



**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 15-078	<b>Contact</b>	Jenn Reed Moses, jmoses@duluthmn.gov	
<b>Application Type</b>	Planning Review	<b>Planning Commission Date</b>	June 9, 2015	
<b>Deadline for Action</b>	<b>Application Date</b>	May 5, 2015	<b>60 Days</b>	July 4, 2015
	<b>Date Extension Letter Mailed</b>	May 26, 2015	<b>120 Days</b>	September 2, 2015
<b>Location of Subject</b>	southwest of Kenwood Ave and Arrowhead Rd			
<b>Applicant</b>	Kenwood Village LLC	<b>Contact</b>		
<b>Agent</b>	Rick McKelvey	<b>Contact</b>	952-893-8271, rick.mckelvey@uproperties.com	
<b>Legal Description</b>	N/A			
<b>Site Visit Date</b>	June 2, 2015	<b>Sign Notice Date</b>	May 26, 2015	
<b>Neighbor Letter Date</b>	May 27, 2015	<b>Number of Letters Sent</b>	52	

**Proposal**

Applicant is requesting a height variance to allow a maximum height of 50 ft. instead of the allowed maximum of 35 ft.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-N	Undeveloped, Residential	Neighborhood Mixed Use
<b>North</b>	MU-N, R-2	Commercial, Residential	Neighborhood Mixed Use
<b>South</b>	R-1	Residential	N'hood Mixed Use, Traditional Neighborhood
<b>East</b>	MU-N	Commercial	Neighborhood Mixed Use
<b>West</b>	R-1	Residential	Traditional Neighborhood

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

50-15.2 MU-N district: Maximum height of mixed use within 500 ft. of R-1 is 35 ft.

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.

III. G-1

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

Governing Principle #5: Strengthen neighborhoods. Support neighborhood scale commercial areas.  
Governing Principle #6: Reinforce the place-specific. This includes commercial areas providing neighborhood goods and services.  
Governing Principle #8: Encourage mix of activities, uses, and densities.

Future Land Use - 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):**

Staff finds that:

- 1.) Applicant is proposed a mixed-use residential/commercial project that is a permitted use in the MU-N district. The City of Duluth has determined that this area is an appropriate area for mixed use development per its comprehensive plan future land use designation of Neighborhood Mixed Use.
- 2.) The Higher Education Overlay District (UDC Sec. 50-18.5) requires buildings to be built close to major road frontages--in this instance, the building must be within 20 ft. of Arrowhead Road and Kenwood Avenue. The site slopes from an elevation of 1273 on the northwest corner to 1248 on the southeast corner, a difference of 25 feet. The bedrock depth at the Arrowhead frontage is shallow, requiring that the underground parking must be raised to avoid drilling or blasting into bedrock. The amount of bedrock that would have to be removed may impact adjacent properties. The applicant's current design allows the building to be placed just above existing bedrock.
- 3.) The need for relief is due to circumstances unique to this property. Granting the variance will not alter the essential character of the area; the building elevation will be roughly approximate to that of Walgreens directly to the north. Sections and illustrations prepared by the applicant show how the development will fit into the existing neighborhood, creating a neighborhood center that concentrates development on the busy commercial corridors and away from the residential neighborhood to the south and west.
- 4.) The variance will not impair an adequate supply of light and air to adjacent properties. A shadow study prepared by the applicant demonstrates that residential properties across Arrowhead Road will only see a small increase in shade during morning hours in the winter.
- 5.) No public, agency, or City comments have been received.
- 6.) Per UDC Section 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance 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 a mixed-use development with a maximum height of 50', subject to the following conditions:

- 1.) The project be limited to, constructed, and maintained according to the Layout and Surfacing Site Plan dated 5/5/15 and Building Elevations submitted with this application.
- 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.

G-2

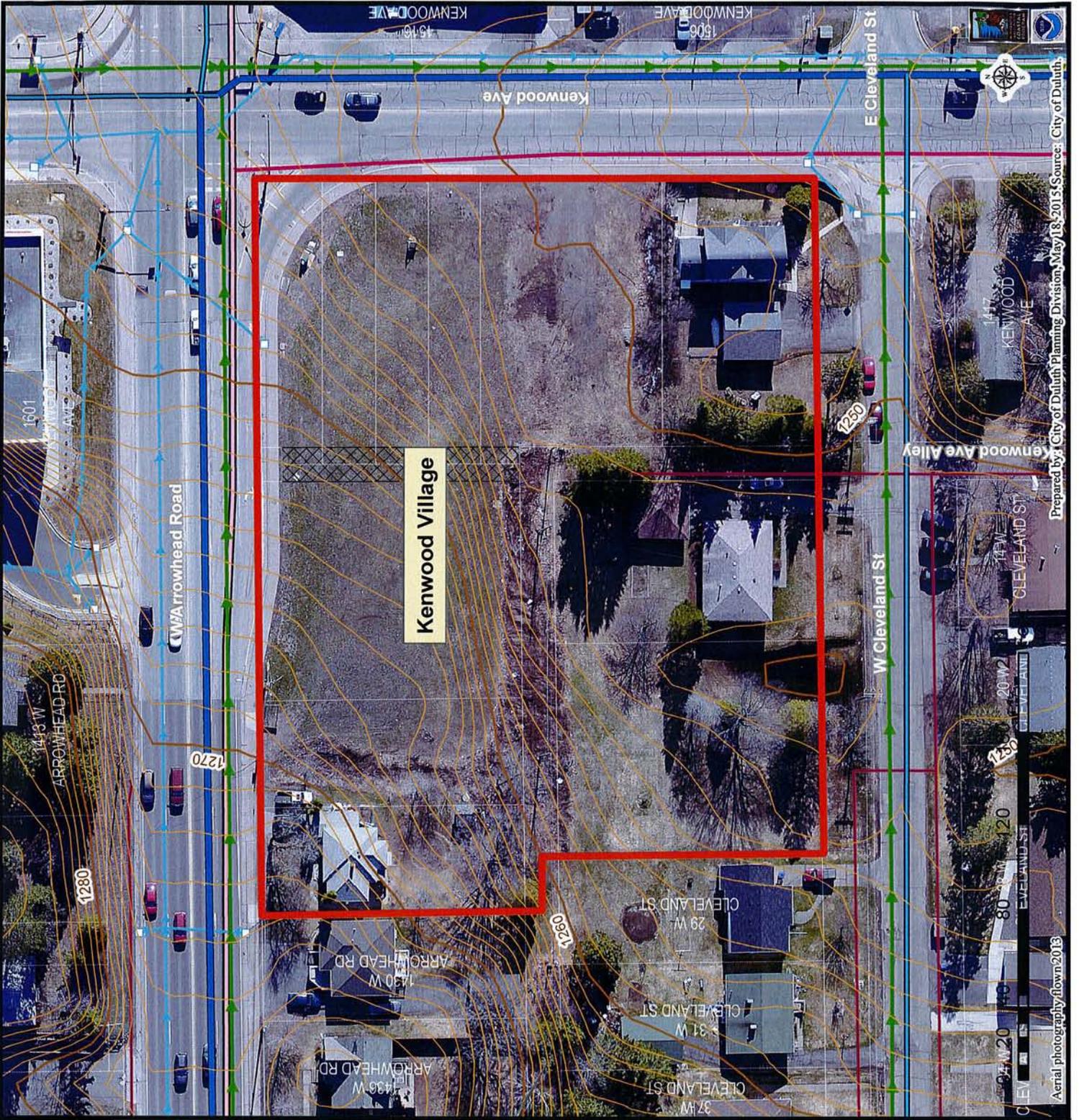
**Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)**



**City Planning**  
PL 15-078  
Kenwood Village

**Legend**

- Contours 1 Ft**
- Index
  - Intermediate
  - Index
- 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
  - Vacated ROW



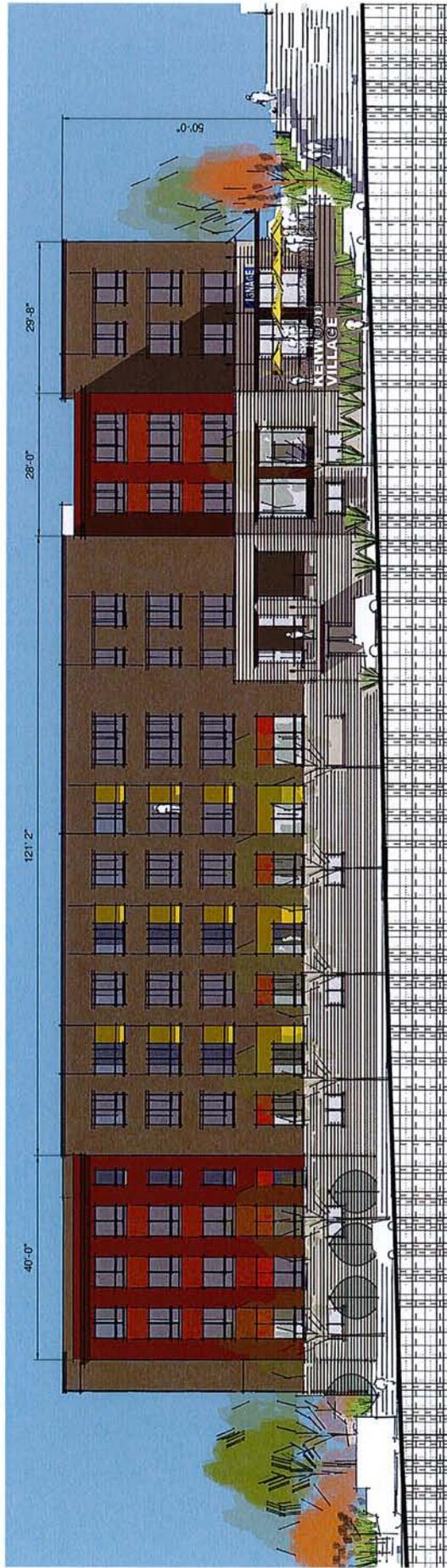
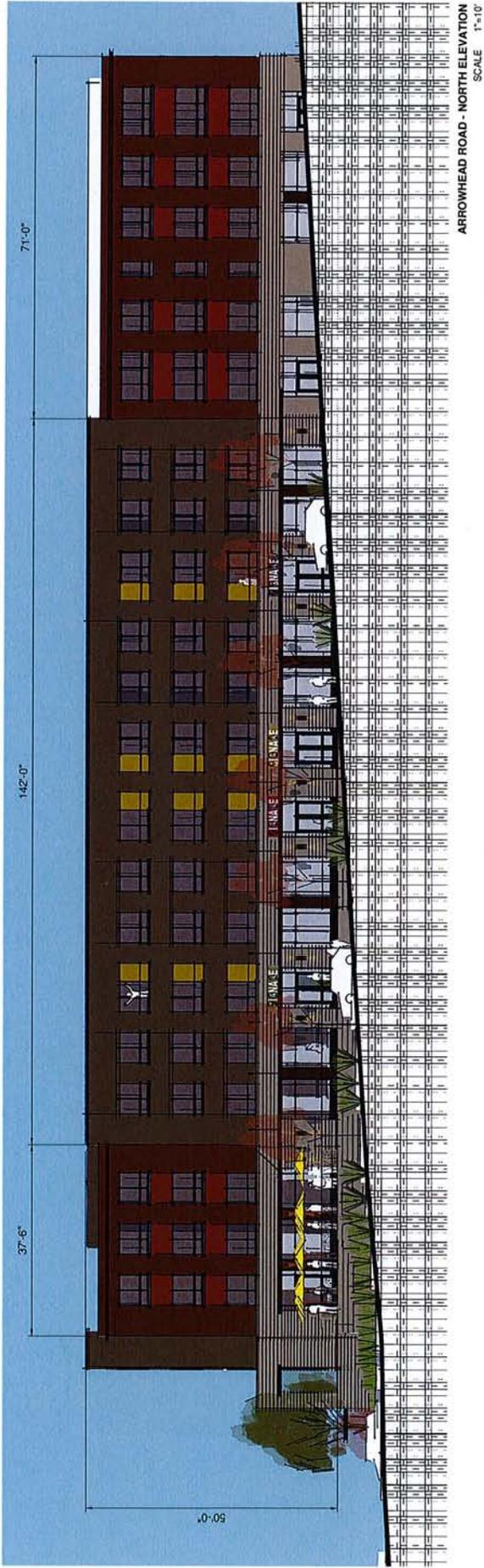
Prepared by: City of Duluth Planning Division, May 18, 2015. Source: City of Duluth.

Aerial photography flown 2013

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.

60-3





6-5



SOUTH ELEVATION  
SCALE 1"=10'



WEST ELEVATION  
SCALE 1"=10'

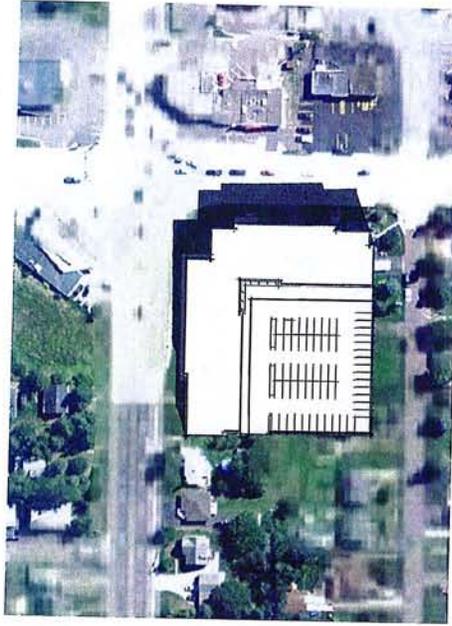
G-6



June 21 - 9AM



June 21 - Noon



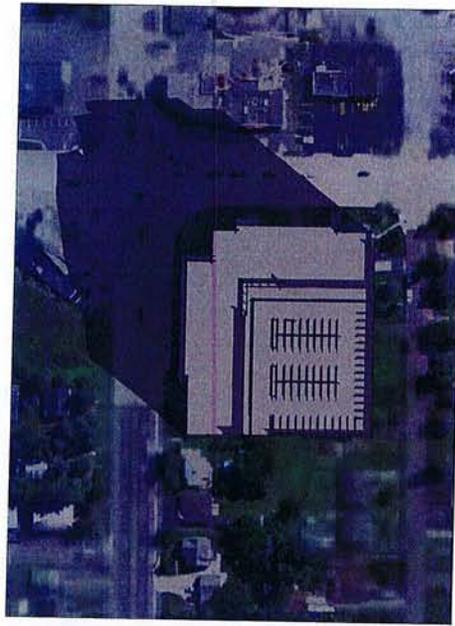
June 21 - 3PM



January 21 - 9AM

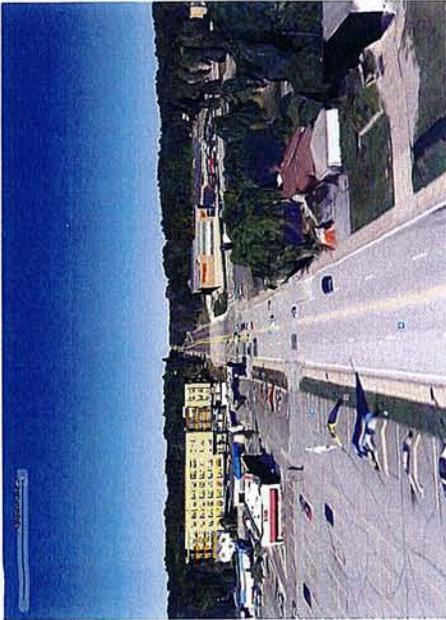


January 21 - Noon



January 21 - 3PM

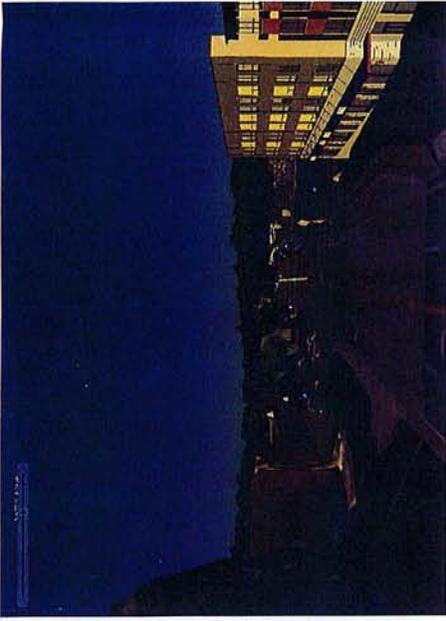
G-7



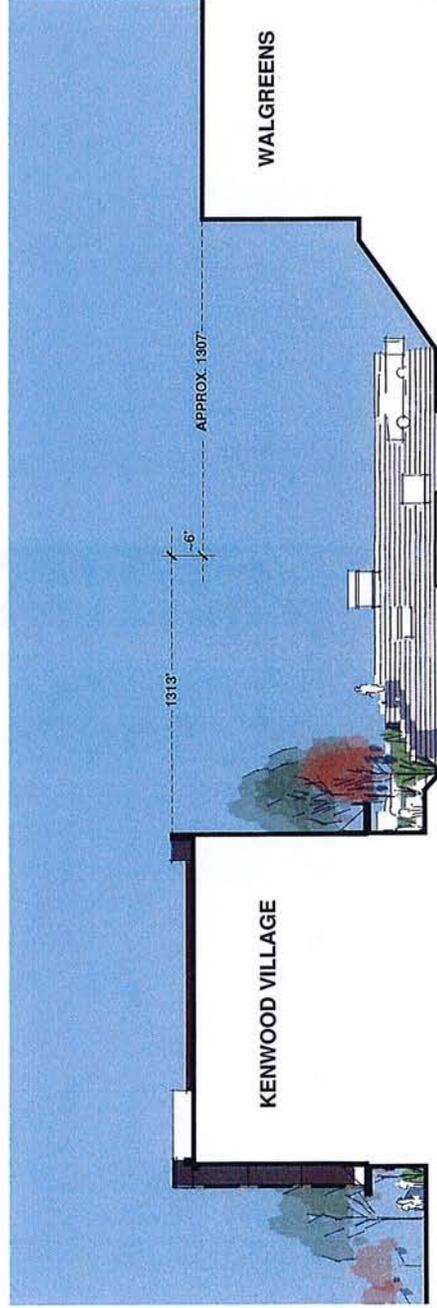
VIEW TO THE WEST ON ARROWHEAD



VIEW TO THE WEST ON ARROWHEAD



VIEW TO THE EAST ON ARROWHEAD



SECTION CUT LOOKING WEST ON ARROWHEAD

G-8



City of Duluth  
Planning and Construction Services

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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"):

Relief from 50.15.2 to allow a building with a maximum elevation of 1,312.80 ft.

**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: The desired use for the property is a "mixed-use" multi-family and commercial/retail

development. The standard ceiling height for commercial/retail space is 14 ft. The standard  
standard ceiling height for market-rate multi-family housing is 9ft. Incorporation of multi-family  
above retail will exceed the allowable height.

**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: MU-N zoning requires buildings that front the public streets for pedestrian accessibility. The

bedrock depth at the Arrowhead frontage is shallow. Our design stays just above existing  
bedrock and avoids the impact that rock removal may have on the adjacent properties.

**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:

The original design will fit well on the commercial corner of W. Arrowhead Road and Kenwood Ave. The building elevation will be close to that of Walgreens directly to the north. The grade at the next residential property on Arrowhead to the west is higher than the applicants property. The majority of residences on Cleveland St. will be nearest to a single story parking deck and significant landscaping buffer area. 10  
1  
6

**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: The comprehensive plan recommends high density housing which includes multiple stories. The roofline variations are consistent with UDC guidelines.

**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:**  
Per 50-37.9 C2, "Because of exceptional topographic or other conditions related to the property".

The elevated bedrock and sloping site are existing conditions. The desired project is designed to accomodate both existing conditions.

**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: A shadow study has been completed for the projects and illustrates that neighboring properties will not be impacted by a reduction of light or air. A traffic study was completed and illustrates that competition on public streets will not be unreasonably increased.

**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: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

G-10

RECEIVED MAY 05 2015