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CITY OF DULUTH  
CITY CLERK OFFICE

November 20, 2018

Council Members  
City of Duluth  
Council Chambers  
411 W. 1<sup>st</sup> St.  
Duluth, MN 558802

RE: Notice of Appeal to Planning Commission Decision  
PL18-122 Park Point Marina Inn

Dear Council Members,

Park Point Marina Inn (PPMI) hereby appeals the decision of the Planning Commission regarding PL18-122 on November 13, 2018. The attached letter and documents from Orman Nord & Hurd serve as our basis of appeal.

PPMI is requesting the Council amend the decision of the Commission and remove restrictions 1, 2 and 4 in the Staff recommendations and approve our application without these three unnecessarily restrictive conditions of approval. (See attached Staff Report PL 18-122)

If you would like to discuss this matter with me I can be contacted at 218 348-4571 or [ebiterrry@gmail.com](mailto:ebiterrry@gmail.com)

Sincerely,



Terry Anderson  
Park Point Marina Inn

*Attached PL 18-122 plan review*

*Orman Nord & Hurd Letter Nov 12, 18*

# Orman Nord & Hurd, P.L.L.P.

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++ FELLOW, AMERICAN ACADEMY  
OF MATRIMONIAL LAWYERS

November 12, 2018

City of Duluth  
Planning Commission  
411 West First Street, Room 208  
Duluth, MN 55802

Re: Planning Review  
File No. PL 18-122  
Park Point Marina Inn & Suites, LLC

Attn: Jennifer Moses  
jmoses@duluthmn.gov

Dear Commissioners:

This office represents Park Point Marina Inn & Suites, LLC (“Park Point Marina”), relating to its application for a permit to build a 15-room expansion to the existing hotel structure. The Planning Review is on your agenda for November 13, 2018.

Park Point Marina asks the Planning Commission to approve the Planning Review Staff Report released on November 9, 2018, with modifications by deleting Conditions 1, 2, and 4.

Authority for conditions on approval is limited to the provisions in Section 50-37.1.K of the Duluth Legislative Code, Uniform Development Chapter (the “UDC”). It does not allow the Planning Commission to impose conditions that are arbitrary or an abuse of authority. The relevant parts are the following:

K. Conditions on approval.

....

2. As an alternative to denying an application, the planning commission is authorized to recommend or impose conditions on approvals that it determines are necessary to (a) bring the application into compliance with the requirements of this Chapter, the purposes of the zone district where the property is located or any previously

approved district plan for the property, or (b) prevent or minimize adverse effects upon surrounding areas or upon public facilities and services;

3. All conditions imposed on approved applications shall be reasonably related to the anticipated impacts of the proposed development or land use and to the purposes of this Chapter;

(UDC Section 50-37.1.K.2 & .3.) (Copies of relevant portions of the UDC are attached for ready reference.)

The authority to impose a condition here is limited to what is “necessary” to bring the application into compliance with the UDC or the purposes of the MU-W district, or to prevent or minimize adverse effects upon the surrounding area

There is no authority under this section for an arbitrary condition limiting the time to apply for a permit or prohibiting subsequent applications. Neither condition is necessary to bring the application into compliance with the UDC, the purposes of the MU-W district, or any previous district plan. The conditions are not related to the effects of the project.

The condition requiring additional parking is also not necessary to bring the application into compliance with the UDC or the purposes of the MU-W district. The condition requiring additional parking may be related to the effects of the project. However, the Commission cannot require a condition that is not consistent with the UDC. Imposing a condition that contradicts the UDC would be arbitrary and an abuse of the authority given in this section.

**A. Delete Recommended Condition No. 1 – Building Permit Deadline**

There is no authority cited in the Planning Review Staff Report for Condition No. 1, which arbitrarily sets the following deadline:

1. Applicant must apply for a building permit within 180 days of Planning Commission approval. No administrative extensions shall be granted.

(Report, p.3.)

Section 50-37.1.N.4 provides for the lapsing of certain approvals and permits. An approved planning review lapses if the project is not begun within one year of getting a permit. There is no provision in Section 50-37.1.N that requires an owner to apply for a permit within 180 days of approval by the Planning Commission.

N. Lapsing of approvals.

Some permits and approvals issued pursuant to this Chapter shall lapse and be of no further force or effect if the action approved in the permit or approval does not begin within a specific period of time, as listed below:

4. Approved planning reviews, zoning permits, special use permits, interim use permits, concurrent use of street permits, sidewalk use permits and variances shall lapse if the project or activity authorized by the permit or variance is not begun within one year of the permit date. ....
- ....
6. Approved building permits shall lapse one year after issuance unless construction has begun by that date;

(UDC Section 50-37.1.N.4.)

The Planning Review Staff Report discusses the history of this project, including approval by the Land Use Supervisor of a site plan interpretation on January 29, 2016. (Report p.2.) Site plan interpretation approvals are not listed in Section 50-37.1.N as an approval that lapses.

The site plan interpretation dealt with the 200-foot dimension in Section 50-15.6 Mixed Use-Waterfront (MU-W) limiting primary structures to a maximum width of 200 feet measured along the shoreline. (50-15.6.E.2.) There has been no amendment of that paragraph since the site plan interpretation was approved. There is no basis for imposing a 180-day deadline. It is arbitrary and without authority.

Further, the 180-day condition is capricious. The original Planning Review Staff Report included a condition that required Park Point Marine to apply for a building permit within 90 days. Now the Planning Department seeks to impose a 180-day deadline. Neither deadline is in compliance with the UDC.

**B. Delete Recommended Condition No. 2 – Application Prohibition**

Condition No. 2 arbitrarily prohibits Park Point Marina from making further applications related to the subject property within 180 days of approval of the Planning Review. It states the following:

2. To protect the viability of the current Planning Review and its basis in establishing parameters to protect the health, safety, and welfare of the community, any further applications submitted within 180 days of Planning Commission approval by Applicant for further Planning Commission review related to Subject Property shall nullify the current action of the Planning Commission,

(Report, p.3.)

There is no authority for this prohibition.

Successive applications are addressed in Section 50-37.1. It is silent regarding an application subsequent to an application that was *approved* by the Planning Commission. It provides only the following limitations on successive applications:

F. Withdrawal of applications.

An applicant may withdraw an application at any time prior to a decision by the city by filing a written request to withdraw the application with the city. Any resubmission is subject to the provisions of subsection 50-37.1.G below. If the application is later resubmitted, it shall be treated as a new application for purposes of review and scheduling. Any fees paid for a withdrawn application shall not be refunded;

G. Successive applications.

If an application pursuant to this Chapter has been denied by the city, an application requesting the same or essentially the same approval shall not be accepted during the next 12 months. This prohibition does not apply to proposals initiated by the city.

(UDC 50-37.F & .G.)

**C. Delete Recommended Condition No. 4 – Additional Parking**

Condition No. 4 would deny Park Point Marina a mandatory reduction in parking spaces to which it is entitled under the UDC. The condition requires the following:

4. Prior to issuance of a building permit, Applicant shall provide an additional 13 parking spaces on or immediately adjacent to the site, or demonstrate that supplemental parking is available within 500 feet of the site with off-street pedestrian access using a trail or sidewalk connecting to the hotel's primary entrance.

(Report, p.3.)

Park Point Marina's application includes 74 parking spaces. This is *more* than the 61 parking spaces it is required to have under Section 50-15.6.E.5 and Section 50-24 after the expansion. The Planning Department Staff are attempting to require Park Point Marina to provide 13 *additional* parking spaces, for a total of 87.

Contrary to the Staff Report, Park Point Marina's site was *not* previously developed with a 30% reduction for transit proximity. (Report, p.3, No.6) It currently has *more* spaces than are required *without* a reduction.

The crux of this issue is the mandatory adjustment to required parking requirements in Section 50-24.3.A.1. This provides for a 30% reduction if the property is within ¼ mile of a bus route. Park Point Marina meets that criteria and is entitled to the reduction.

Section 50-24.3 states the following:

50-24.3 Adjustment to required off-street parking.

The minimum parking requirements listed in Section 50-24.2 above shall be adjusted as follows:

A. Proximity to transit.

1. The minimum number of off-street parking spaces required for any development or redevelopment lands may be reduced by 30 percent if they are located within 1/4 mile of existing Duluth Transit Authority routes in operation for one year, or they may be reduced

by 20 percent if located within 1/2 mile of any Duluth Transit Authority transit center, as indicated by a “T” on Exhibit 50-24.3-1;

(UDC Section 50-24.3.A.1.)

With the expansion of the hotel from 68 rooms to 83 rooms, Park Point Marina—without a reduction—would be required to provide 87 parking spaces pursuant to Section 50-24.2. Park Point Marina and the Planning Department Staff agree on this starting number. (Report, p.3, No. 6.)

Park Point Marina relies on the mandatory adjustment in Section 50-24.3 for its determination that it is required to provide only 61 spaces (30% of 87 = 26.1 and 87 – 26 = 61.) Section 50-24.3 states that the parking requirement in Section 50-24.2 “shall be adjusted” as provided in A.1. The word “shall” is mandatory. It bears repeating that Park Point Marina’s plan provides for 74 spaces, which is 13 more than it would be required to provide with the 30% reduction.

Note that the mandatory language “shall” is regarding the adjustment. The “minimum parking requirements listed in Section 50-24.2 above shall be adjusted....” Paragraph 1 then provides two scenarios for when the required number of parking spaces “may be reduced” by 30% or 20%, depending on the location. If one of those reductions “may” be applied, then the minimum parking requirements “shall” be adjusted.

The Planning Department Staff recognize that the MU-W standards that apply here are from the UDC as it existed on the date of the application, which was September 20, 2018. The Report quotes the following portion of Section 50-15.6.E.5:

5. The parking requirements in Section 50-24 shall be met, except that where a property is not adjacent to an R zone district, the required parking may be reduced by 30 percent if the applicant can demonstrate that nearby properties provide supplemental on-street or off-street parking.

(Report, p. 1.)

Park Point Marina is *not* claiming the exception for properties not adjacent to an R zone district. It relies entirely on the phrase that “parking requirements in Section 50-24 shall be met....” The exception in Paragraph 5 relies on supplemental parking. The adjustment in Section 50-24 does *not* rely on supplemental parking. Rather, it relies on proximity to mass transit.

The Planning Department Staff have conflated the exception in 50-15.6.E.5 when supplemental parking is required for a 30% reduction with the 30% adjustment in Section 50-24 when mass transit is available. Condition No. 4 would require “supplemental parking” as the only exception to providing 87 spaces. This is *not* in compliance with the UDC. Under Section 50-24, which governs, Park Point Marina is not required to provide supplemental parking to be entitled to the 30% reduction. If the number of spaces may be reduced by 30% based on proximity—then the requirements “must” be adjusted.

Further, the Planning Department has previously interpreted Section 50-15.6.E.5 as allowing the 30% reduction for proximity to a mass transit route. In 2015 the parking spaces required for Marriott project on the adjoining property were reduced by 30% because of proximity to a mass transit route.

It also appears that the Planning Department Staff may be attempting to exercise the discretion it was given under the amended UDC adopted by the City Council on September 24, 2018—after Park Point Marina’s application. The amended Section 50-15.6 allows the 30% reduction in 50-24.3 for proximity to mass transit “only if the applicant can demonstrate to the Land Use Supervisor’s satisfaction that nearby properties provide sufficient supplemental off-street parking and that all the parking needs generated by the use can be met on site.” (50-15.6.D.5.) This amended paragraph does *not* apply here. It is *not* the “Code Requirement” cited in the Planning Review Staff Report.

The Planning Department states in its Report (“Review and Discussion Items”) that “staff evaluation of transit use by hotel customers or employees indicates that such use is negligible based on the lack of regular, reliable transit service in this location.” There is no provision in Section 50-24.3 for the Department to determine that the 30% reduction does not apply based on the nature of the development. Section 50-24.2—with its formulas for determining the required number of parking spaces—has already considered that factor.

There is no authority for the condition that Park Point Marina provide 87 parking spaces when it is only required to provide 61 spaces and the plans show 74 spaces. The condition is not necessary to bring the application into compliance with the UDC or the purposes of the MU-W district. It would contradict the provision in the UDC mandating a 30% reduction for proximity to a mass transit route.

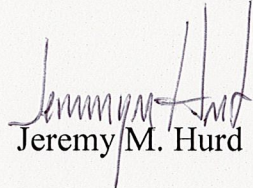


Planning Commission  
November 12, 2018  
Page 8

Park Point Marina requests that the Planning Commission approve the Planning Review with the modifications that Conditions 1, 2, and 4 are omitted. The conditions would be an abuse of authority and discretion and would be grounds for reversal on appeal.

Very truly yours,

ORMAN NORD & HURD, P.L.L.P.



Jeremy M. Hurd

Enc.

Cc: Terry Anderson

durable dust free material having a smooth hard surface, and shall be defined on all sides by raised cast-in-place concrete curbs, and (b) all truck loading, unloading, and maneuvering operations shall be conducted so that no truck movement interferes with ingress or egress of traffic on a street and no truck shall be required to back into loading areas from a street. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10232, 6-10-2013, § 3. Ord. No. 10468, 8-29-2016, §3)

**50-15.6 Mixed Use-Waterfront (MU-W).**

**A. Purpose.**

The MU-W district is intended to provide for waterfront-dependent commercial uses and medium to high density residential development. Intended non-residential uses include visitor-related retail and services, lodging, recreational facilities and maritime uses, as well retail and service uses that take advantage of the waterfront setting, as shown in Table 50-19.8. Development may include horizontal or vertical mixed use, and should facilitate transit and pedestrian connections between developments and the surrounding areas and community;

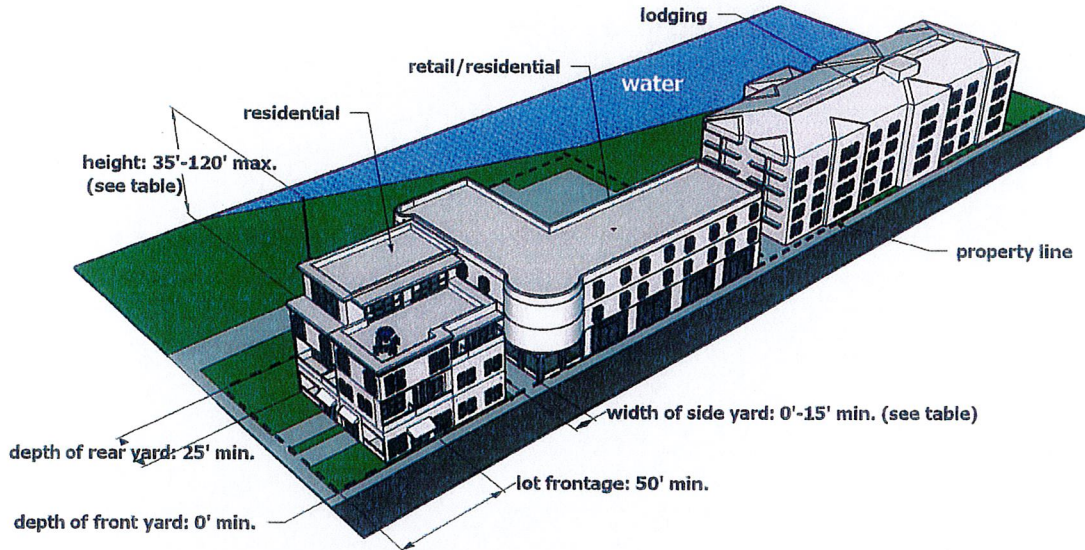
<b>TABLE 50-15.6-1 MU-W DISTRICT DIMENSIONAL STANDARDS</b>		
<b>LOT STANDARDS</b>		
Minimum lot area per family	Townhouse or live-work dwelling	2,200 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
Minimum lot frontage		50 ft.
<b>STRUCTURE SETBACKS</b>		
Minimum depth of front yard		0 ft.
Minimum width of side yard	Non-residential use adjacent to residential district or use	15 ft.
	Non-residential use adjacent to non-residential district or use	0 ft.
	Multi-family adjacent to single-family district or use	10 ft.
	Multi-family adjacent to multi-family district or use	0 ft.
Minimum depth of rear yard		25 ft.
<b>STRUCTURE HEIGHT</b>		
Maximum height of building	Residential or mixed use	120 ft.
	Non-residential	60 ft.
	Within 500 ft. of R-1 district	35 ft.
	Within 500 ft. of R-2 district	50 ft.
Section 50.21 Dimensional standards contains additional regulations applicable to this district.		

**B. Example.**

**MU-W Example Building Forms**



C. Illustration.



D. Planning commission approval required.

A planning review by the planning commission, pursuant to the procedures in Article V, shall be required for all development, redevelopment and expansions in the MU-W district, including but not limited to construction of driveways or other access from public streets and construction of off-premises signs, but excluding the following:

1. Building construction or expansion of less than 500 square feet in area;
2. Building renovations that affect the exterior of structures that do not result in an increase in building square footage;
3. Grading and construction of parking areas less than 3,000 square feet.

Development may not proceed until the planning commission has approved the project through planning review;

E. Development standards.

All permitted development in the MU-W shall comply with the following development standards:

1. Proposed development shall be visually and functionally oriented toward the waterfront of Lake Superior, the harbor and the St. Louis River to the maximum extent possible so that users of buildings and associated outdoor areas have direct views and physical access to the waterfront;
2. To protect public views to the waterfront from the closest landward public street running approximately parallel to the water, all primary structures shall have a maximum width of 200 feet measured along the shoreline and shall be separated from other primary structures by a minimum of 50 feet. These requirements shall not apply to portions of buildings that do not block public views of Lake Superior, the harbor and the St. Louis River from the closest landward public street running approximately parallel to the water due to topography or the location;
3. Buildings shall have a primary façade, with a functioning entrance for residents, employees or patrons facing the waterfront, and a second primary façade with a

- similar functioning entrance facing at least one of the adjacent streets, to the maximum extent feasible;
4. The quality of façade design and materials and the level of detail on the building façade facing the water shall be comparable to that on any other building façade containing a functioning entrance. The building façade facing the water shall have at least 40 percent transparency, measured as set forth in Section 50-22.5D.1; no rectangular area greater than 30 percent of each story of the façade facing the water may be windowless, as measured from floor to floor, and no horizontal distance greater than 15 feet of each story of a facade facing the water may be windowless;
  5. The parking requirements in Section 50-24 shall be met, except that where a property is not adjacent to an R zone district, the required parking may be reduced by 30 percent if the applicant can demonstrate that nearby properties provide supplemental on-street or off-street parking. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10232, 6-10-2013, § 4; Ord. No. 10286, 3-10-2014, § 3.)

#### 50-15.7 Mixed Use-Planned.

##### A. Purpose.

The MU-P district is established to provide a flexible development option for mixed use projects that integrate creative site design, provide a variety of building types, provide unique on-site amenities, conserve natural features, increase pedestrian connectivity, or otherwise result in a final product that provides a greater level of public benefit than would be required under the existing zone district. Each MU-P district requires approval of an MU-P regulating plan that includes the location, type, and intensity of proposed development and a description of public amenities or benefits included. A variety of residential and commercial uses are permitted, as shown in Table 50-19.8, provided projects are compatible in scale and character with the surrounding neighborhood and are included in the approved MU-P plan;

##### B. Examples.



*MU-P Example Building Forms*

##### C. Modifications.

An applicant may seek only the modifications in Table 50-15.7-1, based on demonstration of how the proposal supports the purpose of the MU-P district as stated in Section 50-15.7.A and the following desired MU-P amenities:

1. Significant preservation and protection of natural resources and undeveloped areas, including wetlands, trees, key habitat, and wildlife areas;
2. A higher level of sustainability, demonstrated in buildings, site design, and transportation, than required by Section 50-28;
3. More efficient and effective use of streets, utilities, and public facilities to support high quality development at a lesser cost;
4. Recreational facilities that are open to the public, such as parks and playgrounds.
5. Accommodations for and linkages to mass transit;
6. Creative site and building design;

representative within ten days of final action. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10075, 1-24-2011, § 2.)

## **50-37 Review and approval procedures.**

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### **50-37.1 Common procedures and requirements.**

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#### **A. Pre-application meetings.**

A pre-application meeting is an informal discussion between a potential applicant, interested citizen, city staff and the heritage preservation commission (if applicable) regarding a possible project subject to this Chapter. The purpose of the pre-application meeting is to assist the applicant by identifying the types of approval needed to complete the project, application material and impact studies required, applicable comprehensive plan provisions and applicable review criteria. A pre-application meeting may include a site visit at the request of the city. Pre-application meetings are required for the following types of applications:

1. UDC zoning map amendment;
2. District plan adoption or amendment;
3. Subdivision concept plan;
4. Vacation of street;
5. Concurrent use of streets permit.
6. Historic resource designation;
7. Special use or interim use permit;

#### **B. Authority to file applications.**

1. A property owner or a contract purchaser may apply for any type of permit or approval unless a more specific application is stated in this Section 50-37.1.B or in sections 50-37.2 through 16 below. In the event of a conflict between the provisions of this Section 50-37.1.B and the provisions of sections 50-37.2 through 16, the provisions of sections 50-37.2 through 16 shall govern;
2. An agent of the property owner, or a resident of the property, may apply for any type of permit or approval provided the agent or resident has written authority of the property owner to do so;
3. Applications for designation of a historic resource are governed by Section 50-37.8;
4. Any person may request an interpretation of this Chapter, and the land use supervisor may issue interpretations of this Chapter as needed and shall post issued interpretations on the city web site;

#### **C. Application materials and fees.**

1. Each application for a permit or approval, or for a modification of a permit or approval, pursuant to this Chapter, shall include all those application materials listed for that type of application or modification listed in the UDC application manual for this Chapter and a fee in the amount listed for that type of application or modification shown in the latest schedule of fees approved by council;
2. The city may reject applications not meeting the requirements of this Chapter, the UDC application manual, or as required or authorized by MSA 15.99;
3. Any and all representations made by the applicant to the city on the record during the application process, whether written or verbal, shall be deemed a part of the application and may be relied upon in good faith by the city;
4. The schedule of fees shall be adopted from time to time by the council by resolution, pursuant to Section 31-6 of the Code, to defray estimated staff costs and expenses of processing applications;

5. The schedule of fees may provide for additional fees if an applicant submits more than two applications that are incomplete, pursuant to Section D below, for the same proposed development;
6. All fees are non-refundable regardless of whether the applicant withdraws the application prior to a decision or whether the application is approved, approved with conditions or denied;

**D. Determination of completeness.**

A determination of completeness shall be made for each application pursuant to MSA 15.99;

**E. Inactive complete applications.**

If an application has been determined to be complete, but review of the application reveals possible additional impacts on the surrounding area, any request by the city for additional materials necessary to evaluate those impacts shall comply with the provisions of MSA 15.99;

**F. Withdrawal of applications.**

An applicant may withdraw an application at any time prior to a decision by the city by filing a written request to withdraw the application with the city. Any resubmission is subject to the provisions of subsection 50-37.1.G below. If the application is later resubmitted, it shall be treated as a new application for purposes of review and scheduling. Any fees paid for a withdrawn application shall not be refunded;

**G. Successive applications.**

If an application pursuant to this Chapter has been denied by the city, an application requesting the same or essentially the same approval shall not be accepted during the next 12 months. This prohibition does not apply to proposals initiated by the city.

**H. Public notice.**

1. Types of notice.

The city uses one or more of the following methods to notify the public about pending applications where there is an opportunity for public comment on the application. The type(s) of notice provided for different types of applications are shown in Table 50-35-1.

- (a) Newspaper notice means the publication of one notice in a newspaper of general circulation within the city at least ten days before the date of the public hearing, except in the case of amendments to the text of this Chapter or zoning map, in which case the notice shall be published at least once each week for three successive weeks before the date of the public hearing;
- (b) Mailed notice means a letter mailed by first class mail to property owners within 350 feet of the applicant's parcel at least ten days prior to the date of the public hearing. In the case of an application for vacation of a street, the notice shall be mailed to the owners of all properties abutting (a) the portion of the street proposed to be vacated, and (b) the portion of that street extending 350 feet from the ends of the portion proposed to be vacated. In the case of an application for rezoning an area of five acres or less, the notice shall be mailed to each property owner in the area to be rezoned and each owner of property located partly or entirely within 350 feet of the area to be rezoned. Failure to give mailed notice as required by this Section or any defect in the notice given shall not invalidate any action of the planning commission or council, provided that a bona fide attempt to comply with this Section has been made;
- (c) Sign notice means a sign with minimum dimensions of 24 inches by 30 inches posted as close as reasonably possible to each street frontage on the

applicant's property with the text between three and five feet above grade level, with a title line reading "Zoning Notice" in letters at least three inches tall, and with the remainder of the text in letters at least 1/2 inch tall. Each sign must be posted at least two weeks before the date of the public hearing, and must remain in place and legible through the date of the public hearing as shown on the sign. If the sign will not be legible at the stated height due to snow accumulations it may be placed higher, but at the lowest elevation that will be legible to the public. If snow obscures the sign during the posting period, the snow shall be removed and/or the sign shall be relocated so as to be legible within 24 hours after snowfall ends. Evidence produced at or before the public hearing that one or more of the required signs were not in place or legible throughout that period shall be grounds for postponement of the public hearing and a requirement to repost the property. Required signs may not be posted in any portion of the public right-of-way;

2. Content of notice.

Each required notice shall include the following information:

- (a) The name of the applicant;
- (b) The address of the property;
- (c) A narrative description of the project including the proposed land uses, size (in square feet) and height (in feet and stories) of any proposed buildings or building expansions;
- (d) The type of permit or approval being sought;
- (e) Contact information where additional information can be obtained from the applicant (which may be an address, telephone number, web site, or e-mail address or other electronic site or method);
- (f) Contact information for the assigned city staff member;
- (g) The date, time and place of the public hearing;

3. Special notice provision for appeals.

In the case of an appeal to the planning commission or council pursuant to Section 50-37.1.O, mailed notice shall be provided to any interested parties that were notified of the original application and the right to receive notice of any appeal, and who have notified the city in writing that they would like to receive notice of the appeal;

I. Public hearings.

- 1. Public hearings before the planning commission and public hearings before the council on matters related to this Chapter shall be conducted pursuant to rules and practices established by each of those bodies and in compliance with state law;
- 2. Attendance shall be open to the public;
- 3. All hearing and decision timeframes shall comply with MSA 15.99;

J. Review criteria.

- 1. The planning commission shall approve or recommend approval of an application if it makes a written finding that:
  - (a) The application is consistent with the adopted comprehensive land use plan, as that plan may have been amended after adoption;
  - (b) The application complies with all applicable requirements of this Chapter, as those requirements may have been varied through a variance approved pursuant to Section 50-37.9;
  - (c) The application complies with all additional approval criteria listed in Section 50-37.2 below;
- 2. If the planning commission determines that the criteria in subsection 1 have not been met, the commission shall deny or recommend denial of the application or

approve it with conditions to bring the application into conformance with the above criteria;

3. The council is encouraged, but not required, to make decisions on applications under this Chapter pursuant to the criteria listed in subsection 1. In no case may the city's final action result in the approval of a use variance;
4. The applicant bears the burden of proof that an application complies with all applicable standards and criteria in this Chapter;

**K. Conditions on approval.**

1. As an alternative to denying an application, the building official and the land use supervisor are authorized to approve applications with conditions necessary to bring them into compliance with the requirements of this Chapter or with any previously approved district plan for the property;
2. As an alternative to denying an application, the planning commission is authorized to recommend or impose conditions on approvals that it determines are necessary to (a) bring the application into compliance with the requirements of this Chapter, the purposes of the zone district where the property is located or any previously approved district plan for the property, or (b) prevent or minimize adverse effects upon surrounding areas or upon public facilities and services;
3. All conditions imposed on approved applications shall be reasonably related to the anticipated impacts of the proposed development or land use and to the purposes of this Chapter;
4. In the case of decisions made by the planning commission or council, where mitigation of the impacts of a proposed plan or development requires an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants, any condition imposed shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts;
5. Any conditions on approved applications shall be listed in or attached to the approval document, and violation of any approved condition shall be a violation of this Chapter;

**L. Administrative adjustments.**

Where an application concerns development or redevelopment of a lot and the applicant demonstrates practical difficulty in designing the redevelopment to comply with all requirements of this Chapter, the land use supervisor is authorized to approve applications that diverge from the requirements of this Chapter in up to two of the following ways:

1. The front, side or rear setbacks of a new or modified structure is one foot smaller than the minimum setbacks required by this Chapter;
2. For properties zoned Residential-Traditional (R-1) or Residential-Urban (R-2), and have a lot frontage of 40 feet or less, the corner side yard setback is no less than five feet smaller than the minimum setback required by this Chapter;
3. The front, side or rear setback for a new or modified city operated utility structure on existing utility lines is no less than five feet;
4. The height of a new or modified structure is no more than two feet taller than the maximum allowed by this Chapter;
5. For properties where Section 50-24 requires more than three off street parking spaces, and the property does not contain a single-family residential structure (regardless of the use of that structure) the site may contain three less parking space than the minimum that is required, or may contain five more parking space than the maximum allowed in Section 50-24.4;



6. Handicap accessibility structures can encroach into the yard setbacks when such structures comply with the Minnesota State Building Code.
7. For properties where Section 50-21.2 requires improved street frontage, exceptions limiting the street improvement to no more than 50 feet in length may be granted if the land use supervisor determines that further extension of the street is not anticipated due to topography, comprehensive land use plan or utility availability;
8. For properties where Section 50-21.2 requires that not more than 30 percent of the rear yard be occupied by any one accessory structure, exceptions may be granted for an accessory structure to occupy up to 40 percent of the rear yard;
9. The area of a new or modified sign is no more than ten percent larger than the maximum allowed by Section 50-27;
10. Where the Land Use Supervisor determines that a residentially-zoned property meets the eligibility requirements for a variance in Section 50-37.9.G.1.A, an administrative adjustment may be granted to allow parking to encroach into the front yard where parking is prohibited by Table 50-24-3 with the following conditions:
  - (a). The adjustment shall allow parking to encroach up to 4 feet into the front yard where parking is prohibited by Table 50-24-3;
  - (b). A wall, fence or dense vegetative screen at least 3 feet tall and at least 75% opaque must be provided to screen parked vehicles from view of abutting properties and the street, where screening the street view is possible;
  - (c) Barriers must be installed to prevent vehicles from overrunning the parking and driveway areas; such barrier may be a fence, wall or raised curbing (or concrete parking bumpers when secured to the underlying pavement);
  - (d) A placard with a diagram no less than 5 inches by 7 inches showing the location and arrangement of parking spaces shall be visible at all times from the exterior of the dwelling; such placard shall be on all-weather media and installed on the front exterior door at an elevation of between 2 feet and 6 feet above the threshold;

**M. Modifications of approvals.**

1. Application.  
An applicant who has received a permit or approval from the city pursuant to this Chapter may apply to modify that approval pursuant to this Section 50-37.1. An application for a modification shall be made to the building official, who shall determine whether it requests a minor or major modification pursuant to the criteria in subsections 2 or 3, as applicable;
2. Minor modifications.  
Minor modifications are those that (a) relate to redevelopment of a single building on one or more existing platted lot(s), (b) qualify as administrative adjustments pursuant to subsection 50-37.1.L or (c) that the city determines are otherwise consistent with any district plan approved for the zone district where the property is located. Applications for minor modifications may be approved by the city if it determines that the applicant would have practical difficulties designing or constructing the project without the minor modification. However, the city may require that an application meeting the criteria for a minor modification be treated as an application for a major modification if it determines that the application raises a significant public controversy on which numerous parties other than the owner of the property may want to offer testimony;
3. Major modifications.  
Major modifications are those that do not qualify as administrative adjustments pursuant to subsection 50-37.1.L or minor modifications pursuant to subsection 2 above. Applications for major modifications shall be treated as a new application for an approval of the same type being modified. However, if the city determines

that an application for modification is not consistent with a district plan applicable to the property, and that the inconsistency may materially and adversely affect other property owners subject to the same district plan, the city may require that the applicant obtain approval of a revised district plan instead of a major modification. In the case of a major modification involving a natural resources permit, the city may require additional reports and data necessary to evaluate the impacts of the modification;

#### N. Lapsing of approvals.

Some permits and approvals issued pursuant to this Chapter shall lapse and be of no further force or effect if the action approved in the permit or approval does not begin within a specific period of time, as listed below:

1. Approved preliminary plats for subdivision shall lapse unless a complete application for a final plat of at least 50 percent of the land covered by the preliminary plat is submitted within one year of the preliminary plat approval. Approved final subdivision plats shall lapse unless the approved final plat is recorded within two years after approval;
2. Approved minor subdivisions and boundary line adjustments shall lapse unless recorded within 180 days of approval;
3. Approved vacations of streets shall lapse unless a plat showing the vacation is recorded with the office of the county recorder within 90 days after final approval;
4. Approved planning reviews, zoning permits, special use permits, interim use permits, concurrent use of street permits, sidewalk use permits and variances shall lapse if the project or activity authorized by the permit or variance is not begun within one year of the permit date. The building official may extend this period one time for a period of up to one year if the property owner presents a written request showing the reasons for the delay was outside the owner's control;
5. Erosion and sediment control permits (ESCP) shall lapse one year after approval if all construction activities are not completed or the entire site is not fully stabilized with 70 percent successful establishment of vegetation. In case of a lapse of the ESCP, a new permit shall be obtained;
6. Approved building permits shall lapse one year after issuance unless construction has begun by that date;
7. The MS-4 statement of compliance and accompanying drainage report will be valid for two years from the date of approval. If permanent stormwater facilities (BMPs) are not fully constructed and operational within two years, and extension of one year may be granted if a written request is submitted and approved by the city engineer. The written request should document the reasons for the extension and the current state of completion of the project;

#### O. Appeals.

This Section is intended to comply with the provisions of MSA 462.357 and MSA 360.068 as amended, and shall be interpreted to comply with those provisions wherever possible.

1. General provisions for appeal to planning commission.
  - (a) Except as noted in subsection 2, any person aggrieved by, or any department of the city affected by, any decision of any city official engaged in the administration or enforcement of this Chapter may appeal that decision to the planning commission. The appeal must be filed within ten days after the decision by filing with the building official a written notice of appeal addressed to the commission and specifying the grounds of the appeal;
  - (b) If the appeal relates to a decision regarding the zoning of an airport or the Airport Overlay district, any person aggrieved by the decision, any taxpayer affected by the decision and any governing body of a municipality, county or

#### **50-23.4 Americans with Disabilities Act.**

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All "places of public accommodation," as defined in the federal Americans with Disabilities Act (42 U.S.C. 12101 et. seq.) shall comply with the requirements of that act concerning on-site circulation and access. (Ord. No. 10044, 8-16-2010, § 6.)

#### **50-23.5 Multi-building developments.**

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Commercial developments containing more than one principal building on a single lot or parcel shall include an unobstructed walkway or pathway providing access between the principal buildings. The walkway or pathway shall be at least five feet wide. (Ord. No. 10044, 8-16-2010, § 6.)

#### **50-23.6 Skywalks.**

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- A. The location and design of skywalks should not compromise the historic or architectural integrity of existing buildings;
- B. Design of skywalks shall be approved based on their architectural sensitivity, harmony and cohesiveness with the historic/industrial waterfront character of the surrounding area;
- C. New skywalks installed and existing sidewalks remodeled at a cost of more than 50 percent of their assessed value after November 19, 2010, shall be designed so that 66 percent of each vertical side elevation is made of glass or transparent materials. A lower level of transparency can be reduced, but not to less than 50 percent, if a higher level of transparency is technically infeasible due to span length and engineering limitations. (Ord. No. 10044, 8-16-2010, § 6.)

#### **50-24 Parking and loading.**

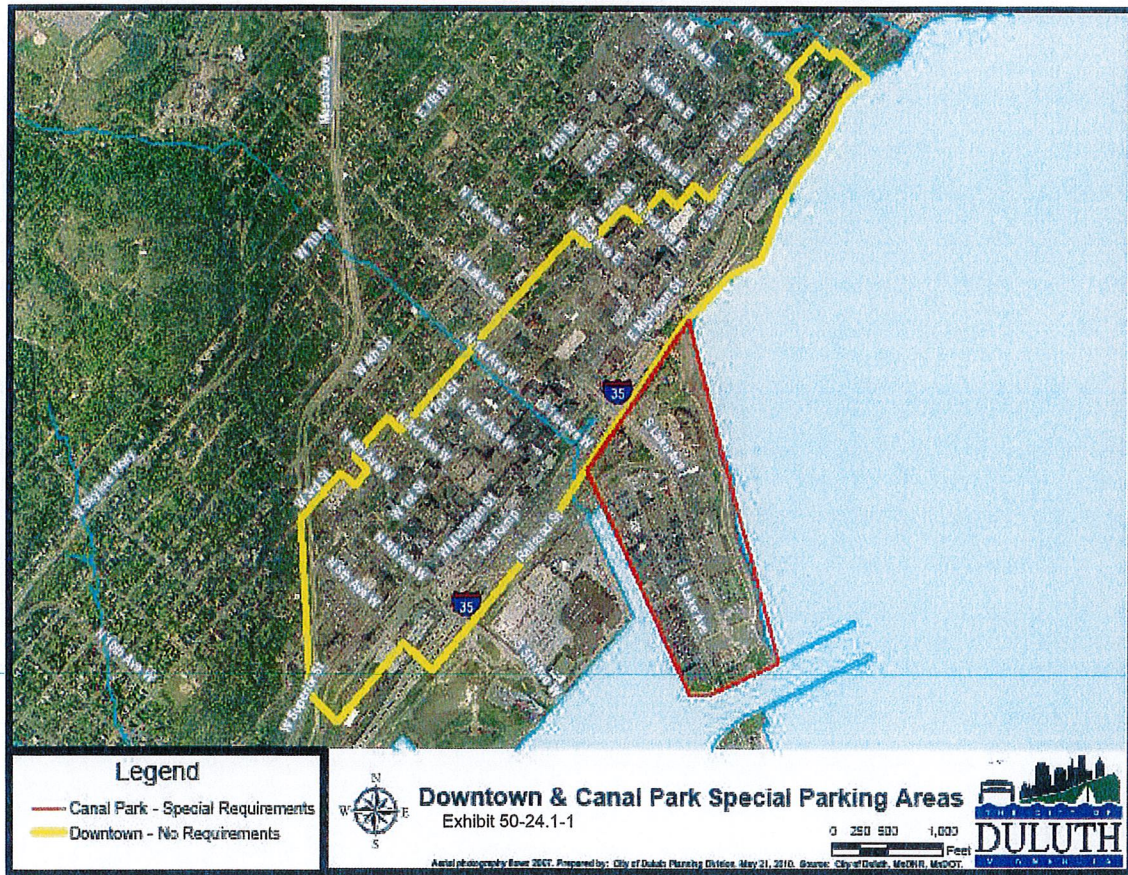
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##### **50-24.1 Applicability.**

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The standards of this Section 50-24 shall apply to all development and redevelopment, except that:

- A. Development and redevelopment in any of the form districts shall only be required to provide that amount of parking that can be accommodated on the development parcel while allowing the principal building to meet all of the building form standards in Section 50-22;
- B. No off-street parking shall be required for any non-residential use on a lot smaller than 10,000 square feet in any mixed use district or special purpose district;
- C. No off-street parking shall be required for any building with less than 10,000 square feet of gross floor area and with a non-residential primary use in any mixed use district or special purpose district;
- D. No off-street parking shall be required within the boundaries of the Downtown area shown in Exhibit 50-24.1-1;
- E. No off street parking shall be required for any use except (1) hotels or motel, and (2) residential developments with more than ten units, within the boundaries of the Canal Park area shown in Exhibit 50-24.1-1;
- F. Development and redevelopment that is exempt from being required to provide off-street parking but does provide parking, must follow all the provisions of this Section.



(Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 26.)

**50-24.2 Required parking spaces.**

In all districts there shall be provided, at the time any building or structure is erected, except as provided in Section 50-24.5, *Calculation of parking spaces*, the number of off-street parking spaces shown in Table 50-24-1, unless an exemption from or variation of this requirement is provided in another section of this Chapter.

Table 50-24-1: Off-Street parking Spaces Required	
Use	Requirement* (May Be Adjusted to 30% Less or 50% More)
<b>RESIDENTIAL USES</b>	
Dwelling, one-family	1 space per dwelling unit
Dwelling, two-family	
Dwelling, townhouse	
Dwelling, live-work	
Co-housing facility	
Manufactured home park	
Dwelling, multi-family	1.25 space per dwelling unit
Assisted living facility (elderly)	1 space per 3 habitable units
Residential care facility	1 space per 9 residential care beds, but not less than 2 spaces
Rooming house	1 space per habitable unit
<b>PUBLIC, INSTITUTIONAL AND CIVIC USES</b>	
Bus or rail transit station	No requirement
Business, art, or vocational school	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
Cemetery or mausoleum	No requirement
Club or lodge (private)	2.5 spaces per 1,000 sq. ft. of floor area
Government building or public safety facility	As determined by land use supervisor based on anticipated use and neighborhood impacts
Hospital	2 spaces per 1,000 sq. ft.
Medical or dental clinic	4 spaces per 1,000 sq. ft. of gross floor area
Museum, library or art gallery	1 space per 1,000 sq. ft. of gross floor area
Nursing home	1 space per 6 beds
Park, playground or forest reserve	No requirement
Religious assembly	1 space per 4 seats or per 100 sq. ft. in main auditorium, whichever is greater
School, elementary	1 parking space for each 10 seats in the auditorium or main assembly room or 1 space for each classroom, whichever is greater
School, middle	1 parking space for each 8 seats in the main auditorium or 3 spaces for each classroom, whichever is greater
School, high	5 parking spaces for each classroom or 1.5 parking spaces per 1,000 square feet, whichever is greater
University or college	2 spaces per 1,000 sq. ft. of office, research and library area plus 1 space per 125 sq. ft. of auditorium space.
Other community facility or institutional support uses not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
<b>COMMERCIAL USES</b>	
Adult bookstore	2.5 spaces per 1,000 sq. ft. of gross floor area
Adult entertainment establishment	5 spaces per 1,000 sq. ft. of gross floor area
Agriculture	No requirement
Automobile and light vehicle repair and service	2 spaces per 1,000 sq. ft. of gross floor area
Automobile and light vehicle sales, rental or storage	2 spaces per 1,000 sq. ft. of gross floor area
Bank	3.5 spaces per 1,000 sq. ft. of gross floor area
Bed and breakfast	1 space for manager plus 1 space per habitable unit
Building material sales	1 space per 1,000 sq. ft. of gross floor area

**Table 50-24-1: Off-Street parking Spaces Required**

Use	Requirement* (May Be Adjusted to 30% Less or 50% More)
Business park support activities	2 spaces per 1,000 sq. ft. of gross floor area
Convention and event center	1 space per 4 seats or per 100 sq. ft. in main auditorium, whichever is greater
Daycare facility	1 space per 5 persons care capacity
Data center	1 space per 1,000 sq. ft. of gross floor area
Filling station	4 spaces per 1,000 sq. ft. gross floor area plus 1 per service stall
Funeral home or crematorium	1 space per 50 square feet of floor space in slumber rooms, parlors or individual funeral service rooms
Garden material sales	1 space per 1,000 sq. ft. of gross floor area
Grocery store	3 spaces per 1,000 sq. ft. of gross floor area
Golf course	2.5 spaces per 1,000 square feet of clubhouse area
Hotel or motel	2 spaces per 3 guest rooms plus 1 per 200 sq. ft. of gross floor area in all accessory uses including restaurants and meeting rooms
Indoor entertainment facility	2.5 spaces per 1,000 sq. ft. of gross floor area.
Kennel	1 space per 1,000 sq. ft. of gross floor area
Marina or yacht club	2.5 spaces per 1,000 sq. ft. of clubhouse area, plus 1 per 10 boat slips
Mini-storage facility	1 space per 20 storage units
Office	2.5 spaces per 1,000 sq. ft. of gross floor area
Parking lot or parking structure (primary use)	No requirement
Personal service or repair	2.5 spaces per 1,000 sq. ft. of gross floor area
Preschool	1 space per 5 persons care capacity
Restaurant	6.5 spaces per 1,000 sq. ft. of gross floor area
Retail store	3 spaces per 1,000 sq. ft. of gross floor area
Riding stable	No requirement
Seasonal camp or cabin	1 space for every two beds, or for each cabin or sleeping unit, whichever is greater
Theater	1 space per 6 seats or per 100 sq. ft. in main auditorium, whichever is greater
Tourist or trailer camp	2 spaces per 3 sleeping rooms, suites, or trailer spaces
Truck or heavy vehicle sales, rental, repair or storage	1 space per 1,000 sq. ft. of gross floor area
Vacation dwelling unit	1 space for 1-2 bedrooms, 2 spaces for 3-4 bedrooms, 3 spaces for 5+ bedrooms
Veterinarian or animal hospital	2.5 spaces per 1,000 sq. ft. of gross floor area
Other commercial use not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
<b>INDUSTRIAL USES</b>	
Airport and related facilities	As determined by airport management
<ul style="list-style-type: none"> <li>• Electric power or heat generation plant</li> <li>• Electric power transmission line</li> <li>• Junk and salvage services</li> <li>• Major utility or wireless communication tower</li> <li>• Radio or television broadcasting tower</li> <li>• Railroad or shipyard and related facilities</li> <li>• Solar or geothermal power facility (primary use)</li> <li>• Truck freight or transfer terminal</li> <li>• Water or sewer works</li> <li>• Wind power facility (primary use)</li> <li>• Bulk storage not listed</li> </ul>	No requirement
<ul style="list-style-type: none"> <li>• Contractor's shop and storage yard</li> <li>• Dry cleaning or laundry plant</li> <li>• Recycling collection point (primary use)</li> <li>• Solid waste disposal or processing facility</li> </ul>	1 per 1,000 sq. ft. of gross floor area
<ul style="list-style-type: none"> <li>• Manufacturing, light manufacturing, heavy manufacturing, hazardous or special</li> <li>• Storage warehouse</li> <li>• Water-dependent manufacturing, light or heavy</li> </ul>	1 per 1,000 sq. ft. of gross floor area

Table 50-24-1: Off-Street parking Spaces Required	
Use	Requirement* (May Be Adjusted to 30% Less or 50% More)
• Wholesaling	
Research laboratory	As determined by land use supervisor based on anticipated use and neighborhood impacts
Other industrial uses not listed	As determined by land use supervisor based on anticipated use and neighborhood impacts
<b>ACCESSORY USES</b>	
Accessory bed and breakfast	1 space for primary use dwelling; plus 1 space per habitable unit
Accessory caretaker quarters	1 space
All other accessory uses	No requirement
<b>TEMPORARY USES</b>	
Temporary real estate sales office	2 spaces
All other temporary uses	No requirement

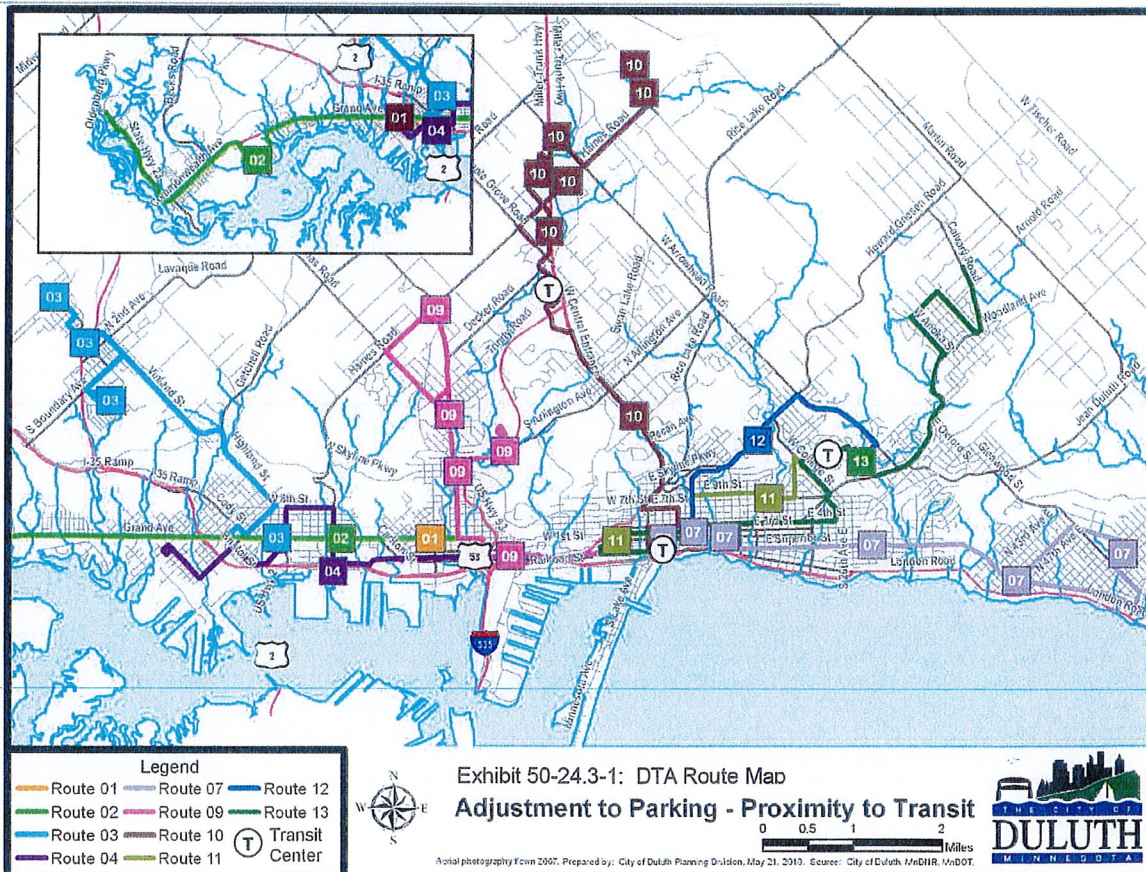
\*The parking space requirement may be modified by Section 50-18.5 (Higher Education Overlay District), Section 50-24.3 (Adjustment to required off-street parking) and Section 50-24.4 (Maximum parking spaces).

(Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 27; Ord. No. 10286, 3-10-2014, § 10; Ord. No. 10340, 11-24-2014, § 1.)

**50-24.3 Adjustment to required off-street parking.**

The minimum parking requirements listed in Section 50-24.2 above shall be adjusted as follows:

- A. Proximity to transit.**
1. The minimum number of off-street parking spaces required for any development or redevelopment lands may be reduced by 30 percent if they are located within 1/4 mile of existing Duluth Transit Authority routes in operation for one year, or they may be reduced by 20 percent if located within 1/2 mile of any Duluth Transit Authority transit center, as indicated by a "T" on Exhibit 50-24.3-1;
  2. If an existing transit route or center is eliminated or changed in location, any development approved in conformance with this Section 50-24.3 shall not be deemed nonconforming in terms of required parking.





**B Sharing of parking spaces.**

**3. General.**

Where two land uses listed in separate use categories in Table 50-19.8 share a parking lot or structure, the total off-site parking required for those uses may be reduced by the factors shown in Table 50-24-2. Total off-street parking required shall be the sum of the two parking requirements for the two uses divided by the factors in Table 50-24-2. If uses in three or more categories of Table 50-19.8 share a parking lot or structure, the land use supervisor shall determine the parking reduction based on the relative sizes of the various uses and the reduction factors listed in Table 50-24-2;

Table 50-24-2: Shared Parking Reduction Factors					
Add the two parking requirements and divide by these factors					
Property Use	Multi-family Residential	Public, Institutional, or Civic	Food, Beverage, Indoor, Entertainment, or Lodging	Retail	Other Commercial
Public, institutional or civic	1.1	1.0			
Food, beverage, indoor, entertainment or lodging	1.1	1.2	1.0		
Retail	1.2	1.3	1.3	1.0	
Other commercial	1.3	1.5	1.7	1.2	1.0

**4. Additional sharing permitted for certain uses.**

As an alternative to those reduction factors listed in Table 50-24-2, (a) up to 50 percent of the parking spaces required for food, beverage and indoor entertainment uses, and up to 100 percent of parking spaces required for religious assembly uses and elementary, middle, high school, university or college auditoriums may be used jointly by (b) any non-residential use not normally open, used or operated during the same hours as those listed in (a), or any non-residential use that has excess parking capacity based on the minimum off-street parking for that use. A written agreement assuring the continued availability of the parking spaces for the uses they serve shall be required on a form approved by the city and shall be filed with the application for a building permit. (Ord. No. 10042, 8-16-2010, § 3; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 28.)

**50-24.4 Maximum parking limits.**

No more than 150 percent of the minimum required number off-street parking spaces, excluding the adjustments allowed in 50-24.3, shall be provided. This limit does not apply to the following uses: one-family, two-family, townhouse and live-work dwellings. Off-street parking spaces that existed on November 18, 2010, and that were composed of hard-surfaced, dust-free material such as concrete, bituminous, or pervious paving materials may continue even if they exceed the maximum parking limit. (Ord. No. 10042, 8-16-2010, § 4; Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 29; Ord. No. 10153, 5-14-2012, § 4.)

**50-24.5 Calculation of parking spaces.**

The following rules shall apply to calculation of the number of required parking spaces:

- A. Floor area shall mean the gross floor area of the specific use;
- B. Requirements for a fraction of a parking space shall be ignored;

- C. The parking space requirement for a use not specifically listed in Table 50-24-1 shall be the same as for the most similar use listed in that table, as determined by the land use supervisor;
- D. Whenever a building or use is enlarged to the extent of 25 percent or more in floor area or in the site area used, the building or use shall be required to (a) retain any on-site parking existing prior to the expansion, and if that is not sufficient to comply with the parking required for the use as expanded, then (b) to comply with the requirements in Table 50-24-1 for the expansion area.
- E. Required off – street parking for one, two –family, townhouse, multi-family and live-work dwellings may be located in garage or carport. (Ord. No. 10044, 8-16-2010, § 6. Ord. No. 10509, 6-12-2017, §1)

**50-24.6 Location of parking spaces.**

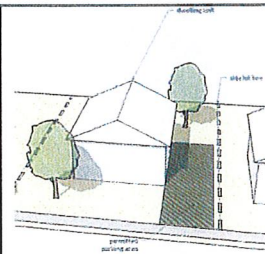
**A. On site location and exceptions.**

- 1. All required parking spaces shall be located on the same lot with the principal building or the primary use served; except as provided in subsection 2 below;
- 2. If an increase in the number of parking spaces is required by a change or enlargement of any use the increased parking requirement may be satisfied by utilizing:
  - (a) Primary use parking lots or parking structures located and maintained up to 500 feet from the lot containing the change or enlargement, or
  - (b) Accessory parking lots that existed on November 18, 2010, were composed of hard-surfaced, dust-free material such as concrete, bituminous, or pervious paving materials, and that are located and maintained up to 500 feet from the lot containing the change or enlargement;
- 3. Where required parking spaces are not provided on site, a written agreement assuring the continued availability of the parking spaces for the uses they serve shall be required on a form approved by the city and shall be filed with the application for a building permit;
- 4. Parking located in a public street right of way pursuant to a concurrent use permit or other public grant shall not be used to satisfy off-street parking required by Chapter. 50.

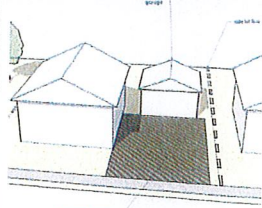
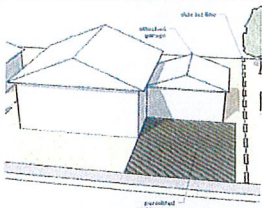
**B. Parking location within the site.**

Parking spaces for all motorized vehicles and trailers shall only be provided on those portions of the lot indicated in Table 50-24-3.

Table 50-24-3: Permitted Parking Areas	
Type of Lot	Permitted Parking Area
<b>Residential Districts</b>	
Non-corner lot with non-dwelling unit	The rear yard and one side yard
Non-corner lot with dwelling unit and no garage	The rear yard, and the area between one side lot line and the nearest side wall of the dwelling unit and its extension to the improved street abutting the front yard (see diagram to the right).



**Table 50-24-3: Permitted Parking Areas**

<p>Non-corner lot with dwelling unit and detached garage</p>	<p>The rear yard, and the area between the closest side lot line to the side wall of the dwelling unit nearest to the garage, and its extension to the improved street abutting the front yard (see diagram to the right).</p>	
<p>Non-corner lot with dwelling unit and attached garage</p>	<p>The rear yard, and the area between the closest side lot line to the common wall separating the dwelling unit and garage, and its extension to the improved street abutting the front yard (see diagram to the right).</p>	
<p>Corner lot (dwelling or non-dwelling)</p>	<p>The rear yard and one side yard</p>	
<p><b>Mixed Use and Special Purpose Districts</b></p>		
<p>All mixed use and special purpose districts</p>	<p>Buildings or projects constructed after November 19, 2010, shall locate no more than 50 percent of off-street accessory parking within the front yard, except as provided in Section 50-24.5.C.</p>	
<p>Form districts</p>	<p>Parking only permitted on those portions of the lot permitted for the building type being constructed pursuant to secs. 50-16 and 50-22.</p>	

**C. Optional pedestrian walkways within parking areas.**

For parking areas within mixed use and special purpose districts identified in Table 50-24.3, buildings or projects may locate up to 60 percent of off-street accessory parking within the front yard if a pedestrian walkway is provided. The pedestrian walkway shall:

- Include pedestrian-scaled lighting;
- Be raised or otherwise designed to encourage run-off and limit ponding during wet weather;
- Be visually recognizable to both pedestrians and motorists;
- Include trees and other landscaping along the length of the walkway, this landscaping can also be used to meet parking lot landscaping requirements in Section 50-25.4;
- Be at least eight feet wide; and
- Include well-marked crossings where the walkway intersects with private vehicle drives. (Ord. No. 10044, 8-16-2010, § 6; Ord. No. 10096, 7-18-2011, § 30; Ord. No. 10153, 5-14-2012, § 5; Ord. No. 10286, 3-10-2014, § 11. Ord. No. 10509, 6-12-2017,§2)

**50-24.7 Parking lot design standards.**

**A. General standards.**

The design of off street parking spaces, drive aisles, and driveways shall meet the standards shown in Table 50-24-4;

<p><b>Table 50-24-4: Parking Design Standards</b></p>	
<p><b>Parking Space Size*</b></p>	
<p><b>Size of Car</b></p>	<p><b>Minimum Size of Parking Space</b></p>
<p>Small</p>	<p>8.5 ft. x 15 ft.</p>
<p>Standard</p>	<p>9 ft. x 17 ft.</p>
<p><b>Aisle Widths</b></p>	