



# City of Duluth

## Meeting Agenda

### Planning Commission.

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Tuesday, December 14, 2021

5:00 PM

Council Chamber, Third Floor, City Hall, 411  
West First Street

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To view the meeting, visit <http://www.duluthmn.gov/live-meeting>

#### CALL TO ORDER AND ROLL CALL

#### APPROVAL OF PLANNING COMMISSION MINUTES

#### PUBLIC COMMENT ON ITEMS NOT ON AGENDA

[PL 21-1109](#) Minutes 11/9/21

**Attachments:** [11-09-21 PC Minutes \(not approved yet\) \(1\)](#)

#### CONSENT AGENDA

[PL 21-170](#) Variance from Shoreland Setbacks for Retaining Wall at 4840 London Road by Jim and Becky Bradshaw

**Attachments:** [PL 21-170 Staff Report and Attachments](#)

[PL 21-183](#) Variance from Lot Size for Property Split at 1218 E 4th Street by Maxim & Father, LLC

**Attachments:** [PL 21-183 Staff Report and Attachments](#)

#### PUBLIC HEARINGS

[PL 21-185](#) Interim Use Permit for a Vacation Dwelling Unit in a Form District at 1101 E 4th Street by 1101 Duluth, LLC

**Attachments:** [PL 21-185 Staff report and attachments](#)

[PL 21-187](#) Planning Review in the Higher Education Overlay for Arrowhead Center at Arrowhead Road east of Kenwood Avenue by Shamrock Management, LLC

**Attachments:** [PL 21-187 Staff report and attachments](#)

#### OLD BUSINESS

[PL 21-096](#)

Minor Subdivision at Glen Place and W Michigan Street by Aaron Schweiger

**COMMUNICATIONS**

Land Use Supervisor Report

Historic Preservation Commission Report

Joint Airport Zoning Board Report

Duluth Midway Joint Powers Zoning Board Report

NOTICE: The Duluth Planning Commission will be holding its December 14, 2021 Meeting by other electronic means pursuant to Minnesota Statutes Section 13D.021 in response to the COVID-19 emergency. Some members of the Commission will be participating through video conference. Due to the COVID-19 emergency and the closure of City facilities, public comment will not be taken in person. However, members of the public can monitor the meeting and provide public comment on agenda items through WebEx Events. Visit <https://duluthmn.gov/live-meeting> to access the meeting. The public is also encouraged to submit written comment to [planning@duluthmn.gov](mailto:planning@duluthmn.gov) prior to the meeting. Please include "Planning Commission Agenda" in the subject line, and include your name and address and the agenda item you are speaking to. Please note that all public comment is considered Public Data.

## City of Duluth Planning Commission

November 9, 2021  
Meeting Minutes

*Due to the COVID-19 emergency, many planning commission members participated through video conference from home. The meeting was held as a Special Meeting pursuant to Minnesota Statute 13D.021 in response to the Covid-19 emergency. Public comment was taken at [planning@duluthmn.gov](mailto:planning@duluthmn.gov) prior to and during the meeting, and via verbal comment through public attendance in the WebEx video conference during the meeting.*

### **Call to Order**

President Margie Nelson called to order the meeting of the city planning commission at 5:00 p.m. on Tuesday, November 9th, 2021.

### **Roll Call**

**Attendance:** (\* Via WebEx video conferencing – all votes conducted via roll call)

Members Present: Jason Crawford\* (entered meeting after consent agenda vote), Gary Eckenberg\*, Jason Hollinday\*, Margie Nelson\*, Michael Schraepfer\*, Andrea Wedul\*, and Sarah Wisdorf\* (entered meeting after approval of the minutes)

Members Absent: Eddie Ranum and Zandra Zwiebel

Staff Present: Adam Fulton\*, Robert Asleson\*, John Kelley\*, Steven Robertson\*, and Cindy Stafford\*

### **Approval of Planning Commission Minutes** -

Planning Commission Meeting – October 12, 2021

**MOTION/Second:** Eckenberg/Hollinday approved

**VOTE: (5-0)**

### **Public Comment on Items Not on Agenda**

No speakers.

### **Consent Agenda**

PL 21-166 Vacation of Utility Easement at 2825 Exhibition Drive by Benjamin Setterlund and Jennifer Hovland

PL 21-175 Interim Use Permit for a Vacation Dwelling Unit at 11 E 4<sup>th</sup> Street, Unit B (Form District) by BJS Land Co. DLH LLC

PL 21-154 Concurrent Use Permit for Outdoor Seating at 109 W Superior Street by Dubh Linn Brew Pub

**Commissioners:** Andrea Wedul noted PL21-154 and asked if the outdoor seating is blocking the sidewalk. Deputy Director Adam Fulton stated it is a wide walkway, and the sidewalk will be maintained. Wedul appreciates the design.

**Public:** No speakers.

**MOTION/Second:** Wedul/Wisdorf approved consent agenda items as per staff recommendations

**VOTE: (6-0)**

### Public Hearings

#### PL 21-118 Special Use Permit for a Middle School and High School at 4321 Allendale Drive by Stella Maris Academy

**Staff:** John Kelley introduced the applicant's proposal to operate a middle/high school, grades 5 through 12, at the former Woodland Hills Academy located in the Woodland neighborhood. The special use permit is needed to operate the school in the RR-1 and R-1 Zoning Districts. No building expansions or additions are necessary for the proposed middle/high school. The use is not out of character with the surrounding neighborhood. There are sufficient drop-off and pick-up areas that do not pose a safety or traffic hazard to pedestrians or vehicles. No exterior work is proposed. Interior work involves the creation of 14 classrooms. There are 96 parking spaces which staff believes is sufficient for the intended uses, including student parking. A dense tree buffer exists between the school and the surrounding residential homes. Staff received one public comment and one comment from engineering recommending a pedestrian/people powered plan be completed by the applicant in coordination with staff to ensure the safety of students and other's commuting to the school by walking or biking. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Andrew Hilliker and Bob Lisi are present and welcomed questions.

**Commissioners:** Gary Eckenberg noted the St. John's campus nearby. With the addition of the Hills, would St. John's be more of a middle school, and the Hills would be for high school? The applicants affirmed. Commissioner Wedul asked if additional parking would be needed for student parking on site. Hilliker stated based on current enrollment, the parking allotted is sufficient. Wedul noted the reuse of schools is important, and this project is great to see.

**Public:** No Speakers.

**MOTION/Second:** Wisdorf/Wedul approved as per staff recommendations

**VOTE: (7-0)**

#### PL 21-176 Vacation of Right of Way at 730 E Central Entrance by ISD 709

**Staff:** Steven Robertson introduced the applicant's proposal to vacate three public right of ways, and one building easement, with retention of one utility easement. These vacations are required as part of a process to review and approval of a final plat. A good portion of the land was already vacated in the early 1970's. The right of ways are not being used by the public. If approved, it will go to the city council as a resolution. Staff recommends approval with the conditions listed in the staff report.

**Applicant:** Trent Prigge of Northland Consulting Engineers addressed the commission and welcomed questions. There were none.

**Public:** No speakers

**MOTION/Second:** Wisdorf/Eckenberg recommended approval as per staff recommendations

**VOTE: (7-0)**

PL 21-174 Final Plat at 730 E Central Entrance by ISD 709

**Staff:** Steven Robertson introduced the applicant's proposal for approval of a final plat in support of construction of new facilities in ISD 709 operations and administration, and in support of development of the remainder of the property. The revised exhibit for the final plat still needs minor corrections. The planning commission saw this item a few months back and approved the preliminary plat. Staff recommends approval with the conditions listed in the staff report including a development agreement is approved by the Duluth city council. The development agreement must reflect language ensuring provision of a trail easement for the Superior Hiking Trail.

**Applicant:** Present, but had nothing more to add.

**Public:** No speakers.

**MOTION/Second:** Crawford/Wedul approved as per staff recommendations.

**VOTE: (7-0)**

PL 21-074 UDC Text Amendment Related to Shipping/Temporary Storage Containers, Creating New Land Uses for Tobacco Shops and Pawn Shops and Amendments Related to the Residential Planned and Mixed Use Zone Districts by the City of Duluth

**Staff:** Steven Robertson introduced the city's proposal for a change to the UDC related to shipping containers and retail stores. In 2019 staff used the term "temporary storage containers". Now staff would like to address the exact term "shipping containers". There are specific standards listed in item 3. Staff recommends approval.

**Applicant:** N/A

**Public:** No speakers.

**Commissioners:** Wedul asked about item 3(d) – no stacking. She has seen nice examples of two stacked containers for an office building/structure. Robertson noted stacking is appropriate in Industrial Areas, but staff wanted to limit stacking in other areas for safety reasons. Wedul asked if screening is needed. Robertson stated no. HVAC equipment would need screening, but not shipping containers. Wedul asked why 15 days in any calendar year was chosen. Per Robertson, they felt this was a good compromise and reasonable time frame. Wedul suggested it may be worth discussing at a future brown bag meeting. Eckenberg noted buffering in Mixed Use Districts. 11A – permanent fixtures and bonified working areas – Industrial. 2c – residential districts – no screening. How does 15 days relate to 45 days in commercial districts? Robertson noted commercial districts have more leniency. Wisdorf asked if there could be an extension of time (or variance) allowed if someone needs more time. Robertson affirmed and noted "due to construction" situations can have the length extended without a variance.

**MOTION/Second:** Wisdorf/Eckenberg recommended approval as per staff recommendations

**VOTE: (7-0)**

Old BusinessPL 21-096 Minor Subdivision at Glen Place and W Michigan Street by Aaron Schweiger

Item to Remain on the Table through the end of November for more Plat Research

Communications

Land Use Supervisor (LUS) Report – Deputy Director Fulton gave an overview. Essentia is rolling out their new project. DEDA is interviewing developers for Lot D – west of Pier B. The city is

close to filling the senior transportation planner position. City is now accepting letters of intent for interested applicants for vacation rentals. He thanked the commissioners and staff for their work on this issue.

Heritage Preservation Commission – Vice-President Wisdorf gave an overview. The HPC met on 11/08/2021 and they are awaiting SPHO's review of their proposed downtown design guidelines. Duluth will be hosting the State Preservation Conference in 2022.

Joint Airport Zoning Board – Commissioner Eckenberg noted they approved the custom ordinance, and it will be included in the UDC language relatively soon.

Duluth Midway Joint Powers Zoning Board – No updates.

**Adjournment**

Meeting adjourned at 6:04 p.m.

Respectfully,

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Adam Fulton – Deputy Director  
Planning & Economic Development



**Planning & Development Division**  
 Planning & Economic Development Department

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 21-170	<b>Contact</b>	Chris Lee, <a href="mailto:clee@duluthmn.gov">clee@duluthmn.gov</a>	
<b>Type</b>	Variance – Shoreland structure setback	<b>Planning Commission Date</b>	December 14, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	October 4, 2021	<b>60 Days</b>	December 3, 2021
	<b>Date Extension Letter Mailed</b>	October 15, 2021	<b>120 Days</b>	February 1, 2022
<b>Location of Subject</b>	4840 London Road			
<b>Applicant</b>	Jim & Becky Bradshaw	<b>Contact</b>		
<b>Agent</b>	Ted Smith	<b>Contact</b>	Marine Tech	
<b>Legal Description</b>	Parcel 010-1850-01630			
<b>Site Visit Date</b>	October 21, 2021	<b>Sign Notice Date</b>	October 26, 2021	
<b>Neighbor Letter Date</b>	October 18, 2021	<b>Number of Letters Sent</b>	16	

**Proposal:** Applicant is requesting a variance from the shoreland setbacks to build a retaining wall that will buffer the property from shoreline erosion on Lake Superior.

**Recommended Action:** Staff is recommending approval with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Single Family Homes	Traditional Neighborhood
<b>North</b>	R-1	Single Family Homes	Traditional Neighborhood
<b>South</b>	Lake	Lake	Lake
<b>East</b>	R-1	Single Family Homes	Traditional Neighborhood
<b>West</b>	R-1	Single Family Homes	Traditional Neighborhood

**Summary of Code Requirements:**

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 variances 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):**

Governing Principle 5 – Promote reinvestment in neighborhoods .... through land use and transportation that foster neighborhood reinvestment. This homeowner will be reinvesting in their home by constructing a retaining wall to protect their property from erosion.

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.

History: The house was constructed in 1888 and contains 4 bedrooms. Historically, walls have been used to keep the yard area from eroding into the lake. The last 3 years of wet weather have taken a toll on the existing walls and yard.

**Review and Discussion Items:**

Staff finds that:

- 1) The applicant is requesting a shoreland variance to construct a 10' x 12' seawall. This seawall will be located on the ordinary high-water mark for Lake Superior. The wall will be located approximately 35 feet from the current water level of the lake (measured September 2021). The wall will feature colored concrete to match the existing shoreline.
- 2) The property already contains multiple walls to protect the property. These walls are constructed from concrete, wood, and other materials that have since degraded leaving the property vulnerable to erosion. This wall will support the existing walls and the lower parts of the bluff face to prevent future erosion. Its construction constitutes maintenance of existing infrastructure already in place.
- 3) Further loss of land area due to erosion poses a practical difficulty to the continued use of the property.
- 4) The structure is reasonable for the protection of the property and the home from erosion.
- 5) The proposal will not alter the essential character of the neighborhood as it faces Lake Superior. It is consistent with retaining walls in other locations nearby, including along properties that have frontage on Lake Superior.
- 6) Section 50-37.9.L of the UDC requires mitigation for shoreland variances. Staff is not requiring mitigation due to the location and terrain of the lake shore; the narrow footprint of the retaining wall is not anticipated to have any effect on stormwater. Applicant will need to obtain an erosion permit prior to construction which will include requirements related to preventing erosion and stabilizing any disturbed areas after construction.
- 7) No public, agency, or City comments have been received.
- 8) 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 one-year

**Staff Recommendation:**

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

- 1) The project be limited to, constructed, and maintained based on the site plan submitted with the application, dated 9/21/2021.
- 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.





4840 London Rd

**Legend**

- Gas Main
- Water Main
- Hydrant

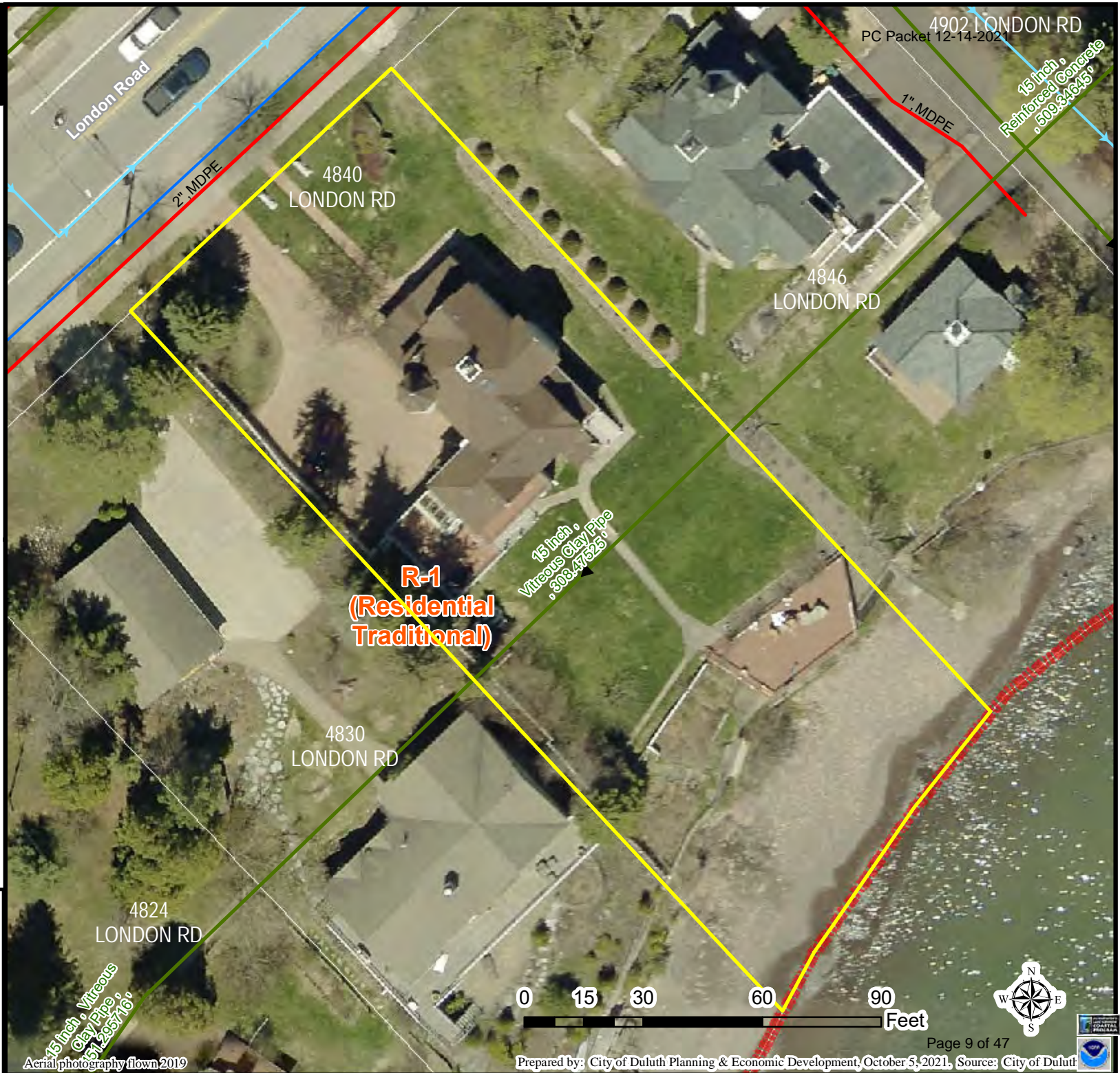
**Sanitary Sewer Mains**

- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

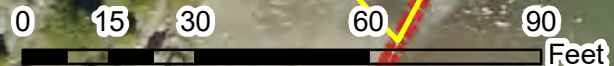
**Storm Sewer Mains**

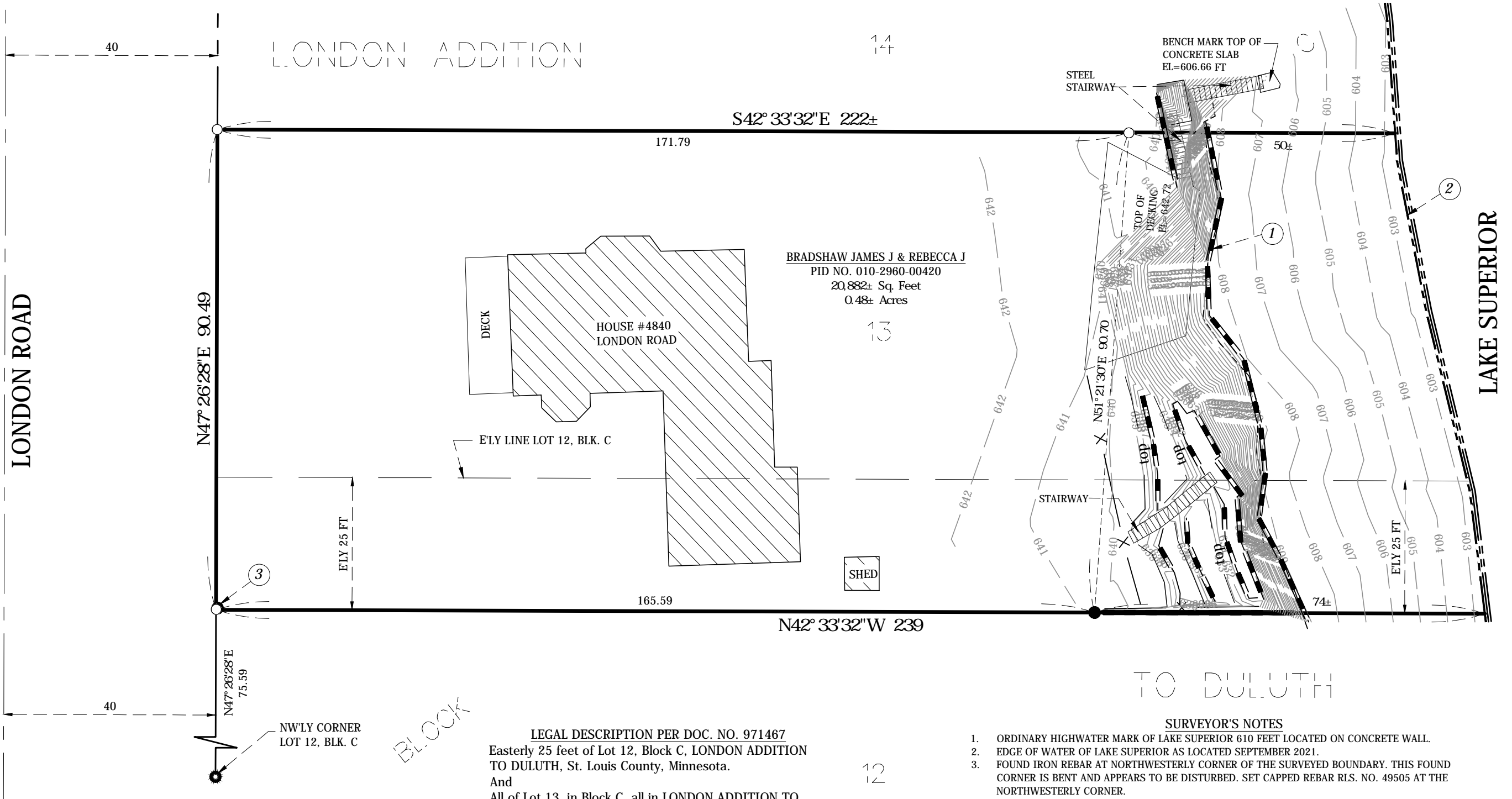
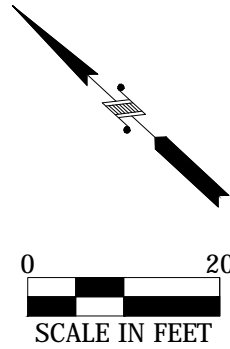
- Storm Sewer Pipe
- Storm Sewer Catch Basin

Zoning Boundaries



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.





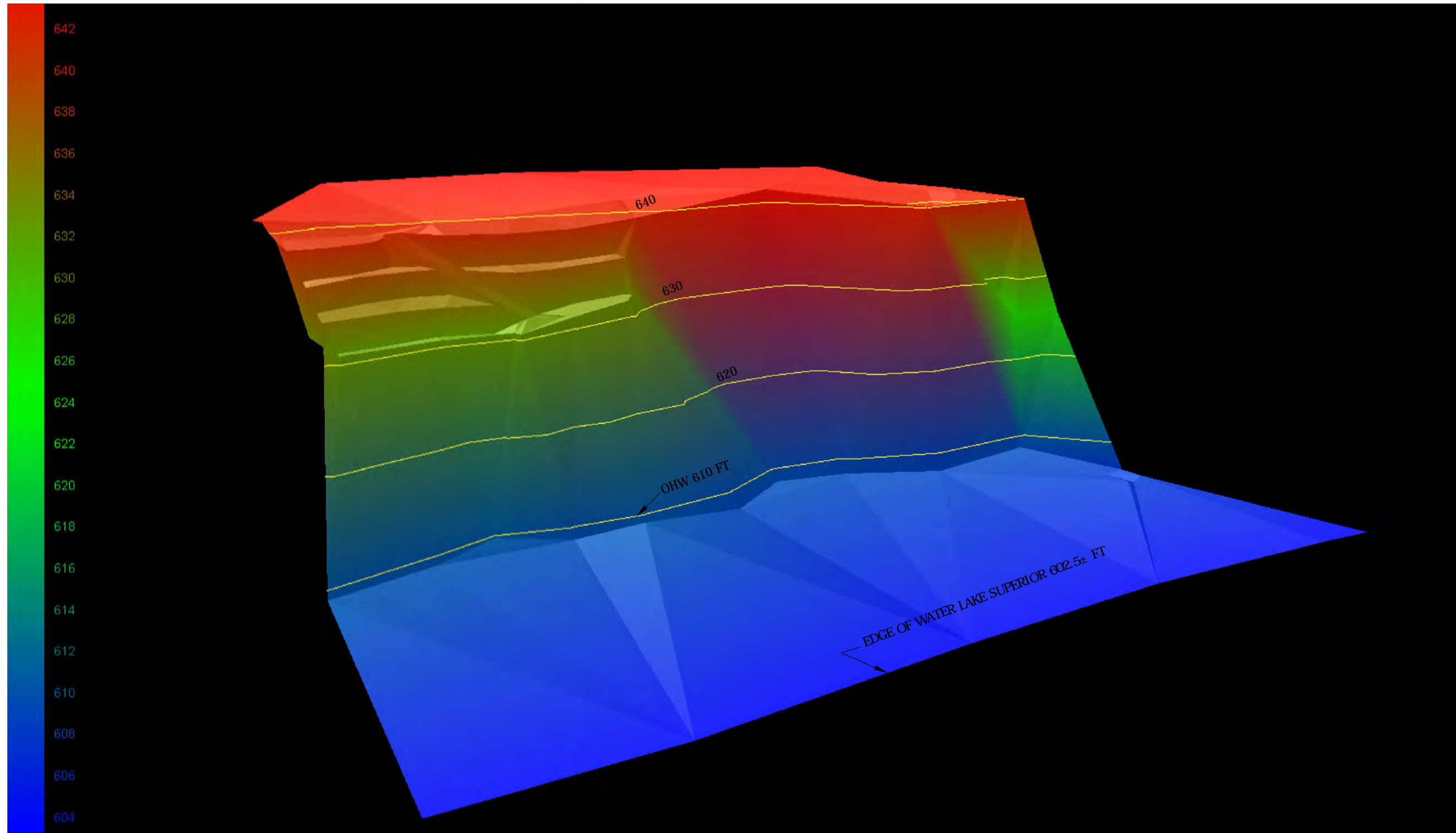
**LEGEND**

- CONCRETE SURFACE
- EXISTING BUILDINGS
- TOP OF BANK OR GRADE BREAK
- RETAINING WALL
- FENCE LINE
- SHORELINE
- CENTER LINE
- RIGHT OF WAY LINE
- SURVEY LINE
- BOUNDARY LINE AS SURVEYED
- EXISTING PLAT LINE
- REFER TO SURVEYOR'S NOTES
- FOUND IRON PIPE
- FOUND REBAR
- SET CAPPED REBAR RLS. NO. 49505

**LEGAL DESCRIPTION PER DOC. NO. 971467**  
 Easterly 25 feet of Lot 12, Block C, LONDON ADDITION TO DULUTH, St. Louis County, Minnesota.  
 And  
 All of Lot 13, in Block C, all in LONDON ADDITION TO DULUTH, St. Louis County, Minnesota.

- SURVEYOR'S NOTES**
- ORDINARY HIGHWATER MARK OF LAKE SUPERIOR 610 FEET LOCATED ON CONCRETE WALL.
  - EDGE OF WATER OF LAKE SUPERIOR AS LOCATED SEPTEMBER 2021.
  - FOUND IRON REBAR AT NORTHWESTERLY CORNER OF THE SURVEYED BOUNDARY. THIS FOUND CORNER IS BENT AND APPEARS TO BE DISTURBED. SET CAPPED REBAR RLS. NO. 49505 AT THE NORTHWESTERLY CORNER.
  - THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
  - BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
  - BENCHMARK SHOWN ON SURVEY.

I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.  David R. Evanson MN License #49505 DATE: 10-7-2021		<b>CERTIFICATE OF SURVEY</b>		 ALTA LAND SURVEY COMPANY PHONE: 218-727-5211 LICENSED IN MN & WI WWW.ALTLANDSURVEYDULUTH.COM
CLIENT: MARINE TECH ADDRESS: 4840 LONDON RD, DULUTH, MN 55804 DATE: 10-7-2021	REVISIONS:	JOB NO: 21-329	SHEET 1 OF 2	



CERTIFICATE OF SURVEY

CLIENT: MARINE TECH

REVISIONS:

ADDRESS: 4840 LONDON RD,  
DULUTH, MN 55804

DATE: 10-7-2021

JOB NO: 21-329

SHEET 2 OF 2

**ALTA**  
LAND SURVEY COMPANY  
PHONE: 218-727-5211  
LICENSED IN MN & WI  
WWW.ALTLANDSURVEYDULUTH.COM



9/21/2021

CSI

411 west 1<sup>st</sup> St.

Duluth, MN. 55802

### **Bradshaw Narrative**

The Bradshaw residence located at 4840 London, Rd., Duluth, MN. 55804, is dealing with the combination of ground water and wave runup erosion on their property. The lake side of their property consists of a combination of concrete, stone retaining walls, wood retaining walls and natural stone cliffs. Ground water exiting below one of the concrete retaining walls is eroding the soil under the retaining wall footing. The added moisture plus added to the freeze thaw cycle of the soft rock below is deteriorating the soft rock bank. The added force of wave runup on the soft rock continues to work away at the bank.

The solution is adding drain holes at the base of the surrounding concrete retaining walls so the ground water can be redirected to a location to avoid the rock that forms the base for the concrete retaining walls to the beach. A new concrete retaining wall will extend from the beach up to the base of the eroded concrete retaining wall footing to support the soft rock that creates the foundation for the upper retaining walls. The new concrete retaining wall will be drilled and pinned into the existing ledge rock at the beach level. The new retaining wall will be approximately 10' wide by 12' tall.

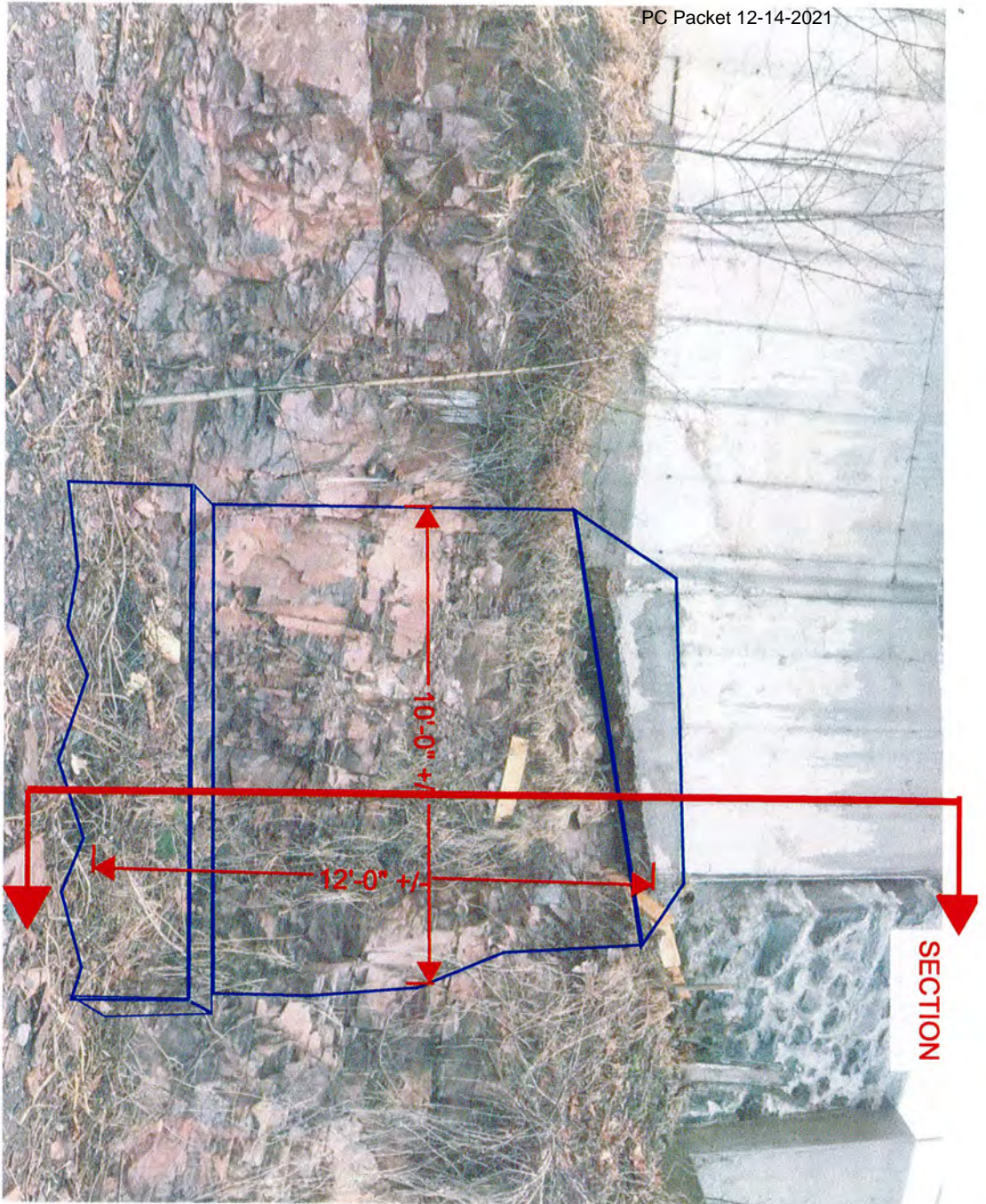
The concrete will be colored to match the surrounding rock so the new retaining wall will blend into the surrounding area. There is no specific need for mitigation as there is no environmental impact to the property or surrounding area.



## Variance Application Supplemental Form Answer Sheet

- 1- The eroded area of concern is on top of a cliff, the existing retaining wall sits on top of the cliff and the only location for a proper foundation for the repair is at the base of the cliff. The retaining wall foundation needs to begin on the ledge rock at the base and build up to the disturbed area.
- 2- The issue was created by the heavy rainfall from the previous two plus years. Obviously, this past drought year has had no influence on the eroded area. Up to this year the rainfall totals are above normal and have caused erosion and soil instability throughout the area. The erosion has not advanced in 2021 due to the dry conditions.
- 3- Because the eroded area is on top of a cliff that is situated within the 75' Shoreland setback it has created the situation where the repair needs to take place within the setback area. The same situation exists on the adjoining property as the vertical faces of the shoreline sits within the 75' Shoreland setback requirement.
- 4- No matter how the repair would be made the work zone is within the Shoreland setback area.
- 5- The variance will not impact light, air, adjacent property, public streets, risk of fire, impair property values or the health and safety of the public.
- 6- The variance will not impact any zoning code or maps or change the character of the neighborhood.

The variance follows the criteria in UDC section 50-37.9. d, through m except for l. The variance is requested because the work area is within the Shorelands setback area. I cannot move the work area out the Shoreland area to comply with the setback requirement.



**CONCRETE:** 4000 PSI W/C =0.45 WITH WELL GRADED AGGREGATE 1 1/2" MAX AGG.

**REBAR:** GRADE 60 NEW BILLET, EPOXY COATED AT FLAT WORK WITH SLOPE LESS THAN 45 DEGREES

4840 LONDON ROAD  
 DULUTH, MN  
 RETAINING-WALL  
 REPAIR  
 9-3-21



**Northland**  
 Consulting Engineers L.L.P.  
 Structural, Civil and Forensic Engineering  
 102 S 21st Ave West  
 Duluth, MN 55806 (218)727-5995

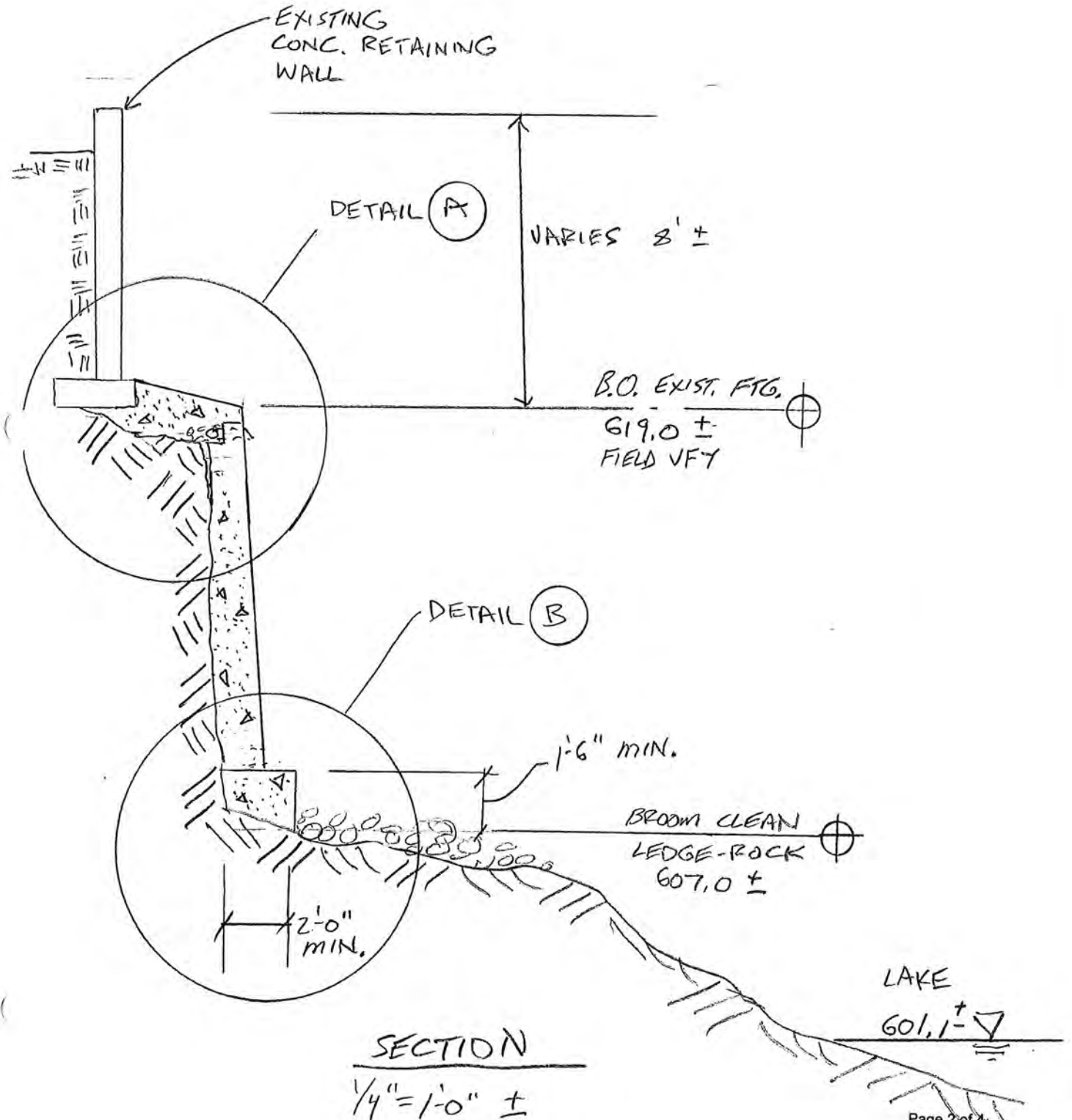
Professional Certification:  
 I hereby certify that this plan, specification or report was prepared by me or under my direct supervision and that I am a duly Licensed Professional Engineer under the laws of the State of Minnesota.

*Jon E. Aamodi*  
 Jon E. Aamodi, P.E.  
 MN Reg. No. 24838

Date **09/03/2021**

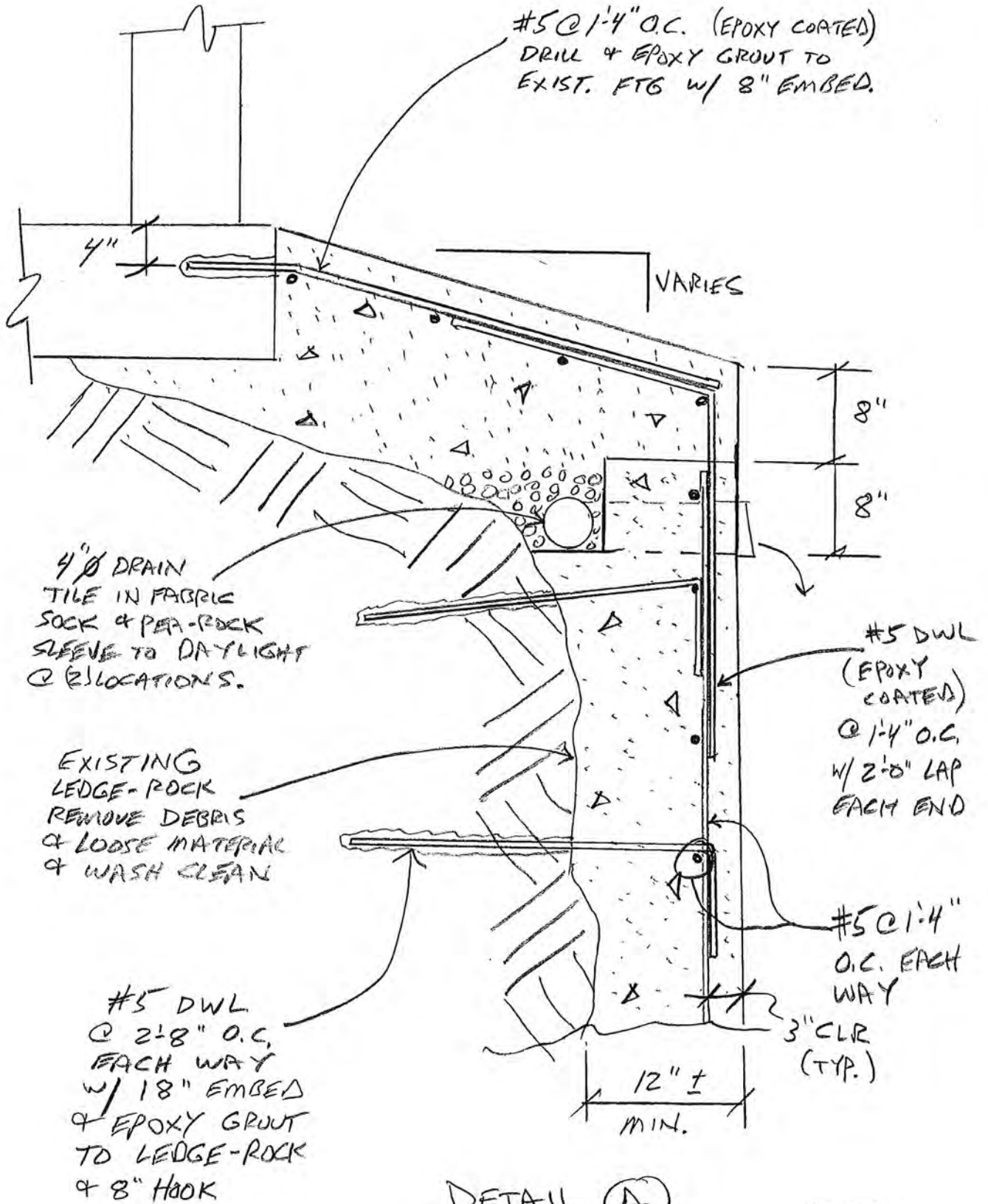


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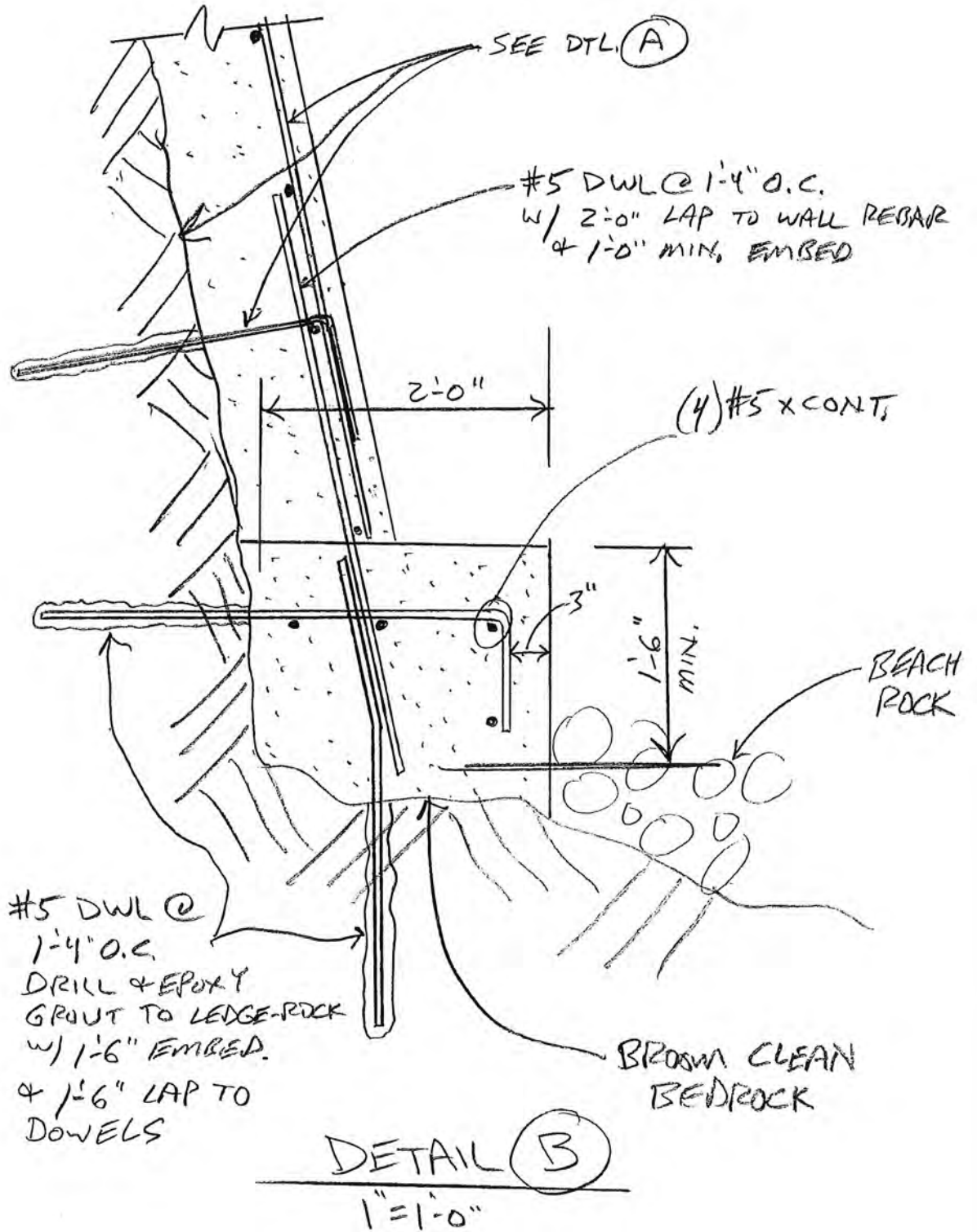


DETAIL (A)  
1" = 1'-0"





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**Planning & Development Division**  
 Planning & Economic Development Department

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 21-183	<b>Contact</b>	Chris Lee, clee@duluthmn.gov	
<b>Type</b>	Variance	<b>Planning Commission Date</b>	December 14, 2021	
<b>Deadline for Action</b>	<b>Application Date</b>	October 26, 2021	<b>60 Days</b>	December 25, 2021
	<b>Date Extension Letter Mailed</b>	November 8, 2021	<b>120 Days</b>	February 23, 2022
<b>Location of Subject</b>	1218 (Parcel A) and 1218 ½ (Parcel B) E 4 <sup>th</sup> Street			
<b>Applicant</b>	Maxim & Father LLC	<b>Contact</b>	Mike Maxim	
<b>Agent</b>	N/A	<b>Contact</b>	N/A	
<b>Legal Description</b>	See attached			
<b>Site Visit Date</b>	November 25, 2021	<b>Sign Notice Date</b>	November 30, 2021	
<b>Neighbor Letter Date</b>	November 19, 2021	<b>Number of Letters Sent</b>	65	

**Proposal**

The applicant is seeking to create legally separate lots for two existing houses, and as such is requesting variances from the following UDC standards:

1. Increase Front Build to Zone (BTZ) for Parcel B from the maximum 25' to 64';
2. Decrease Side BTZ for Parcel A and Parcel B to .4' and 2.3' from required 5';
3. Reduce side yard setbacks from 5' to .4' (Parcel A) and 2.3' (Parcel B)
4. Reduce frontage for both parcels from the required 50' to 25.98' (Parcel A) and 23.98' (Parcel B)

These variances would apply to the two existing houses. No new construction is proposed.

**Recommended Action:**

Approve variances with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-6	Single-family Residential	Neighborhood Mixed Use
<b>North</b>	F-6	Single-family Residential	Neighborhood Mixed Use
<b>South</b>	R-2	Single-family Residential	Neighborhood Mixed Use
<b>East</b>	F-6	Single-family Residential	Neighborhood Mixed Use
<b>West</b>	F-6	Single-family Residential	Neighborhood Mixed Use

**Summary of Code Requirements**

Sec. 50-37.9. B – 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.

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

Governing Principle #5 –Promote reinvestment in neighborhoods: The variances are consistent with promoting reinvestment in neighborhoods by allowing existing single-family dwellings to continue, and through a subdivision allow for the creation of a second lot. The new lot has an existing dwelling unit on the property, which will provide additional housing for the City of Duluth.

**Future Land Use:**

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.

The 2035 Comprehensive Plan calls for increased housing opportunities, including through expansion and reinvestment in existing dense urban housing such as exists in this location. The concept of alley houses is supported by the comprehensive plan, which adopts policy recommending that actions be taken to maximize the use of existing infrastructure – including alleys.

**History:**

1218 East 4<sup>th</sup> Street (Parcel A) – The 943 square foot single-family dwelling was built in 1905.

1218 ½ East 4<sup>th</sup> Street (Parcel B) – The 527 square foot single-family dwelling was built in 1905.

**Review and Discussion Items**

Staff finds that:

1. The applicant will need to apply for a boundary line adjustment to move property lines into two separate lots each with single-family homes. A boundary line adjustment allows property line changes that does not result in the create of two lots. This variance application covers two parcels. Both homes are existing single-family houses. The applicant is seeking variances to:
  - a. Increase Front Build to Zone (BTZ) for Parcel B to 64’;
  - b. Decrease Side BTZ for Parcel A and Parcel B to .4’ and 2.3’ from required 5’;
  - c. Reduce side yard setbacks from 5’ to .4’ (Parcel A) and 2.3’ (Parcel B), and
  - d. Reduce frontage for both parcels from the required 50’ to 25.98’(Parcel A) and 23.98’ (Parcel B)
2. The reduction of the lot frontage and the setback will not result in noticeable changes in the neighborhood. The houses were built at a time when it was common to maximize density by constructing alley houses. The applicant does not propose any new construction.
3. The property is currently two 25-foot lots. Adjacent lots are a mix of 23-foot, 25-foot, and 50-foot wide platted parcels.
4. The applicant is proposing a reasonable use of the parcels for residential purposes in an F-6 zone district. Relief is required from circumstances unique to the property with two houses on one parcel and was not created by the property owner.
5. The applicant has stated that by granting the variances these actions will not change the current use of

these homes. Additionally, the applicant has stated that the properties and dwelling units on them would remain the same and continue to be single family homes.

6. Granting the variance will not alter the essential character of the area. The immediate area is zoned for mixed use to accommodate residential and commercial uses. This variance would not result in reductions of light and air to surrounding properties.
7. The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Neighborhood Mixed Use.
8. No other public, agency or City comments were received.
9. 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 one-year

**Staff Recommendation**

Based on the above findings, Staff recommends that Planning Commission approve the Variance, application PL 21-183, subject to the following conditions:

1. The project be limited to, and maintained according to the survey dated 09/07/2021 submitted with the 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.



PL 21-183  
Variance  
1218 E 4th St

**Legend**

- Gas Main
- Water Main
- Hydrant

**Sanitary Sewer Mains**

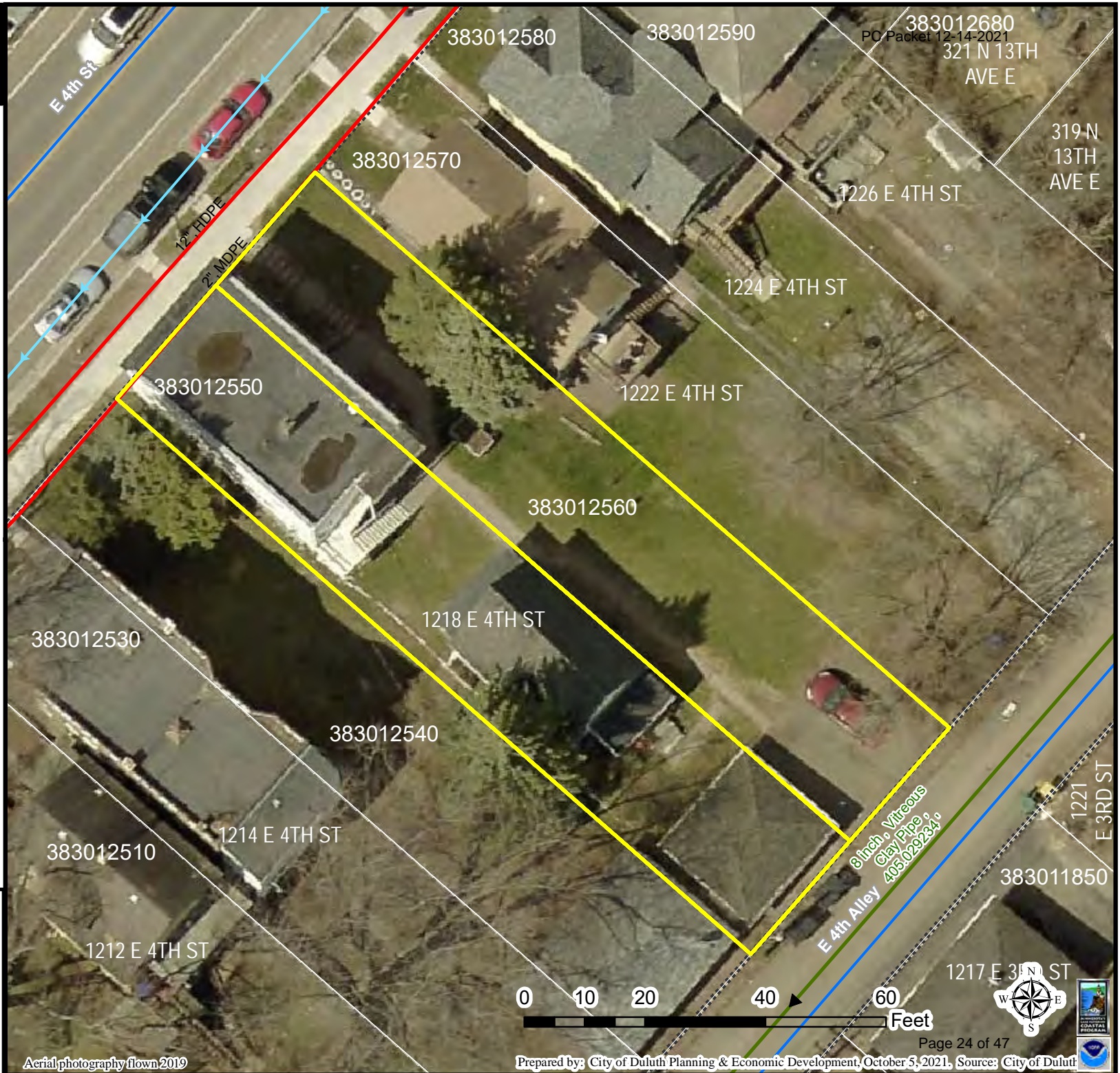
- CITY OF DULUTH
- WLS&S; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

**Storm Sewer Mains**

- Storm Sewer Pipe
- Storm Sewer Catch Basin

**Easement Type**

- Utility Easement
- Other Easement

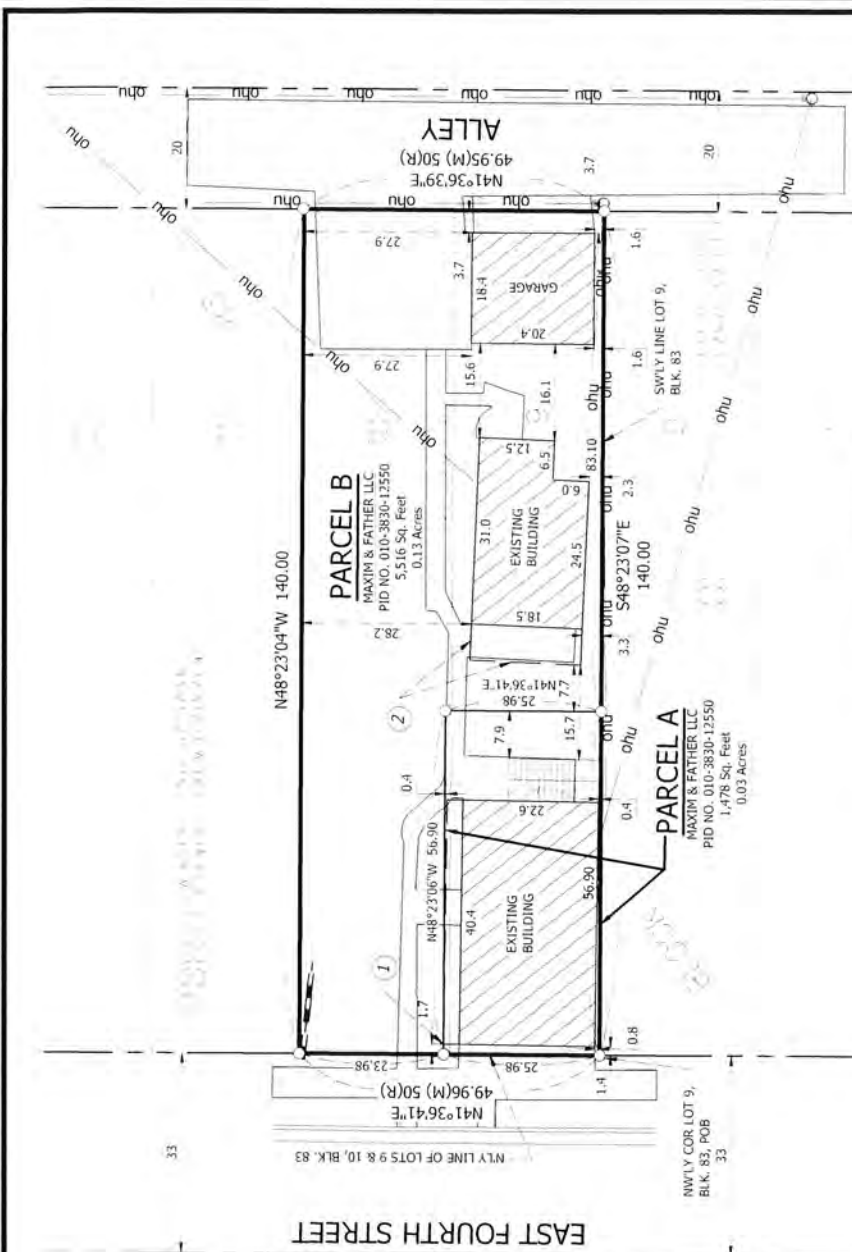


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Aerial photography flown 2019







**SURVEYOR'S NOTES**

1. BUILDING OVERHANGS LOCATED ON NELY LINE OF PROPOSED PARCEL A.
2. ROOF OVERHANGS.
3. THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1986. (NAD 83 2011)
4. BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.
- 5.

- # REFER TO SURVEYOR'S NOTES
- SET CAPPED REBAR RLS. NO. 49505
- UTILITY POLE

**LEGEND**

- (M)-FIELD MEASURED DIMENSION
- (R)-RECORD DIMENSION
- POB-POINT OF BEGINNING
- RETAINING WALL
- UTILITY
- UTILITY POLE
- BITUMINOUS SURFACE
- EXISTING BUILDINGS
- CONCRETE SURFACE
- BOUNDARY LINE AS SURVEYED
- EXISTING PLAT LINE
- PROPOSED PARCEL LINE
- CONCRETE CURB & GUTTER

**PARENT LEGAL DESCRIPTION PER DOC. NO. 1195970**

Lot 9, Block 83, Portland Division of Duluth, St. Louis County, Minnesota.  
 Lot 10, Block 83, Portland Division of Duluth, St. Louis County, Minnesota.

**LEGAL DESCRIPTION FOR PARCEL A**

That part of Lots 9 and 10, Block 83, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Beginning at the Northwestly corner of said Lot 9; thence on an assumed bearing of South 48 degrees 23 minutes 07 seconds East, along the Southwestly line of said Lot 9 for a distance of 36.90 feet; thence North 41 degrees 36 minutes 41 seconds East, along a line parallel with the Northernly line of said Lots 9 and 10 for a distance of 25.98 feet; thence North 48 degrees 23 minutes 06 seconds West 56.90 feet to said Northernly line of said Lots 9 and 10; thence South 41 degrees 36 minutes 41 seconds East, along said Northernly line 25.98 feet to the point of beginning.

Said parcel contains 1,478 Sq. Feet or 0.03 Acres.

**LEGAL DESCRIPTION FOR PARCEL B**

Lots 9 and 10, Block 83, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, Except the following described parcel:

Beginning at the Northwestly corner of said Lot 9; thence on an assumed bearing of South 48 degrees 23 minutes 07 seconds East, along the Southwestly line of said Lot 9 for a distance of 56.90 feet; thence North 41 degrees 36 minutes 41 seconds East, along a line parallel with the Northernly line of said Lots 9 and 10 for a distance of 25.98 feet; thence North 48 degrees 23 minutes 06 seconds West 56.90 feet to said Northernly line of said Lots 9 and 10; thence South 41 degrees 36 minutes 41 seconds East, along said Northernly line 25.98 feet to the point of beginning.

Said parcel contains 5,516 Sq. Feet or 0.13 Acres.



**ALTA**  
LAND SURVEY COMPANY

11100 13th Ave N.W.  
Duluth, MN 55805  
www.alta-survey.com

**CERTIFICATE OF SURVEY**

CLIENT: MIKE MAXIJP JR  
 ADDRESS: 1218 E 4TH ST,  
 DULUTH, MN 55805  
 DATE: 9-7-2021

REVISIONS

David R. Evans  
 David R. Evans  
 11100 13th Ave N.W.  
 Duluth, MN 55805  
 DATE: 9-7-2021

**ATTACHMENT TO VARIANCE APPLICATION SUPPLEMENTAL FORM**  
**1218 E 4<sup>TH</sup> STREET DULUTH MN 55805 – PROERTY ID 010-3830-12250**

**List the UDC Section you are seeking relief from: 50-22.15- Street Frontage**

- 1. Please explain how the exceptional narrowness, shallowness or shape of the property, or exceptional topographic or other conditions related to the property, would result in practical difficulties under strict application of the requirements of the UDC:**

The current buildings were built in the 1910 or 1920s when two buildings in one lot conformed to zoning requirements. It was relatively common at the time but has become much less common. In order to conform to current zoning laws and allow the properties to be sold separately the variance is needed. Allowing the variance will allow the properties to exist separate from each other and potentially open housing opportunities because the residential building can be sold/purchased without selling/purchasing the commercial property.

- 2. Please explain how the special circumstances or conditions that create the need for relief is due to circumstances unique to the property, and were NOT created by the property owner or the property owners' predecessors-in-interest.**

When the buildings were built in the 1910s or 1920s, a commercial storefront with a residential building behind to live in was relatively common and conformed to the zoning requirements. The property owner did not create the need for relief. The change in zoning laws crated the need for the relief.

- 3. Please explain the special circumstances or conditions applying to the building or land in question are peculiar to this property or immediately adjoining properties, and do not apply generally to other land or buildings in the vicinity.**

Although it was relatively common to have a residential and a commercial property on one lot in the 1910s and 1920s, it has become peculiar over the last hundred years. Over the last one hundred years, most properties in the vicinity have become conforming properties. The circumstances of this property has become peculiar to this property.

- 4. Please explain how the application proposes to use the property in a reasonable manner, which would not be permitted by this code except for a variance.**

The application proposes to split the lot so the commercial building can exist on its own lot and the residential building can exist on its own lot with equal frontage for each building. The use is

reasonable because each building will be used in the same manner it is currently used. Each building will have street frontage and the parking in the back will continue to be used by the inhabitants of the residential building. Additionally, the proposal opens the residential building to be sold as a single-family home to someone who doesn't want a commercial property too.

- 5. Please explain how that if the variance is granted it will not 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.**

Having two structures on two parcels benefits the common good because it allows each building independent access to the street. The property will be used in the same manner it is currently being used. Granting the variance will not change anything about the supply of light and air to the adjacent property, it will not increase congestion, increase the risk of fire or other danger to public safety, decrease surrounding property values, or in any other way impair the health, safety or public welfare of the city inhabitants.

- 6. Please explain how, if the variance is granted, it will not substantially impair the intent of zoning code and the official zoning map, and will not alter the essential character of the neighborhood.**

The variance will not alter how the property is used and the current uses are common for the neighborhood; the neighborhood is zoned F-6, a multi-use commercial and residential zoning. The property is currently used as a commercial and as a residential property. The use will stay the same. Additionally, the variance will not create a unique situation for the area. A similar situation exists at 807 E 1<sup>st</sup> Street in Duluth, among other examples.





**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

<b>File Number</b>	PL 21-185		<b>Contact</b>	John Kelley, jkelley@duluthmn.gov	
<b>Type</b>	Interim Use Permit – Vacation Dwelling		<b>Planning Commission Date</b>		December 14, 2021
<b>Deadline for Action</b>	<b>Application Date</b>		November 4, 2021	<b>60 Days</b>	January 3, 2022
	<b>Date Extension Letter Mailed</b>		November 22, 2021	<b>120 Days</b>	March 4, 2021
<b>Location of Subject</b>	1101 East 4 <sup>th</sup> Street				
<b>Applicant</b>	1101 DULUTH LLC		<b>Contact</b>	On file	
<b>Agent</b>	Scott Filipovich		<b>Contact</b>		
<b>Legal Description</b>	PID # 010-3830-15320				
<b>Site Visit Date</b>	December 3, 2021		<b>Sign Notice Date</b>		November 30, 2021
<b>Neighbor Letter Date</b>	November 29, 2021		<b>Number of Letters Sent</b>		62

**Proposal**

Applicant proposes use of an approximately 2,000 square foot, 3 bedroom single family dwelling as a vacation dwelling unit. The permit is good for a vacation dwelling unit with 7 occupants.

Vacation dwelling units located in the F-6 Form District are exempt from minimum night stays and parking, and there is no cap on number of permits issued.

**Recommended Action:** Staff recommends that Planning Commission approve the interim use permit.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-6	Single Family Dwelling	Neighborhood Mixed Use
<b>North</b>	F-6	Single Family Dwelling	Neighborhood Mixed Use
<b>South</b>	F-6	Commercial	Open Space
<b>East</b>	F-6	Single Family Dwelling	Neighborhood Mixed Use
<b>West</b>	R-1, P-1	Park	Neighborhood Mixed Use

**Summary of Code Requirements:**

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in the F-3 zone district.

UDC Sec. 50-37.10.E . . . the Commission shall only approve an interim use permit, or approve it with conditions, if it determines that: **1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location . . . ; 2. The applicant agrees to sign a development agreement with the city.**



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

Governing Principle #8 - Encourage mix of activities, uses, and densities.

- Econ. Dev. Policy #3 - Build on Existing Economic Strengths & Competitive Advantages  
**S9:** Encourage expansion of the city's tourism economy through efforts to expand in areas of current activity, such as in Canal Park, but also through marketing and investment in destination neighborhoods and iconic tourism experiences unique to Duluth.

Applicant is proposing to provide another type of lodging product for visitors to the City of Duluth and surrounding area.

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.

History: House is 2,000 square feet in size and constructed in 1905.

**Review and Discussion Items:**

- 1) Applicant's property is located at 1101 East 4<sup>th</sup> Street. The proposed vacation dwelling is a 2,000 square foot, 3 bedroom single family home. The dwelling unit would allow for a maximum of 7 guests.
- 3) Vacation dwelling units located in Form districts are exempt from number of interim use permits issued, minimum night stays and parking requirements.
- 4) The applicant has noted on their site plan that there will be parking provided on an existing driveway located on the east side of the home with access from East 4<sup>th</sup> Street.
- 4) There will not be any campers or trailers parked on the property.
- 5) The site does not have any outdoor amenities.
- 6) Permit holders must designate a managing agent or local contact who resides within 25 miles of the city and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the city. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. The applicant has listed themselves to serve as the managing agent, and meet the criteria.
- 7) A time limit on this Interim Use Permit ("IUP") is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the IUP shall expire upon change in ownership of the property or in six years, whichever occurs first.
- 8) Applicant will be applying for all relevant permits and licenses and these are contingent upon approval of the Interim Use Permit for a Vacation Dwelling Unit.



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9) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").

10) No comments from citizens, City staff, or any other entity were received regarding the application.

**Staff Recommendation:**

Based on the above findings, Staff recommends that Planning Commission approve the interim use permit with the following conditions:

- 1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
- 2) The applicant shall adhere to the terms and conditions listed in the Interim Use Permit.



383016650

**R-1 (Residential  
Traditional)**

383015180

383015270

383015290

PC Packet 12-14-2021

1113 E 4TH ST

E 5th Alley

412 N 11TH  
AVE E

383015210

383015250

1111 E 4TH ST

410 N 11TH  
AVE E

1105 E 4TH ST

383015230  
1101 E 4TH ST

**F-6 (Mid-Rise  
Neighborhood  
Shopping)**

**Legend**  
Zoning Boundaries

**P-1 (Park)**

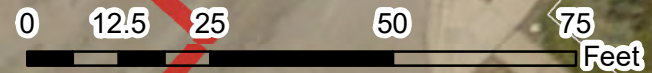
N 11th Ave E

E 4th St

383012750

1102 E 4TH ST

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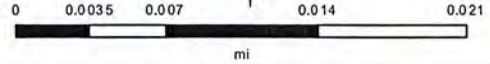
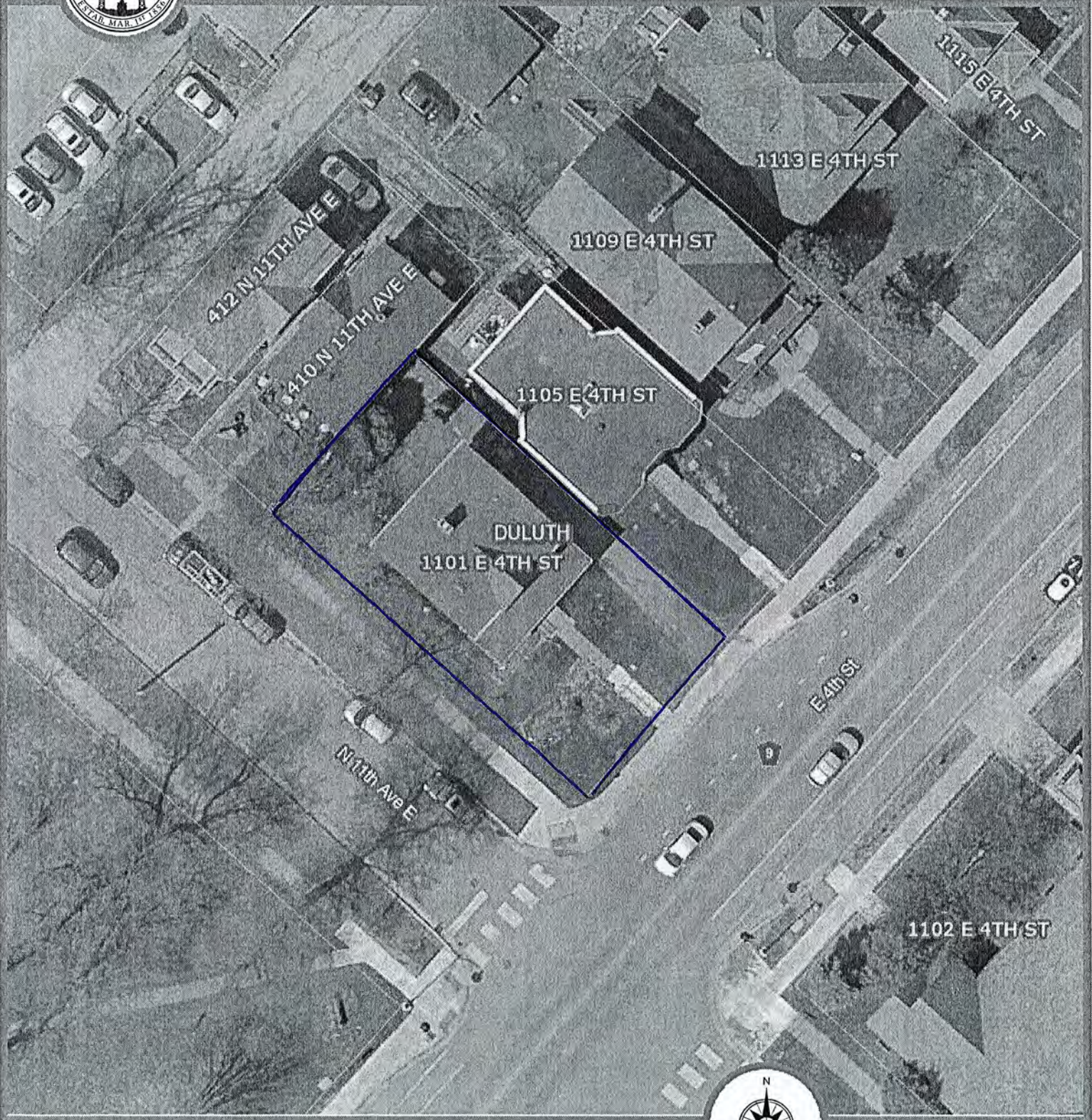




# County Land Explorer

St. Louis County, Minnesota

PC Packet 12-14-2021



Title...

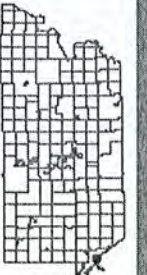
default author *LOT AND STRUCURE*

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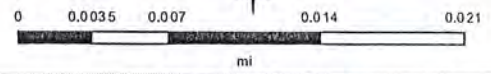
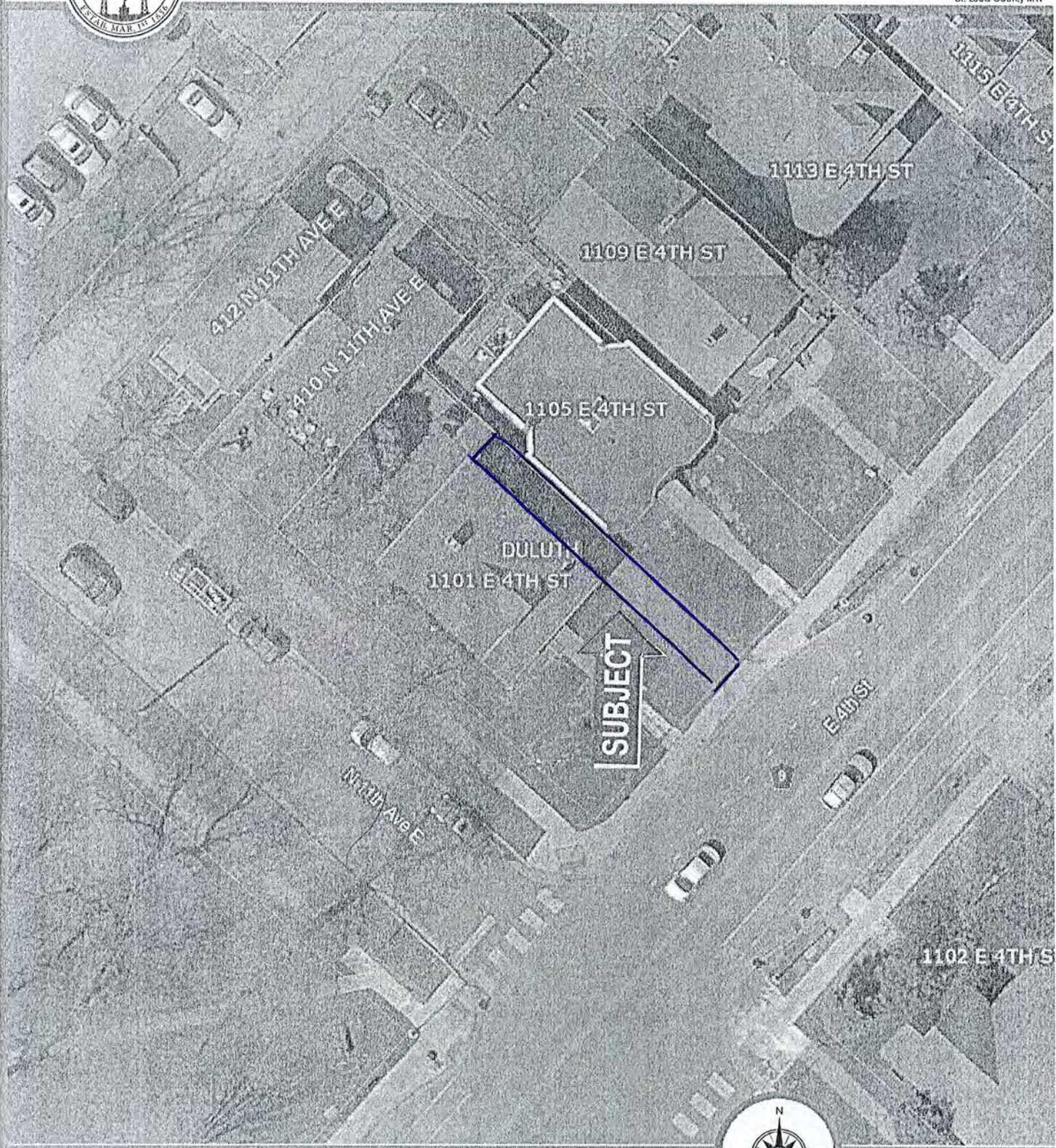




# County Land Explorer

PC Packet 12-14-2021

St. Louis County, Minnesota



Title...

default author

*DRIVEWAY, TROUGHT FOR 2 CARS.*

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County Land Explorer

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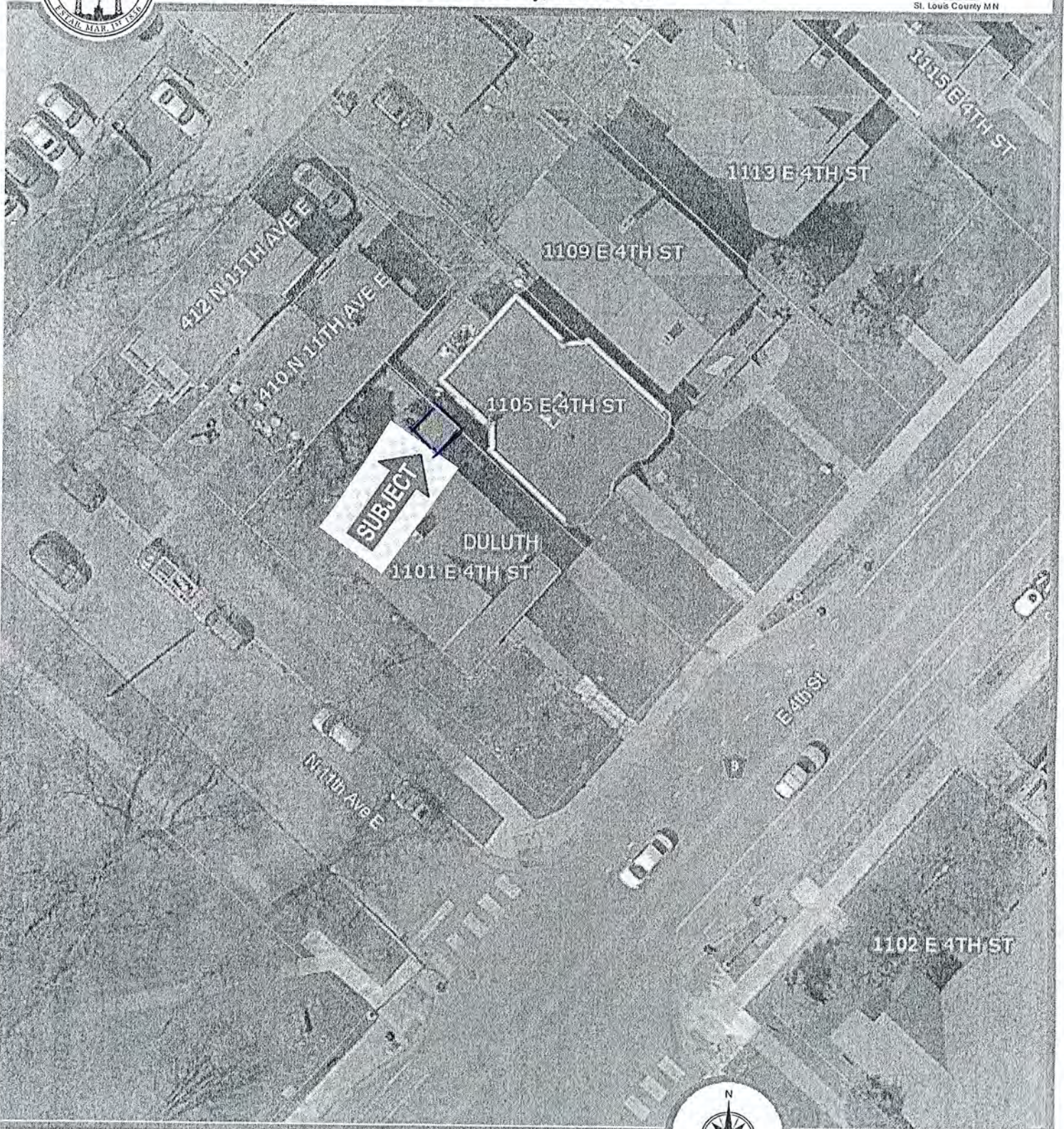




# County Land Explorer

St. Louis County, Minnesota

PC Packet 12-14-2021



Title...

default author *GARDEN STOD -*

*NO ACCESS TO RENTERS*

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**Planning & Development Division**  
 Planning & Economic Development Department

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

<b>File Number</b>	PL 21-187	<b>Contact</b>	John Kelley	
<b>Type</b>	HE-O Planning Review	<b>Planning Commission Date</b>		December 14, 2021
<b>Deadline for Action</b>	<b>Application Date</b>	November 9, 2021	<b>60 Days</b>	January 8, 2022
	<b>Date Extension Letter Mailed</b>	November 29, 2021	<b>120 Days</b>	March 9, 2022
<b>Location of Subject</b>	West Arrowhead Road east of Kenwood Shopping Center			
<b>Applicant</b>	Shamrock Management LLC	<b>Contact</b>		
<b>Agent</b>	Scalzo Architects Ltd.	<b>Contact</b>		
<b>Legal Description</b>	010-2640-03650, 010-0145-00020, part of 010-2640-01780, part of 010-2640-03295			
<b>Site Visit Date</b>	November, 2021	<b>Sign Notice Date</b>		November 30, 2021
<b>Neighbor Letter Date</b>	December 3, 2021	<b>Number of Letters Sent</b>		63

**Proposal**

Applicant proposes to construct a 12,000 sq. ft. commercial/office structure in the Higher Education Overlay (HE-O) with associated parking, landscaping, lighting, and connectivity located to the north and east of the Kenwood Shopping Center, adjacent to Arrowhead Road.

**Recommendation**

Staff recommends approval, subject to conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-N	Vacant Lot/Gravel storage	Traditional Neighborhood
<b>North</b>	R-1	Residential	Traditional Neighborhood
<b>South</b>	MU-N	Commercial	Neighborhood Mixed Use
<b>East</b>	MU-N	Residential	Traditional Neighborhood
<b>West</b>	MU-N	Commercial	Traditional Neighborhood

**Summary of Code Requirements**

50-18.5 Higher Education Overlay – Planning review by the Planning Commission is required for most development or redevelopment in areas zoned R-2 or MU-N.

50-18.1 Shoreland, Flood Plains, Wetlands, Stormwater.

50-23 Connectivity and Circulation – Focuses on pedestrian and bicycle accommodations.

50-24 Parking and Loading – Addresses required parking spaces, loading docks, and snow storage.

50-25 Landscaping and Tree Preservation – Landscaping requirements and tree preservation

50-26 Screening, Walls, and Fences – Screening of equipment, loading areas, etc., plus fences & retaining walls.

50-29 Sustainability Standards – Sustainability point system for new development.

50-30 Design Standards – Building standards for multi-family, commercial, institutional, and industrial buildings.

50-31 Exterior Lighting – Directs the minimum and maximum illumination values and lighting fixtures for a site.

50-37.11 Planning Review – Planning Commission shall approve the Planning Review or approve it with modifications, if it is determined that the application complies with all applicable provisions of this Chapter.

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

Governing Principle #1 – Reuse previously developed lands.

Economic Development Policy #3: Priority will be given to investment that reuses previously developed lands and limits increase in utility operation or maintenance costs.

Zoning – MU-N District: Established to provide for community and regional commercial development along commercial corridors and nodal centers. Intended non-residential uses include retail, lodging, service, and recreational facilities needed to support the community and region. Development should facilitate pedestrian connections between residential and non-residential uses.

HE-O: The purpose of the overlay is to minimize the impacts of potential student use on adjacent residential neighborhoods and to encourage the development of pedestrian friendly neighborhood destinations near the UMD (University of Minnesota-Duluth) and St. Scholastica campuses

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, neighborhood extensions, and new traditional neighborhood areas.

Site history: The site is the location of former single family homes that were removed in preparation for a future development, and a portion of the existing Kenwood Shopping Center parking lot.

PL 21-153 – Temporary Use Permit – Rock crushing - permit was effective from August 30, 2021 through September 17, 2021

**Review and Discussion Items:**

Staff finds that:

- 1) 50-18.5 (Higher Education Overlay Planning Review) – The applicant is proposing to construct a 12,000 square foot commercial/office building along West Arrowhead Road adjacent to the Kenwood Shopping Center. The property is zoned Mixed Use Neighborhood (MU-N) but is within the Higher Education Overlay (HE-O) district, which requires a planning review by the planning commission. This overlay district has additional development standards to the underlying zoning requirements.
- 2) 50-18.5.C (HE-O Development Standards) – Access to the site will be gained via two curb cuts along West Arrowhead Road. The site plan depicts a drive-through window and lane located on the east side

of the building. The HE-O requires primary buildings be constructed to a build-to zone of five feet to 20 feet along a primary street such as West Arrowhead Road. However, if the Land Use Supervisor (LUS) determines that site conditions such as topography or physical features on the property make the build-to zone requirement unfeasible (see UDC Section 50-18.5.C.1.b), an alternative building location may be considered if certain site design features are incorporated into the development. The LUS has determined that site conditions including lot configuration, exposed rock, and building layout are not conducive to the build-to zone requirement. The applicant has submitted a site plan incorporating the required alternative design elements, as follows:

- Eight foot wide concrete walkway connecting to existing sidewalks along West Arrowhead Road.
  - Painted crosswalk between main entries to building and parking area – The applicant has noted that the crosswalk within the parking area is designed for drainage to the curb along the north side of the parking lot. There is a catch basin located directly adjacent to the east of the pedestrian walkway and a catch basin located approximately 45' to the west of the pedestrian walkway to remove water from the parking lot. The potential for ponding water is eliminated for the striped crosswalk.
  - Pedestrian-scaled lighting – The site plan shows pedestrian-scale light along the west side of the walkway between the sidewalks on Kenwood Avenue and the parking/front of the building.
- 3) 50-18.1.B (Wetlands) – There are no wetlands present on the site.
  - 4) 50-18.1.E (Stormwater Management) – The applicant has provided a storm water narrative to the City Engineering Department. Stormwater plans will need to be approved before building permits can be issued.
  - 5) 50-20.2.Q (Use Specific Standards) – The site plan depicts a drive through window and lane on the east side of the building adjacent to a lot with a residential structure. In the MU-N Zone district drive-through lanes and windows have specific performance standards that apply to for that use, due to its potential for noise, lighting, or other visual impacts to adjacent properties. The proposed drive-through window hours of operation may be affected by the proximity to the adjacent residential structure to the east. The landscape plan proposes screening of the adjacent residential structure to the east with trees and shrubs. If appropriate, the Planning Commission may further evaluate whether installation of a fence along the east property line is necessary to mitigate glare and noise from cars in the drive-through lane and stacking spaces.
  - 6) 50-23 (Connectivity) – West Arrowhead Road is considered a primary street in the HE-O district. Public sidewalks exist along West Arrowhead Road. The site plan shows a pedestrian walkway connecting from the building main entries to the sidewalks. The site plan also depicts a one-way drive lane connecting to the adjacent parking area on the south side of the development. These connections will improve the development's pedestrian connectivity and allow for a vehicular connection to the Kenwood Shopping Center.
  - 7) 50-24 (Parking) – The applicant is proposing 9,000 square feet of retail space which requires 27 parking spaces and 3,000 square feet of restaurant space which requires 20 parking spaces. The minimum number of required parking spaces is 47, and the maximum number of parking spaces is 70. The site plan shows 59 parking spaces along the north, west and south side of the building. Section 50-24.6.C allows for up to 60% of off-street accessory parking within the front yard if a pedestrian walkway is provided. Plans show a pedestrian walkway meeting the requirements for the front yard parking allowance.
  - 8) 50-25 (Landscaping) – The landscape plan indicates compliance with street frontage landscaping requirements. The applicant has calculated 31% canopy coverage at maturity for trees around parking areas and a vegetated buffer along the east property line is shown consisting of trees and shrubs to screen the development from the adjacent residential structure. Additional tree plantings are shown on the site plan to satisfy the tree preservation/replacement component of the site. Tree removal for the proposed development area of the lot occurred prior to the submittal of the planning review application. The City is working with the property owner to satisfy additional tree replacement requirements for the south and east portions of the lot. Conditions are recommended related to this

Planning Review to ensure timely compliance with all tree planting requirements.

- 9) 50-26 (Screening) – Plans show screening to meet UDC requirements for the dumpster enclosure. The applicant will need to show plan details for exterior/roof mounted mechanical equipment prior to issuance of any building permits.
- 10) 50-27 (Signs) – The site plan shows a proposed pole sign along the frontage on West Arrowhead Road. The landscape plan shows the shrubs at the base of pole sign as required. The proposed pole sign will require a separate sign permit.
- 11) 50-29 (Sustainability) – Non-residential development with 10,000 to 25,000 square feet requires 3 points. The plans notes 4 points with 3 of them being for energy efficiency. Applicant will need to submit information on energy efficiency. The other points consist of reuse of a previously developed site and vegetation (turf grass).
- 12) 50-30 (Design Standards) – The building elevation drawings submitted meet the required design standards.
- 13) 50-31 (Exterior Lighting) – The site plan shows a number of LED light poles around the edges of the parking areas. The applicant will need to submit a lighting plan for review and approval.
- 14) The proposed development is shown to be located on a separate parcel than the existing Shopping Center. The property configuration, including any necessary approvals for a Registered Land Survey, Plat, or other mechanism, must be approved in advance of issuance of any building permits for the site. A condition is recommended related to this aspect of the proposal.
- 15) No comments from citizens, City staff, or any other entity were received regarding the application.
- 16) Per UDC 50-37.1.N, an approved Planning Review will expire if the project or activity authorized is not begun within one year, which may be extended for one additional year at the discretion of the Land Use Supervisor.

#### **Staff Recommendation**

Based on the above findings, staff recommends that Planning Commission approve the Planning Review, subject to the following conditions:

- 1) The project be limited to, constructed, and maintained according to the construction and building plans submitted with this application titled “Arrowhead Center.”
- 2) Prior to issuance of building permit, Applicant shall submit a financial security in the form of a cash escrow or Letter of Credit in the amount of 100% of the installed value of the landscaping to insure survivability of all required landscaping for at least one year after installation.
- 3) Applicant shall comply with all tree replacement requirements as established in the May 17, 2021 letter from the City of Duluth (attached).
- 4) Applicant shall submit stormwater management plans prior to issuance of building permit.
- 5) Applicant shall submit appropriate documentation regarding the property configuration and location of property boundaries prior to issuance of building permit. Any division or modification to the property or properties shall be completed in a UDC-compliant manner.
- 6) The final lighting plan shall be submitted and reviewed for approval in advance of building permit submittal, and shall be approved by the LUS.
- 7) 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 UDC Chapter 50.





**Legend**

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Vacated ROW
- Easement Type**
- Utility Easement
- Other Easement
- Zoning Boundaries
- Shoreland (UDC)**
- Cold Water
- Natural Environment
- General Development
- Trout Stream (GPS)
- Other Stream (GPS)



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.



**SCALZO**  
architects

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Tele: 218.722.4319  
Fax: 218.722.3535

**PRELIMINARY**  
NOT FOR CONSTRUCTION  
DATE: 11/09/2021

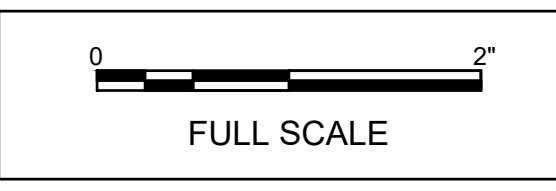
PROJECT:  
**ARROWHEAD CENTER**  
1218 WEST ARROWHEAD RD  
DULUTH, MINNESOTA 55811

OWNER:  
SHAMROCK MANAGEMENT  
P.O. BOX 270995  
VADNAIS HEIGHTS,  
MINNESOTA 55110

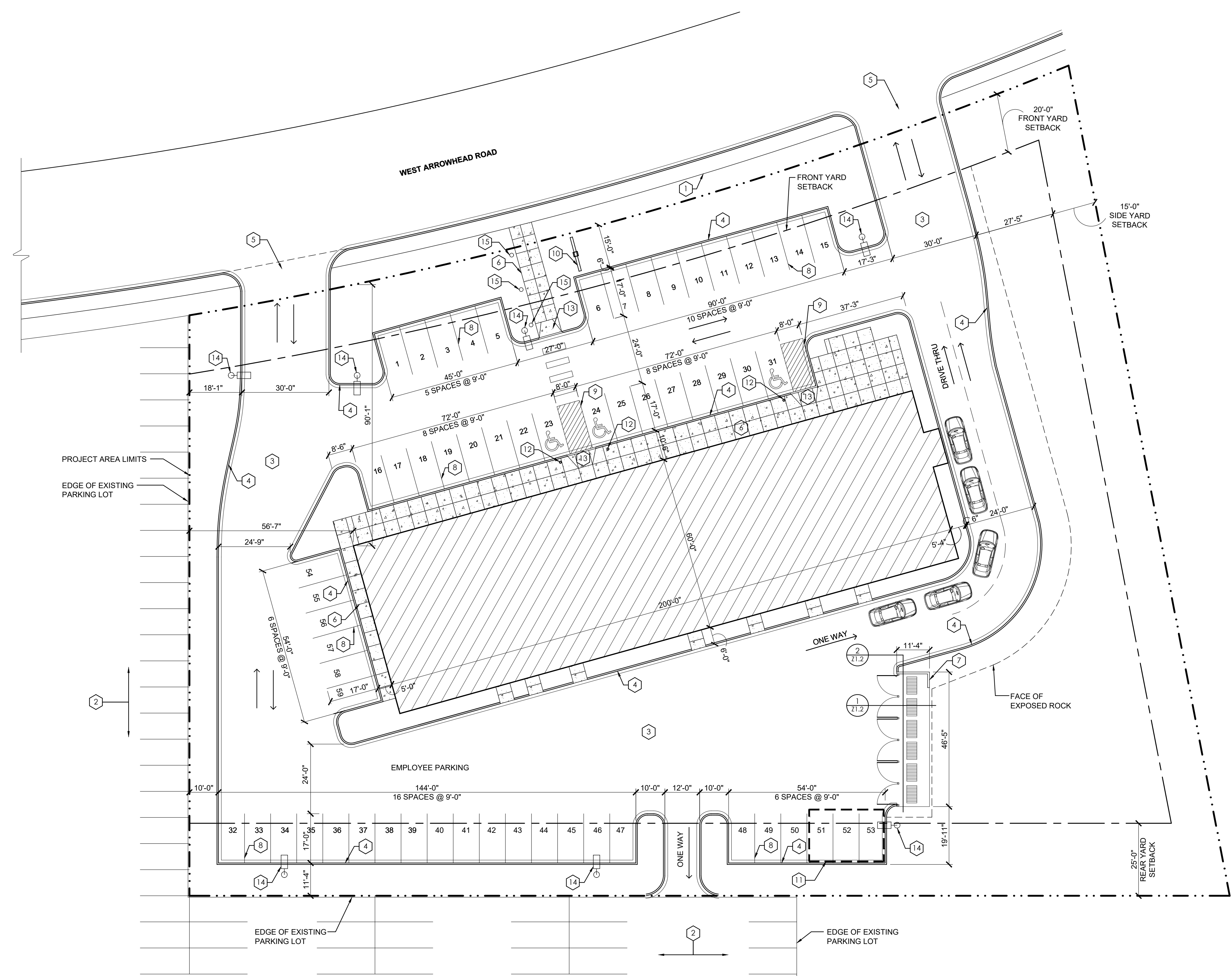
SITE PLAN

REVISIONS:  
▲ DECEMBER 2, 2021

DATE:  
DRAWN: JPW, TFE  
CHECKED: WBS  
PROJECT: 2108



SHEET NO.  
**Z1.0**



- KEYED NOTES - SITE PLAN**
- ① EXISTING CONCRETE WALK
  - ② EXISTING ASPHALT SURFACE
  - ③ BITUMINOUS SURFACE
  - ④ CONCRETE CURB AND GUTTER
  - ⑤ CURB CUT - NEW ENTRANCE
  - ⑥ CONCRETE WALK
  - ⑦ CONTAINER ENCLOSURE
  - ⑧ PAINTED PARKING STRIPE
  - ⑨ PAINTED STRIPING FOR NO PARKING
  - ⑩ NEW POLE SIGN - PROVIDE UNDERGROUND POWER
  - ⑪ SNOW STORAGE
  - ⑫ ACCESSIBLE PARKING SIGN
  - ⑬ DETECTABLE WARNING SURFACE
  - ⑭ LED LIGHT POLE
  - ⑮ PEDESTRIAN SCALE LED LIGHTING

PROJECT AREA LIMITS  
EDGE OF EXISTING PARKING LOT

1  
Z1.0  
1"= 20'-0"  
NORTH

PLANNING REVIEW FOR  
HIGHER EDUCATION OVERLAY  
NOVEMBER 9, 2021

**PRELIMINARY**  
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 DATE: 11/09/2021

PROJECT:  
**ARROWHEAD CENTER**  
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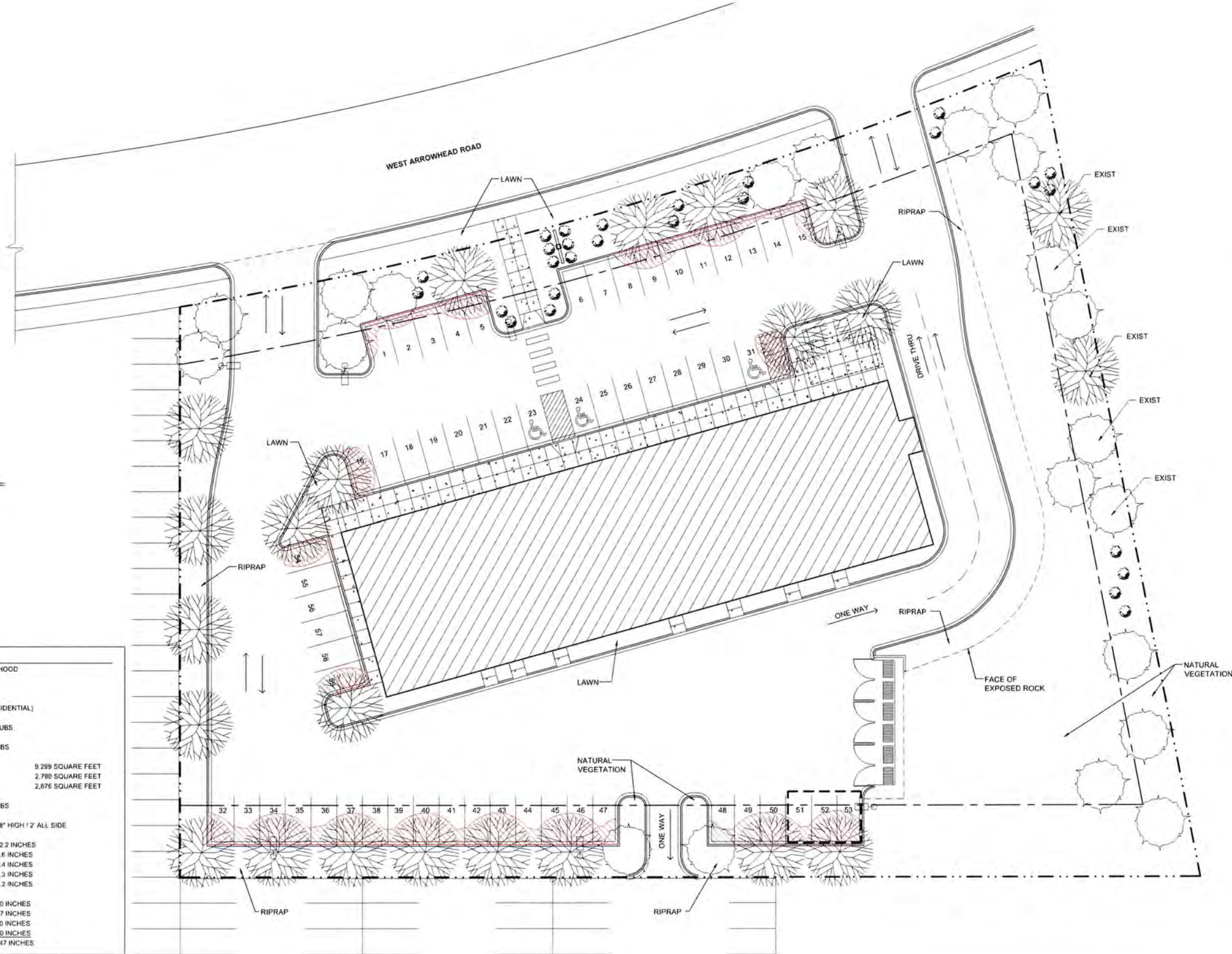
LANDSCAPING PLAN

REVISIONS:

DATE:  
 DRAWN: JPW, TFE  
 CHECKED: WBS  
 PROJECT: 2108

0 2'  
 FULL SCALE

SHEET NO.  
**21.1**  
 Page 43 of 47



**LEGEND**

- PARKING LANDSCAPING SHADE
- SNOW STORAGE AREA
- NEW LARGE SHRUB
- NEW TREE

**LANDSCAPING AND TREE PRESERVATION:**

ZONING DISTRICT	MU-N	MIXED USE - NEIGHBORHOOD	
SETBACKS:	FRONT	20 FEET	
	REAR	0 FEET	
	SIDEYARD	15 FEET (ADJACENT RESIDENTIAL)	
STREET FRONT LANDSCAPING	REQUIRED (MIN 15 FEET)	9 TREES, 13 LARGE SHRUBS	
PARKING LOT SCREENING	REQUIRED (MIN 5 FEET)	5 TREES, 7 LARGE SHRUBS	
PARKING LOT SHADING:	REQUIRED (30% @ MATURITY)	PARKING AREA	9,289 SQUARE FEET
		CANOPY REQUIRED	2,790 SQUARE FEET
		CANOPY PROVIDED	2,876 SQUARE FEET
LANDSCAPING BUFFER:	REQUIRED (ADJACENT RESIDENTIAL)	7 TREES, 9 LARGE SHRUBS	
FREE STANDING SIGN:	REQUIRED @ SIGN BASE	SMALL SHRUBS	18" HIGH / 2' ALL SIDE
PRESERVATION:	EXISTING TREE CREDIT	RED OAK	12.2 INCHES
		SUGAR MAPLE	9.6 INCHES
		WHITE CEDAR	9.4 INCHES
		WHITE CEDAR	6.3 INCHES
		WHITE CEDAR	8.2 INCHES
<b>SUMMARY</b>			
MU-N REQUIRED TREES:	30 TREES x 3 INCH CALIPER	90 INCHES	
ADDITIONAL TREES:	9 TREES x 3 INCH CALIPER	27 INCHES	
FORESTER PRESERVATION CREDIT:		10 INCHES	
PREVIOUSLY DISCUSSED BERM TREE CREDIT:		20 INCHES	
TOTAL PROVIDED:		147 INCHES	

21.1  
**LANDSCAPING PLAN**  
 1" = 20'-0"  
  
 NORTH

PLANNING REVIEW FOR  
 HIGHER EDUCATION OVERLAY  
 NOVEMBER 9, 2021

**ZONING SUMMARY:**

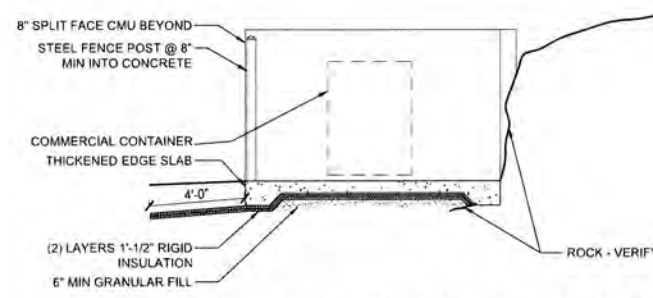
CODES USED	UNIFIED DEVELOPMENT CODE CHAPTER 50	EFFECTIVE FEBRUARY 2021
ZONE DISTRICT	MU-N	MIXED USE-NEIGHBORHOOD
NATURAL RESOURCE OVERLAY (NR-O):	50-18.1 FLOODWAY FLOOD FRINGE SHORLAND MANAGEMENT STORM WATER MANAGEMENT/ EROSION CONTROL	NO NO NO ZONE A
MINIMUM SHORELAND AREA STANDARDS:	TABLE 50-18.1.D-1	NA
TEMPORARY EROSION AND SEDIMENT CONTROLS:	TABLE 50-18.E-1 TEMPORARY EROSION & SEDIMENT CONTROLS ESCP PLAN AND PERMIT SWPPP MPCA NPDES PERMIT MS4 STATEMENT OF COMPLIANCE	LAND AREA DISTURBED ≥ 1 ACRE NOT REQUIRED REQUIRED REQUIRED REQUIRED REQUIRED
PERMANENT WATER QUALITY AND DISCHARGE:	TABLE 50-18.1.E-2 WATER QUALITY TREATMENT RUN OFF RATE CONTROLS VOLUME CONTROLS TEMPERATURE CONTROLS DRAINAGE REPORT SITE SPECIFIC SWPPP BMP OPERATION AND MAINTENANCE MANUEL MS4 STATEMENT OF COMPLIANCE FROM CITY ENGINEER	NEW / REDEVELOPED IMPERVIOUS AREA > 3,000 SF REQUIRED REQUIRED REQUIRED REQUIRED REQUIRED REQUIRED REQUIRED REQUIRED
TREATMENT REQUIREMENTS	TABLE 50-18.1.E-3	REDEVELOPMENT ≥ 1 ACRE 50% TSS REMOVAL
DISCHARGE RATE LIMITS:	TABLE 50-18.1.E-4	REDEVELOPMENT ZONE A PREDEVELOPMENT PEAK FLOW RATE
HIGHER EDUCATION OVERLAY (HE-O):	50-18.5	APPLICABLE
DEVELOPMENT STANDARDS	50-18.5 C	VEHICLE INGRESS AND EGRESS LOCATED TO MINIMIZE IMPACT ON RESIDENTS  BUILD-TO-ZONE UNFEASIBLE BASED ON THE EXISTING DEVELOPMENT AT KENWOOD CENTER  RECOGNIZABLE PEDESTRIAN WALKWAY PROVIDED FROM PUBLIC SIDEWALK  COMMERCIAL DEVELOPMENT CONCENTRATE ON PRIMARY STREET - ARROWHEAD ROAD
PERMITTED USE	TABLE 50-19.8	RESTAURANT < 5,000 SF S2 BANK S2 OFFICE P2 RETAIL SALES - SMALL < 15,000 SF P2
USE SPECIFIC STANDARDS	50-20.3 COMMERCIAL USES	Q. RESTAURANT E. BANK M. OFFICE R. RETAIL SALES - SMALL
DIMENSIONAL STANDARDS	SECTION 50.21 MINIMUM LOT AREA MINIMUM LOT FRONTAGE MINIMUM DEPTH FRONT YARD MINIMUM WIDTH SIDE YARD  MINIMUM WIDTH REAR YARD MAXIMUM HEIGHT OF STRUCTURE	TABLE 50-15.2-1 NA NA 20 FT 15 FT (NON-RESIDENTIAL ADJACENT TO RESIDENTIAL) 0 FT (NON-RESIDENTIAL ADJACENT TO NON-RESIDENTIAL) 25 FT 45 FT
BUILDING FORM STANDARDS:	SECTION 50.22	NA
OFF-STREET PARKING:	TABLE 50-24.1 RESTAURANT BANK OFFICE RETAIL STORE MINIMUM PARKING LIMIT MAXIMUM PARKING LIMIT	6.5 SPACES PER 1,000 SF GROSS FLOOR AREA 3.5 SPACES PER 1,000 SF GROSS FLOOR AREA 2.5 SPACES PER 1,000 SF GROSS FLOOR AREA 3 SPACES PER 1,000 SF GROSS FLOOR AREA 30% 150%
OFF-STREET LOADING:	TABLE 50-24.5	NOT APPLICABLE
LANDSCAPING AND TREE PRESERVATION:	50-25	REQUIRED 10,000 SF TO 20,000 SF
STREET FRONTAGE LANDSCAPING:	TABLE 50-25-1 AVERAGE DEPTH REQUIRED TREES REQUIRED SHRUBS	LOT OVER 20,000 SF 15 FEET FRONT: 10 FEET SIDE: 5 FEET REAR 1 PER 35 FEET OF LINEAR FRONTAGE 1 PER 25 FEET OF LINEAR FRONTAGE
PARKING LOT LANDSCAPING:	50-25.4 PERIMETER SCREENING REQUIRED TREES REQUIRED SHRUBS INTERIOR LANDSCAPING TREE CANOPY	PUBLIC STREET - 5 FT 1 PER 35 FEET OF LINEAR FRONTAGE 3 PER 25 FEET OF LINEAR FRONTAGE 1 PER 300 SF INTERNAL LANDSCAPE AREA 30% AT MATURITY
LANDSCAPING CREDIT:	TABLE 50-25-2	
SCREENING OF MECHANICAL EQUIPMENT:	50-26.1 ROOF-MOUNTED EQUIPMENT GROUND-MOUNTED EQUIPMENT	REQUIRED FROM OPPOSITE SIDE OF PUBLIC RIGHT-OF-WAY ADJOINING PROPERTY AND PUBLIC RIGHT-OF-WAY
SCREENING OF SERVICE/ LOADING AREAS:	50-26.2	NOT APPLICABLE
SCREENING / LOCATION COMMERCIAL CONTAINERS:	50-26.3	REQUIRED
SIGNS:	50-27 SIGN TYPES TABLE 50-27	REQUIRED - SEPARATE APPLICATION WALL SIGN 50-27.7L FREESTANDING SIGN-POLE 0-27.7H
SUSTAINABILITY STANDARDS:	50-29	REQUIRED - 3 POINTS
BUILDING DESIGN STANDARDS:	50-30.3	NOT APPLICABLE
EXTERIOR LIGHTING STANDARDS:	50-31 MAXIMUM ILLUMINATION ON PROPERTY MAXIMUM ILLUMINATION AT PROPERTY LINE MAXIMUM ILLUMINATION AT RIGHT-OF-WAY MAXIMUM MINIMUM RATIO	REQUIRED - NEW PRIMARY STRUCTURE 10 FOOT CANDLES 1 FOOT CANDLES 2 FOOT CANDLES 15:1

**PROJECT SPECIFIC:**

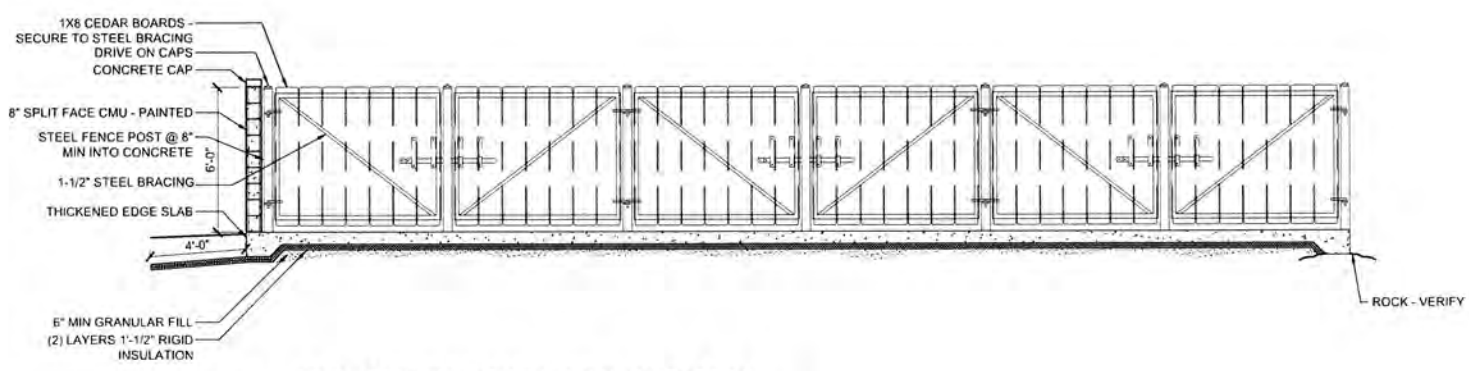
STORM WATER / EROSION CONTROL:	REFER TO CIVIL DRAWINGS	
OFF-STREET PARKING (BASIS)	RESTAURANT 3,000 SF RETAIL 9,000 SF TOTAL	20 SPACES 27 SPACES 57 SPACES
	MINIMUM PROVIDED FRONT YARD 53%	40 SPACES 86 SPACES 59 SPACES 31 SPACES
LANDSCAPING / TREE PRESERVATION:	REFER TO LANDSCAPING PLAN Z1.1	
SCREENING OF MECHANICAL EQUIPMENT:	ROOFTOP EQUIPMENT TO BE DETERMINED	
SCREENING OF COMMERCIAL CONTAINER:	REFER TO SITE PLAN Z1.0	
SIGNS:	POLE SIGN WALL SIGN	MAXIMUM AREA 60 SF / MAXIMUM HEIGHT 20 FT BY TENANT - SEPARATE APPLICATION
SUSTAINABILITY STANDARDS:	LOCATION ENERGY EFFICIENCY VEGETATION TOTAL	75 3 25 4 POINTS
EXTERIOR LIGHTING:	PHOTOMETRIC LIGHTING STUDY PROVIDED AS SHOP DRAWING SUBMITTAL	

**COMMENTS:**

1. CONSTRUCT BUILDING SHELL ONLY - NO TENANTS IDENTIFIED.  
2. PLANT MATERIALS / TREE SPECIES TO BE SELECTED BY THE OWNER BASED ON THE CITY'S APPROVED LANDSCAPING PLANT LIST. OWNERS LANDSCAPE CONTRACTOR TO PROVIDE SHOP DRAWINGS FOR APPROVAL.



1  
21.2  
1/4" = 1'-0"



2  
21.2  
1/4" = 1'-0"

PLANNING REVIEW FOR  
HIGHER EDUCATION OVERLAY  
NOVEMBER 9, 2021

PC Packet 12-14-2021

SCALZO ARCHITECTS, LTD.  
150 South Street  
Duluth, Minnesota 55812  
Tel: 218.723.4119  
Fax: 218.723.3525

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DATE: 11/09/2021

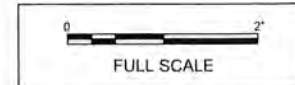
PROJECT:  
**ARROWHEAD CENTER**  
1218 WEST ARROWHEAD RD  
DULUTH, MINNESOTA 55811

OWNER:  
SHAMROCK MANAGEMENT  
P.O. BOX 270995  
VADNAIS HEIGHTS,  
MINNESOTA 55110

ZONING SUMMARY  
SITE DETAILS

REVISIONS:

DATE:  
DRAWN: JPW, TFE  
CHECKED: WBS  
PROJECT: 2108



SHEET NO.  
**Z1.2**  
Page 44 of 47

**PRELIMINARY**  
NOT FOR CONSTRUCTION  
DATE: 11/09/2021

PROJECT:  
**ARROWHEAD CENTER**  
1218 WEST ARROWHEAD RD  
DULUTH, MINNESOTA 55811

OWNER:  
SHAMROCK MANAGEMENT  
P.O. BOX 270995  
VADNAIS HEIGHTS,  
MINNESOTA 55110

NORTH ELEVATION  
WEST ELEVATION

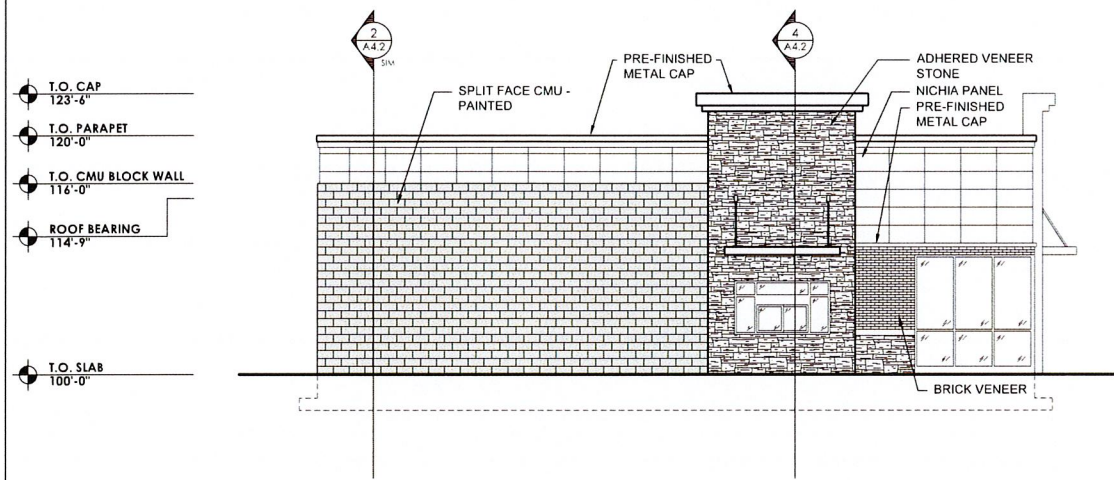
REVISIONS:

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PROJECT: 2108

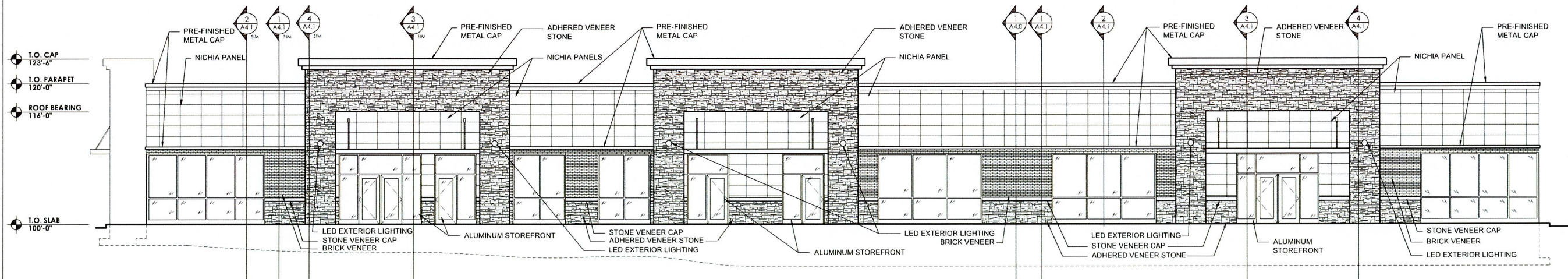
0 2'  
FULL SCALE

SHEET NO.

**A3.0**



**2**  
A3.0  
**EAST ELEVATION**  
1/8"=1'-0"



**1**  
A3.0  
**NORTH ELEVATION**  
1/8"=1'-0"

PLANNING REVIEW FOR  
HIGHER EDUCATION OVERLAY  
NOVEMBER 9, 2021



**Planning & Development Division**  
 Planning & Economic Development Department

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

May 17, 2021

Thomas J. O'Brien  
 Kenwood Shopping Center  
 Barrington Waldorf LLC  
 PO BOX 270995  
 Vadnais Heights, MN 55128

**VIA EMAIL AND USPS**

RE: Kenwood Shopping Center, Redevelopment and tree replacement  
 St. Louis County parcels 010-2640-01780 and 010-2640-03295

Dear Mr. O'Brien,

Thank you for the continued dialogue regarding tree replacement at the Kenwood Shopping Center in Duluth. Since the tree removal that took place last year (in early 2020), we have appreciated your willingness to evaluate appropriate options for restoring vegetation and the tree canopy in the areas to the east of the shopping center.

I have appreciated learning more about your plans for the further development of the site, including the future expansion of the shopping center or related development to parcels 010-2640-03650, 010-0145-00010, and 010-0145-00020. As part of the grading for these three parcels in coordination with the remainder of the site, the grading and fill permit issued (our permit file #BFILL2104-001) provides for modifications to finalize the grading and to allow for revegetation of the rest of the site. This letter is supplemental to any conditions of other permits or approvals issued by the City for the site, and is not intended to replace any aspects of those permits or approvals.

There has been significant discussion between parties about the total number of 'tree replacement caliper inches' required resulting from the tree removal that took place in early 2020. City Code Section 50-25.9, Tree Preservation (from the city's Unified Development Code, or "UDC") requires certain actions by property owners prior to tree removal. The tree removal on the site was completed without the advance completion of a tree survey for the site. As such, following the tree removal, estimates were immediately created for two areas of the site: "Zone 1," and "Zone 2" by Clark Christenson, City Forester. The two zones are more fully depicted in the Scalzo "Site Phasing" document dated July 29, 2020. Following this assessment, there was correspondence between the City and your office or representatives, which is attached for reference.

I understand that some of the tree removal and maintenance has been described as removal of "scrub trees" or "dead trees." However, the City was unable to verify that these trees were no longer living or part of the site's required vegetation or landscaping. As such, they must be taken into account when establishing the tree replacement requirement. The tree removal that took place in early 2020 was not subject to any of the provisions of UDC Section 50-25.9.B.1, "Exemptions."

[www.duluthmn.gov](http://www.duluthmn.gov)

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**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580  
 planning@duluthmn.gov

It is my understanding that the proposed tree replacement calculations by the parties are as follows:

Christenson, July 27, 2020:

- Zone 1: 117.5 replacement inches required
- Zone 2: 73.25 replacement inches required

Scalzo, September 18, 2020:

- Zone 1 + Zone 2: proposal for 95.375 replacement inches required (50% of the assessment)

O'Brien, February 26, 2021:

- Zone 1: 98.75 replacement inches required
- Zone 2: 47.75 replacement inches required
- Total for zones 1 & 2: 146.5 replacement inches
- 1218 W. Arrowhead Road: 67.75 replacement inches required

The data has been additive with each sequential letter, and I want to thank you for taking the time to continue exploring the complexity around establishing a final tree replacement calculation. I also want to highlight, as is referenced in your February 26, 2021 letter, the installation of a landscape berm at the top of the hill on the east side of your property. The berm will improve the buffer between the shopping center and adjacent properties, and should be included in future landscape plans as a site improvement for buffer purposes.

Based on the correspondence to-date, and the information provided, we accept the proposed replacement inch requirement that you describe in the O'Brien February 26, 2021 letter. We have previously discussed phasing of installation of these replacement inches of new trees. It is acceptable to phase portions of this tree replacement based on anticipated future development that will provide for installation of all required plantings, subject to the following:

- Completion of site grading and complete vegetation of all exposed soils;
- Maintenance of the new berm at the top of the eastern hill, and the survival of all of the red pine saplings that were installed there;
- Installation of 50% of the total required replacement inches no later than August 30, 2021 in Zones 1 & 2, in the amount not less than 73.25 caliper inches as defined by the UDC, as follows:
  - In locations on the south and east property lines along disturbed areas, along adjacent property lines in the rear yards of sites that have frontage along E. Buffalo Street and Missouri Avenue;
  - Using species as specified by the City Forester:
    - White pine
    - Northern red oak
    - Butternut
    - Paper birch
    - Basswood;



**Planning & Development Division**  
 Planning & Economic Development Department

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 Duluth, Minnesota 55802

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planning@duluthmn.gov

- The previously installed 20 living red pine saplings may each count toward one (1) caliper inch, but all further plantings (no less than 53.25 caliper inches) shall follow the UDC requirement for landscaping:
  - *UDC Section 50-25.2.I, Minimum Plant Sizes. Where included as part of the required landscaping, deciduous trees shall have a minimum caliper of 2.5 inches, coniferous trees shall be a minimum of six feet in height, large shrubs shall be of a minimum five gallon container size and have a height of at least six feet at maturity, small shrubs shall be of a minimum five gallon container size and have a height of less than six feet at maturity, and ground cover shall be of a minimum one gallon container size. The above dimensions apply to sizes at time of planting. Deciduous trees planted using air pot containers instead of balled and burlap stock may have a minimum of 2.0 inches;*

As work continues on the site, I encourage you to contact the Planning & Development office, or the City Forester, as plans evolve and next steps are contemplated. Importantly, the City Forester should be engaged in advance of any tree removal or maintenance.

We look forward to working with you in regard to the next steps for the site. Please feel free to contact me any time to discuss these or other matters in further detail, either at [afulton@duluthmn.gov](mailto:afulton@duluthmn.gov), or by phone or text on my mobile phone at 612-414-6506.

Sincerely,

Adam Fulton, Deputy Director  
 City of Duluth Planning & Economic Development Department

Attachments:

- Replacement inches calculation by Clark Christenson, City Forester (July 27, 2020)
- Scalzo "Site Phasing" document (July 29, 2020)
- Letter from Bill Scalzo to Adam Fulton (September 18, 2020)
- Letter from Tom O'Brien to Clark Christenson (February 26, 2021)

CC: William Burns, Hanft Fride  
 Bill Scalzo, Scalzo Architects  
 Chris Fleege, Director  
 John Kelley, Planning & Development  
 Tom Johnson, Public Works & Utilities  
 Planning & Zoning File

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