

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-020-0

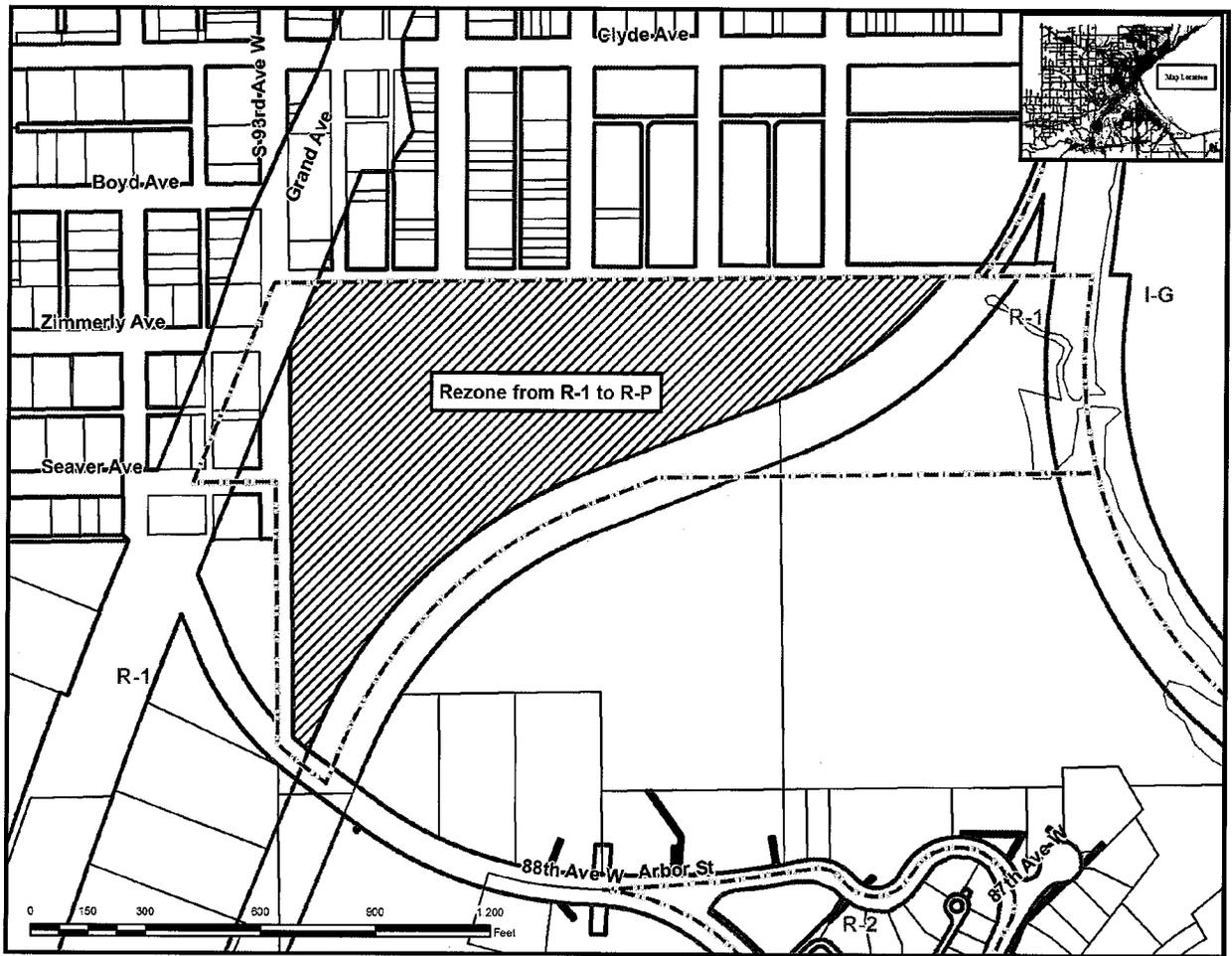
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP OF THE CITY OF DULUTH AS REFERENCED IN CHAPTER 50, OF THE DULUTH CITY CODE, 1959, AS AMENDED, TO PROVIDE FOR THE RECLASSIFICATION FROM R-1, RESIDENTIAL-TRADITIONAL, TO R-P, RESIDENTIAL-PLANNED, APPROXIMATELY 20 ACRES LAND LYING SOUTH OF HULETT AVENUE, EAST OF 93RD AVENUE WEST, AND NORTHWEST OF SPIRIT LAKE TRANSFER RAILWAY (RAPID RIVER DEVELOPMENT, LLC).

CITY PROPOSAL:

The city of Duluth does ordain:

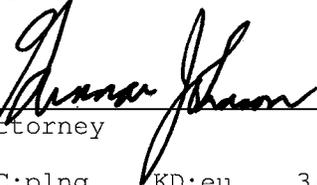
Section 1. That the west portion of the subject property located south of Hulett Avenue, east of 93rd Avenue West, and northwest of Spirit Lake Transfer Railway and as described as: all that part of the NW1/4 of SW1/4 and all that part of Government Lot 4, in Section 26, in Township 49 North, Range 15 West of the Fourth Principal Meridian, lying north and west of the right-of-way of the Duluth, Missabe and Iron Range Railway Company, successor to the Spirit Lake Transfer Railway Company, as said right of way is now surveyed, laid out, constructed and in use over and across and NW1/4 of SW1/4 and said Government Lot 4, and lying north and east of the center lines of 93rd Avenue West and Arbor Street in said city of Duluth as now laid out, constructed and in use; be reclassified from R-1, Traditional Neighborhood, to R-P, Residential-Planned, and that the official zoning map of the city of Duluth as referenced in Chapter 50 of the Duluth City Code, 1959, is amended to read as follows:



(PL 12-014)

Section 2. That 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 KD:eu 3/29/2012

STATEMENT OF PURPOSE: This zoning map amendment provides a zoning change from R-1 to R-P for approximately 20 acres at the southeast corner of Hulett Ave. and Grand Ave. in Morgan Park, 9320 Grand Ave.

On March 27, 2012, the Duluth city planning commission held a public hearing on the proposal and voted 8-0 to recommend that the city council approve the rezoning request for following reasons:

- 1) Approving the rezoning is called for by UDC Sec. 50-14.7.H which states an existing Low-Density Planned Development Special Use Permits is to be treated as an approved R-P Plan for site and that the site is to be rezoned R-P.
- 2) Rezoning to R-P will allow a mix of uses that are reasonably related to the existing land uses in the area.
- 3) Rezoning will provide housing options that are needed by the public and will result in a final product that provides a greater level of public benefit than would be required under the existing R-1 zone district.
- 4) Material adverse impacts on nearby properties are not anticipated because this site is relatively isolated from surrounding development and the R-P Plan development process will allow for mitigation of any potential impacts to surrounding property.

The motion to approve the rezoning from R-1 to R-P by the city council must prevail with a single majority.

Date of application: January 31, 2012  
Action deadline: May 30, 2012

Petitioner:  
Rapid River Development LLC  
Mark Cross, AIA  
14643 Edgewood Drive, Suite 115  
Baxter, MN 56425  
PL 12-014



**CITY OF DULUTH**  
Planning Division

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

**STAFF REPORT**

<b>File Number</b>	PL 12-014	<b>Contact</b>	Kyle Deming, kdeming@duluthmn.gov	
<b>Application Type</b>	Rezone: R-1 to R-P	<b>Planning Commission Date</b>	March 27, 2012	
<b>Deadline for Action</b>	<b>Application Date</b>	January 31, 2012	<b>60 Days</b>	March 31, 2012
	<b>Date Extension Letter Mailed</b>	February 14, 2012	<b>120 Days</b>	May 30, 2012
<b>Location of Subject</b>	9320 Grand Ave. (SE corner of Hulett St. and Grand Ave. - Morgan Park)			
<b>Applicant</b>	Rapid River Development, LLC	<b>Contact</b>	Mark Cross, mcross@kuepers.com, 218-829-0707	
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	See attached description - Tax Parcel ID 010-2746-00570			
<b>Site Visit Date</b>	March 20, 2012	<b>Sign Notice Date</b>	March 13, 2012	
<b>Neighbor Letter Date</b>	March 12, 2012	<b>Number of Letters Sent</b>	27	

**Proposal**

Applicant requests the Rezoning of their property (approximately 20 acres) lying south of Hulett Ave., east of 93rd Ave. W, and northwest of the Spirit Lake Transfer Railway, from R-1 (Residential-Traditional) to R-P (Residential-Planned).

The applicant's proposal is to develop the site with a mixture of apartment buildings and one- and two-family dwellings and neighborhood amenities.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Undeveloped	Low-Density Nbhd. Sensitive Lands Ovrly. Presrv.
<b>North</b>	R-1	One home, Undeveloped	Preservation and Sensitive Lands Overlay
<b>South</b>	R-1	Undeveloped	Traditional Nbhd, Sensitive Lands Overlay
<b>East</b>	R-1	Undeveloped	Preservation, Sensitive Lands Overlay
<b>West</b>	R-1	Undeveloped	Low-Density Neighborhood

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

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

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

UDC Sec. 50-14.7.A: The R-P district is established to provide a flexible development option for residential projects that integrate creative site design, provide a variety of housing types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each R-P district requires approval of an R-P regulating plan that includes the location, type, intensity of proposed development and a description of public amenities or benefits included. Different R-P standards are required for projects in identified high-density and low-density residential areas. Single-family residences, two-family residences, townhouses, group living and apartments, as well as accessory uses, are permitted, as shown in Table 50-19.8, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the approved district plan.

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

- 1) Governing Principles: Principle #1 - Reuse previously developed land; #6 - Reinforce the place-specific; #7 - Create and maintain connectivity; #8 - Encourage mix of activities, uses and densities; #10 - Take sustainable actions.
- 2) The Comp Plan defines "Low-Density Neighborhood" as single-family housing with urban services (3-4 units/acre), including a range of house sizes and lot sizes, non-residential uses are mainly schools and churches, conservation development an option.
- 3) Current History: The northeast corner of the site was formerly an industrial/warehouse use.
  - FN 04032 - Rezoning of the site from M-1 (Manufacturing) to R-1-b (Residential)
  - FN 04047 and 04048 - Preliminary Plat (approved by PC 7/13/2004) and Low-Density Planned Development Special Use Permit (approved by Council 7/26/2004, Res. 04-0511) for a 45 unit detached residential development.
  - FN 04092 and 04098 - WRMO/WCA wetland variance/replacement plan and Final Plat approval (plat never filed by applicant).
  - FN 09065 - Low Density Planned Development Special Use Permit issued by Council (Res. 09-0610 on 9-28-2009) allowing 72 units in 8-unit buildings, 35 parking stalls, 73 garage stalls along a street with sidewalk, playground and 8.5 acres of open space.

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

Staff finds as follows:

- 1) UDC Sec. 50-14.7.H says: "All residential developments approved prior to November 19, 2010, as low-density planned developments pursuant to Sections 50-36.1 through 50-36.3 of the previous zoning code shall be treated as approved low density R-P developments, and will be rezoned to the R-P zone district."
- 2) The City Council approved a Low Density Planned Development Special Use Permit for the subject site (Resolution # 09-0610, September 28, 2009) and this permit is still in effect per #1 above. Also, per #1, the site is to be rezoned to R-P either by the City or by landowner initiative. Approving this rezoning is called for by UDC Sec. 50-14.7.H.
- 3) Rezoning this site to R-P is not completely consistent with the Comprehensive Land Use Plan because the Comp Plan designates the site "Low Density Neighborhood" which limits the site's uses to single-family houses, churches, schools and parks and land in R-P Districts are encouraged to offer a broader mix of residential uses including single-family residences, two-family residences, townhouses, group living and apartments and some less intense non-residential uses.
- 4) Rezoning to R-P will allow a mix of uses that are reasonably related to the existing land uses in the area. The nearby Morgan Park neighborhood consists of a mixture of house types, businesses, institutions, parks and open space.
- 5) This rezoning will provide housing options that are needed by the public. The R-P zone requires the applicant to produce detailed plans for the site called an R-P Plan that results in a development that provides a greater level of public benefit than would be required under the existing R-1 zone district. The R-P Plan is approved, administratively, by the Land Use Supervisor.
- 6) The site to be rezoned provides natural buffers to surrounding sites including two deep creek ravines to the north and center of the site, a railroad to the southeast of the site, and Grand Ave./93rd Ave. W. to the west of the site. The only property that might be affected by the development of this site is a single home across Hulett Ave. and, through the R-P Plan development process, measures can be taken to reduce impacts to that property. Therefore, the proposed rezoning will not create material adverse impacts on nearby properties.
- 7) No comments specific to the rezoning have been received.

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

Based on the above findings, staff recommends to Planning Commission that the proposed rezoning be recommended for approval by City Council for the following reasons:

- 1) Approving the rezoning is called for by UDC Sec. 50-14.7.H which states an existing Low-Density Planned Development Special Use Permits is to be treated as an approved R-P Plan for site and that the site is to be rezoned R-P.
- 2) Rezoning to R-P will allow a mix of uses that are reasonably related to the existing land uses in the area.
- 3) Rezoning will provide housing options that are needed by the public and will result in a final product that provides a greater level of public benefit than would be required under the existing R-1 zone district.
- 4) Material adverse impacts on nearby properties are not anticipated because this site is relatively isolated from surrounding development and the R-P Plan development process will allow for mitigation of any potential impacts to surrounding property.

Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence) III C. 2

**CITY OF DULUTH  
ZONING MAP AMENDMENT PETITION**

File No. \_\_\_\_\_

Date September 21, 2011

**Section I**

We, the undersigned property owners petition to reclassify from R1 to  
R-P the following legally described property: \_\_\_\_\_

All that part of the NW¼ of SW¼ and all that part of Government Lot 4, in SECTION 26, in TOWNSHIP 49 North, RANGE 15 West of the Fourth Principal Meridian, lying NORTH and WEST of the right of way of the Duluth, Missabe and Iron Range Railway Company, successor to the Spirit Lake Transfer Railway Company, as said right of way is now surveyed, laid out, constructed and in use over and across and NW¼ of SW¼ and said Government Lot 4, and lying North and East of the center lines of 93rd Avenue West and Arbor Street in said City of Duluth as now laid out constructed and in use.

**Section II**

Attach a map of the area described above.

**Section III**

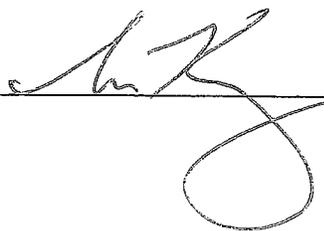
We believe that this rezoning will be in the public interest because \_\_\_\_\_

It will allow for the development of a community plan that encourages the conservation of unique natural features and increased pedestrian/bicycle modality internal and external to the project area, through creative site design.

**Section IV**

**Petitioners: Owners of property requested to be rezoned (all property owners must sign)**

<u>NAME</u>	<u>ADDRESS</u>	<u>Phone #/Fax #/Email</u>
Rapid River Development	14643 Edgewood Drive, Suite 115 Baxter, MN 56425	218-829-0707 phone 218-829-0383 fax

By:  \_\_\_\_\_

III C.3

RECEIVED JAN 31 2012

RESOLUTION 09-0610

ADOPTED: SEPTEMBER 28, 2009

RESOLVED, that:

The city council grant a special use permit to Steve Kuepers, Kuepers Architects & Builders, for a low density planned development at 9320 Grand Avenue (Westwood Heights), based on the following findings:

(a) Steve Kuepers of Kuepers Architects & Builders, has submitted to the city council a request for a special use permit for a low density planned development, hereunto referred to as Westwood Heights, in accordance with Section 50-32 of the City Code, to construct 72 units of rental housing, containing 24 three-bedroom units and 48 two-bedroom units, north of Morgan Park on a 20 acres site to include nine buildings with eight units per building; and

(b) Westwood Heights meets the eligibility requirements for a low density planned development in an R-1 one-family residential district; and

(c) Westwood Heights meets the off street parking requirement of three off street spaces for each two dwelling units for a total of 108 parking stalls, including a garage with each unit, as well as 35 on street parking stalls for guests along the south side of a private road to be constructed as a rural section with no curb and gutter, built at a width of 28 feet; and

(d) Westwood Heights provides 8.5 acres of open space, an on site stormwater retention pond, a playground and sidewalk along the private road that connects to the nearby trail system; and

(e) A planned residential use at this location is consistent with the comprehensive land use plan's designation on the future land use map as low density neighborhood; and

(f) Said permit application was duly referred to the city planning commission and a public hearing was held on the matter at their July 14, 2009, meeting and was tabled due to concerns the commission had related to the number of parking stalls for guests, location of stormwater ponds, road width and fire access; and

(g) The applicant presented a modified proposal to the city planning commission at their August 11, 2009, meeting addressing these concerns and the matter was tabled due to concerns the commission had related to the distribution of guest parking on the site and desire by the commission for the applicant to meet with residents from the nearby Morgan Park community; and

(h) After meeting with the Morgan Park community, the applicant presented a modified proposal to the city planning commission at their September 8, 2009, meeting which incorporated input provided by the community; and

(i) Approval is granted to Steve Kuepers, Kuepers Architects & Builders, for a low density planned development, legally described as S26, T49, R15, that part of Lot 4 and of NW 1/4 of SW 1/4 lying north of Spirit Lake Trans Ry and east of 93rd Avenue West and Arbor Street, subject to the following condition:

(1) The project be constructed and maintained in accordance with documents submitted by SEH, Inc., titled "Westwood Estates Concept Plan Duluth

III C.4

CERTIFIED COPY OF RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DULUTH, MINNESOTA

Minnesota," dated September 2, 2009, and as identified as Public Document No. 09-0928-24.

Resolution 09-0610 was unanimously adopted.

Approved September 28, 2009

DON NESS, Mayor

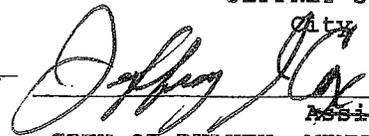
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I, JEFFREY J. COX, city clerk of the city of Duluth, Minnesota, do hereby certify that I have compared the foregoing resolution passed by the city council on the 28th day of September, 2009, with the original in my custody as city clerk of said city and that the same is a true and correct transcript therefrom.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of said city of Duluth, this 19th day of March, 2012.

JEFFREY J. COX  
City Clerk

by



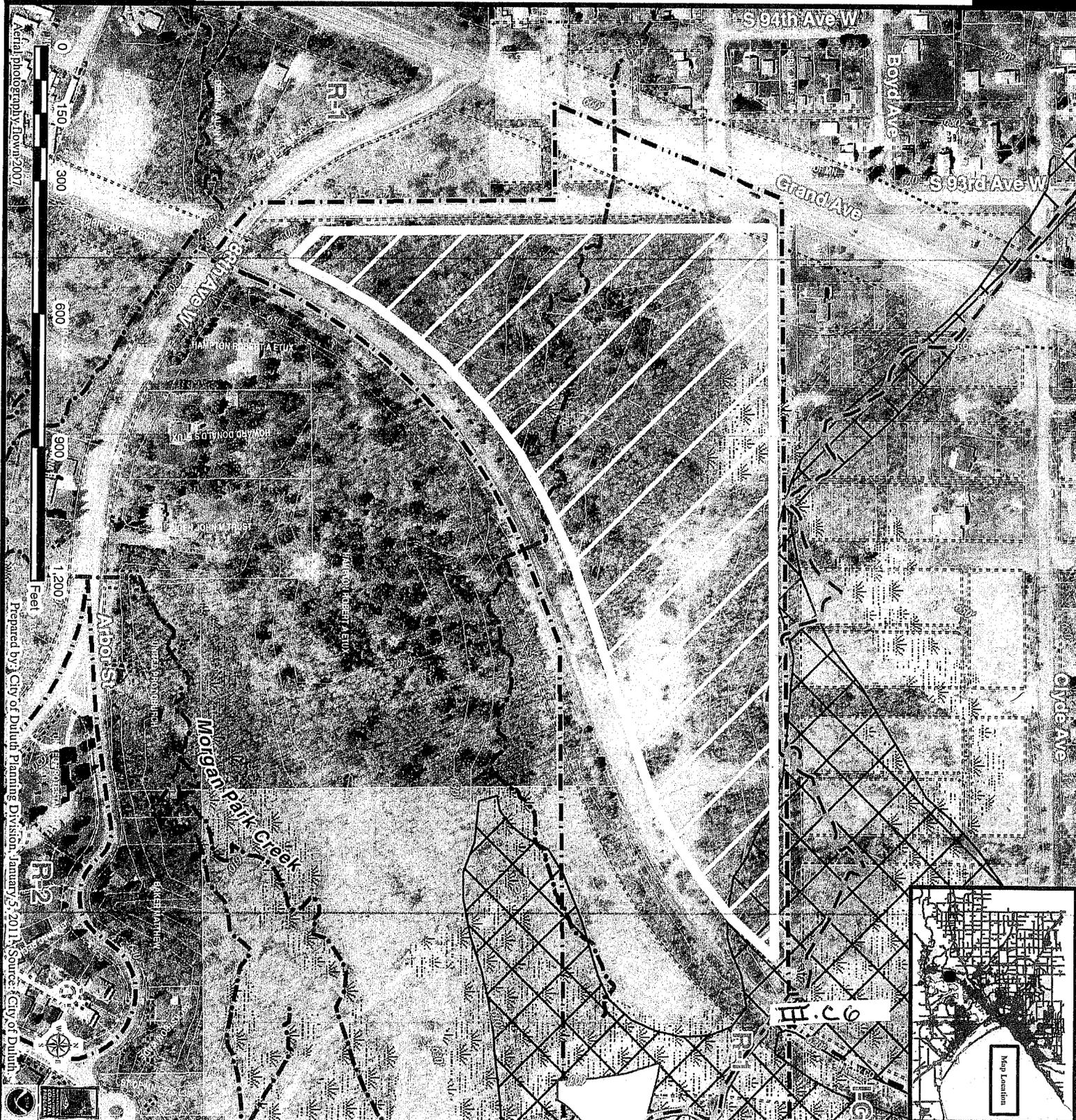
Assistant

CITY OF DULUTH, MINNESOTA

**Legend**

- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRRF)
- 10' Contour (elev. change)
- Right-of-Way Type
- Road or Alley ROW
- Zoning (Final)
- Floodplain Type
- General Flood Plain
- Flood Way
- Flood Fringe

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.



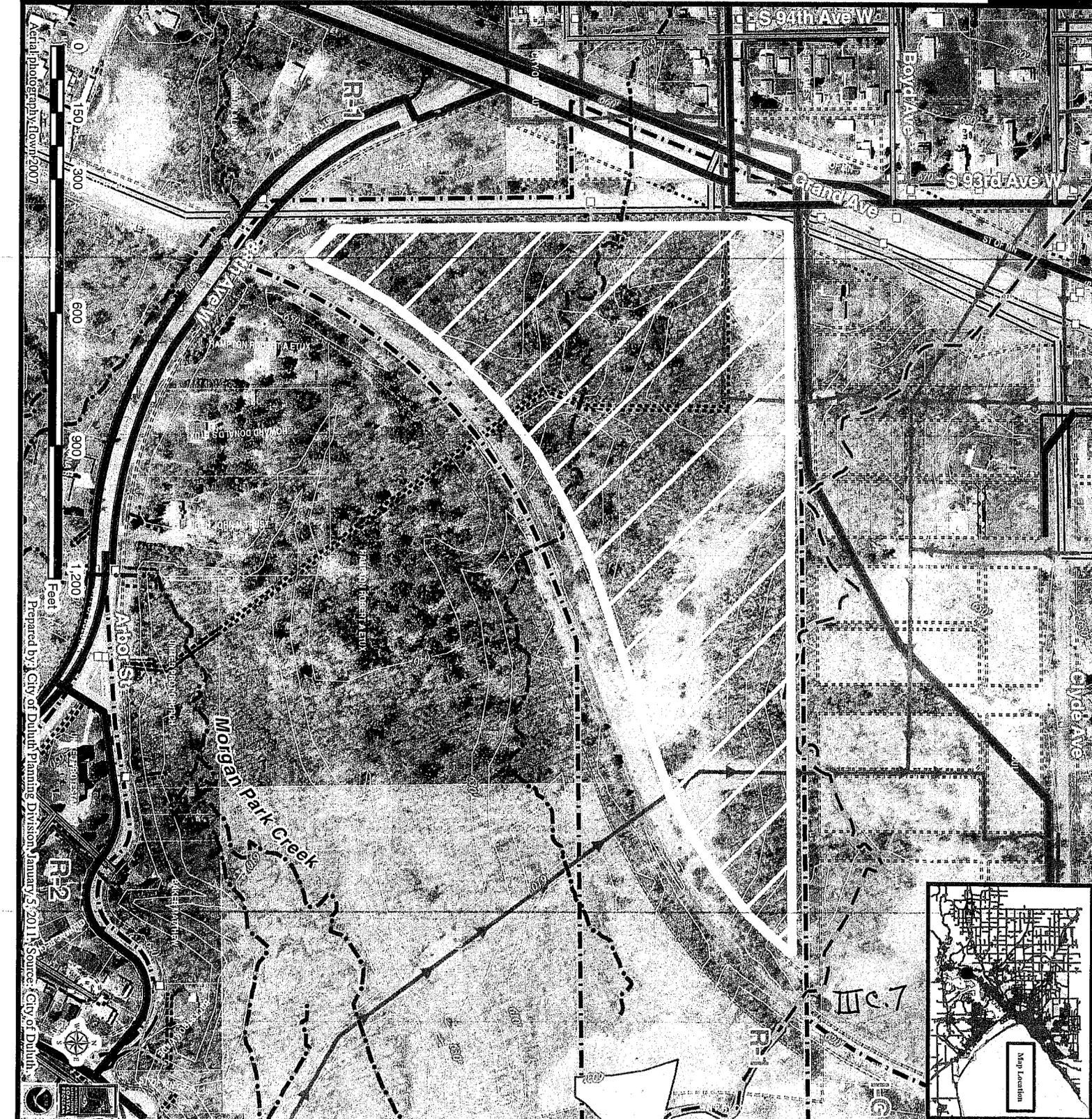
Aerial photo supply: Flown 2007

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

**Legend**

- Trout Stream (GPS)
- Other Stream (GPS)
- Water Distribution System**
  - 30 - 60" Water Pipe
  - 16 - 24" Water Pipe
  - 4 - 6" Water Pipe
- Sanitary Sewer Collection System**
  - Sanitary Sewer Collector
  - Sanitary Sewer Interceptor
  - Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Gas Distribution Main**
  - 8" - 16" Gas Pipes
  - 4" - 6" Gas Pipes
  - 0" - 4" Gas Pipes
- Storm Sewer Collection System**
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
  - Discharge Points
- 10' Contour (elev. change)
- Road or Alley ROW
- Vacated ROW
- Easement Type**
  - Utility Easement
  - Other Easement
- Zoning (Final)

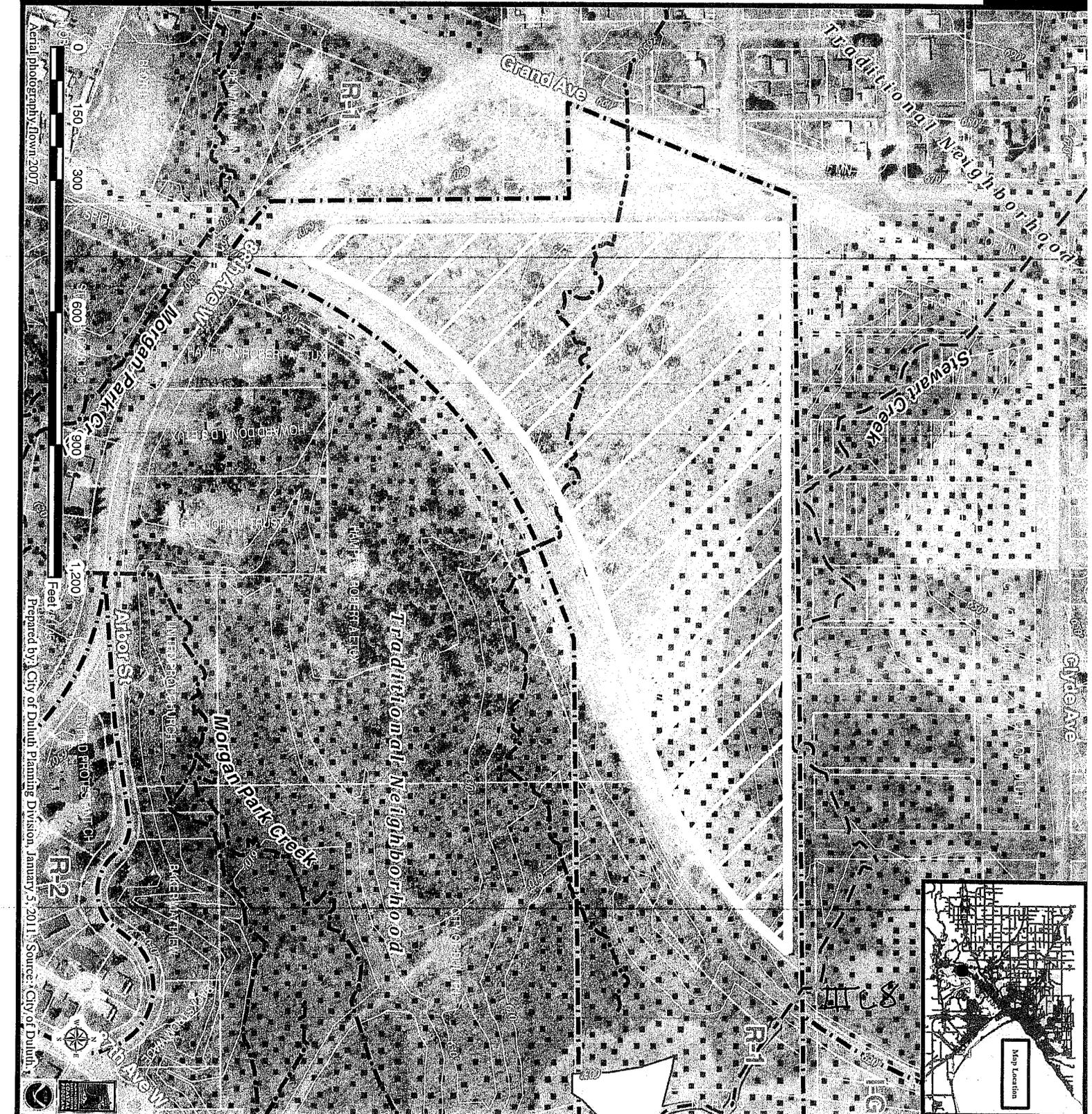
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### Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- 10' Contour (elev. change)
- Zoning (Final)
- 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
- Sensitive Lands Overlay

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City of Duluth  
Planning Division

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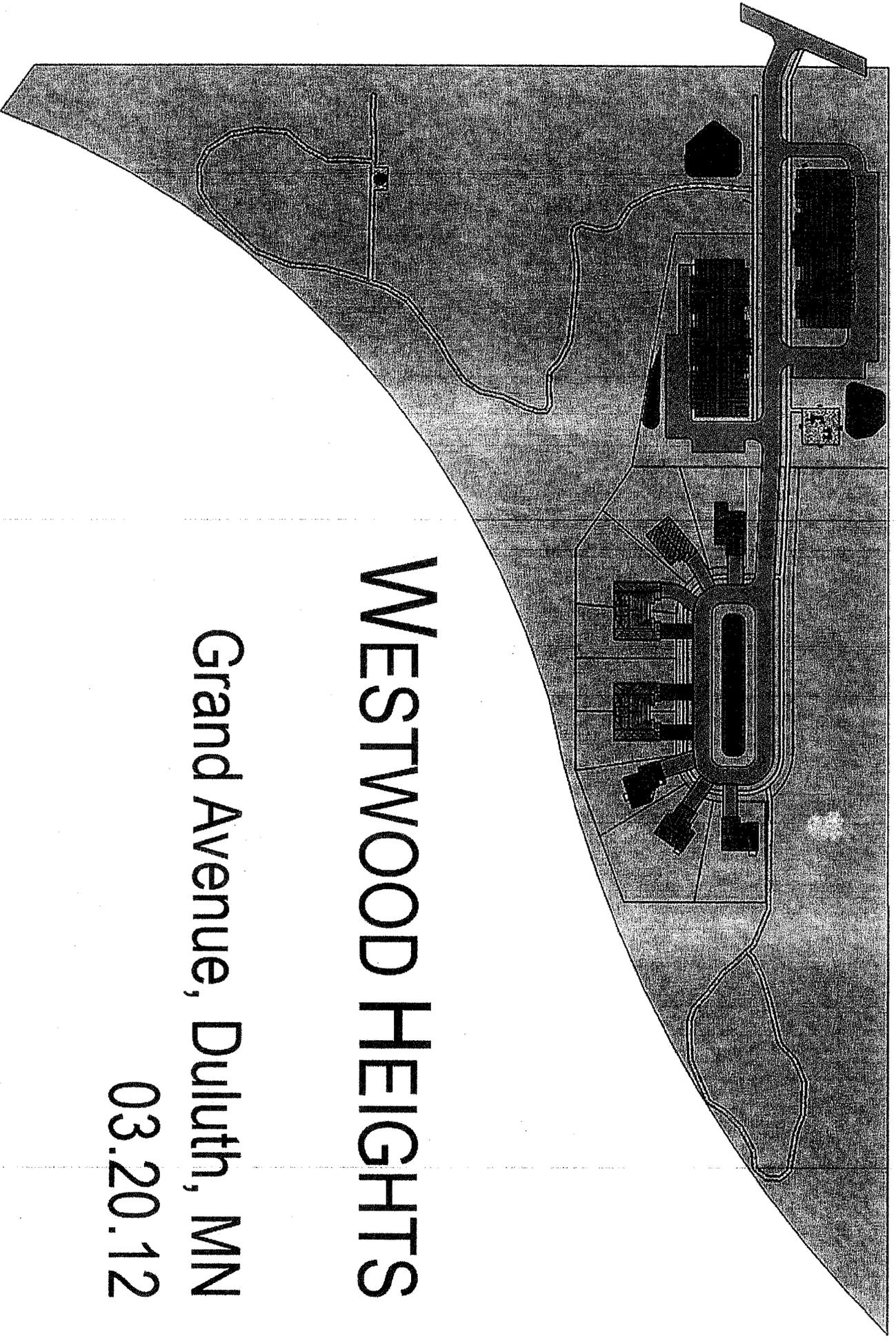
An Equal Opportunity Employer

## MEMORANDUM

**DATE:** March 20, 2012  
**TO:** Planning Commissioners  
**FROM:** Kyle Deming, Planner II  
**SUBJECT:** PL 12-014, Conceptual Design for Westwood Heights

Attached is a copy of slides that the applicant distributed at the neighborhood meeting held on Tuesday, March 20, 2012, 6:00 p.m. at the Morgan Park Community Club.

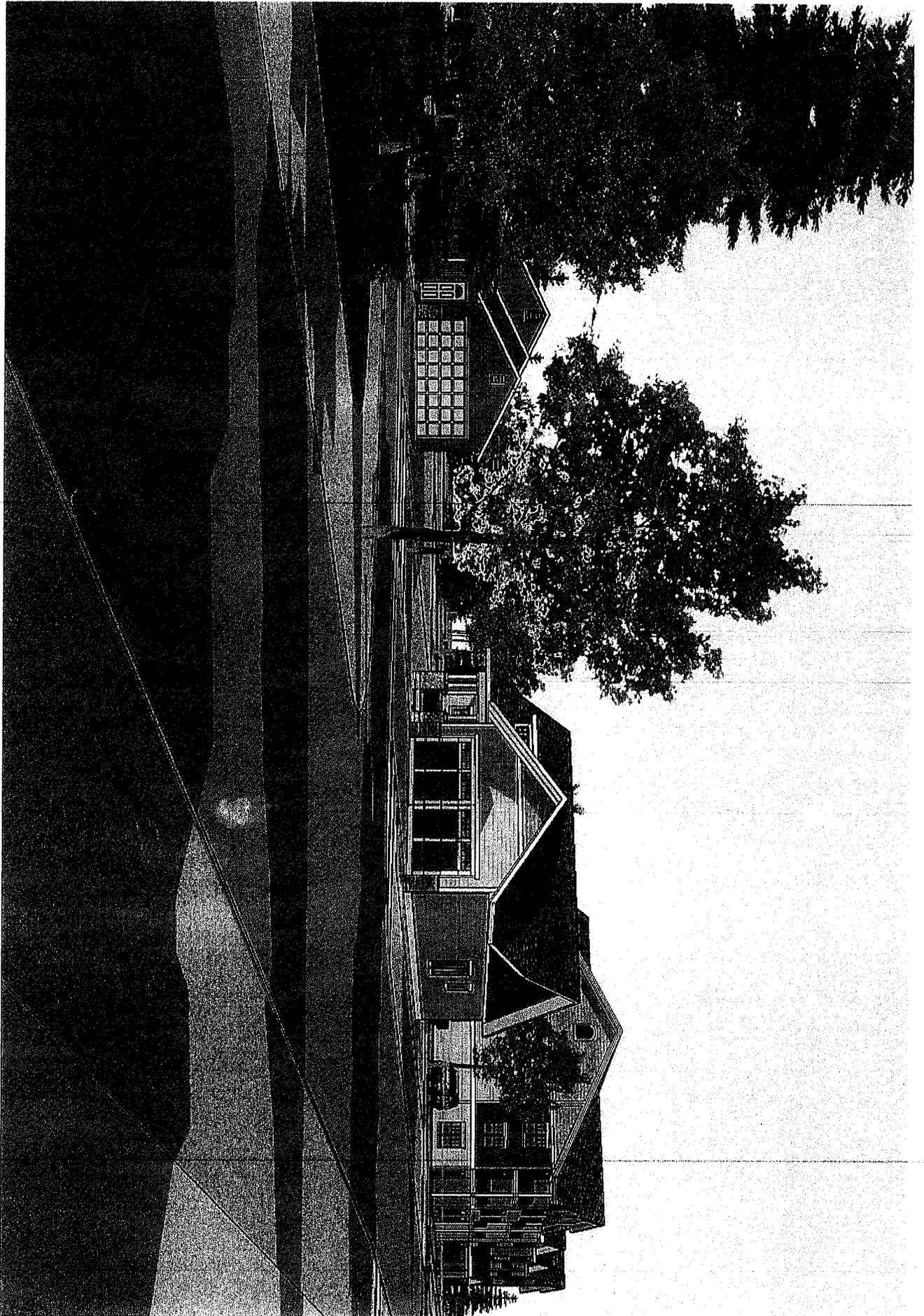
Once the land is rezoned to R-P by the Council, an R-P Plan is reviewed and approved, administratively, by the Land Use Supervisor. The attached is a conceptual design; it is not a final document and should be used for general reference only.



# WESTWOOD HEIGHTS

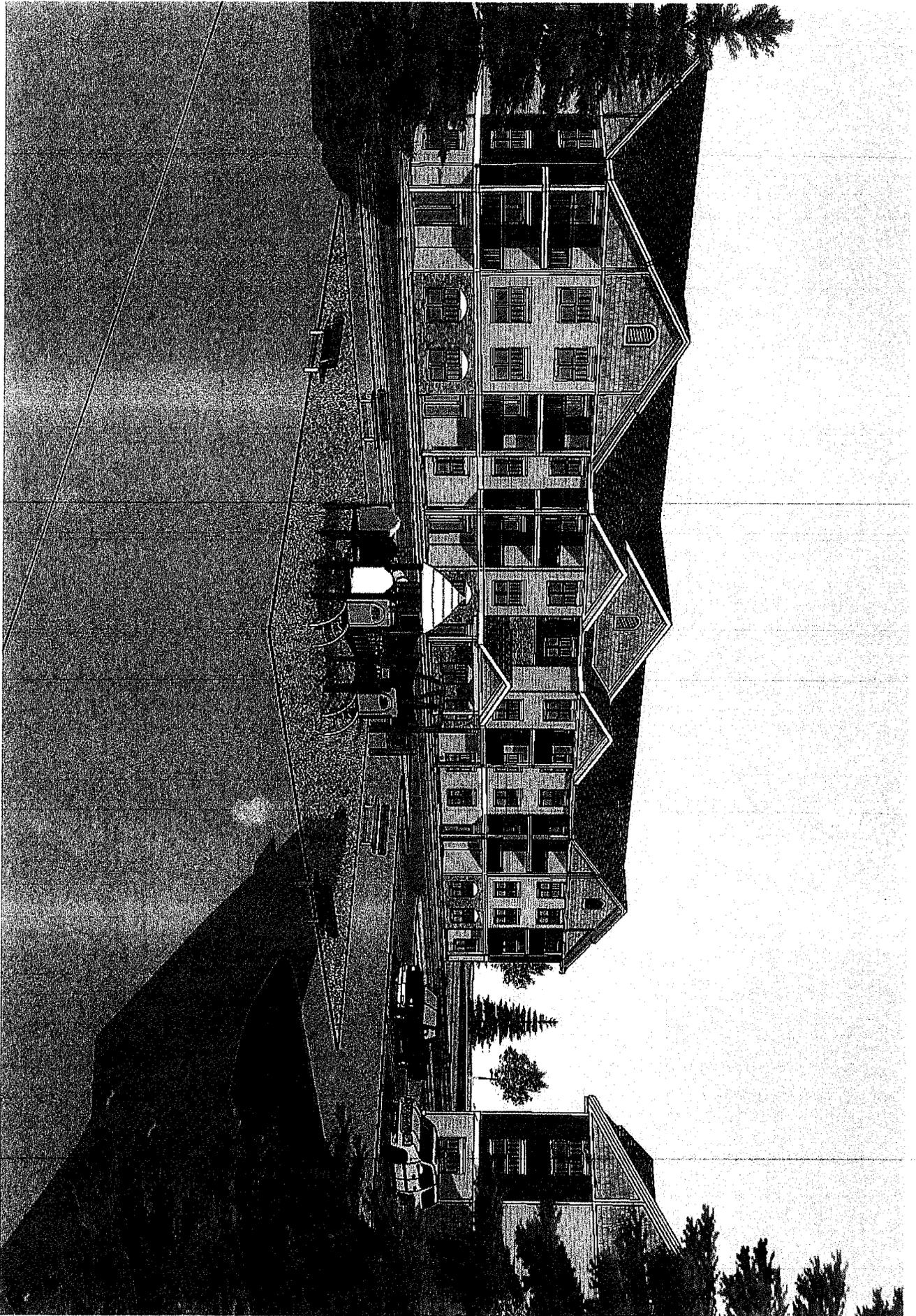
Grand Avenue, Duluth, MN

03.20.12



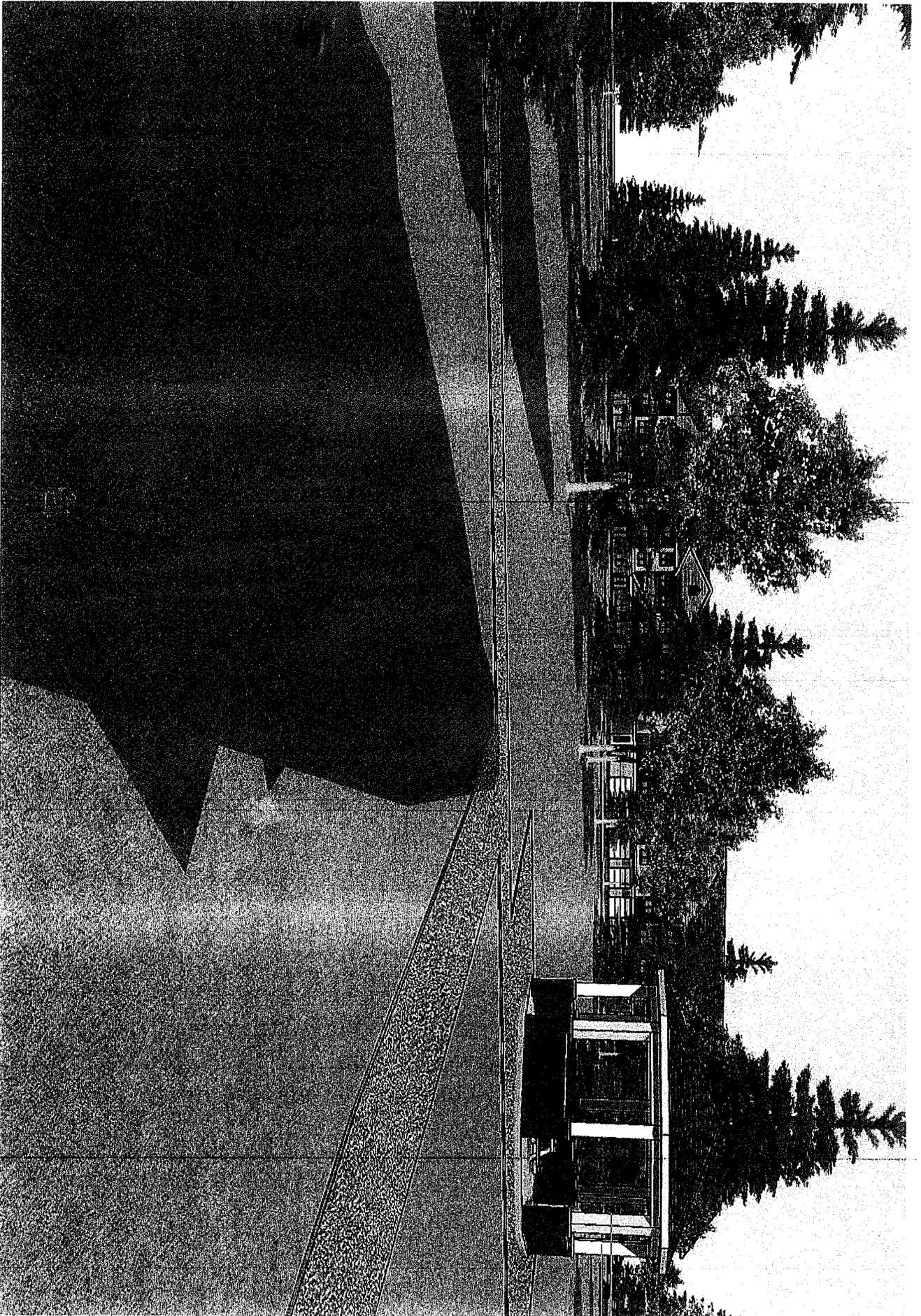
**KUPEPERS**  
ARCHITECTS & BUILDERS

#2



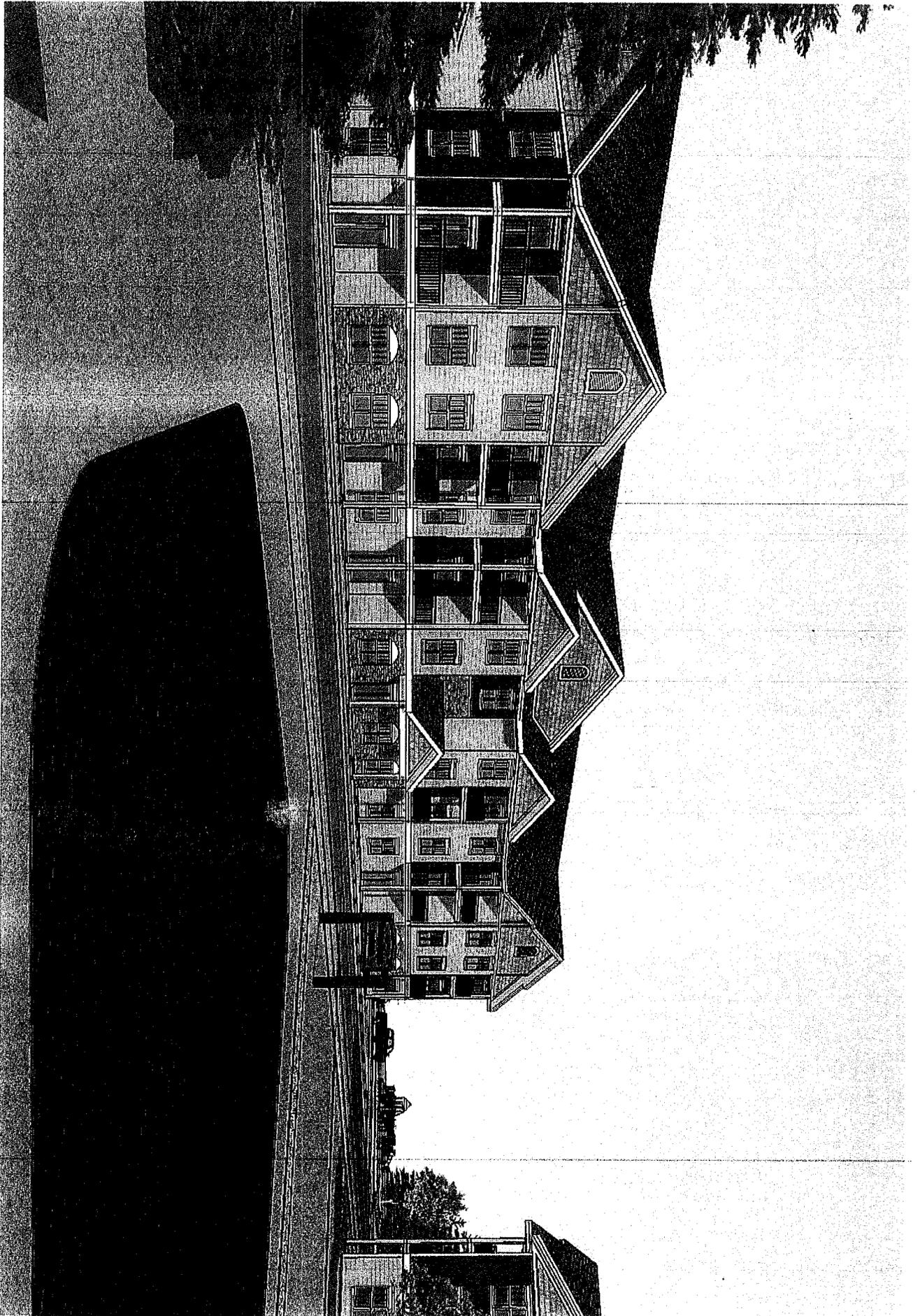
**KUPEPERS**  
ARCHITECTS & BUILDERS

**#3**



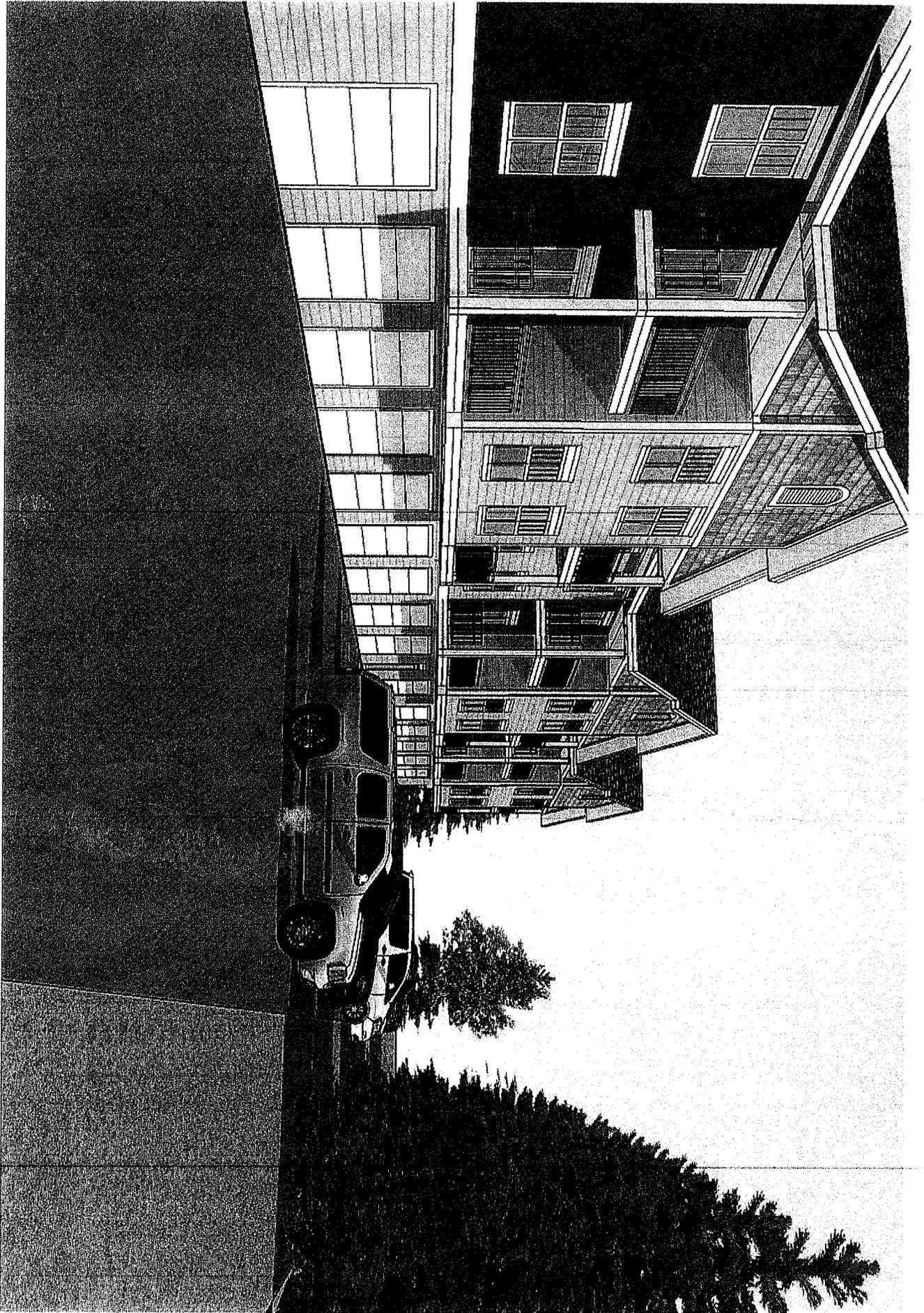
**KUPEPERS**  
ARCHITECTS & BUILDERS

#4



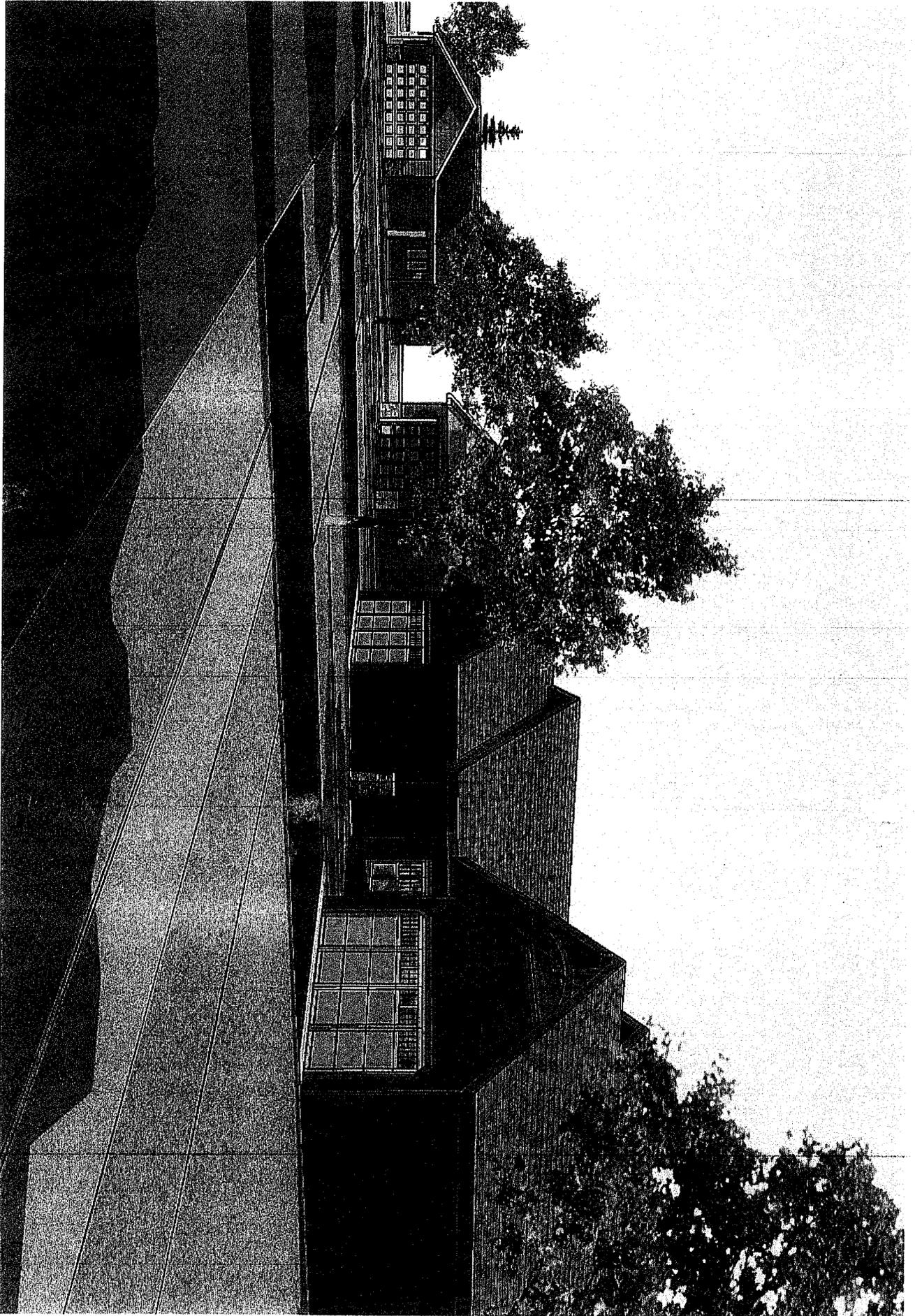
**KUPEPERS**  
ARCHITECTS & BUILDERS

**#5**



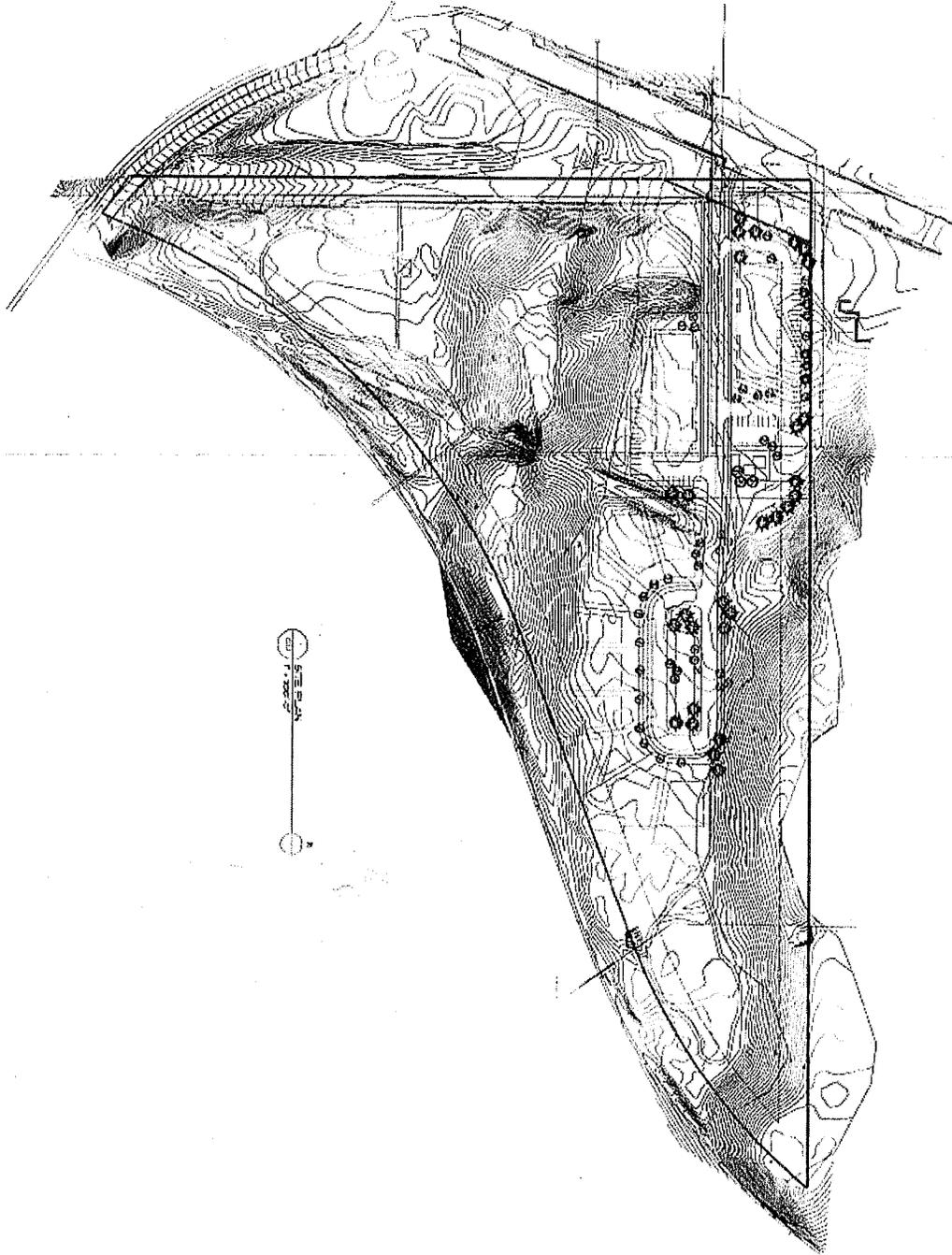
**KUPEPERS**<sup>INC.</sup>  
ARCHITECTS & BUILDERS

**#6**



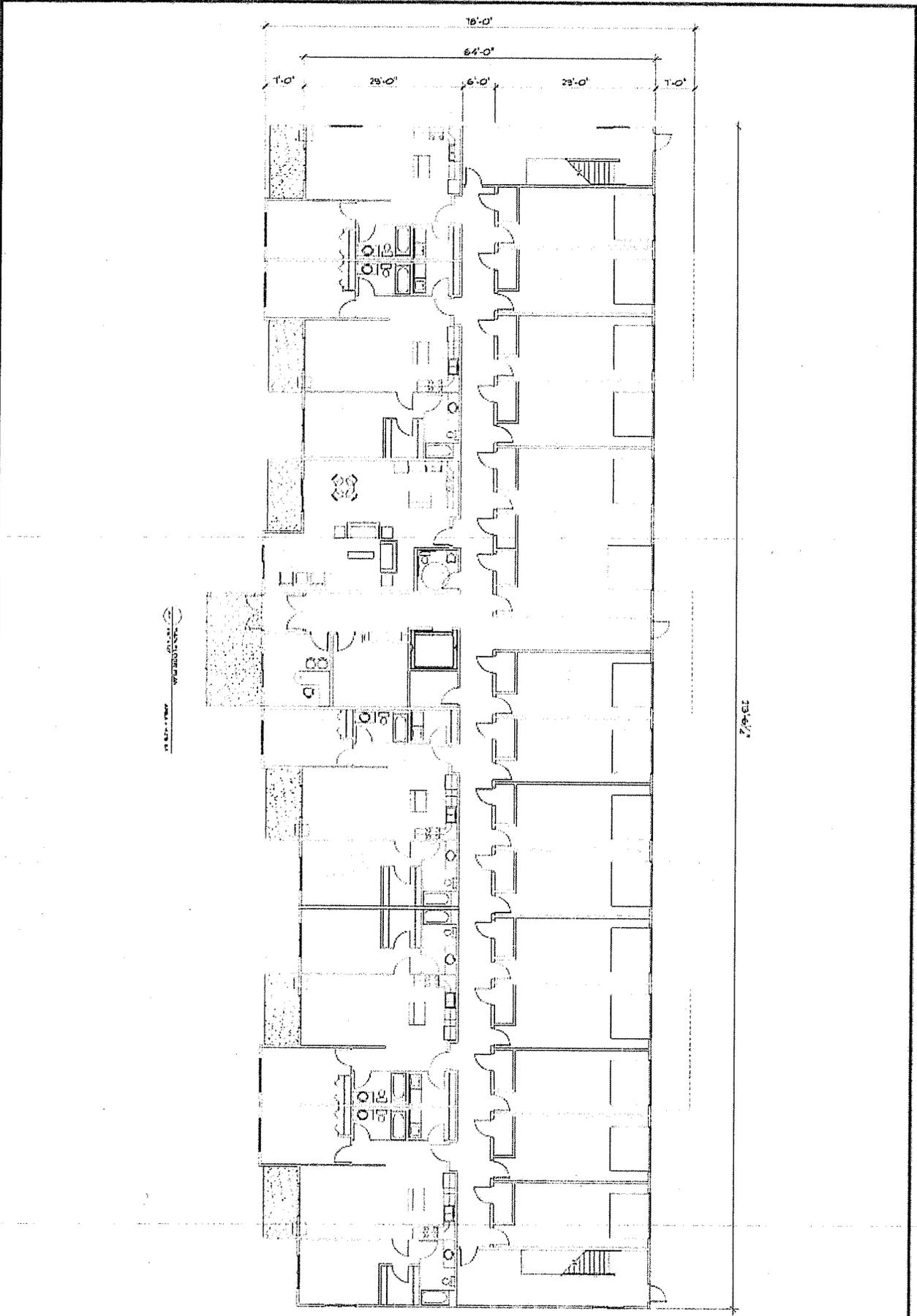
**KUPEPERS**  
ARCHITECTS & BUILDERS

#7



**KUEPERS**  
ARCHITECTS & BUILDERS  
#8

<p>C11</p>	 <p><b>KUEPERS</b> ARCHITECTS &amp; BUILDERS INC.</p>	<p><b>WESTWOOD HEIGHTS</b> DULUTH, MN Copyright Kuepers 2019</p>	<p>I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of Minnesota. Name: _____ Signed: _____ Date: _____ License #: _____</p>
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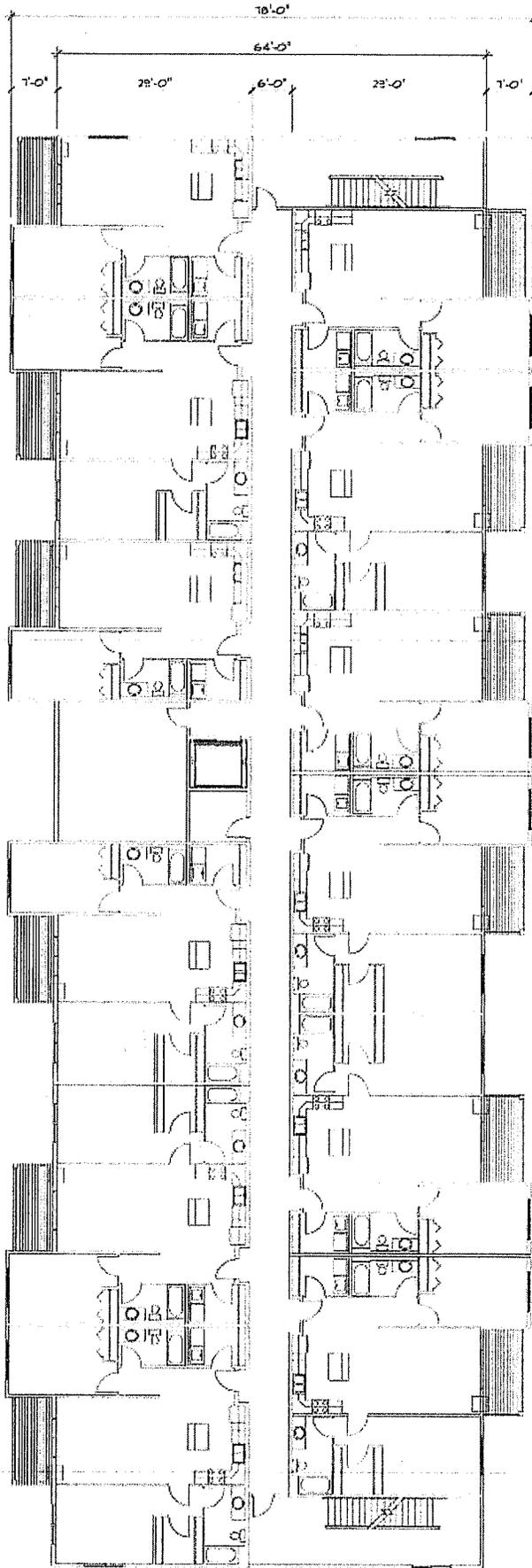
SECTION CUT  
 1/4" = 1'-0"

74'-0"

**KUEPERS**  
 ARCHITECTS & BUILDERS

#9

<p><b>KUEPERS</b>                  ARCHITECTS &amp; BUILDERS                  PRATTENHALL - 1000 S. 1000 E.</p>	<p>WESTWOOD HEIGHTS</p>	<p>I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of Minnesota.                  Signed: _____                  Date: _____ License #: _____</p>
	<p>DATE: 10/10/04</p>	



ARCHITECTS & BUILDERS  
 100 WESTWOOD AVENUE  
 SUITE 100  
 WESTWOOD, MISSOURI 64088



#10

<p><b>A1.2</b></p> <p>PLG 1</p>	<p><b>KUEPERS</b> ARCHITECTS &amp; BUILDERS PROFESSIONAL ARCHITECTS</p>	<p>WESTWOOD HEIGHTS</p> <p>PLG 1</p> <p>copyright Kuepers 2008</p>	<p>I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly Licensed Architect under the laws of the State of Missouri.</p> <p>Name: _____</p> <p>Design: _____</p> <p>Date: _____ License #: _____</p>	<p>REVISED DATE</p>
		<p>THE EXAMINER NAME DATE OFFICE ADDRESS</p>	<p>DATE</p>	