**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 13-047 | | **Contact** | Steven Robertson | |
| **Application Type** | Special Use Permit, Fence in Floodway | | **Planning Commission Date** | April 8, 2013 | |
| **Deadline for Action** | **Application Date** | March 11, 2013 | **60 Days** | May 10, 2013 | |
| | **Date Extension Letter Mailed** | March 26, 2013 | **120 Days** | July 9, 2013 | |
| **Location of Subject** | 2202 Maple Grove Road | | | | |
| **Applicant** | Grandmas Miller Hill Mall | | **Contact** | | |
| **Agent** | Tony Boen | | **Contact** | tboen@grccorp.com | |
| **Legal Description** | N/A | | | | |
| **Site Visit Date** | March 23, 2013 | | **Sign Notice Date** | March 27, 2013 | |
| **Neighbor Letter Date** | March 25, 2013 | | **Number of Letters Sent** | 9 | |

**Proposal**

Special Use Permit to build a fence in the floodway. The applicant states that "city ordinance requires a fence around outdoor alcohol service areas".

| | Current Zoning | Existing Land Use | Future Land Use Map Designation |
|---|---|---|---|
| **Subject** | MU-C | Commercial | Large Scale Commercial |
| **North** | MU-C | Commercial | Large Scale Commercial |
| **South** | MU-C | Commercial | Large Scale Commercial |
| **East** | MU-C | Commercial | Preservation/Large Scale Commercial |
| **West** | MU-C | Commercial | Large Scale Commercial |

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

Section 50-18.1.C.1 On or after January 28, 1980, no new structure or land shall be used and no structure shall be constructed, located, extended, converted or structurally altered without full compliance with the terms of this Section 50-18.1.C. Within the floodway, flood fringe and general flood plain districts, all uses not listed as permitted uses or special uses are prohibited.

Section 50-18.1.C.2(b) Special Uses. The following uses involving accessory structures or fill or storage of materials or equipment may be permitted only after the issuance of a special use permit pursuant to Article 5.....Placement of fill or construction of fences

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

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

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

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

1) The applicant wishes to construct a fence on his property. For outdoor liquor sales, the applicant needs to establish a fence to separate paying/drinking customers from the general public.

2) The area is in a flood, designated by FEMA (most map revision 1982). The Grandmas restaurant building was built prior to the establishment of this floodway (originally the structure was used by a different restaurant...Mr. Steak, built around 1971). The existing structure is considered a legal, non-conforming structure. It can be maintained, but cannot be expanded in a way that would increase conflict with the established floodway.

3) The creation of a fence and patio, while an expansion of the restaurant use, is not consider as an expansion of the structure's footprint. The applicant is proposing a fence of a design (pole and cable) that would have little impact on the water flow in the event of future flooding.

4) No agency, city, or citizen comments or correspondence was received for this project. Please note that the location, size, and design of the fence (barrier) would need to be approved by the Police Chief, City Clerk, and Building Official to comply with City Code rules on alcohol consumption and separation of customers and non-customers.

5) UDC 50-37.1.N states than an approved Special Use Permit will expire if the project or activity authorized by the permit is not begun within 1 year.

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

Staff recommends approval of the Special Use Permit subject to the following conditions:

1) Applicant establish the fencing as indicated in Partial Site Plan pages A0 and A1, dated March 14, 2013.

2) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

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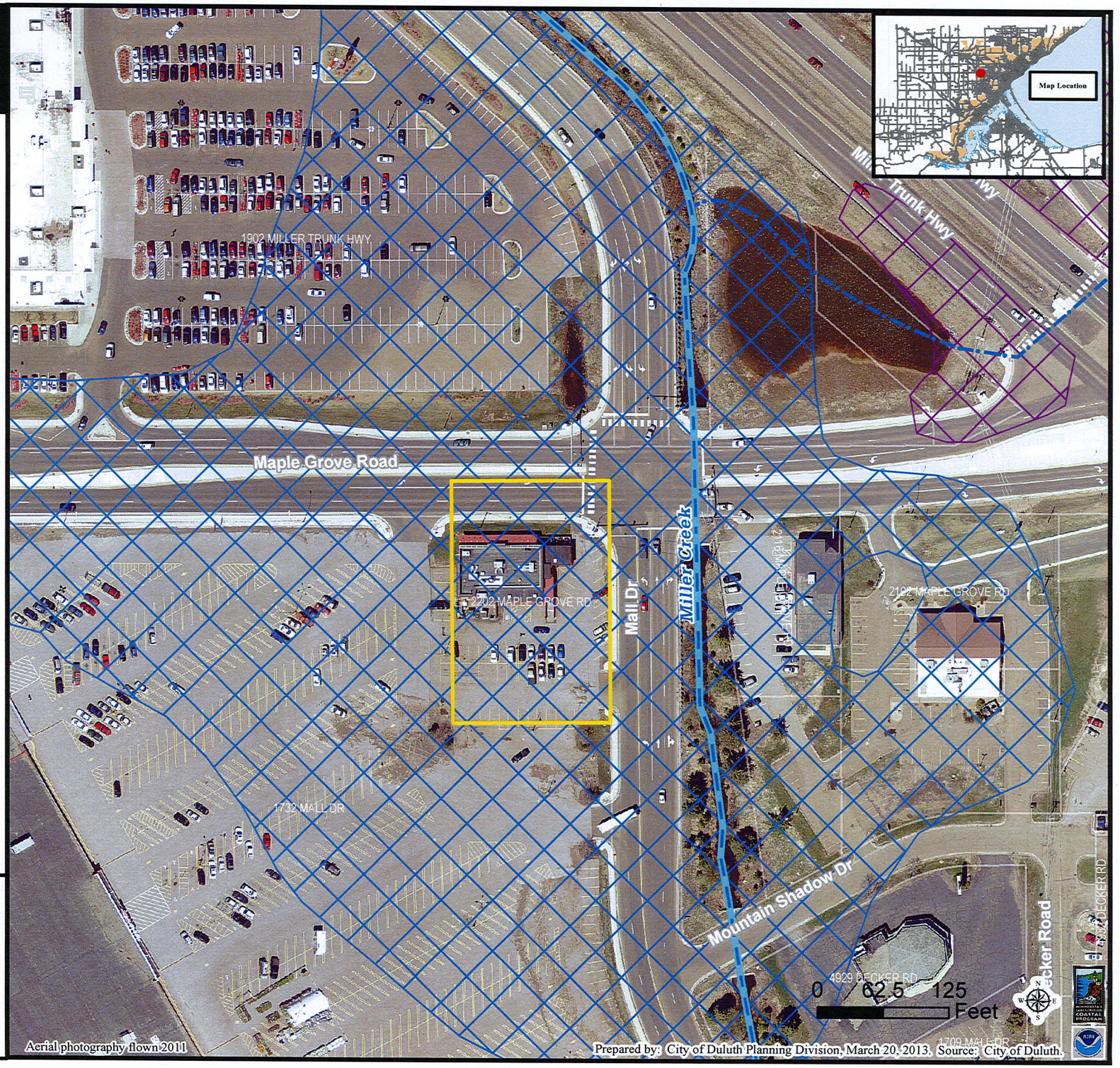
## Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

# City Planning

PL 13-047
Special Use Permit
2202 Maple Grove Road




## Legend

### DuluthStream_cl

### TROUT_FLAG

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

### Floodplain (UDC)

### 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.

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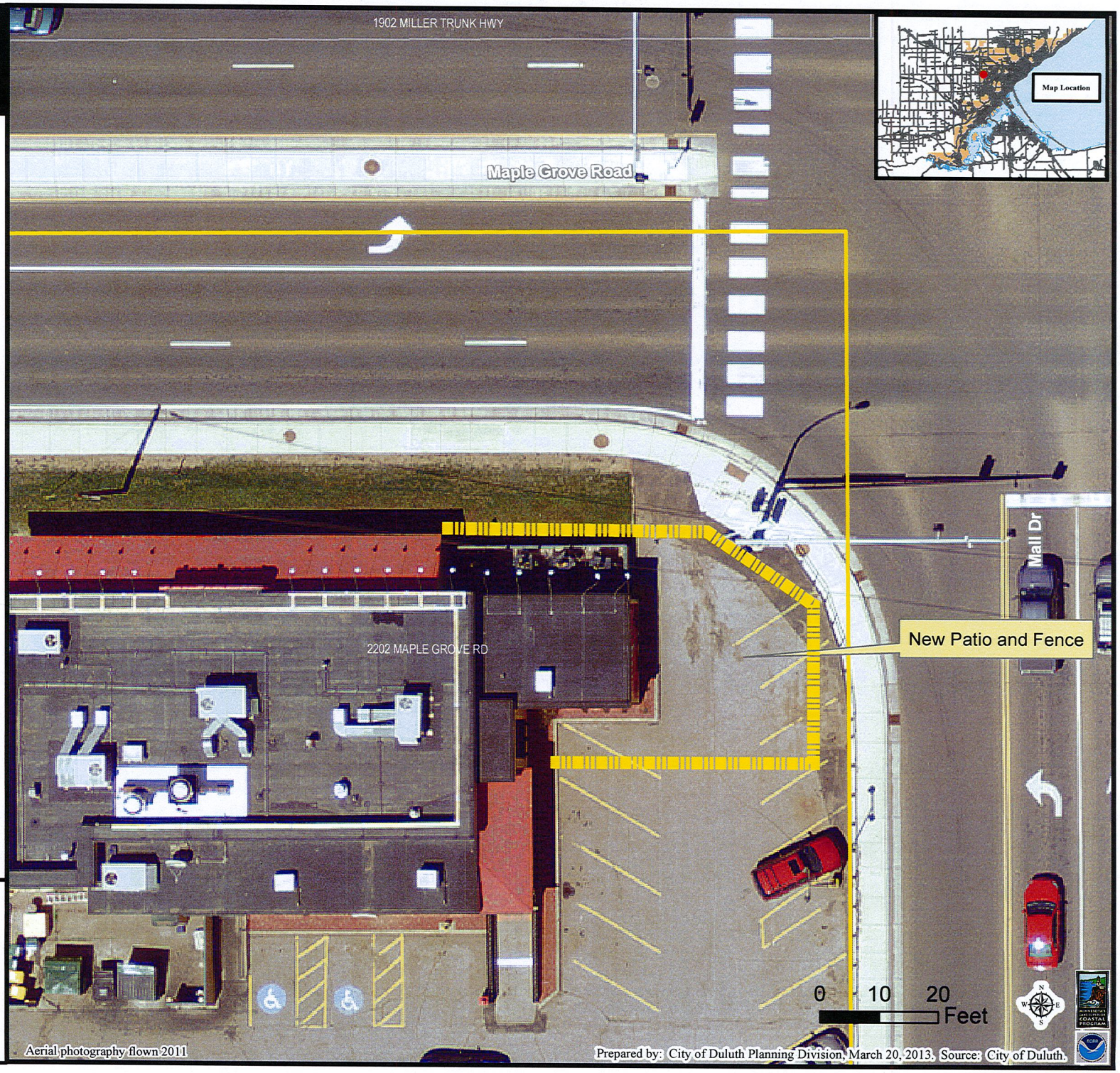
# City Planning

PL 13-047
Special Use Permit
2202 Maple Grove Road

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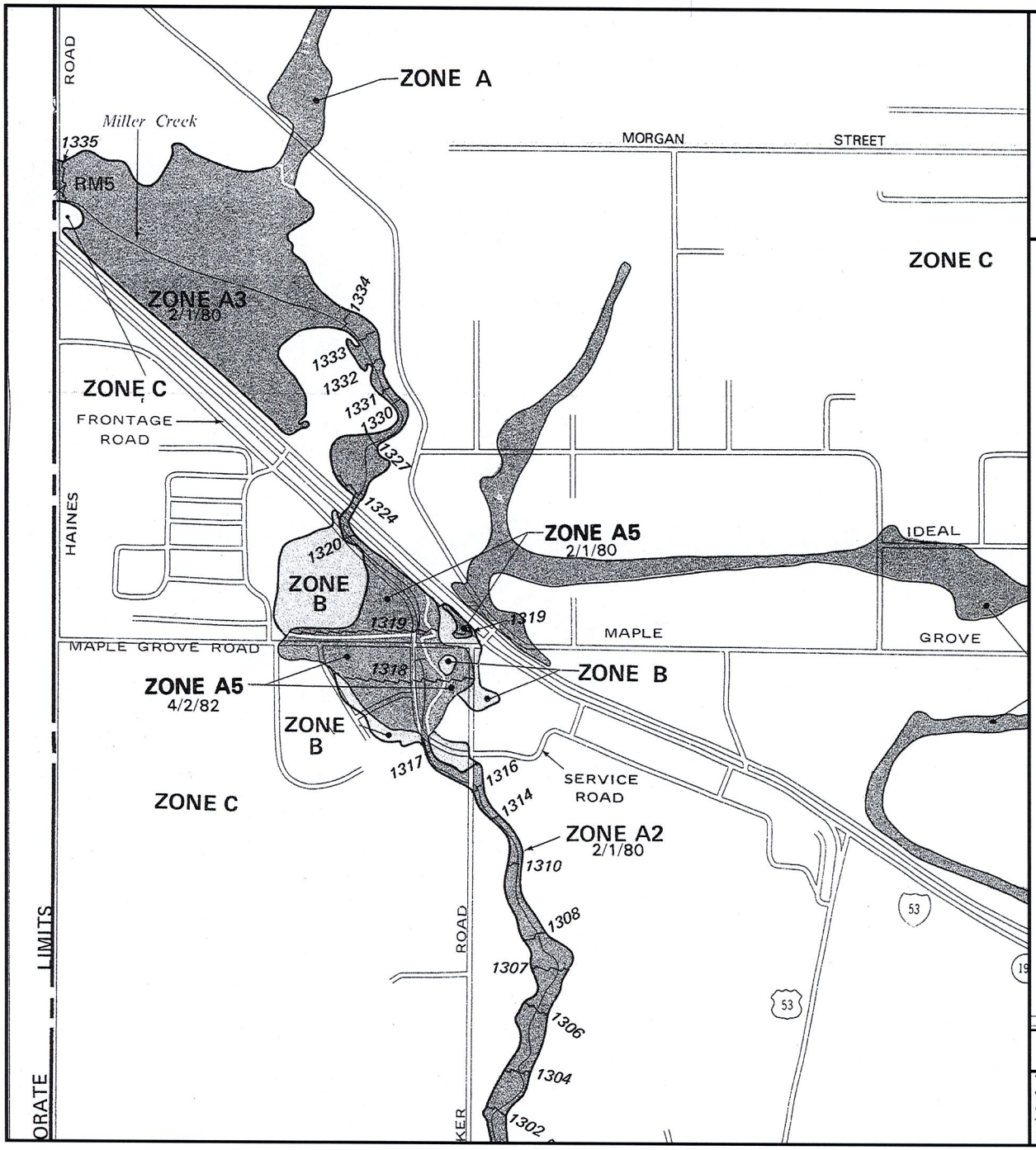
J-4




APPROXIMATE SCALE

1000 0

NATIONAL FLOOD INSURANCE PROGRAM

# FIRM
## FLOOD INSURANCE RATE MAP

CITY OF
DULUTH,
MINNESOTA
ST LOUIS COUNTY

**PANEL 25 OF 45**
(SEE MAP INDEX FOR PANELS NOT PRINTED)

**COMMUNITY-PANEL NUMBER**
270421 0025 C

**MAP REVISED:**
APRIL 2, 1982

Federal Emergency Management Agency

This is an official copy of a portion of the above referenced flood map. It was extracted using F-MIT On-Line. This map does not reflect changes or amendments which may have been made subsequent to the date on the title block. For the latest product information about National Flood Insurance Program flood maps check the FEMA Flood Map Store at www.msc.fema.gov

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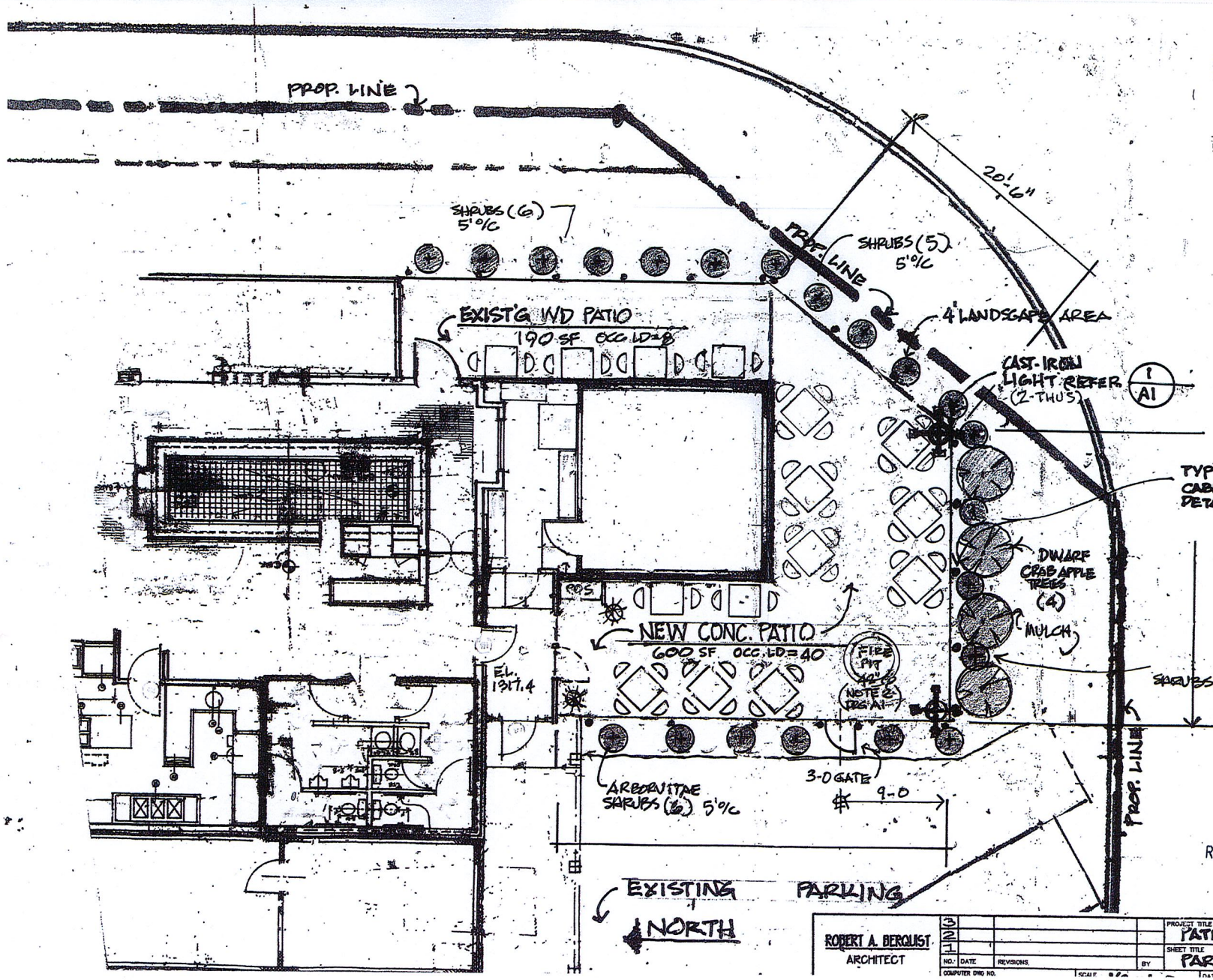
525 Lake Avenue South
Suite 203
Duluth, MN 55802

Phone 218/727-8862

Robert A. Berquist · Architect
Canal Park

**ARCHITECTS**
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.

Print Name: Robert A Berquist
Signature: Robert A Berquist
Date: 4 Mar 13 License # 12340




PLANT LIST.

SHRUBS :- EUONYMUS ALATUS BURNING BUSH 2'-3' H @ 5-0 o/c (21 THUS)
- LILAC (ALT)

TREES :- DWARF FLOWERING CRAB APPLE. (4 THUS) 5'-6' @ 8' o/c

RECEIVED MAR 1 1 2013

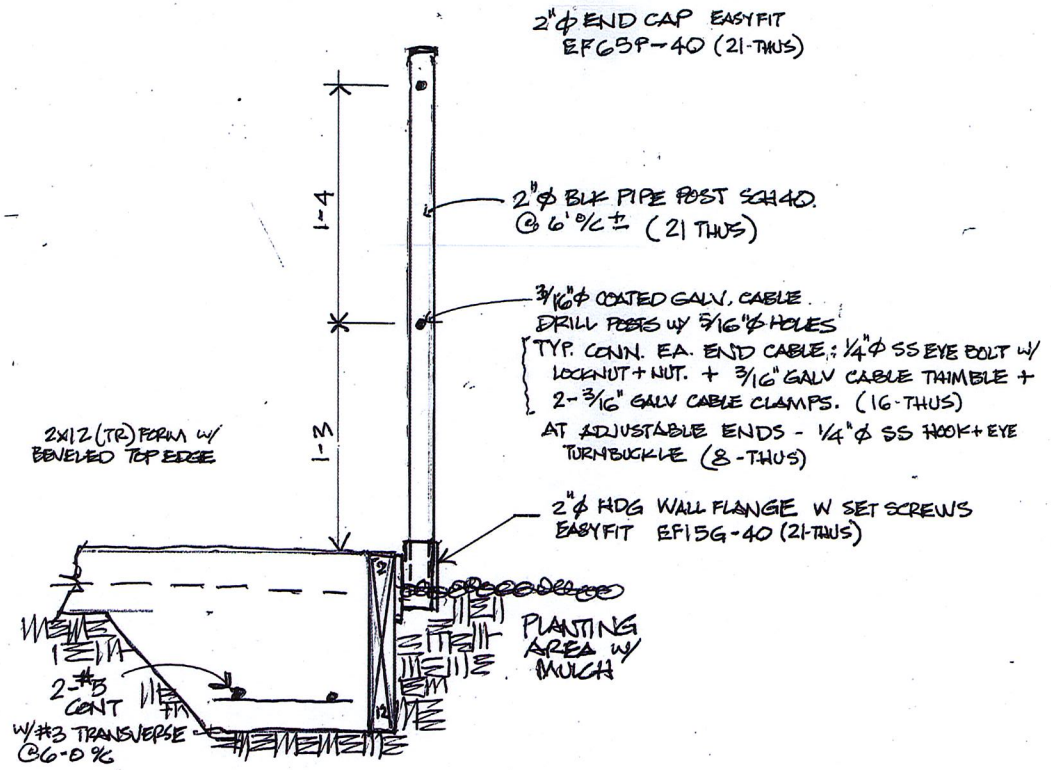
| | | | |
|---|---|---|---|
| ROBERT A. BERQUIST ARCHITECT | NO. / DATE / REVISIONS / BY | PROJECT TITLE: PATIO PLAN GRANDMA'S 2202 MAPLE GROVE RD | SHEET NO. A0 |
| | COMPUTER DWG NO. / SCALE | SHEET TITLE: PARTIAL SITE PLAN | OF |

J-6

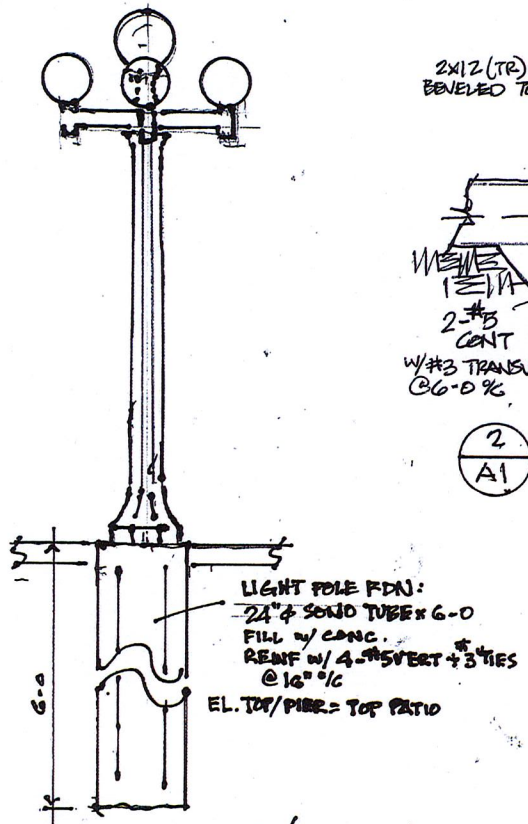
525 Lake Avenue South
Suite 203
Duluth, MN 55802

Phone 218/727-8862

Robert A. Berquist · Architect
Canal Park




2 / A1 REMOVEABLE POST & CABLE RAILING DETAIL 1½=1-0




1 / A1 TYP LIGHT FDN (2-THUS) 3/8=1-0

GEN NOTES:

1. PIPE FITTINGS: BY EASY FIT, INC.
North Canton, OH. 330-494-9610

2. FIRE PIT:
GAS - ARTIFICIAL LOGS.
PIT: 42"ϕ
INTERLOCK - ROMAN STACK
STD. 8" STONES, 3 COURSES +
STD COPING STONE COURSE
BROWN BUFF BY
GREAT LAKES STONE
525-6360

**ARCHITECTS**
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.

Print Name: Robert A Berquist
Signature: Robert A Berquist
Date: 4 Mar 13 License # 12340

RECEIVED MAR 11 2013

| ROBERT A. BERQUIST ARCHITECT | NO. | DATE | REVISIONS | BY | PROJECT TITLE: PATIO ADD'N GRANDMAS 2202 MAPLE GROVE RD | SHEET NO. A1 |
|---|---|---|---|---|---|---|
| | 3 | | | | SHEET TITLE: DETAILS | OF SHEETS |
| | 2 | | | | | |
| | 1 | | | | | |
| | COMPUTER DWG NO. | | SCALE NOTED | | DATE 4 MAR 13 / PROJECT NO. 9125 | |

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03/23/2013

OPEN!
TARGET
03/23/2013

Sample Pictures of 2012 Fall Flooding

01-5