



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 14-077 | Contact | Jenn Reed Moses, jmoses@duluthmn.gov | |
| Application Type | Shoreland Special Use Permit | Planning Commission Date | July 8, 2014 | |
| Deadline for Action | Application Date | June 6, 2014 | 60 Days | August 5, 2014 |
| | Date Extension Letter Mailed | June 20, 2014 | 120 Days | October 4, 2014 |
| Location of Subject | 3339 Oak Street | | | |
| Applicant | Greg Kunst | Contact | 218-525-4301, greg@gregkunstandsons.com | |
| Agent | N/A | Contact | N/A | |
| Legal Description | PIDs 010-2690-00710, 010-2690-00700 | | | |
| Site Visit Date | June 24, 2014 | Sign Notice Date | June 23, 2014 | |
| Neighbor Letter Date | June 24, 2014 | Number of Letters Sent | 9 | |

Proposal

Applicant would like to operate a "mining, extraction, and storage" use in the shoreland area adjacent to Amity Creek.

| | Current Zoning | Existing Land Use | Future Land Use Map Designation |
|----------------|-----------------------|------------------------------|--|
| Subject | RR-1 | Gravel Pit | Preservation |
| North | Lakewood Township | Residential/Business | N/A (Lakewood Township) |
| South | RR-1 | Undeveloped (City of Duluth) | Preservation |
| East | RR-1 | Undeveloped (State of MN) | Preservation |
| West | RR-1 | Undeveloped (City of Duluth) | Preservation |

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

UDC Sec. 50-18.1.D . . . All industrial uses, including mining, extraction, and storage ... require a special use permit.
 UDC 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.

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

Principle #10 - Take sustainable actions.

Future Land Use - Preservation: Lands with substantial restrictions. High natural resource or scenic value, or severe development limitations. Primarily public lands but limited private use is anticipated subject to use and design controls.

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

Staff finds that:

- 1.) Applicant is proposing a gravel pit ("mining, extraction, and storage") within the 300 foot shoreland area of Amity Creek, a coldwater river per the Minnesota DNR. The area currently contains gravel roads and parking lots associated with the applicant's business and recreation.
- 2.) Per UDC Section 50-18.1.D, no impervious surface is allowed within 75 feet of the Ordinary High Water Level (OHWL). Impervious surface includes gravel roads and other gravel surfaces as they are compacted and do not allow for water infiltration. An access road allows entry to the gravel pit from the applicant's business in Lakewood Township. Other roads and parking areas within the 75 foot impervious surface setback should be eliminated and restored with trees and other vegetation to stabilize soils and eliminate the potential for erosion. This includes two areas illustrated on an attached photo: an area hatched in green that is used by gravel pit operations and an area hatched in orange that appears to be used for recreational purposes. Note that these setbacks were in existence prior to the 2010 UDC.
- 3.) Applicants have completed a Stormwater Pollution Prevention Plan (SWPPP). Practices detailed in the SWPPP, combined with eliminating impervious surface near the stream, will prevent soil erosion, storm water runoff, or other possible pollution of public waters.
- 4.) Under a separate application for an Interim Use Permit to operate the gravel pit in the RR-1 district (PL 14-078), applicants have provided their plan for restoration of areas outside the impervious surface setback, upon closure of the gravel pit.
- 5.) Two neighbors submitted comments for the gravel pit operations that are addressed in PL 14-078; neither of these comments focused on shoreland concerns. No other public, agency, or City comments were received.
- 6.) UDC 50-37.1.N states that 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):

Based on the above findings, Staff recommends that Planning Commission approve the Special Use Permit for a gravel pit in a shoreland area, subject to the following conditions:

- 1.) Applicant apply for and receive an Interim Use Permit for a mining, extraction, and storage use in the RR-1 district.
- 2.) All impervious surface within 75' of the Amity Creek tributaries be removed and revegetated, with non-invasive trees and grasses, with the exception of the access road between the business location and the gravel pit.
- 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.

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



City Planning

PL 14-077 & 14-078

Interim/Special Use Permits

3339 Oak Street

Legend

Zoning Boundaries

Stream Type

- 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

Right-of-Way Type

- Road or Alley ROW
- Vacated ROW

Easement Type

- Utility Easement
- Other Easement

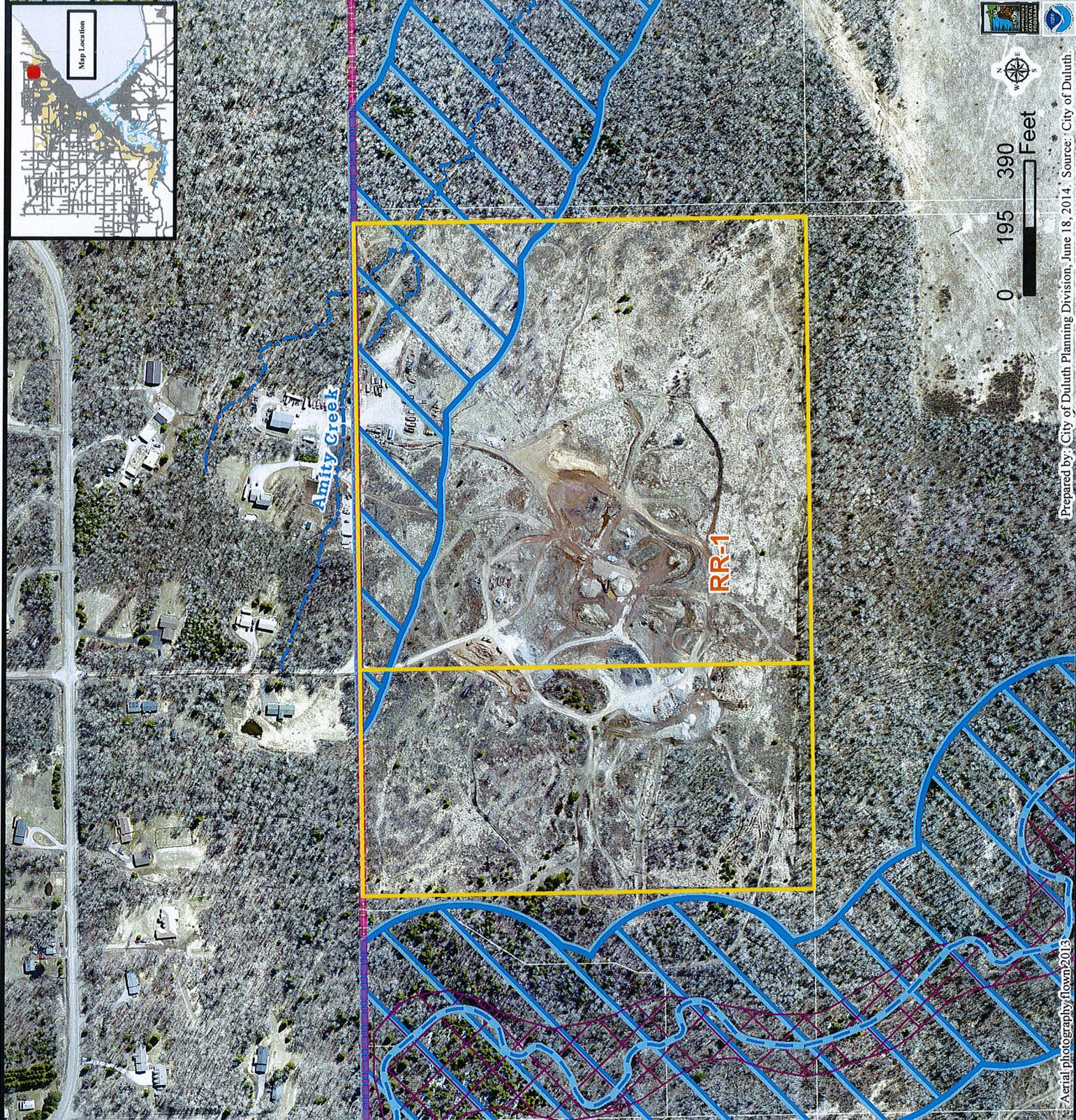
Shoreland Overlay Zone

- Cold Water
- Natural Environment
- General Development

Floodplain Type

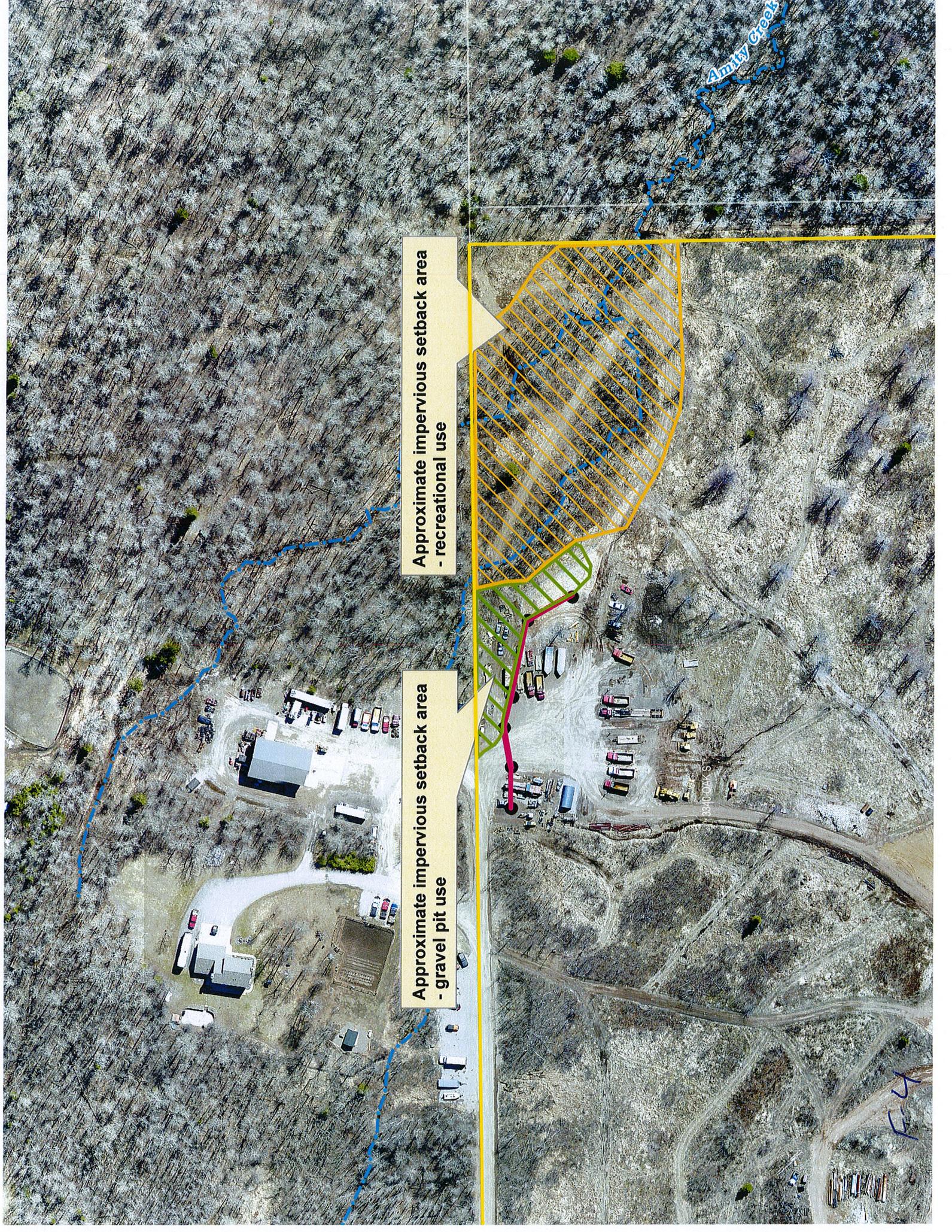
- General Flood Plain
- Flood Way
- Flood Fringe

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 photography flown 2013

Prepared by: City of Duluth Planning Division, June 18, 2014. Source: City of Duluth.



Amity Creek

Approximate impervious setback area
- recreational use

Approximate impervious setback area
- gravel pit use

33rd Only St

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Special Use Permit For Use In Shore land

Description of Operation (Item # 1)

The pit is used mainly as a Storage and Recycling Area. We haul products in such as Class-5 gravel, Limestone, Pit Run gravel, Sand and Rock products. We also haul in unscreened Black dirt and Topsoil, these materials (black dirt & topsoil) are recycled by running them through a screener and sold to the public or used on our jobs.

Traffic in and out of the pit is minimal, our sand, gravel and dirt hauling is not everyday, but only when orders come in. This is not a high volume operation. Our records show we hauled in and out approximately 4 loads (average) per day, in the 7 month 2013 season.

On the outer edge of the pit we have a truck parking area, this area is within the cold water stream boundaries. In no way does our excavating, material storage, and material screening take place in this area. This area is used for truck and equipment parking only.

Mining, Extraction, and Storage Guideline (Item # 3)

The proposed and existing excavation, removal, storage, and processing will not result in the creation of any hazardous sharp pits, steep banks, soil erosion, drainage or sewerage problems or other conditions that would ultimately impair the use of the property in accordance for the district;

Finished slopes in the excavated area will not exceed 1 ft. vertical rise to 2 ft. of run except in the case of dams or retention ponds (as required in SWPPP), or where specifically approved in writing by the planning commission;

No stagnant water will be present as result from such removal, excavation or processing. (Except as required in SWPPP)

Upon completion of the excavation, processing and removal of earth materials in accordance with the approved proposed contour lines, the premises will be cleared of all debris and, unless the excavated area is beneath water, a top layer of soil that will sustain the growth of turf will be spread over the premises and will be seeded with perennial rye or grasses. See attached Estimate.

All excavation, removal and processing, and the extent, limits, and time limits of each activity, will comply with all terms and conditions in the approved special/ interim use permit.

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Evidence that requested use will not have a negative impact on the community (Item # 4)

We are currently parking trucks and equipment well outside the 75 foot set back requirement for the stream. In the 75 foot boundary we will re-establish vegetation. The existing vegetation, which is typical for this area, is grass, weeds, small trees. We are in the process of re-establishing vegetation in this 75 foot buffer and will have it complete within 60 days of approval of permit. The re-establishment will include removing existing (gravel, clay, topsoil) spreading 4" of high grade screened topsoil, transplanting 2-8 foot tall Norway pines every 10 feet, seeding with perennial rye and grass, also mulching of area to insure seeds take. We will continue to park our trucks within the 300 foot set back but outside the 75 foot set back. The truck parking area is approximately 200 feet from high water level of stream.

In addition to re-vegetation of 75 foot buffer, erosion control measures will be used ; a retention pond will be installed near the area of the truck parking area to allow silt to settle; bail checks will be installed in any tributaries that feed stream.

Long Term Finishing Plan (Item # 6)

It is our intension to abandon the use of this property as a gravel, removal and storage, and screening site, within the next 20 years. At the time of abandonment of the property, we intend to develop the property into lots for housing.

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Site MoP

Site Boundaries

75 Stream Set back

Legend

- Trout stream (SPS)
- Other Stream (SPS)
- Zoning (FMS)
- Shoreland Overlay Zone
- Cold Water
- Natural Enhancement
- General Development
- Floodplain Type
- General Flood Plain
- Flood Way
- Flood Fringe

The City of Duluth has taken the necessary steps for information returned to this study to be made available to the public. The City of Duluth makes no warranty or representation regarding the accuracy or reliability of this mapping/data. The City of Duluth makes no warranty or representation that the data provided in this report is intended to be used for any purpose other than the purposes stated herein. The City of Duluth makes no warranty or representation that the data provided in this report is intended to be used for any purpose other than the purposes stated herein. The City of Duluth makes no warranty or representation that the data provided in this report is intended to be used for any purpose other than the purposes stated herein.

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Aerial photography from 2013

Prepared by City of Duluth Planning Division, Oct 13, 2013. Source: City of Duluth



Kunst Pit

Print Date: 11/01/2013
Image Date: 05/15/2013
Level: Community

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