



July 1, 2016

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Keith Hamre, Director of Planning and
Construction Services
City of Duluth
Planning Commission
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411 West First Street
Duluth, MN 55802
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Nathan N. LaCoursiere
Assistant City Attorney
Office of the City Attorney
410 City Hall
411 West First Street
Duluth, MN 55802-1198
Email: nlacoursiere@DuluthMN.gov

**Re: Pacific Education Partners (Duluth Public Schools Academy)
Our File No. 26535-0001**

Dear Mr. Hamre and Mr. LaCoursiere:

This letter is sent with regard to the Appeal of the Notice of Decision dated May 18, 2016, and in furtherance of the meeting we had on Monday, June 27, 2016, in Duluth, and the emails and phone conversations between us since that meeting. As I currently understand, the City acting as the LGU under the Wetland Conservation Act is not willing to mutually agree to waive the 30-day appeal hearing requirement pursuant to Minn. Rule 8420.0905, Subp. 2 (A). Therefore, a hearing is scheduled before the City Planning Commission at 5:00 pm on July 12, 2016 in the City Council Chambers. I will appear with witnesses and exhibits at the hearing unless the City otherwise agrees to waiver of the timeline on the appeal, which we would need to simply determine the specifics of the waiver.

Regarding the hearing, I understand both of you are taking the position that the Hearing will be limited to just those items presented to the City in the Wetland Application dated April 4, 2016, assigned Application Number PL 16-018, and as supplemented through the NOD dated May 18, 2016. I strongly believe your position is in error.

Minn. Rule 8420.0200, Subp. 2 (C) Local government unit duties, states:

The local government unit may, through resolution, rule, or ordinance, place decision-making authority with staff according to procedures it establishes. For final decisions made by staff, the local government unit must establish a local appeal process that *includes an evidentiary public hearing before appointed or elected officials.* (emphasis added).

An evidentiary hearing includes much more than simply addressing the Planning Commission and being limited to discussing the application made to the City Staff. Further, Duluth UDC Article V, Section 50-37.1 (O)(3)(a) Powers of planning commission on appeal, allows for:

- (a) The planning commission shall consider the record of the application and any testimony presented at the hearing regarding the application of this Chapter to the application and shall affirm, modify or reverse the decision appealed, and may make any orders, requirements, decisions or determinations that the building official or land use supervisor could have made regarding the application.

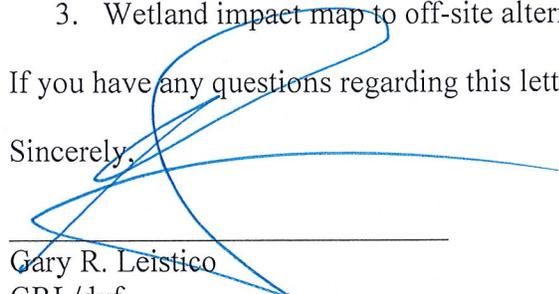
Both the UDC and WCA clearly allow for a de novo hearing with full opportunity for the applicant to provide evidence and witnesses. It is the applicant's intent to have a full evidentiary hearing as allowed by both WCA and UDC before the planning Commission on July 12, 2016. I believe this is also required by the Minnesota Administrative Procedure Act. I strongly urge you to contact the Board of Water and Soil Resources to verify the duties of the LGU on such appeals.

In furtherance of the Wetland Application of Pacific Education Partners, please find attached the following materials:

1. DPSA demographic information provided to the TEP and staff as part of the original wetland application but requested to be removed by members of the TEP. (29 pages) (This is part of the original Application).
2. Additional on-site alternative and wetland impacts map which was provided to you at the meeting on Monday, June 27, 2016. (1 page)
3. Wetland impact map to off-site alternative 5 (jail site). (1 page)

If you have any questions regarding this letter, please do not hesitate to contact me. Thank you.

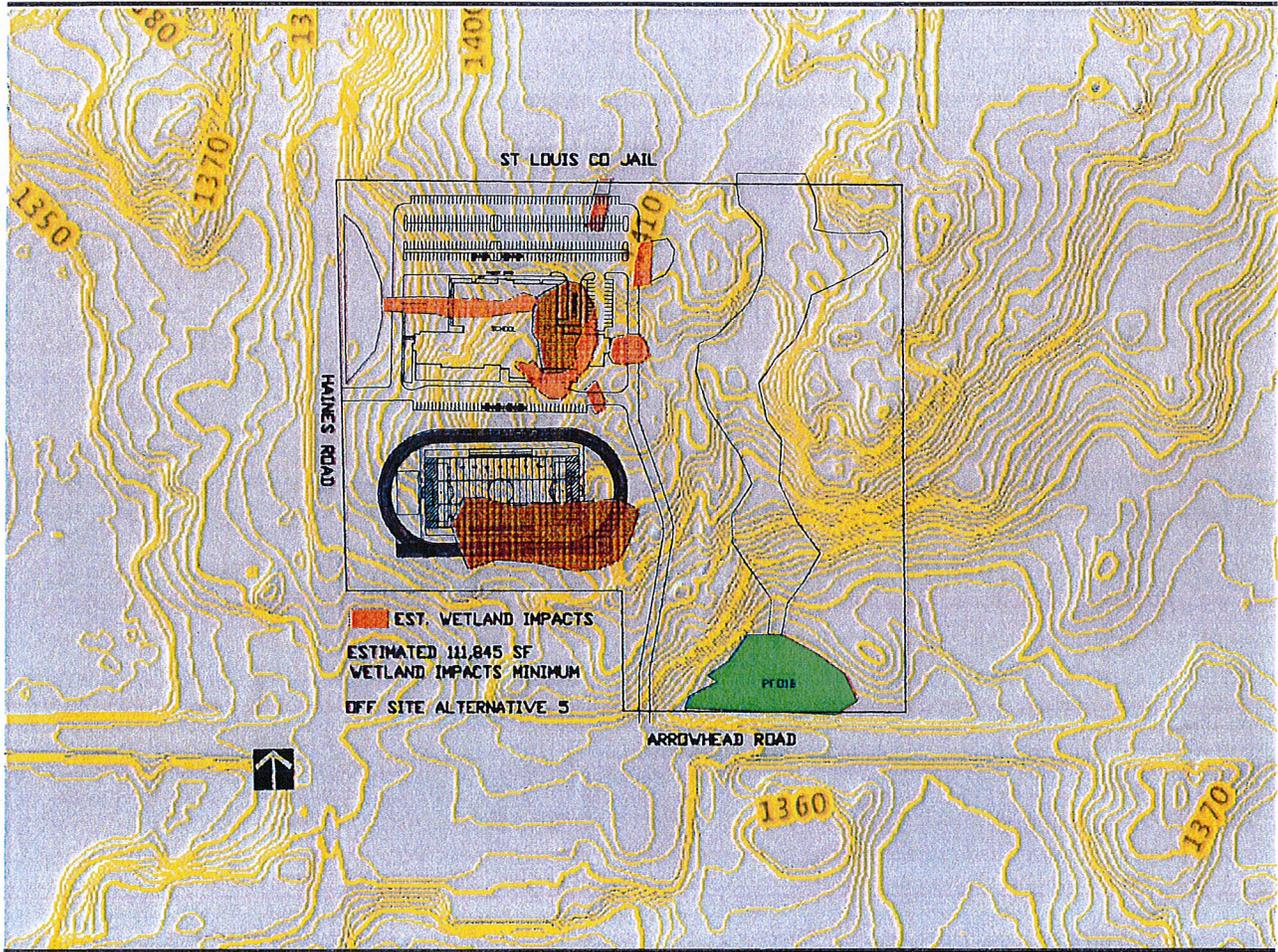
Sincerely,



Gary R. Leistico
GRL/dvf

Enclosures

cc: Blackhoof Development – Via Email
Pacific Education Partners – Via Email
Duluth Public Schools Academy, c/o Mark Pilon – Via Email

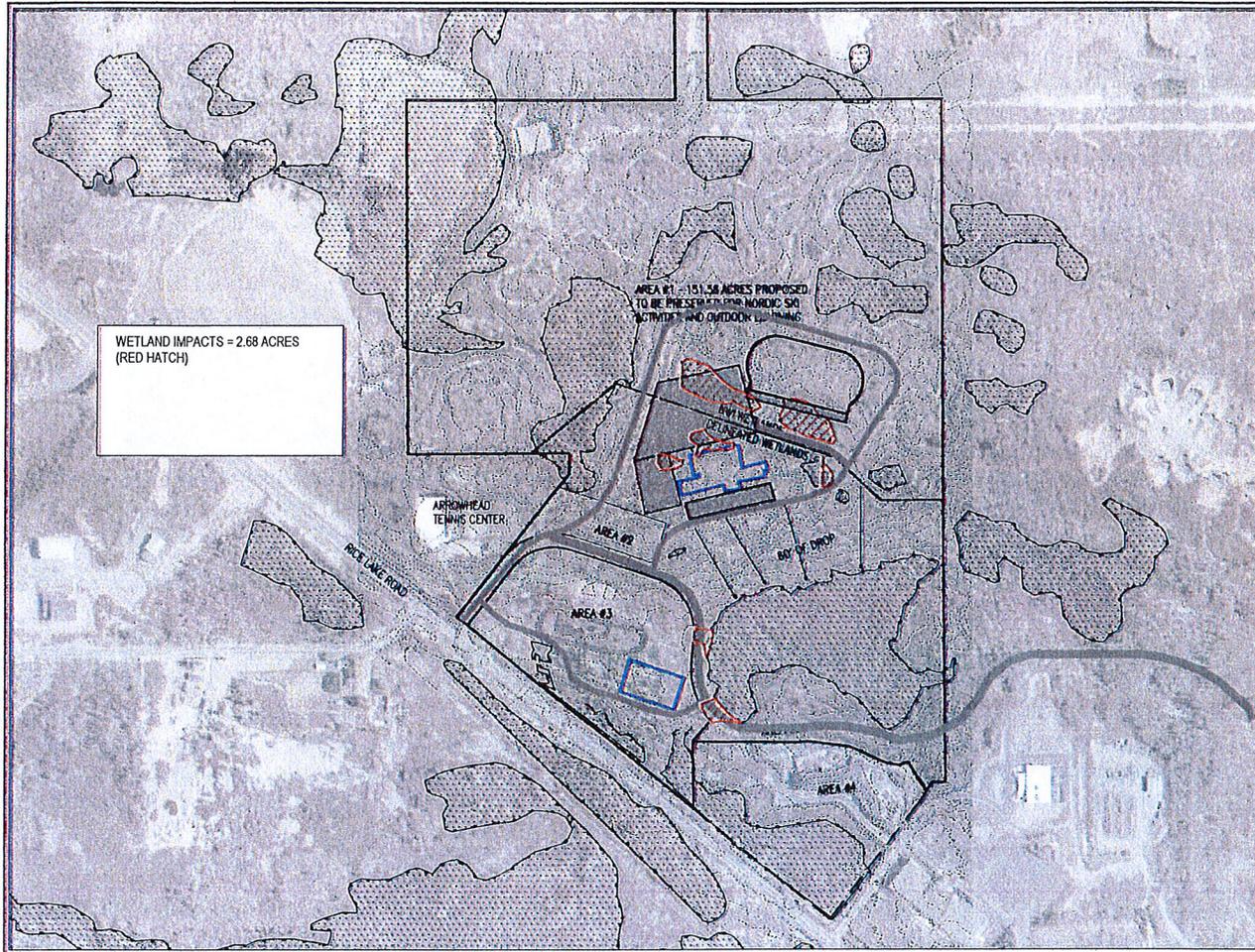


PACIFIC
EDUCATION
PARTNERS

PROJECT AND
SNOWFLAKE
HIGH SCHOOL

CLIENT TITLE
OFF SITE 5

DATE:
DRAWN BY:
CHECKED BY:
PROJECT NO. -
DRAWING NO.



WETLAND IMPACTS = 2.68 ACRES
(RED HATCH)

AREA #1 - 151.58 ACRES PROPOSED
TO BE PRESERVED FOR NORDIC SKI
ACTIVITIES AND OUTDOOR LEARNING

ARROWHEAD
TENNIS CENTER

RICE LAKE ROAD

AREA #2

AREA #3

AREA #4

60' BY DROP

FOUNDATIONS
AN ARCHITECT

CONSULTANTS
AROLA

EAPC
ARCHITECTS & ENGINEERS
111 N. Aberdeen Street, Suite 300, Fargo ND 58102
701.785.4400
www.eapc.com

Northland
CONSULTANTS
1000 13th Avenue SW, Fargo ND 58103
701.785.4400
www.northland.com

DESIGNED BY: DAVID BOJER
DATE: 05/17/2016 LICENSE NO. 48709

PROPOSED BUILDING FOR:
DECS # 12 SCHOOL
4300 RICE LAKE ROAD
DILLUM, MINNESOTA 55811

REVISIONS

ISSUED DATE
05/17/2016

PROJECT NO. 15-004-C
DRAWN BY JDO
APPROVED BY ARJ

SCALE = 2" = 1' AT FULL SCALE

KEY

WETLAND EXHIBIT

SHEET NO.
EPA 1