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 16-033		**Contact**	Chris Lee, clee@duluthmn.gov	
Application Type	Shoreland Variance		**Planning Commission Date**	May 10, 2016	
Deadline for Action	**Application Date**	April 4, 2016	**60 Days**	June 3, 2016	
	Date Extension Letter Mailed	April 26, 2016	**120 Days**	August 24, 2016	
Location of Subject	414 Maryland Street				
Applicant	Kevin Cornwell and May Ziegler		**Contact**	cornwell.kevin@gmail.com (218) 349-7673	
Agent	N/A		**Contact**	marybziegler@gmail.com (218) 213-8799	
Legal Description	LOTS 6 THRU 9				
Site Visit Date	April 27, 2016		**Sign Notice Date**	April 26, 2016	
Neighbor Letter Date	April 22, 2016		**Number of Letters Sent**	32	

Proposal

The applicant is proposing a variance from the shoreland regulations. The applicant is looking to construct a 11'x16' deck off the SW corner of their home. The deck will be approximately 35 feet from Tischer Creek.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Preservation
North	R-1	Residential	Traditional Neighborhood
South	R-1	Tischer Creek	Preservation
East	R-1	Residential	Traditional Neighborhood
West	R-1	Residential	Preservation

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

50-18.D - Shoreland Regulations

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.

H.C-1

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

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. Examples include: most city parklands and primary viewsheds; shorelands of lake, rivers, streams; wetlands and floodplains; high-value habitat; low-intensity private or public uses.

Future Land Use - Rural Residential: Areas of single-family lots of at least five acres. Limits the extension of municipal utilities for new development. Includes existing rural density areas with lots as small as an acre now served by municipal utilities but not planned for further subdivision.

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

Staff finds that:

1.) The entire parcel is located entirely within the shoreland regulations, and therefore nothing can be constructed on the property without a variance to the regulations.

2.) Variance is not due to narrowness or shape of applicants property; however, location of the house on the lot was not caused by the applicant. The house was constructed and platted in 1960 prior to shoreland regulations being put in place.

3.) The house located to the west has a deck that is closer to Tischer Creek. This will not alter the essential character of the neighborhood because other neighboring properties also have similar decks.

4.) Given the slope on the lot and similar design of the house to neighboring properties, it is reasonable to add a similar size deck. Staff considered whether a deck could instead be added to the northwest side of the house but found no benefit to the stream in this situation. The placement of the deck in this location would allow easier access to the kitchen through the main floor of the home instead of walking though the basement and up the stairs.

5.)No public, agency, or City comments were 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.

7.) Variances granted in shoreland areas require stormwater mitigation. A 50' vegetative buffer would be preferred, but that would place the buffer midway though the property line. Instead a natural buffer will need to be constructed between the deck and the creek containing plants that are naturally found along the stream banks. Under the deck, a surface that does not change the water runoff into the creek will be used, not gravel or bare dirt. It was mentioned that there is bare dirt along one part of the fence line from where a dog used to run, that would need to be replanted as part of the deck and shoreland natural buffer.

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

Based on the above findings, Staff recommends that Planning Commission grant the variance, with the following conditions:

1) Based on the site plan, trees, shrubs, and native plants will be planted the entire width of the deck, between the deck and the stream, with a landscape plan prepared by a certified landscape architect and approved by the Land Use Supervisor prior to granting a building permit. A non-eroding surface shall be placed under the deck and between the deck and the creek.

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; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

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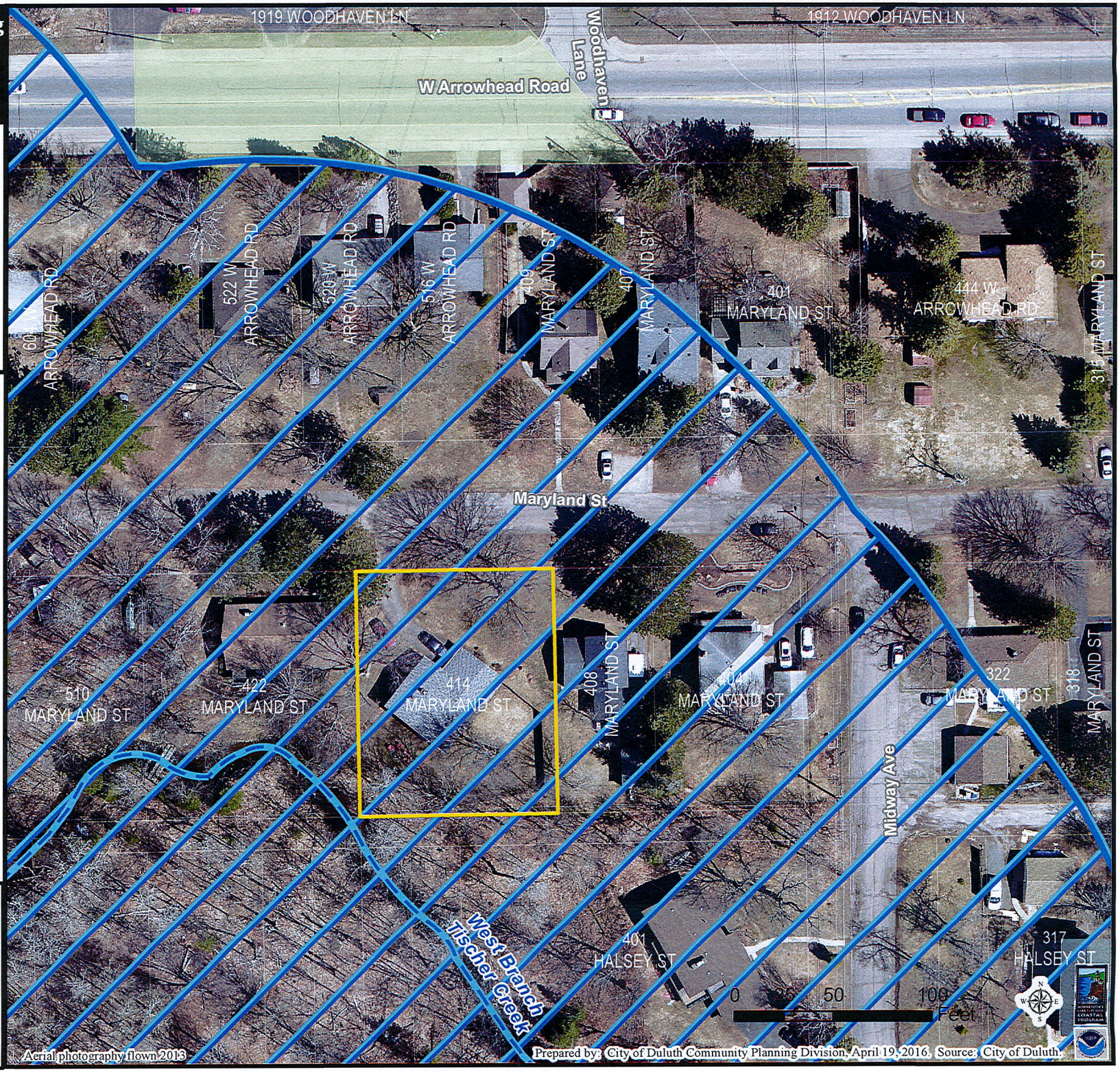
Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

Community Planning
414 Maryland St

Legend

Shoreland Overlay Zone

- Cold Water
- Natural Environment
- General Development
- Trout Stream (GPS)
- Other Stream (GPS)



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Community Planning
414 Maryland St

Legend

Water Distribution Main
- Active
- Hydrant

Sanitary Sewer Mains
- CITY OF DULUTH
- WLSSD; PRIVATE; RICE LAKE TWP
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

Storm Sewer Mains
- Storm Sewer Pipe
- Storm Sewer Catch Basin

Gas Distribution Main
- Coated Steel
- Plastic

Elevation
- 1 Ft contour
- 10 Ft contour
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)

Aerial photography flown 2013

Prepared by: City of Duluth Community Planning Division, April 19, 2016. Source: City of Duluth.

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414 Maryland

Print Date: 04/29/2016
Image Date:05/12/2013
Level: Neighborhood

C-5

Site Plan
414 Maryland St
010-3570-00680

C-6

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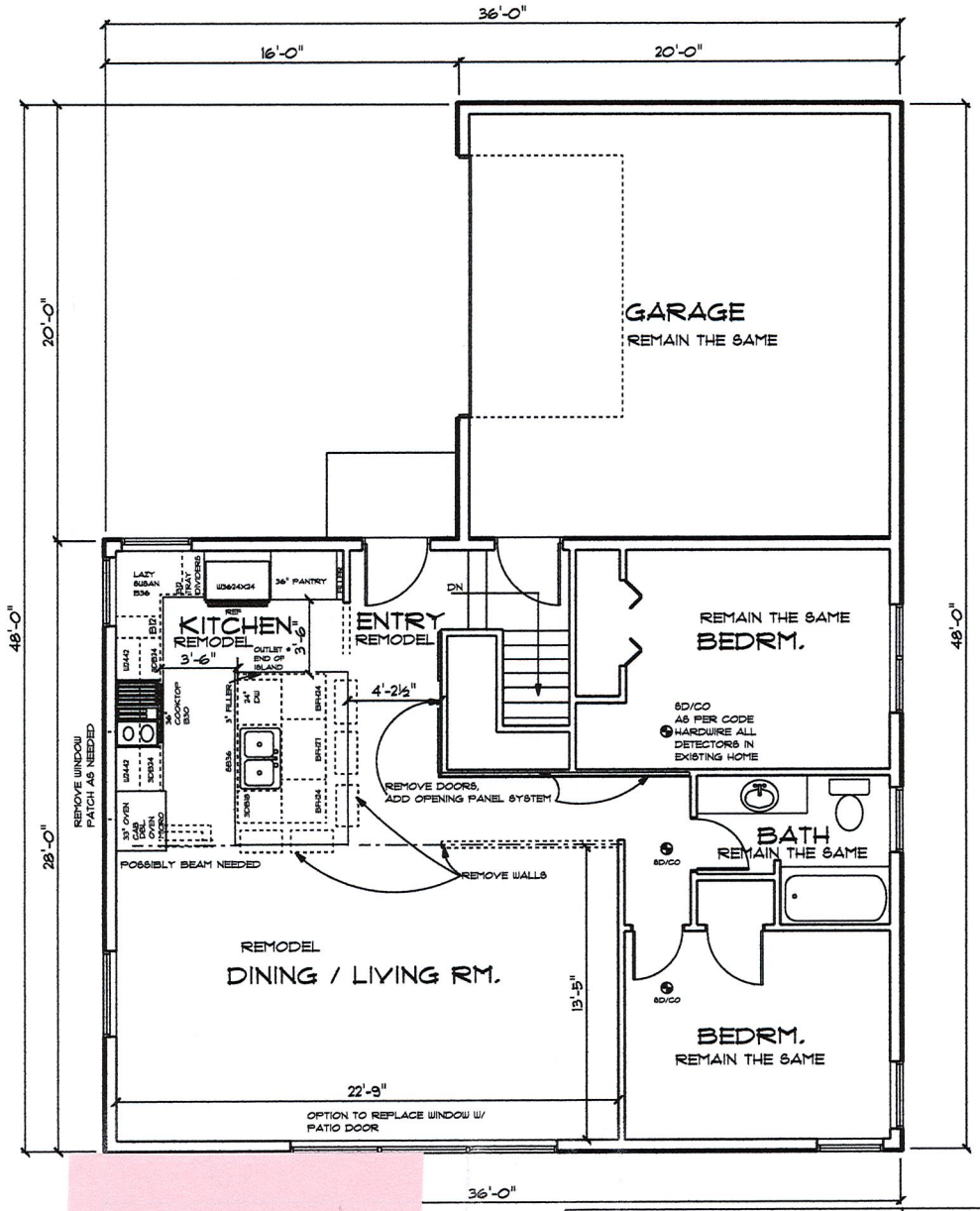
New proposed Floor plan



Proposed Deck

MS DESIGNS FOR RESIDENTIAL HOME DESIGNS PHONE: 218-878-1076 / msdesigns_40@msn.com	SHEET INFO. CONCEPT DRAWINGS, NOT FOR CONSTRUCTION	
DRAWN BY: MINDY SONNEMAN JOB TYPE: REMODEL	DATE: 3-11-16	1
JOB NAME: MARY ZIEGLER KEVIN CORNWELL	REVISION: 3-15-16	

North

RECEIVED APR 04 2016

C-7

Reason for request:

We are requesting a shore land variance in order to build a deck in our backyard.

1. The property is our only house. We are requesting the variance in order to fully enjoy the outdoor aspects of our property. Our entire property is governed by the building restriction. Other neighbors are able to enjoy their property fully because they have outside decks which, like our property, are governed by the same restriction. Currently, to enjoy our backyard we need to walk downstairs, through the carpeted family room, and enter the backyard at ground level. This oftentimes tracks dirt and mud into the house. Also, our Grill is currently in the backyard. Grilling is very inconvenient due to the fact we are going back and forth to the kitchen through the basement and up the stairs.

2. We have a shoreline restriction that governs our entire property.

3. This deck will not negatively impact our neighbors or the character of our neighborhood as the other homes that abut the creek also have decks. See attached photos. We are currently in the process of renovating our kitchen (see attached floor plans) and would like to build the deck at the same time.

4. The R-1 district is established to accommodate single family detached residences and is intended to be used primarily in established neighborhoods. The neighborhood in which we live is becoming increasingly rental property oriented due to its close location to UMD. The investment put into our property by adding a deck and other home improvements is more consistent with single-family living and will ensure that we choose to stay in our house rather than renting it out.

5. The house was built in 1962, prior to the existence of shore land regulations. We bought this property in 2012.

6. The deck is a relatively small deck that will, in no way, infringe on neighboring properties.

7. Subsection L applies. Thick vegetation already exists between our backyard and the creek. The deck would be built using helical piers which require less disruption to the soil thereby reducing or eliminating runoff during the construction of the deck. By using a licensed and bonded contractor to plan and build the deck all required mitigative steps will be taken to ensure that the environment is not negatively impacted including, but not limited to, planting additional vegetation as a buffer between the backyard and creek.

Applicant's yard

Neighbor's deck

C-9

Mitigation Plan for Property
414 Maryland St.
Parcel Code 010-3570-00680

1. Deck Addition Site Plan

   a. We are requesting a shoreline variance for the addition of an 11 ft. x 16 ft. deck which is 176 square feet. We are seeking a 34 ft setback.

   b. The deck would be attached to the west side of the house, running for 12 1/2 ft. along the southwest side and extending 3 1/2 ft. beyond the northwest side of the house. The deck would extend 11 ft. from the west wall of the house.

   c. The West Branch of Tischer Creek meanders and, at its closest, is approximately 45 ft. from the high water mark to the west corner of the house.

2. Mitigation Plan

   a. Currently, the backyard running along the west side of the house is mainly dirt due to excessive dog traffic from the previous owner. The backyard slopes away from the house.

   b. The yard is bordered by a metal fence. Approximately 25 ft. of native trees and plants are located on the slope from the fence to the creek along the west side of the yard to slow runoff.

   c. If approved, the mitigation plan would be to have our contractor Andrew Knutson install a water collection system under the deck. He would install clear corrugated plastic angled to a gutter and down spout to a rain barrel at the northwest corner of the house.

   d. We will also add Hostas and other plantings around the outer edge of the deck to catch any additional runoff.

   e. It is anticipated that the construction of the deck would not require the removal of any existing native trees and plants that currently exist to control runoff.

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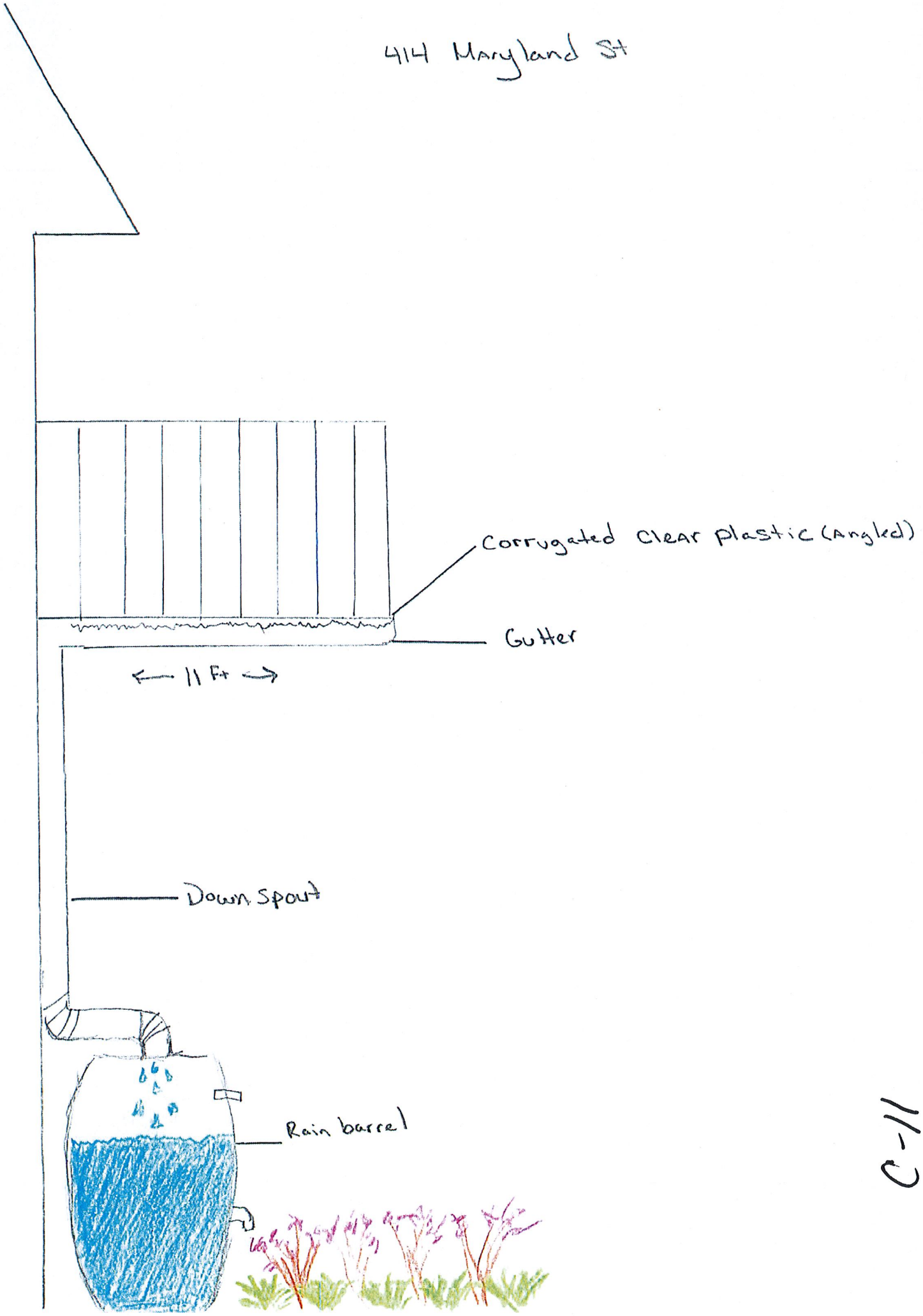
414 Maryland St



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