

**CITY OF DULUTH**

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

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

File Number	PL 17-173	Contact	Chris Lee, 218-730-5304	
Type	Concurrent Use Permit	Planning Commission Date	November 14, 2017	
Deadline for Action	Application Date	October 10, 2017	60 Days	December 9, 2017
	Date Extension Letter Mailed	October 22, 2017	120 Days	February 7, 2018
Location of Subject	4801 Cooke Street			
Applicant	April Witzke, Aunty's Daycare	Contact		
Agent	Greg Strom	Contact	Foundations Architecture	
Legal Description	010-3030-00360			
Site Visit Date	October 30, 2017	Sign Notice Date	November 1, 2017	
Neighbor Letter Date	October 27, 2017	Number of Letters Sent	53	

Proposal

The applicant requests a concurrent use permit to allow the construction of a fence. Approximately $\frac{3}{4}$ of the fence structure would be built in the public right of way. The fenced area will be used for outdoor play by the associated daycare.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	School	Urban Residential
North	R-1	Residential - Traditional	Urban Residential
South	F-2	Form District	Neighborhood Commercial
East	R-1	Residential - Traditional	Urban Residential
West	R-1	Residential - Traditional	Urban Residential

Summary of Code Requirements

UDC Section 50-37.7C. The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that:

1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;
2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
3. No portion of a public easement proposed for use is being physically used or occupied by the public.

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

Governing Principle #1 - Reuse previously developed lands
Governing Principle #8 - Encourage mix of activities, uses, and densities.
Governing Principle #11 - Include consideration for education systems in land use actions

Future Land Use- Urban Residential: Greatest variety of building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers, and waterfront residential areas. May include student housing areas, live/work units, and limited neighborhood retail. Connected or adjacent to parks and open space.

The property was previously used as a church that was constructed in 1922.

Review and Discussion Items

Staff finds that:

1. The applicant is seeking a concurrent use permit to allow a private obstruction (fenced in area) to be constructed in the public right of way. Currently a chain link fence is within the right-of-way.
2. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city.
3. The area proposed for concurrent use is not currently being used by the public.
4. Concurrent Use Permits are approved by the city council via an ordinance. Unlike street right of way vacations, concurrent use permits are not recorded at the County as they are voidable agreements between the city and property owners. Citizens with obstructions in the public right of way must either remove the obstructions or seek city council approval with a concurrent use permit. The City of Duluth requires Concurrent Use Permits to include liability insurance to indemnify the city against occurrences in the right of way.
5. No other public, agency, or other city comments were received.
6. Per UDC Sec. 50-37.1.N, approved concurrent use permits lapse if the project or activity authorized by the permit or variance is not begun within 1 year

Staff Recommendation

Based on the above findings, Staff recommends that the planning commission recommend approval of the concurrent use permit subject to the following conditions:

- 1) Applicant shall construct and maintain the project as identified in exhibit dated October 10, 2017.
- 2) Applicant shall provide proof of liability insurance to indemnify the city against any occurrences in the right of way that are due to items covered under this permit.
- 3) Applicant shall remove the proposed obstructions at Applicant's expense if directed to do so by the city with appropriate notice.
- 4) 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.



Legend

Zoning Boundaries

Future Land Use

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities



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.





PL 17-171, 172, 173:
SUP, Variance, CUP
4801 Cooke St

P.C. Packet, Nov 14, 2017

Legend

Water Distribution Main

- Active
- Hydrant

Sanitary Sewer Mains

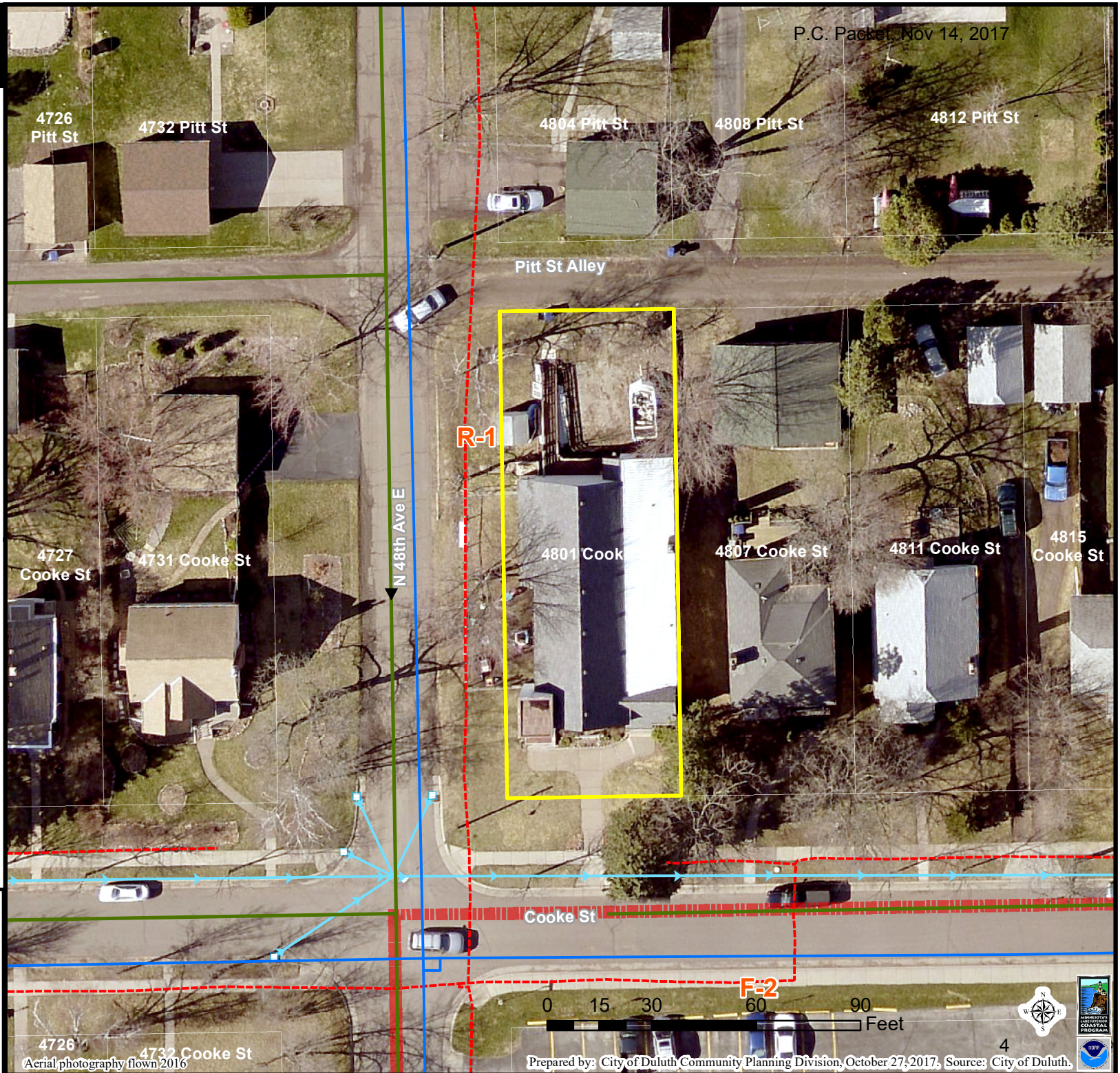
- CITY OF DULUTH
- WLSSD; PRIVATE; RICE LAKE TWP
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station

Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin

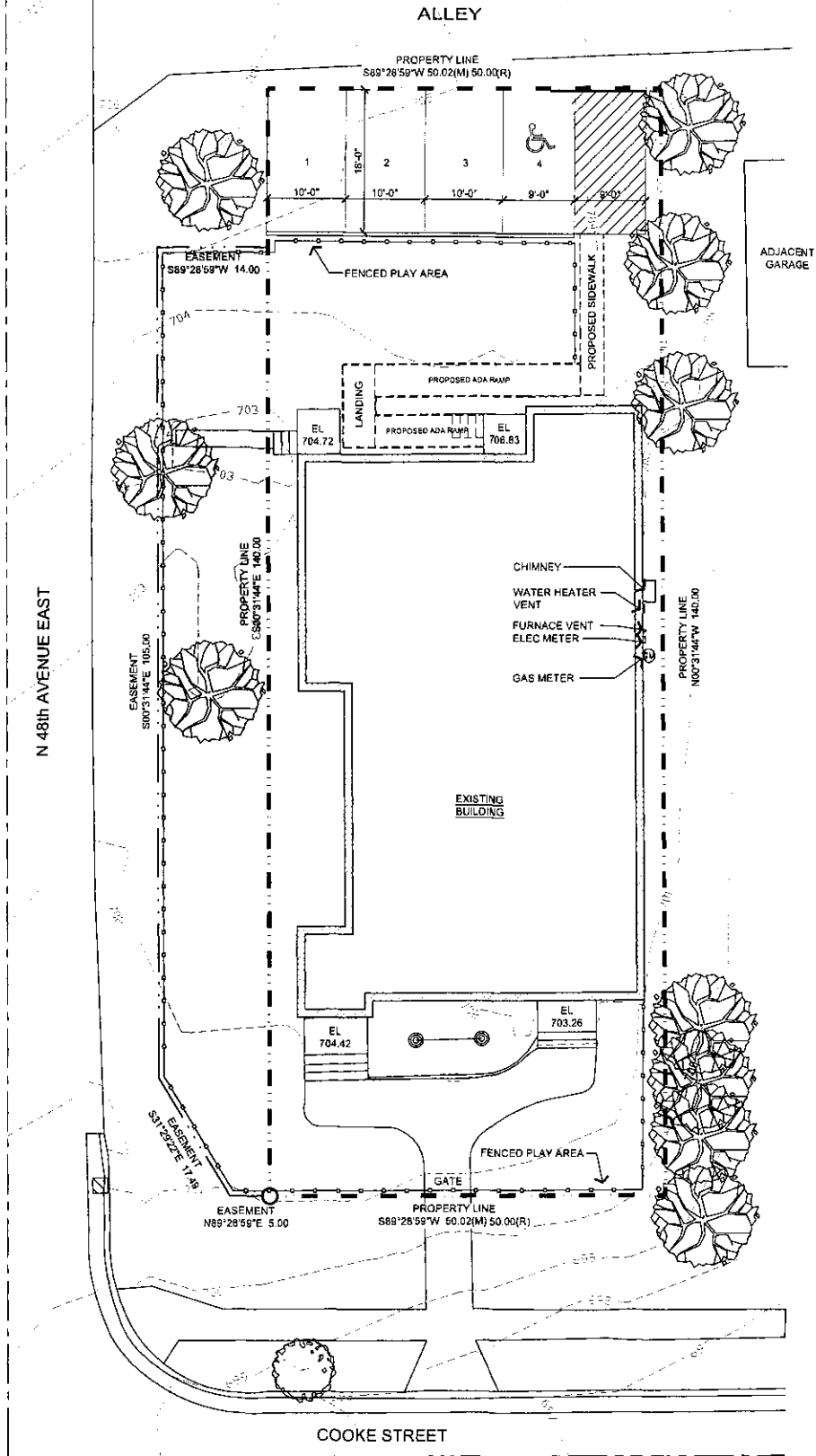
Gas Distribution Main

- Coated Steel
- Plastic
- Zoning Boundaries

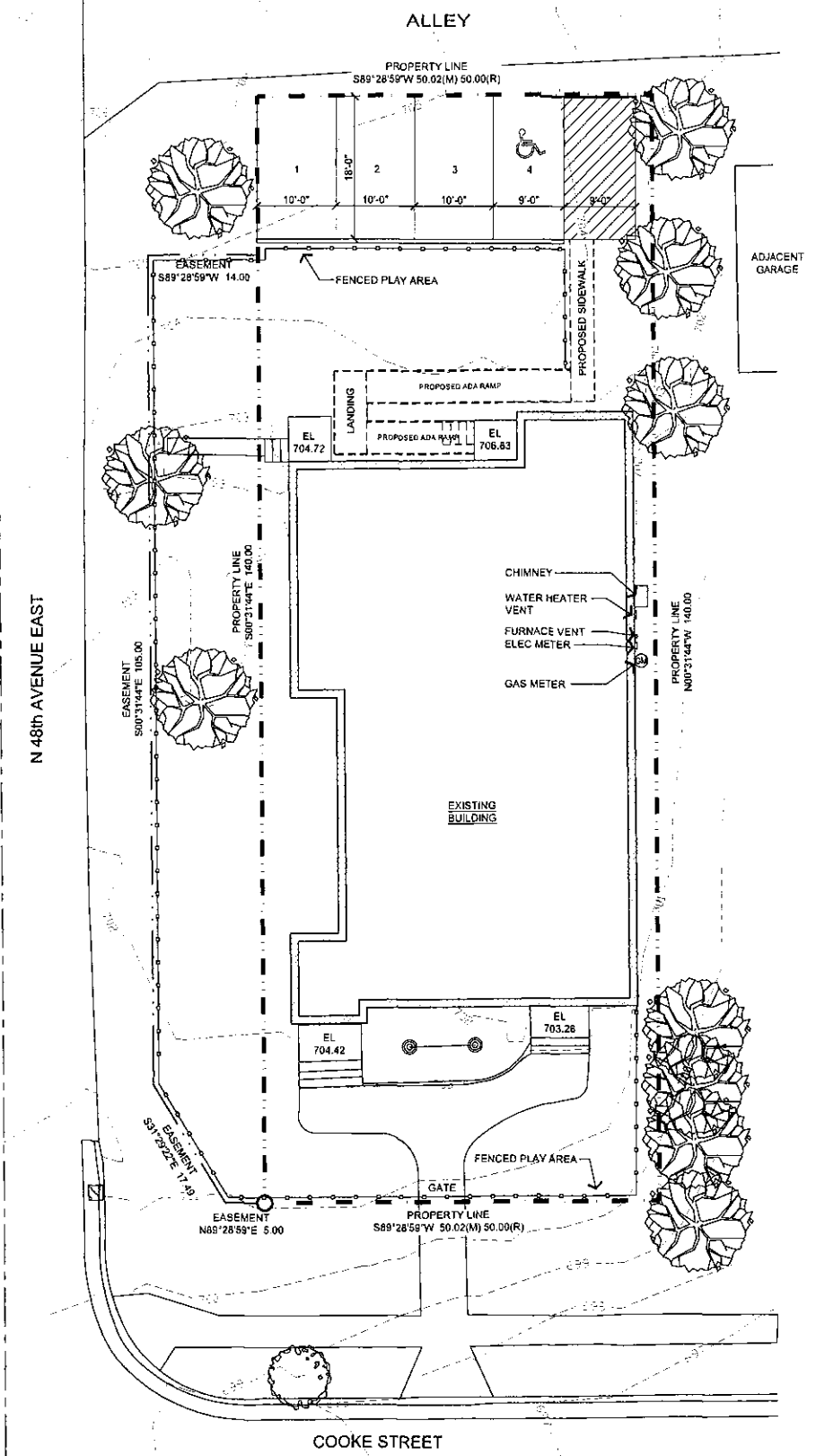


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2
SI-100
1"=10'
SITE PLAN - EASEMENT (SHADED)
NORTH PLAN NORTH



1
SI-100
1"=10'
SITE PLAN
NORTH PLAN NORTH

FOUNDATIONS ARCHITECTURE
 GREGORY P. STROM ARCHITECT
 2100 COOKE ROAD
 DULUTH, MN 55804
 PH: 218-324-0326
 FAX: 218-324-0326
 EMAIL: gps-foundations@gmail.com

PROPOSED REMODELING FOR:
AUNTY'S DAYCARE
 4801 COOKE ST
 DULUTH, MINNESOTA 55804

SHEET TITLE:
SITE PLAN

HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR REPORT WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND I AM A LICENSED ARCHITECT UNDER THE LAWS OF THE STATE OF MINNESOTA.
 SIGNATURE: GREGORY P. STROM REG. NO. 20787
 DATE:

DATE:
 JOB NO.: 1723
 DRAWN BY: TJB
 APPROVED BY: GPS

REVISIONS:

SI-100
 1 OF 2

