

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-006-0

ORDINANCE NO. _____

AN ORDINANCE GRANTING TO DANIEL NEFF A CONCURRENT USE PERMIT FOR THE INSTALLATION OF THE EXTERIOR STORAGE OF PROPANE TANKS IN A LOCKABLE METAL STORAGE CONTAINER TO PROJECT INTO THE MICHIGAN STREET RIGHT-OF-WAY.

CITY PROPOSAL:

The city of Duluth does ordain:

Section 1. Under the authority of Section 100 of the 1912 Home Rule Charter of the city of Duluth, as amended, and subject to the conditions, limitations and restrictions hereinafter set forth, permission is granted to Daniel Neff and its successor(s) in interests, referred to herein as the permittee, to construct and maintain the following:

(a) A lockable metal storage cabinet 18 inches deep and containing two 100 pound, 14 inches in diameter, propane tanks and resting on a concrete pad, and lying within five feet to 12 feet of the southwest corner of said Lot 34, Block 1, Central Division of Duluth; and

(b) A protective metal barrier attached to the existing building and extending outward two feet from the building and a width of three feet, on the described property as shown in Public Document No. _____.

Section 2. Before this ordinance shall be effective for any purpose whatsoever, the permittee shall file with the city clerk a duly executed and acknowledged written acceptance of the terms of this ordinance and a certification of insurance approved as to form by the city attorney evidencing that the permittee has in force a policy of insurance meeting the following requirements:

(a) Public liability insurance in an amount not less than \$3,000,000 on the release of a hazardous substance and single limits of \$1,500,000 for any number of claims arising from a single occurrence and in the amount not less than \$500,000 for property damage; and

(b) Insurance coverage shall include all permittee's activities occurring upon or within public easement occupied pursuant to this ordinance whether said

activities are performed by the permittee or its employees, agents or contractors; and

(c) The policy shall contain a condition that may not be cancelled without 30 days written notice to the city of Duluth and directed to the attention of the city attorney; and

(d) The city of Duluth shall be named as an additional insured; and

(e) The certificate shall also reference this ordinance by its ordinance number. Current ISO additional insured endorsement CG 20 10 is not acceptable. If the ISO 20 10 is used, it must be pre-2004 edition. Permittee shall cause a current version of the required insurance certificate to be filed with the city clerk while permission granted by this ordinance is exercised.

Section 3. The permit granted by this ordinance may be terminated at any time by the city official exercising departmental authority of the public easement if the city of Duluth determines to use the area occupied by the permittee for any public purpose in accordance with the duly dedicated public easement or other lawful use.

Unless a shorter notice period is necessitated by emergency circumstances, or the violation of the conditions set forth in this ordinance, giving the permittee 30 days written notice delivered to the last known electronic address, facsimile number, or mailing address of the permittee shall be sufficient notice of termination.

Upon termination permittee shall cause all private improvements to be removed by the deadline provided in termination notice. Permittee shall be responsible for all costs incurred to remove the private improvements, including any costs associated with repairing damage caused to the public easement by the removal and without right to claim from the city of Duluth, or any of its officers, agents or servants, any compensation or reimbursement for damages of any kind whatsoever.

Section 4. By accepting the terms of this ordinance, the permittee agrees to save harmless and defend and indemnify the city of Duluth against claims or

demand which may arise against the city of Duluth by reason of the existence of private improvements, or any act or omission of the permittee, its employees, agents, and assigns. The permittee agrees that the city of Duluth shall not be liable for damage caused to the private improvements while the city engages in the repair and maintenance to, or replacement of, the public improvements or public utilities, including any snow removal operations. The permittee agrees to pay to the city of Duluth all extra costs of instillation of any public improvements or public utilities made necessary by the presence of the private improvements.

Section 5. The permittee shall, at its expense, protect, support, temporarily disconnect, or remove from the public easement, the private improvements when required by city officials by reason of snow removal, traffic conditions, public safety, street vacation, freeway and street construction, change or establishment of street grade, installation of sewers, drains, water pipes, power lines, signal lines and tracks, the installation or repair of any type of structures or improvements by governmental agencies, when acting in a governmental or proprietary capacity.

Section 6. Upon the sale or transfer of permittee's interest in the permit granted by this ordinance, the permittee shall provide written notice to the city clerk within five days of such transfer. The permittee's successor in interest shall file with the city clerk within ten days of such transfer a duly executed and acknowledged written acceptance of the terms of this ordinance and the certificate of insurance required in Section 2 above.

Section 7. The permit granted by this ordinance is subject to termination by the city of Duluth upon permittee's failure to comply with any of the terms and conditions of this permit. Ten days written notice, delivered as provided in Section 3 above shall be sufficient notice of termination. Upon termination, permittee shall remove the private improvements as provided in Section 3.

Section 8. The permittee shall observe the following conditions:

- (a) Permittee's use of the public easement shall be limited to the

designated area described in Section 1 above and further shown on (Public Document No. _____); and

(b) Permittee agrees that the private improvements shall be constructed and maintained in such a manner so as in no way interfere with or damage any portion of any public improvement, or other public utilities now or to hereinafter located in any part of said public easement.

Section 9. The following events shall automatically cause the termination of the term of this ordinance:

(a) The failure by the permittee to file acceptance of this ordinance as specified in Section 2 within 30 days after this ordinance takes effect; or

(b) The failure by the permittee to file the required insurance certificate as specified in Section 2 30 days after this ordinance takes effect; or

(c) The failure of the permittee to commence the improvements authorized by this ordinance within 120 days after this ordinance takes effect.

Section 10. This ordinance shall take effect and be in force 30 days from and after its passage and publication.

Approved as to form:


Attorney

PC:plng JK:ed

STATEMENT OF PURPOSE: On January 10, 2012 the planning commission held a public meeting on the proposal, and voted 8 yeas, 0 nays, and 0 abstentions to recommend that the city council approve the request for a concurrent use of streets as requested.

Petition Received: November 30, 2011

Action Deadline: There is no action deadline for this resolution.

Applicant
Daniel Neff
202 E. Superior Street
Duluth, MN 55812

Legal Description

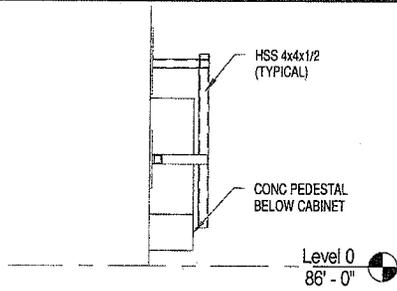
That part of Michigan Street located adjacent to the Westerly 49' of Lot 34 Block 1 Central Division of Duluth, St. Louis County, Minnesota according to the original plat thereof on file with the St. Louis County Recorder's office and more specifically described as follows:

A strip of land along the Michigan Street sidewalk sufficient to locate propane tanks and protective barrier which will be attached to the existing building and extend outward 2' from the building and with a width of 3'. The exact attachment location to be determined by the applicant and contractor but to lie within 5' to 12' of the southwest corner of said Lot 34.

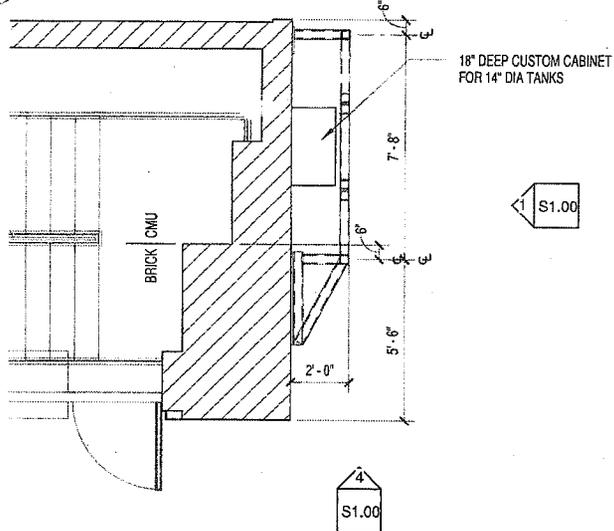
III C.4

RECEIVED NOV 30 2011

Public Document No. 2



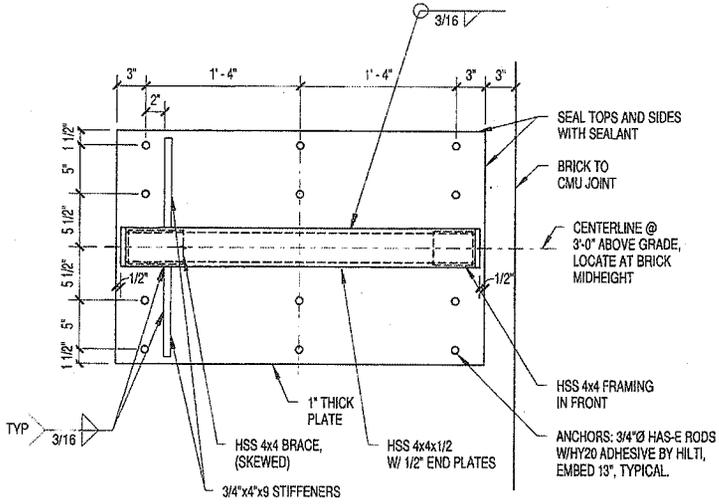
4 ENCLOSURE SIDE ELEVATION
1/4" = 1'-0"



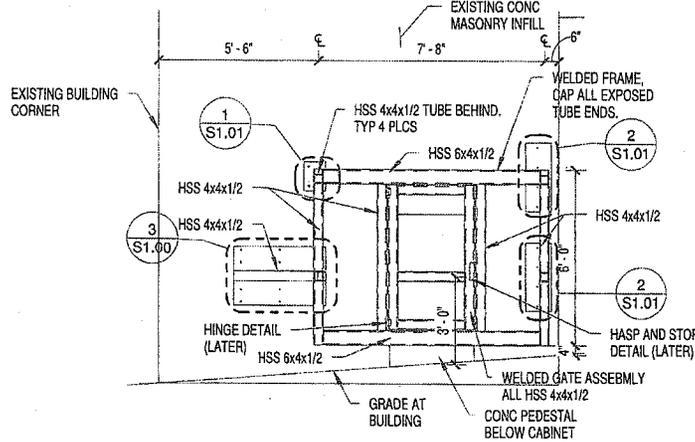
2 ENCLOSURE PLAN VIEW
1/4" = 1'-0"

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

Signature: *Alan J. Vorderbruggen*
 Name: ALAN J. VORDERBRUGGEN
 Reg. No.: 20969
 Date: 12/27/11



3 BRACE ATTACHMENT PLATE
1" = 1'-0"



1 ENCLOSURE FRONT ELEVATION
1/4" = 1'-0"

LHB
 PERFORMANCE DRIVEN DESIGN.
 LHBcorp.com

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

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 gfolmer@mar.com

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 dan@nass@gmail.com

ARCHITECT: **KEVIN C. HOLM**
 218.279.2417
 Kevin.Holm@LHBcorp.com

ENGINEER: **DAVID T. WILLIAMS**
 218.279.2436
 David.Williams@LHBcorp.com

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THIS SQUARE APPEARS 1/2"x1/2" ON FULL SIZE SHEETS

12-27-11 CONCURRENT USE
 NO DATE REVISION

PROJECT NAME:
LAKE SUPERIOR ART GLASS

RECEIVED
 DEC 27 2011
 DRAWING TITLE:
STRUCTURAL DETAILS

FILE: CA11Proj1104301600 Drawings\A110430...
 DRAWN BY: AMH
 CHECKED BY: AJV
 PROJ. NO: 110430.PD
 DRAWING NO:

III C. 11 **S1.00**

STRUCTURAL STEEL

A. MATERIAL PROPERTIES

1. STEEL PROPERTIES:	F _y (PSI)	F _u (PSI)	ASTM
SHAPES, PLATES:	36,000	58,000	A36
HOLLOW STRUCTURAL SECTIONS:	46,000	58,000	A500, GR B
HIGH STRENGTH BOLTS, U.N.O.,			
BEARING CONNECTIONS:	92,000	120,000	A325N
NUTS:	-	-	A563 HEAVY HEX*
WASHERS:	-	-	F436 HARDENED STL
WELDING ELECTRODES:	-	E70XX	A233

B. STRUCTURAL STEEL NOTES

- STRUCTURAL STEEL DESIGN AND CONSTRUCTION SHALL CONFORM TO AISC STEEL CONSTRUCTION MANUAL & SPECIFICATIONS (AISC 360-05), THIRTEENTH EDITION.
- THE CONTRACTOR AND FABRICATOR SHALL REVIEW THE CONTRACT DOCUMENTS AND INCORPORATE ANY ADDITIONAL PROVISIONS NECESSARY TO MEET APPLICABLE SAFETY REGULATIONS.
- ALL SHOP CONNECTIONS SHALL BE WELDED AND FIELD CONNECTIONS BOLTED UNLESS NOTED OTHERWISE. ALL WELDING SHALL BE BY AN AWS CERTIFIED WELDER.
- ALL STEEL SHALL BE SHOP PRIMED AND FIELD PAINTED.

GENERAL DESIGN AND CONSTRUCTION NOTES

A. BUILDING CODE

- 2007 MINNESOTA STATE BUILDING CODE (MSBC).
- 2006 INTERNATIONAL BUILDING CODE (IBC).
- 2006 INTERNATIONAL FIRE CODE (IFC).

B. DESIGN LOADS

1. LIVE LOAD:	CONCENTRATED (LB)	COMMENTS
IMPACT:	12,000	IFC 312.3

C. PRIOR TO SHOP DRAWING CREATION, VERIFY BRICK WALL IS AT LEAST 13 INCHES THICK. NOTIFY ENGINEER IF NOT.

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

Signature: *Alan J. Vorderbruggen*

Name: ALAN J. VORDERBRUGGEN

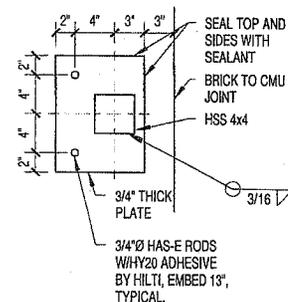
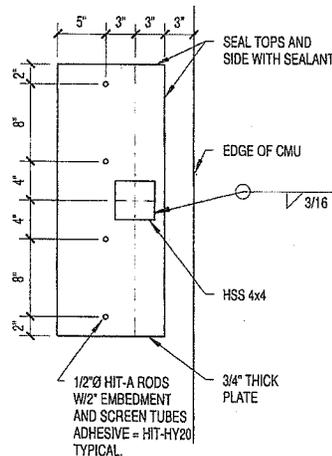
Reg. No.: 20969

Date: 12/27/11

FASTENER NOTES

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- SUBSTITUTIONS WILL BE CONSIDERED PROVIDED CONTRACTOR SUPPLIES DATA WHICH SHOWS EQUIVALENT FASTENER CAPACITY, EMBEDMENT DEPTH, FASTENER SPACING AND EDGE DISTANCES MUST BE CONSIDERED.
- FASTENER TYPES:

ADHESIVE ANCHOR IN HOLLOW CMU:	HIT HY20 W/SCREEN TUBE
ADHESIVE ANCHOR IN GROUTED CMU:	HIT HY150 MAX W/HAS-E ROD
ADHESIVE ANCHOR IN CONCRETE:	HIT RE 500-SD W/HAS-E ROD
EXPANSION ANCHOR IN CONCRETE:	KWIK BOLT TZ
EXPANSION ANCHOR IN SOLID GROUT CMU:	KWIK BOLT 3
SLEEVE ANCHOR:	HLC SLEEVE ANCHOR
CONCRETE SCREW ANCHOR:	KWIK-CON II +
DROP IN ANCHORS:	MULTI-SET II, RX TYPE BY ITW RED HEAD



2 ATTACHMENT PLATE AT CMU
1" = 1'-0"

1 ATTACHMENT PLATE AT BRICK
1" = 1'-0"



PERFORMANCE DRIVEN DESIGN.
LHBcorp.com

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ON FULL SIZE SHEETS

12-27-11 CONCURRENT USE

NO DATE REVISION

PROJECT NAME:
LAKE SUPERIOR ART GLASS

DRAWING TITLE:
STRUCTURAL NOTES AND
DETAILS

FILE: Q:\11Proj\110430\600 Drawings\A\110430...

DRAWN BY: AMH
CHECKED BY: AJV
PROJ. NO: 110430.PD
DRAWING NO:

III c. 12 **S1.01**



CITY OF DULUTH
 Planning Division

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

STAFF REPORT

File Number	11-137	Contact	John Kelley, jkelley@duluthmn.gov	
Application Type	Concurrent Use of Streets Permit	Planning Commission Date	January 10, 2012	
Deadline for Action	Application Date	November 30, 2011	60 Days	N/A
	Date Extension Letter Mailed	December 16, 2011	120 Days	N/A
Location of Subject	202 E. Superior Street			
Applicant	Daniel Neff	Contact	Daniel Neff, (218) 780-0803	
Agent		Contact		
Legal Description	See attached			
Site Visit Date	December 30, 2011	Sign Notice Date	December 27, 2011	
Neighbor Letter Date	December 14, 2011	Number of Letters Sent	29	

Proposal

Applicant is requesting a Concurrent Use Permit for the exterior storage of propane in an enclosed storage unit in the right of way of Michigan Street for Lake Superior Art Glass. The propane will be used to melt pyrex glass into artwork inside the building.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-C	Commercial	Central Business Primary
North	MU-C	Commercial	Central Business Primary
South	I-G	Street/Hwy 35	Recreation
East	MU-C	Commercial	Central Business Primary
West	MU-C	Commercial	Central Business Primary

Summary of Code Requirements (reference section with a brief description):

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

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

III C.1

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

Principle #4 - Support emerging economic growth sectors

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

Future Land Use Designation Central Business Primary encompasses a broad range of uses and intensities:

- Governmental campus
- Significant retail
- Entertainment and lodging
- Opportunities for high-density housing
- Central plaza, public/open space
- Public parking facilities neighborhood or specialty retail markets.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

1. The applicant is interested in installing a lockable metal storage container on a concrete pad on the exterior southwest end of the building and encroaching into the right of way of Michigan Street. The storage container will be used to house propane tanks.
2. The sidewalk area within the right of way is approximately seven (7) feet wide from the building to the curb line of Michigan Street. The storage container for the propane will extend approximately two (2) feet into the sidewalk/right of way.
3. Two (2) 100lb propane tanks will be enclosed in a lockable metal storage unit and covered by a propane tank cabinet guard meeting the City of Duluth Fire Code as per review by the Duluth Fire Marshall.
4. There will be approximately five (5) feet of clearance around the tank cabinet guard for the public's use of the sidewalk within the rights of way.
5. No comments were received from citizens, other city departments, other utilities, or governmental agencies.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, Staff recommends approval of the proposed Concurrent Use Permit to the City Council, subject to the following conditions:

- 1) The applicant provides liability insurance meeting the following minimum amounts of insurance from insurance companies authorized to do business in the state of Minnesota:
 - (a) Public Liability with limits not less than \$3,000,000 on the release of a hazardous substance and single limits of \$1,500,000 for any number of claims arising from a single occurrence.
 - (b) The City of Duluth shall be named as the Insured.
- 2) The applicant agrees to provide certificates showing that applicant is carrying the above described insurance in the specified amounts to the City Duluth prior to the issuance of a building permit.
- 3) The project be limited to, constructed, and maintained according to the documents drawn by LHB Corporation dated December 27, 2011.

III C. 2

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

Reason for Request

Part of Lake Superior Art Glass's (LSAG) mission is to educate people on how to melt Pyrex glass into artwork, using a bench burner. Pyrex glass is harder than regular glass and requires a temperature 500 degrees hotter than required to melt regular glass. For this reason, LP gas is needed. LP gas is also crucial to LSAG so that guest artists and other glassblowers can bring their bench burner to the studio to teach and work. These bench burners are not interchangeable between natural gas and propane.

All viable options to house propane in, on and around the building have been considered by LHB. We feel this location is the best relative to minimum impact on public use and right-of-way. The propane will be housed in a lockable metal storage unit with ventilation openings, specifically rated for storing LP gas. It will then be protected by concrete and /or steel frame to protect from snow removal devices and motorists, as required by the code and local authorities having jurisdiction.

III C. 3

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Legal Description

That part of Michigan Street located adjacent to the Westerly 49' of Lot 34 Block 1 Central Division of Duluth, St. Louis County, Minnesota according to the original plat thereof on file with the St. Louis County Recorder's office and more specifically described as follows:

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III C.4

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City Planning

202 E Superior St.
Concurrent Use Permit
Zoning Map
PL 11-137

Legend

- Subject Property
- Zoning (Final)



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.

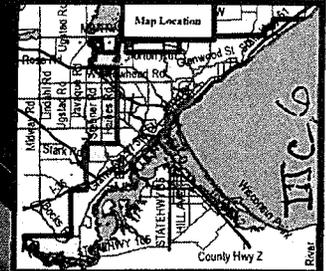
Aerial photography flown 2007

Prepared by: City of Duluth Planning Division, January 3, 2011. Source: City of Duluth



City Planning

202 E Superior St.
Concurrent Use Permit
Future Land Use Map
PL 11-137



Legend

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



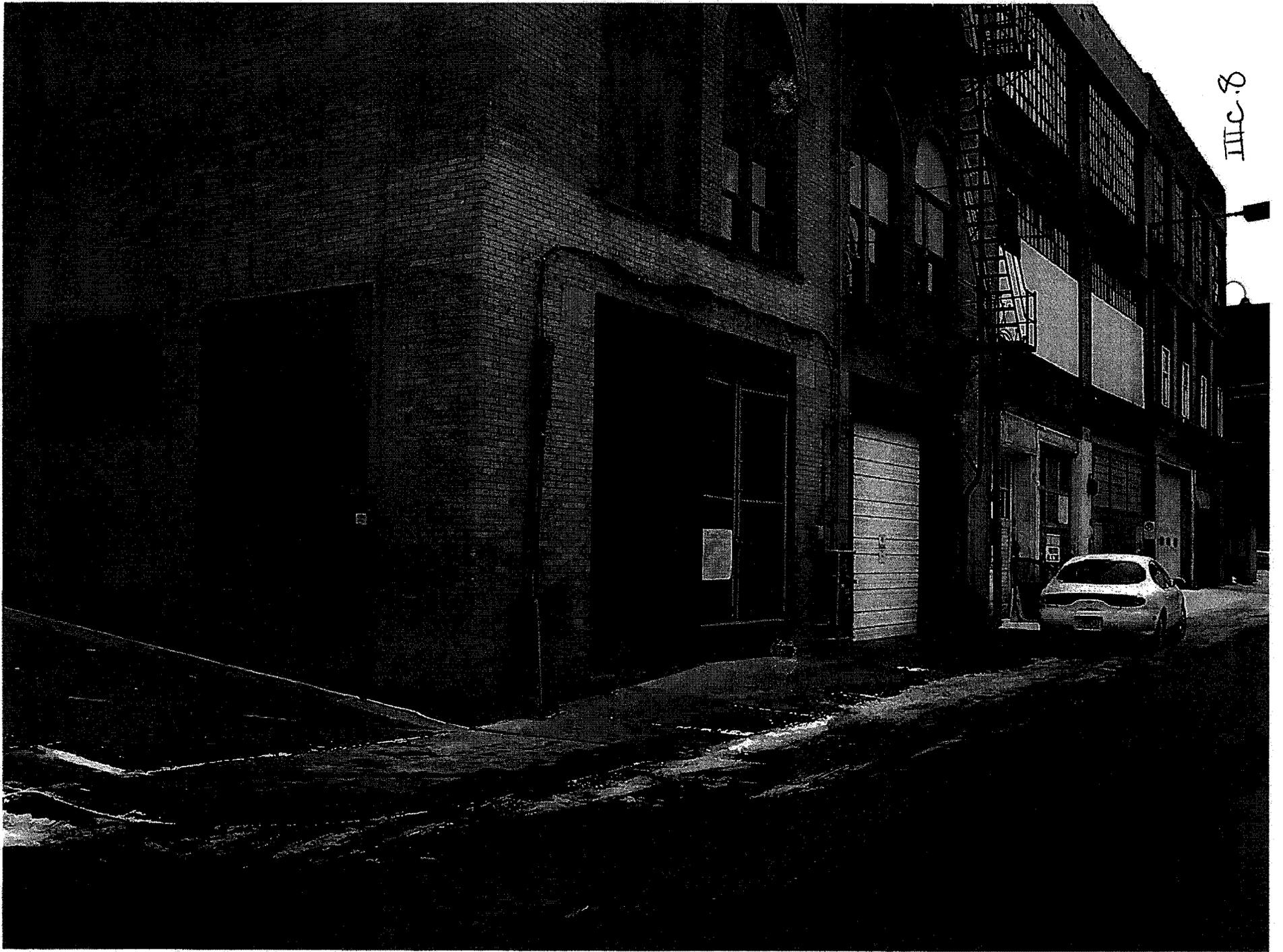
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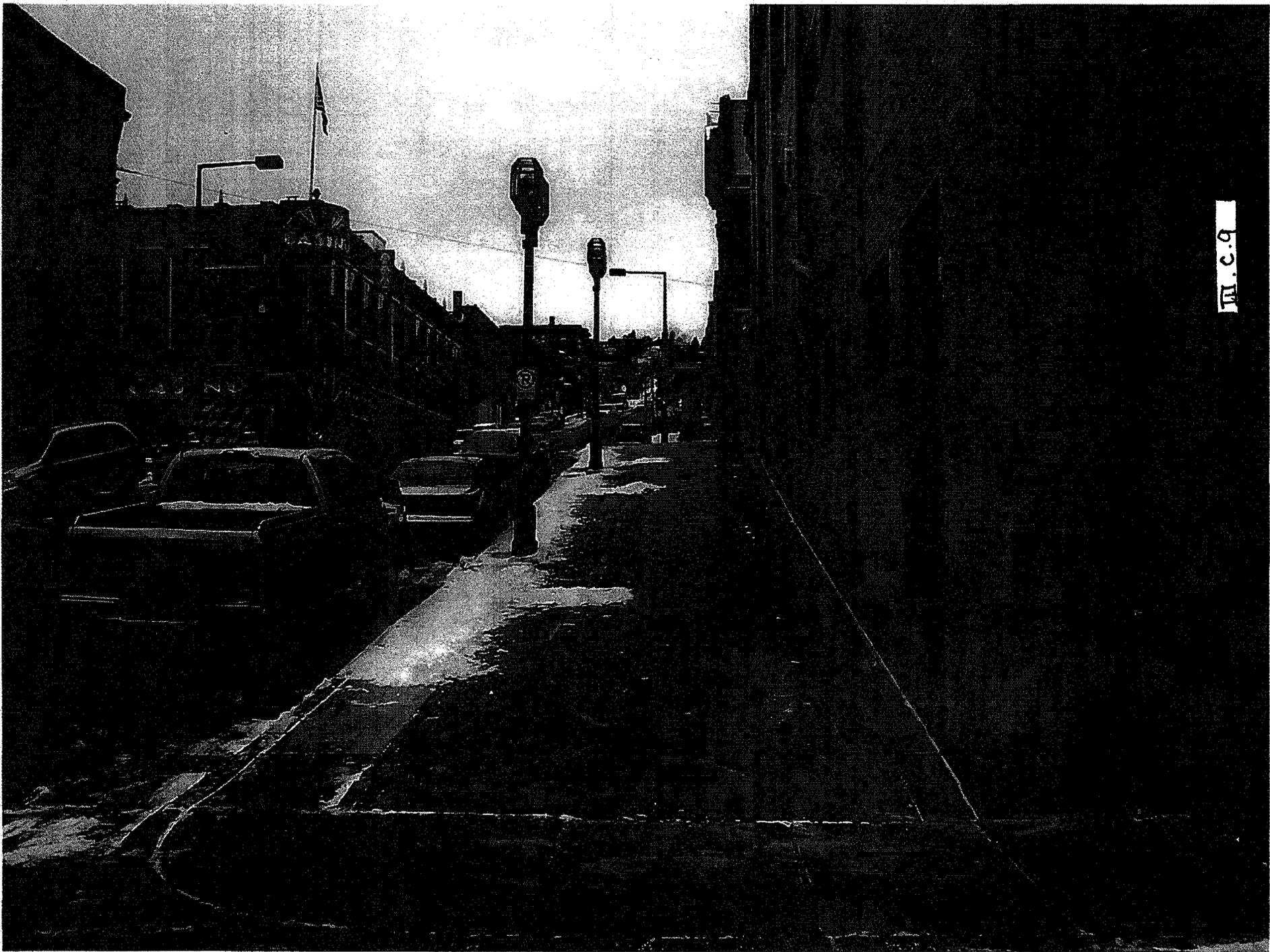
Prepared by: City of Duluth Planning Division, January 5, 2011. Source: City of Duluth.



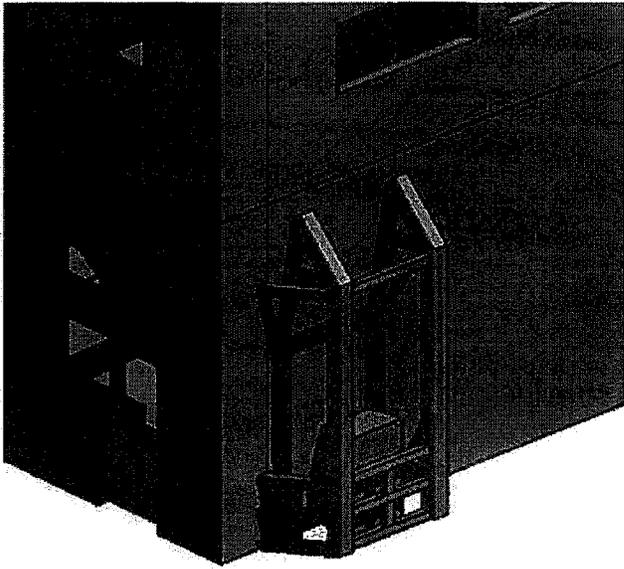




IIIc-8



111. C. 9



ШС. 10

STRUCTURAL STEEL

A. MATERIAL PROPERTIES

1. STEEL PROPERTIES:	Fy (PSI)	Fu (PSI)	ASTM
SHAPES, PLATES:	36,000	58,000	A36
HOLLOW STRUCTURAL SECTIONS:	46,000	58,000	A500, GR B
HIGH STRENGTH BOLTS, U.N.O.,			
BEARING CONNECTIONS:	92,000	120,000	A325N
NUTS:	-	-	A563 HEAVY HEX*
WASHERS:	-	-	F436 HARDENED STL
WELDING ELECTRODES:	-	E70XX	A233

B. STRUCTURAL STEEL NOTES

- STRUCTURAL STEEL DESIGN AND CONSTRUCTION SHALL CONFORM TO AISC STEEL CONSTRUCTION MANUAL & SPECIFICATIONS (AISC 360-05), THIRTEENTH EDITION.
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- ALL STEEL SHALL BE SHOP PRIMED AND FIELD PAINTED.

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- 2006 INTERNATIONAL BUILDING CODE (IBC).
- 2006 INTERNATIONAL FIRE CODE (IFC).

B. DESIGN LOADS

1. LIVE LOAD:	CONCENTRATED (LB)	COMMENTS
IMPACT:	12,000	IFC 312.3

C. PRIOR TO SHOP DRAWING CREATION, VERIFY BRICK WALL IS AT LEAST 13 INCHES THICK. NOTIFY ENGINEER IF NOT.

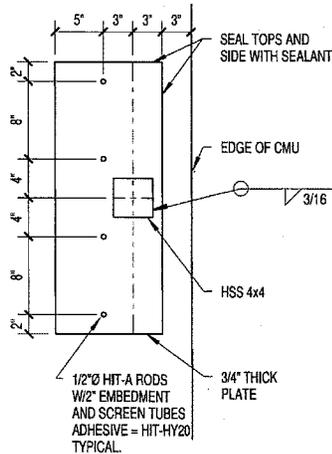
I HEREBY CERTIFY that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Engineer under the laws of the State of Minnesota.

Signature: 
 Name: ALAN J. VORDERBRUGGEN
 Reg. No.: 20869
 Date: 12/27/11

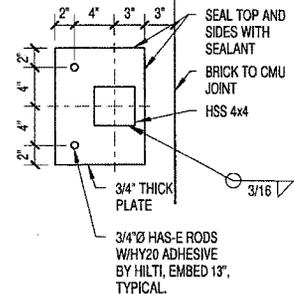
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 ADHESIVE ANCHOR IN CONCRETE: HIT RE 500-SD W/HAS-E ROD
 EXPANSION ANCHOR IN CONCRETE: KWIK BOLT TZ
 EXPANSION ANCHOR IN SOLID GROUT CMU: KWIK BOLT 3
 SLEEVE ANCHOR: HLC SLEEVE ANCHOR
 CONCRETE SCREW ANCHOR: KWIK-CON II +
 DROP IN ANCHORS: MULTI-SET II, RX TYPE BY ITW RED HEAD



2 ATTACHMENT PLATE AT CMU
1" = 1'-0"



1 ATTACHMENT PLATE AT BRICK
1" = 1'-0"



PERFORMANCE DRIVEN DESIGN.
LHBcorp.com

21 W. Superior St., Ste 500 | Duluth, MN 55802 | 218.277.8446

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glofiner@mza.com
 CLIENT: **DAN NEFF**
2214.780.1803
nalglass@gmail.com
 ARCHITECT: **KEVIN C. HOLM**
218.275.2417
Kevin.Holm@LHBcorp.com
 ENGINEER: **DAVID T. WILLIAMS**
218.275.2435
David.Williams@LHBcorp.com
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12-27-11 CONCURRENT USE
NO DATE REVISION

PROJECT NAME:
LAKE SUPERIOR ART GLASS

DRAWING TITLE:
STRUCTURAL NOTES AND DETAILS

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 DRAWN BY: AMH
 CHECKED BY: AJV
 PROJ. NO: 110430.PD
 DRAWING NO:

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