



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	PL 13-153	Contact	Steven Robertson, (218) 730-5295	
Application Type	Shoreland Variance	Planning Commission Date	December 10, 2013	
Deadline for Action	Application Date	November 5, 2013	60 Days	January 4, 2014
	Date Extension Letter Mailed	November 19, 2013	120 Days	March 5, 2014
Location of Subject	2401 Hutchinson Rd			
Applicant	Chris and Laura Jacobson	Contact	chris.jacobson@tlcofduluth.com	
Agent		Contact		
Legal Description	010-0262-00160			
Site Visit Date	November 16, 2013	Sign Notice Date	November 26, 2013	
Neighbor Letter Date	November 20, 2013	Number of Letters Sent	39	

Proposal

Applicant is seeking a variance to construct a detached accessory structure (20 ft x 12 ft) 100 feet from the Ordinary High Watermark of a tributary of Merrit Creek. The structure setback for Coldwater Rivers is 150 feet.

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

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

50-18.1 Natural Resources Overlay: maintain 150 ft. setback for structures.

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

Sec. 50-37.9.C. - General Variance Criteria (paraphrased here): 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 they are proposing to use the property in a reasonable manner, b) that the need for relief from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

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

I-1

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

Traditional Neighborhood Future Land Use. 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.

The Shoreland Setback rules were introduced with the UDC in 2010, as a replacement for the Water Resources Management Ordinance (WRMO). The WRMO limited impervious surface as a way to reduce water run-off, sedimentation of water ways, and the increase in temperature of coldwater streams (which is detrimental to trout). MN Statute 6264.0050 lists Merritt Creek as a trout stream.

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

- 1) The applicant is seeking a variance to construct a detached accessory structure (20 x 12) 100 feet from the Ordinary High Watermark of a tributary of Merrit Creek. The structure setback for a Coldwater River is 150 feet. The applicant intends to use the accessory structure additional storage of lawn maintenance and related items.
- 2) According to the City Assessor, the home was built in 1960 and the garage was built in 1975. The subdivision, Beverly Hill First Addition, was platted in 1957. The lot is approximately 69 feet x 125 feet (the NW lot line is 20 feet shorter than the SW lot line). There is a 10 foot utility easement in the rear of the lot.
- 3) The proposed structure will not have a negative impact on the neighborhood, as the proposed structure is a modest size and is not out of character with other similar properties in the neighborhood.
- 4) The property owner currently enjoys reasonable the use of their property with a single family home and a two car detached accessory garage. If the variance was denied, it would not deprive the property owner of a substantial property right.
- 5) The shoreland structure setback of 150 feet limits placement of structures on approximately 50% of the lot (the home is just outside the shoreland setback). The lot does not have wetland, slope, bedrock, or other topographical conditions that present a practical difficulty.
- 6) No City Department or Public Agency comments were received on this application. Three citizens contacted the City to inquire about the nature of the variance, and the potential impact to Merrit Creek and/or the trees in the wooded area around Merrit Creek.
- 7) The requested variance is not necessary for the preservation and enjoyment of a substantial property right. The requested variance is for the convenience of the applicant. The applicant does not have a practical difficulty that would require a variance to enjoy the use of the property.
- 8) Approved variances lapse if the project or activity authorized is not begun within one year of approval.

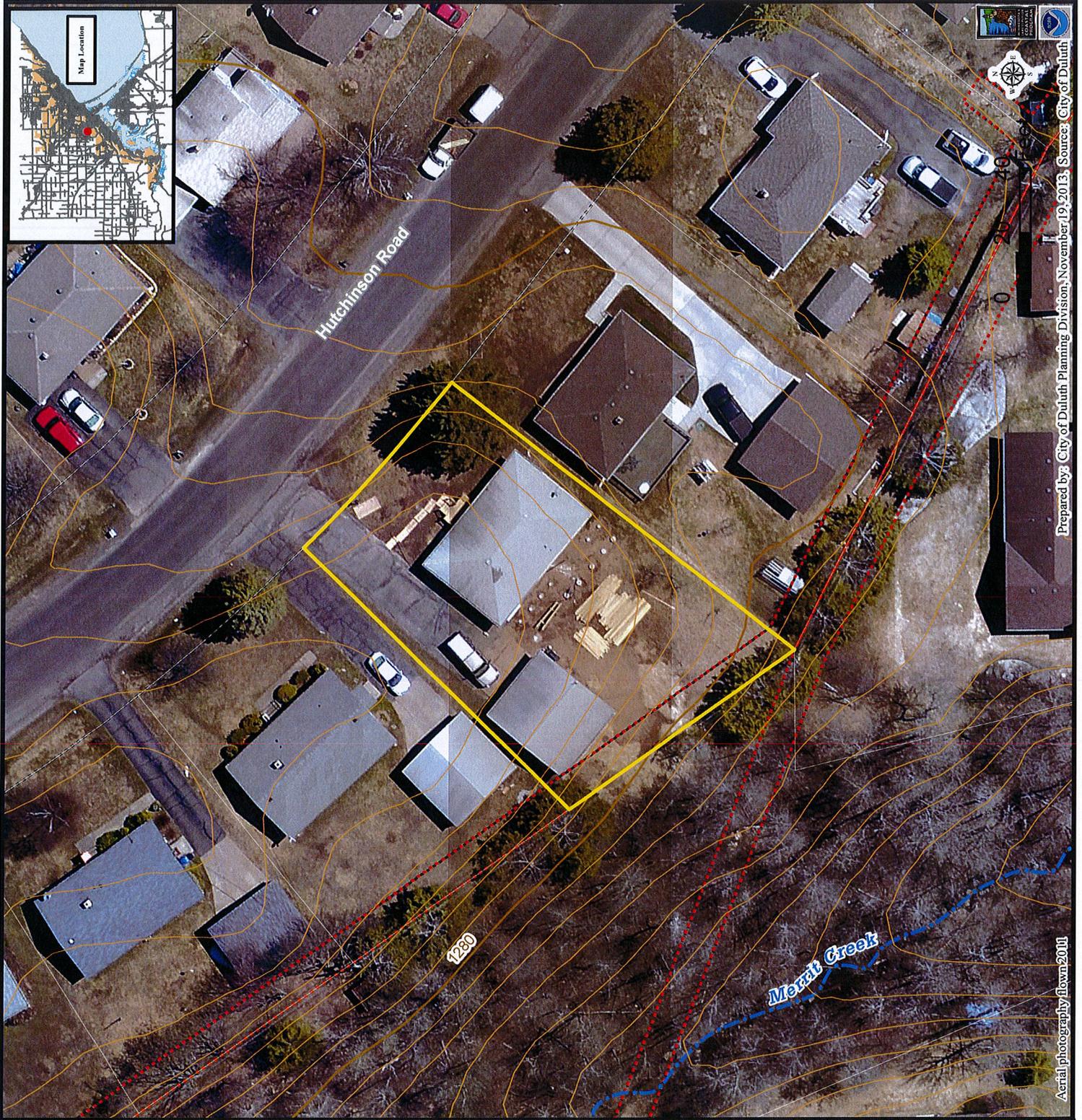
Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, Staff finds that the requested variance does not meet the criteria established in 50-37.9. The application does not meet the standards for a variance and therefore staff recommends denial.

I-2



City Planning
 PL 13-153
 Shoreland Variance
 2401 Hutchinson Road



Aerial photography flown 2011

Prepared by: City of Duluth Planning Division, November 19, 2013. Source: City of Duluth

Legend

Contours 1 Ft
 Index_ Intermediate Index

Stream Type
 Trout Stream (GPS) Other Stream (GPS)

Right-of-Way Type
 Road or Alley ROW

Easement Type
 Utility Easement Other Easement

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.

7-3



City Planning

PL 13-153

Shoreland Variance
2401 Hutchinson Road

Legend

Stream Type

TROUT_FLAG

Trout Stream (GPS)

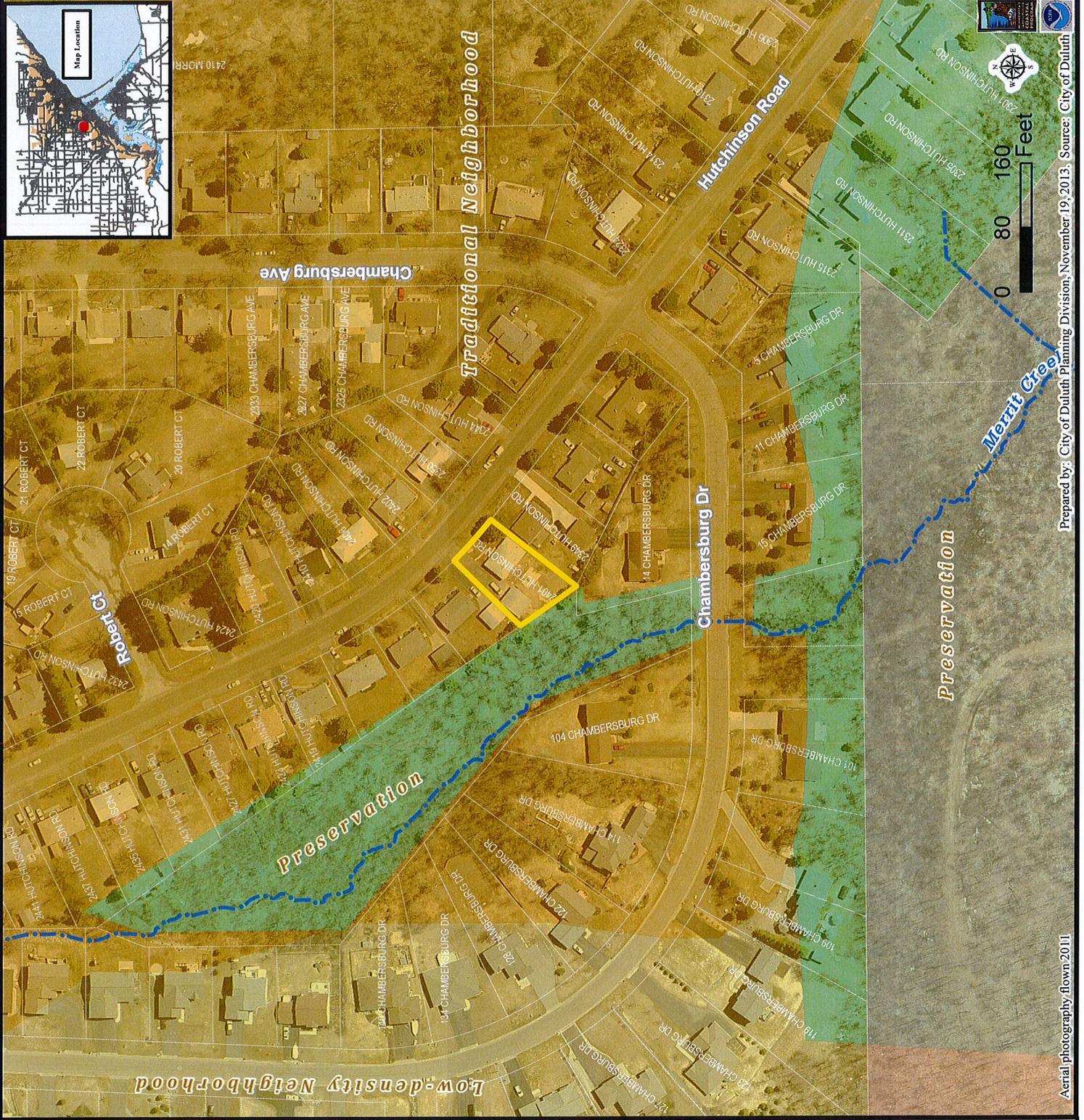
Other Stream (GPS)

Future Land Use - Plus

Future Land Use

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

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1-4





Merritt Creek

Merritt Creek

Merritt Creek

Merritt Creek Haines Rd

W Creek

Gortas Creek

53

33

33

33



11/16/2013

I-7

Steven Robertson

From: Laura Jacobson <laura.jacobson@tlcofduluth.com>
Sent: Wednesday, November 27, 2013 12:58 PM
To: Steven Robertson
Subject: Re: Hello

Negative Impact:

The building of our shed will have no negative impact. The shed, in comparison to other garages and homes in the neighborhood, is relatively small. In addition, Merritt "Creek" is historically devoid of water much of the time.

Practical Difficulty:

Placing the shed in any other area is not practical due to steep slopes behind and beside our current garage. Our back sidewalk to the garage and concrete patio also makes it impractical to place the shed anywhere else. Placing the shed "in the middle of the back yard" would totally eliminate any safe space for our future children to play and still be away from traffic (front yard).

Reduce Impact on Site:

We have chosen to place the shed on blocks rather than our first choice of a slab in order to eliminate creating an impervious surface. Doing so will reduce the impact on shore land area to Merritt "Creek", which is, again, historically devoid of water most of the time.

Thank you.

Laura

On Tuesday, November 26, 2013, Steven Robertson wrote:

Thank you.

Steven Robertson, Senior Planner (218-730-5295)

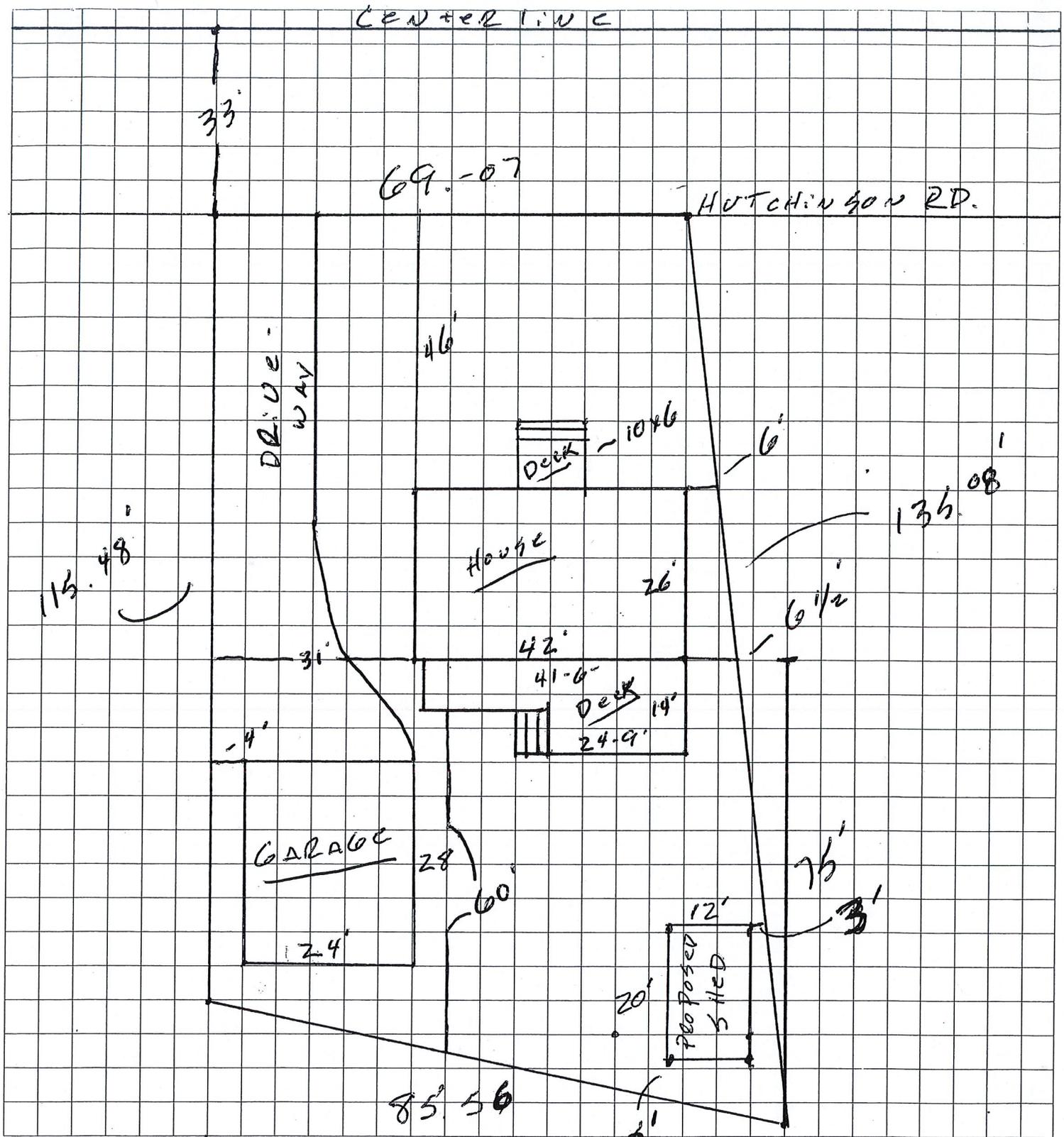
City of Duluth, Planning Division

411 W 1st Street, Room 208

Duluth, MN 55802

From: Laura Jacobson [mailto:laura.jacobson@tlcofduluth.com]
Sent: Tuesday, November 26, 2013 5:31 PM
To: Steven Robertson
Subject: Re: Hello

8-1



CENTERLINE

69.-07

HUTCHINSON RD.

DRIVEWAY

Deck - 10x6

House

Deck

GARAGE

Proposed Shed

SITE PLAN

North Arrow Required

Do Not Use Pencil

Site Address: 2401 HUTCHINSON

Plat / Parcel No.
01002620016

Owner's Name: CHRIS JACOBSON

This Site Plan is an accurate and complete representation of the footprint(s) of all existing and proposed structure(s) and their location(s) on the subject property.

Grid is 4 squares per inch

Scale: 1" = 20 Feet

Applicant's Signature: _____

RECEIVED NOV 05 2013

Date: 11-5-2013