



**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 14-056	<b>Contact</b>	Steven Robertson, 218 730-5295	
<b>Application Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	June 10, 2014	
<b>Deadline for Action</b>	<b>Application Date</b>	May 5, 2014	<b>60 Days</b>	N/A
	<b>Date Extension Letter Mailed</b>	N/A	<b>120 Days</b>	N/A
<b>Location of Subject</b>	2424 West 5th Street			
<b>Applicant</b>	Lincoln School Limited Partnership	<b>Contact</b>	Sherman Associates	
<b>Agent</b>	Andrew Hughes, Project Manager	<b>Contact</b>	ahughes@sherman-associates.com	
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	June 4, 2014	<b>Sign Notice Date</b>	May 27, 2014	
<b>Neighbor Letter Date</b>	May 22, 2014	<b>Number of Letters Sent</b>	101	

**Proposal**

Applicant is seeking a concurrent use to allow a structure (the existing former Lincoln School) to lawfully be in the public right of way.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-N	Former School/Institutional	Neighborhood Mixed Use
<b>North</b>	R-2	Single Family Residential	Traditional Neighborhood
<b>South</b>	MU-N, R-1	Single Family Residential	Neighborhood Mixed Use/Preservation
<b>East</b>	R-2, MU-N	Single Family Residential	Neighborhood Mixed Use
<b>West</b>	R-1	Open Space/Park/Recreation	Preservation/Recreation

**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. H-1

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

1. Comprehensive Land Use Plan Governing Principles:

Principle #1- Reuse previously developed lands

Adaptive reuse of existing building stock

Principle #8- Encourage mix of activities, uses and densities

Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide.

Neighborhood Mixed Use- A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets.

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

1) Applicant is seeking a concurrent use to allow a structure (the existing former Lincoln School) to lawfully be in the public right of way. When the applicant had a land survey conducted, it was determined that the existing structure encroached into the right of way by approximately 1/2 foot. It is likely the encroachment was created inadvertently by the School District.

2) The project will not harm or inconvenience the health, safety and general welfare of the city. The project will not interfere with the public's ability to use the right of way (sidewalk or street).

3) The City of Duluth requires Concurrent Use Permits to include liability insurance to indemnify the City against occurrences in the right of way. If approved by the City Council, the ordinance language would include a clause that stated the concurrent use permit can be terminated (with notice) if the City of Duluth desires to use the area for any public purpose.

4) No City, citizen, or agency comments were received.

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

Based on the above findings, Staff recommends that Planning Commission recommend approval of the Concurrent Use Permit with the following conditions:

1) The project be limited to, constructed, and maintained according to "Lincoln School Building Encroachment Exhibit," dated 4/30/14.

2) Applicant provide proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit.

3) 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.

C-H

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

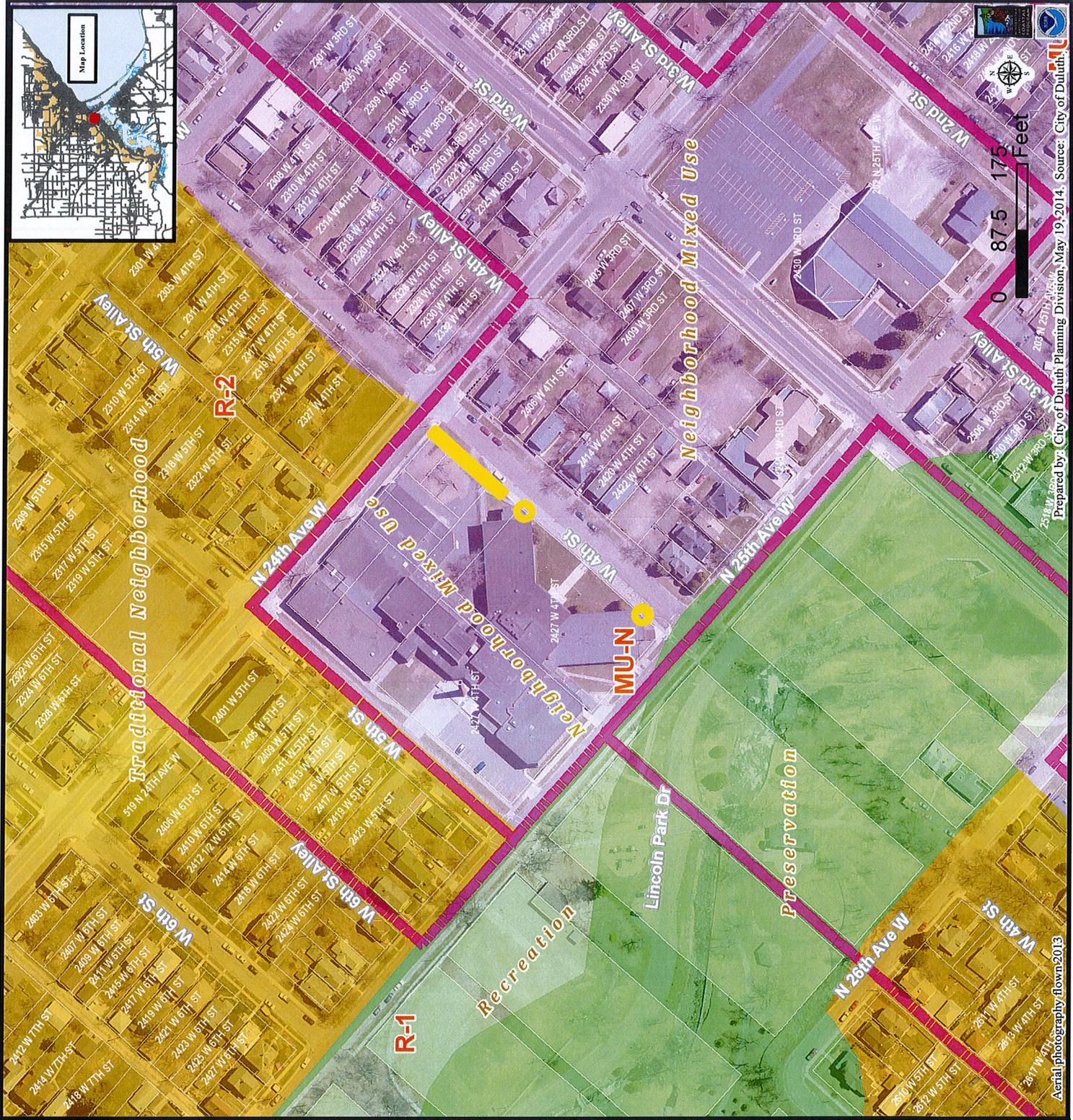


# City Planning

PL 14-056

Concurrent Use Permit

Lincoln School



Aerial photography flown 2013

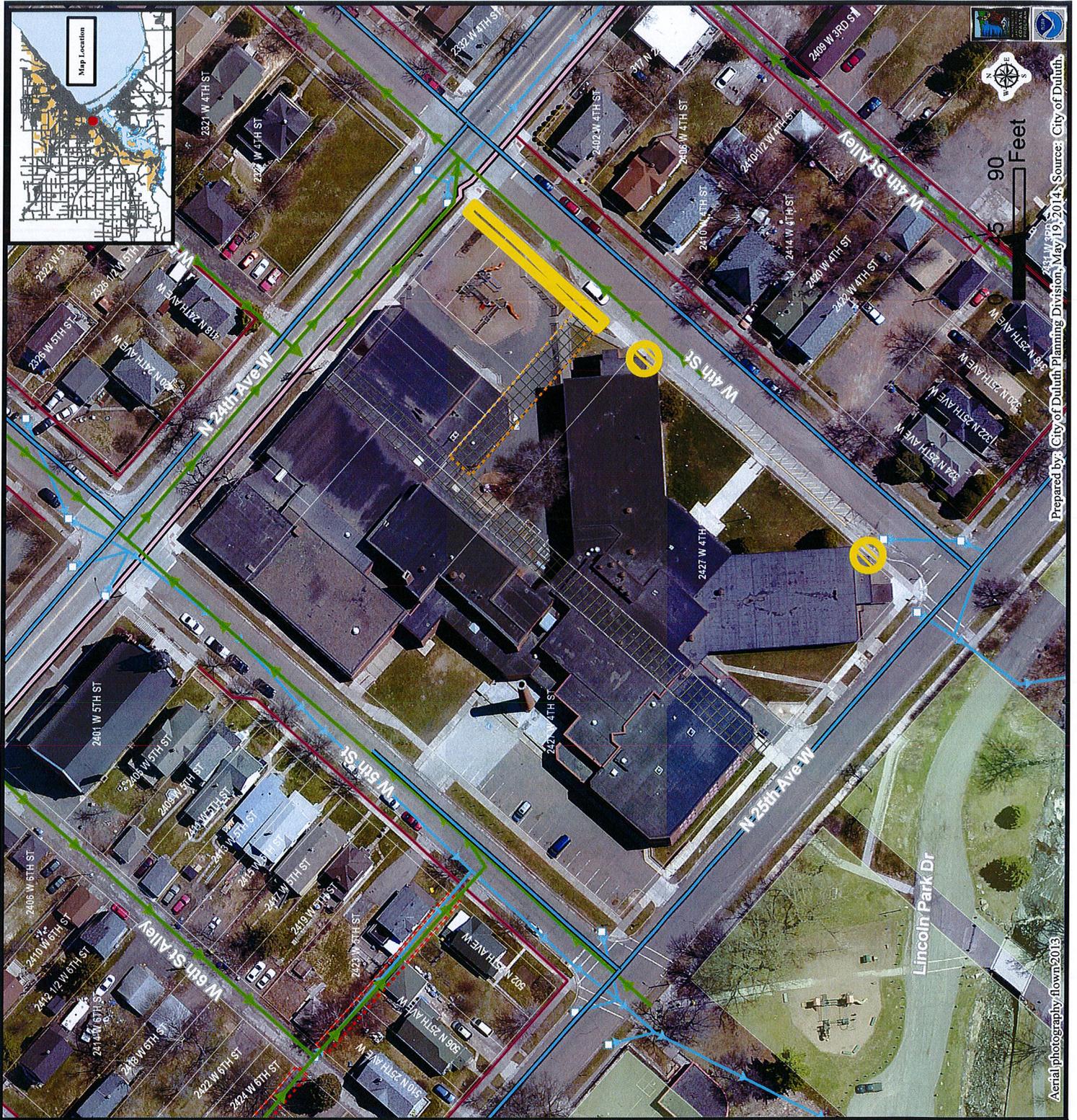
Prepared by: City of Duluth Planning Division, May 19, 2014. Source: City of Duluth.

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H-3



**City Planning**  
 PL 14-056  
 Concurrent Use Permit  
 Lincoln School



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*FL-4*

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**Attachment – Describe reasons for this request:**

Lincoln Park School was originally constructed in the 1800s and received numerous additions up until the 1990s. An addition made in the 1950s located on the southern portion of the property encroached upon the public right of way in two places (see attached depictions).

Lincoln School Limited Partnership (the Property Owner), and affiliate of Sherman Associates, Inc., acquired in the property in July 2012 from the Duluth School District and will begin rehabilitation of the property mid-2014 into a combination of commercial and housing space.

The Property Owner and its investors and lenders will a permit from the City to ensure that it may continue to use this right of way for the existing improvements.

**Attachment – Legal Description:**

Lots 385 through 400, inclusive, Block 121, Duluth Proper Second Division, St. Louis County, Minnesota, together with the vacated alley adjacent thereto.

Abstract Property

**Attachment – Parcel ID Numbers:**

010-1180-03430

010-1180-03450

010-1180-03470

010-1180-03475

010-1180-03490

010-1180-03500

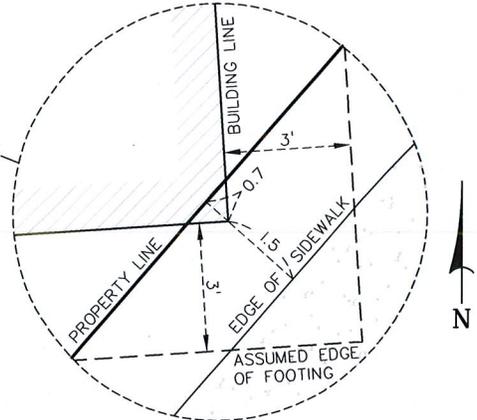
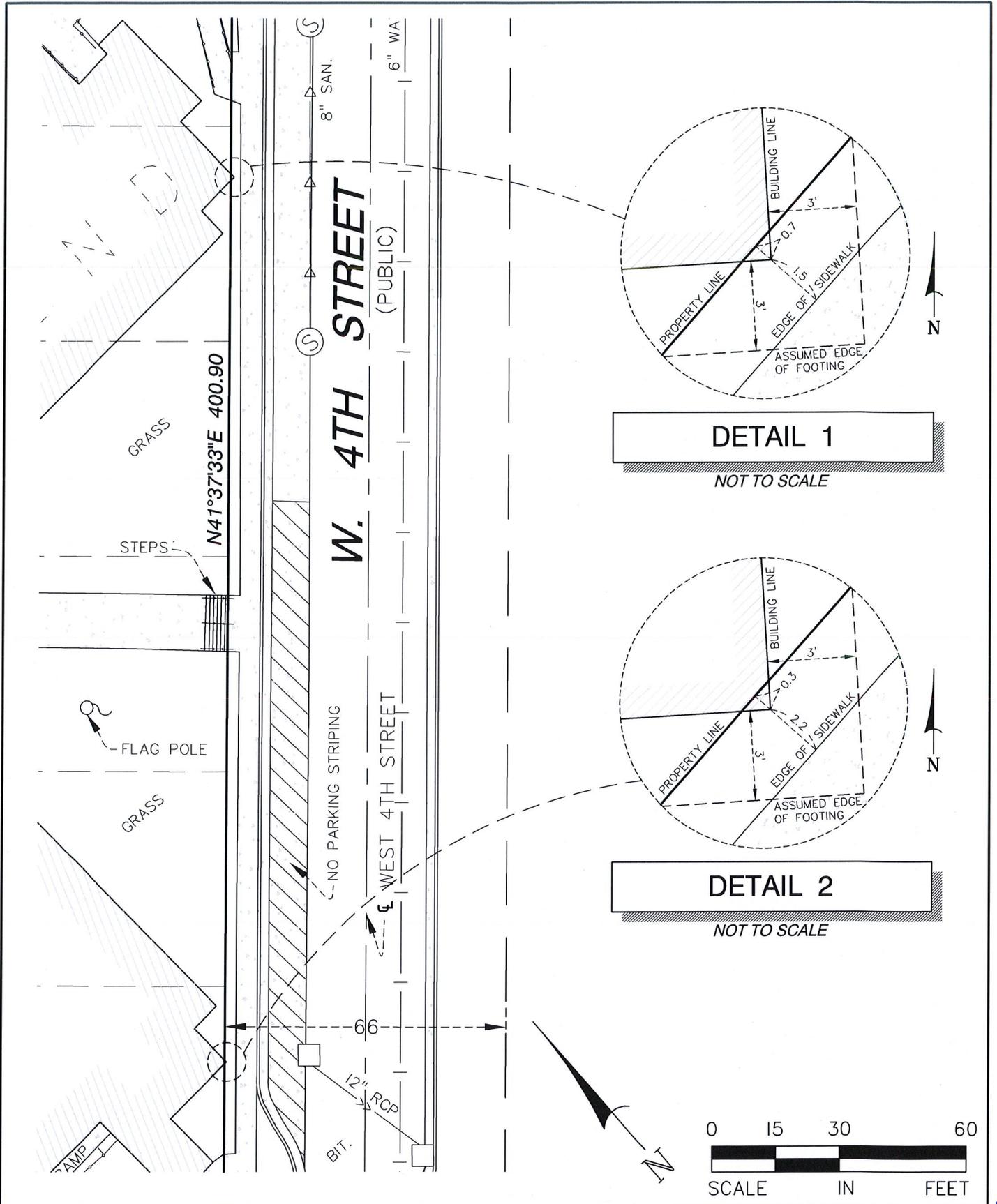
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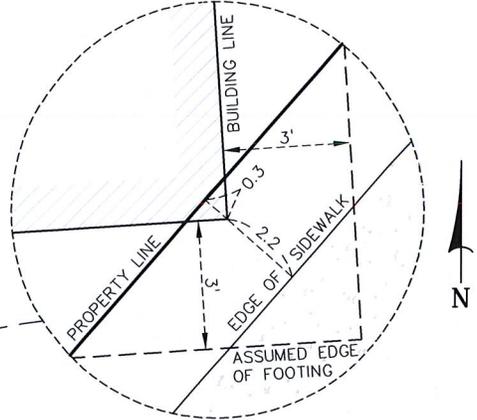
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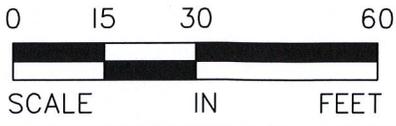
F1-6



**DETAIL 1**  
NOT TO SCALE



**DETAIL 2**  
NOT TO SCALE



Design File: 120021	Checked By: DBO
Dwg Name: encroachment exhibit	Drawn By: DE
Date: 4/30/14	Scale: 1"=30'

**LINCOLN SCHOOL**  
**BUILDING ENCROACHMENT EXHIBIT**  
**DULUTH, MINNESOTA**

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