



**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 13-012		<b>Contact</b>	Steven Robertson	
<b>Application Type</b>	Variance reconstruct nonconforming bldg		<b>Planning Commission Date</b>	March 26, 2013	
<b>Deadline for Action</b>	<b>Application Date</b>	January 16, 2013	<b>60 Days</b>		
	<b>Date Extension Letter Mailed</b>	February 21, 2013	<b>120 Days</b>	May 30, 2013 (120 + 14)	
<b>Location of Subject</b>					
<b>Applicant</b>	Karl Norman		<b>Contact</b>		
<b>Agent</b>	Lonny Anderson		<b>Contact</b>	lon@heartwoodconstructioninc.com	
<b>Legal Description</b>	010-1350-09230				
<b>Site Visit Date</b>	March 17, 2013		<b>Sign Notice Date</b>	March 12, 2013	
<b>Neighbor Letter Date</b>	March 11, 2013		<b>Number of Letters Sent</b>	49	

**Proposal**

A variance to allow reconstruction of a single-family home that was heavily damaged by fire. The footprint of the structure does not meet current side yard setback standards (6 feet required versus 3 feet as provided).

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

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

**Sec. 50-38.3.B Nonconforming buildings:**

"A nonconforming building that has been damaged from any cause or has deteriorated to the extent of more than 50% of its reconstruction value at the time of the damage shall not be restored, except in conformity with this Chapter, unless the owner obtains a variance pursuant to Section 50-37.9."

**Sec. 50-37.9.M Variance, Reconstruction of a non-conforming building:**

"A variance may be granted to permit the reconstruction of a nonconforming building that has been damaged from any cause or has deteriorated to the extent of more than 50% of its reproduction value, if the commission determines that it is necessary for the preservation and enjoyment of a substantial property right and is not detrimental to the public welfare of the city."

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**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.

Comp. Plan Principles #1 - Reuse previously developed lands, #10 - Take sustainable actions.

Recent history: the applicant's agent submitted an "Appeal from the Land Use Supervisor's Decision" on January 16, 2013. The appeal was withdrawn by the applicant and this variance was submitted in its place.

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

The following findings are made:

- 1) The existing home was damaged by fire on July 27, 2011. It is a non-conforming structure as it is within the side yard setback (approximately 3 feet instead of the 6 feet required by R-1 zoning).
- 2) The property owner would like to repair the home as it exists on the lot today.
- 3) According to the the UDC, the variance may be granted to permit the reconstruction of a nonconforming building that has been damaged from any cause or has deteriorated to the extent of more than 50% of its reproduction value, if the commission determines that it is necessary for the preservation and enjoyment of a substantial property right and is not detrimental to the public welfare of the city.
- 4) Granting this variance will not be detrimental to the public welfare of the city, and would not likely compromise the general purposes or intent of the UDC, or result in adverse consequences to the environment.
- 5) No comments were received concerning this proposed variance, other than one citizen phone email asking for additional information behind the nature/scope of the variance.

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

Approve the variance to allow repair of the non-conforming structure as it is necessary for the preservation of a substantial property right and is not detrimental to the public welfare of the city.

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



# City Planning

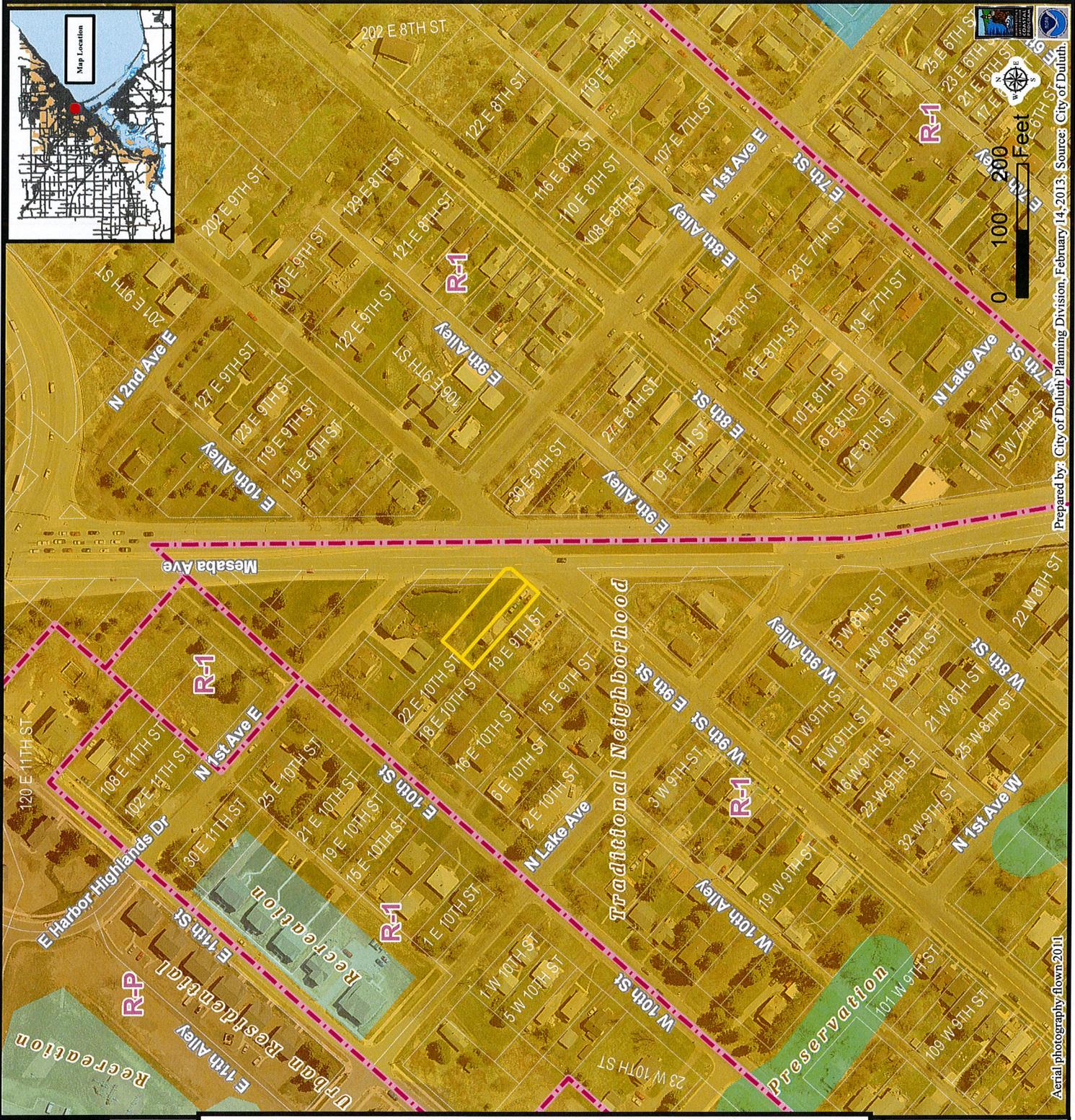
13-012 Variance to Rebuild Non-Conforming Structure  
21 East 9th Street, Karl Norman

## Legend

-  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

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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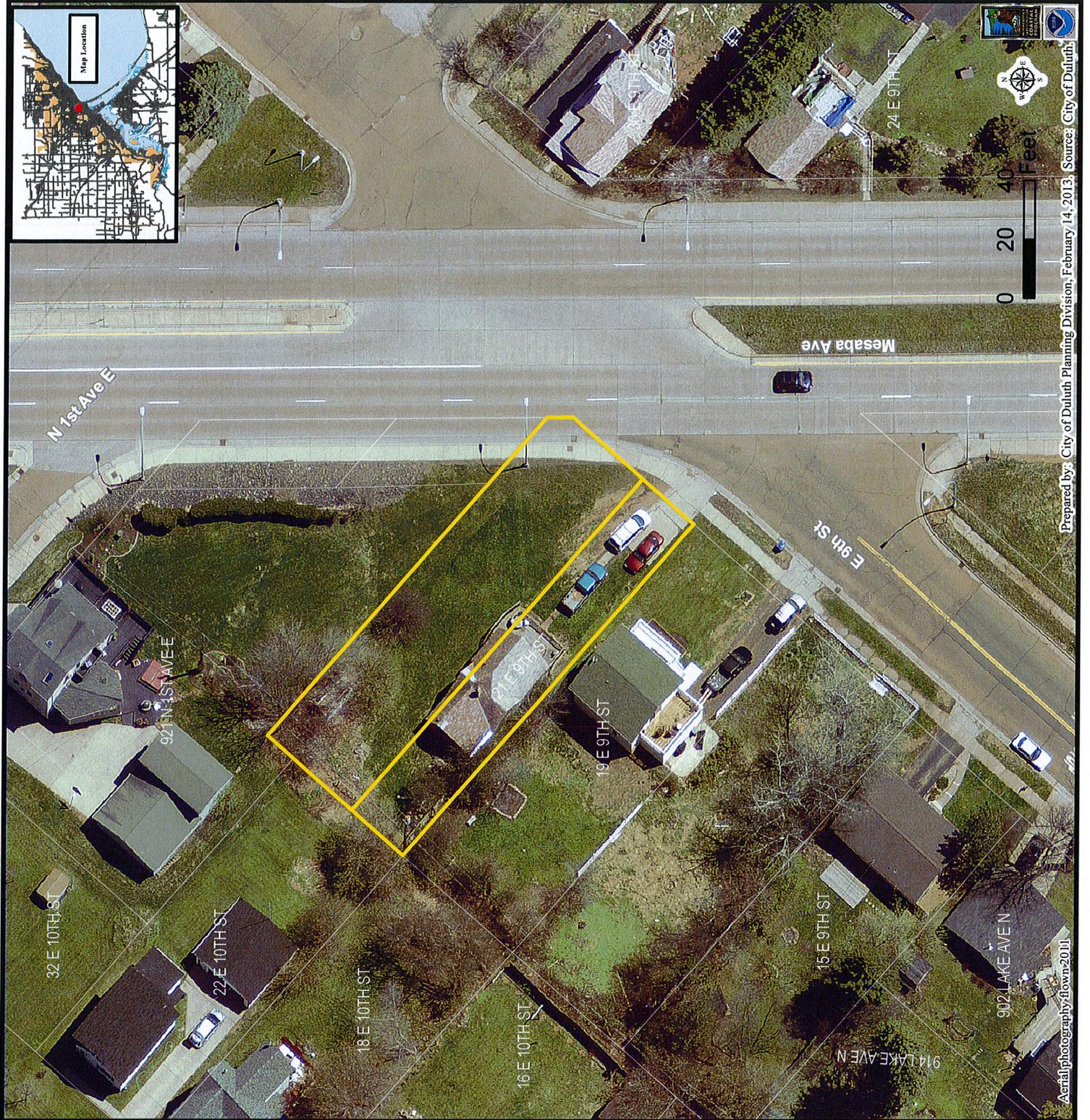
Aerial photography flown 2011

Prepared by: City of Duluth Planning Division, February 14, 2013. Source: City of Duluth.



# City Planning

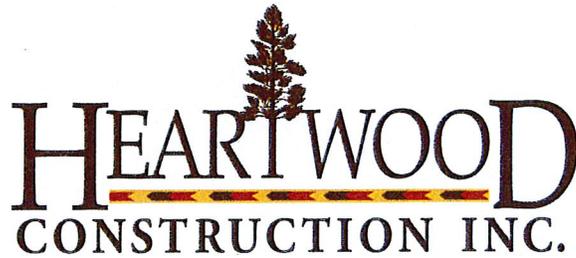
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January 16, 2013

City of Duluth  
Planning Commission

RE: Variance Evidence and Statement

Dear Planning Commission,

**Evidence that the requested variance will not have a negative impact:**

The owner wants to repair the house damage that was caused from lightning. The house has been there for decades, has off street parking, and has a large enough lot for the residence. The owner wants the house repaired as it was, and it does not cause any negative impact to the neighbors or community. It was a nice house that was clean and well kept by the owner. It is necessary for the preservation and enjoyment of the property to repair the property. Right now the property cannot be lived in or used.

**Statement of need establishing practical difficulty:**

The damage from the lightning has left the house uninhabitable and unusable. A variance is required to repair the house so the owner may use the property. The owner just wants to repair the house as it was before. Because the damage was lightning and fire, the owner is not asking to change the size or location of the house. This was not a planned renovation and the owner just wants to repair it so it is usable again.

Sincerely,

Lonny Anderson

RECEIVED JAN 16 2013

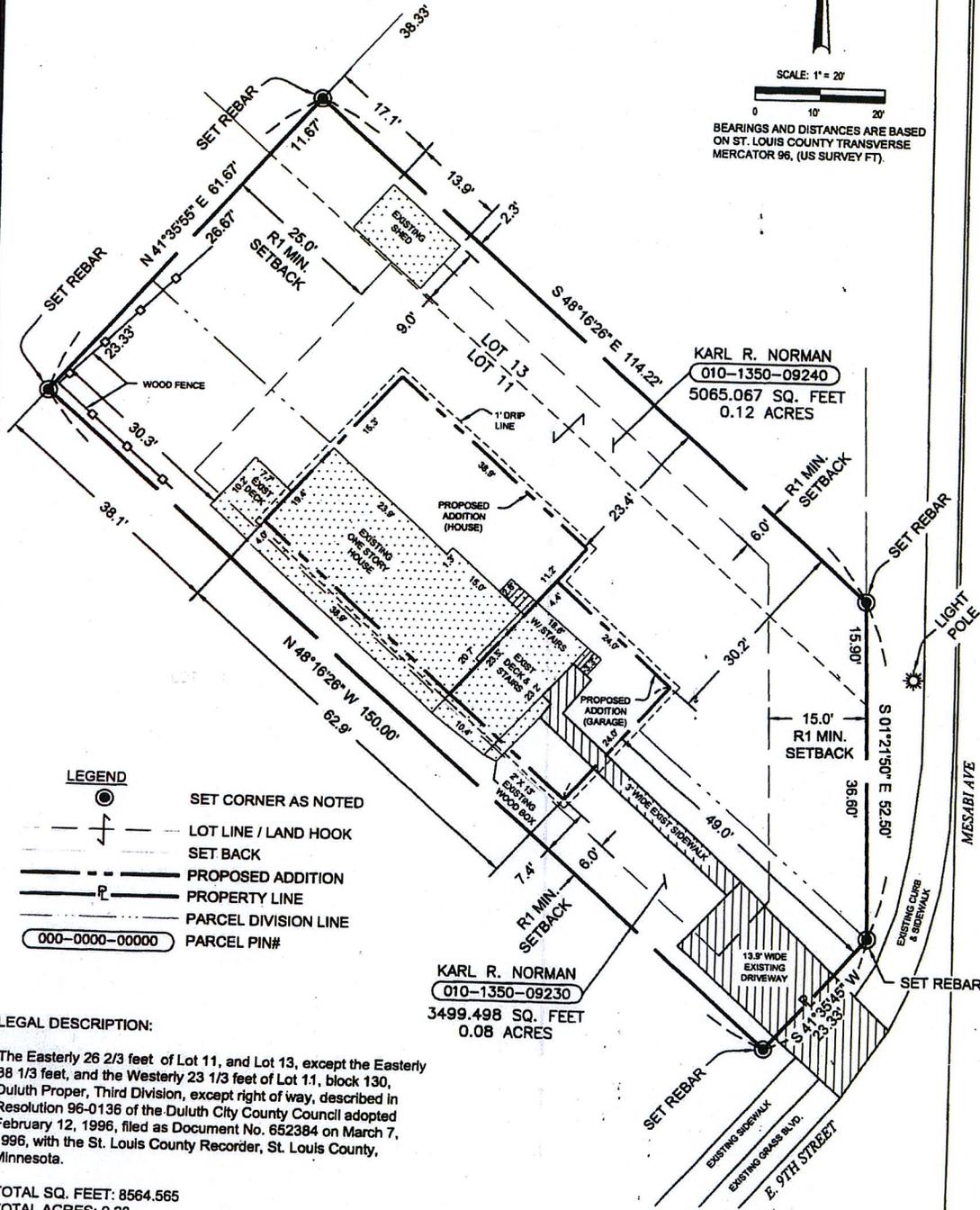
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BEING PART OF DULUTH PROPER, THIRD DIVISION  
ST. LOUIS COUNTY, STATE OF MINNESOTA



SCALE: 1" = 20'

BEARINGS AND DISTANCES ARE BASED ON ST. LOUIS COUNTY TRANSVERSE MERCATOR 96, (US SURVEY FT).



LEGEND

- SET CORNER AS NOTED
- LOT LINE / LAND HOOK
- SET BACK
- PROPOSED ADDITION
- PROPERTY LINE
- PARCEL DIVISION LINE
- PARCEL PIN#

LEGAL DESCRIPTION:

The Easterly 26 2/3 feet of Lot 11, and Lot 13, except the Easterly 38 1/3 feet, and the Westerly 23 1/3 feet of Lot 11, block 130, Duluth Proper, Third Division, except right of way, described in Resolution 96-0136 of the Duluth City County Council adopted February 12, 1996, filed as Document No. 652384 on March 7, 1996, with the St. Louis County Recorder, St. Louis County, Minnesota.

TOTAL SQ. FEET: 8564.565  
TOTAL ACRES: 0.20

KARL R. NORMAN  
010-1350-09230  
3499.498 SQ. FEET  
0.08 ACRES

KARL R. NORMAN  
010-1350-09240  
5065.067 SQ. FEET  
0.12 ACRES

PERMIT DRAWING PREPARED FOR:

DRAWN MCF	DATE 06/12/2012	KARL R. NORMAN 21 E. 9TH STREET DULUTH, MN
APPROVED LM	DATE 06/12/2012	
		PROJECT NO. SCALE 1" = 20' SHT. 1 OF 1

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.

Print Name: Lee Roy Marlow, III

Signature: *[Handwritten Signature]*

Date: 6/12/12 License # 42602

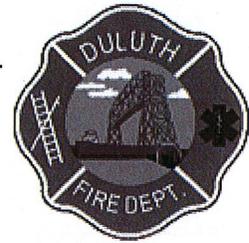
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**FOR IMMEDIATE RELEASE**  
**City of Duluth Fire Department**

411 West First Street, Duluth, Minnesota 55802  
218-730-4400 | www.duluthmn.gov | John Strongitharm, Fire Chief

For more information contact the Fire Department at 218-730-4391



**DATE: 07/27/2011**  
**NATURE OF INCIDENT: Lightning Strike House Fire**  
**CASE NO.: 11005060**  
**INCIDENT DATE :07/27/2011**  
**INCIDENT TIME: 0410**  
**INCIDENT LOCATION: 21 E 9th St**  
**SUBJECT: 21 E 9th St House Fire**  
**BY: Asst Chief Richard Mattson**

The Duluth Fire Department responded to a report of a House fire this morning at 21 E 9th St. The dispatcher advised that there were two houses involved plus a fire burning in the middle of another yard down the street. Three occupants of the house on fire reported they were self evacuating. A second alarm was immediately dispatched due to the multiple incidents.

Upon arrival on scene it was determined that the fire was caused by a lightning strike. The residence at 21 E 9th St was fully involved on the front of the building. The fire was also causing the siding on 19 E 9th St to melt and burn. The exposure house was cooled down with hose streams. The main fire on the exterior was knocked down but could not be completely extinguished due to a gas line break at ground level under the deck at the front of the house. Interior operations were delayed until it could be determined if there was not an explosion hazard inside the structure. Once firefighter safety was assured, an interior attack was made and ventilation holes were cut in the roof to vent the attic. The burning gas under the deck burned for more than an hour after the main fire was extinguished while water and gas crews worked to find valves to stop the flow of gas to the structure.

Another small fire was also burning four houses down from the main fire building. This fire was coming out of the ground and was caused by a ruptured gas line in the yard directly under the tree where the lightning strike took place. This fire continued to burn until the gas was shut down but did not cause any damage to structures or property.

The damage to the home at 21 E 9th St was extensive. The exterior of the home was burned on two sides, the interior of the main floor was burned from fire extending in through a large window, and the fire also spread into the attic area causing heavy burning. Damage estimates to the home are placed at \$60,000 structural and \$20,000 contents. The damage to the home next door at 19 E 9th St was limited to burned and melted vinyl siding, soffits, and window trim. This damage is estimated at \$10,000. Residents of 21 E 9th St will be unable to stay in the home due to the extensive damage.

The cause of the fire is a lightning strike to a tree in the neighborhood. The lightning traveled through an underground gas main in the street and then up through a metal tracer line on the plastic pipe that lead to the fire house. This house was on the end of a dead

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end gas main which may have been a factor in its involvement.

There were no injuries due to the fires. A total of 28 firefighters on 9 apparatus responded to the fires.

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