



PLANNING & ECONOMIC DEVELOPMENT

Community Planning Division  
City Hall – 411 W 1<sup>st</sup> Street – Room 110  
Duluth, Minnesota 55802  
218-730-5580 / [planning@duluthmn.gov](mailto:planning@duluthmn.gov)

Planning Commission Agenda

City Council Chambers, 3<sup>rd</sup> Floor Duluth City Hall  
Tuesday, February 12, 2019 – 5:00 PM

Call to Order and Roll Call

Approval of Planning Commission Minutes (January 8, 2019)

Consent Agenda

1. PL 18-160 Renewal of Existing Vacation Rental Dwelling Permit at 1003 and 1005 South Lake Avenue by Island Twin Homes LLC
2. PL 19-004 Concurrent Use Permit to Allow Existing Garage to Encroach into Public Right of Way by Four Feet in the Platted Right of Way of 48<sup>th</sup> Avenue East at 4831 London Road by Tom Kolar
3. PL 19-005 Vacation of 216 Feet of the Platted Right of Way of Gladstone Street, West of 49<sup>th</sup> Avenue East, by Tom Kolar

Public Hearings

4. PL 19-002 Special Use Permit for a Residential Care Facility (More than 7 Individuals) at 4425 Norwood Street by American Indian Community Housing Organization
5. PL 19-001 Variance from Form District Standards for a New Commercial Structure at 1801 London by William Scalzo and Scalzo Architects
6. PL 19-006 UDC Text Amendment Allowing Preschools and Daycare Facilities in the MU-B (Mixed Use Business) Zone District

Communications

Manager's Report

- 2019 Annual Meeting, Date to Be Determined
- Special Planning Commission for the Essentia Health EAW

Reports of Officers and Committees

- Heritage Preservation Commission Representative
- Pastoret Terrace Building Potential Demolition
- Minnesota SHPO Section 138 Review

Adjournment



City of Duluth  
 Planning Commission  
 January 8, 2019 Meeting Minutes  
 Council Chambers - Duluth City Hall

Call to Order

President Michael Schraepfer called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, January 8, 2019, in city hall council chambers.

Roll Call

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

Absent: N/A

Staff Present: Adam Fulton, Robert Asleson, John Kelley, Kyle Deming, Mollie Hinderaker, and Cindy Stafford

Approval of Planning Commission Minutes

November 13, 2018

**MOTION/Second:** Zwiebel/Meyer approve the minutes

**VOTE: (9-0)**

December 11, 2018

**MOTION/Second:** Nelson/Wisdorf approve the minutes

**VOTE: (9-0)**

Public Hearings

1. PL 18-158 Mixed Use Institutional (MU-I) Planning Review to replace the existing parking deck east of Building A with a new structure containing an ambulance garage, heliport, and Emergency Department drop-off/parking at 1012 East Second Street and improvements to the parking lot on the north side of East Second Street by St. Luke's Hospital  
**Staff:** Kyle Deming introduced the applicant's request for a MU-I plan review. St. Luke's proposals include: relocation of the Emergency Department to Building A; replacement of the existing parking deck east of Building A; development of a new structure containing an ambulance garage and Emergency Department drop-off/parking accessed from E. 2<sup>nd</sup> St.; and the creation of a heliport on the roof of the new ambulance garage/parking structure. The project will include installation of pavement, storm water treatment, perimeter landscaping, and improved lighting in the parking lot on the north side of E. 2<sup>nd</sup> St. across from Building A. A parking lane will be removed on Second Street to provide better pedestrian crossing at 10<sup>th</sup> Ave. E. and to improve visibility for vehicles (including ambulances) leaving the new facility. Their landscaping plan is sufficient, but staff is recommending a condition that additional landscaping be provided along E. 2<sup>nd</sup> St. A noise screening analysis and an analysis of rotor wash (wind generated by the helicopter) is included in the staff report. Staff recommends approval with the conditions listed in the staff report. Chair Schraepfer asks how close the proposed helipad to the existing helipad. Per Deming, it's approximately ½ a block away. Tim Meyer asks if any comments were received from the FAA (Federal Aviation Administration) regarding their review of the site. Per Deming, the applicant will provide written documentation stating FAA approval. Zandra Zwiebel likes the bump-outs on E. 2<sup>nd</sup> St. for pedestrians. She questions if there will be a cross walk over 11<sup>th</sup> Avenue. If not, it should be considered. Per Deming, one of the conditions states the applicant must provide pedestrian access from the parking facility to the public sidewalk. Luke Sydow notes the lack of landscaping in the parking lot on the north side of E. 2<sup>nd</sup> St.

Why isn't it required? Deming states the gravel parking lot was permitted as temporary and the applicant may want to build something there in the future. They don't want to install improvements which will need to be removed later if they add a building. Staff feels this level of improvement will take care of environmental concerns related to sediment runoff. Sydow would like to see more landscaping.

**Applicant:** Mike Boeselager of St. Luke's Hospital, addressed the commission. They have worked with the City and are sensitive to their neighbors' concerns. They intend to address the parking lot concerns once the overall campus layout has been determined. Margie Nelson asks if they expect more helicopter traffic. Boeselager states they have seen a slight increase, but nothing significant. Chair Schraepfer asks about the location of the helipad. Per Boeselager, moving it closer to the new Emergency Department is more efficient. Chair Schraepfer notes the noise level of 100 decibels, and the fact it will now effect 100 neighbors, as opposed to 36 neighbors effected by the current helipad. Per Boeselager, they provided a noise analysis, which shows it within noise limits.

**Public:** Thomas Door, 1208 E. 3<sup>rd</sup> St., addressed the commission. He is a tenant and is concerned about noise levels and the elevation of the helipad and the nearness it is to grade. He thinks it would be better if it was located higher. Alexis Elder, 1208 E. 3<sup>rd</sup> St., addressed the commission. She has lived there since 2016, and is also a renter. She wants to know why tenants/renters aren't notified. She wants to know if helicopters will be landing at night, and feels it might be disruptive, even at only 15-minute intervals. She thinks it may effect her general quality of life. She also thinks a higher elevated location of the pad would be better. Penelope Gooch, 1210 E. 3<sup>rd</sup> St., addressed the commission. She is a 30-year resident, and notes the upper side of 3<sup>rd</sup> Street is all residential. She thinks many residents are renters who did not receive notification. She is concerned about the impact of a helicopter pad so near. She spoke with an expert who thinks the noise will be amplified at lower elevation levels. She is also concerned about property values. Over 100 decibels at random times could pose negative physical and psychological effects. Bob Gibbons, 1002-1006 E. 3<sup>rd</sup> St., addressed the commission. He owns an apartment building nearby, and is concerned with noise levels from ambulances and helicopters. He is also concerned about the parking lot, will it effect where his tenants park and access their units. Sydow welcomes the applicant to address the elevation. Can the helipad be closer located inside the campus? Boeselager will let his technical experts explain. He explained there was notice sent to neighbors along with a companion letter. He estimates there are 100 helicopter landings annually. Noise study found impact level was equivalent to a lawn mower. The helistop will have markings identifying two landing spots so that one would be used as a back-up in an emergency situation. Dan Hinzman of SEH addressed the commission. The height of the helipad above 2<sup>nd</sup> St. is less than the current helipad's height above 1<sup>st</sup> St., but the overall elevation is very similar. The data is intended to be conservative. The noise levels from a helicopter become progressively louder. It is not an immediate shocking noise. Zwiebel asks if moving the helipad location is feasible. Hinzman stated safety and regulations dictate the location. They are not able to be shift the location towards 1<sup>st</sup> St. due to the angle of the flight path. They will be receiving formal approval from FAA shortly. He confirms the elevation will not change. Janet Kennedy noted the two helipads. Hinzman stated the helicopters will land on the red area and slowly move toward the circle area. Kennedy asked if that is standard. Hinzman stated helicopter operators approve of this set up, which allows for a back-up space for safety. Gary Eckenberg noted the helipad location. Is the flight pattern up from the lake, and will it continue the same flight path? Hinzman affirmed both and referred to the flight pattern found in the staff report packet. Chair Schraepfer is concerned about the plan. They are moving a nuisance to the edge of their property, which effects surrounding housing. Long-range plan of

continual growth. Is this the best fit? Kennedy expressed there should be more thought given to this plan. Meyer stated new aircraft production is moving towards being more quiet. Moving the pad ½ a block doesn't seem out of line, and the neighbors are somewhat already use to it. Moving forward they are including residential areas in their expansion. This is a phased development. This location is a good fit, but they will continue to evaluate. Kennedy asked about community involvement. The applicant mentioned previously that the mayor and council have been included in the planning, but she feels it is also important to include the community. Chair Schraepfer noted he owns property in the notice area. He received his letter from St. Luke's on Friday before the Planning Commission, and he didn't let his tenants know. He is concerned that most renters probably weren't informed.

**Commissioners:** Sydow would like them to meet all UDC landscaping requirements in the parking lot on the north side of E. 2<sup>nd</sup> St.

**MOTION/Second:** Meyer/Crawford approved as per staff's recommendations with added condition that the applicant meet all UDC landscaping requirement in the parking lot on the north side of E. 2<sup>nd</sup> St.

**VOTE: (7-2, Kennedy and Schraepfer Opposed)**

2. PL 18-161 Minor Subdivision to consolidate five platted lots into two parcels at 237 Fairmont St. by Jon A. Helstrom

**Staff:** Kyle Deming introduced the applicant's proposal for a minor subdivision to reconfigure Lots 1-5 and vacated Elon Ave. into two parcels with Tracts A and B being one parcel and Tract C the other parcel. This is in preparation for sale of Tract C (which contains a dwelling). Staff recommended approval with the conditions listed in the staff report. Zwiebel asked why this is not considered a flag lot. Deming refers to item 3 in the staff report, which explains the 50 foot wide frontage is more than 25% of the lot width at the back of the lot (150 feet).

**Applicant:** Jon Helstrom addressed the commission, and invited questions. There are none.

**Public:** No speakers.

**Commissioners:** N/A

**MOTION/Second:** Zwiebel/Eckenberg approved as per staff's recommendations.

**VOTE: (9-0)**

3. PL 18-157 Variance from Front and Side Yard Setbacks in a Residential-Traditional (R-1) District at 1003 East 5<sup>th</sup> Street by Molly Wick

**Staff:** Mollie Hinderaker introduces the applicant's proposal for a variance from the front yard and side setbacks on the lot to construct a replacement porch. Approximately 152 square feet of the structure will be in the front yard setback from the East 5<sup>th</sup> Street easement. This porch will reduce the front yard setback from 25 feet to 17 feet and the side yard setback from 6 feet on either side to 4 feet on the west side and 3.5 feet on the east side. The unique size of the lot poses a practical difficulty when replacing the existing, water-damaged porch with any new structure. Staff recommends approval with the conditions listed in the staff report. Kennedy comments on the neighbor letter in their packet which states he is not against the variance as long as it doesn't extend into this property. Hinderaker confirms the neighbor who commented lives to the east of the property. Zwiebel thinks the addition of the porch fits the neighborhood.

**Applicant:** N/A

**Public:** No speakers.

**Commissioners:** N/A

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

**VOTE: (9-0)**

4. PL 18-159 Vacation of Public Right of Way and Retention of Utility Easement For a Portion of Ramsey Street Near 4920 Recycle Way by the City of Duluth  
**Staff:** John Kelley introduces the city's proposal for a vacation of a portion of the platted right-of-way of Recycle Way. The portion of street subject to this application is used as an entrance to private property and will improve operation and security of the property. Staff recommends approval without conditions.  
**Applicant:** N/A  
**Public:** Mike Casey (friends of Duluth's park and trails) addresses the commission. They are in support, and this vacation of right of way will allow for the cross city trail to be constructed and will get trail users into Irving Park, which is a huge connection. This is segment 2.  
**Commissioners:** Kennedy thanks Casey and the neighbors for their hard work on the cross city trail and this will make west Duluth more sustainable.  
**MOTION/Second:** Kennedy/Wisdorf recommend approval as per staff's recommendations.

**VOTE: (9-0)**

Communications

5. Manager's Report – Adam Fulton gives an overview. There is a lot going on the medical district. The public hearing for the Essentia EAW will be forthcoming in February. St. Lukes is in a phased approach, where Essentia is all at once. Cold Front event is going forward this winter on February 1<sup>st</sup> – 3<sup>rd</sup>. The Duluth flag project is under way. It will be rolled out officially in January. Super meeting of planning commission, parks and HPC to discuss the Mississippi Lake Superior railroad project is in the works. The discussion will include what the game plan is to put it back into productive use. There will be an EPA report on mud lake, which they don't expect until after February. There will be a text amendment for accessory uses in business parks. This will allow daycare use. Future brown bag discussions will include talks with St. Lukes and the MU-I district.
6. Reports of Officers and Committees  
 -Heritage Preservation Commission – Zwiebel states they are looking at their work plan going forward. There is one seat open on the commission, which they hope will be filled in March.

Adjournment

Meeting adjourned at 6:34 p.m.

Respectfully,

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Adam Fulton - Manager  
 Community Planning



# CITY OF DULUTH

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

**DATE:** February 5, 2019  
**TO:** President Schraepfer and Planning Commissioners  
**FROM:** Adam Fulton, Community Planning Manager  
**RE:** Monthly Status Update

## Projects

### Medical District Planning

The EAW component for the Essentia Health project is only one element that is proceeding over the next few months. Staff continue to work with both Essentia and St. Luke's on long-term planning in the area. Much of the work is subject to the actions of the State Legislature, which is considering a bill that would allow for additional public investment in the area concurrently with the reinvestment in the hospital campuses.

### City Flag Update

The City flag process opened on January 30<sup>th</sup>. The kick-off event, intended to take place at the City Hall in the City event on 1/30, was postponed due to extreme cold weather, and is being rescheduled. The project website, <http://www.duluthmn.gov/duluthflagproject>, is now up and available for review, and submittals are being accepted. The Mayor is finalizing the Flag Committee, which will review submittals and set forth recommendations about how to best proceed.

### Cold Front – Imagine Canal Park

Year two for the Cold Front event in Canal Park went well. The Parks and Rec division with the City took over much of the event management from the Community Planning division in 2019. Continued work on the next steps for Imagine Canal Park remains underway.

### Comprehensive Plan Updates

The annual reporting process for the Comprehensive Plan will begin in March. Staff is preparing the annual report, which will be presented at the March meeting. The report includes details about implementation actions over the next 12-18 months, and also provides a detailed look at the Metrics and Measurements set up in the Imagine Duluth 2035 plan.

### Climate Futures Meeting

Minnesota Sea Grant is sponsoring a university-community forum focused on local and regional adaptation to climate change in Minnesota. Several of the speakers at the event are of national prominence. Learn more at: <http://www.seagrant.umn.edu/news/2019/03/19>.

### Upper 6<sup>th</sup> Ave. East – Land Use Evaluation

Staff is working to develop a boundary for evaluation of land uses in the area above 7<sup>th</sup> Street in the 6<sup>th</sup> Avenue East corridor. Because of property changes in this area, there are a number of under-utilized buildings. The area has been identified as one that was not considered during the Comprehensive Plan update, but should have been included. Staff is working to schedule a public meeting with neighbors for a date in late February. Planning staff will update the Planning Commissioners once that date is set.







**CITY OF DULUTH**  
Community Planning Division

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

<b>File Number</b>	PL 18-160	<b>Contact</b>	Chris Lee, clee@duluthmn.gov	
<b>Type</b>	Interim Use Permit – Vacation Dwelling Unit	<b>Planning Commission Date</b>	February 12, 2019	
<b>Deadline for Action</b>	<b>Application Date</b>	December 18, 2018	<b>60 Days</b>	February 16, 2019
	<b>Date Extension Letter Mailed</b>	January 11, 2019	<b>120 Days</b>	April 17, 2019
<b>Location of Subject</b>	1003 and 1005 Lake Ave S			
<b>Applicant</b>	Joel and Joy Johnson	<b>Contact</b>	lbb@lakeheadboatbasin.com	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	See Attached, PID: 010-438002120			
<b>Site Visit Date</b>	January 31, 2019	<b>Sign Notice Date</b>	January 29, 2019	
<b>Neighbor Letter Date</b>	January 31, 2019	<b>Number of Letters Sent</b>	23	

**Proposal**

This is a renewal for permit PL13-006. Applicant proposes to use two homes with three bedrooms each for vacation rentals. Up to seven people will be allowed to stay in each home. A vacation dwelling unit allows for periods of occupancy of 2 to 29 days, with a minimum stay of 2 nights.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Two-Family Dwelling	Traditional Neighborhood
<b>North</b>	R-1	Single Family Home	Traditional Neighborhood
<b>South</b>	R-1	Vacant	Traditional Neighborhood
<b>East</b>	R-1	Single Family Home	Traditional Neighborhood
<b>West</b>	R-1	Boat Storage	Traditional Neighborhood

**Summary of Code Requirements:**

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

UDC Sec. 50-37.10.B . . . Council shall make, a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The . . . Council may impose appropriate conditions and safeguards, including but not limited to financial security pursuant to Section 50-37.1.P, a development agreement regarding the design, construction, and operation of the special use, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the special use permit will continue to meet.

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

1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location or to allow the city time to develop a regulation addressing the potential longer term impacts of the requested use in that location;
2. The applicant agrees to sign a development agreement with the city confirming that (a) approval of the permit will not result in increased costs to the city if the property is later

acquired by the city through eminent domain; (b) the use will be terminated at the applicant's expense on the date(s) stated in the permit, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures of improvements related to the use, and (d) the applicant agrees to all conditions imposed by the city. No interim use permit shall be issued until a development agreement confirming these points is executed.

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

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

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

Future Land Use – Traditional Neighborhood

The site is developed consistent with the future land use as described and the applicant is not proposing alterations to the use.

**Review and Discussion Items:**

- 1) Applicant's property is located at 1003 and 1005 Lake Avenue South. The proposed vacation dwelling units contain 3 bedrooms each, which would allow for a maximum of 7 guests per structure.
- 2) Permit holders must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. Applicant (Lakehead Boat Basin, Mr. and Mrs. Johnson) will serve as the managing agents.
- 3) Parking for 4 vehicles will be located in the garages for the structures; 4 additional vehicles can be parked on the shared driveway. There will be trailer or motorhome parking at this location in the same driveway
- 4) The site plan indicates no outdoor amenities on the property.
- 5) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 6) Applicants have obtained the City of Duluth Tourism Tax license, the Minnesota Department of Health Lodging License, and have a Tax ID number Applicant will need an operational permit with the City's fire prevention office and also need to apply for a Hotel/Motel License.
- 7) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
- 8) No comments from citizens, City staff, or any other entity were received regarding the application.

**Staff Recommendation:**

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

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant must provide a written disclosure to all guests stating that quiet hours shall be observed between the hours of 10 p.m. and 8 a.m.
- 3) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit document and provide evidence of compliance, which will be included in the resolution.



PL18-160: CUP  
1003-1005 S Lake Ave

939 S  
Lake Ave

PC Packet 02-12-19

**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**

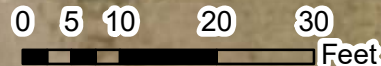
- Storm Sewer Pipe
- Storm Sewer Catch Basin

Zoning Boundaries

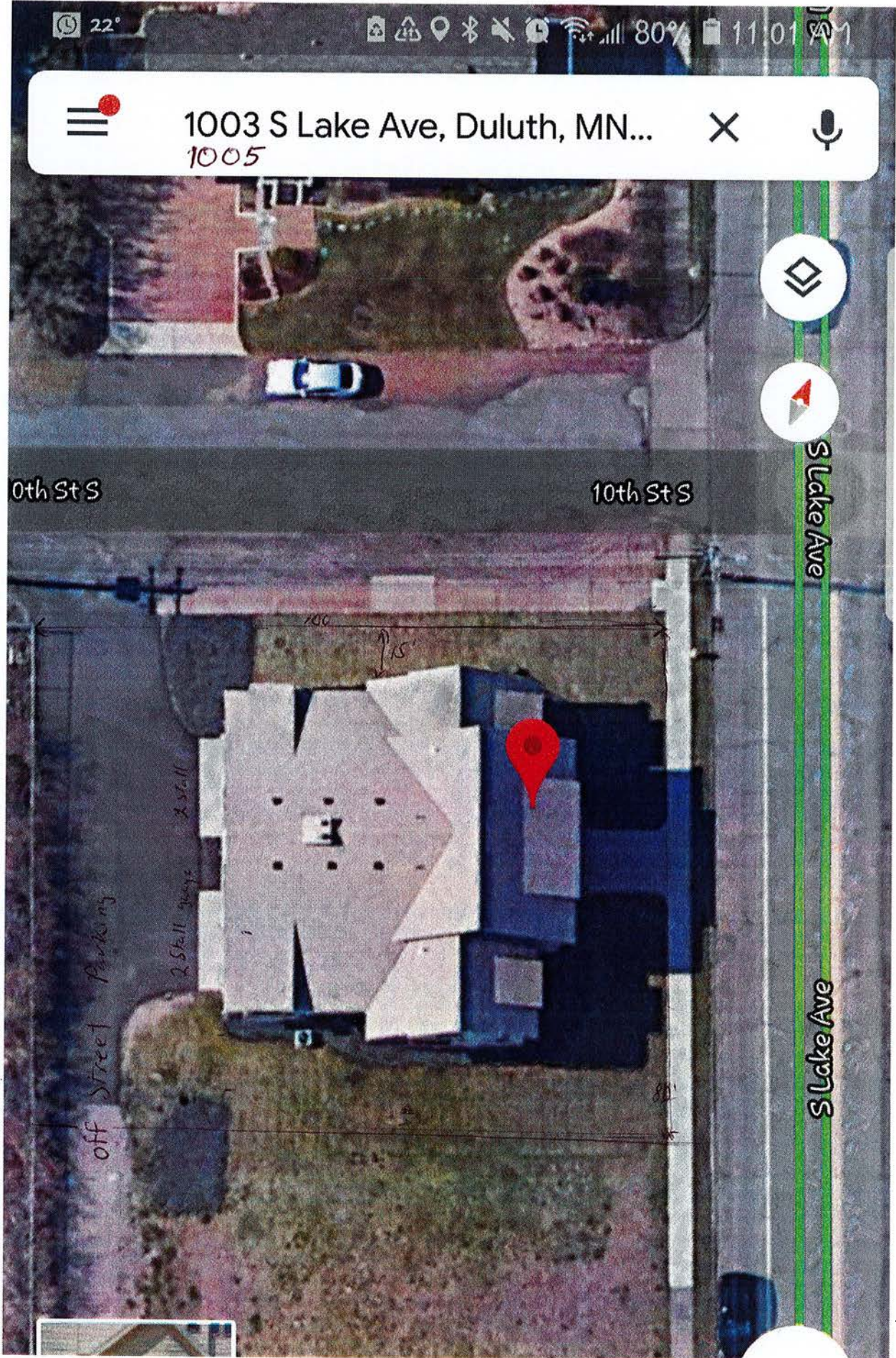


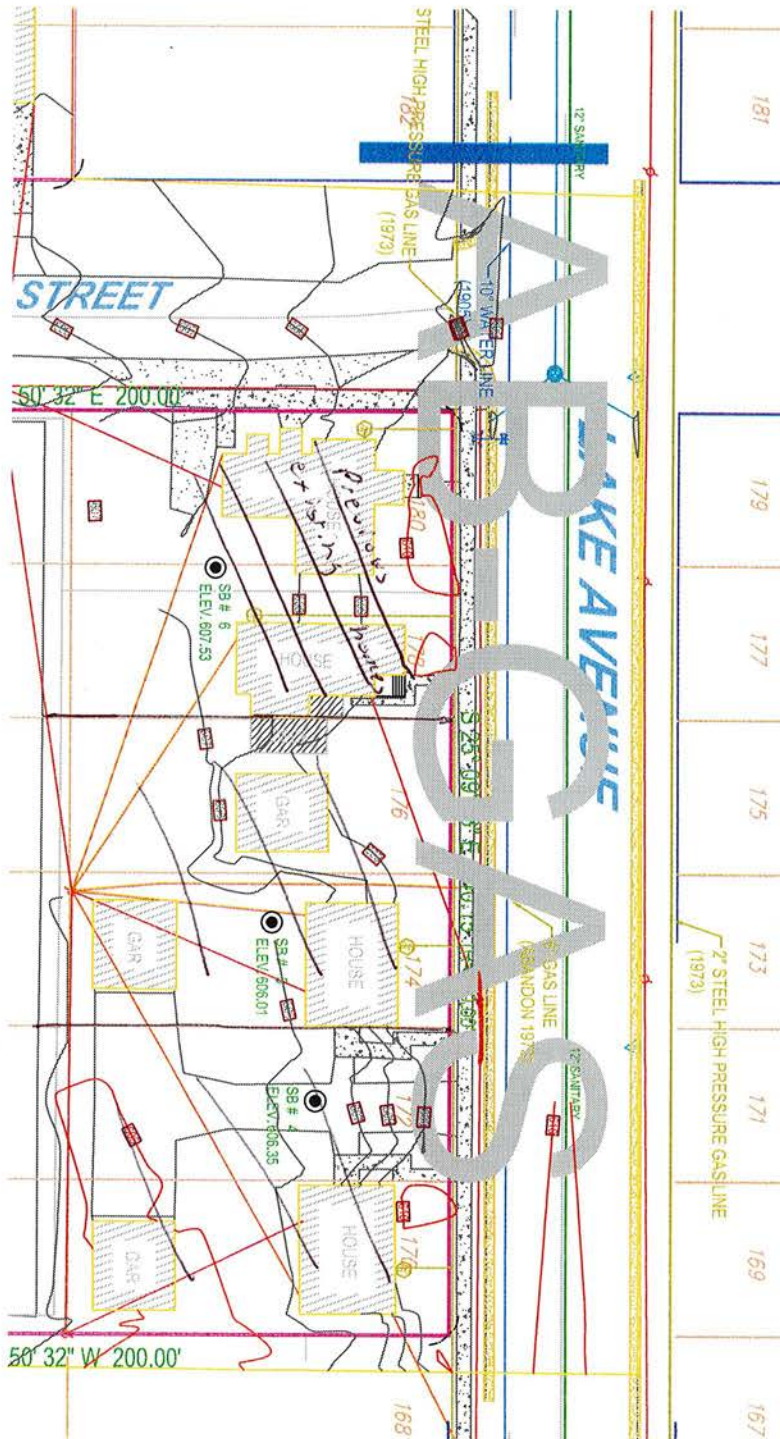
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used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

Aerial photography flown 2016



No changes same as original  
no outdoor structures  
80x100 Lot







PL18-160: CUP  
1003-1005 S Lake Ave

PC Packet 02-12-19

**Legend**

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



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Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, January 17, 2019. Source: City of Duluth.









**CITY OF DULUTH**  
Community Planning Division

411 W 1<sup>st</sup> St, Rm 110 \* Duluth, Minnesota 55802-1197  
Phone: 218/730.5580 Fax: 218/723-3559

<b>File Number</b>	PL 19-004	<b>Contact</b>	Chris Lee, 730-5304	
<b>Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	February 12, 2019	
<b>Deadline for Action</b>	<b>Application Date</b>	January 18, 2019	<b>60 Days</b>	March 19, 2019
	<b>Date Extension Letter Mailed</b>	January 28, 2019	<b>120 Days</b>	May 18, 2019
<b>Location of Subject</b>	4729 McCulloch St			
<b>Applicant</b>	Tom Kolar	<b>Contact</b>		
<b>Agent</b>	Dave Evanson	<b>Contact</b>		
<b>Legal Description</b>	See Attached, PIN: 010-3010-03530			
<b>Site Visit Date</b>	January 28, 2019	<b>Sign Notice Date</b>	January 29, 2019	
<b>Neighbor Letter Date</b>	February 1, 2019	<b>Number of Letters Sent</b>	39	

**Proposal**

The applicant is requesting a concurrent use permit to accommodate an existing garage structure located in the platted right of way at 4729 McCulloch Street.

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

**Summary of Code Requirements**

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

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

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

**Principle #5 - Strengthen neighborhoods:** The present city is an historical amalgam of villages and other independent units of government, contributing to the present condition of Duluth being strongly defined by its neighborhoods. This condition should be reinforced through land use, transportation and public service delivery patterns which strengthen neighborhood identity. New institutional expansions, major public infrastructure or large commercial or industrial uses should not divide historic neighborhood patterns.

**Governing Principle #7 – Create and Maintain Connectivity:** Rights of way are an important component of vehicular, pedestrian, and infrastructure connectivity, and those needs must be considered when granting a concurrent use permit.

**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.

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

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

**Review and Discussion Items**

Staff Finds that:

- 1) The property contains a 2,620 square foot, two-story home that was constructed in 1891. There is currently a multi-family rental license for the house. The 280 square foot garage was constructed at an unknown time, according to St. Louis County Records. In 2002, there was a building permit to repair the garage and reside with vinyl siding.
- 2) A portion of 48<sup>th</sup> Avenue East where the garage currently resides was partially vacated in 1918 (File No. T-155). 105 square feet of the garage is still located within portions of right of way that remain unvacated.
- 3) The concurrent use area requested is 21’ x 5’ and covers 105 square feet.
- 4) The building has been in this location for many years and the proposed concurrent use will not harm or inconvenience the health, safety, and general welfare of the city.
- 5) No public, agency, or City comments have been received.
- 6) Per UDC Sec. 50-37.1.N, approved concurrent use permits lapse if the project or activity authorized by the permit has not begun within one year. As this is an existing building, the use will begin immediately.

**Staff Recommendation**

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

- 1) Applicant shall provide proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit, and comply with other conditions in the approved ordinance.



PL 19-004: 4729 McCulloch St

PC Packet 02-12-19

**Legend**

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Aerial photography flown 2016

Prepared by: City of Duluth Community Planning Division, January 17, 2019, Source: City of Duluth.



PL 19-004: 4729 McCulloch St

PC Packet 02-12-19

**Legend**

- Gas Main
- Water Main
- Hydrant

**Sanitary Sewer Mains**

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

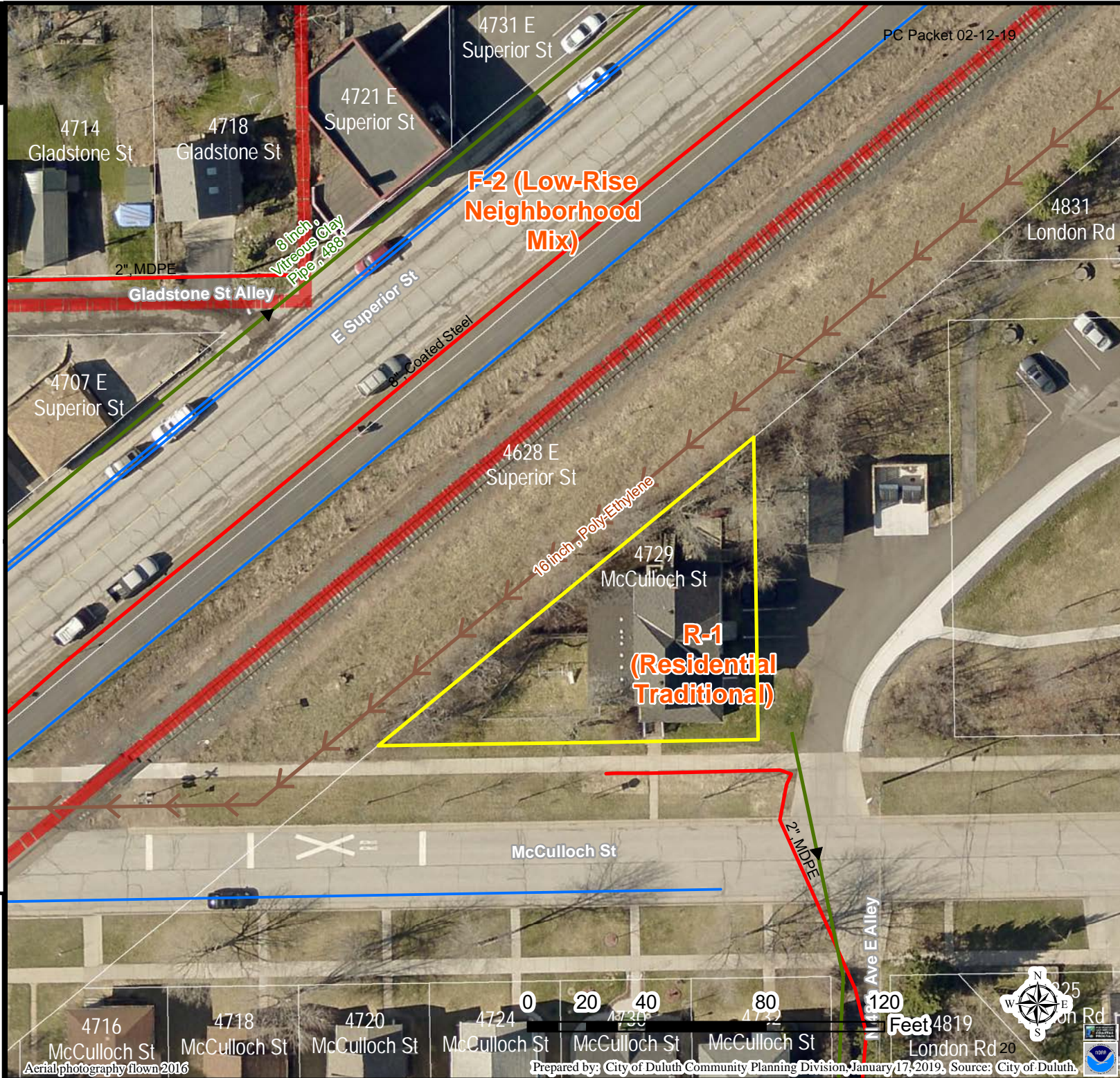
**Storage Basin**

- Storage Basin
- Pump Station

**Storm Sewer Mains**

- Storm Sewer Pipe
- Storm Sewer Catch Basin

**Zoning Boundaries**



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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**

- PS

**Storm Sewer Mains**

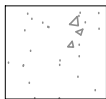
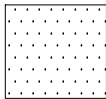
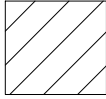









- Storm Sewer Pipe
- 

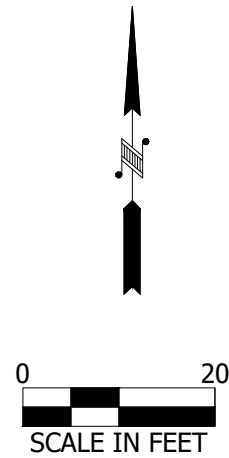


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**LEGEND**

-  CONCRETE SURFACE
-  BITUMINOUS SURFACE
-  EXISTING BUILDINGS
-  FENCE LINE
-  CENTER LINE
-  RIGHT OF WAY LINE
-  BOUNDARY LINE AS SURVEYED
-  FOUND SANDSTONE MONUMENT
-  FOUND SURVEY MONUMENT
-  SET CAPPED REBAR RLS. NO. 49505
-  POC POINT OF COMMENCEMENT
-  POB POINT OF BEGINNING



LEGAL DESCRIPTION PER DOCUMENT 1063437

All that part of Lots 9, 10 and 11, Block 50, lying South of the Right of Way of the Duluth and Iron Range Railroad, LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

LEGAL DESCRIPTION FOR PROPOSED CONCURRENT USE PERMIT

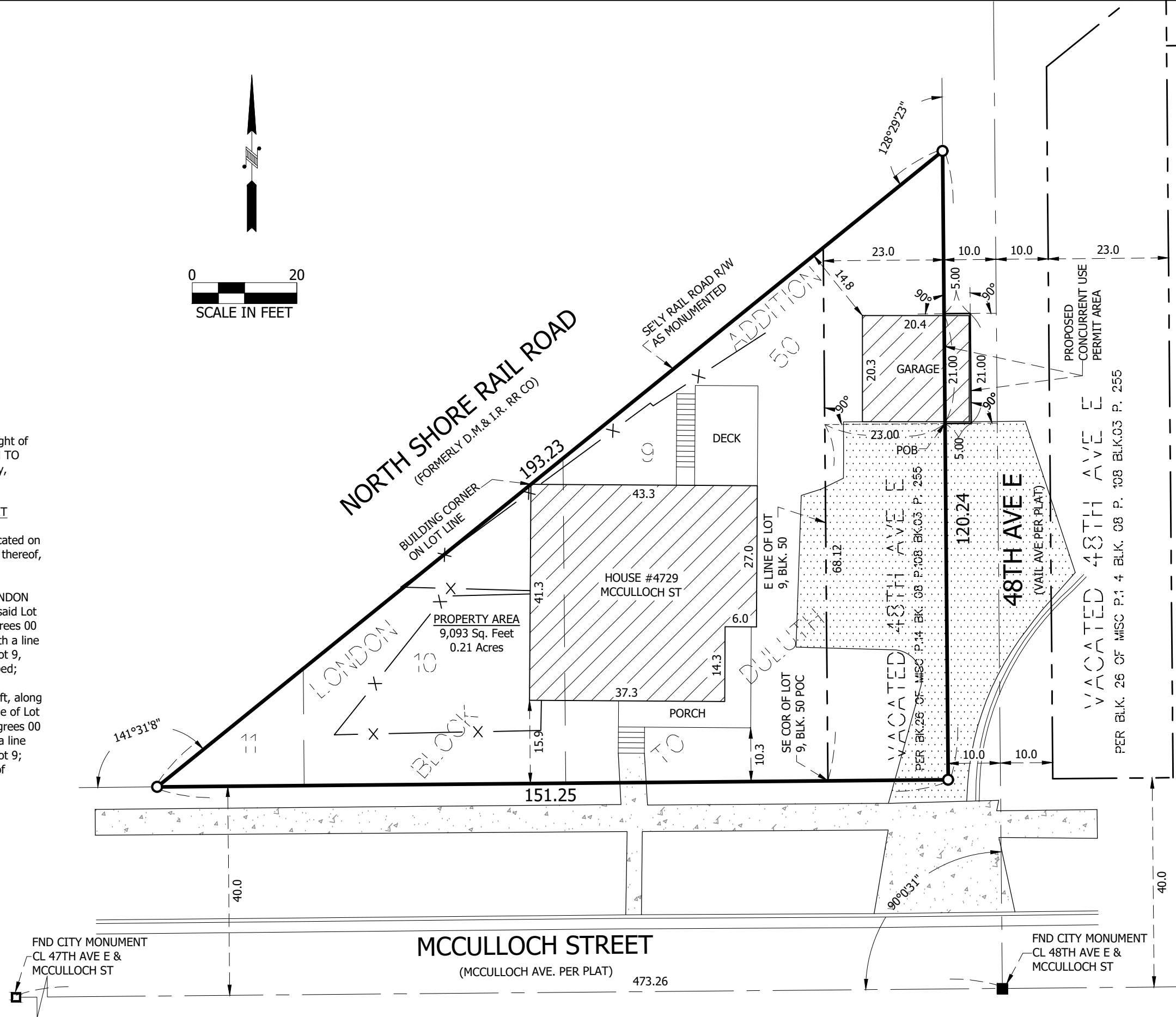
All that part of 48th Avenue East also known as Vail Ave as dedicated on LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the Southeast corner of Lot 9, Block 50, said LONDON ADDITION TO DULUTH; thence Northerly along the East line of said Lot 9 for a distance of 68.12 feet; thence Easterly, deflecting 90 degrees 00 minutes 00 seconds to the right 23.00 feet to the intersection with a line parallel with and distant 23.00 feet Easterly of said East line of Lot 9, said point being the point of beginning of the land herein described; thence continue Easterly on last described line 5.00 feet; thence Northerly, deflecting 90 degrees 00 minutes 00 seconds to the left, along a line parallel with and distant 28.00 feet Easterly of said East line of Lot 9 for a distance of 21.00 feet; thence Westerly, deflecting 90 degrees 00 minutes 00 seconds to the left 5.00 feet to the intersection with a line parallel with and distant 23.00 feet Easterly of said East line of Lot 9; thence Southerly along said parallel line 21.00 feet to the point of beginning.

Said parcel contains 105 Sq. Feet.

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.



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

<b>CERTIFICATE OF SURVEY</b>	
CLIENT: TOM KOLAR	REVISIONS: 1-17-2019 SHOW PROPOSED CONCURRENT USE PERMIT AREA
DATE: 10-31-2017	2-1-2019 CITY COMMENTS
ADDRESS: 4729 MCCULLOCH ST DULUTH, MN	
JOB NUMBER: 17-320	

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: 2-1-2019



PL 19-004: 4729 McCulloch St

PC Packet 02-12-19

**Legend**

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



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Aerial photography flown 2016









**CITY OF DULUTH**  
Community Planning Division

411 W 1<sup>st</sup> St, Rm 110 \* Duluth, Minnesota 55802-1197  
Phone: 218/730.5580 Fax: 218/723-3559

<b>File Number</b>	PL 19-005	<b>Contact</b>	Chris Lee, 730-5304	
<b>Type</b>	Vacation of Right of Way	<b>Planning Commission Date</b>	February 12, 2019	
<b>Deadline for Action</b>	<b>Application Date</b>	January 18, 2019	<b>60 Days</b>	March 19, 2019
	<b>Date Extension Letter Mailed</b>	January 28, 2019	<b>120 Days</b>	May 18, 2019
<b>Location of Subject</b>	4831 London Rd			
<b>Applicant</b>	Tom Kolar	<b>Contact</b>		
<b>Agent</b>	Dave Evanson	<b>Contact</b>		
<b>Legal Description</b>	See Attached, north of PIN: 010-3010-03250			
<b>Site Visit Date</b>	January 28, 2019	<b>Sign Notice Date</b>	January 29, 2019	
<b>Neighbor Letter Date</b>	February 1, 2019	<b>Number of Letters Sent</b>	47	

**Proposal**

The applicant is requesting to vacate an unimproved portion of Gladstone Street. This portion of Gladstone Street is currently being used as a driveway access and parking for the care facility located at 4831 London Road.

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

**Summary of Code Requirements**

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

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

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

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

**Principle #5 - Strengthen neighborhoods:** The present city is an historical amalgam of villages and other independent units of government, contributing to the present condition of Duluth being strongly defined by its neighborhoods. This condition should be reinforced through land use, transportation and public service delivery patterns which strengthen neighborhood identity. New institutional expansions, major public infrastructure or large commercial or industrial uses should not divide historic neighborhood patterns.

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

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

**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.

**Review and Discussion Items**

Staff Finds that:

1. The applicant is requesting to vacate an unimproved portion of the platted right-of-way of Gladstone Street as shown in the attached exhibit. This section of Gladstone Street is currently used by the applicant as a driveway to access the parking areas for the residential care facility.
2. The proposed vacation is 66' x 216.75' x 133.74' x 106.06'. With a utility easement in place, the vacated right-of-way contains 11,556 square feet.
3. The proposed vacated portion of Gladstone Street is not needed for public use. The City Engineering office has reviewed the proposed vacation and has indicated that a full-width utility easement shall be created over the existing sanitary sewer line in the right-of-way.
4. This portion of the right of way is not needed to provide access to any public water. Vacating the right of way will not have impacted or deny access to other property owners.
5. No other public or City comments have been received at this time of drafting this report.
6. Vacations of rights of way and easements lapse unless the vacation is recorded with the county recorder within 90 days after final approval. The vacation recording is facilitated by the City of Duluth.

**Staff Recommendation**

Based on the above findings, staff recommends that Planning Commission recommend approval of the vacation of the right of way as shown in the attached vacation exhibit.



PL 19-005: 4831 London Rd

PC Packet 02 (2-19)  
E-2 (Low-Rise Neighborhood Mix)

MU-N (Mixed Use Neighborhood)

R-1 (Residential Traditional)

P-1 (Park)

F-2 (Low-Rise Neighborhood Mix)

P-1 (Park)

MU-N (Mixed Use Neighborhood)

MU-B (Mixed Use Business Park)

F-1 (Low-Rise Neighborhood Shopping)

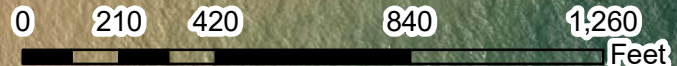
R-2 (Residential Urban)

Aerial photography flown 2016

**Legend**

Zoning Boundaries

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PL 19-005: 4831 London Rd

PC Packet 02-12-19

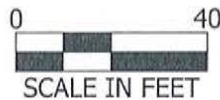
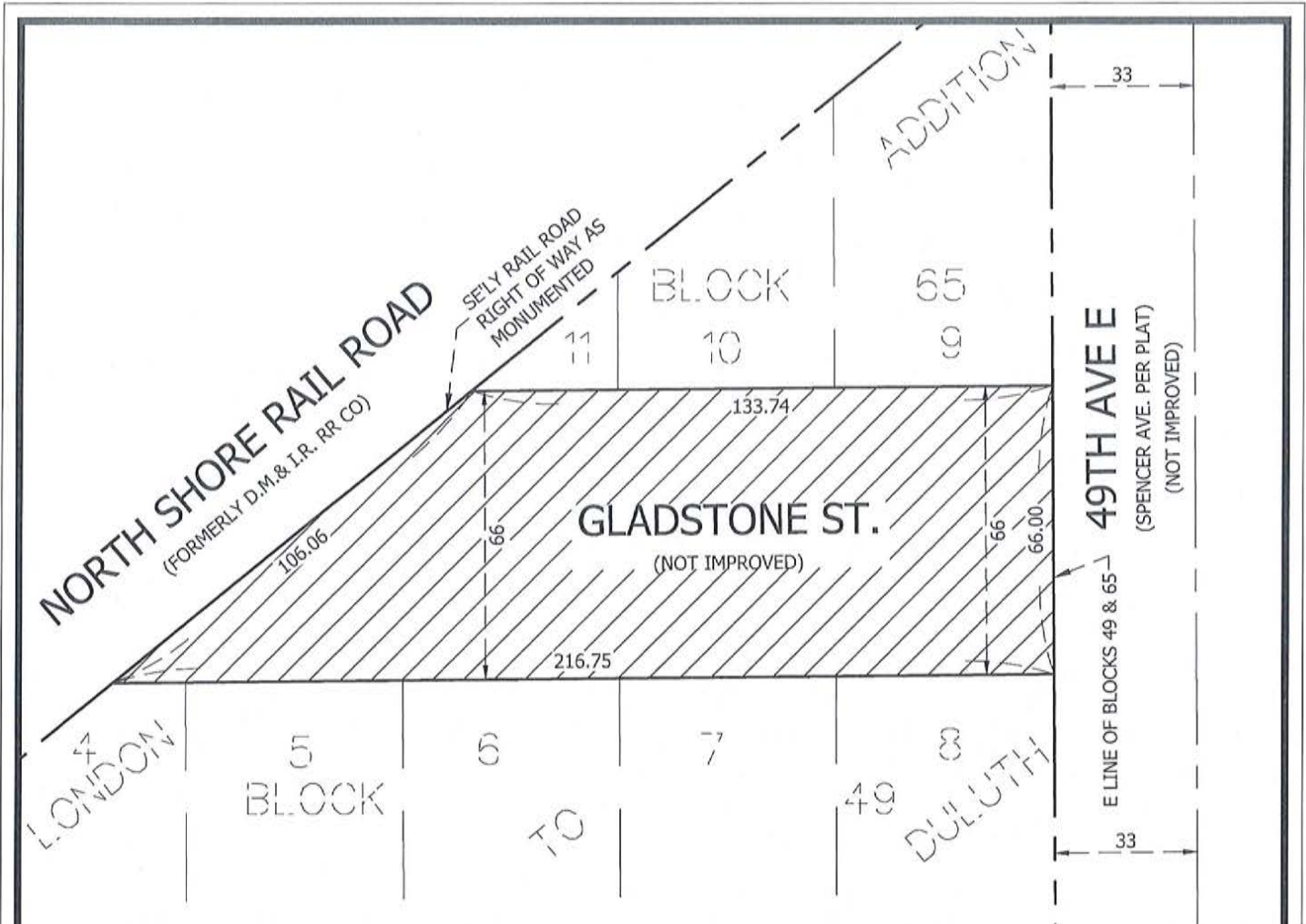
**Legend**

- 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

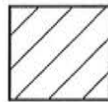


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**LEGEND**



PROPOSED RIGHT OF WAY VACATION WITH RETAINED UTILITY EASEMENT

— — — — — RIGHT OF WAY LINE  
 — — — — — PLAT CENTER LINE

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

By \_\_\_\_\_

LEGAL DESCRIPTION OF RIGHT OF WAY VACATION WITH RETAINED UTILITY EASEMENT

All that portion of Gladstone Street adjacent to and abutting Block 49 and Block 65, LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, lying between the East line of Blocks 49 and 65 and the Southeasterly right of way line of the North Shore Rail Road (formerly Duluth, Missabe & Iron Range Railway Company).

Said right of way vacation with retained utility easement contains 11,566 Sq. Feet or 0.27 Acres.

SURVEYORS NOTES

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

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

*David R. Evanson*  
 David R. Evanson

Date: 1-17-2019

MN Lic. No. 49505

**RIGHT OF WAY VACATION EXHIBIT**

CLIENT: TOM KOLAR  
 DATE: 1-17-2019  
 ADDRESS: GLADSTONE ST DULUTH, MN  
 JOB NUMBER: 19-006

REVISIONS: XXX



\* LAND SURVEYING  
 \* LAND DEVELOPMENT  
 \* PLATTING  
 \* LEGAL DESCRIPTIONS  
 \* CONSTRUCTION STAKING

PHONE: 218-727-5211  
 LICENSED IN MN & WI  
 CERTIFIED FEDERAL SURVEYOR  
 WWW.ALTLANDSURVEYDULUTH.COM



**Legend**

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



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**CITY OF DULUTH**  
Community Planning Division

411 W 1<sup>st</sup> St, Rm 110 \* Duluth, Minnesota 55802-1197  
Phone: 218/730.5580 Fax: 218/723-3559

<b>File Number</b>	PL19-002		<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Type</b>	Special Use Permit – Residential Care Facility		<b>Planning Commission Date</b>	February 12, 2019	
<b>Deadline for Action</b>	<b>Application Date</b>	January 8, 2019	<b>60 Days</b>	March 9, 2019	
	<b>Date Extension Letter Mailed</b>	January 22, 2019	<b>120 Days</b>	May 8, 2019	
<b>Location of Subject</b>	4425 Norwood Street				
<b>Applicant</b>	American Indian Community Housing Organization (AICHO)		<b>Contact</b>	Michelle Lebeau	
<b>Agent</b>			<b>Contact</b>		
<b>Legal Description</b>	See attached site plan/survey				
<b>Site Visit Date</b>	February 1, 2019		<b>Sign Notice Date</b>	January 29, 2019	
<b>Neighbor Letter Date</b>	January 29, 2019		<b>Number of Letters Sent</b>	18	

**Proposal**

Applicant requests a Special Use Permit to create housing for women and children for short-term stays in the home with 24-hour-a-day staff supervision by 2-3 staff. The home will be licensed for 18 beds.

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

**Summary of Code Requirements**

UDC Section 50-19.8. Special Use Permit required for assisted living/residential care facility (7 or more) in an R-1 district.

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 – Traditional Residential - 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. 4-8 units/acre, form standards and conservation development an option, mix of housing types (i.e. town homes and 4-plexes) at corners, limited commercial uses (i.e., 'corner store') serving neighborhood market

Comprehensive Plan: Housing -Policy #3 – Prioritize inclusive housing policies to reflect the city's social, cultural, economic and historic diversity and development patterns.

**Review and Discussion Items**

Staff finds that:

- 1) The proposed residential care facility will be located in an existing 3,300 square foot single-family dwelling located at 4425 Norwood Street.
- 2) The residential care facility will have the capacity for 18 beds to provide temporary housing for women and children. The site is on a large heavily wooded lot (1.3 acres) and is well screened by existing vegetation between the home and properties to the east and west. The home will be staffed 24 hours a day 7 days a week.
- 3) The home has an existing 3-car garage that can be used for staff parking and a 36' x 24' deep concrete parking pad in front of it to accommodate additional parking for visitors. There is an existing lower 19' x 22' deep parking pad. The site plan/survey shows that 6.3 feet of the pad encroaches onto the neighbor's property to the west. The applicant will be correcting the parking pad area dimensionally and improving it to park a van and one car.
- 4) There will be minimal additional traffic to the site and vehicle trips to and from the site are expected to be similar to that on a one-family dwelling. Single family dwelling units typically generate 8-10 vehicles trips per day. Most of the traffic will be in the morning and late afternoon when staff is coming in and leaving work. A van will be used to transport residents during the daytime and will be parked at the downtown AICHO location when not on site.
- 5) The applicant is proposing internal and external improvements to the home to meet life safety and construction codes.
- 6) The site plan shows an existing fence in the back yard. The applicant is not proposing any additional screening or landscaping to the site.
- 7) No additional UDC development standards or use specific standards apply to this type of special use permit.
- 8) The proposed residential care facility is consistent with the Comprehensive Plan goals and policies encouraging a mix of housing types within neighborhoods and allowing off-site institutional housing.
- 9) The City Fire Marshall has reviewed the proposal and has several comments/concerns that will need to be addressed prior to the issuance of a building permit (see attached).
- 10) One letter was received from a resident and is included as an attachment to this report.
- 11) 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.

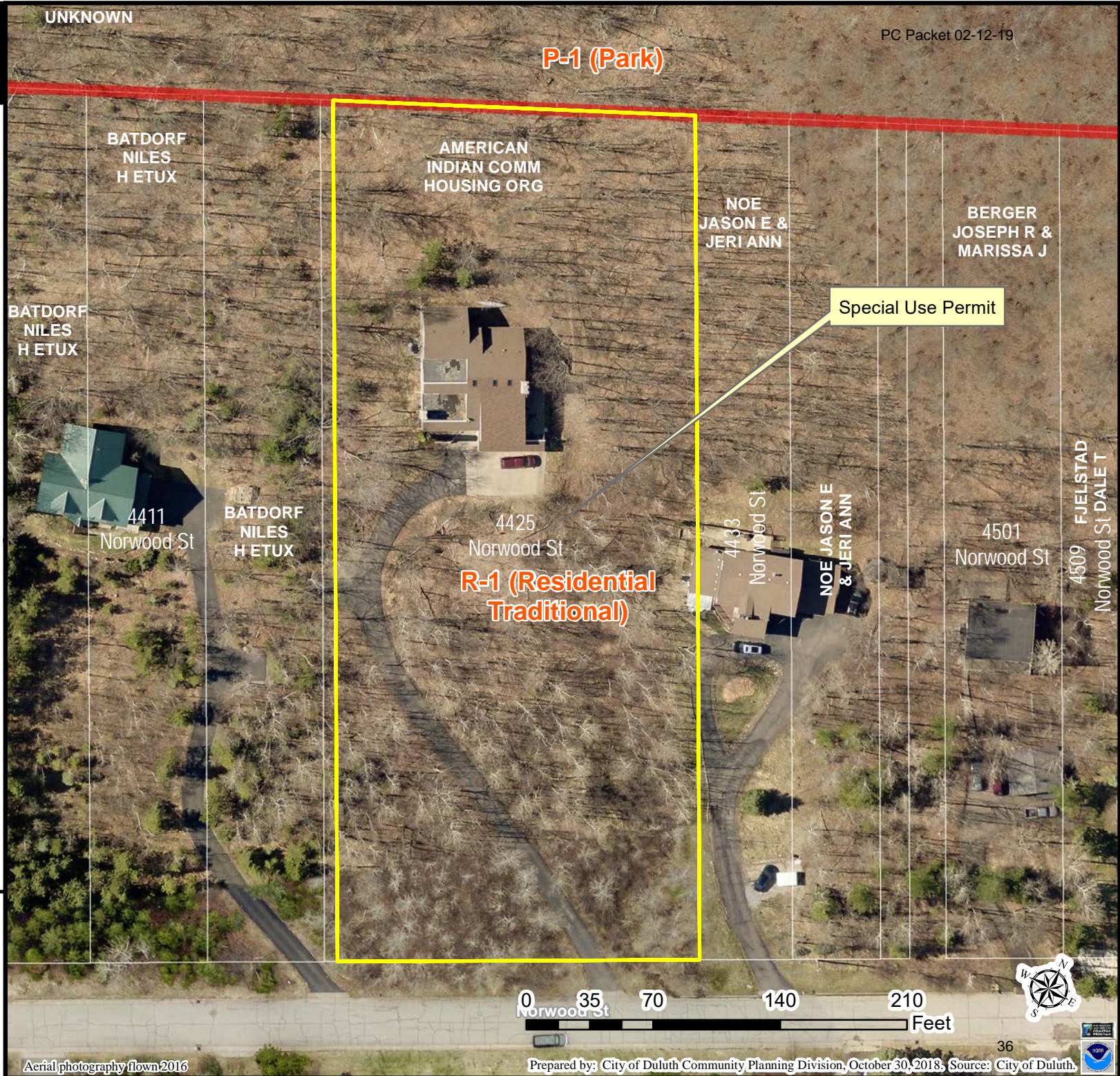
Suggestion: I think we should ask them to screen or landscape parking area A, at least the area between the adjoining lot lines, so they neighbor would not be impacted by headlights shining at his/her home, as car's park at A.

**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 submitted with the special use permit application.
- 2) The project must comply with the City of Duluth Fire Marshall requirements.
- 3) The applicant must submit a revised survey showing the lower parking pad with dimensions and is not encroaching onto the neighboring property to the west.
- 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**

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

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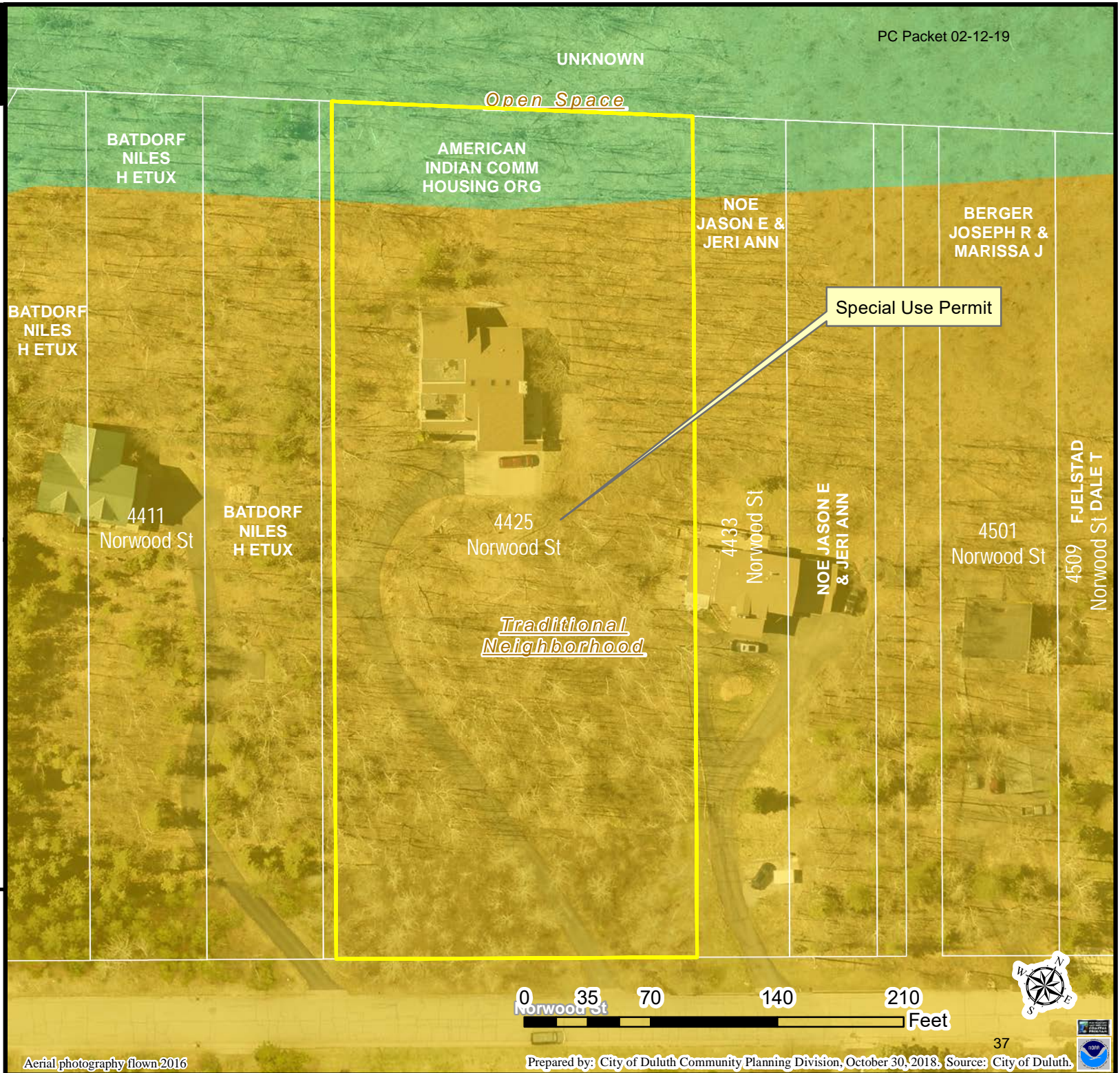




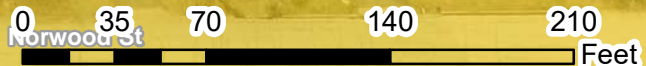
### Legend

**Future Land Use**

- Open Space
- 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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## Special Use Compliance with Comprehensive Plan

The proposed special use of 4225 Norwood Street as a residential care facility is consistent with the comprehensive plan's twelve governing principles and the property's future land use designation, as outlined in this document.

### Principle #1 - Reuse previously developed lands

Rather than building a new structure on undeveloped lands, the proposed special use would renovate an existing structure on previously developed lands.

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

The undeveloped land surrounding the structure on the property will remain undeveloped, as this is a key feature making the property appropriate for the proposed use as a residential care facility. The contemplative setting, surrounded by nature, makes the site ideal for a sense of security and healing, and the undeveloped places on the property will remain so.

### Principle #3 - Support traditional economic base

Although the proposed use does not relate directly to Duluth's traditional economic base, it does build upon AICHO's 25 years as a community non-profit, allowing us to expand our services and meet the needs of a greater number of community members.

### Principle #4 - Support emerging economic growth sectors

AICHO's work is within the emerging economic growth sector, and this principle includes recognition of the value of cultural and social diversity. The proposed special use would meet a community need as well as individual needs for culturally-specific wellness practices.

### Principle #5 - Strengthen neighborhoods

The proposed special use fits neatly within the existing traditional neighborhood, providing residential care in a home-like setting with minimal traffic and no change to infrastructure. The use would strengthen the neighborhood by individual and family residents accessing local businesses, parks, trails, schools, and other community gathering spaces.

### Principle #6 - Reinforce the place-specific

The proposed special use is place-specific in that the work of the residential care facility will be aided by the natural features of this site itself, as well as its proximity to large parks and the lake. The property surrounding the residence, adjacent to parkland and neighboring residences, will remain in its current natural wooded state.

### Principle #7 - Create and maintain connectivity

Few individuals and families who would access the residential care facility drive personal vehicles. The proposed use would take advantage of existing and new public transportation in the area, as well as the trail system, and would in no way interfere with existing roads, sidewalks, or trails.

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

The proposed special use is a neighborhood-oriented commercial use that maintains the character of the traditional neighborhood. The property will remain low-density, with its single residence, yet will provide a mixed use in a non-disruptive way.

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

The private use, activities, and site design of the proposed special use of this property will have minimal impact on the immediate surroundings of parkland and private homes, as the building itself is somewhat secluded and the surrounding wooded areas on the property will be maintained for privacy and quiet recreational and cultural use.

**Principle #10 - Take sustainable actions**

Sustainability is at the core of AICHO's work, and this value will be reflected in the site design and building materials chosen for the proposed special use.

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

Although the proposed special use is not anticipated to have substantial direct impact on education systems, improvements to the property will likely result in increased property tax revenues to the benefit of the local schools.

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

By using an existing, already developed site with capacity to meet the needs of the proposed special use, the project creates no additional burden on public services. In fact, the proposed special use may increase access to underutilized public services in the neighborhood, such as public transit.

Finally, the future land use designation for the property is Traditional Residential with a sensitive lands overlay. The proposed special use introduces a greater diversity of use, in keeping with Principle #8, while maintaining the Traditional Residential character of the property and neighborhood. By preserving the property's natural wooded areas, the proposed special use takes into consideration the sensitive lands overlay and avoids disruption to the local ecosystem.

**Additional Information:**

**Parking:** currently the property has a 3- stall attached garage and 2 parking pads that can accommodate an additional 4 cars. AICHO will minimally expand the lower parking area to make it more comfortable for parking a van and one car. Most of the people staying in the home will not have a car and there will only be 2-3 staff at the property at any one time. We also have a 7-passenger van that will be used to transport residents during the daytime, this van will be parked at our downtown location until needed.

**Emergency Vehicles:** we do not anticipate a lot of traffic from emergency vehicles, our history in other locations has been very limited need for any emergency response teams.

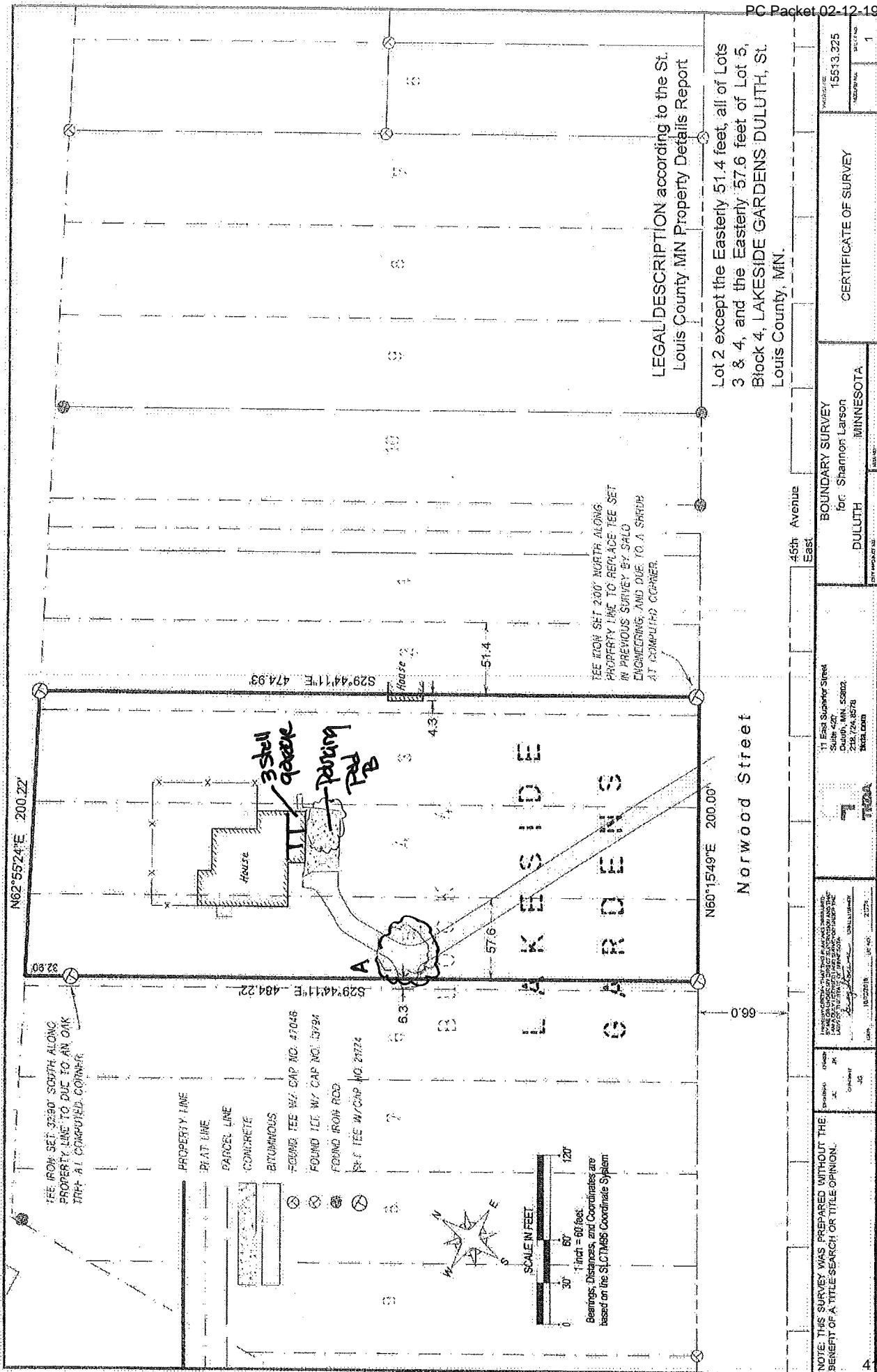
Other traffic: most of the traffic will be in the morning and late afternoon when staff are coming in and leaving work. The van will come and go during the day to transport residents to appointments. Evening and weekend traffic will be minimal.

Landscaping: other than expanding the lower parking space there is no other plans for landscaping, the lot is heavily wooded which provides privacy and natural beauty, we do not intend to disrupt the natural landscaping.

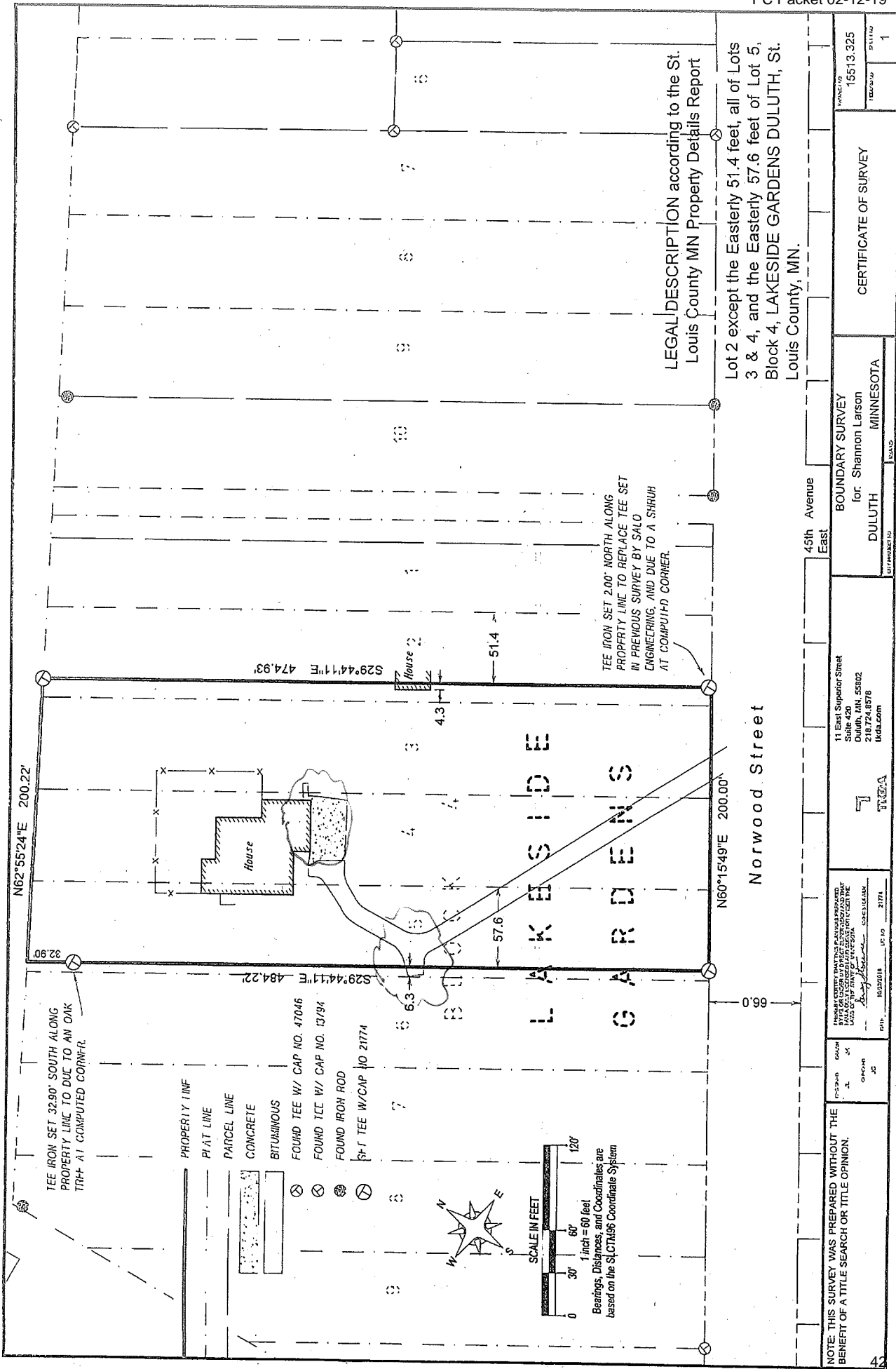
Renovation:

1. Install a commercial grade refrigerator/freezer, gas range, range hood and dishwasher in the existing openings in the kitchen.
2. Add a window in the pantry.
3. Sprinkle the lower two "bedrooms" to make them legal for sleeping.
4. Install railings on 4 flat roof decks.
5. Remove 2 wood fireplace units and install gas fireplaces.





Parking A is existing parking pad for 2 vehicles - we will expand to accommodate 3-4  
 B currently can fit 2 vehicles outside of 3 stall garage



LEGAL DESCRIPTION according to the St. Louis County MN Property Details Report

Lot 2 except the Easterly 51.4 feet, all of Lots 3 & 4, and the Easterly 57.6 feet of Lot 5, Block 4, LAKESIDE GARDENS DULUTH, St. Louis County, MN.

NOTE: THIS SURVEY WAS PREPARED WITHOUT THE BENEFIT OF A TITLE SEARCH OR TITLE OPINION.

11 East Superior Street  
Suite 420  
Duluth, MN, 55802  
218.724.8578  
ltds.com

BOUNDARY SURVEY  
for Shannon Larson  
DULUTH MINNESOTA

CERTIFICATE OF SURVEY

15513.325

1

Lower Parking Pad is 19' w x 22' D  
Upper Parking is 36' wide x 24' D



CITY OF DULUTH  
FIRE DEPARTMENT - LIFE SAFETY DIVISION  
615 West First Street  
Duluth, Minnesota 55802  
218-730-4380

February 4, 2019

John Kelley  
Planner II  
Community Planning

I just found out about the home at 4425 Norwood Street will be used as an assisted living facility for 18 people. That is a single-family residence R-3 and what they would want to do is an R-4 residence. It would require a change in use.

1. It would require the entire building to have an automatic sprinkler.
2. The driveway is too narrow and steep
3. The minimum width is 20 feet with a maximum of a 10% grade
4. The driveway would require a turn around

These are just a few requirements without having the plans for the project. It would have been helpful if this were brought to my attention sooner.

Respectfully,

Marnie Grondahl  
Fire Marshal

**Robert M. Kaner, P.A.**

PC Packet 02-12-19

**Attorney at Law**

508 Alworth Building  
306 W. Superior Street  
Duluth, Minnesota 55802-1872

Main Telephone: 218-727-1533

Fax Line: 218-727-7253

Cellular Telephone: 218-343-1345

E-mail: kanerpa@aol.com

February 4, 2019

**HAND-DELIVERED ON 2/4/2019**

Duluth Planning Commission  
411 West First Street, Room 208  
Duluth, MN 55802

Re: Residential Care Facility at 4425 Norwood Street, Duluth, MN 55804

To Whom It May Concern:

I am the homeowner at 4300 Norwood Street.

I received a written notice of a proposed Residential Care Facility at 4425 Norwood Street in Duluth, Minnesota.

Please consider this formal notice of my objection to the proposal.

First, I did not receive the attachment referenced in the notice.

I respectfully submit that the hearing is untimely. It prevents me as a homeowner to adequately prepare any evidence in opposition to the proposal and constitutes a denial of due process.

I drove by the proposed address at 4425 Norwood Street and was unable to locate any building at that address.

I need to know whether the plan involves a new construction at that address.

Please note that there are at least two government housing buildings on Norwood Street and another one on Oakley Street behind my house.

Obviously, the proposal for a Residential Care Facility on Norwood Street will greatly reduce the value of my home and create safety and traffic concerns if allowed to proceed.

In addition, if the project is allowed to proceed, please advise of whether your agency will be recommending to the St. Louis County Auditor a reduction in my real estate taxes.

Please advise.

Sincerely yours,

ROBERT M. KANER

RMK:jvl



PLANNING & ECONOMIC DEVELOPMENT  
 Community Planning Division  
 City Hall – 411 W 1<sup>st</sup> Street – Room 110  
 Duluth, Minnesota 55802  
 218-730-5580 / [planning@duluthmn.gov](mailto:planning@duluthmn.gov)

<b>File Number</b>	PL19-001	<b>Contact</b>	Kyle Deming, <a href="mailto:kdeming@duluthmn.gov">kdeming@duluthmn.gov</a>	
<b>Type</b>	Variance, first floor elevation, build-to-zone coverage	<b>Planning Commission Date</b>	February 12, 2019	
<b>Deadline for Action</b>	<b>Application Date</b>	January 8, 2019	<b>60 Days</b>	March 9, 2019
	<b>Date Extension Letter Mailed</b>	January 31, 2019	<b>120 Days</b>	May 8, 2019
<b>Location of Subject</b>	1901 London Rd. (Endion)			
<b>Applicant</b>	Virginia D. Brauer Trust, Jonathan Brauer, Trustee	<b>Contact</b>	N/A	
<b>Agent</b>	Scalzo Architects LTD, William Scalzo, Architect	<b>Contact</b>	218-722-4319	
<b>Legal Description</b>	Lots 10, 11, and 12, Block 36, Endion Division (PINs 010-1460-03180, 03190, 03200)			
<b>Site Visit Date</b>	February 1, 2019	<b>Sign Notice Date</b>	January 29, 2019	
<b>Neighbor Letter Date</b>	February 1, 2019	<b>Number of Letters Sent</b>	65	

**Proposal**

The applicant is proposing to construct a 4,092 sq. ft. Main Street I Building (Sherwin Williams paint store) with 13 parking stalls and driveways onto London Rd. and 18<sup>th</sup> Ave. E. The applicant is seeking a variance from two form district standards:

1. Reduce Front "Build-To-Zone" coverage from 65% required to 40% proposed (Sec.50-22.8.A.1), and
2. Increase Ground Story Elevation from no more than 1 foot above the sidewalk to 4 feet above the sidewalk (Sec. 50-22.3.B.2).

**Recommended Action:** Approve variance with conditions

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-2	Vacant	Neighborhood Mixed Use
<b>North</b>	R-2	Detached Residential	Urban Residential
<b>South</b>	F-2	Fast Food Restaurant	Neighborhood Mixed Use
<b>East</b>	F-2	Detached Residential	Neighborhood Mixed Use
<b>West</b>	F-2	Office	Neighborhood Mixed Use

**Summary of Code Requirements**

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

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

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

Governing Principle #5 – Promote reinvestment in neighborhoods

Governing Principle #6- Reinforce the place-specific

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

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

Economic Development Policy #3 - Analyze commercial market demand and best practices to determine options for expansion of neighborhood serving uses in nodes accessible by transit, as well as in the city center where skyways create two levels of potential commercial activity.

General Development – Urban Design Policy #4 - Encourage site design which includes cohesive elements such as pedestrian access, parking, coordinated landscaping, linked open space, and green infrastructure for stormwater management and water quality improvement.

General Development – Urban Design Policy #7 - Create pedestrian-oriented environments by placing buildings and building entrances close to the street, providing windows along street frontages, and enlivening building facades with the creative use of architectural details or materials.

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

History: The site was zoned C-2 Highway Commercial from 1958 until 2010 when it was rezoned to MU-N (Mixed Use-Neighborhood) with the adoption of the Unified Development Chapter (UDC). The 2006 Comprehensive Land Use Plan identified London Rd. as a site for Form District zoning and, to implement this recommendation, the site was rezoned F-2 (Low-Rise Neighborhood Mix) in 2011. The site was formerly developed with a motel that was torn down in 2011.

## Review and Discussion Items

### Staff finds that:

- 1) The Applicant is seeking two variances: One to allow the construction of a 4,092 sq. ft. Main Street I Building in the required Build-To-Zone, but the building is not large enough to cover the required 65% of the London Rd. street frontage (proposal is to cover 40% of the frontage). The second variance is to site the building so that the front entrance is 4 feet above the London Rd. sidewalk rather than the required 1 foot or less. The proposed building otherwise complies with Form District requirements and the site is otherwise laid out according to UDC requirements. Please see (attached) the applicant's Variance Application Supplemental Form explaining how they feel the project qualifies for the proposed variances.
- 2) The applicant is proposing a reasonable use of the site consisting of a modest commercial building with parking and loading to the side and rear of the building. This project is also consistent with the purpose statement of F-2 zone district for low-rise buildings with a neighborhood-scale mix of uses.
- 3) Relief from the building elevation requirement is needed because bedrock has been found on the site just below London Rd. at elevation (660') and the need to have a driveway at the rear of the property for delivery and parking access where the elevation of 18<sup>th</sup> Ave. E. is at elevation 669'. The applicant designed the building to sit at elevation 664', roughly half way between the two elevation constraints described above. These are conditions relatively unique to sites on the upper side of London Rd. within a few blocks of this site (ie. McDonalds site). The applicant is still providing direct access to the front door via a stairway up from the London Rd. sidewalk as well as providing the required 75% transparency along London Rd. for an active storefront. Landscaping along the London Rd. retaining wall will improve site aesthetics and provide for a more comfortable experience for pedestrians passing the site.
- 4) Relief is also needed for the Build-To-Zone requirements so that parking and loading can be done at the side and rear of the building while connecting to surrounding streets by driveways with reasonable slopes. This necessitates setting the driveway to London Rd. away from the parking area to provide space for slopes and a storm water treatment area. The design uses 187 feet of frontage on London Rd. and the building only needs to be 62 feet wide resulting in 40% coverage rather than 65% coverage of the Build-To-Zone. In order to comply with Build-To-Zone requirements the 4,092 sq. ft. building would need to be 41 feet deep by 100 feet wide along London Rd., which is not practical for this applicant's store design.
- 5) The proposal will not alter the essential character of the area. The resulting building and parking will be similar in scale to other sites on London Rd. Landscaping elements along the street will create an attractive street presence and will enhance the pedestrian experience.
- 6) Comment from City Engineering office: "Storm water management will be required for the project. The site does have opportunities to accomplish this requirement." No other public or private comments were received.
- 7) Per UDC Section 50-37.1. N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

### Staff Recommendation

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

- 1) The project be limited to, constructed, and maintained according to the plans submitted by Scalzo Architects, LTD, Sheets A2.0, A3.0, A3.1, dated 1/7/2019 and Sheets Z1.0, Z1.1, Z1.2 dated 2/4/2019; and
- 2) The applicant provide at time of building permit application required photometric plans with light fixture details and species details for landscaping that comply with the UDC; and
- 3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.

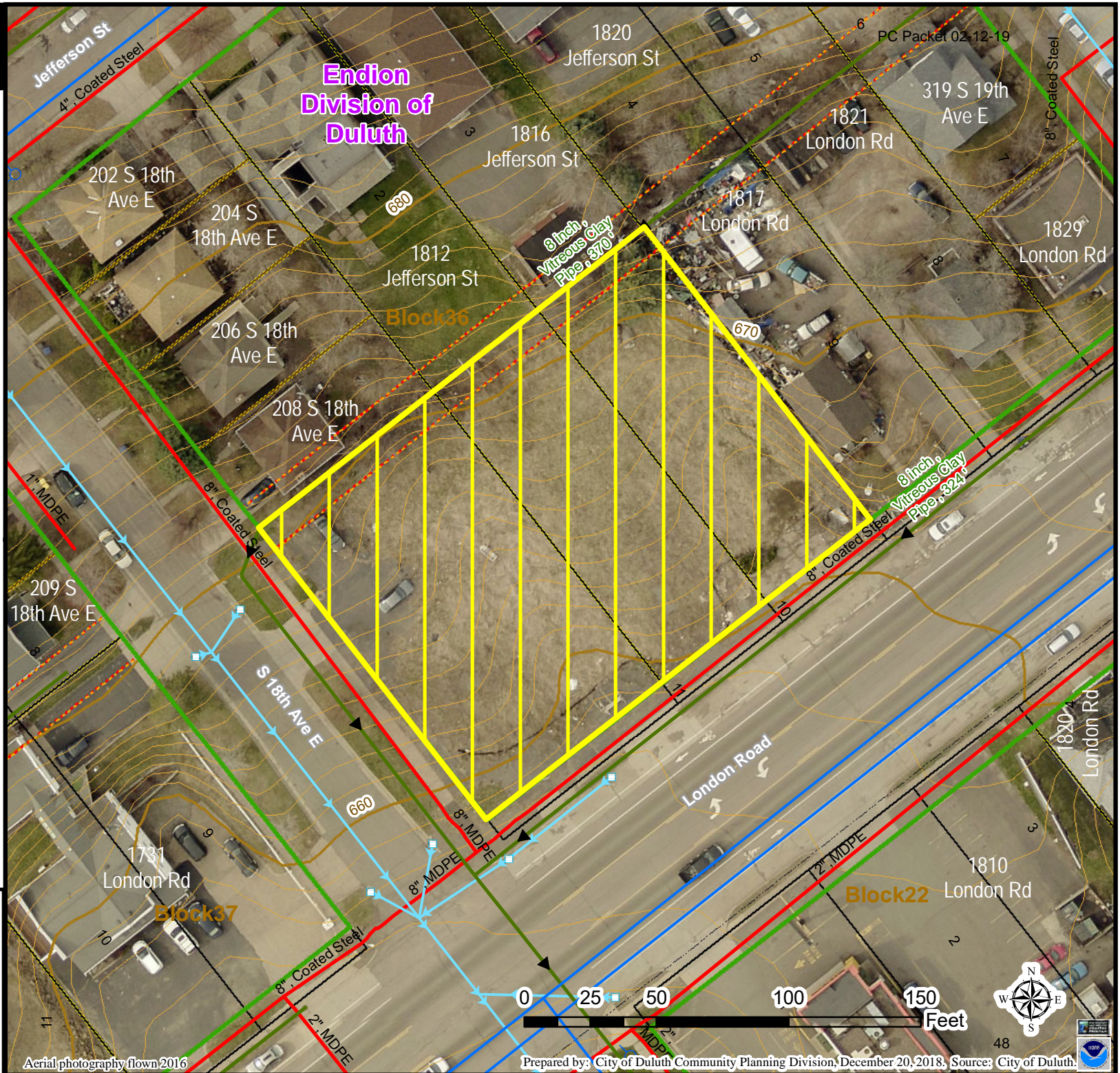


Virginia D. Brauer Trust  
 Variance Application  
 1801 London Rd.

### Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSRD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Blocks**
- Lots**
- Parcels
- 1 Ft contour
- 10 Ft contour
- Subdivision Boundaries
- Municipal Boundary
- 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
- 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, December 20, 2018. Source: City of Duluth.







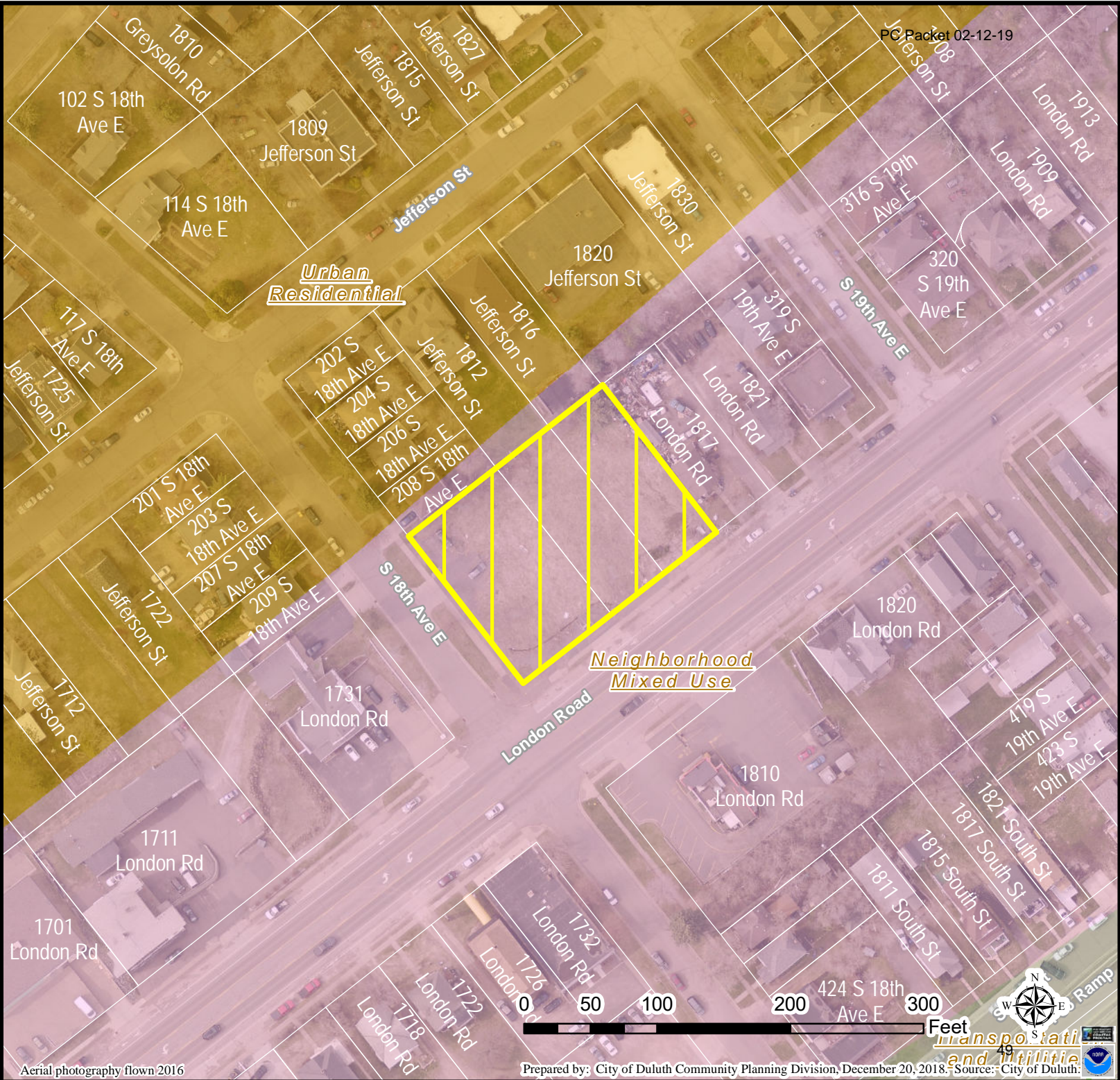
**Legend**

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

**Future Land Use**

- Open Space
- 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
- Sensitive Lands Overlay

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# ALTANSPS LAND TITLE SURVEY

prepared for:  
MERIDIAN TITLE CORPORATION AND O'REILLY-AUTO ENTERPRISES, LLC



SCALE IN FEET

**PHASE II CONVEYANCE**  
PER THE COMBINED AND 84-0056  
RECORDS, 1:1

**BEHAVIORAL NOTES:**  
FOR THE PURPOSES OF THIS SURVEY THE BOUNDARY LINE OF LOT 12, BLOCK 2, ALTA SPAS, IS DEEMED TO BE THE BOUNDARY LINE OF LOT 12, BLOCK 2, ALTA SPAS.

**TLOOD ZONE**  
THIS SURVEY IS CONDUCTED IN ACCORDANCE WITH THE FLOOD ZONE ACT, 45 U.S.C. § 1601 ET SEQ. THE FLOOD ZONE ACT REQUIRES THE SURVEYOR TO INDICATE FLOOD ZONES ON HIS SURVEY. THE SURVEYOR HAS CONDUCTED A VISUAL INSPECTION OF THE SURVEYED AREA AND HAS DETERMINED THAT THERE ARE NO FLOOD ZONES IN THE SURVEYED AREA.

**SURFACE MEASUREMENTS**  
ALL SURFACE MEASUREMENTS WERE MADE BY THE SURVEYOR ON THE DATE OF THE SURVEY.

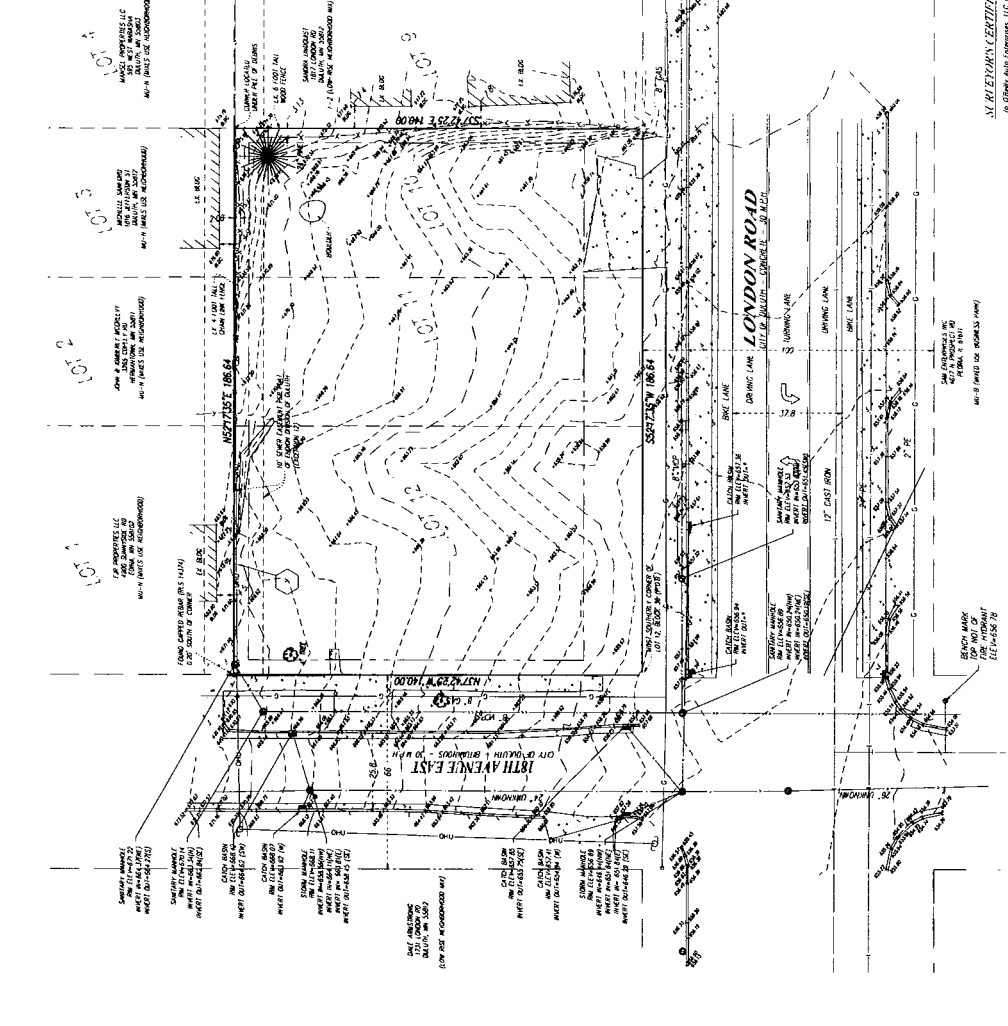
**SITE REVENUE MARKS**  
REVENUE MARKS ARE IDENTIFIED BY THE SURVEYOR AND ARE SHOWN ON THE SURVEY AS CIRCLES WITH A DIAMETER OF 1/2 INCH.

**ADJOINING**  
THE SURVEYED AREA IS ADJACENT TO THE SURVEYED AREA OF LOT 12, BLOCK 2, ALTA SPAS.

**NOTE REGARDING UTILITIES**  
THE LOCATION OF UTILITIES (WATER, SEWER, GAS, ETC.) IS NOT SHOWN ON THIS SURVEY. THE LOCATION OF UTILITIES SHOULD BE DETERMINED BY THE PROPERTY OWNER OR AN UTILITY COMPANY.

**NOTES**  
1. THIS SURVEY IS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT, 45 U.S.C. § 1601 ET SEQ.  
2. THIS SURVEY IS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT, 45 U.S.C. § 1601 ET SEQ.  
3. THIS SURVEY IS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT, 45 U.S.C. § 1601 ET SEQ.

**STATEMENT OF APPROPRIATE PROCEDURES**  
I, THE SURVEYOR, HEREBY CERTIFY THAT I AM A LICENSED SURVEYOR IN THE STATE OF CALIFORNIA AND THAT I HAVE PERFORMED THE DUTY OF A SURVEYOR IN ACCORDANCE WITH THE SURVEYING ACT, 45 U.S.C. § 1601 ET SEQ.



**STATEMENT OF APPROPRIATE PROCEDURES**  
I, THE SURVEYOR, HEREBY CERTIFY THAT I AM A LICENSED SURVEYOR IN THE STATE OF CALIFORNIA AND THAT I HAVE PERFORMED THE DUTY OF A SURVEYOR IN ACCORDANCE WITH THE SURVEYING ACT, 45 U.S.C. § 1601 ET SEQ.

**LEGAL DESCRIPTION**  
ALTA SPAS, LOT 12, BLOCK 2, ALTA SPAS, CITY OF CALIFORNIA, COUNTY OF SAN DIEGO.

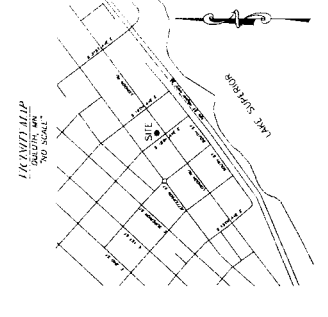
**NOTES**  
1. THIS SURVEY IS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT, 45 U.S.C. § 1601 ET SEQ.

**CONVEYANCE TO THE ALTA SPAS COMPANY**  
THIS SURVEY IS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT, 45 U.S.C. § 1601 ET SEQ.

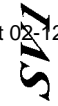
**COMPARATIVE DATA**  
THIS SURVEY IS CONDUCTED IN ACCORDANCE WITH THE SURVEYING ACT, 45 U.S.C. § 1601 ET SEQ.

**LEGEND**  
SURFACE MEASUREMENTS: CIRCLES WITH A DIAMETER OF 1/2 INCH.  
EASEMENTS: DASHED LINES.  
UTILITY LINES: SOLID LINES.

**LEWIS COMPANY SURVEYORS**  
LEWIS COMPANY SURVEYORS  
10000 N. STATE STREET, SUITE 200  
DENVER, CO 80202  
(303) 733-8800  
www.lewiscompany.com



**STATEMENT OF APPROPRIATE PROCEDURES**  
I, THE SURVEYOR, HEREBY CERTIFY THAT I AM A LICENSED SURVEYOR IN THE STATE OF CALIFORNIA AND THAT I HAVE PERFORMED THE DUTY OF A SURVEYOR IN ACCORDANCE WITH THE SURVEYING ACT, 45 U.S.C. § 1601 ET SEQ.



## Variance Application Supplemental Form

Relief: UDC Section 50-22.8 Main Street Building I

1. Street Frontage; Front Build-to zone coverage, 65% reduced to 40 %.

E. Cap & Base Type Requirements; Street Façade Base Type; Storefront; Ground Story elevation increased from one foot above the sidewalk to four feet above the sidewalk.

1. The exceptional topographic and subsurface rock conditions related to the property. The street/sidewalk elevation along London Road (660') and the existing street/sidewalk elevation along 18<sup>th</sup> Avenue East (669') provides a substantial grade change from front to back on the property. Combined with the elevation of the sub-surface rock creates significant difficulty for the build-to zone (BTZ) location of the proposed building and for parking/loading access to the site and the accessible route to the building.
2. The exceptional site conditions are resolved by using the entire 187' length of the property along London Road to provided separation between the curb-cut access on London Road (southeast corner of the property) and the curb-cut access on 18<sup>th</sup> Avenue East (northwest corner of the property) to reduce the steepness of grading for parking; site accessibility, and for access for loading/unloading activities for the retail store. The proposed distance from the building location to the east property line provides the opportunity for appropriate grading for access from London Road and 18<sup>th</sup> Avenue East and provides sufficient area for a safe slope for the parking area and the accessible route to the building. The existing grade elevation along 18<sup>th</sup> Avenue East and the sub-surface rock elevation places the proposed floor elevation of 664'. (Refer to the attached exhibit).
3. The adjacent properties along the upper side of London Road offer similar existing grade elevation from front to back and also the potential elevation of sub-surface rock conditions.
4. This variance application allows the proposed development to comply with the intent of the F-2 district requirements while accommodating the exceptional site conditions related to existing grade and rock conditions.
5. Granting of this variance does not impair an adequate supply of light and air to adjacent properties; it does not increase congestion in public streets or danger of fire or imperil public safety, diminish or impair established surrounding property values; it does not impair the health, safety or public welfare for the inhabitants of the City. Granting of this variance allows an appropriate development of this vacant property.

6. This variance allows the proposed development for a Sherwin Williams Store to meet the intent of the Form District 2 (F-2) standards for the proposed main Street Building I; including transparency, façade divisions, entrance recess, location of parking/loading facilities, landscape area, and storm water management; while accommodating the exception site conditions presented by this particular property.



SCALZO ARCHITECTS, LTD.  
1901 South Street  
Duluth, Minnesota 55812  
Tele: 218.722.4319  
Fax: 218.722.3535

CONSULTANTS:



102 South 21st Ave, West Suite #1  
Duluth, Mn. 55806-2018  
Voice: (218)727-5695  
Fax: (218)727-7779  
www.nce-engineers.com

PROJECT:

**SHERWIN WILLIAMS**  
1801 LONDON ROAD  
DULUTH, MINNESOTA 55812



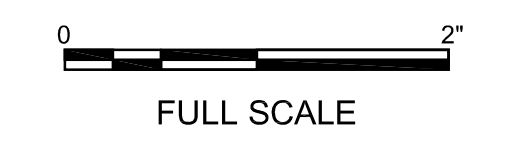
OWNER:  
JONATHAN BRAUER, TRUSTEE  
VIRGINIA D BRAUER TRUST  
4624 CEDARWOOD ROAD  
MINNEAPOLIS, MINNESOTA 55416

SITE PLAN

REVISIONS:

DATE:

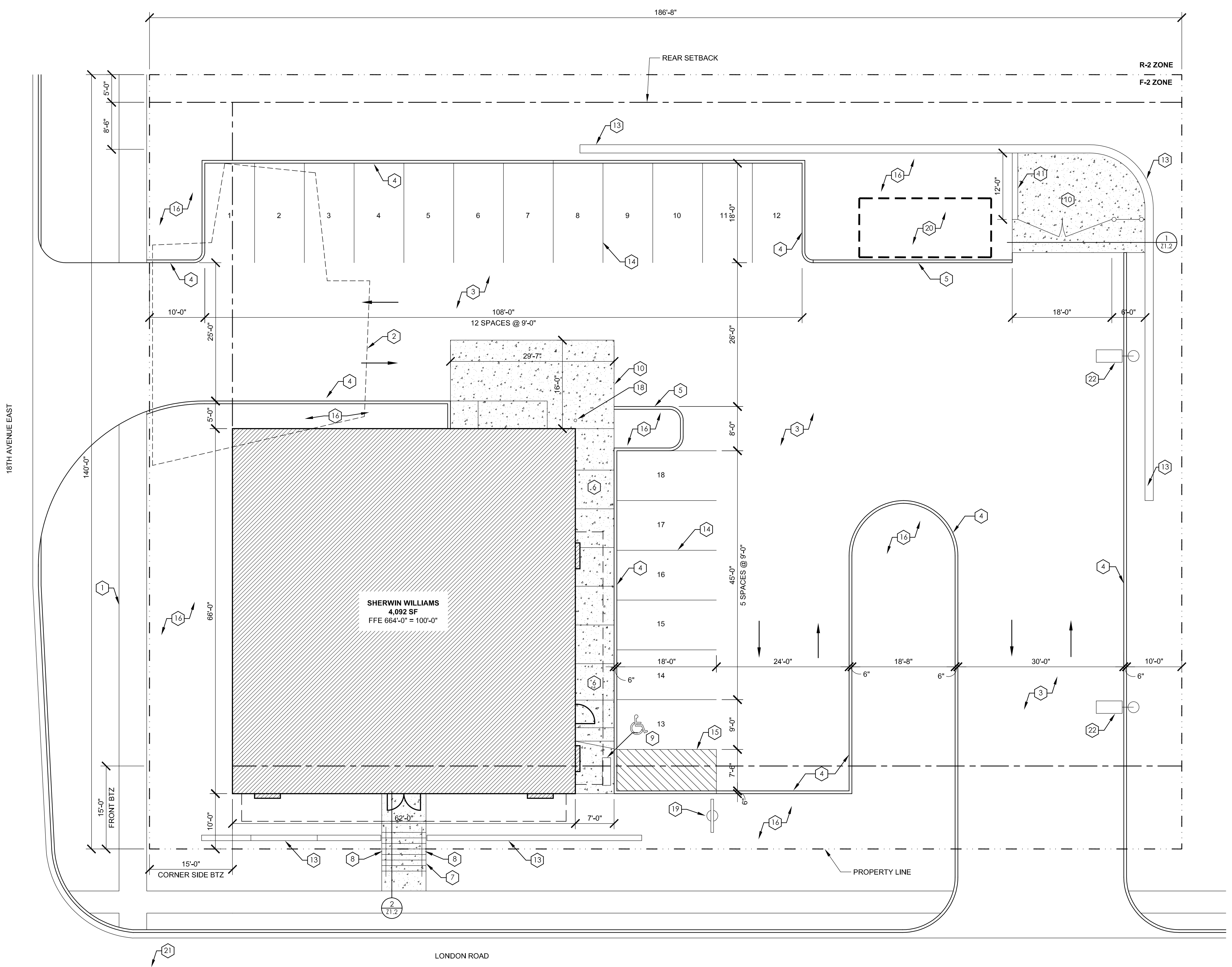
DRAWN: EWL, TFE  
CHECKED: WBS  
PROJECT: 1846



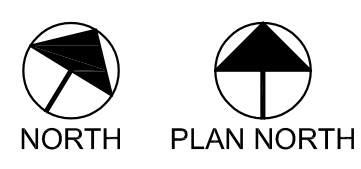
SHEET NO.

**Z1.0**

- KEYED SITE PLAN NOTES:**
- 1 EXISTING CONCRETE WALK
  - 2 EXISTING DRIVE SURFACE TO BE REMOVED
  - 3 BITUMINOUS SURFACE
  - 4 CONCRETE CURB
  - 5 SURMOUNTABLE CURB
  - 6 CONCRETE WALK
  - 7 CONCRETE STEPS
  - 8 HANDRAIL
  - 9 DETECTABLE WARNING SURFACE
  - 10 6" CONCRETE PAD
  - 11 CMU CONTAINER ENCLOSURE
  - 12 DELETED
  - 13 SEGMENTED RETAINING WALL - VERSA LOK SQUARE FOOT RETAINING WALL UNITS- SPLIT FACE; COLOR SELECTED FROM MANUFACTURER'S STANDARD
  - 14 PAINTED PARKING STRIPE
  - 15 PAINTED STRIPING FOR NO PARKING
  - 16 LOW-MAINTENANCE PERMEABLE LANDSCAPE - TURF GRASS
  - 17 DELETED
  - 18 TYPICAL BOLLARD - REFER TO 4/Z1.2
  - 19 NEW POLE SIGN - PROVIDE UNDERGROUND POWER - REFER TO 3/Z1.2
  - 20 SNOW STORAGE
  - 21 EXIST HYDRANT LOCATION - ACROSS LONDON RD ROW
  - 22 LED LIGHT POLE - REFER TO 5/Z1.2 FOR BASE DETAIL



**1 SITE PLAN**  
Z1.0  
1"=10'-0"



**PRELIMINARY**  
NOT FOR CONSTRUCTION  
DATE: 02/04/2019



SCALZO ARCHITECTS, LTD.  
1901 South Street  
Duluth, Minnesota 55812  
Tel: 218.722.4319  
Fax: 218.722.3535

CONSULTANTS:



102 South 21st Ave., West Suite #1  
Duluth, Mn. 55806-2018  
Voice: (218)727-5695  
Fax: (218)727-7779  
www.nce-engineers.com

PROJECT:

**SHERWIN WILLIAMS**  
1801 LONDON ROAD  
DULUTH, MINNESOTA 55812



OWNER:  
JONATHAN BRAUER, TRUSTEE  
VIRGINIA D BRAUER TRUST  
4624 CEDARWOOD ROAD  
MINNEAPOLIS, MINNESOTA 55416

LANDSCAPING PLAN

REVISIONS:

DATE:  
DRAWN: EWL, TFE  
CHECKED: WBS  
PROJECT: 1846





0 2"  
FULL SCALE

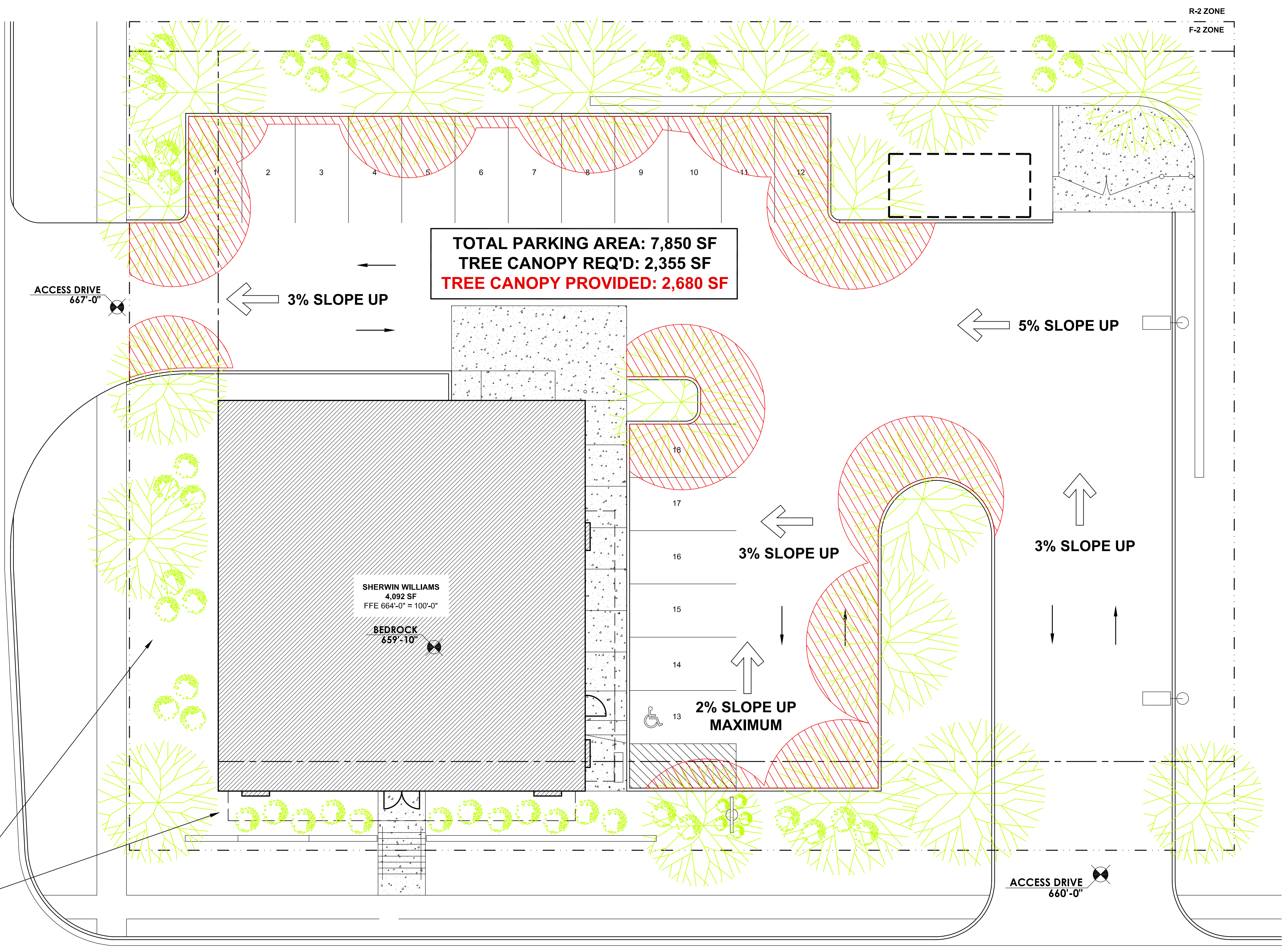
SHEET NO.  
**Z1.1**

VEGETATIVE BUFFER BETWEEN COMMERCIAL / RESIDENTIAL USE  
6 TREES, 22 LARGE SHRUBS  
15 FT BUFFER DEPTH

STREET FRONTAGE LANDSCAPING  
@ 18TH AVENUE  
4 TREES, 8 LARGE SHRUBS

TOTAL PARKING AREA: 7,850 SF  
TREE CANOPY REQ'D: 2,355 SF  
**TREE CANOPY PROVIDED: 2,680 SF**

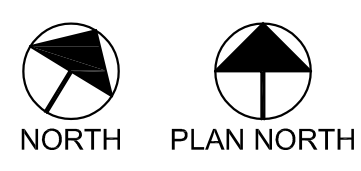
- LEGEND
-  PARKING LANDSCAPING SHADE
  -  SNOW STORAGE AREA
  -  NEW LARGE SHRUB
  -  NEW TREE



ADDITIONAL LANDSCAPING AT  
FRONT AND CORNER SIDE

STREET FRONTAGE LANDSCAPING  
@ LONDON ROAD  
5 TREES, 12 LARGE SHRUBS

1  
Z1.1  
1"=10'-0"



**PRELIMINARY**  
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DATE: 02/04/2019



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CONSULTANTS:  
**Northland**  
Consulting Engineers L.L.P.  
Structural, Civil and Forensic Engineering Services  
102 South 21st Ave. West Suite #1  
Duluth, Min. 55806-2018  
Voice: (218)727-5695  
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PROJECT:  
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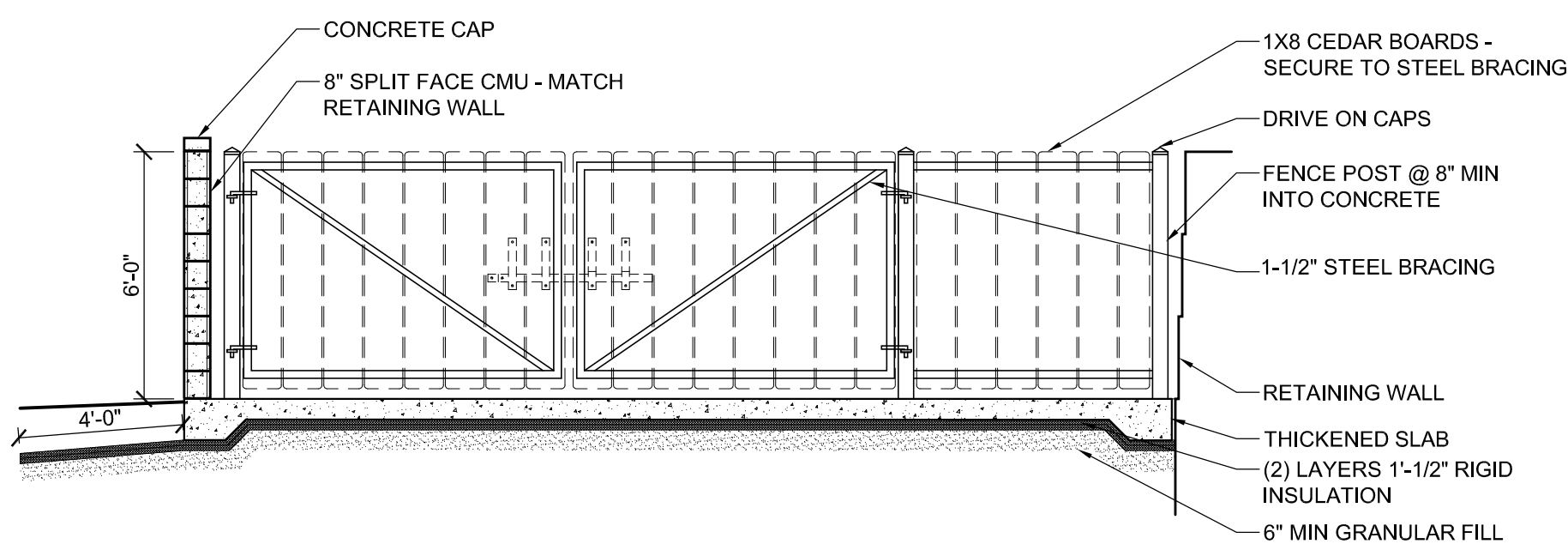
SITE DETAILS  
ZONING SUMMARY

REVISIONS:

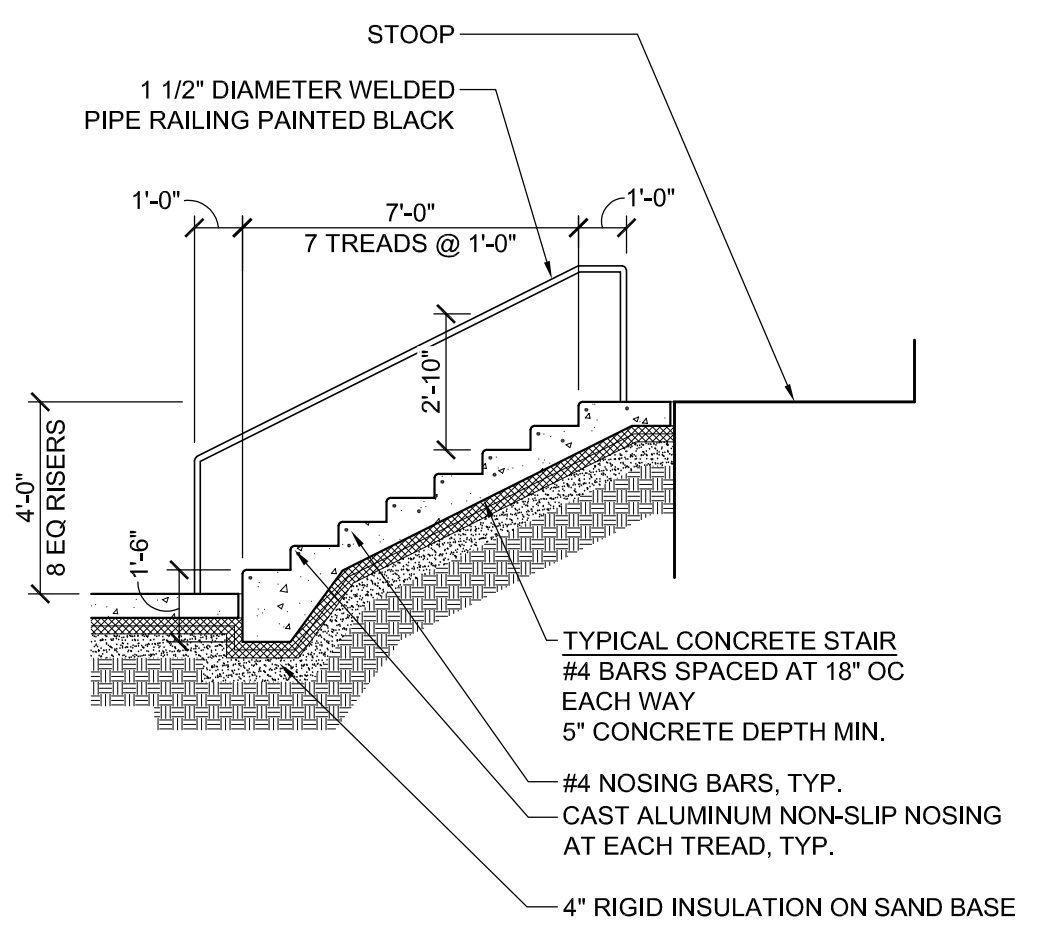
DATE:  
DRAWN: EWL, TFE  
CHECKED: WBS  
PROJECT: 1846

0 2"  
FULL SCALE

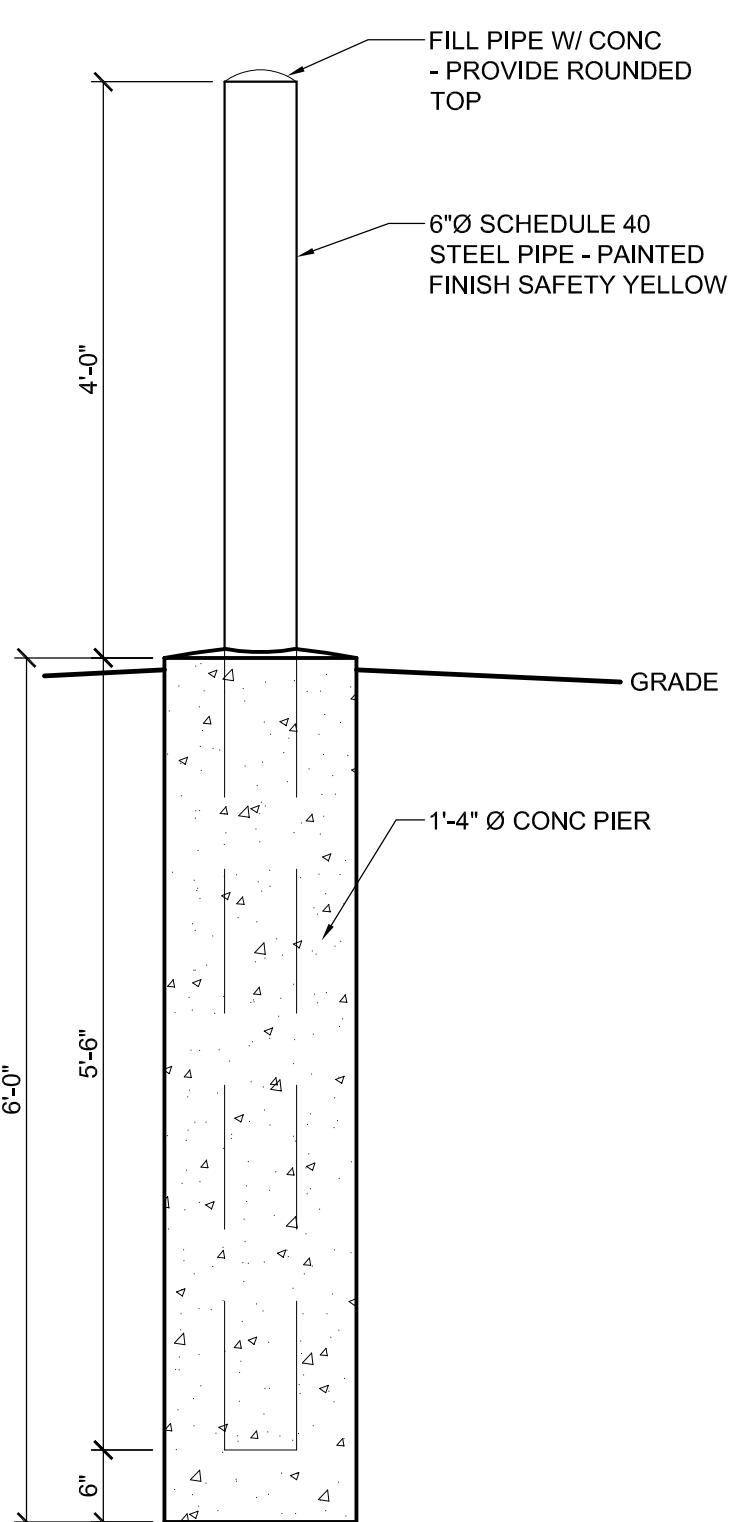
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**Z1.2**



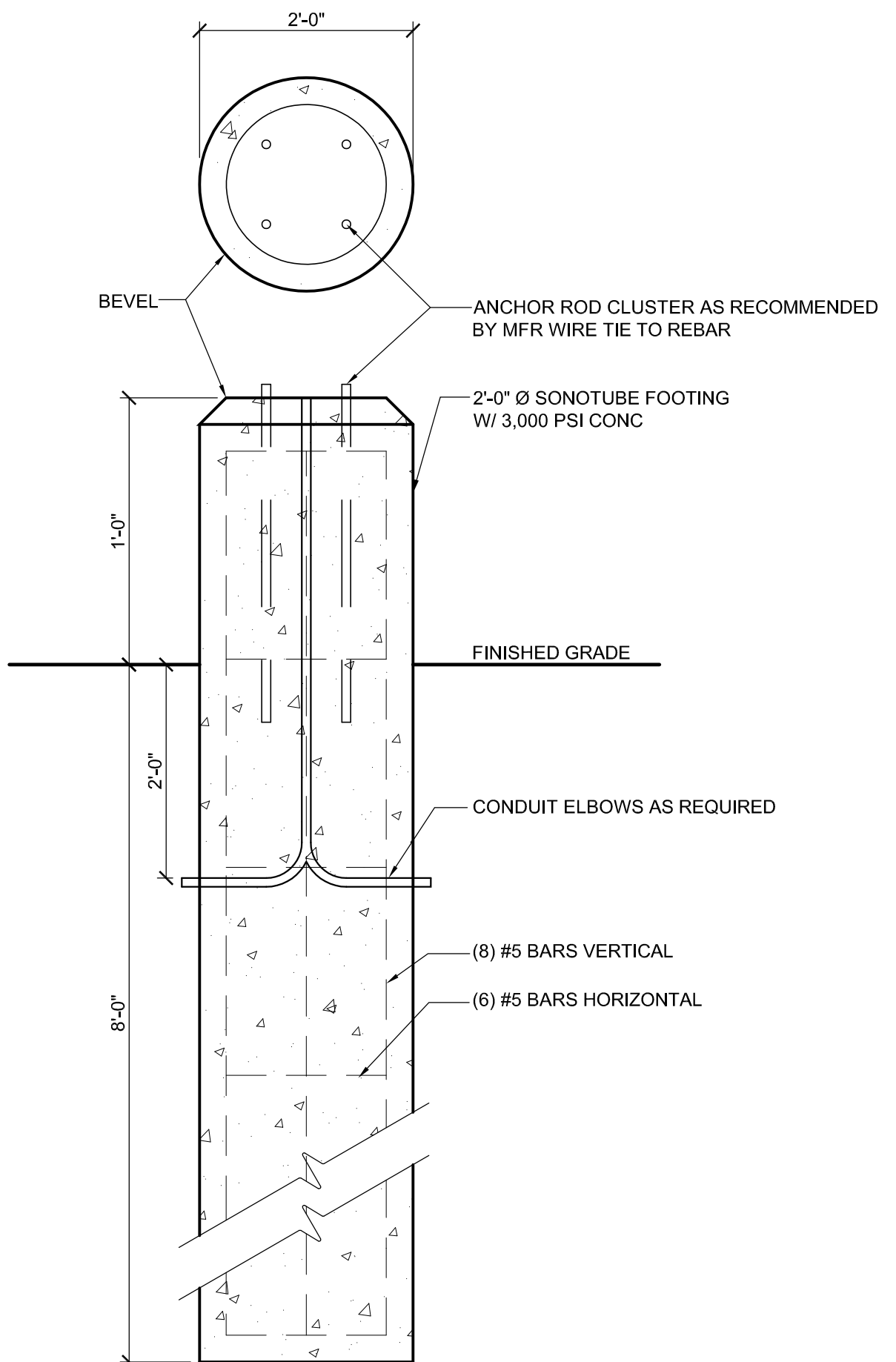
1  
Z1.2  
**COMMERCIAL CONTAINER ENCLOSURE**  
1/4"=1'-0"



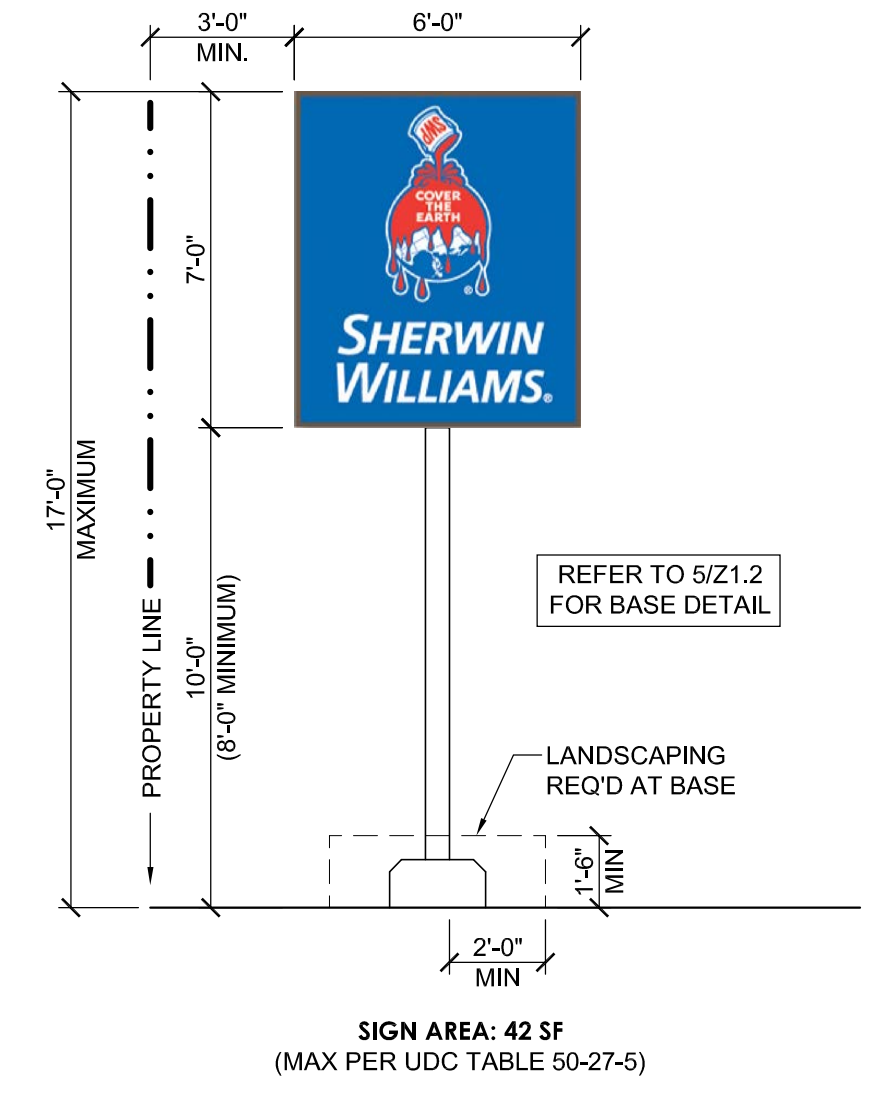
2  
Z1.2  
**EXTERIOR STAIR SECTION**  
1/4"=1'-0"



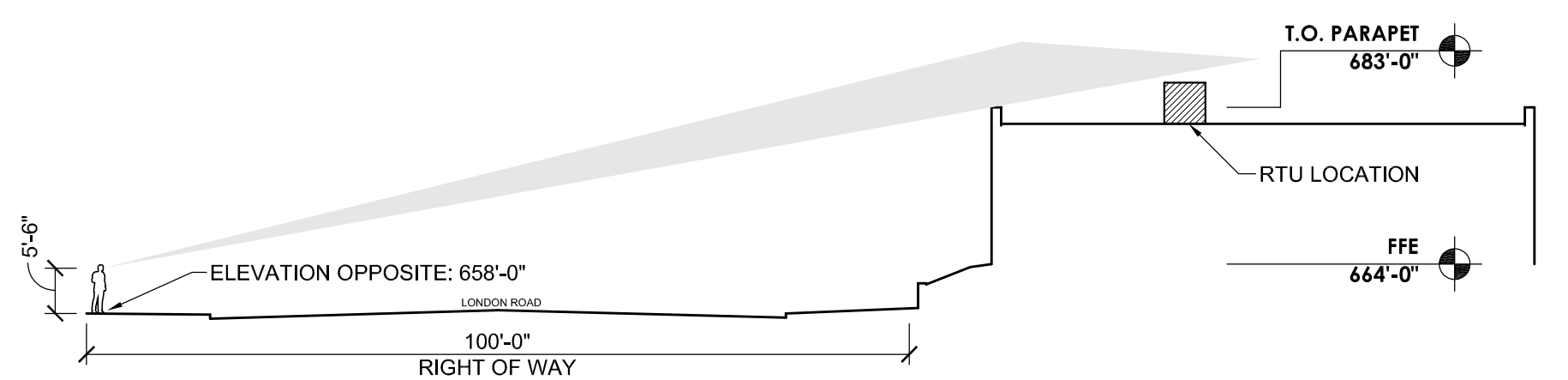
4  
Z1.2  
**BOLLARD DETAIL**  
3/4"=1'-0"



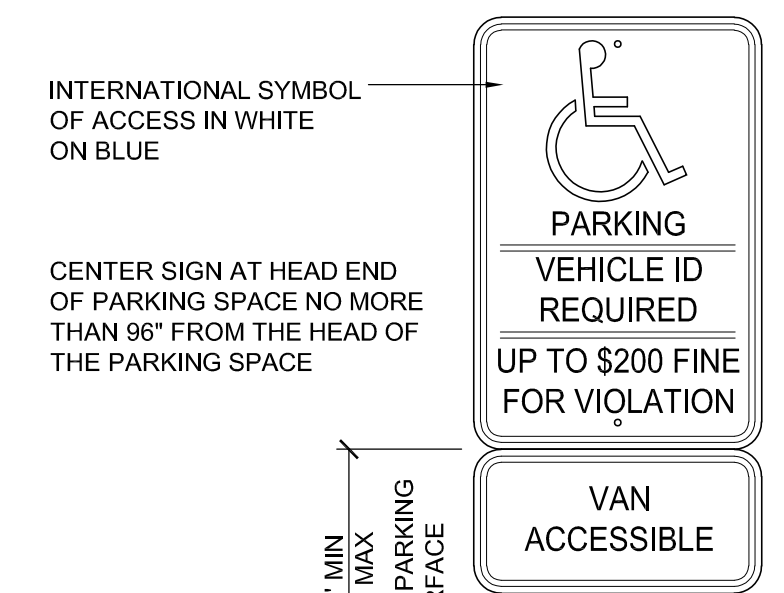
5  
Z1.2  
**POLE BASE DETAIL**  
3/4"=1'-0"



3  
Z1.2  
**FREESTANDING POLE SIGN**  
1/4"=1'-0"



7  
Z1.2  
**MECHANICAL SCREENING**  
1"=20'-0"

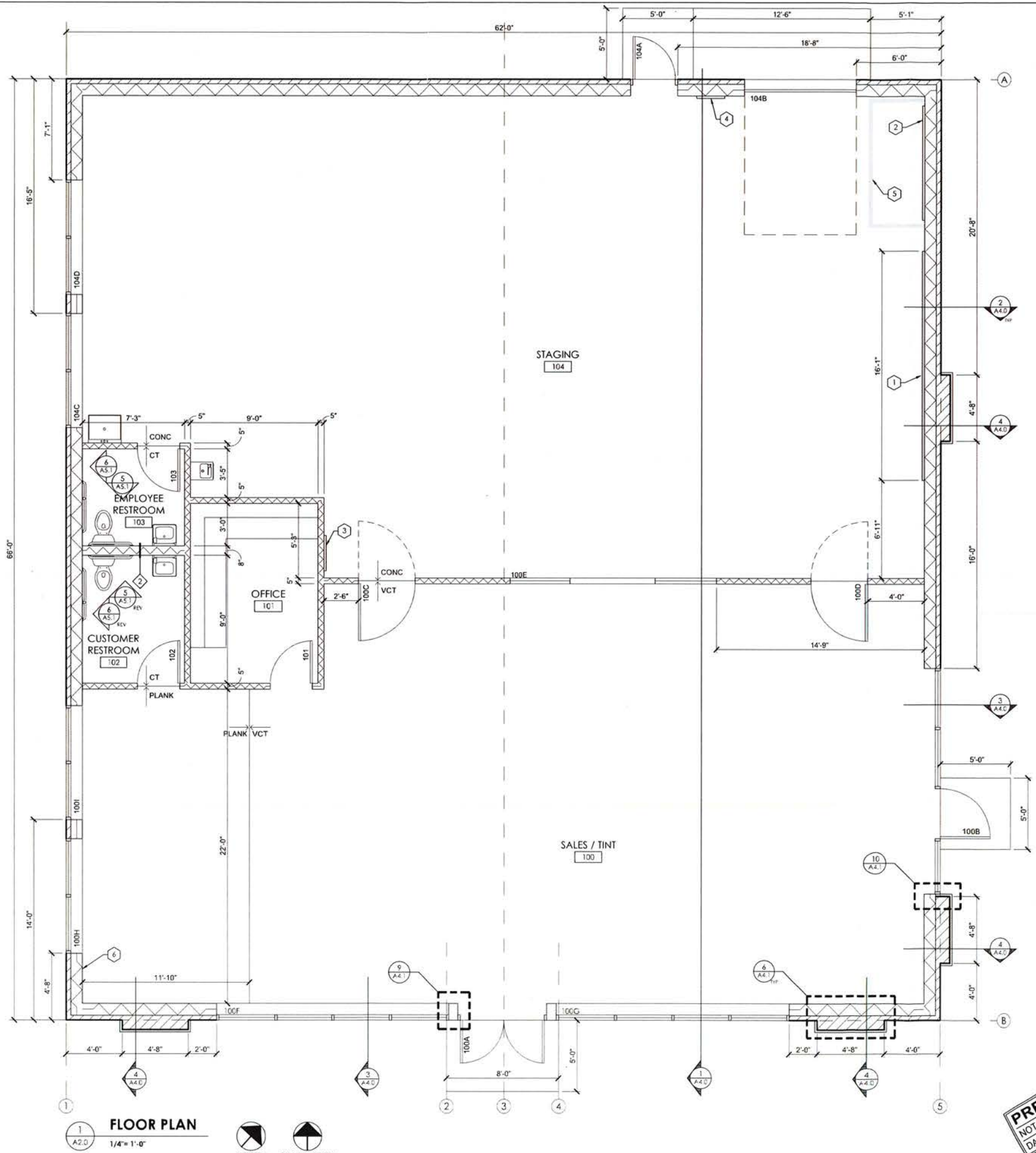


6  
Z1.2  
**ACCESSIBLE PARKING SIGN**  
N.T.S.

**PRELIMINARY**  
FOR CONSTRUCTION  
DATE: 02/12/2019

- GENERAL NOTES:**
1. ALL WALLS 'TYPE 1' UNLESS NOTED OTHERWISE.
  2. REFER TO THE ATTACHED SHERWIN WILLIAMS STANDARDS DRAWING SHEETS FOR MECHANICAL, ELECTRICAL, AND PLUMBING REQUIREMENTS.

- KEYED FLOOR PLAN NOTES:**
- 1 3/4" PLY FASTENED TO GYP BD - PAINT
  - 2 PHONE / ELECTRICAL PANEL - PROVIDE 3/4" PLY
  - 3 NETWORK PANEL - PROVIDE 3/4" PLY
  - 4 CHARGER PANEL - PROVIDE 3/4" PLY
  - 5 3" SAFETY YELLOW FLOOR STRIPE
  - 6 ROOF LEADER - CONNECT TO STORM



**FLOOR PLAN**  
 1/4" = 1'-0"  
 NORTH PLAN NORTH

**PRELIMINARY**  
 NOT FOR CONSTRUCTION  
 DATE: 1/7/2019

PO Packet 02-12-19  
**SCALZO**  
 architects  
 SCALZO ARCHITECTS, LTD.  
 1901 South Street  
 Duluth, Minnesota 55812  
 Tel: 218.722.4319  
 Fax: 218.722.3535

**CONSULTANTS:**  
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**PROJECT:**  
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**OWNER:**  
 JONATHAN BRAUER, TRUSTEE  
 VIRGINIA D BRAUER TRUST  
 4624 CEDARWOOD ROAD  
 MINNEAPOLIS, MINNESOTA 55416

FLOOR PLAN

REVISIONS:

DATE:  
 DRAWN: EWL, TFE  
 CHECKED: WBS  
 PROJECT: 1846



SHEET NO.  
**A2.0**  
 56



CONSULTANTS:



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 Duluth, Mn. 55806-2018  
 Voice: (218)727-5995  
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PROJECT:

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 DULUTH, MINNESOTA 55812



OWNER:  
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SOUTH ELEVATION  
 EAST ELEVATION

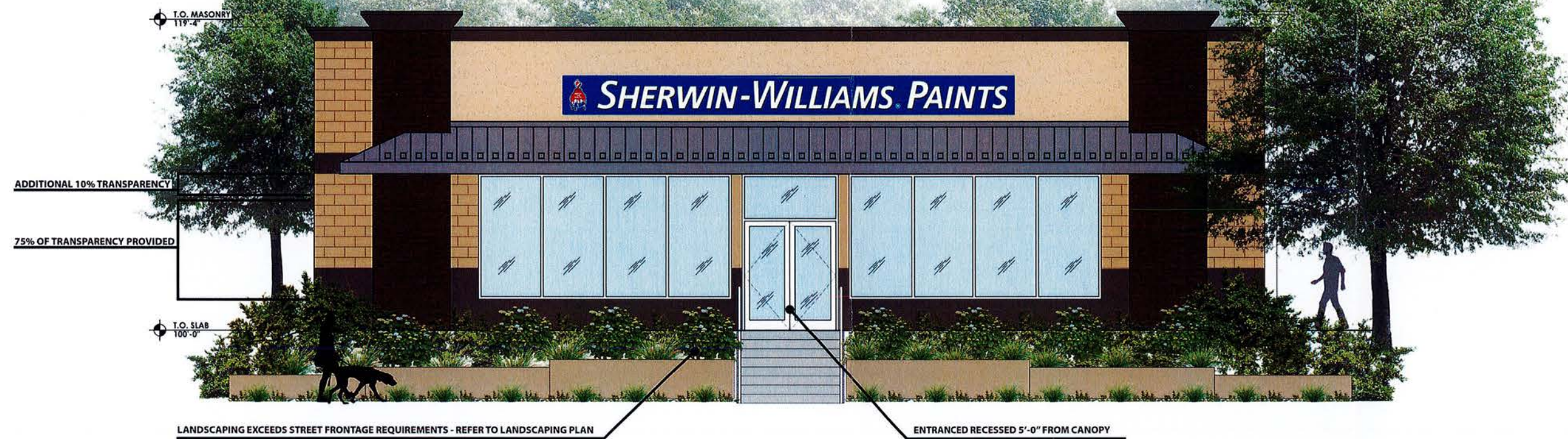
REVISIONS:

DATE: JANUARY 2, 2019  
 DRAWN: EWL, TFE  
 CHECKED: WBS  
 PROJECT: 1846

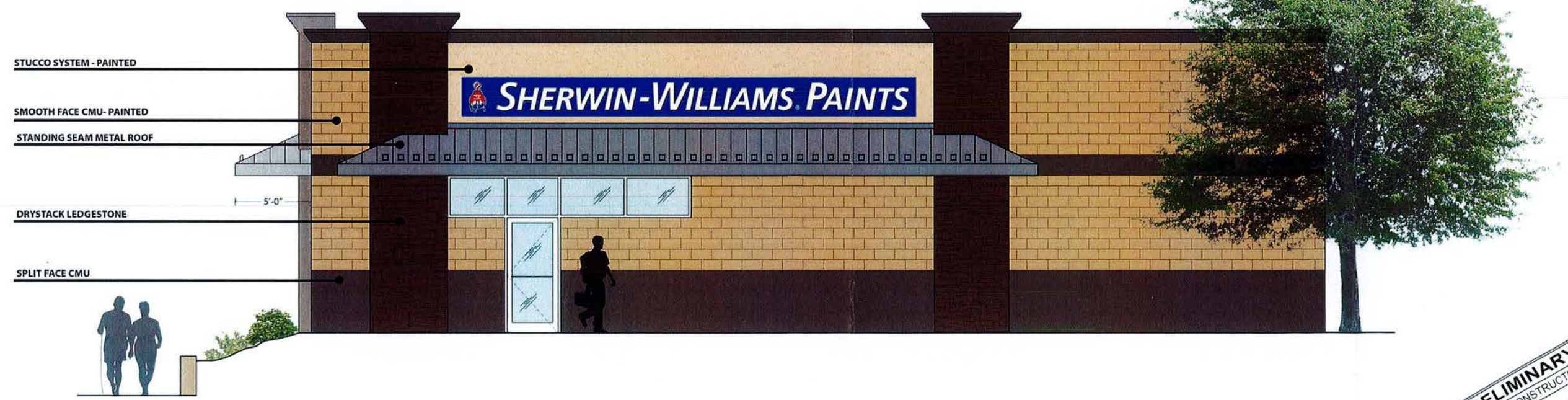


SHEET NO.

**A3.0**



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



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

**PRELIMINARY**  
 NOT FOR CONSTRUCTION  
 DATE: 1/7/2019

CONSULTANTS:



102 South 21st. Ave. West Suite #1  
Duluth, Min. 55806-2018  
Voice: (218)727-5995  
Fax: (218)727-7779  
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PROJECT:

**SHERWIN WILLIAMS**  
1801 LONDON ROAD  
DULUTH, MINNESOTA 55812



OWNER:

JONATHAN BRAUER, TRUSTEE  
VIRGINIA D BRAUER TRUST  
4624 CEDARWOOD ROAD  
MINNEAPOLIS, MINNESOTA 55416

NORTH ELEVATION

WEST ELEVATION

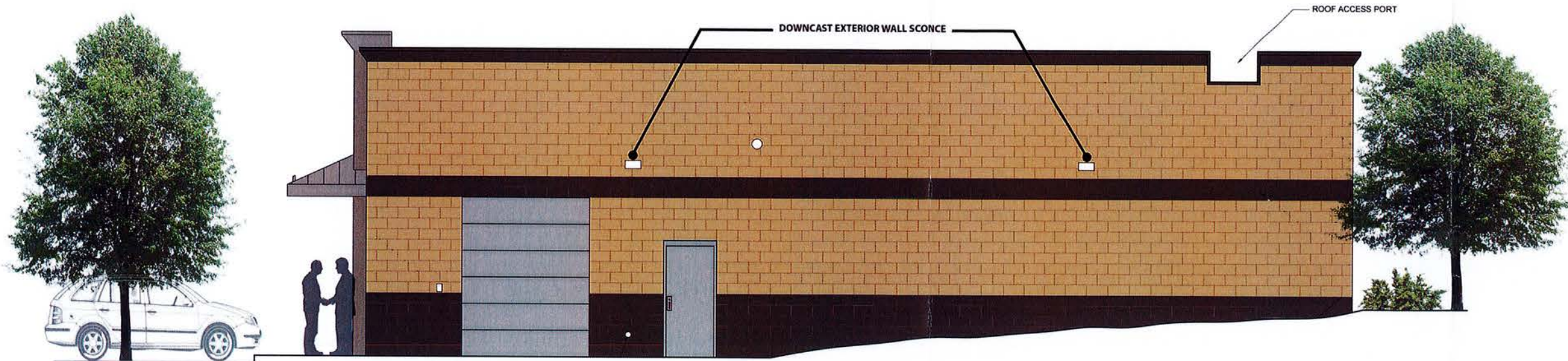
REVISIONS:

DATE: JANUARY 2, 2019  
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CHECKED: WBS  
PROJECT: 1846

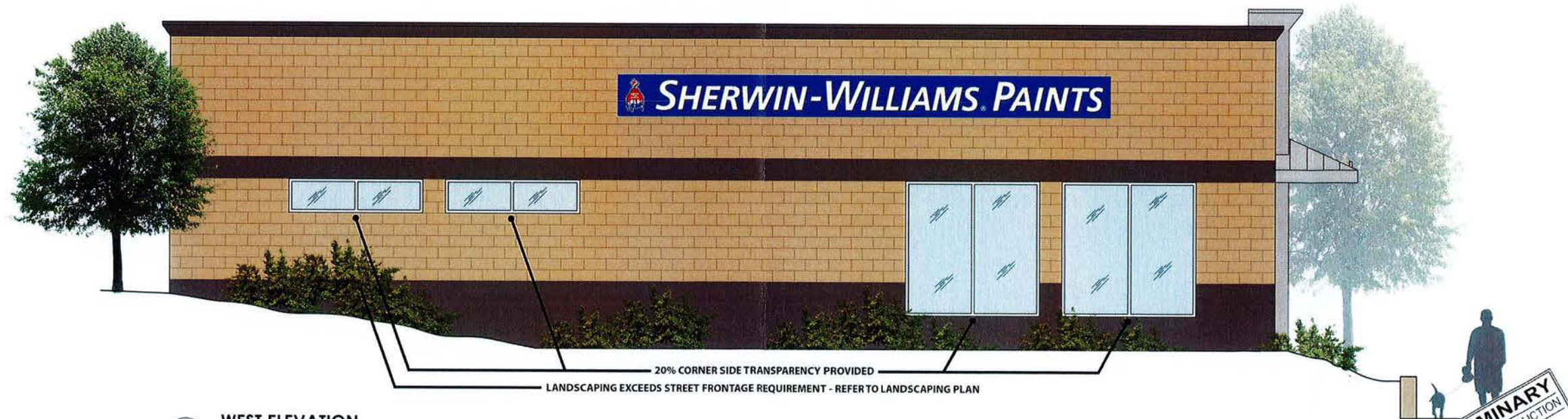


SHEET NO.

**A3.1**



1  
A3.1  
**NORTH ELEVATION**  
1/4"=1'-0"



2  
A3.1  
**WEST ELEVATION**  
1/4"=1'-0"

**PRELIMINARY**  
NOT FOR CONSTRUCTION  
DATE: 1/7/2019



## PLANNING &amp; ECONOMIC DEVELOPMENT

Community Planning Division  
City Hall – 411 W 1<sup>st</sup> Street – Room 110  
Duluth, Minnesota 55802  
218-730-5580 / [planning@duluthmn.gov](mailto:planning@duluthmn.gov)

## MEMORANDUM

**DATE:** February 1, 2019  
**TO:** Planning Commission  
**FROM:** Steven Robertson, Senior Planner  
**SUBJECT:** UDC Text Amendment – Daycares and Preschools in the Mixed Use Business (MU-B) district.

Staff has prepared a draft text amendments to the Unified Development Chapter related to allowing day care facilities and preschools in the Mixed Use Business (MU-B) zone district. The proposed amendments are attached in the draft ordinance attached with this memo, underlined and highlighted in yellow text. This proposed change is being made after discussions with from staff of the Duluth Seaway Port Authority.

**Existing Definitions:**

MU-B District. 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 50-19.8;

Daycare facility. A facility that provides accommodations for persons of any age who receive custodial care for less than 24 hours by individual other than parents or guardians, relatives by blood, marriage, or adoption, and in a place other than the home of the person cared for.

Preschool. An establishment licensed by the state to provide a systematic organization or arrangement of activities, personnel, materials, and equipment in a facility to promote the physical, intellectual, social, and emotional development of a child, who is at least 33 months old but who has not yet attended the first day of kindergarten, in the absence of the parent for a period of less than 24 hours a day.

**Proposed Text Amendment:****Daycare facility, small and large, and Preschools**

1. For all new uses, or uses expanded in size or density after May 1, 2019, the use must provide:
  - A. An outdoor exercise area with fencing that meets the height, setback, design requirements of this Chapter. Outdoor exercise areas must be separated from improved public streets, off-street parking, and loading areas by at least 20 feet, and
  - B. Off-street parking for pick-up and drop-off sufficient to accommodate at least 15% of the maximum licensed capacity at any one time. These pick-up and drop-off areas must be clearly signed as for pick-up and drop-off only, and shall not conflict with safe on-site pedestrian and vehicular movements. This specific standard does not apply to uses with the Downtown and Canal Park Special Parking Areas in 50-24.
2. In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20 percent of the lot or parcel area;
3. In the MU-B district, as part of the application requirement for a Special Use Permit, the project proposer of a new use or expansion in size or intensity of an existing use must submit the written consent of the owners of 2/3 of those properties located wholly or partially within 350 feet of the project location; or the project proposer may submit a letter of support from the the owner, operator, or original developer of that business park.

**TABLE 50-19.8: USE TABLE**

	Residential						Mixed Use					Form									Special				Use Specific Standards	
	R-C	RR-1	RR-2	R-1	R-2	R-P	MU-N	MU-C	MU-I	MU-B	MU-W	MU-P	F-1	F-2	F-3	F-4	F-5	F-6	F-7	F-8	F-9	I-G	I-W	P-1		AP
<b>Offices</b>																										
Bank							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	S	P <sup>3</sup>	P	P	P	P	P	P	P	P	P					50-20.3.E
Office					S <sup>2</sup>		P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	P	P	P					50-20.3.M
Data center							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	S	P <sup>3</sup>	U	U	U	U	U	U	U	U	U	P				
<b>Outdoor Recreation &amp; Entertainment</b>																										
Golf course		S	S			P <sup>3</sup>																		P		
Marina or yacht club											P <sup>1</sup>											S	S			
Recreational vehicle park	S	S	S								S												S			50.20.3.P
Other outdoor entertainment or recreation use not listed		S						S		S	S															50.20.3.N
<b>Personal Services</b>																										
Business park support activities										P	P <sup>3</sup>															
Preschool		S	S	S	P <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	S	P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	S	P	S					<b>50-20.3.I</b>
Daycare facility, small (14 or fewer)	P	P	P	P	P <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	S	P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	P	P	P					50-20.3.I
Daycare facility, large (15 or more)		S	S	S	S <sup>2</sup>	P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	S	P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	S	P	S					50-20.3.I
Funeral home or crematorium					S <sup>2</sup>		S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P		P <sup>3</sup>		P		P		P				P				
Mini-storage or self-service storage facility		S								P							P		P	P		P	P			50-20.3.L
Personal service and repair, small (less than 10,000 sq. ft.)						P <sup>3</sup>	P <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P <sup>3</sup>	P	P	P	P	P	P	P	P	P					
Personal service and repair, large (10,000 sq. ft. or more)							S <sup>2</sup>	P <sup>1</sup>	P <sup>1</sup>	P	P <sup>1</sup>	P <sup>3</sup>		P		P		P		P		P				

**..Title**

AN ORDINANCE AMENDING SECTIONS 50-19.8 USE TABLE AND 50-20.3 COMMERCIAL USES TO ALLOW DAY CARE FACILITIES AND PRESCHOOLS IN THE MIXED USE BUSINESS (MU-B) ZONE DISTRICT

**..Body**

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. That Section 50-19.8 of the Duluth City Code, 1959, as amended, be amended as follows:

Attachment 2, Table 50-19.8 Use Table

Section 2. That Section 50-30.3 of the Duluth City Code, 1959, as amended, be amended as follows:

### **50-20.3 Commercial uses.**

---

#### **A. Adult entertainment establishment.**

All adult entertainment establishments shall comply with MSA 617.242 and Chapter 5 of this Code;

#### **B. Agriculture, community garden, farmers market, general, and urban.**

##### **1. Agriculture, community garden.**

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures shall follow requirements in Section 50-21. If no primary structure is present, structures shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall exceed 20 feet in height;

(c) Fences must adhere to restrictions in Section 50-26.4;

(d) No sale of produce or other goods is allowed;

(e) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events, are not allowed unless permitted within the zone district;

(f) For outdoor growing operations, mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(g) Keeping of bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is prohibited;

(h) All tools and equipment shall be stored in an enclosed, secured structure;

2. Agriculture, farmers market.

(a) Farmers markets are only allowed between the hours of 7:00 a.m. to 7:00 p.m.;

(b) As part of the special use permit process, planning commission shall determine that the farmer's market will provide adequate on-site parking, or that sufficient public parking exists nearby;

(c) Sales shall be limited to no more than three days per week;

3. Agriculture, general.

(a) No killing or dressing of poultry, rabbits or other small or large animals, fish or creatures shall be permitted, other than the animals, fish or creatures raised on the premises and that such killing or dressing is done in an accessory building located not less than 200 feet from any lot line;

(b) All buildings and enclosures, including fences, for the feeding, breeding or milking of large livestock or small animals, such as poultry, rabbits, fish and other similar animals, but not including pasturing and grazing, of such animals, must be located not less than 200 feet from any lot line;

(c) Any production or processing of cheese, honey or other products raised on the farm must be done inside a building and in accordance with all state regulations;

4. Agriculture, urban.

(a) Compost bins, water tanks, and other containers shall be controlled for odors and pests and shall be screened from view by adjacent properties and any public right-of-way with a fence at least as tall as the container, or with shrubs, trees, and/or perennials planted so that at maturity they will provide at least 75 percent opacity to the height of the container. If not visible from a public right-of-way or adjacent property, this screening is not required;

(b) If a primary structure is present, accessory structures, including ones of a temporary nature such as hoop houses, shall follow requirements in Section 50-21;

(c) For urban agriculture uses where operations are primarily conducted within a building, such as a greenhouse or hydroponic operation, such building shall be considered the primary building and not an accessory building. For urban agriculture uses where operations are primarily conducted outside, structures (including ones of a temporary nature such as hoop houses) shall be allowed no closer than 20 feet from the front property line, three feet from any side property line, and five feet from the rear property line. No accessory structure shall exceed 20 feet in height, and accessory structures shall not exceed more than 30 percent of the lot area;

(d) Fences must adhere to restrictions in Section 50-26.4;

(e) No sale of produce or other goods is allowed;

(f) Events such as weddings, parties and other activities normally associated with an event center, religious assembly, or other use that typically holds large events, are not allowed unless permitted within the zone district;

(g) For outdoor growing operations, mechanized equipment similar in scale to that designed for household use shall be permitted. Use of larger mechanized farm equipment is generally prohibited; provided, however, that during the initial preparation of the land, heavy equipment may be used;

(h) Keeping of fish for aquaculture or aquaponics is allowed, subject to any conditions of the special use permit. Keeping of chickens, rabbits and bees is permitted, as regulated by Chapter 6 of the City Code. Keeping of all other animals is prohibited unless specifically approved in the City Code;

(i) All tools and equipment shall be stored in an enclosed, secured structure;

**C. Automobile and light vehicle repair and service.**

1. No displays or storage of merchandise, parts or refuse may be located closer than 20 feet from any public right-of-way;
2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;
3. All areas for outdoor storage of automobiles or light vehicles shall be screened from adjacent properties by a dense urban screen regardless of the use on the adjacent property;

**D. Automobile or light vehicle sales, rental or storage.**

In the MU-C district, the use is permitted when located at least 100 feet from any R district;

**E. Bank.**

1. When in the MU-N district, the following standards apply:
  - (a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;
  - (b) Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend. Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any residential use or structure on the same property or within the same development;
  - (c) Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing or a dense urban screen;
  - (d) The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;
  - (e) Banks are limited to no more than two drive-through windows and one drive-through lane for ATM services on the premises;
2. Any drive-through lane that is located between a bank and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;
3. Banks in the R-P, F-1, F-3, F-5, F-6, F-7, F-8 or F-9 districts may not have drive-through facilities;
4. Drive-through lanes shall allow for stacking space for three cars;

**F. Bed and breakfast.**

This is a primary use of land, and the owner need not reside in the use. The use shall:

1. Have no more than 12 habitable units;
2. If located in a residential zone district, the use shall appear outwardly to be a one-family dwelling, giving no appearance of a business use other than allowed signs;
3. If located in a residential zone district, the use shall have no greater impact on surrounding public areas or infrastructure or natural resources than a fully occupied private home with house guests;
4. Be located on a lot or tract containing a minimum of 0.6 acre;

5. Contain a minimum of 1,500 square feet of area on the first floor of the main building;
6. Dining areas shall not exceed five seats per habitable unit. In addition to resident guests, only guests of resident guests shall be permitted to dine in a bed and breakfast, or guests participating in meetings or other private events hosted by the facility when other overnight guests are not present, not to exceed the approved seating capacity of the facility. For-profit events on the premises that involve a total number of participants in excess of the approved dining area seating capacity shall be limited to six days per year and shall be restricted to the period of October 15 through June 15;
7. Shall not have signage exceeding 12 square feet in size, and any signage shall complement the architecture of the structure;
8. Shall limit each guest stay to a maximum of 21 consecutive days;

#### G. Building materials sales.

1. Outdoor storage is limited to ten percent of the parcel's land area, and shall not be permitted in any required front yard area;
2. Each such area shall be screened from view from any ground floor window or door on any adjacent property, and from all adjacent rights-of-way, by an opaque fence or wall between six feet and eight feet in height. The fence may exceed eight feet in height where the difference in grade between the property line or right-of-way and the outdoor storage area makes a taller fence necessary to effectively screen the area;
3. A landscaped earth berm may be used instead or in combination with a required fence or wall;

#### H. Convention center.

A convention center may not exceed 50,000 square feet if it is within 500 feet of a multi-family use, or 15,000 square feet if it is within 500 feet of a one or two family use;

#### I. Daycare facility, small and large, and Preschools

1. For all new uses, or uses expanded in size or density after May 1, 2019, the use must provide:
  - A. An outdoor exercise area with fencing that meets the height, setback, design requirements of this Chapter. Outdoor exercise areas must be separated from improved public streets, off-street parking, and loading areas by at least 20 feet, and
  - B. Off-street parking for pick-up and drop-off sufficient to accommodate at least 15% of the maximum licensed capacity at any one time. These pick-up and drop-off areas must be clearly signed as for pick-up and drop-off only, and shall not conflict with safe on-site pedestrian and vehicular movements. This specific standard does not apply to uses with the Downtown and Canal Park Special Parking Areas in 50-24.
2. In the RR-1 and RR-2 districts this use and related parking facilities and structures other than driveways are limited to no more than 20 percent of the lot or parcel area;
3. In the MU-B district, as part of the application requirement for a Special Use Permit, the project proposer of a new use or expansion in size or intensity of an existing use must submit the written consent of the owners of 2/3 of those properties located wholly or partially within 350 feet of the project location; or the project proposer may submit a letter of support from the the owner, operator, or original developer of that business park.



**J. Filling station.**

1. No displays or storage of merchandise, parts or refuse may be located closer than ten feet from any public right-of-way;
2. A dense urban screen must be installed and maintained along all side and rear property lines abutting a residential or mixed use district;
3. A vehicle wash facility or fueling pump or dispenser must be at least 50 feet from any property line containing a residential structure, excluding any residential use or structure on the same property as the filling station or within the same development. All outdoor speakers and audio components of a vehicle wash facility or fuel pump or dispenser located within 125 feet of any residential structure shall be muted daily between the hours of 10:00 p.m. and 6:00 a.m.
4. In all residential zone districts and the mixed use neighborhood (MU-N district), or any form district where a filling station is an allowed use, the following additional standards apply:
  - (a) New structures, including car washes, convenience stores, and canopies shall be located close to the street to define the street edge, and shall provide transparent windows and doors for retail buildings to ensure security and visibility between the store, the pump islands and surrounding streets, with interior signage to make opaque no more than 30% of any transparent window or door;
  - (b) An unobstructed, five-foot wide minimum, pedestrian walkway between the public sidewalk (or if none exists at the time of development, the adjacent street curb) and building entrances shall be provided;
  - (c) Curb cuts to allow for vehicle traffic into and out of the site shall be located a minimum of 50 feet from street intersections, unless a greater or lesser distance is specified by the City Engineer for reasons of traffic or pedestrian safety. The number and width of curb cuts from the public street shall be evaluated to ensure pedestrian safety and to encourage walkability, including evaluation to consider appropriate car entrance locations while allowing for necessary tanker truck turning;
  - (d) Vehicle stacking lanes shall be located away from adjacent uses such as residential and outdoor amenity areas to reduce the impacts of noise and pollution caused by stacking vehicles near such uses. Landscaping and fencing shall be used to buffer potential impacts;
  - (e) Noise-generating areas, including auto service bays, car wash openings, vacuum stations, outdoor loading areas, garbage storage and stacking lanes, shall be located away from adjacent residential areas and outdoor amenity areas. Potential noise generators shall be buffered with landscaping, berming, or fencing to reduce impacts;
  - (f) Site and sign illumination shall be designed to avoid glare/light spillover toward adjacent land uses. Proposed concrete color shall take glare and light spillover into account;

**K. Grocery store, small and large.**

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;

**L. Mini-storage and self-service storage facility**

Mini-storage facilities shall comply with the following standards when located in RR-1, MU-B, I-G and I-W districts:

1. The use shall be contained within an enclosed building or buildings;
2. If the use abuts a residential zone district on any property line, building architecture shall employ sloped roofs and shall display wall relief features and colors commonly found in residential construction;
3. The use shall be designed so that doors to individual storage units do not face any abutting street frontage;
4. At least 50 percent of the wall surface area of any wall facing an abutting public street shall be faced with brick or split-block materials. Exposed concrete masonry unit (CMU) construction is not permitted on those facades;
5. Hours of public access to storage units abutting one or more residential zone districts shall be restricted to the period from 6:00 a.m. to 10:00 p.m.;
6. Signage shall be limited to one 40 square foot free standing sign and 20 square feet of non-illuminated wall signage. Signs shall not be located closer than ten feet to the front property line.
7. Mini-storage facilities in the RR-1 district are only allowed on properties within the RR-1 district that are also within the Airport Overlay District Safety Zone B. There shall be a landscaped or naturally vegetated buffer a minimum width of 50 feet along all property lines in addition to a dense urban screen along all side and rear property lines;

Self-service storage facilities shall comply with the following standards when located in the F-5, F-7 and F-8 districts:

1. This use must be completely contained with an enclosed principal building.
2. This use is permitted only on the lowest floor or basement of the building. This use is not allowed on any floor that is above grade with the primary street, except for office or lobby areas associated with the storage facility;
3. Access to the storage units may not be provided from the primary street. Where the access is on a secondary street, parking must be available within 30 feet of the doorway and the doorway may not be a roll up door;
4. Signage for this use is permitted as a commercial use in Sec. 50-27;

#### M. Office.

1. In the MU-I district, offices are limited to those in support of the permitted institutional uses in the district; general offices unrelated to the activities of those institutions are not permitted;
2. In the MU-B district, offices are limited to those in support of the permitted industrial uses in that zone district; general offices unrelated to the activities of those institutions are not permitted;
3. In the F-6 district, offices may not have drive-through facilities;

#### N. Other outdoor entertainment or recreation use not listed.

No circus ground, carnival ground, event ground, or amusement park shall be approved within 300 feet of an R-C, RR-2 or R district;

#### O. Parking lot or parking structure (primary use).

##### 1. Parking lots.

(a) Parking lots (primary use) shall be stand alone and self-contained, separate and distinct from other adjacent land uses. They need to conform to UDC requirements, such as lot frontage and drive aisle width, independent of adjacent properties;

(b) When in the MU-N or R-2 district, the following standards apply:

(i) Primary use parking lots shall meet all the street landscaping provisions in Section 50-25.3 as applicable. In addition, primary use parking lots shall be screened from adjacent structures and uses. Such screening shall consist of a continuous, view-obscuring fence, wall or compact evergreen hedge along all property lot lines which are adjacent to residential structures and uses, which shall be broken only for egress and access driveways and walkways. Such fence, wall or hedge shall be not less than four feet nor more than six feet in height;

(ii) Primary use parking lots shall meet all the landscaping provisions in Section 50-25.4, as applicable. In addition, regardless of the number of parking spaces provided, the parking lot must set aside at least 15 percent of the interior parking area for landscaping islands;

(iii) If the primary use parking lot abuts an improved public alley, driveway access must be provided to the alley;

(iv) Primary use parking lots must be designed to be a similar lot size as other lots in the neighborhood, and shall not alter the essential character of the neighborhood;

##### 2. Parking structures.

(a) In the MU-C district, any parking structure shall be located at least 50 feet from any RC, RR or R district;

#### P. Recreational vehicle (RV) park.

1. Within any flood plain district, recreational vehicles that do not meet the exemption criteria specified in Subsection 2 below shall be subject to the elevation and anchoring provisions of Section 50-18.1.C for new structures;

##### 2. Criteria for exempt recreational vehicles:

(a) The vehicle must have a current license required for highway use;

(b) The vehicle must be highway ready, meaning on wheels or the internal jacking system, attached to the site only by quick disconnect type utilities commonly used in campgrounds and recreational vehicle parks;

(c) No permanent structural type additions may be attached to the vehicle;

(d) The vehicle and associated use must be permissible in any pre-existing, underlying zoning district;

(e) Accessory structures are not permitted within the floodway district. Any accessory structure in the flood fringe district must be constructed of flood-resistant materials and be securely anchored as specified in Section 50-18.1.C.3.v;

(f) Cost of an accessory structure must not exceed \$500;

3. Recreational vehicles that are exempt in Section 50-20.3.P.2 lose this exemption when development occurs on the site exceeding \$500 for an accessory structure such as a garage or storage building. The recreational vehicle and all accessory structures will then be treated as a new structure and shall be subject to the elevation/floodproofing requirements and the land use standards specified in Section 50-18.1.C.3(C) of this

chapter. No development or improvement on the parcel or attachment to the recreational vehicle is allowed that would hinder the removal of the vehicle to a flood-free location;

4. New commercial recreational vehicle parks or campgrounds, subdivisions or condominium associations, and the expansion of any similar existing use exceeding five units or dwelling sites may be allowed subject to the following:
  - (a) On any new or replacement recreational vehicle site in the flood fringe district, the recreational vehicle and its contents must be placed on fill above the regulatory flood protection elevation and adequate road access to the site must be provided in accordance with Section 50-18.1.C.5(d). No fill placed in the floodway to meet the requirements of this section shall increase the flood stage of the regional flood;
  - (b) Any new or replacement recreational vehicle site located in the floodway district, or as an alternative to 4(a) above in the flood fringe district, may be allowed as a special use in accordance with the following provisions and the provisions of Section 50-37.10;
    - The applicant must submit an emergency plan for the safe evacuation of all vehicles and people acceptable to the city council as specified in Section 50-18.1.C.5(d). The plan shall demonstrate that adequate time and personnel exist to carry out an evacuation, and that all vehicles will meet the exemption criteria specified in Section 50-20.Q.2 above; and
    - All attendant sewage and water facilities for new or replacement recreational vehicles must be protected or constructed so as to not be impaired or contaminated during times of flooding;

#### Q. Restaurant.

1. In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area;
2. Drive-ins and drive-throughs for restaurants are only allowed in the MU-N, MU-C, MU-B, MU-P, F-2, F-3, F-4, and F-5 zone districts;
3. Drive-through lanes shall allow for stacking space for 5 cars;
4. When in the MU-N district, the following additional standards apply:
  - (a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;
  - (b) Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend. Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any residential use or structure on the same property or within the same development;
  - (c) Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;
  - (d) The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;
  - (e) Restaurants are limited to one drive through lane and one speaker box;
5. When in the F-3 and F-5 districts, the following additional standards apply:
  - (a) Access to and from the drive-through must be through the alley, if alley exists;
  - (b) Restaurants are limited to one drive through lane;

**R. Retail sales, small and large.**

1. Merchandise shall not be located within or obstruct required parking and pedestrian and vehicular circulation areas;
2. Outdoor display is for the temporary display of merchandise and not for the permanent storage of stock;
3. Retail stores are limited to one drive-through window;
4. Any drive-through lane that is located between a retail store and a residential district or structure shall be buffered from the residential district or structure by a dense urban screen and shall not be open past 10:00 p.m.;
5. Drive-through lanes shall allow for stacking space for three cars;
6. When in the MU-N district, the following standards apply:
  - (a) The speaker box and drive-through window must be at least 50 feet from any property line containing a residential structure;
  - (b) Drive-through may not open before 7:00 a.m. or after 10:00 p.m. during the weekday, or before 8:00 a.m. or after 10:00 p.m. on the weekend. Drive-through may be open at 6:00 a.m. during the weekday or at 7:00 a.m. on the weekend only if all speaker boxes and drive-through windows are at least 125 feet from any residential structure, excluding any residential use or structure on the same property or within the same development;
  - (c) Glare from cars in the drive-through lane and stacking space shall be shielded from adjacent residential properties through the use of screening, fencing, or a dense urban screen;
  - (d) The land use supervisor may require that the drive-through be located on the opposite side of the building from a residential use or that a masonry sound wall be constructed;

**S. Seasonal camp or cabin.**

1. In the R-C and RR-1 districts, buildings shall be located not less than 200 feet from any R district;
2. In the R-C district, the design of the site shall preserve the rural character by:
  - (a) Separating each camp or cabin site by at least 50 feet, measured from the closest points on each tent or cabin area;
  - (b) Preserving all natural vegetation not required to be removed for access roads, trails or public safety;
  - (c) Using gravel or pervious paving, rather than impervious materials, for all access road and driveways serving fewer than 25 camp or cabin sites;

**T. Veterinarian or animal hospital, and kennel**

1. In the R-C and RR-1 districts, a veterinarian or animal hospital is permitted provided that service is limited to large livestock/large animal care and any building or enclosure so used shall be located not less than 100 feet from any lot line;
2. In the R-2, R-P, MU-N and MU-C districts, a veterinarian or animal hospital is permitted provided that practice is limited to the treatment of small animals (household pets, i.e. dogs, cats, birds, that are ordinarily permitted in the house for company) and that all aspects of the facility are totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation;

3. For form districts that permit both a veterinarian or animal hospital, and kennel, all aspects of the facility must be totally contained (including kennel runs and exercise areas) within a soundproof building with adequate ventilation;

#### U. Vacation dwelling unit.

1. The minimum rental period shall not less than two consecutive nights.
2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two;
3. Off street parking shall be provided at the following rate:
  - (a) Vacation dwelling units licensed on May 15, 2016, shall provide the following minimum number of off street parking spaces:
    1. 1-2 bedroom unit, one space
    2. 3-4 bedroom unit, two spaces
    3. 5+ bedroom unit, three spaces.
  - (b) Vacation dwelling units licensed after May 15, 2016, shall provide the following minimum number of off street parking spaces:
    1. 1-2 bedroom unit, one space
    2. 3 bedroom unit, two spaces
    3. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
  - (c) Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street;
5. The property owner must obtain all licenses and permits from the city of Duluth and state of Minnesota required for guest occupancy on the property for two to 29 days;
6. The property owner must provide required documents and adhere to additional requirements listed in the city of Duluth's UDC application manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures;
7. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbecue grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties.
8. Any vacation dwelling unit that will be located in a multi-family structure that has nine or more dwelling units shall:
  - (a) Make available 24-hour staffing at a front desk that is accessible to all tenants;
  - (b) If determined applicable by the Land Use Supervisor, provide a letter from a duly established Home Owner's Association stating the support of the Home Owner's Association Board of Directors for the vacation dwelling unit, and enumerating any Home Owner's Association rules to be incorporated into the interim use permit;
9. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.
10. An owner of a vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to

conform to this section, as amended, for the remainder of the permit term. (Ord. No. 10039, 8-16-2010, § 1; Ord. No. 10041, 8-16-2010, § 5; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 17; Ord. No. 10153, 5-14-2012, § 2 Ord. No. 10192, 12-17-2012, § 10; Ord. No. 10225, 5-28-2013, § 6; Ord. No. 10286, 3-10-2014, § 8; Ord. No. 10329, 10-13-2014, § 2; Ord. No. 10415, 10-12-2015, § 2. Ord. No. 10451, 5-23-2016, Ord. No. 10451, 5-23-2016, § 1; Ord. No. 10461, 7-11-2016, § 2; Ord. No. 10514, 6-12-17, § 1; Ord. No. 10563, 4-9-18, § 2).

Section 3. That this ordinance shall take effect 30 days after its passage and publication. (Effective date: \_\_\_\_\_, 2019)

STATEMENT OF PURPOSE: This ordinance implements one minor text amendment to chapter 50 of the City Code, known as the Unified Development Chapter (UDC).

DRAFT