



**CITY OF DULUTH**

Community Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

<b>File Number</b>	PL- 16-070		<b>Contact</b>	Kate Van Daele	
<b>Type</b>	Variance from Shoreland Setback		<b>Planning Commission Date</b>	July 12, 2016	
<b>Deadline for Action</b>	<b>Application Date</b>	6/14/2016	<b>60 Days</b>	8/13/2016	
	<b>Date Extension Letter Mailed</b>	6/27/2016	<b>120 Days</b>	10/12/2016	
<b>Location of Subject</b>	3241 Commonplace Ave				
<b>Applicant</b>	Jon and Patricia Langlee		<b>Contact</b>	<a href="mailto:ilanglee@charter.net">ilanglee@charter.net</a> , 218-626-2541	
<b>Agent</b>			<b>Contact</b>		
<b>Legal Description</b>	PIN # 010-3310-06750 Lots 34 through 38				
<b>Site Visit Date</b>	6/27/2016		<b>Sign Notice Date</b>	6/28/2016	
<b>Neighbor Letter Date</b>	6/27/2016		<b>Number of Letters Sent</b>	12	

**Proposal**

The applicant is requesting a variance from shoreland regulations UDC 50-37.9. The applicant proposes construction of a 24' x 28' garage to store three trailers owned by the applicant's business. The closest corner of the proposed garage is 27' from the edge of the Morgan Park Creek. The required shoreland setback is 50 feet. The applicant states that the trailers are an eyesore for his neighbors. The neighbors have expressed support for the garage and the proposed variance.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>			
<b>North</b>	R-1	Residential	Traditional Residential
<b>South</b>	R-1	Residential	Traditional Residential
<b>East</b>	R-1	Residential	Residential Urban
<b>West</b>	R-1	Residential	Rural Residential 2

**Summary of Code Requirements**

Sec. 50-18.1 – Minimum Shoreland Area Standards: maintain a 50 feet setback from general development waters

Sec. 50-37.9. D – Variance Procedures. “The Planning Commission shall...make a decision on the application based on the criteria in subsections 50-37.9. C – M...”

Sec. 50-37.9.C – General Variance Criteria (paraphrased): 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 exceptional practical difficulties or undue hardship. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief for 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. 50-37.9.L. – Standards for Variance in Shorelands. No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment.

Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas.

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

Traditional Residential Future Land Use. Characterized by grid or connected street pattern, house 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. Excessive garages do not fit this type of use.

Shoreland Setback rules were introduced with the UDC in 2010, as a replacement for the Water Resources Management Ordinance (WRMO). The WRMO limited impervious surface as a way to reduce water run-off, sedimentation of the water ways, and the increase in temperature of cold-water streams, which is detrimental to trout.

**Review and Discussion Items**

Staff finds that:

- 1) The applicant is seeking a variance to construct a detached accessory structure (24' x 28') 27' from the Morgan Park Creek. The applicant intends to use the accessory structure to store three large trailers that are used for the applicant's business.
- 2) The home was built in 1988. The lot is approximately 260' x 120' or 0.74 acres.
- 3) The property has a four car garage and a paved driveway. The trailers owned by the applicant's business are currently stored on the driveway. If the variance is denied, it would not deprive the applicant of substantial property right.
- 4) A large buffer with dense natural screening was installed by the applicant to provide screening for the three trailers from the neighbors to the south and east. There are no neighbors to the north.
- 5) The proposed garage would require the removal of 16 popul trees, two maple trees,, one lilac bush, one pine tree, and one apple tree from the property. All vegetation would be replaced with vegetation as approved by the Land Use Supervisor.
- 6) The requested variance is not necessary for the preservation and enjoyment of a substantial property right. The application does not demonstrate a need for the proposed variance except to serve the convenience of the applicant. The application does not demonstrate a practical difficulty that would require a variance to enjoy the use of the property.
- 7) The City Engineer commented that reducing the flood plain on the property could push peak water flow during storm events further onto the northern adjacent neighbor's property. A FEMA flood study has been requested by the City Engineer for the Morgan Park Creek but is incomplete. It could in the future become a flood hazard area. Engineering noted that the proposed garage would require a longer driveway approach and need fill on the front side of the property closer to the stream. Morgan Park Creek is a tributary of the St. Louis River.
- 8) The applicant is in an R-1 zone. To build a garage for the purpose of a business does not fall within the R-1 classification the UDC, meet requirements for a home occupation, or follow future land use zoning recommendations.
- 9) Three emails of support (see attached) were submitted on behalf of the applicant.
- 10) The application and proposed variance are contrary to the intent of the Comprehensive Plan. The proposed expansions of business-related activities on the site are not supported by the adopted criteria of the UDC for the R-1 Zoning District and may represent an expansion of a non-conforming use.

**Staff Recommendation**

Based on the above review, discussion, and inclusive of all supporting documentation in Planning Case file PL-16-070, Staff finds that the proposed variance does not meet the criteria established in UDC 50-37.9 and recommends denial.



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"):

50-18.1.D - Minimum Shoreland Setback in an R-1 Zone

**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 addition of a 24' x 28' detached garage will enable the homeowners to safely and securely store trailers currently parked outside,  
causing a neighborhood eyesore in an area where vehicles are all garaged.

**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:

Several other single-family dwellings on Commonwealth Avenue have attached and detached garages, namely, 3228 (2/4 detached),  
3250 (2/3 detached), 3301 (2/1 detached), 3311 (2/2 detached), 3323 (2/1&4 detached), 3337 (1/3 detached), and 3415 (1/2 detached).

**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 addition of a detached garage is consistent with the established neighborhood of single family dwellings and complies with the R-1 District as zoned. It will maintain the character of the established dwelling and othe properties in the neighborhood and increase the tax value of the 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:**

When this property was purchased in 1988, there were no regulations pertaining to shoreland setbacks. At that time more property could have been purchased to place the house further from the creek, allowing for future construction as needed.

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

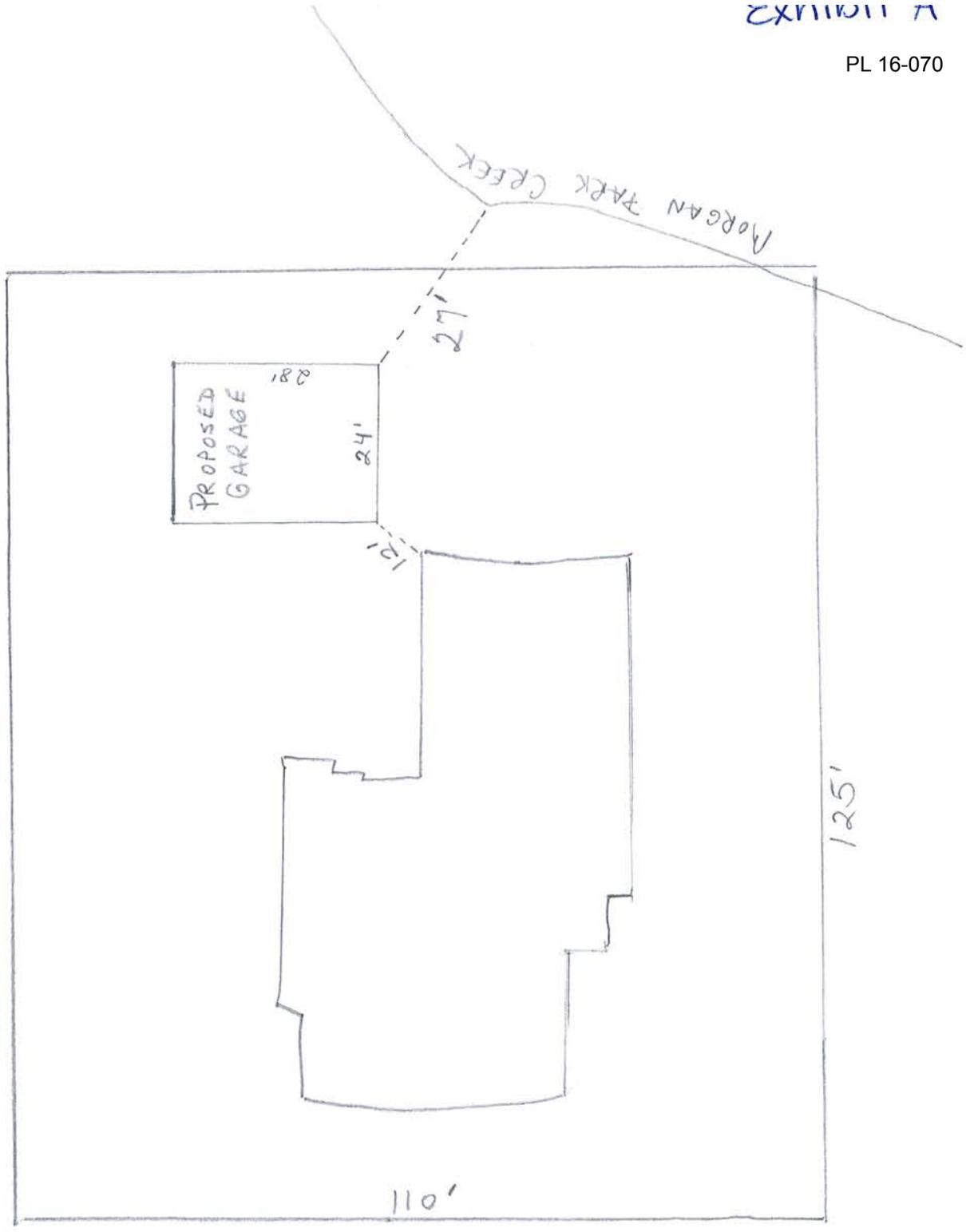
**Does the relief allow any type of sign that is not allowed in the zone district where the property is located?** Yes  No

**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: In accordance with UDC Section 50-37.9, Section L pertains to said property in accordance with Section 5--18.1.D. "Erosion and sediment control measures shall be required for any land disturbing activity." The contractor constructing this garage will supply erosion & sediment control during construction and has done so on past jobs in the City of Duluth. "Any removal of natural vegetation shall be designed to prevent erosion into regulated waters and to preserve shoreland aesthetics." A water mitigation plan will be developed when a Certified Architect Landscaper can be hired. Currently all companies contacted are backed up until at least August 1, 2016. Thus, a mitigation plan will be drafted prior to a Building Permit application.

### Reason for the Variance Request

The business owned by the homeowner requires the use of trailers to haul equipment to job sites. These are an eyesore in the neighborhood where homeowners' vehicles are garaged to keep the area neat and orderly. There is room for a detached garage that could house the trailers; however, the closest corner of the proposed garage is 27 feet from the edge of a creek. Therefore, a variance to the shorelands setback of 50 feet is being requested.



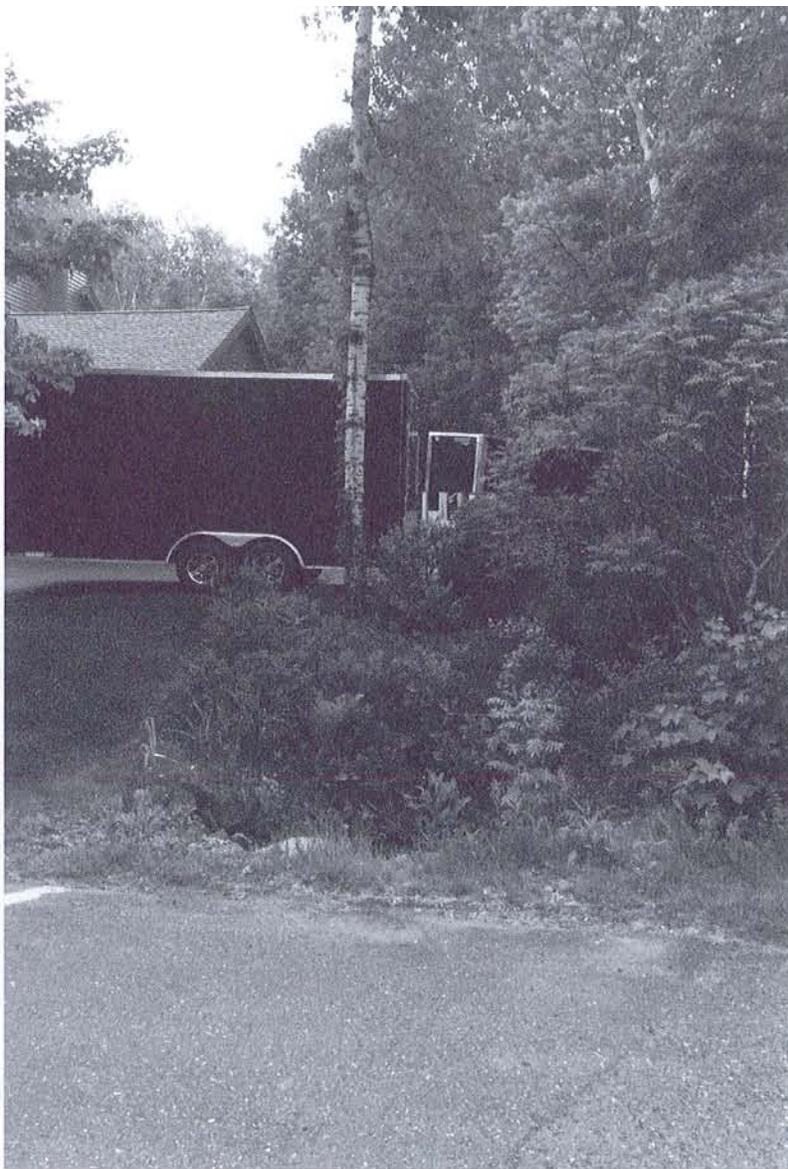
Attachment to Variance Application Supplemental Form

Water Mitigation Plan for UDC 50-18.1.D, Shorelands Construction Variance

The location of the proposed garage will require the removal of 16 Poplar, 2 Maple, 1 Lilac, 1 Pine and 1 Apple Tree from the property. These will be replaced with vegetation recommended by a Certified Architect Landscaper. Within the past week, there were no such landscapers available to assist with this project.

Following this page, are drafts of the position of the garage and the flow of water from the proposed garage. Water will flow naturally into already existing vegetation that is at least 27 feet from the creek. Gutters will be placed on the garage, rainbarrels will be utilized and a runoff pond could be placed behind the garage.

Prior to applying for a building permit, a Water Mitigation Plan will be designed by a Certified Architect Landscaper and followed by the homeowner after construction.







# City Planning

PL 16-070  
3241 Commonwealth Ave

**Legend**

- Trout Stream (GPS)
- Other Stream (GPS)

**Zoning Boundaries**

- Zoning Boundaries

**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

**Right-of-Way Type**

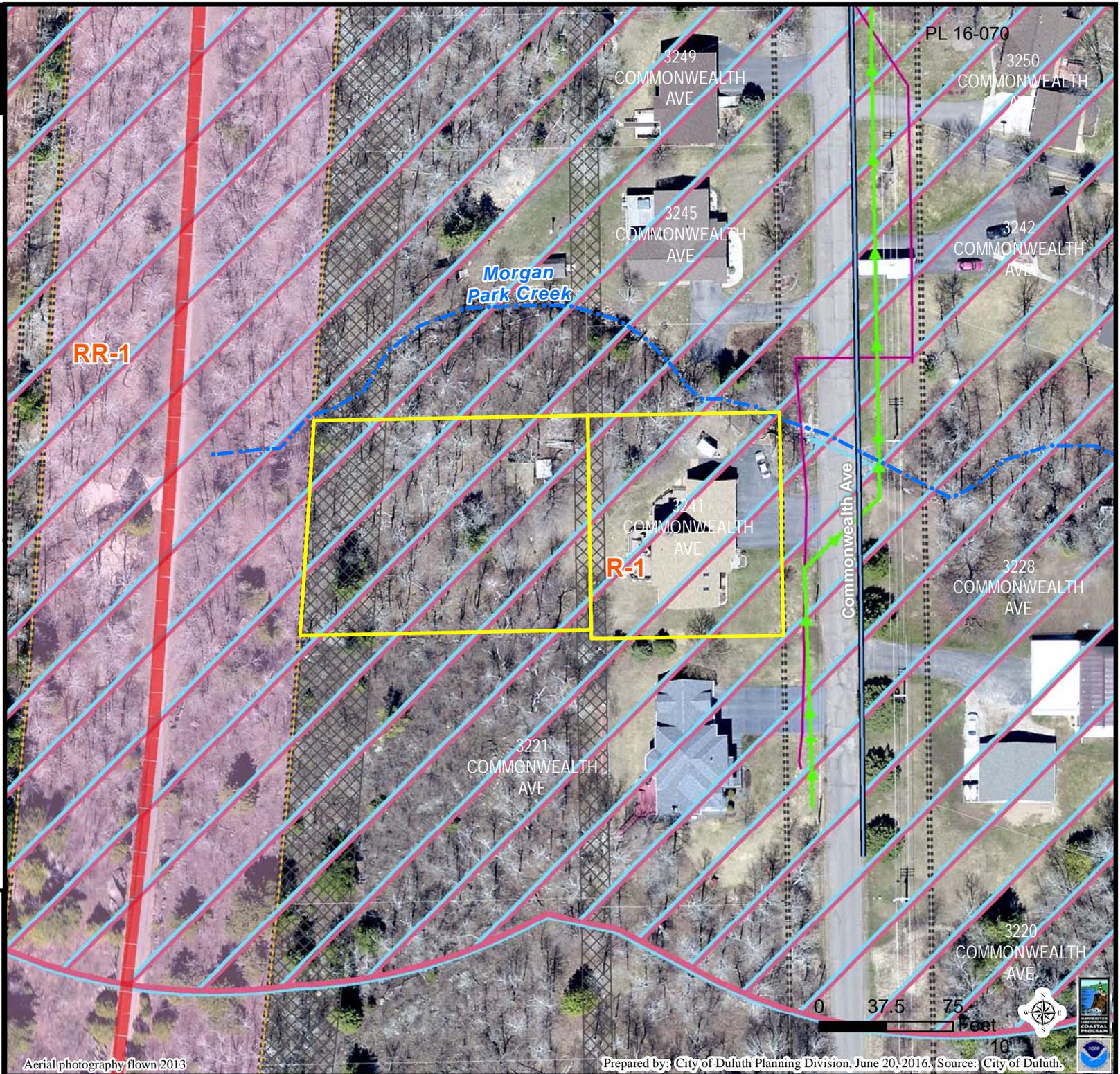
- Road or Alley ROW
- Vacated ROW

**Easement Type**

- Utility Easement
- Other Easement

**Shoreland Overlay Zone**

- Cold Water
- Natural Environment
- General Development



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 20, 2016. Source: City of Duluth.



3241 Commonwealth Ave

Snively Creek

Snively Creek

Snively Creek

Snively Creek

Stewart Creek

Morgan Park Creek

Commonwealth Ave

96th Ave W

Seaver Ave

Zimmerly Ave

Boyd Ave

95th Ave W

95th Ave W Alley

S 94th Ave W

S 94th Ave W Alley

S 94th Ave W Alley

Hulett Ave

S 93rd Ave W

94th Ave W Alley

94th Ave W

94th Ave W

S 92nd Ave W

S 92nd Ave W Alley

Clyde Ave

S 88th Ave W

88th Ave W

Arbor St

Arbor St Alley

87th Ave W Alley

87th Ave W

Arbor St Alley

Arbor St

89th Ave W

89th Ave W Alley

Beverly St

88th Ave W Alley

88th Ave W

Arbor St Alley

Beverly St

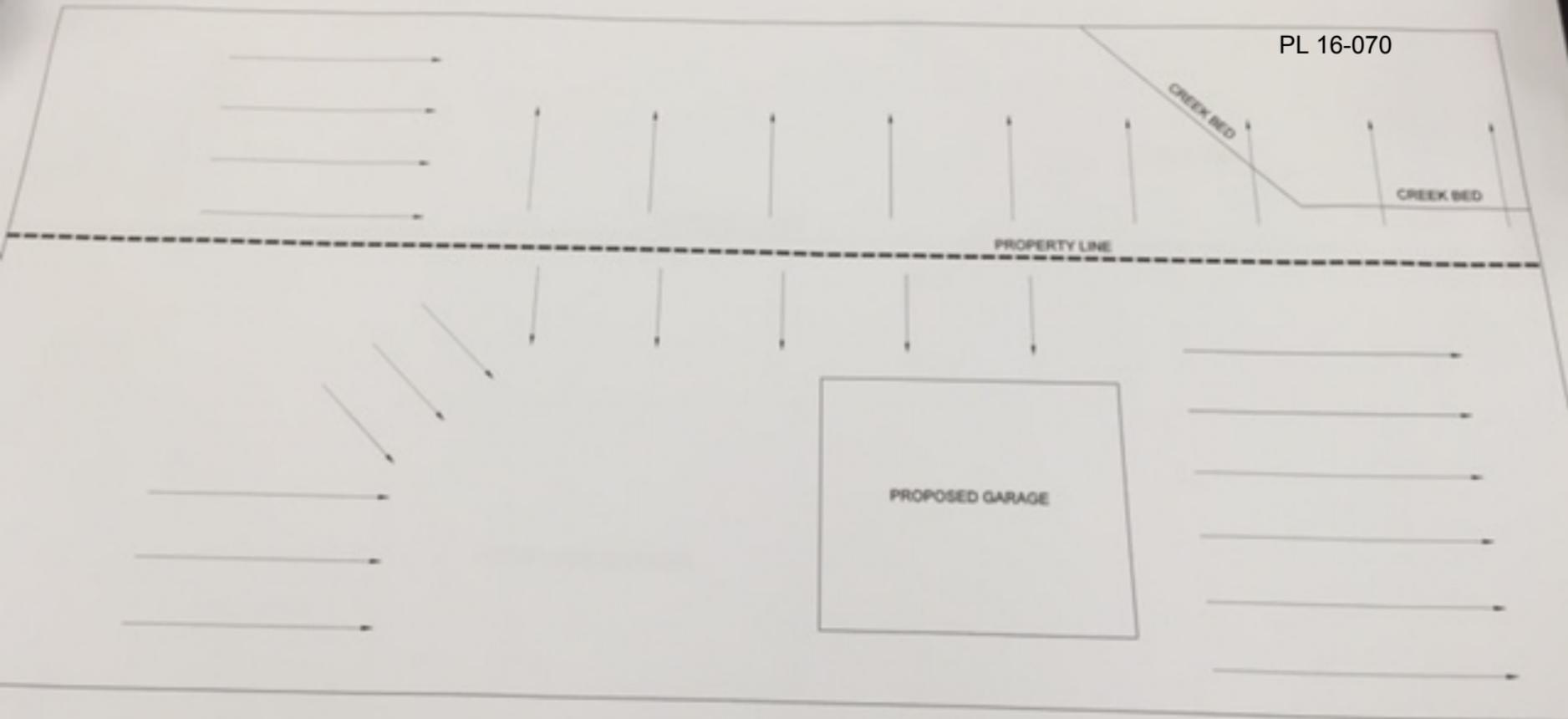
86th Ave W

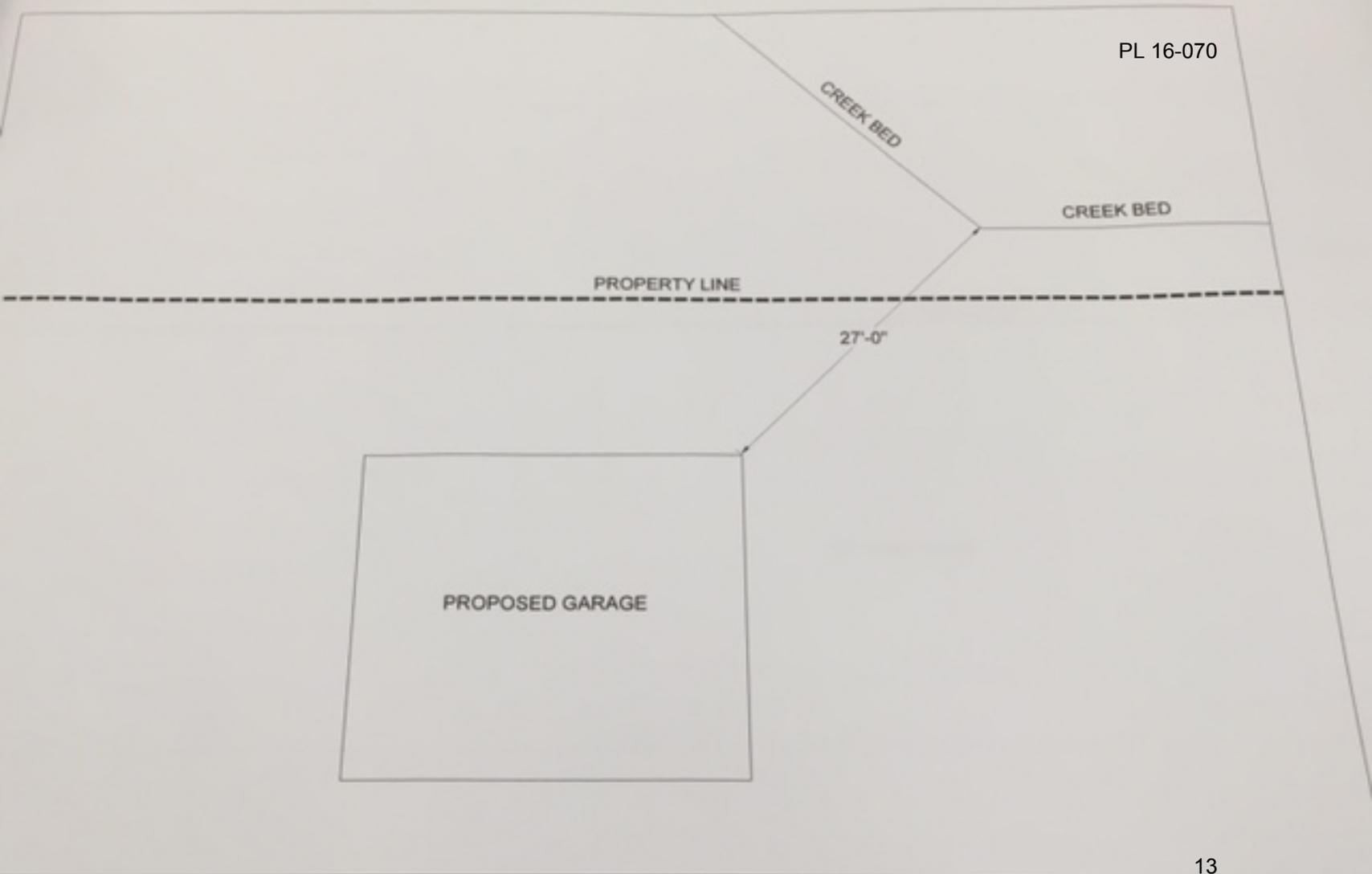
Beverly St Alley

85th Ave W

84th Ave W

PL 16-070





June 27, 2016



Buffer looking South on Commonwealth



Buffer looking North on Commonwealth.

June 27, 2016



The trees and brush in this picture is part of where the proposed garage would be built. Morgan Park Creek is to the right of the trailer.



Morgan Park Creek which flows to the side of the Langlee property.

## PL 16-070 Shoreland Variance Letter of Support #1

Hi Kate,

This is 1 of 3 positive feedback emails regarding our garage variance.

Jon Langlee  
First Strike Safety Solutions  
3241 Commonwealth Ave  
Duluth, MN 55808  
(218)-391-2259  
[www.firststrikesafety.com](http://www.firststrikesafety.com)

Begin forwarded message:

**From:** "Rukavina, Mark S CMSgt USAF 148 FW (US)" <[mark.s.rukavina.mil@mail.mil](mailto:mark.s.rukavina.mil@mail.mil)>  
**Date:** June 27, 2016 at 20:25:30 CDT  
**To:** "[jlanglee@charter.net](mailto:jlanglee@charter.net)" <[jlanglee@charter.net](mailto:jlanglee@charter.net)>  
**Subject: Garage variance**

Jon,

I wanted to send an email to show my support for your garage project. I feel the distance you plan to be from the creek will have no impact to the creek or landscape. If you have any questions or comments, please feel free to contact me at 218-591-130 or reply to this address.

Mark

Mark S. Rukavina, CMSgt, MN ANG  
Command Chief, 148 Fighter Wing  
218-788-7408

Sent from my iPad

## PL 16-070 Shoreland Variance Letter of Support #2

2 of 3.

Jon Langlee  
First Strike Safety Solutions  
3241 Commonwealth Ave  
Duluth, MN 55808  
(218)-391-2259  
[www.firststrikesafety.com](http://www.firststrikesafety.com)

Begin forwarded message:

**From:** Mick <[mick.levinski@gmail.com](mailto:mick.levinski@gmail.com)>  
**Date:** June 27, 2016 at 21:46:04 CDT  
**To:** [jlanglee@charter.net](mailto:jlanglee@charter.net)  
**Subject:** Proposed new garage

Jon, I just wanted to get back to you regarding our conversation this evening. Again, I want to confirm that Kathy and I are in total support of the garage you are hoping to build. We looked closely at the proposed site a couple days ago, so we are familiar with the change in the view that will occur from our house. We see this as a real positive from our perspective by having the trailers and equipment stored inside, and out of site. If there is anything we can do to help this happen we would be happy to do so.

Good luck, and keep us informed on your progress. And again, let us know if we can help out in any way.

Mick and Kathy

### PL 16-070 Shoreland Variance Letter of Support #3

3 of 3. Thank you!!

Jon Langlee  
First Strike Safety Solutions  
3241 Commonwealth Ave  
Duluth, MN 55808  
(218)-391-2259  
[www.firststrikesafety.com](http://www.firststrikesafety.com)

Begin forwarded message:

**From:** Dale Williamson <[DWilliamson@sercoloaders.com](mailto:DWilliamson@sercoloaders.com)>  
**Date:** June 28, 2016 at 11:40:33 CDT  
**To:** "[jlanglee@charter.net](mailto:jlanglee@charter.net)" <[jlanglee@charter.net](mailto:jlanglee@charter.net)>  
**Subject:** New Garage

Jon & Patty:

Thank you for letting us know of your intentions to build an unattached garage at your residence.

Donna and I are in full support of you having this garage built where you desire it to be located on your property and we find comfort knowing that you are making this substantial investment not only to improve your property but also making the neighborhood better off as well.

Thank you for being great neighbors.