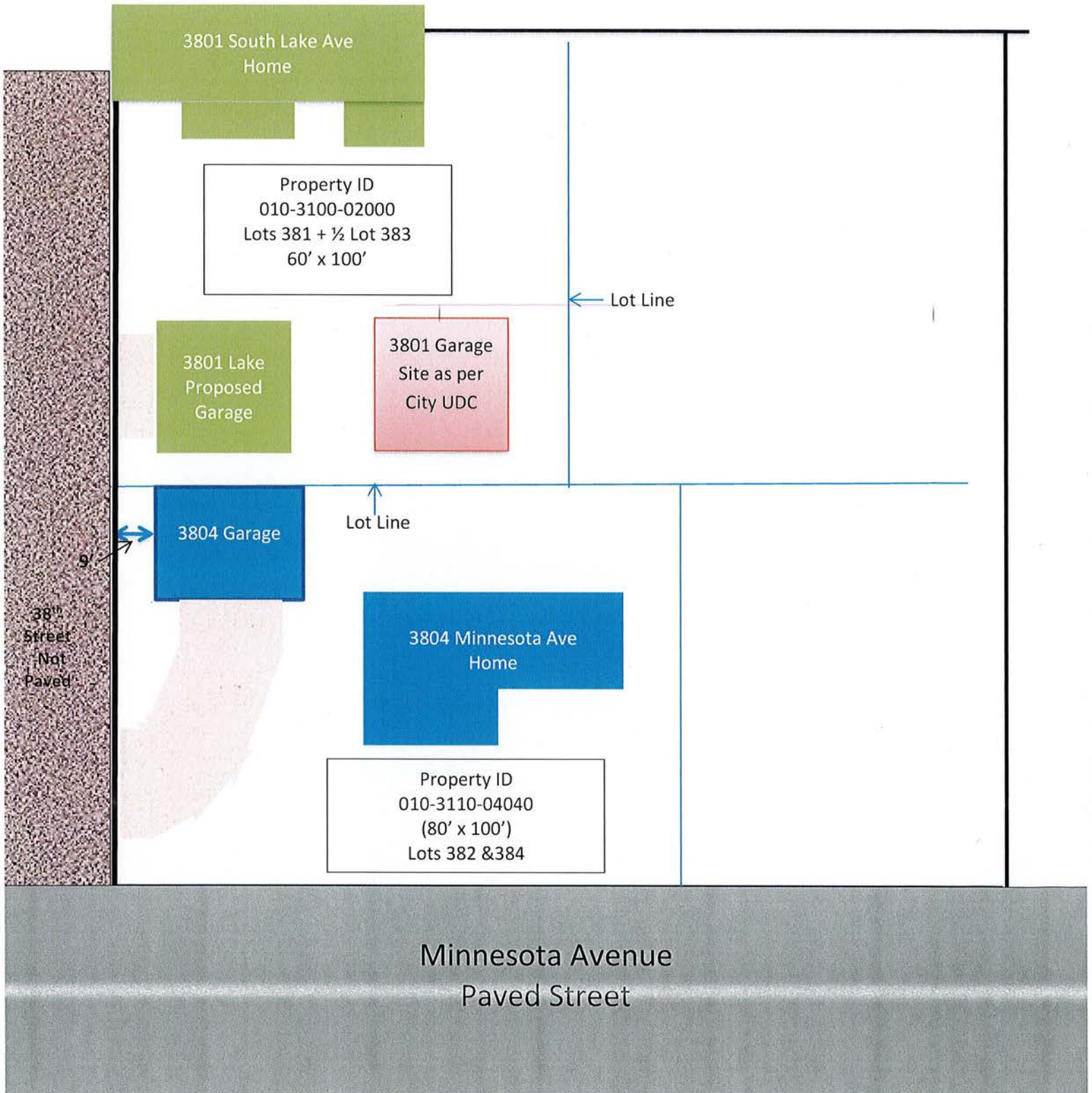
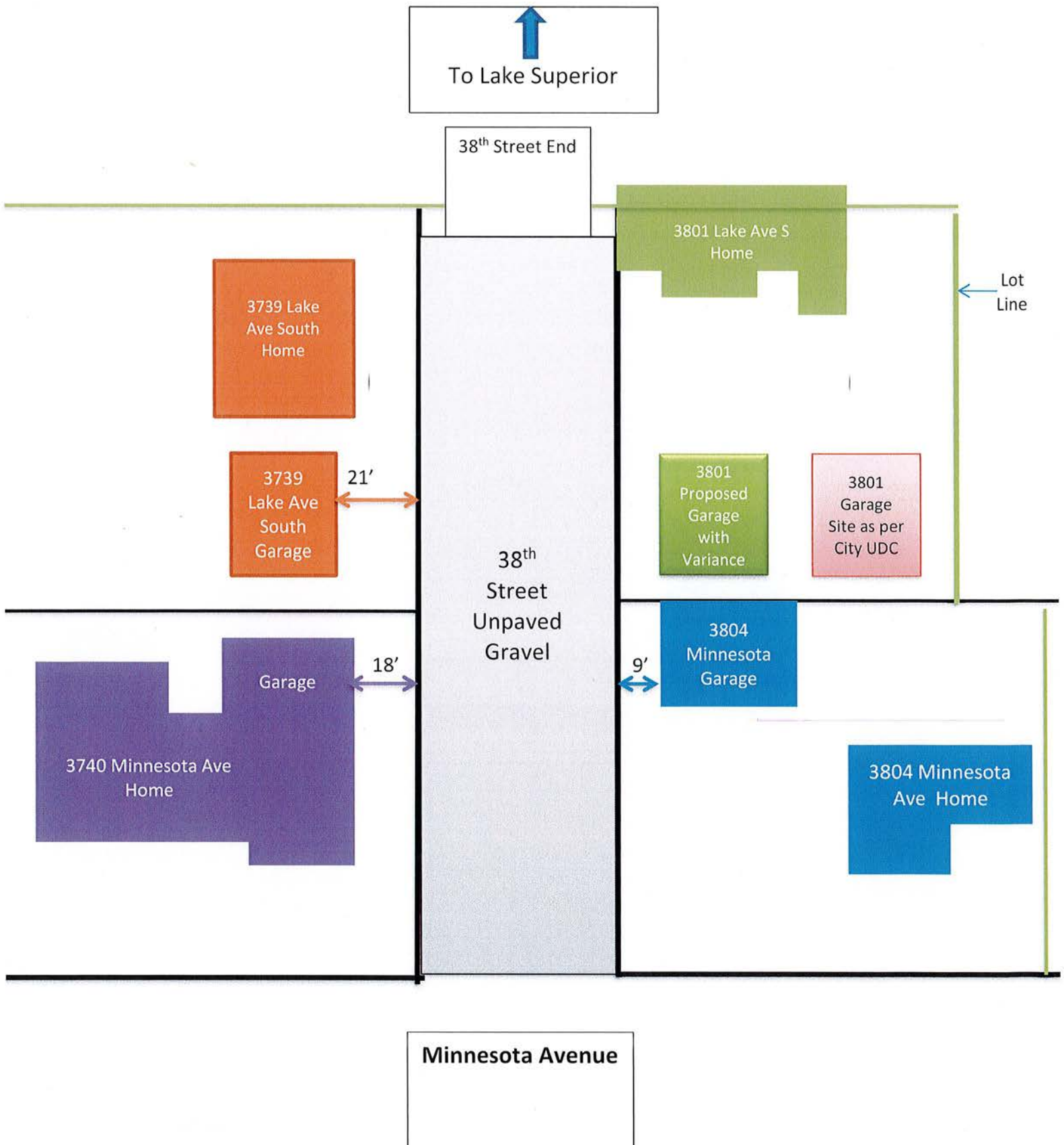


Diagram B



Google Maps



Imagery ©2018 Google, Map data ©2018 Google 20 ft

Google Maps



Imagery ©2018 Google, Map data ©2018 Google 20 ft

Photo of Proposed Garage Site



This is the site of our proposed Garage. It would be built upon the site of the current driveway (see Jeep parked in driveway), supplanting the greenhouse. We seek to build the garage directly behind and in line with the garage associated with 3804 which is sited just behind the pine tree – see arrow- that garage is slightly less than 9 feet from the telephone pole. Moreover its west side is on the lot line (see Drawings A and B). We will of course be building inside our lot line.

Garage of 3804 Minnesota Ave South – Our proposed garage would be sited behind and in line with this garage (see green arrow)



Photos of Neighbors' Garages on 38th Street



This garage which is associated with the home at 3740 Minnesota Aveve South is accessed from 38th street and is 18 ft off the street – and that is a liberal measure given the ambiguity of the street border



This garage, associated with the home at 3739 Lake Ave South, which is directly across 38th street from our proposed garage, is only 21 ft off the street – and that is a liberal measure given the ambiguity of the street border



This house pm
Minnesota Ave is only
about 10ft off paved
street



This House also has garage
entrances that are 10-12
feet off street

Photos of front yard garages on Park Point



This recently built garage at on Minnesota Ave is set back from the road approximately 5 feet and only 3 feet from the telephone pole



This garage is less than 10 feet from the paved street – driveway barely able to contain this very compact vehicle



This recently built large multifamily home has two sets of double garages set at less than 10t off Minnesota Ave

From:
Sent: Sunday, June 17, 2018 9:45 AM
To: Patricia C. Kuszler;
Subject: Support for variance

I am writing to document my support for your variance request to place your garage close to 38th street rather than set back 25 feet from the street. Putting the garage 25 feet back would be both unsightly and distinctly odd as compared to the other garages on 38th street. Placing it close to the street, in line with the garage in front of it (Karla Moore's) is the most logical placement and the one that is similar to the other garages on the street.

Let me know if I can help as you go through the planning commission process

Marcia Hales
3739 Lake Avenue South

Patricia C. Kuszler

From: Joe and Lisa Konicek
Sent: Wednesday, June 6, 2018 4:18 AM
To: Patricia C. Kuszler
Subject: Re: Variance

To Whom It May Concern:

We are residents of 3740 Minnesota Avenue, and our driveway exits onto 38th Street. We have reviewed the variance as proposed by Patricia Kuszler and Shelley Kuszler in which they are requesting approval to have a garage built closer to the road (as close as possible and in line with the garage belonging to the property at 3804 Minnesota Avenue) than what the Planning Office of the City of Duluth requires. We support this variance, as it makes the most sense and seems an obvious request, especially given that all other homes within this area were built in the same manner as Ms. Patricia Kuszler and Ms. Shelley Kuszler are requesting.

If you have any questions, please contact us at

Thank you.
Joe & Lisa Konicek

From: Karla Moore
Sent: Tuesday, June 12, 2018 11:21 AM
To: Patricia C. Kuszler
Cc:
Subject: RE: variance for garage

Hi Pat,

Sorry it was so difficult to reach me! Wayne and I are in complete support of your plan to obtain a variance for the garage project in order for you to build it in line with our garage at 3804 Minnesota Ave. In fact, we see this plan as significantly better for the enjoyment of our property as well as maintaining the value of the property, over the 25 foot set back as required by city of Duluth. We would be very disappointed to lose the openness of our backyard as would happen with a 25 foot set back.

We are contracted with Morins Siding to have our house and garage re-sided. Morins is scheduled to start the project in third week of June. I do hope that there will be adequate room between our two garages to allow for maintenance and cleanout.

Let me know if you need anything else from us in order to successfully obtain the variance as you outlined in the attachment to your email.

I'm looking forward to being in Duluth and seeing you and Shelley soon!

Karla



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL 18-091	Contact	Chris Lee clee@duluthmn.gov	
Type	Variance from Shoreland Setbacks	Planning Commission Date	August 14, 2018	
Deadline for Action	Application Date	July 10, 2018	60 Days	September 8, 2018
	Date Extension Letter Mailed	July 23, 2018	120 Days	November 7, 2018
Location of Subject	1701 N 43 rd Ave E			
Applicant	Gayle Koop Foster, LLC	Contact	gaylekoop@gmail.com	
Agent	Mike Poupore	Contact	mike@blstcn.com	
Legal Description	PID 010-4738-00030			
Site Visit Date	July 31, 2018	Sign Notice Date	July 31, 2018	
Neighbor Letter Date	July 26, 2018	Number of Letters Sent	35	

Proposal

The applicant is requesting a variance from UDC requirements which require a 50' structure setback for construction of a deck near 50th Ave E Creek. The applicant proposes to reconstruct a 24' by 12' deck with stairs on the back side of the home. The overall reduction to the setback would be 17' placing the deck 33' from the creek.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Single-Family Residential	Traditional Neighborhood / Open Space
North	R-1	Institutional	Traditional Neighborhood / Open Space
South	R-1	Single-Family Residential	Traditional Neighborhood / Open Space
East	R-1	Single-Family Residential	Traditional Neighborhood
West	R-1	Single-Family Residential	Traditional Neighborhood / Open Space

Summary of Code Requirements

Sec. 50-18.1.D-1 – Minimum Shoreland Area Standards: for Coldwater Rivers, maintain a minimum structure setback of 150 feet.

Sec. 50-37-9.B – Variance Procedures: “The Planning Commission shall... make a decision on the application based on the criteria in subsections 50-37.9.C – 50.37.9.M...”

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

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

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

Future Land Use – Low-density Neighborhood: Single-family housing with urban services. Typified by curvilinear streets, houses with longer side parallel to street, and attached garages. Includes a range of house sizes and lot sizes. Non-residential uses are mainly uses such as schools and churches. Parks and open space are located within or adjacent to the neighborhood.

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

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

Site History – The existing house, which measures 1,728 square feet, was built in 2001. Shoreland setback regulations were introduced with the UDC in 2010, as a replacement for the Water Resources Management Ordinance (WRMO). The WRMO limited impervious surface as a way to reduce water runoff, sedimentation of the waterways, and the increase in temperature of coldwater streams, which is detrimental to trout.

Review and Discussion Items

Staff finds that:

- 1) Applicant is seeking a shoreland setback variance to construct an 24-foot by 12-foot addition (288 sq.) to the rear of their home. This deck would allow for more space and safer stairs for exiting the house in the event of an emergency. The proposed deck is almost entirely within the 50-foot buffer of 50th Ave E Creek.
- 2) The creek runs through the middle portion of the lot with the closest corner of the house being approximately 37.5 feet from the creek. The closest corner of the proposed deck addition would be approximately 33 feet from the creek. A majority of this parcel is in the 50-foot buffer for the creek, including parts of the home.
- 3) When the applicant purchased the parcel and constructed their home in 2001, shoreland setback rules did not exist. Shoreland regulations were implemented in 2010.
- 4) Variances to shoreland setbacks require mitigation. The applicant has provided a landscaping/mitigation plan describing existing landscaping and additional landscaping that they will provide including rain gardens, pollinator gardens, trees, and shrubs/bushes.
- 5) Other homes in the neighborhood also have structures within the 50-foot Shoreland structure setback. The applicant has provided a plan showing their intent to rebuild the deck in the same location with a small addition and how it fits within the restrictions imposed by the layout and floor plan of the existing home. The deck in its current form is in the Shoreland setback, and the addition of the stairs will further push it towards the creek by a 2 feet. A small portion of the deck would be located in a floodplain. The current deck is in the same floodplain and the deck will sit on the piers in the same locations as the existing deck. A Letter of Map Amendment (LOMA) is not required for the proposal.
- 6) The proposed deck complies with the site's current zoning designation and future land use. The addition would be invisible from the street, would improve the value of the home, allow a safe entry and exit in the event of an emergency, and would not increase the building's size beyond the range currently found in the neighborhood; as such, the essential character of the neighborhood would be unchanged.
- 7) The addition would not impair light or air to neighbors, increase congestion in the neighborhood, create fire danger, or otherwise imperil public safety.
- 8) To date, no public, agency, or City comments have been received.
- 9) Per UDC Section 50-37.1.N, approved variances shall lapse if the project or activity authorized by the permit or variance is not begun within one year of the permit date.

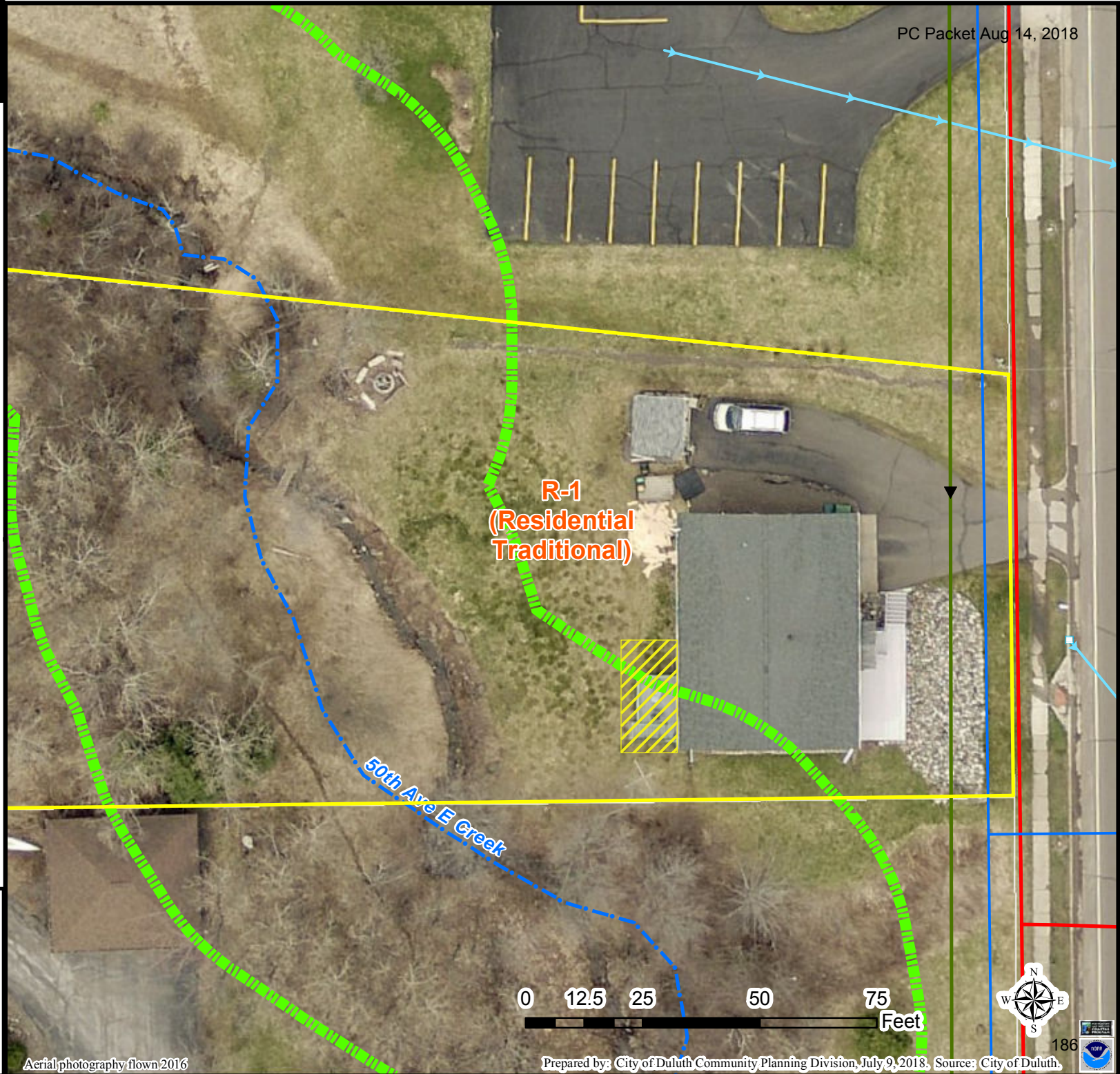
Staff Recommendation

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

- 1) The project be limited to, constructed, and maintained according to the site map and landscaping/mitigation plan submitted with the application dated 7/10/2018;
- 2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administrative approval shall constitute a variance from the provisions of UDC Chapter 50.

Legend

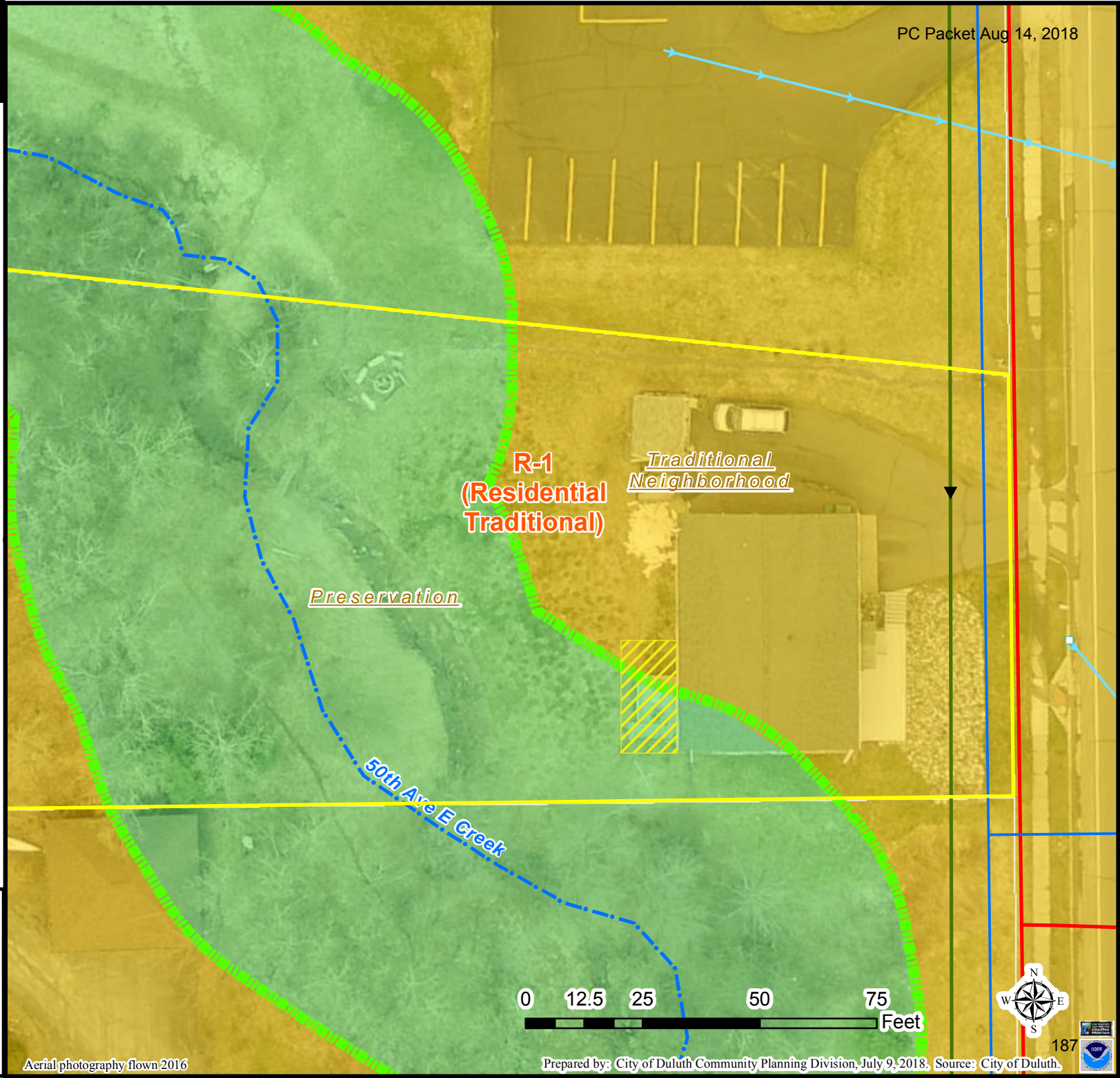
- Gas Main
- 50 Buffer
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)



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

Legend

- Gas Main
- 50 Buffer
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
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3980 E Skyline Pkwy

1731 N 43rd Ave E

50th Ave E Creek






1701 N 43rd Ave E

1526 N 42nd Ave E

N 43rd Ave E

Legend

Floodplain (UDC)

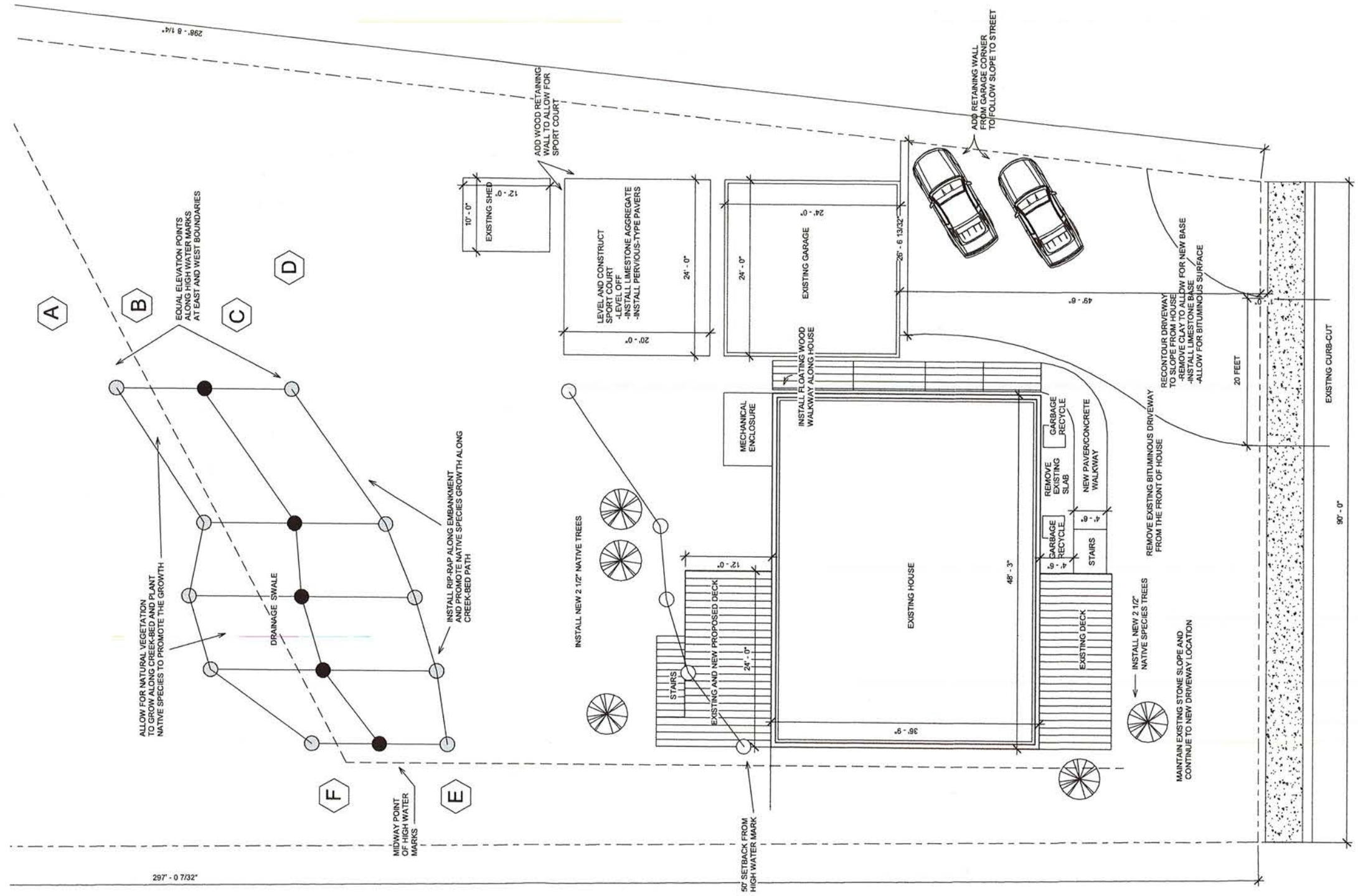
-  General Flood Plain
-  Flood Way
-  Flood Fringe
-  Trout Stream (GPS)
-  Other Stream (GPS)

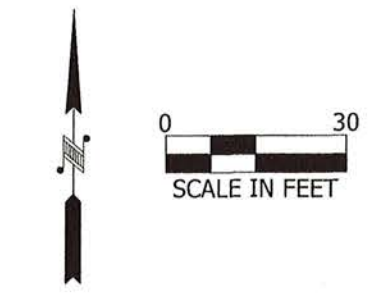
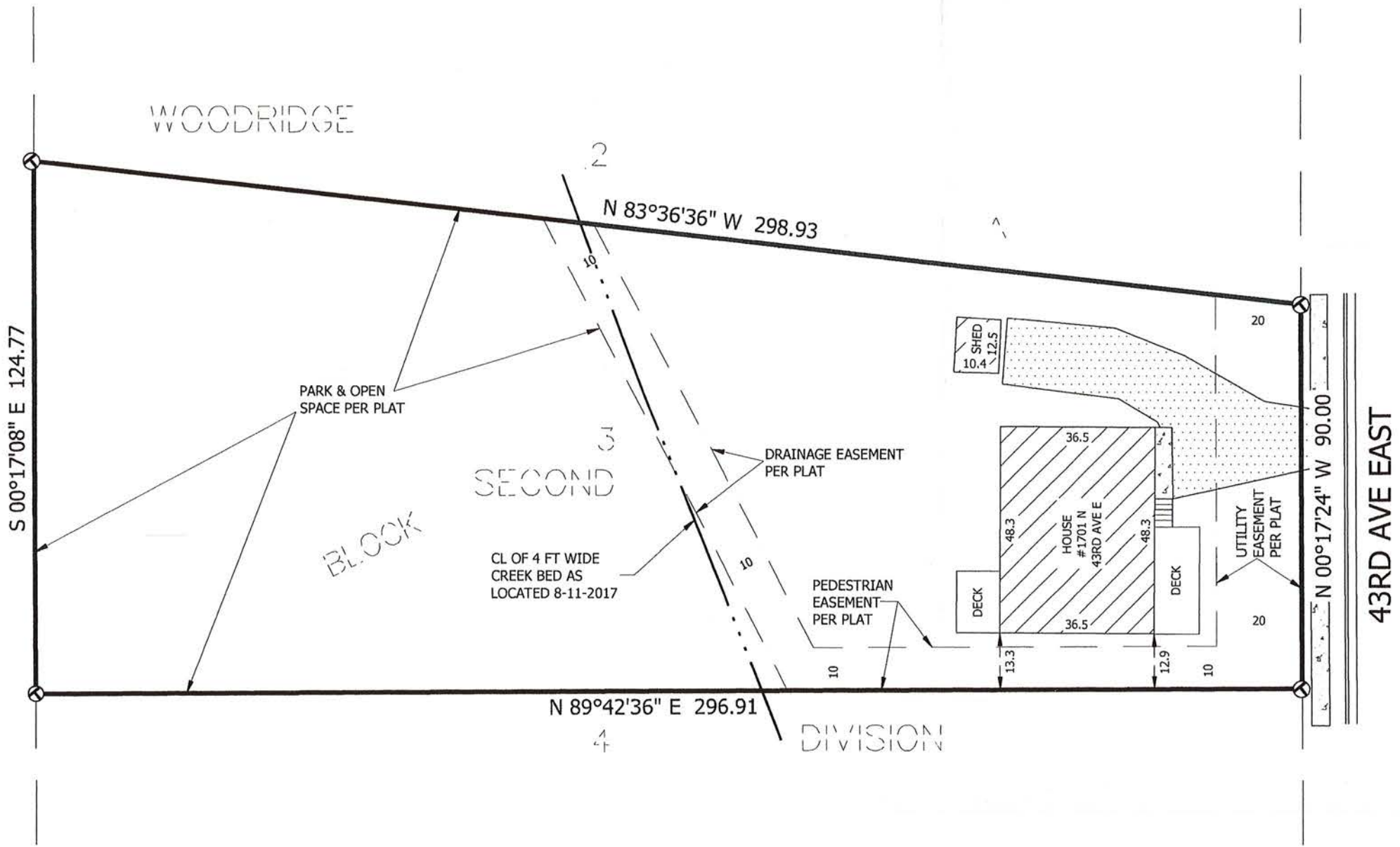
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Aerial photography flown 2016













LEGEND

-  BITUMINOUS SURFACE
-  CONCRETE SURFACE
-  EXISTING BUILDINGS
-  FOUND T-STAKE RLS NO. 13794

- SURVEYORS NOTES**
1. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996.
 2. BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY.
 3. 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.

LEGAL DESCRIPTION PER CERTIFICATE OF TITLE 343164

Lot 3, Block 1, WOODRIDGE SECOND ADDITION, according to the recorded plat thereof, St. Louis County, Minnesota.

ALTA
LAND SURVEY COMPANY
 LAND SURVEYING
 LAND DEVELOPMENT
 PLATTING
 LEGAL DESCRIPTIONS
 CONSTRUCTION STAKING

PHONE: 718-727-5211
 LICENSED IN MN & WI
 CERTIFIED FEDERAL SURVEYOR
 WWW.ALTLANDSURVEY.COM

CERTIFICATE OF SURVEY	
CLIENT: GAYLE KOOP	REVISIONS: XXX
DATE: 8-16-2017	
ADDRESS: 1701 N 43RD AVE E	
JOB NUMBER: 17-261	

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

David R. Evanson
 David R. Evanson
 MN Lic. No. 49505
 Date: 8-16-2017



CITY OF DULUTH

DEPARTMENT OF PLANNING & CONSTRUCTION SERVICES
Community Planning Division

411 West First Street – Room 208 – Duluth, Minnesota 55802-1197
218-730-5580 – www.duluthmn.gov/community-planning

Date: August 7, 2018

To: Planning Commission

From: Steven Robertson, Senior Planner

RE: Staff Proposal for Minor Amendments to the UDC

Planning Staff are recommending the Planning Commission review and, if considered appropriate, recommend to the City Council four changes to the UDC

Enforcement (50-39)

Amend section 39-2.C to reduce the time required for enforcement corrections in Section 39.2.C from 30 days to 14 days, and adding that a citizen's driver's license can be used as method of notifying them of a violation of the UDC. In addition, section 39-1.8 clarifies when a sign should be removed.

Mixed Use Waterfront, MU-W (15.6 and 50-21)

Amend section 50-15.6 to require a minimum side yard setback of 25 feet to promote open view sheds to the water, and also clarify the off-street parking requirements and exceptions. Also amend the exceptions for detached accessory structures (such as garages) to not allow them closer than 25 feet to the side or rear lot lines, if 200 square feet or larger.

Structures in Common Open Space (50-21)

Amend section 50-21.2.F to allow private structures (such as an expansion of a single family home) in to a common open space of a platted Common Interest Community, if the home owner association grants permission and records an easement as proof of consent.

Safe Routes to School (50-23, 50-20, 50-41)

Amend section 50-23 to requiring that new subdivisions comply with Safe Routes to School infrastructure where applicable.

..Title

AN ORDINANCE AMENDING SECTION 50-39, ENFORCEMENT AND PENALTIES.

..Body

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-39 of the Duluth City Code, 1959, as amended, be amended as follows:

50-39 ENFORCEMENT AND PENALTIES.

This Section describes how this Chapter will be enforced, as well as the penalties for violation of the Chapter. This Section is intended to comply with the provisions of MSA 462.362 as amended, and shall be interpreted to comply with those provisions wherever possible. All violations of this Chapter are hereby declared to be public nuisances. (Ord. No. 10044, 8-16-2010, § 6.)

50-39.1 Violations.

A. Violations defined.

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

1. Activities inconsistent with UDC.
To erect, construct, reconstruct, remodel, alter, maintain, expand, move or use any building, structure or sign, or to engage in development or subdivision of any land inconsistent with this Chapter, or to fail to obtain required approvals for any of those activities;
2. Use of nonconformities inconsistent with UDC.
To use, occupy, create, expand, replace, or change a nonconforming use, structure, lot or sign except in compliance with this Chapter;
3. Making lots or setbacks nonconforming.
To reduce or diminish the lot area, setbacks, or open space on any parcel of land below the minimum required by this Chapter;
4. Increasing intensity of use.
To increase the intensity of use of any land or structure, except in accordance with the procedural and substantive standards of this Chapter;
5. Activities inconsistent with approval or permit.
To engage in any development, redevelopment, use, construction, remodeling or other activity inconsistent with the terms and conditions of any permit or approval issued by the city;
6. Violation of stormwater permits.
In the case of violation of a stormwater permit, the permittee shall take the following actions prior to imposition of a penalty, if any, by the city:
 - (a) Submit reports of noncompliance with requirements contained in a compliance schedule of the permit in writing within 14 days after the compliance schedule deadline. Reports of noncompliance shall include a description of the noncompliance, its cause, the steps taken or planned to reduce, eliminate and prevent reoccurrence of the noncompliance and the effect of the noncompliance on the permittee's ability to meet remaining deadlines;
 - (b) Take all reasonable steps to minimize or prevent any adverse impacts on the waters of the state resulting from noncompliance with a stormwater permit;

7. Violations related to wireless telecommunications facilities.

Under the following circumstances, the city may declare the wireless telecommunications facility a public nuisance and take all available enforcement actions including, but not limited to, revocation of the special use permit:

- (a) The wireless telecommunications facility has been abandoned. A facility is deemed abandoned if it is not used as wireless telecommunications facility for a period exceeding 90 consecutive days or a total of 180 days in any 365 day period, except for periods caused by force majeure or Acts of God, in which case repair or removal shall commence within 90 days;
- (b) The wireless telecommunications facility fall into a state of disrepair and creates a health or safety hazard;
- (c) The wireless telecommunications facility has been located, constructed, repaired, maintained or modified without first obtaining the required special use permit, or in any manner that constitutes a violation of Section 50-20.4.D;
- (d) For a violation of the conditions and provisions of the special use permit;

8. Failure to remove signs.

To fail to remove any sign installed, created, erected or maintained in violation of this Chapter, or for which a required sign permit was not obtained, or for which the sign permit has lapsed, or for which the business or use for which the sign was permitted has been closed for more than one year;

9. Failure to maintain.

To fail to maintain any property, including without limitation (a) any dwellings, dwelling units, housekeeping units, or rooming units, and (b) any sign, and (c) any required landscaping or screening in the condition required by this Chapter;

10. Failure to replace.

To fail to replace any site feature or element required by this Chapter if that site feature is removed, or to fail to replace any required landscaping or screening that dies or becomes diseased;

11. Unauthorized actions involving historic resources.

To fail to obtain required approvals before construction, remodeling, repainting or altering a historic preservation landmark or a structure in a historic preservation district identified in Section 50-18.3;

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;

(Ord No. 10466, 4-11-2016, §4)

B. Continuing violations.

Each day that a violation occurs or remains uncorrected after receipt of notice of the violation from the city shall constitute a separate violation. (Ord. No. 10044, 8-16-2010, § 6.)

50-39.2 Enforcement.

A. Responsibility.

The building official is responsible for enforcing this Chapter. No permit or approval for the construction, alteration or demolition of any building, or for the use of land, shall be issued if the building as proposed to be constructed, altered or demolished would be a violation of this Chapter;

B. Authorization for inspections.

For the purposes of enforcing this Chapter, the building official is authorized to enter, examine and survey, between the hours of 8:00 a.m. and 5:00 p.m., any property subject to the regulations of this Chapter. Prior to making an inspection based on a possible violation, the building official shall inform the owner of the property to be inspected, or their agent, of the date and time of the inspection in writing at least four days prior to the inspection. Advance notice need not be given in the case of routine inspections. After written notice has been given, the owner or occupant of the property to be inspected, or the person in charge of that property, shall give the building official free access to the property between 8:00 a.m. and 5:00 p.m., for the purpose of inspection. The inspection shall not have for its purpose the harassment of the owner or occupant and shall be made so as to cause the least amount of inconvenience to the owner or occupant of the property consistent with the efficient performance of the duties of the building official. Nothing in this Section 50-39.2.B shall be construed to prohibit the entry of the building official:

1. At any time when in the opinion of the building official an actual emergency tending to create an immediate danger to public health and safety exists;
2. At any time when an inspection is requested by the owner or occupant;

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.

1. Order requiring compliance.
 - (a) The city may issue a written order identifying the violation(s) of this Chapter and requiring that the property owner or occupant bring the property into compliance with this Chapter, at the owner or occupant's expense, within a specified time. The notice shall state what actions are necessary to bring the property into compliance;
 - (b) The time allowed for correction shall be **not less than 30-14 days**, except that (i) if the order identifies a threat to public health or safety then a compliance shorter than **30-14 days** may be required, and (ii) if the order involves a violation of the provisions of the Airport Overlay district or the sign regulations in Section 50-27, or the vacation dwelling unit, accessory vacation dwelling unit, or accessory home share regulations in Sections 19 and 20, the time for compliance shall be **not less than** ten days. In determining a reasonable time for performance the building official shall consider the nature and extent of the work involved, the season of the year, the existence of any immediate danger to public health and safety, and any other pertinent factors. The building official may extend the time for compliance in writing for good cause shown;
 - (c) The property may continue to be used for occupancy or habitation pending compliance with the order unless the notice identifies an imminent threat to public health or safety and requires that occupancy or habitation be limited or end by a certain date;
 - (d) When an order to correct a violation of this Chapter has been issued, the building official is authorized to enter and re-inspect the property subject to the order for the purpose of determining compliance with the order. The owner or occupant of the property, or the person in charge of the property, shall give free access to the property for the purpose of the inspection;
 - (e) Every occupant of property shall give the owner of the property, or his agent or employee, access to any part of the property at all reasonable times for the purpose of making repairs or alterations required to comply with the order;
 - (f) The city shall not charge a fee for inspections made in response to complaints or to confirm compliance with an order;

2. Enforcement of wireless telecommunications facility violations.
 - (a) If the city determines that the wireless telecommunication facility is a public nuisance, the building official shall notify the holder of the special use permit in writing and order the correction of the violation or removal of the facility;
 - (b) If the order requires removal of the wireless telecommunication facility the holder of the special use permit, or its successors or assigns, shall dismantle and remove such facility and all associated structures and facilities, from the site and restore the site to as close to its original condition as is possible, such restoration being limited only by physical or commercial impracticability, within the deadline provided for in the order to remove. If the owner of the property upon which the wireless telecommunications facilities are located wishes to retain any access roadway to the wireless telecommunications facilities, the owner may do so if the land use supervisor determines that the retention of those access roads would promote the purposes of this Chapter;
 - (c) Notwithstanding anything in this subsection to the contrary, the building official may approve a temporary extension of the order, for no more 90 days, during which time a suitable plan for the repair, sale, removal, conversion, or re-location of the affected wireless telecommunications facilities shall be developed by the holder of the special use permit, subject to the approval of the city, and an agreement to such plan shall be executed by the holder of the special use permit and the city. If such a plan is not developed, approved and executed within the 90 day time period, then the city may exercise all available legal rights;
 - (d) The holder of the special use permit for wireless telecommunications facilities may not use the payment of fines, liquidated damages or other penalties, to evade or avoid compliance with an order of the building official or any provision of Section 50-20.4.D;
 - (e) If compliance or substantial progress towards compliance with the order has not been made by the compliance deadline, the city may exercise any legal remedies available to secure compliance with the order at the sole expense of the owner or special use permit holder;
3. Enforcement of Vacation Dwelling Unit, Accessory Vacation Dwelling Unit or Accessory Home Share Violations
 - (a) If the city determines that a vacation dwelling unit, accessory vacation dwelling unit, 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 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, 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.
- 4. Withholding permits or approvals.
The city may refuse to process applications for permits and approvals under this Chapter if the application concerns a property where (a) the building official has determined to be in violation of the Chapter, (b) the city has issued an order requiring that the violation be corrected, and (c) the owner occupant has not remedied the violation within the time stated in that order, unless the application is for the purposes of remedying the existing violation;
- 5. Prevention of violation.
If the city becomes aware that a building, structure, sign or site feature is about to be constructed in violation of this Chapter, the city may take appropriate action to prevent the violation. The city's action may include but is not limited to withdrawal of any permits or approval related to the construction or activity that would constitute a violation;
- 6. Abatement.
 - (a) The city may take action to abate or remove the violation, and to charge the costs of the abatement or removal to the property owner if the property owner or occupant of a property fails to comply with an order to correct a violation of this Chapter within the time specified in the order, as that time may be extended by the building official in writing for good cause shown, and the building official determines that the continuance of the violation creates a threat to public health or safety;
 - (b) Following the abatement or removal, the city shall issue an order that the owner of the land on which the violation occurred pay to the city the documented costs of the abatement or removal within 30 days;
 - (c) If the owner of the land does not pay the documented costs of abatement or removal to the city within 30 days, those costs may be assessed against the land on which the violation occurred, and the city shall provide the owner of the land written notice of the assessment. Unless the assessment is paid within 90 days from the service of notice on the property owner, the sum shall bear interest at the rate set in accordance with Section 31-8 of this Code, per annum from the date the cost was incurred until paid, and shall be collected in the same manner as are general taxes;
 - (d) The city shall end the process of assessing abatement and removal costs against the land, or shall cancel the assessment if it has been finalized, upon receipt of payment in full of all costs documented in the order and all accrued interest on those costs;
- 7. Administrative citations.
The city may issue an administrative citation pursuant to Chapter 12 of the City Code and may take all actions authorized;
- 8. Court actions.
The city may enforce this Chapter by filing an action in law or equity in any court of competent jurisdiction, including without limitation a request for a declaratory judgment, a request for a restraining order or a temporary or permanent injunction, or a request for money damages based on the penalties for violation established in this Chapter or elsewhere in the City Code. The decision as to whether to seek enforcement in the courts, and what type of enforcement to seek, shall be at the discretion of the city;

9. Nuisance abatement.

If the building official determines that the violation constitutes a public nuisance under state law, the city may use all powers granted by state law to abate public nuisances;

10. Other enforcement powers.

The city may enforce this Chapter through any other powers granted to the city by state law;

D. Notices and orders.

1. Any notice and order under Section 50-39.2.C.1 shall be served upon the owner or the owner's agent and the occupant as the case may require. In the case of a notice involving the sign regulations in Section 50-27, the notice shall also be served on the owner of the sign or the person or entity that erected or caused the erection of the sign;
2. The notice shall be deemed to be properly served upon those individuals or entities identified in subsection 1 if a copy of the notice is:
 - (a) Served personally; or
 - (b) Sent by United States mail, postage prepaid, to the last known address of the owner, occupant or agent shows in the city records **or driver's license;** or
 - (c) Posted in a conspicuous place in or about the property affected by the notice; or
 - (d) Served by any other method authorized or required by state law;
3. Any notice served pursuant to subsection 1 shall automatically become an order if a written petition for a hearing is not filed with the building official within **10-15 days** after the notice is served. An order is final unless an appeal is filed pursuant to Section 50-37.1.O;
4. If the building official finds that an emergency exists that requires immediate action to protect the public health and safety, the building official may, without notice or hearing, issue an order declaring that emergency and requiring those actions that the building official deems necessary to meet the emergency notwithstanding the other provisions of this Chapter, and that order shall be effective immediately. Any person to whom the order is directed shall comply with the order immediately, but may file with the building official a request for a hearing following compliance with the order. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 57; Ord. No. 10155, 5-29-2012, § 29; Ord No. 10446, 4-11-2016, §4)

50-39.3 Penalties.

- A. The owner of any property where the violation of this Chapter occurs, and any person violating this Chapter, shall be guilty of a misdemeanor and may be fined as provided in Section 1-7 or Section 12-6 of the City Code;
- B. In the case of violation of a stormwater permit, if the contractor or owner fails to install or correct deficiencies related to erosion or sediment control BMPs ordered by the city engineer, the city engineer may withhold payment from related work or levy a fine until adequate BMPs are installed by the contractor or owner. When the contractor or owner fails to conduct quality control or adequately inspect BMPs to ensure function, or fails to take action ordered by the city engineer to remedy erosion or sediment control problems, the city engineer will issue a written order to the contractor and owner. The contractor or owner shall respond within 24 hours with sufficient personnel, equipment, and materials and conduct the required remedial work or be subject to a per calendar day deduction or fine for noncompliance, which shall be set in accordance with Section 31-8 of this Code;
- C. Penalties shall be waived if the violation is corrected within the time stated in any enforcement notice or order. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10155, 5-29-2012, § 30.)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: _____, 2018)

STATEMENT OF PURPOSE: This ordinance implements one minor text amendment to chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

..Title

AN ORDINANCE AMENDING SECTION 50-15.6 MIXED USE WATERFRONT

..Body

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-15.6 of the Duluth City Code, 1959, as amended, be amended as follows:

50-15.6 Mixed Use-Waterfront (MU-W).

A. Purpose

The MU-W district is intended to provide for waterfront-dependent commercial uses and medium to high density residential development. Intended non-residential uses include visitor-related retail and services, lodging, recreational facilities and maritime uses, as well retail and service uses that take advantage of the waterfront setting, as shown in Table 50-19.8. Development may include horizontal or vertical mixed use, and should facilitate transit and pedestrian connections between developments and the surrounding areas and community;

TABLE 50-15.6-1 MU-W DISTRICT DIMENSIONAL STANDARDS		
LOT STANDARDS		
Minimum lot area per family	Townhouse or live-work dwelling	2,200 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
Minimum lot frontage		50 ft.
STRUCTURE SETBACKS		
Minimum depth of front yard		0 ft.
Minimum width of side yard	Non-residential use adjacent to residential district or use	15 ft.
	Non-residential use adjacent to non-residential district or use	0 ft.
	Multi-family adjacent to single-family district or use	10 ft.
	Multi-family adjacent to multi-family district or use	0 ft.
Minimum Width of Side Yard		25 ft
Minimum depth of rear yard		25 ft.
STRUCTURE HEIGHT		
Maximum height of building	Residential or mixed use	120 ft.
	Non-residential	60 ft.
	Within 500 ft. of R-1 district	35 ft.
	Within 500 ft. of R-2 district	50 ft.
Section 50.21 <i>Dimensional standards</i> contains additional regulations applicable to this district.		

B. Example.

MU-W Example Building Forms



C. Illustration.



D. Planning commission approval required.

A planning review by the planning commission, pursuant to the procedures in Article V, shall be required for all development, redevelopment and expansions in the MU-W district, including but not limited to construction of driveways or other access from public streets and construction of off-premises signs, but excluding the following:

1. Building construction or expansion of less than 500 square feet in area;
2. Building renovations that affect the exterior of structures that do not result in an increase in building square footage;

3. Grading and construction of parking areas less than 3,000 square feet. Development may not proceed until the planning commission has approved the project through planning review;

E. Development standards.

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

1. Proposed development shall be visually and functionally oriented toward the waterfront of Lake Superior, the harbor and the St. Louis River to the maximum extent possible so that users of buildings and associated outdoor areas have direct views and physical access to the waterfront;
2. To protect public views to the waterfront from the closest landward public street running approximately parallel to the water, all primary structures shall have a maximum width of 200 feet measured along the shoreline and shall be separated from other primary structures by a minimum of 50 feet. These requirements shall not apply to portions of buildings that do not block public views of Lake Superior, the harbor and the St. Louis River from the closest landward public street running approximately parallel to the water due to topography or the location;
3. Buildings shall have a primary façade, with a functioning entrance for residents, employees or patrons facing the waterfront, and a second primary façade with a similar functioning entrance facing at least one of the adjacent streets, to the maximum extent feasible;
4. The quality of façade design and materials and the level of detail on the building façade facing the water shall be comparable to that on any other building façade containing a functioning entrance. The building façade facing the water shall have at least 40 percent transparency, measured as set forth in Section 50-22.5.D.1; no rectangular area greater than 30 percent of each story of the façade facing the water may be windowless, as measured from floor to floor, and no horizontal distance greater than 15 feet of each story of a facade facing the water may be windowless;
5. For any development, redevelopment, or expansion of existing structure or use, the parking requirements in Section 50-24 shall be met without use of the reduction allowed by 50-24.3, adjustment to required off-street parking, except that where a property is not adjacent to an R zone district, However, the required parking may be reduced as allowed by 50-24.3 if the applicant can demonstrate to the Land Use Supervisor that nearby properties provide sufficient supplemental on-street or off-street parking or that all the parking needs generated by the use can be met on site. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10232, 6-10-2013, § 4; Ord. No. 10286, 3-10-2014, § 3.)

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: _____, 2018)

STATEMENT OF PURPOSE: This ordinance implements one minor text amendment to chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

..Title

AN ORDINANCE AMENDING SECTION 50-21, DIMENSIONAL STANDARDS

..Body

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-21 of the Duluth City Code, 1959, as amended, be amended as follows:

50-21 DIMENSIONAL STANDARDS.**50-21.1 General dimensional standards.****A. Residential, mixed use, special purpose and overlay zones.**

The dimensional standards for residential, mixed use, special purpose and overlay districts are shown in the description for each district in the following Sections of Article II:

- Standards for residential districts are shown in Section 50-14;
- Standards for mixed Use districts are shown in Section 50-15;
- Standards for special purpose districts are shown in Section 50-17; and
- Standards for overlay districts are shown in Section 50-18.

All dimensional standards shown in Article II are subject to the special dimensional standards in Section 50-21.2 and the exceptions and encroachments in Section 50-21.3 unless specifically noted;

B. Form districts.

The dimensional standards for form districts are integrated into descriptions of each form-based district in Article II and the building form standards in Section 50-22. The special dimensional standards in Section 50-21.2 and the exceptions and encroachments in Section 50-21.3 do not apply in the form districts unless specifically noted. (Ord. No. 10044, 8-16-2010, § 6.)

50-21.2 Special dimensional standards.**A. Lot without municipal sewer.**

Lot areas for properties not provided with municipal sewer shall be at least two acres in size or the minimum lot area for the zone district, whichever is larger, and shall be subject to county ordinances and standards regulating individual sewage treatment systems. Lots with large wetlands or shallow bedrock may be required to be larger than two acres, and shall be determined on a case-by-case basis based on the area needed to fit a sewage treatment system on the site. Lots smaller than two acres may be allowed in areas zoned R-P based on soil and site conditions;

B. Front yards on double frontage lots.

On lots having double frontage and where the first and second frontages are on opposite lot lines, the required front yard shall be provided on the frontage that is the generally established frontage on the block, as determined by the building official;

C. Side yards.

1. Dwelling units above commercial uses.

In all residential and mixed use districts, where dwelling units are erected above commercial establishments, no residential side yard is required, except for any side yard required for the commercial building on the side of a lot adjoining a

residential district. in form districts, no side yard is required even if the lot adjoins a residential district;

2. Attached and multi-family dwellings.

For the purpose of side yard regulations, a two-family dwelling, townhouse, or multi-family dwelling shall be considered as one building occupying one lot;

3. Driveways.

Where no garage facilities are provided and the alley is not developed for access at the time the dwelling is constructed in an R-1 or R-2 district, there shall be provided one side yard of a minimum of nine feet for a driveway and the other side yard shall have a minimum width of five feet;

D. Rear yards.

An accessory structure cannot exceed 20 feet in height, and may not occupy more than 30 percent of the rear yard area. All accessory structures on a lot may not occupy more than 60 percent of the rear yard area;

E. Street improvements.

Except as provided in Section 50-37.1.L, for lots without a principle structure:

1. The street shall be improved to the most current standards on file in the office of the city engineer and shall be designed for the road classification within the zone in which the property is located;

2. The street shall be improved across the entire frontage of the lot proposed to be developed and all other contiguous property owned by the owner of the subject lot;

3. Any street improvement that results in a dead-end street that is greater than 150 feet in length shall require construction of a turn-around for emergency and maintenance vehicles approved by the city fire marshal.

For lots developed with an existing legal principle structure, the street improvement requirements need not be met when the landowner proposes an expansion of the existing legally constructed structure or a replacement principle structure, if the landowner provides evidence of a perpetual easement to access the property from an improved street of a distance not greater than 150 feet, and such access shall be improved to meet Fire Code standards;

F. Private Structures in Common Open Space

A Home Owner Association may grant building easements to allow encroachments of structures into the common open space as platted in the Common Interest Community (CIC) Plat. In such instances, the building easement shall be considered part of the building parcel. A copy of a recorded easement and survey depicting same by the private landowner are required to verify the circumstances in each instance.

50-21.3 Exceptions and Encroachments.

The following exceptions and encroachments to required yard areas and height limits are allowed. These provisions do not apply to form districts except as specifically noted in exceptions to building heights.

Table 50-21-1: Exceptions and Encroachments

Structure or Feature	Conditions or Limits
Encroachments into Required Yard Areas	
Architectural features (sills, belt courses, eaves, cornices) awnings and canopies, bay windows, gutters and downspouts	Up to 18 in. into any required yard area
Unenclosed or lattice-enclosed stairs, fire escapes and balconies opening upon fire towers	Up to 5 ft. into any required rear yard, except as required to comply with applicable fire code or Americans with Disabilities Act
Chimneys and flues	Up to 2 ft. into any required front or side setback.
Open sided porch, deck, or paved terrace	Up to 10 ft. into front yard, but no closer than 5 ft. from any property line
Enclosed vestibule or fixed canopy with a floor area of not more than 40 sq. ft.	Up to 4 ft. into front yard
Fuel pumps or pump islands	Not closer than 15 ft. from any street line or closer than 50 ft. from any residential use
Fences meeting the standards of Section 50-26.4	Fences may not be located closer than 3 ft. to any publicly maintained right-of-way
Porte cochere, carport or canopy if every part is unenclosed except for necessary structural supports	Permitted in any side setback, but not less than 5 ft. from any side lot line
Residential window well	Permitted to encroach up to two feet from any property line, provided that window well: (a) has a minimum distance of at least 5 feet from any structure on any adjacent property, and (b) is limited to the minimum window well depth and width required by fire and building codes.
Accessory structures	No accessory structure may be located: (a) between a street and any façade of a primary building facing that street, or (b) closer than 10 ft. to any principal structure on an adjoining property, or (c) closer than 5 ft. to any rear lot line, or (d) closer than 3 ft. to any side lot line, except as listed for specific accessory structures below.
<i>Accessory structures in MU-W</i>	If 200 square feet or larger, not closer than 25 feet to any side or rear lot line
<i>Accessory boat dock, residential</i>	No setback required from property lines along the water
<i>Accessory clotheslines, play equipment, trash containers, odor-controlled composting bins and rainwater harvesting tanks</i>	Permitted in side and rear yards
<i>Accessory rain garden</i>	Permitted in all (front, side and rear) yards
Exceptions to Building Height Limits	
Television and radio towers, accessory communications towers for private use, religious assembly or ornamental spires and towers, belfries, monuments, tanks, water and fire towers, stage tower or scenery lofts, cooling towers, chimneys, elevator penthouses, air conditioning penthouses, skylights, smokestacks, conveyors, storage elevators and facilities, flagpoles, accessory wind power equipment or accessory rooftop solar collectors	In the Form District, the exceptions to building height limits for religious assembly or ornamental spires and towers only apply if the applicant proposes an Iconic Building

Section 2. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: _____, 2018)

STATEMENT OF PURPOSE: This ordinance implements one minor text amendment to chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

..Title

AN ORDINANCE AMENDING SECTIONS 50-23, CONNECTIVITY AND CIRCULATION, 50-20.2 PUBLIC, INSTITUTIONAL, AND CIVIC USES, AND 50-41-9 DEFINITIONS

..Body

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-23 of the Duluth City Code, 1959, as amended, be amended as follows:

50-23 CONNECTIVITY AND CIRCULATION.

50-23.1 Applicability and exemptions.

This Section 50-23 shall apply to all new subdivision, replatting, registered land surveys (RLSs), development and redevelopment applications after November 19, 2010. General circulation requirements are listed in Section 50-23.2, but additional circulation requirements apply in some circumstances. Sites that are (a) located in any zone district other than the RC, RR-1, RR-2, MU-B, I-G, or I-W districts, and (b) larger than three acres, and (c) will contain more than one development parcel shall meet the connectivity index requirements of Section 50-23.3. All new subdivision, replatting, development, and redevelopment applications shall meet the requirements of Section 50-23.4, and those containing more than one principal building shall meet the requirements of Section 50-23.5. (Ord. No. 10044, 8-16-2010, § 6.)

50-23.2 General circulation requirements.

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

- A. Where adopted city plans show a bicycle or pedestrian path or trail or sidewalk, the site design shall provide connections to those paths or trails or sidewalks;
- B. Any requests by the city for designation or dedication of land for bicycle or pedestrian trails within a proposed development shall comply with the provisions of Section 50-33.8, *Land for public purposes*;
- C. Unless the city engineer waives the requirement in writing based on concerns of public safety, or due to site/ topography constraints:
 1. Each proposed street within a new subdivision, regardless of zoning designation, shall be public and designed and constructed to city engineer construction standards.
 2. Each proposed public or private street within the R-1, R-2, R-P, MU-P, MU-N, MU-C, MU-I or MU-W districts shall include a sidewalk at least five feet wide on both sides of the street;
 3. Each proposed public or private street within the MU-B, I-G or I-W districts shall include a sidewalk at least five feet wide on one side of the street;

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

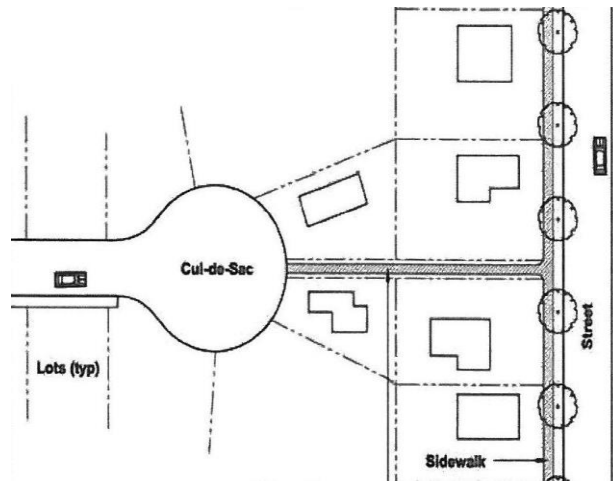


Figure 50-23-A: 10 ft. access easement from head of cul-de-sac to nearest street or path

- E. A pedestrian way at least ten feet in width shall be provided near the middle of any block face longer than 800 feet in order to provide connections with streets on either side of the block;
- F. Any use requiring vehicle access from a public street or alley shall be referred to the city engineer for review before any permits are issued. The city engineer shall consider, but not be limited to, the following factors when determining whether to approve the proposal:
1. The consolidation of curb cuts shall be encouraged, and new curb cuts shall be discouraged whenever appropriate, considering safe traffic flow, the objectives of this chapter, and access points needed for the proper function of the use;
 2. Functional classification of the road where the curb cut is proposed;
 3. The location of driveways shall be at least 100 feet from an intersection. The city engineer may permit driveways closer to an intersection due to limited lot frontage or site/topography constraints;
 4. The location of driveways relative to other existing uses is such that street traffic shall not be seriously disrupted and no unnecessary hazards shall be established for pedestrians. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 25; Ord. No. 10458, 7-11-2016, § 1)

50-23.3 Connectivity index for larger non-exempt developments.

A. Requirements.

1. A connectivity index is calculated by dividing the number of “links” in the proposed development by the number of “nodes” in the same development;
2. In order to promote walkability and reduce the number and length of vehicular trips both within developments and between new developments and surrounding areas, each development or redevelopment covered by this Section 50-23 shall provide internal junctions and external connections to achieve a connectivity index calculation of at least 1.65;
3. In addition, each street frontage of the development shall include at least one street stub or connection to the external street system every 1,500 feet;
4. The land use supervisor may reduce the required connectivity index, the requirement for external street connections, or the requirement for cul-de-sac access easements if compliance with the provisions of this subsection is impracticable due to site or topography constraints;

B. Example.

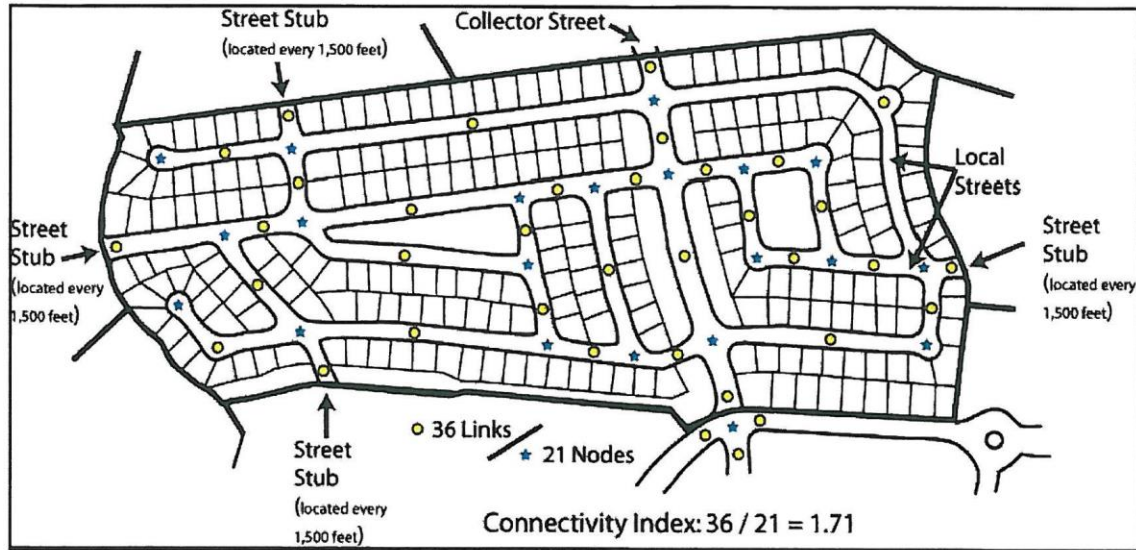


Figure 50-23-B: Example: There are 36 links (circles) and 21 nodes (stars).

(Ord. No. 10044, 8-16-2010, § 6.)

50-23.4 Americans with Disabilities Act.

All “places of public accommodation,” as defined in the federal Americans with Disabilities Act (42 U.S.C. 12101 et. seq.) shall comply with the requirements of that act concerning on-site circulation and access. (Ord. No. 10044, 8-16-2010, § 6.)

50-23.5 Multi-building developments.

Commercial developments containing more than one principal building on a single lot or parcel shall include an unobstructed walkway or pathway providing access between the principal buildings. The walkway or pathway shall be at least five feet wide. (Ord. No. 10044, 8-16-2010, § 6.)

50-23.6 Skywalks.

- A. The location and design of skywalks should not compromise the historic or architectural integrity of existing buildings;
- B. Design of skywalks shall be approved based on their architectural sensitivity, harmony and cohesiveness with the historic/industrial waterfront character of the surrounding area;
- C. New skywalks installed and existing sidewalks remodeled at a cost of more than 50 percent of their assessed value after November 19, 2010, shall be designed so that 66 percent of each vertical side elevation is made of glass or transparent materials. A lower level of transparency can be reduced, but not to less than 50 percent, if a higher level of transparency is technically infeasible due to span length and engineering limitations. (Ord. No. 10044, 8-16-2010, § 6.)

50-23.7 Safe Routes to School

Any subdivision approved by the City of Duluth on or after January 1, 2019, shall consider and incorporate Safe Routes to School Infrastructure where applicable.

Section 2. That That Section 50-20.2 of the Duluth City Code, 1959, as amended, be amended as follows:

50-20.2 Public, institutional and civic uses.

A. Club or lodge (private).

1. In the P-1 and R-2 district, the club or lodge shall be operated by a not-for-profit civic, cultural or educational organization, and the primary activity cannot be any service that is customarily carried on as a business;
2. In the RR-1 district, any such buildings shall occupy not more than ten percent of the total area of the lot and shall be set back from all yard lines a distance of not less than two feet for each foot of building height;
3. In the RR-1, RR-2 and R-1 zone districts, the sum of all structures on the lot shall be not more than 50,000 square feet;
4. In the R-1 and R-2 zone districts, each property boundary with a lot occupied by a residential use shall be buffered with a dense urban screen;

B. Medical cannabis distribution facility.

1. An interim use permit shall be required to operate a medical cannabis distribution facility. The maximum length of an interim use permit shall be three years. Interim use permits granted pursuant to this section are not transferable and terminate upon sale of the facility or discontinuance of use;
2. In addition to the interim use permit requirements provided for under state law and Section 50-37 of the UDC, an applicant seeking to operate a medical cannabis distribution facility must submit a security plan stating how the facility will address public health, welfare and safety concerns including, but not limited to: parking, traffic flow, security, fencing, lighting, window and door placement, landscaping, and hours of operation;
3. The distance limitations on location of a medical cannabis distribution facility in relation to a public or private school provided for under Minn. Stat. § 152.29, as may be amended, are incorporated herein. A medical cannabis distribution facility shall not be closer than 1,500 feet of a zoning district that allows single family, two-family, townhomes, or multi-family dwellings as a permitted use at a density of greater than one unit per five acres;
4. A medical cannabis distribution facility shall be setback from all property lines a minimum of 25 feet;
5. Medical cannabis distribution facilities are prohibited from operating drive-throughs;
6. Parking, design standards, and other applicable requirements under the unified development chapter for this use will be the same as for other medical or dental clinics;

C. Medical cannabis laboratory.

1. An interim use permit shall be required to operate a medical cannabis laboratory. The maximum length of an interim use permit shall be three years. Interim use permits granted pursuant to this section are not transferable and terminate upon sale of the facility or discontinuance of use;
2. In addition to the interim use permit requirements provided for under state law and Section 50-37 of the UDC, an applicant seeking to operate a medical cannabis laboratory must submit a security plan stating how the facility will address public health, welfare and safety concerns including, but not limited to: parking, traffic flow, security, fencing, lighting, window and door placement, landscaping, and hours of operation;

3. A medical cannabis laboratory shall be setback from all property lines a minimum of 25 feet;
4. Parking, design standards, and other applicable requirements under the unified development chapter for this use will be the same as for other medical or dental clinics;

D. Medical cannabis manufacturer.

1. An interim use permit shall be required to operate a medical cannabis manufacturing facility. The maximum length of an interim use permit shall be three years. Interim use permits granted pursuant to this section are not transferable and terminate upon sale of the facility or discontinuance of use;
2. In addition to the interim use permit requirements provided for under state law and Section 50-37 of the UDC, an applicant seeking to operate a medical cannabis distribution facility must submit a security plan stating how the facility will address public health, welfare and safety concerns including, but not limited to: parking, traffic flow, security, fencing, lighting, window and door placement, landscaping, hours of operation, and odor produced by the manufacturing process;
3. The distance limitations on location of a medical cannabis manufacturing facility in relation to a public or private school provided for under Minn. Stat. § 152.29, as may be amended, are incorporated herein. A medical cannabis manufacturer shall not be closer than 1,500 feet of a zoning district that allows single family, two-family, townhomes, or multi-family dwellings as a permitted use at a density of greater than one unit per five acres;
4. A medical cannabis manufacturing facility shall be setback from all property lines a minimum of 50 feet;
5. No odor produced by a medical cannabis manufacturing facility shall be detectable at the manufacturer's property lines surrounding the facility;
6. Parking, design standards, and other applicable requirements under the Unified Development Chapter for this use will be the same as for other medical or dental clinics;

E. Medical or dental clinic.

1. In the residential districts, the clinic shall occupy 10,000 square feet or less in total floor area;
2. In the MU-N district, the clinic shall occupy 20,000 square feet or less in total floor area;

F. Religious assembly.

1. In the RR-1 district, any such buildings shall occupy not more than ten percent of the total area of the lot and shall be set back from all yard lines a distance of not less than two feet for each foot of building height;
2. In the RR-1, RR-2 and R-2 zone districts, the sum of all structures on the lot shall not exceed 50,000 square feet without a special use permit. A special use permit is required for all religious assemblies in the R-1 zone districts;
3. In the R-1 and R-2 zone districts, each property boundary with a lot occupied by a residential use shall be buffered with a dense urban screen;

G. School, elementary, middle or high.

1. In the RR-1, RR-2 and R-1 districts, the school shall have a curriculum similar to that ordinarily given in public schools and having no rooms regularly used for housing or sleeping purposes, except staff quarters, when located on the premises for the school;

2. In the RR-1, RR-2, R-1, R-2, MU-N and MU-C districts, any such building shall be located not less than 40 feet from any side or rear lot line;
3. Notwithstanding any lower maximum height stated in Article II, in all zone districts except the form districts, the maximum height for this use shall be 45 feet.
4. Schools shall provide sufficient off-street student drop-off and pick up areas so as to not pose a safety or traffic hazard to pedestrian or vehicles;
5. New schools, and existing schools that are remodeled or expanded where the value of improvements is greater than 50% of the assessed value of the existing structure(s), shall consider and incorporate Safe Routes to School Infrastructure. This shall include safe and comfortable pedestrian and bicycle transportation to and from the nearest residential neighborhood.

Section 3. That That Section 50-41.9 of the Duluth City Code, 1959, as amended, be amended as follows:

50-41.19. Definitions: S.

Safe Routes to School Program: A federal program under Title I, Section 1404 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005, Public Law 109-59, and adopted by the State of Minnesota in Minnesota Statutes, Section 174.40.

Safe Routes to School Program Funding: A State of Minnesota account consisting of state bond proceeds and other funds as appropriated to be expended on eligible costs of a Safe Routes to School Program project receiving financial assistance. Assistance may be offered for acquisition of land or permanent easements, predesign, design, preliminary and final engineering, environmental analysis, construction and reconstruction of publicly owned infrastructure with a useful life of at least ten years that provides for non-motorized to and from a school; preparation of land for which a route to school is established, including demolition of structures and remediation of any hazardous conditions on the land; payment for the unpaid principal on debt issued by a political subdivision for a Safe Route to School project; and for any other eligible activity described in Minnesota Statutes, Section 174.40, as amended.

Safe Routes to School Administration: The Minnesota Department of Transportation program requirements and competitive process for financial assistance following Minnesota Statutes, Section 174.40, establishing criteria to evaluate capital improvements of transportation infrastructure that improves safety and encourages non-motorized transportation to and from a school.

Safe Routes to School Infrastructure: A safe and appealing non-motorized means of transportation to and from a school consistent with the Safe Routes to School Program and the Safe Routes to School Administration criteria and guidelines.

School, elementary. A public or private establishment providing educational services from kindergarten or Grade 1 through Grade 5, or from kindergarten or first grade through Grade 8, or some combination of those included years, together with incidental sports and outdoor activity areas.

School, middle or high. A public or private establishment providing educational services from Grade 6 through Grade 12, or from Grade 6 through 8, or from Grade 9 through Grade 12, or some combination of those included years, together with incidental sports and outdoor activity areas.

Seasonal camp or cabin. A facility containing one or more tent sites or cabins that is offered for use on short-term during defined seasons of the year, for compensation, and that may include accessory facilities such as showers, laundries or cooking and dining facilities.

Sediment. Solid mineral or organic material that, in suspension, is being transported, or has been moved from its original site by air, water, gravity or ice and has been deposited at another location.

Sedimentation. The process or action of depositing sediment that is determined to have been caused by erosion.

Setback. The minimum horizontal distance between a lot line and a building or structure required by this Chapter.

Shore impact zone. Land located between the ordinary high water level of public waters and a line parallel to it at a setback of 50 percent of the required structure setback, but not less than 50 feet.

Shoreland. Lands within 1,000 feet of a lake or within 300 feet of a river and its floodplain, as shown on the NR-O map. The limits of shorelands may be less than the above limits whenever the waters involved are bounded by topographic divides that extend landward from the waters for lesser distances and when approved by the commissioner.

Sidewalk. A paved surface located in the public right of way and used as a pedestrian walkway.

Sidewalk café. An outdoor dining area located within the public right of way in front or adjoining a restaurant or other eating and drinking establishment.

Sign. Any letter, word, symbol, model, printed, projected or affixed device, poster, picture, reading matter or representation in the nature of an advertisement, announcement, direction or informative device including its structure or component parts, which is more than one square foot in area and is located outdoors or is affixed to the interior or exterior of a window or door, or is displayed within 12 inches of a window intended for viewing from the exterior of the building. A sign shall not include (a) temporary parks and recreation signs permitted pursuant to Chapter 35 of the City Code, or (b) overhead banners and devices regulated under Article III of Chapter 45 of the City Code, or (c) any street name sign, public directional, utility or transportation sign, or motor vehicle traffic signs of any kind when officially placed, or to advertising or other information affixed to any motor vehicle, provided that such vehicle's primary use is not as a stationary advertising device, or (d) any inscription on any publicly owned building when the inscription is incorporated into the architectural design as a permanent feature.

Sign, A-frame. A sign ordinarily in the shape of the letter "A," or some variation thereof, that is displayed on the ground, not permanently attached, and usually two-sided.

Sign, agricultural identification. A sign describing an agricultural use that includes the name of the farm and/or the products grown on-site.

Sign, animated. A sign that uses movement or change of lighting to depict action or to create a special effect or scene. Animated signs do not include electronic message signs.

Sign, attention getting. Flags, pennants, streamers and similar devices or ornamentations designated for the purpose of attracting attention. Flags of nations, states, and cities, or fraternal, religious and civic organizations, permanent commercial flags, or temporary holiday decorations are not considered attention getting devices.

Sign, awning. A sign that is printed or displayed upon an awning. An awning is a roof-like cover designed for protection from the weather or as a decorative embellishment, which projects from a wall or roof of a structure over a window, walkway or door, with no supports that extend to the ground.

Sign, balloons. Balloons or inflated devices used as a means of directing attention to a business or service offered.

Sign, banner. A sign that is printed or displayed upon flexible material with or without frames.

Sign, banner-exhibition. A sign that is printed or displayed upon flexible material with or without frames in conjunction with a special exhibit for an educational facility, government building, museum, library or art gallery, or religious assembly.

Sign, billboard. A sign that directs attention to a business, commodity, service, event or other activity that is sold, offered or conducted other than on the premises where the sign is located.

Sign, building directory. A sign that serves as common or collective classification for a group of persons or businesses operating in the same building or on the same lot. A building directory sign may name the persons or businesses included, but carry no other advertising matter.

Sign, canopy. A sign that is printed or displayed upon a canopy. A canopy is a roofed structure constructed of fabric or other material placed to extend outward from the building and supported both by the structure and by supports that extend to the ground directly under the canopy.

Sign, construction. A temporary sign that identifies an architect, contractor, subcontractor and/or material supplier participating in construction on the property on which the sign is located and which may identify the proposed use for the property.

Sign, community event. Temporary signs that announce community events and activities, including the activities of religious assemblies, social clubs or similar groups, or special events such as fairs, rummage sales and garage sales.

Sign, directional-parking lot. A sign that identifies parking lot entrances and exits, driveway intersections, drive-through lanes, and features of a similar nature.

Sign, electronic display screen. A sign, or portion of a sign, that displays electronic video via television screens, plasma screens, digital screens, flat screens, LED screens, video boards, and holographic displays.

Sign, electronic message. Any sign, or portion of a sign, that uses changing lights to form a sign message or messages in text or image form where the sequence of messages and the rate of change is electronically programmed and can be modified by electronic processes. Time/temperature signs are not considered electronic message signs.

Sign, flashing. A sign which contains an intermittent or sequential flashing light source used primarily to attract attention. Flashing signs do not include electronic message signs.

Sign, freestanding. A sign that is placed on or supported by the ground, independent of the principal structure on the lot. Freestanding signs may be either pole or monument signs.

Sign, freestanding monument. A freestanding sign where the base of the sign structure is on the ground or up to a maximum of 24 inches above ground. The monument base must be designed as an integral part of the sign structure. The width of the top of the sign structure can be no more than 120 percent of the width of the base.

Sign, freestanding pole. A freestanding sign that is affixed, attached or erected on one or two poles that is not itself an integral part of the sign.

Sign, ghost. A painted wall sign that remains from an earlier time or advertises the use of a building that provides evidence of the history of the use of the building or activities of the community. A ghost sign is not considered an off-premises sign.

Sign, government information sign. Traffic signs, legal notices, railroad crossing signs, signs regulating vehicular or pedestrian traffic, or designating or giving direction to streets, schools, historic sites or public buildings, and temporary emergency signs.

Sign, home occupation. A sign identifying a home occupation or permitted accessory use on the premises.

Sign, illumination types.

A. Gooseneck reflector. Lighting designed for mounting above or to the side of signs with a long, shepherd hook-shaped arm to hold fixtures at a distance from the area of illumination;

B. Illumination, external. Lighting of a sign where lighting components are outside the sign structure and light is directed at the sign face;

C. Illumination, internal. Lighting of a sign constructed so that all lighting components are internal and illumination occurs as lighting is diffused through the sign face surfaces.

Sign, marquee. A permanent roof-like sign structure constructed over a building entry, with no supports extending to the ground, where a changeable message area is part of the vertical sign fascia.

Sign, memorial plaque. A sign, tablet or plaque memorializing a historic person, event, structure or site.

Sign, menuboard. A device that lists items for sale at an establishment with drive-through facilities.

Sign, moving. A sign that, in whole or in part, rotates, elevates or in any way alters position or geometry. Moving signs do not include clocks.

Sign, nameplate. A sign that is affixed flat against a wall of a building or imprinted into the wall of a building that designates the name of the building or the name and profession of one who resides or occupies space in the building.

Sign, noncommercial. A sign advocating action on a public issue or recommending a candidate for public office.

Sign, off-premises. A sign that directs attention to a business, product, service or entertainment not conducted, sold or offered upon the premises where the sign is located.

Sign, on-premises. A sign that directs attention to the name of the building or the name of the building management firm or to a business, principal product, service or entertainment conducted, sold or offered upon the premises where such sign is located.

Sign, parking lot information. Signs that provide information on the operation of a parking lot, such as "No Parking" or "Unauthorized users shall be towed."

Sign, political. Any sign that directs attention to an issue in an election or to either the name of a candidate running for election to a public office or the name of the office for which he is a candidate, or both.

Sign, portable. A sign whose principal supporting structure is intended, by design and construction, to rest upon the ground for support and may be easily moved or relocated for reuse. Portable signs include, but are not limited to, signs mounted upon a trailer, wheeled carrier or other non-motorized mobile structure, with wheels or with wheels removed. Portable signs do not include A-frame signs.

Sign, projecting. A sign that is attached to a structure that extends beyond the surface of the structure to which it is attached.

Sign, property identification/management. An accessory sign containing only messages related to the identification or management of the property where the sign is located, including but not limited to signs identifying entrances, exits, parking areas or hazardous areas, prohibiting trespassing, or information about limits on property use.

Sign, property identification. A sign identifying the property management company or apartment complex name of a multi-family dwelling.

Sign, public information. Signs within an educational facility, cemetery or mausoleum, museum, library or art gallery, and park, playground or forest reserve property that provide information on the use of the facility, such as directional signs, trailhead locations and information kiosks.

Sign, public assembly bulletin board. A bulletin board accessory to and located on the same property as a religious assembly or educational use listed in Table 50-19.8 that identifies the name of the institution and the dates and times of events related to that institution to which some or all of the public are invited. These signs are allowed where electronic message signs are allowed, and are subject to the same regulations and standards.

Sign, readerboard. A sign or portion of a sign face that allows for the creation of messages by physical manipulation of simple block letters, but not including an electronic message sign or electronic billboard. These signs are allowed where electronic message signs are allowed, and are subject to the same regulations and standards.

Sign, real estate. A sign advertising the real estate upon which the sign is located as being for rent, lease or sale. A real estate sign can also advertise an open house.

Sign, roof. A sign that is wholly erected, constructed or maintained above the roof structure or parapet of any building with the principal support attached to the roof structure.

Sign, scoreboard. A sign that records and displays the score of a game and may include such information as the name of the field or home team and advertising.

Sign, snipe. An off-premises sign painted, pasted or otherwise affixed to any tree, rock, retaining wall, fence, utility pole, hydrant, bridge, sidewalk, curb or street, bench or trash receptacle. Logos and labels located on mechanical equipment, recycling bins, trash containers or dumpsters, which are part of the equipment as manufactured and/or installed, are not snipe signs.

Sign, temporary off-premises. A temporary sign that advertises a business, commodity, service, event or other activity that is sold, offered or conducted other than on the premises where the sign is located, or is sold, offered or conducted on the premises only incidentally, if at all.

Sign, under-awning. A sign that is attached to and mounted under an awning.

Sign, under-canopy. A sign that is attached to and mounted under a canopy.

Sign, wall. A sign that is mounted flat against or painted on a wall, and projects no more than 12 inches from the wall of a structure with the exposed face of the sign in a plane parallel to the face of the wall. Wall sign does not include window sign. For the purposes of this definition, a fence is not considered a wall and wall signs are prohibited mounted on fences.

Sign, window. A sign that is attached to, placed upon, printed on the interior or exterior of a window or door of a building, or displayed within 12 inches of a window intended for viewing from the exterior of such a building. A window sign may be either permanent or temporary. Window clings are considered a window sign and subject to all window sign regulations.

Significant tree. All trees of more than ten inches DBH, and all special tree species of more than six inches DBH shall be considered significant, unless they are under power lines or deemed hazardous by a certified arborist or landscape architect or professional forester. In addition, any replacement tree planted as part of a tree replacement plan shall be considered significant, even if it does not meet the size definition above.

Site. A parcel or several adjoining parcels of land under common ownership. For purposes of the natural resources overlay district, this definition is limited to apply to any parcel of land upon which work requiring a permit under this Chapter is to be performed, and includes any adjacent lands owned by the

owner of the subject parcel on the date of application for any permit and any lands adjacent to the subject parcel that were owned by the same person owning the subject parcel as of January 1, 1980.

Site plan. An accurate scale drawing that indicates the major features of a proposed development in sufficient detail to allow the evaluation of the land planning, building design and other aspects of the development, and meeting all requirements of the UDC application manual.

Slope. An incline from the horizontal expressed in an arithmetic ratio of horizontal magnitude to vertical magnitude (e.g., slope = 3:1 = 3 feet horizontal to 1 foot vertical).

Solar, geothermal or biomass power facility (primary use). Uses and structures that are used to reduce energy consumption or to generate energy from non-fossil fuel and non-carbon dioxide emitting sources on the property. These structures and uses may include but are not limited to the following: solar panels (photovoltaic and hot water), heat exchanges, biomass firing equipment, piping, and other transfer mechanisms, controls and related structural support for transporting and storing collected energy from solar, geothermal, or biomass energy systems. These structures and uses may be located at ground level or above or below ground unless specifically limited in this Chapter, provided that they meet all other applicable requirements of this Chapter.

Solid land. Any land that is neither a wetland nor located in a floodway.

Solid waste. As defined in MSA 116.06, Subd. 22, and also including medical wastes and petroleum contaminated soils.

Solid waste disposal or processing facility. Any tract or parcel of land, including any constructed facility that is designed or operated for the purpose of disposing of solid waste on or in the land, at which solid waste is disposed of in or on the land or processed for disposal or reuse, together with any appurtenant facilities needed to process solid waste for disposal or for transfer to another solid waste facility, and that is not listed as a separate use in this Chapter.

Special tree species. White pines, red (Norway) pines, white cedars, white spruces, eastern hemlocks, sugar maples, American basswoods, American elms, yellow birches and all oak species.

Special use. A specific type of structure or land use listed in Table 50-19.8 that may be allowed only after review and evaluation of potential impacts on surrounding properties and the attachment of any conditions necessary to mitigate those impacts.

Stealth or stealth technology. When used in the context of wireless telecommunications, to minimize adverse aesthetic and visual impacts on the land, property, buildings and other facilities adjacent to, surrounding and in generally the same area as the requested location of such wireless telecommunications facilities, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

Steep slope. Land having average slopes over 12 percent, as measured over horizontal distances 50 feet or more, and that are not bluffs.

Storage warehouse. A structure containing an area available for storing raw materials, produce, goods or property, but not including mini-storage facilities.

Stormwater. Stormwater runoff, snowmelt runoff, surface runoff and drainage.

Stormwater management. The use of structural or non-structural practices that are designed to reduce stormwater runoff pollutant loads, discharge volumes, peak flow discharge rates and detrimental changes in stream temperature that affect water quality and habitat.

Stormwater pollution prevention plan. A plan, usually required by a permit, to manage stormwater associated with industrial, commercial, public, institutional, civic or other land use activities, including construction. The plan commonly describes and ensures the implementation of practices that are to be used to reduce pollutants in stormwater and non-stormwater discharges

Stormwater pollution prevention program (MS4 program). A compilation of best management practices (BMPs) to address the six minimum control measures and other provisions of the MS4 permit, that is designed and managed to reduce the discharge of pollutants from your MS4 to the maximum extent practicable as appropriate to the community.

Stormwater best management practice (BMP). A measure, either structural or nonstructural, that is determined to be the most effective, practical means of preventing or reducing point source or nonpoint source pollution inputs to stormwater runoff and water bodies. Non-structural BMPs are those practices that require modified or additional operational or behavioral practices, such as sweeping or having spill response equipment on site. Structural BMPs are those that require the construction of a structure or other physical modification on the site.

Stormwater retrofit. A stormwater BMP designed for an existing development site that previously had either no stormwater BMP in place or a practice inadequate to meet the stormwater management requirements of the site.

Stormwater runoff. Flow on the surface of the ground resulting from precipitation.

Story. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there be no floor above it, then the space between the floor and the ceiling next above it.

Story, half. A partial story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than four feet above the floor of such story, except that any partial story used for residence purposes, other than for a janitor or caretaker or his family, or by a family occupying the floor immediately below it, shall be deemed a full story.

Stream buffer. An area of land at or near a stream bank, wetland or water body that has intrinsic water quality value due to the ecological and biological processes it performs or is otherwise sensitive to changes that may result in significant degradation to water quality.

Street. A public dedicated right-of-way, other than an alley, which affords the principal means of access to abutting property.

Street line. The established side line of a street easement or right-of-way.

Structure. Anything constructed or erected, the use of which requires a location on the ground, or attached to some thing having a location on the ground. Examples include but are not limited to: backstops for tennis courts, fences or pergolas.

Structural alteration. Any change in the supporting members of a building, such as bearing walls, columns, beams or girders, or any substantial changes in the roofs or exterior walls but not including openings in bearing walls as permitted by existing ordinances.

Subdivision. The division of a lot, tract or parcel of land into three or more lots, plats, sites or other divisions of land of one acre or less in area, for the purpose, whether immediate or future, of sale or of building development. This term also includes the division of a lot, tract or parcel of land into two or more lots, plat, sites or other divisions of land of more than one acre and less than ten acres in area, if the division provides or there is shown on a plat of the division a new street or highway. The term also includes resubdivision and, when appropriate to the context, relates to the process of subdividing or to the land or territory subdivided.

Substantial damage. Damage of any origin sustained by a structure where the cost of restoring the structure to its before damaged condition would equal or exceed 60 percent of the assessed market value of the structure as determined by the city assessor before the damage occurred. For flood plain management and flood hazard purposes, substantial damage shall occur when damage of any origin sustained by a structure, where the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the assessed market value of the structure as determined by the city assessor before the damage occurred.

Substantial improvement. Within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition or other improvement of a structure, the cost of which equals or exceeds 60 percent of the assessed market value of the structure as determined by the city assessor before the "start of construction" of the improvement. This term includes structures that have incurred "substantial damage," regardless of the actual repair work performed. For flood plain management and flood hazard purposes, substantial improvement shall be within any consecutive 365-day period, any reconstruction, rehabilitation (including normal maintenance and repair), repair after damage, addition or other improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed market value of the structure as determined by the city assessor before the "start of construction" of the improvement.

The term does not, however, include either:

(a) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions;

(b) Any alteration of a "historic structure," provided that the alteration will not preclude the structure's continued designation as a "historic structure." For the purpose of this Chapter, "historic structure" shall be as defined in 44 Code of Federal Regulations, Part 59.1.

Sustainable development. Development that maintains or enhances economic opportunity and community well being while protecting and restoring the natural environment upon which people and

economies depend. Sustainable development meets the needs of the present without compromising the ability of future generations to meet their own needs. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10047, 8-30-2010, §§ 6, 7, 8; Ord. No. 10075, 1-24-2011, § 3; Ord. No. 10096, 7-18-2011, § 58; Ord. No. 10204, 3-11-2013, § 4; Ord. No. 10285, 3-10-2014, § 11; Ord. No. 10338, 11-24-2014, § 7.)

Section 4. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: _____, 2018)

STATEMENT OF PURPOSE: This ordinance implements one minor text amendment to chapter 50 of the City Code, known as the Unified Development Chapter (UDC).