



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	15-062	Contact	Steven Robertson, 218-730-5295	
Application Type	Variance	Planning Commission Date	May 12, 2015	
Deadline for Action	Application Date	April 7, 2015	60 Days	June 6, 2015
	Date Extension Letter Mailed	April 22, 2015	120 Days	August 4, 2015
Location of Subject	1316 99th Avenue West			
Applicant	Shane Bollinger	Contact	218-591-5154	
Agent		Contact		
Legal Description	010-1800-06560			
Site Visit Date	April 18, 2015	Sign Notice Date	April 27, 2015	
Neighbor Letter Date	April 24, 2015	Number of Letters Sent	44	

Proposal

The applicant would like to reconstruct a non-conforming structure that was damaged by fire. The property was damaged more than 60% of its assessed value, and requires a variance.

	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	MU-N	Residential/Commercial	Traditional Neighborhood/Neighborhood Comm.

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

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 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 50-38.3.B. A nonconforming building that has been damaged from any cause or has deteriorated to the extent of more than 60 percent or more of its assessed market 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. When damaged by less than 60 percent of its assessed market value as determined by the city assessor, a nonconforming building may be repaired or reconstructed, provided that a building permit is applied for within 180 days and such repairs or reconstruction are completed within one year of the date of the damage.

11-7-1

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

Future Land Use Traditional Neighborhood: 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.

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

- 1) The applicant would like to restore a single family home that was damaged by fire. The single family home is non-conforming because it is within the front yard setback (structure is 15 feet from front property line, when the required setback in an R-1 is 25 feet or the average of adjacent developed lots).
- 2) The applicant owns Lots 4 and 5 in Block 28 of Gary First Division Duluth; the two lots total 60 feet wide by 100 feet long. According to St. Louis County records, the home was built in 1929 and has a main floor sq. ft. of 700, with a gross area of 892 sq. ft. There is also a 720 square foot storage building on the lot, built in 1993.
- 3) The single family home was damaged by fire on May 21, 2014. In 2014, the taxable building market value was \$66,800; 60% of that value is \$40,800 (the threshold for requiring variances, or conformance to the code, when repairing damaged non-conforming structures).
- 4) In addition to restoring the structure, the applicant wishes to build-out the second floor, from 1 large room into 3 bedrooms and a bathroom.
- 5) The proposal, if granted, will not alter the essential character of the surrounding area. The restored single family home allows the property to be used in a reasonable manner, and continued use of this property as a single-family home is consistent with the Comprehensive Land Use Plan. In addition, if the variance was granted, it would not likely compromise the general purposes or intent of Section 50-18.1.D or result in adverse consequences to the environment.
- 6) Per UDC 50-37.9.M, "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 60 percent of its assessed market value as determined by the city assessor, 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". Planning Division staff recommend that restoring this structure would be necessary for the preservation enjoyment of a substantial property right, and would not be detrimental to the public welfare of the city.
- 7) No comments were received concerning this proposed variance.
- 8) Variances are approved, approved with recommendations, or denied by the Planning Commission. Variances 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 variance to build to rebuild the damaged non-conforming structure and subject to the following conditions:

- 1) The project be limited to, constructed, and maintained according to the Site Plan submitted with this application.
- 2) The portion of the fence that is in the public right of way be removed within 180 days of the variance being granted, or before the building permit is issued.
- 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; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

T-2

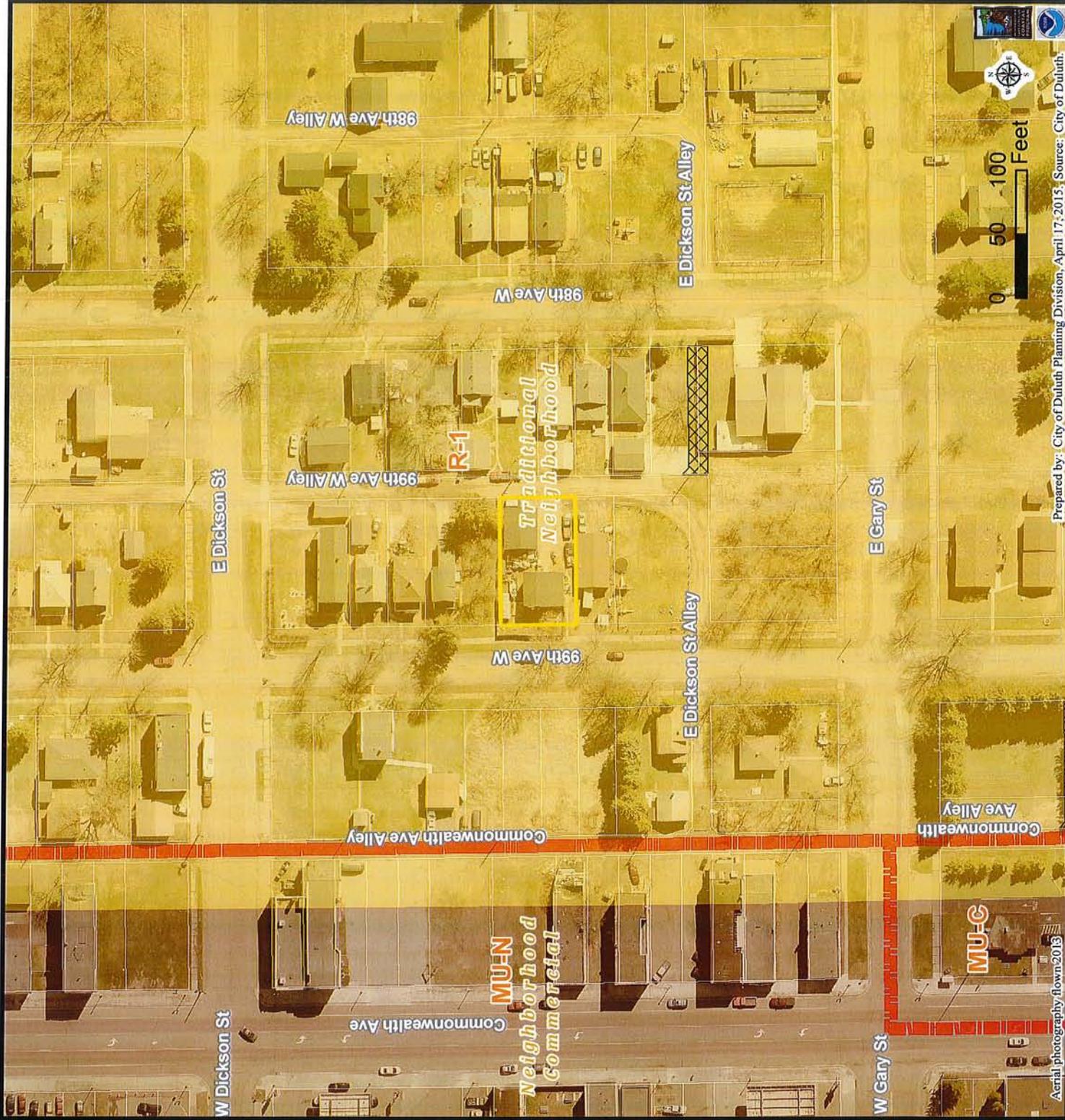
Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



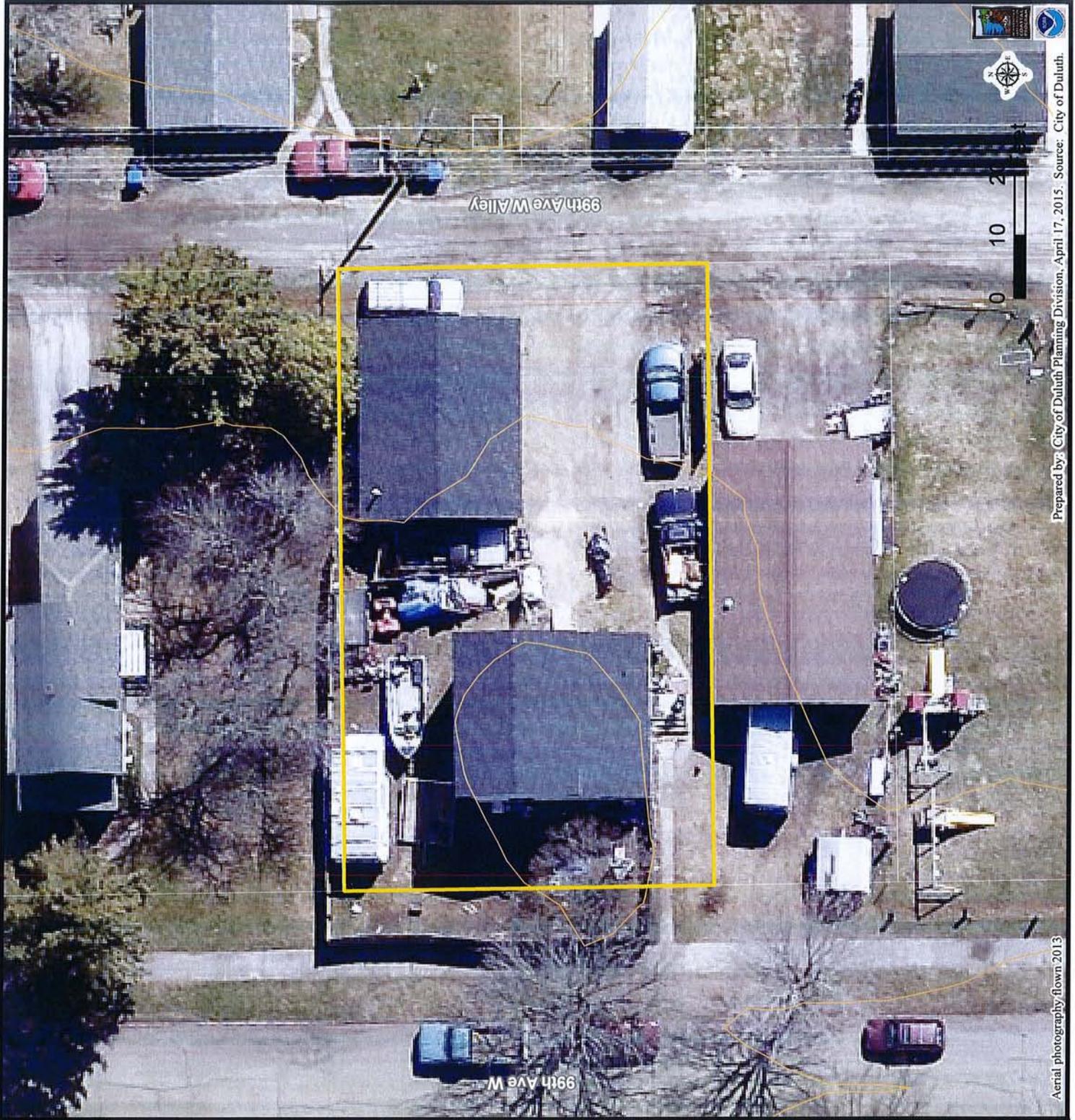
Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- Zoning Boundaries**
- Zoning Boundaries
- Vacated ROW
- 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.



Aerial photography flown 2013



Aerial photography flown 2013

Prepared by: City of Duluth Planning Division, April 17, 2015. Source: City of Duluth.

Legend

Contours 1 Ft

Index_ Intermediate Index

Trout Stream (GPS) Other Stream (GPS)

Vacated ROW

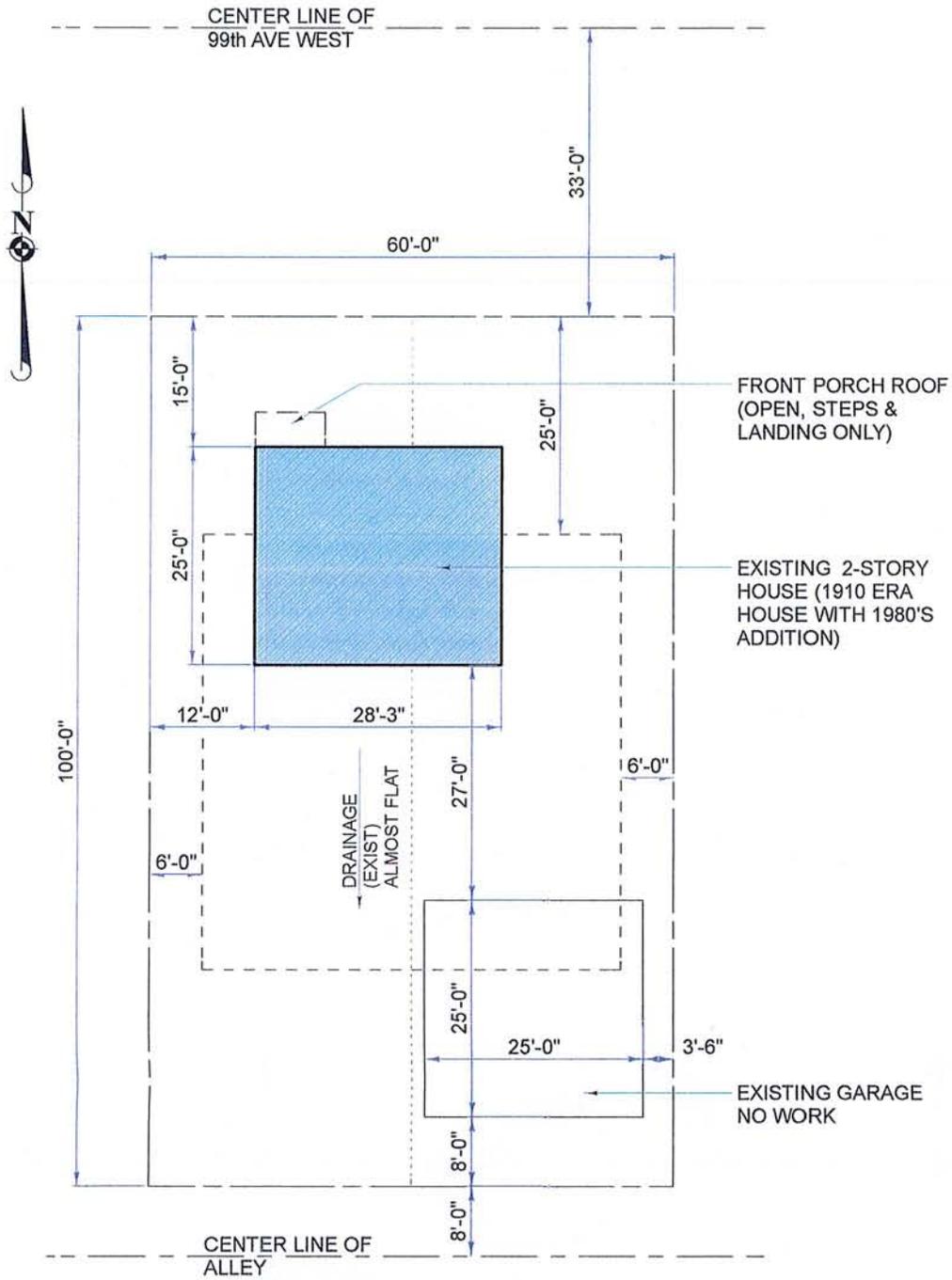
Easement Type

Utility Easement Other Easement

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T-4

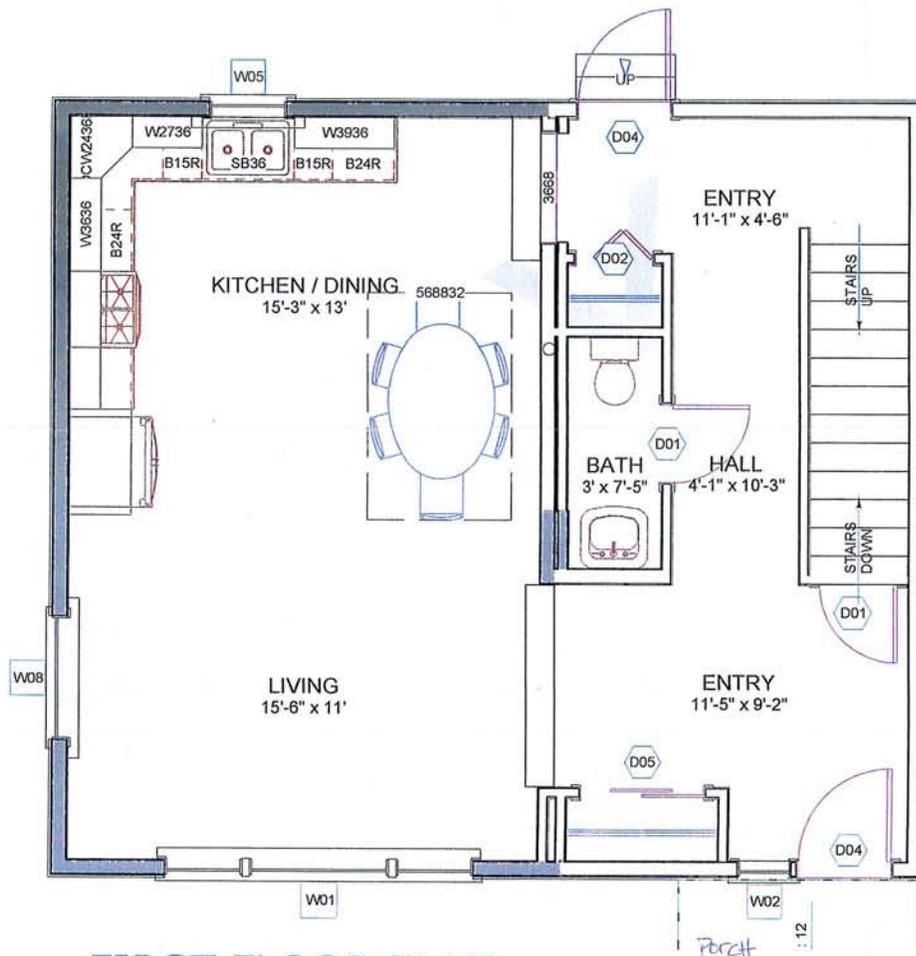




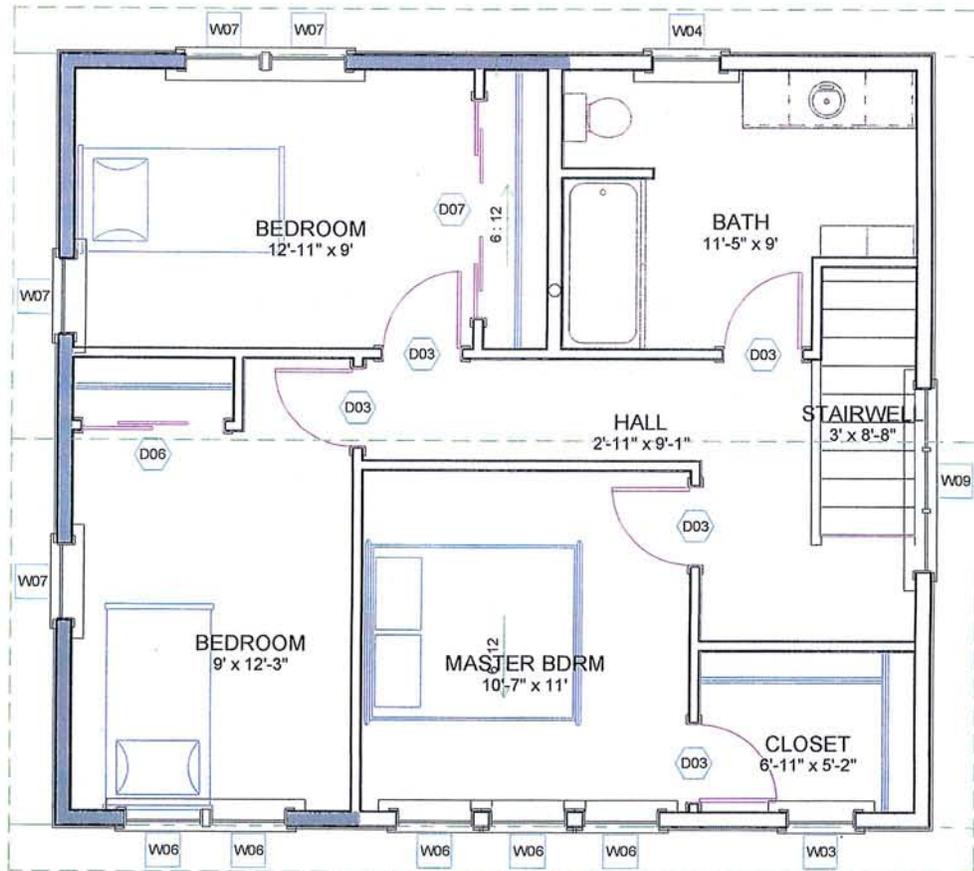
1 SITE PLAN
 A1 SCALE 1/16" = 1'-0"



T-6



2
A1 **FIRST FLOOR PLAN**
SCALE 1/4" = 1'-0"



3
A1 **SECOND FLOOR PLAN**
SCALE 1/4" = 1'-0"

NORTHERN TRENDS BUILDING AND DESIGN
605 GARFIELD AVE, SUITE 100
DULUTH, MN 55802
OFFICE: (218) 727-0778
P.L.L.C.



DRAWN BY: CDA
SHEET TITLE: PRFI TM

PROJECT DESCRIPTION:
Bollinger, Shane
Residence - Prelim
(04-3-2015)

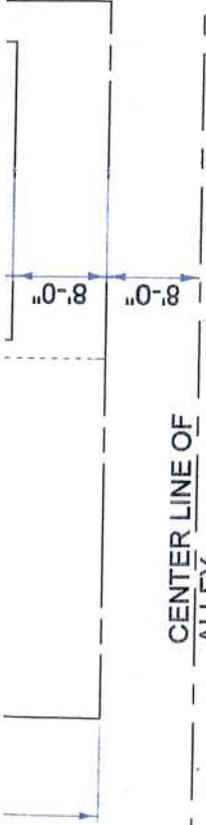
STRUCTURAL ENGINEERING AND QUALITY OF CONSTRUCTION ARE THE RESPONSIBILITY OF THE GENERAL CONTRACTOR. N.T.B.D. DRAFTING DEPARTMENT HAS NO CONTROL OF BUILDING PRACTICES DURING CONSTRUCTION THEREFORE, WE WILL NOT BE HELD RESPONSIBLE FOR BUILDING FAILURE.

DATE: 4/3/2015
SHEET:

A-1

7-7

NO WORK

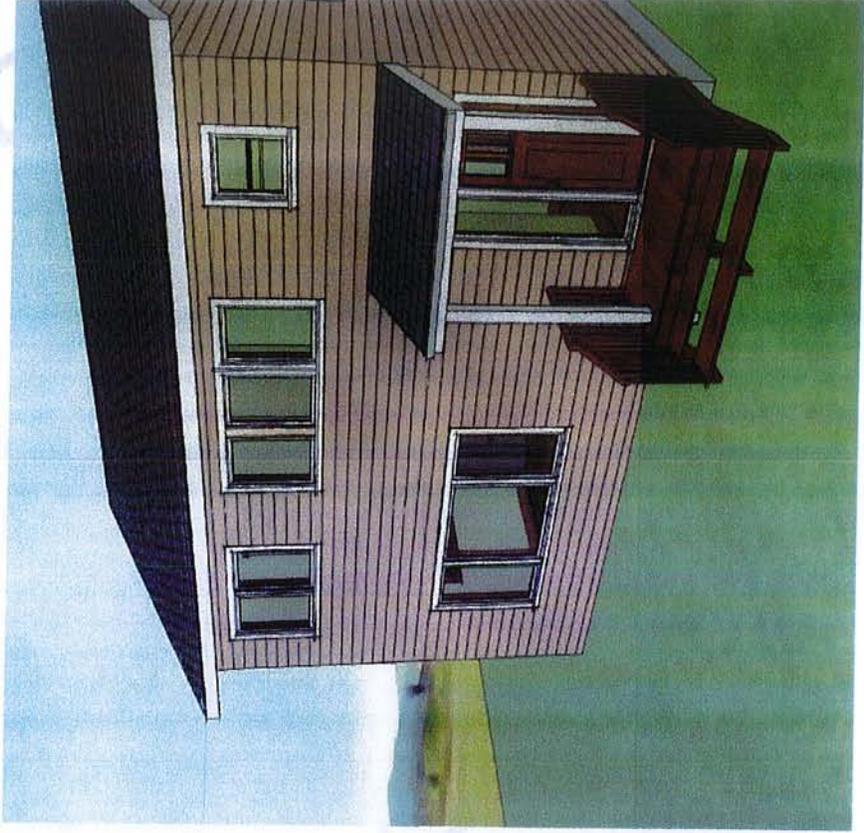
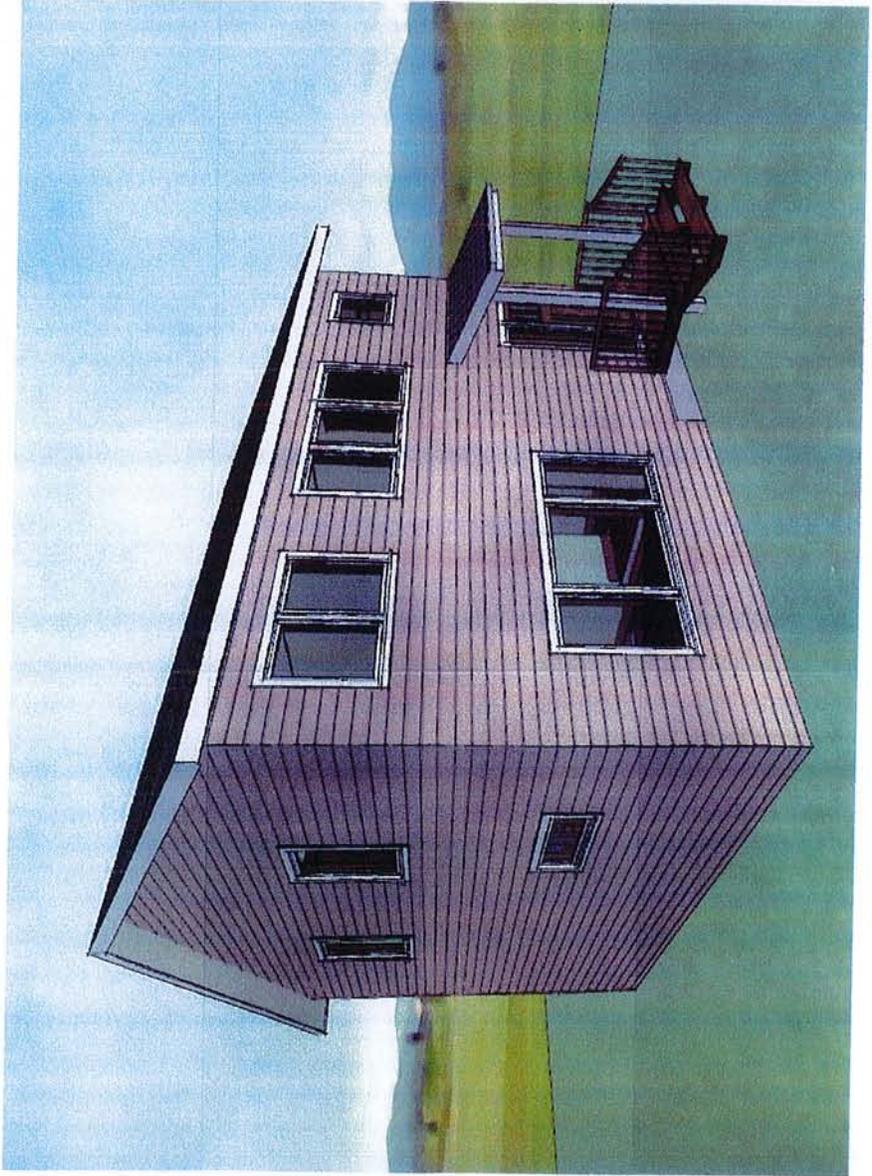


CENTER LINE OF
ALLEY

SITE PLAN

1
A1

SCALE 1/16" = 1'-0"



7-8



City of Duluth
Planning and Construction Services

411 West First Street • Room 210 • Duluth, Minnesota • 55802-1194
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Variance Application Supplemental Form

In order to submit a complete variance application, please explain how your request meets all of the below variance criteria. This is information that is required by the zoning code and that is necessary for Planning Commission review.

List the UDC Section you are seeking relief from (example: "50-14.5 – front yard setback in an R-1"):

50-14.5 FRONT YARD SETBACK IN AN R-1

Is the applicant proposing to use the property in a reasonable manner?

Yes No

Please explain the applicant's use of the property, and how the relief requested is necessary for the preservation and enjoyment of a substantial property right and not merely to serve as a convenience to the applicant:

REPAIR / IMPROVE HOUSE IN EXISTING LOCATION

SHAPE / SIZE OF EXISTING HOUSE TO REMAIN OTHER

THAN AN ADDITIONAL SMALL 4' COVERED OPEN PORCH.

ROOF PITCH TO BE CHANGED TO FACE STREET

Is the need for relief due to circumstances unique to this property?

Yes No

Please explain how these circumstances are due to exceptional narrowness, shallowness or shape of the applicant's property, or because of exceptional topographic or other conditions related to the property:

Will granting this variance alter the essential character of the area?

Yes No

Explain how this property fits the character of the neighboring area, and how the special circumstances or conditions applying to the building or land in question are peculiar to such property or immediately adjoining property, and do not apply generally to other land or buildings in the vicinity:

HOME IS EXISTING, ORIGINAL HOUSE IS AROUND

100 YEARS OLD. WHEN COMPLETED OVERALL APPEARANCE

WILL BE GREATLY IMPROVED

6-9

Is this request consistent with the intent of the UDC and Comprehensive Plan? Yes No

Explain how the UDC and Comprehensive Plan support this request: _____

HOUSE IS PART OF THE ORIGINAL GARY COMMUNITY,
OWNERS GOAL IS TO IMPROVE THE EXISTING PROPERTY.

Explain how the special circumstances or conditions that create the need for relief were NOT directly or indirectly created by the action or inaction of the property owner or applicant:

REPAIRING DUE TO FIRE, HOMEOWNER WANTS TO USE A
BAD SITUATION TO FIX & IMPROVE HOUSE.

Will the variance impair an adequate supply of light and air to adjacent property or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety or unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety or public welfare of the inhabitants of the city? Yes

No

Please explain: PROJECT WILL IMPROVE PROPERTY/LAND VALUE.

HEALTH & SAFETY WILL BE UNAFFECTED

Does the relief allow any type of sign that is not allowed in the zone district where the property is located? Yes No

Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M? Yes No

Discuss what subsections are applicable and how this request meets those: _____

50-37.9 RECONSTRUCTION OF EXISTING BUILDING
REPAIR (LESS THAN 50% DAMAGE), AND IMPROVING THE
EXISTING BUILDING TO A STATE THAT IS WELL
BEYOND THE ORIGINAL VALUE. SEE DRAWING

T-10



7-11



T-12