



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 21-076	Contact	Steven Robertson, 218-730-5295	
Type	Concurrent Use Permit, Wireless Utility on Light Pole	Planning Commission Date	July 13, 2021	
Deadline for Action	Application Date	June 16, 2021 (Fee Submitted)	60 Days	
	Date Extension Letter Mailed	June 21, 2021	120 Days	
Location of Subject	651 East Fifth Street			
Applicant	SACW (AT&T)	Contact	Available, on file	
Agent	Joe Goldshlack	Contact	Available, on file	
Legal Description	See Attached Map			
Site Visit Date	June 27, 2021	Sign Notice Date	June 29, 2021	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal: The applicant is seeking a concurrent use permit to allow a private obstruction (utility pole mounted antennas and related equipment) in the public right of way.

Recommended Action: Recommend to the city council to approve with conditions (Ordinance).

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Utility Pole	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1 / F-6	Residential/Commercial	Trad. Neigh/Neigh. Mixed Use
East	R-1 / F-6	Residential	Trad. Neigh/Neigh. Mixed Use
West	R-1 / MU-N	Residential/Commercial	Trad. Neigh/Neigh. Mixed Use

Summary of Code Requirements

UDC Section 50-37.7.C. The planning commission shall review the application, and council shall approve the application or approve it with modifications, if it determines that the proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city, and no portion of a public easement proposed of use is being physically occupied by the public.

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

Principle #4 - Support emerging economic growth sectors. Emerging economic sectors add economic, cultural and social diversity. These include higher education, medical, value-added manufacturing, commercial outdoor recreation, historic resources interpretation, arts and music, information technology and visitor services.

The installation falls with the provisions of Minnesota Statute 237.162 and 247.1643, as amended in 2017.

Future Land Use: Urban Residential. Greatest variety of residential 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.

Existing small cell on utility poles in public right of way include the following sites: six around UMD, two near the Burning Tree Plaza, two near Canal Park, three near the 6000 block of East Superior Street, one near Spirit Mountain, one near Denfeld High School, one near East High School, one near the Radisson Hotel, one near the Miller Hill Mall, and one near Edgewater Park. There are three more on utility poles within the St. Scholastica Campus, on private property.

This is a companion zoning application to PL 21-075, also a concurrent use permit for a wireless equipment on an existing utility pole.

Review and Discussion Items:

- 1) The applicant is seeking a concurrent use permit to allow a private obstruction (utility pole mounted antennas and equipment mount) in the public right of way. The small wireless facility will be installed on a replacement Minnesota Power wooden pole. The street light will be attached to the pole at 24 feet, and the wireless equipment will be placed at 30 to 37 feet, with a radio at 15 feet. Wireless attachments will include 2 exterior mounted panel antenna and 3 radio units. There will be no ground mounted equipment.
- 2) Granting a concurrent use permit would give the applicant the ability to use dedicated public rights-of-way, with conditions, while preserving other existing public uses in the same right-of-way corridors. Concurrent use permits require a public hearing and recommendation by the Planning Commission, and is approved by the City Council via ordinance. Unlike street right-of-way vacations, concurrent use permits are not recorded at the County as they are voidable permits issued by the City to applicants who are private users of public rights-of-way.
- 3) Ownership of the pole will remain with Minnesota Power. Liability, maintenance, and operation of the small wireless facilities will remain the responsibility of the applicant. In the event of an accident, such as a vehicle hitting the utility pole, the city is not responsible for restoring or replacing any of the applicant's equipment.
- 4) The existing pole will be replaced with a new pole. The new pole will have a structural analysis by the manufacturer to ensure that they can support the weight of the private small cell facilities.
- 5) Granting the proposed concurrent use permits will not harm or inconvenience the health, safety and general welfare of the city. The area proposed for the concurrent use permit will not take away from the public's ability to use the public right-of-way. Minnesota Power will own the poles and continue to use them for utility purposes (lighting).
- 6) The UDC generally requires that new wireless facilities follow a location standard: first they should be collocated on existing towers or other structures on city owned properties first, and then existing towers or other structures on other (private) property, and so forth down the location standard list. As these small wireless facilities would be located on existing infrastructure in public right of way, and as per the recent change in state statute, the city is processing these applications as concurrent use permits and not special use permits, and the UDC's use-specific standards do not apply in this specific situation.

7) The city has the ability to regulate land use, however, the Federal Communications Commission preempts local review on the potential environmental effects of radio frequency (RF) emissions, with the presumption that the applicant and service provider is in compliance with the Commission's RF rules. The applicant included an FCC checklist used to determine exemption from RF regulations (unlikely to cause exposure in excess of the FCC's guidelines).

8) At the time that this memo was written, no written comments has been received.























Staff Recommendation:

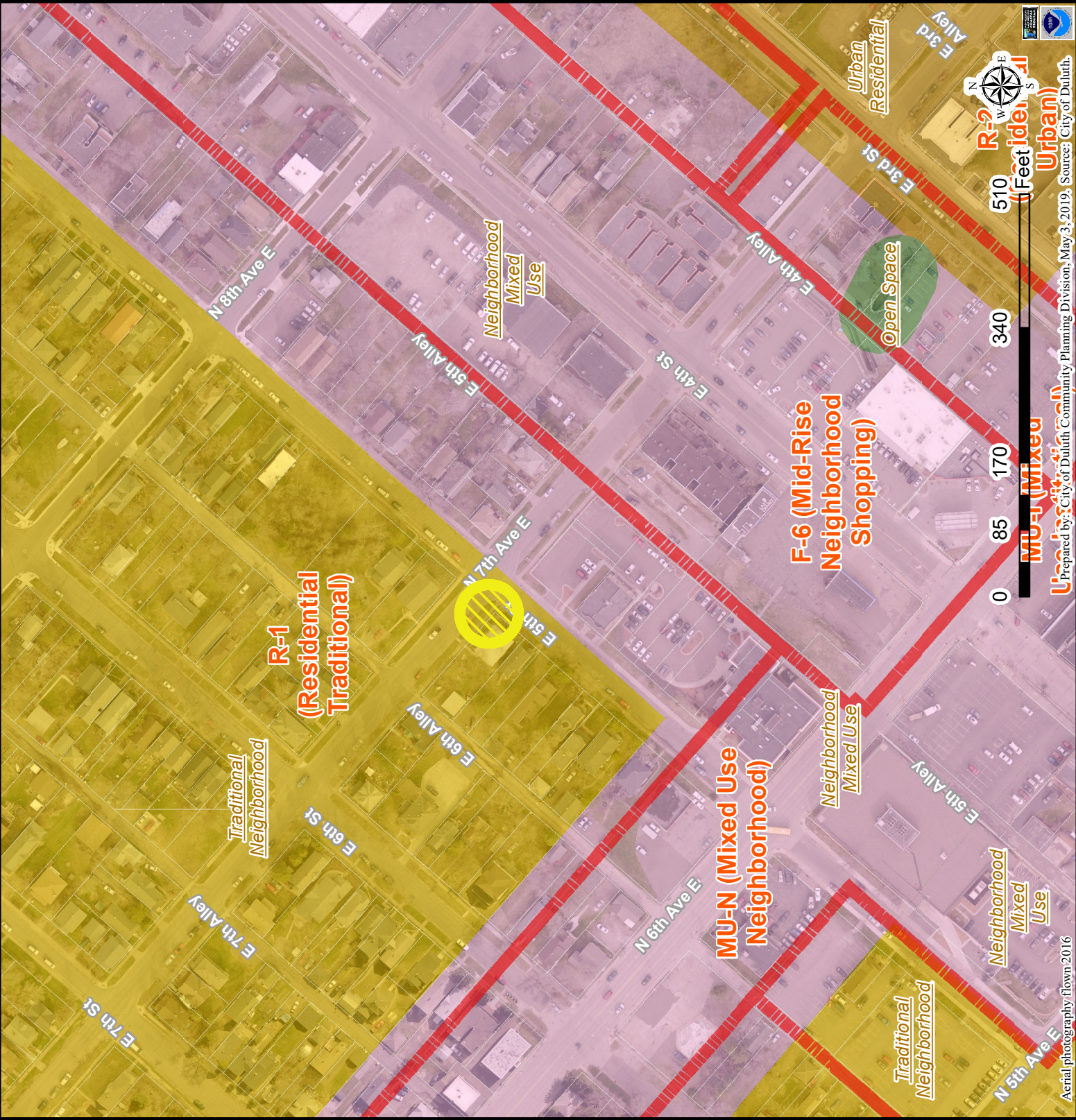
Based on the above findings, Staff recommends that the Planning Commission recommend approval of the concurrent use permit subject to the following conditions:

- 1) The project be limited to, constructed, and maintained according to construction drawings submitted and included with this staff report.
- 2) Applicant, and/or successors, shall remove the proposed obstructions at applicant's expense if directed to do so by the City with appropriate notice, and shall adhere to other standards and obligations established in the approving document (ordinance).
- 3) 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, all other changes must be approved by amending the City Council's approved ordinance.



Legend

-  Zoning Boundaries
-  Open Space
-  Open Space/Outside Duluth
-  Rural Residential
-  Low-density Neighborhood
-  Traditional Neighborhood
-  Urban Residential
-  Neighborhood Commercial
-  Central Business Primary
-  Large-scale commercial
-  Tourism/Entertainment District
-  Commercial Waterfront
-  General Mixed Use
-  Neighborhood Mixed Use
-  Light Industrial
-  General Industrial
-  Industrial Waterfront
-  Business Park
-  Transportation and Utilities
-  Transportation and Utilities/Outside Duluth
-  Medical District
-  Institutional



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 21-076 CUP

Legend

- Gas Main
- Water Main
- Hydrant

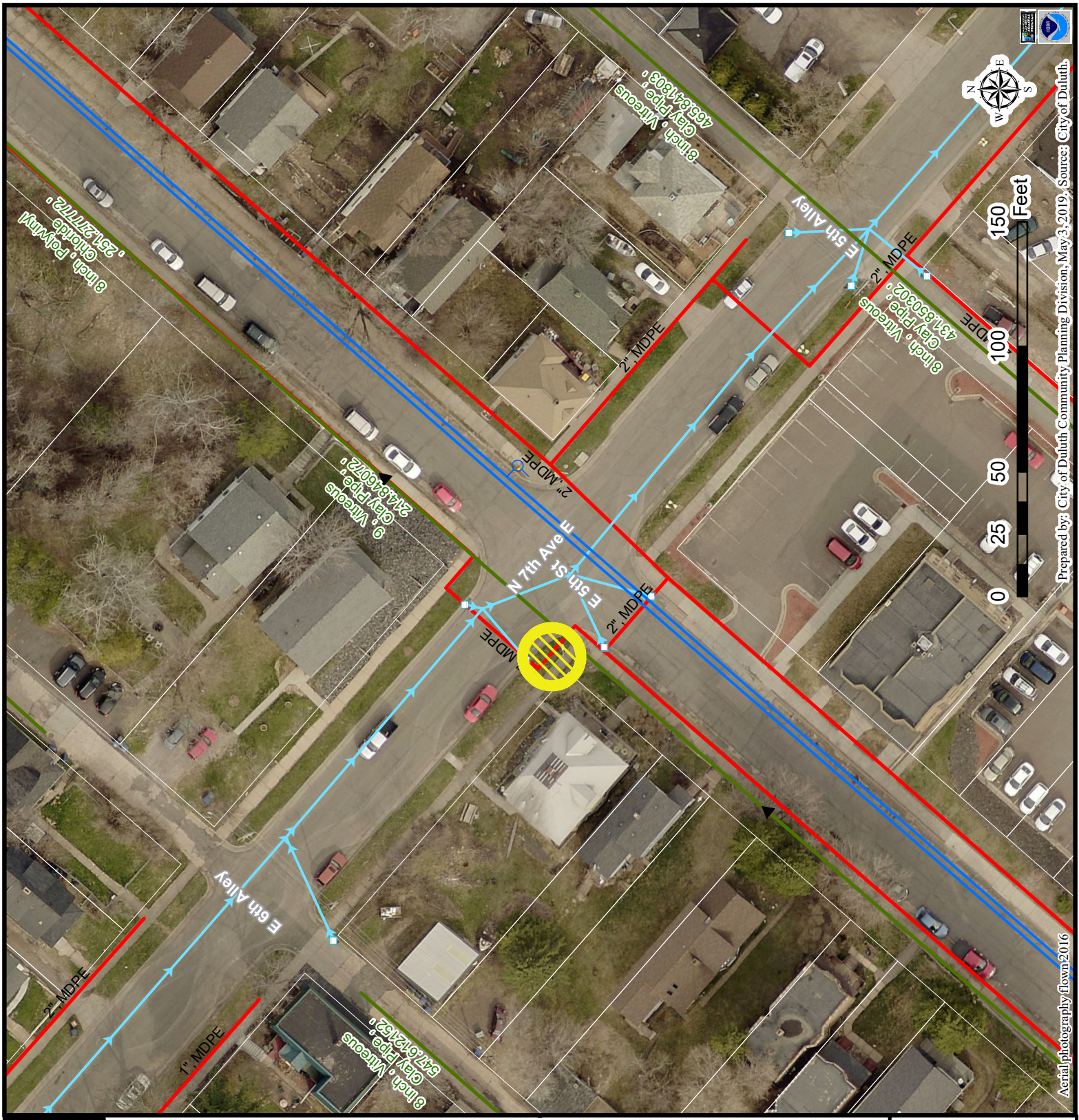
Sanitary Sewer Mains

- 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

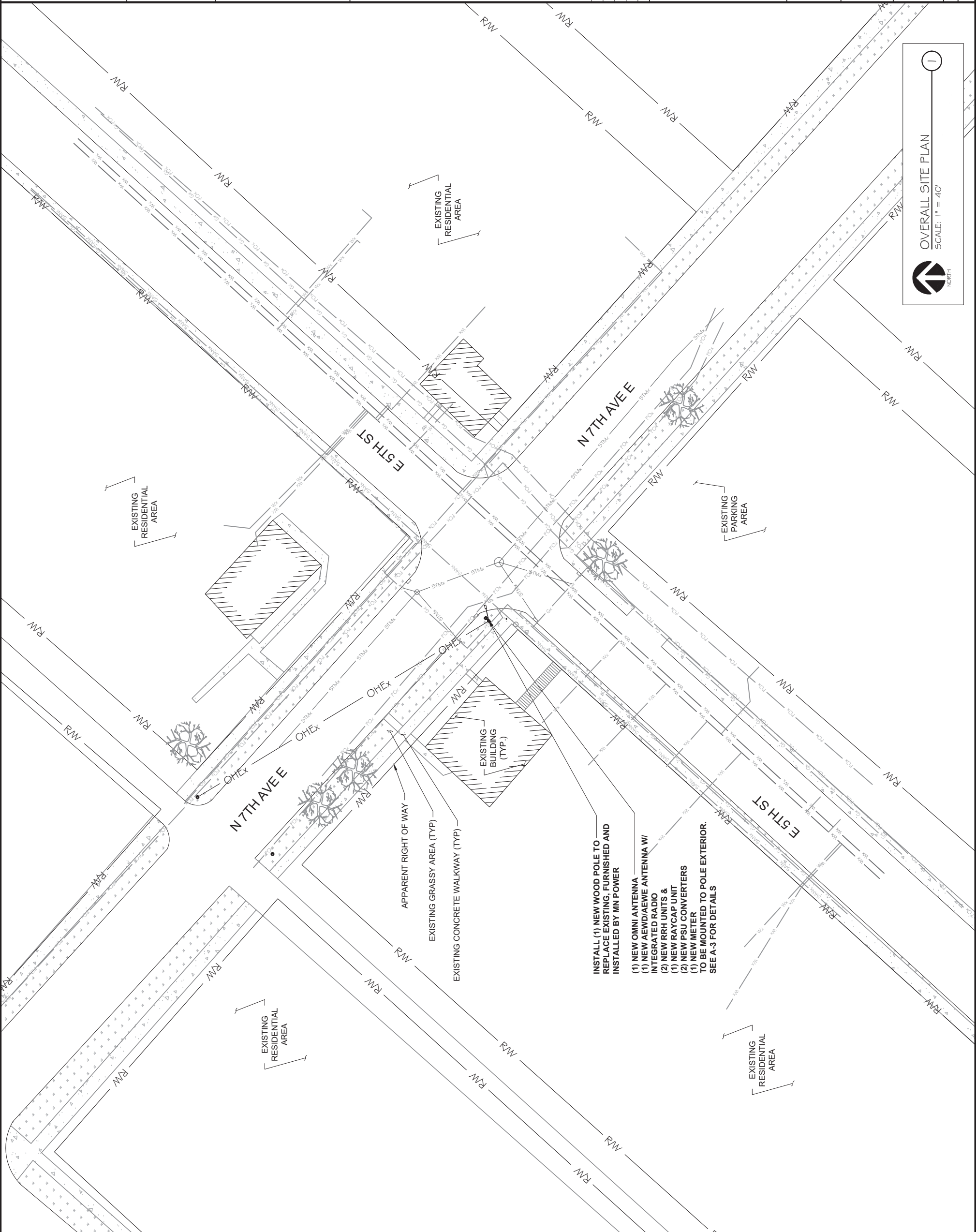
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Aerial photography from 2016

Prepared by: City of Duluth Community Planning Division, May 3, 2019. Source: City of Duluth.





OVERALL SITE PLAN
 SCALE: 1" = 40'
 NORTH

0 20' 40' 80'

1" x 17" - 1" = 40'
 22" x 34" - 1" = 20'

PROJECT NUMBER: 49915
 SHEET NUMBER: A-1

SHEET TITLE:
 OVERALL SITE PLAN
 W/ UG UTILITIES

PROJECT INFORMATION:
 629 EAST 5TH STREET
 DULUTH, MN 55805

CRAN 1C/2C/3C/1R
 MRUMW022372, MRUMW022362,
 MRUMW023079, MRUMW042858
 CRAN_RUMW_DLLND_007
 192441

PROJECT TITLE:

REV.	DATE	DESCRIPTION	INITIALS
2	06/14/21	CITY COMMENTS	GM
1	04/05/21	FINAL CD# ISSUED	GM
0	02/11/21	FINAL CD# ISSUED	GM
A	1/18/20	PRELIMINARY CD# ISSUED	GM

Signature: *James R. Skowronski* Date: 6/14/2021
 JAMES R. SKOWRONSKI Registration Number: 42202



Certification & Seal
 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.

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 www.sacw.com

at&t
 7900 XERXES AVENUE S., 3RD FLOOR
 BLOOMINGTON, MN 55431

INSTALL (1) NEW WOOD POLE TO REPLACE EXISTING. FURNISHED AND INSTALLED BY MN POWER
 (1) NEW OMNI ANTENNA
 (1) NEW AEWD/AEWE ANTENNA W/ INTEGRATED RADIO
 (2) NEW RRR UNITS & (1) NEW RAYCAP UNIT
 (2) NEW PSU CONVERTERS
 (1) NEW METER
 TO BE MOUNTED TO POLE EXTERIOR. SEE A-3 FOR DETAILS

EXISTING CONCRETE WALKWAY (TYP)
 EXISTING GRASSY AREA (TYP)
 APPARENT RIGHT OF WAY

EXISTING RESIDENTIAL AREA

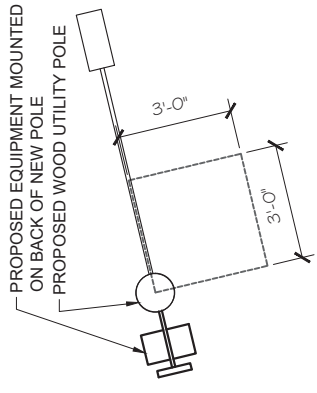
EXISTING RESIDENTIAL AREA

EXISTING PARKING AREA

EXISTING BUILDING (TYP.)

EXISTING RESIDENTIAL AREA

EXISTING RESIDENTIAL AREA

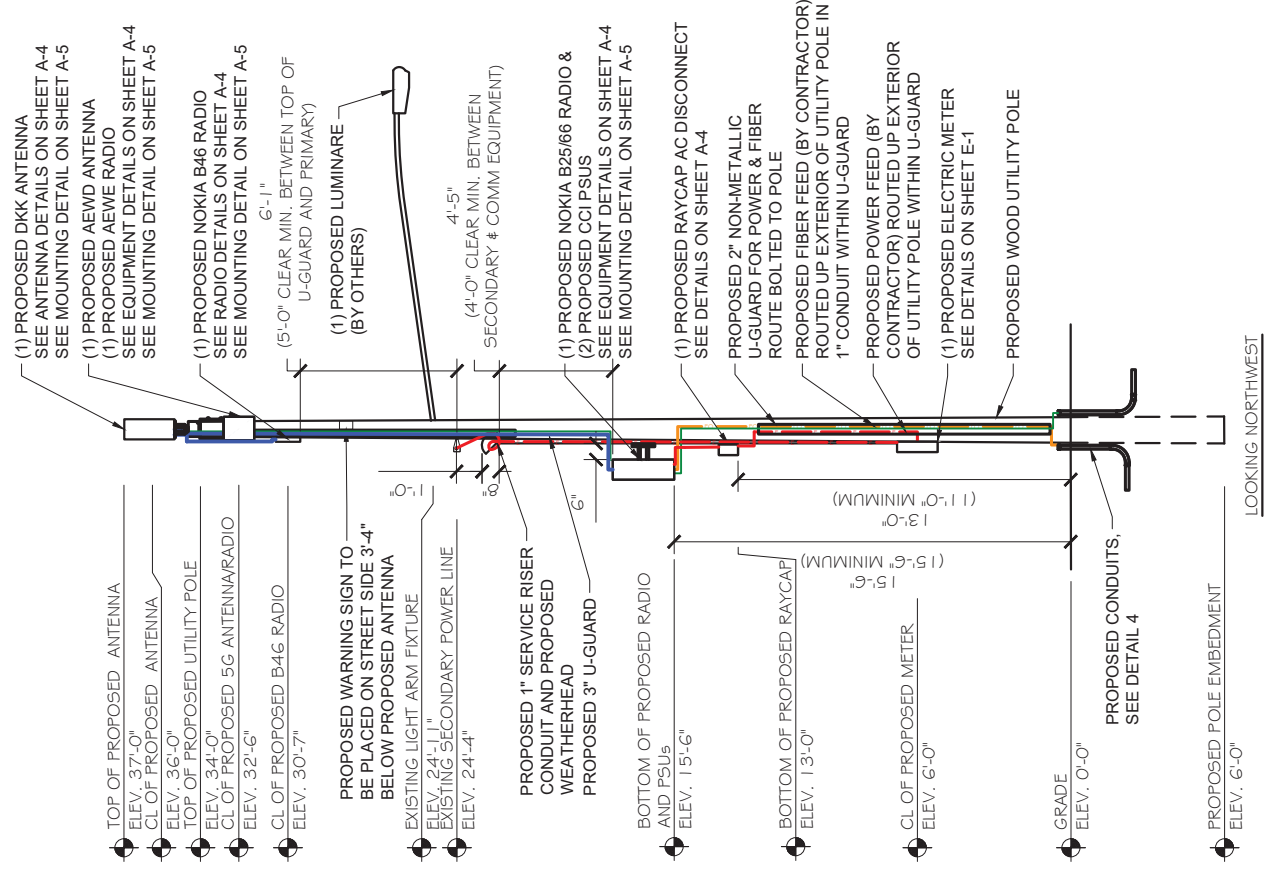


CLIMBING SPACE DETAIL
 SCALE: 1" = 5'

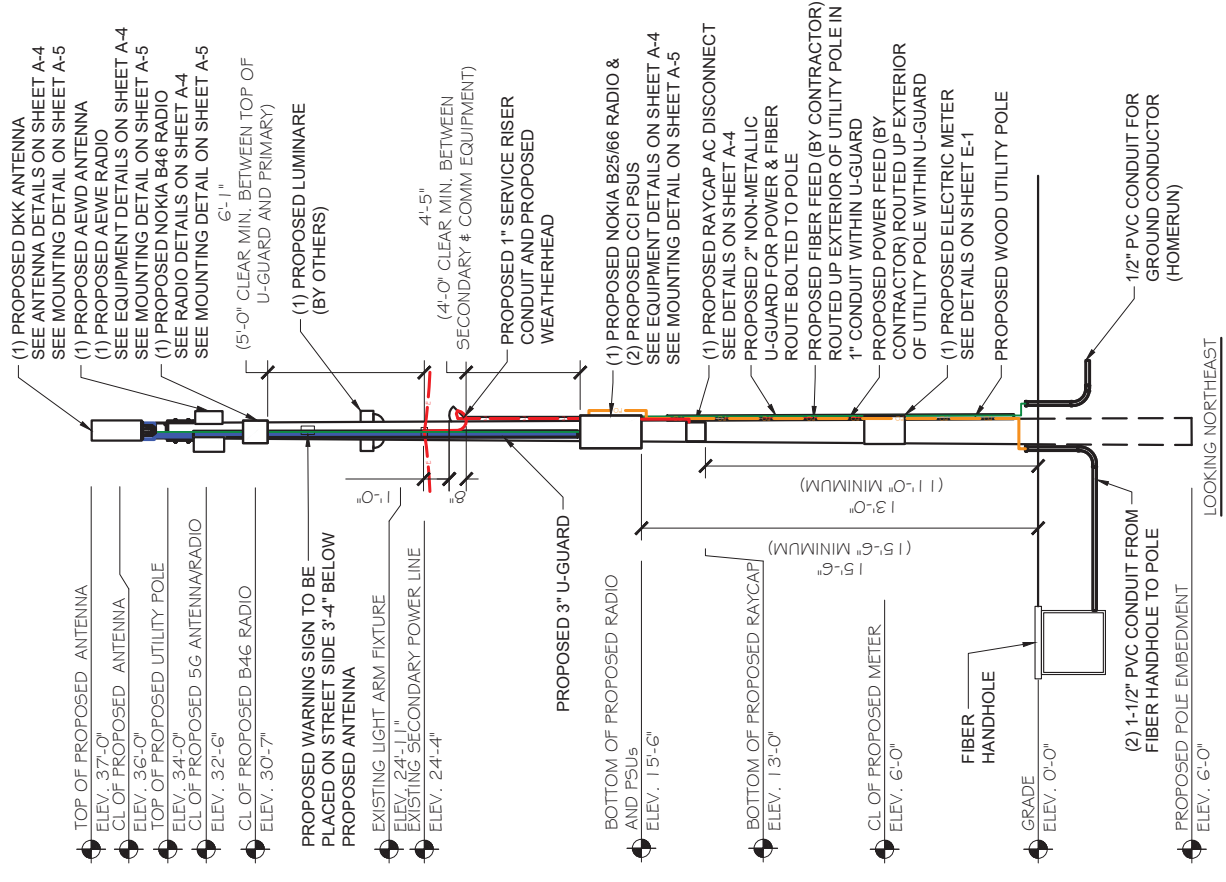
CABLE TYPE	COLOR CODE
POWER CABLE	RED
FIBER CABLE	ORANGE
GROUND CABLE	GREEN
COAX CABLE	BLUE

COLOR CODE
 SCALE: N.T.S.

NOTES:
 1. ALL HARDWARE SHALL BE STAINLESS STEEL
 2. ALL CABLES SHALL BE SECURED TO POLE EVERY 36" OR LESS
 3. LIGHTNING RODS SHALL BE INCLUDED AS REQUIRED
 4. STRUCTURAL BACKFILL TO BE COMPACTED IN 6" MAXIMUM LAYERS TO 100% OF CONTENT IN ACCORDANCE WITH ASTM D698, ADDITIONALLY, STRUCTURAL BACKFILL MUST HAVE A MINIMUM COMPACTED UNIT WEIGHT OF 100 POUNDS PER CUBIC FOOT (16 KN/MS)
 5. ANY PRIMARY OR SECONDARY POWER LINES NEED TO MAINTAIN 5' CLEARANCE BETWEEN POWER LINES AND TOP OR BOTTOM OF EQUIPMENT (INCLUDING MOUNTS), WHICHEVER IS CLOSER
 6. PEDESTAL MAY BE REQUIRED AS DETERMINED BY MN POWER
 7. ANY INSTALLATION LINE PEDESTAL OR HAND-HOLE NEEDS TO BE AT LEAST 3' DISTANCE FROM POLE
 8. ALL CONTRACTORS WORKING IN POWER SPACE NEED TO BE APPROVED BY MN POWER AND HIGH VOLTAGE CERTIFIED, REFERENCE ELECTRICAL NOTES #13 ON GN-1
 9. PROPOSED SERVICE CONDUCTORS TO THE METER SIZED AND INSTALLED PER THE UTILITY AND THE NEC REQUIREMENTS CONDUCTORS SHALL BE ENCLOSED IN A MINIMUM OF 2" Ø SCH 80 PVC. 24" MIN OF CONDUCTOR SLACK SHALL BE COILED AT THE WEATHER HEAD TO ALLOW FOR FINAL CONNECTIONS
 10. POWER ENCLOSED IN FLEX PIPE FROM AC DISTRIBUTION BOX TO BACK OF RADIO
 11. CONTRACTOR MUST INSTALL COAX PROPERLY PER SPECIFICATIONS AND RADIUS TO ENSURE PROPER CONNECTION FROM RRU TO BOTTOM OF ANTENNA



PROPOSED UTILITY POLE SIDE ELEVATION
 SCALE: 1" = 7.5'



PROPOSED UTILITY POLE BACK ELEVATION
 SCALE: 1" = 7.5'



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Professional Engineer under the laws of the state of Minnesota.



Signature: *James R. Skowronski* Date: 6/14/2021
 JAMES R. SKOWRONSKI Registration Number: 42202

REV.	DATE	DESCRIPTION	INITIALS
2	06/14/21	CITY COMMENTS	GM
1	04/05/21	FINAL CDs ISSUED	GM
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PROJECT TITLE:
CRAN 1C/2C/3C/1R
MRUMW022372, MRUMW022362, MRUMW023079, MRUMW042858
CRAN_RUMW_DLLND_007
192441

PROJECT INFORMATION:
 629 EAST 5TH STREET
 DULUTH, MN 55805

SHEET TITLE:
 PROPOSED WOOD UTILITY POLE ELEVATIONS

PROJECT NUMBER	49915
SHEET NUMBER	A-3

SITE NAME: CRAN_RUMW_DLLND_007
SITE ADDRESS: E 5TH ST DULUTH, MN
LAT/LONG: 46.79698, -92.09508
POLE TYPE: WOOD, LIGHT POLE

Proposed Route Design
ATT Minnesota
Plan View



Nearest Intersection:
E 5th St & N 7th Ave E

Description:
CCI to install a new HH in the ROW near the light pole.

ATT is to leave stub 1.25" duct out from base of new light pole to the proposed HH location.

Approx. HH Location – Street View





STATEMENT REGARDING AESTHETIC DESIGN CRITERIA

DLLND_007 / 14810151 / MRUMW022372 / 651 E. Fifth St.

Pursuant to Ordinance 19-0027R, a SWF must adhere to the eight criteria listed below. Applicant's responses are stated below in red.

- (a) Except as established in Minnesota State Statute, the height of a new facility may not exceed the average height of existing utility poles or streetlights in the immediate area (150-foot radius of the proposed site) by more than five (5) feet, or forty (40) feet, whichever is greater; antennas mounted at the top of the pole shall not increase the height of the pole by more than five (5) feet; and

Applicant asserts that this proposed SWF will not exceed the average height of nearby utility poles. The proposed top-mounted antenna will only extend three (3) feet above the top of the replaced pole. (See p. A3 of Construction Drawings).

- (b) New facilities shall be located as near as practicable to street intersections and shall be located to the extent practicable on existing poles or other structures currently in the right of way and shall be limited to the heights in section (a) above; and

Applicant's proposed pole is located directly on a street corner and is within the ROW.

- (c) Decorative lights, banner poles, clocks, flagpoles, and other public street furniture that was not designed to accommodate small cell facilities shall not be used if accommodating the small cell facilities interfere with the operation of the public street furniture; and

Applicant's proposed pole is not decorative.

- (d) Concealment elements shall be incorporated into new sites, including approved camouflage or shrouding techniques, to the greatest extent practicable; and

Applicant has made every practicable effort to camouflage and conceal its proposed equipment. Any additional concealment efforts would result in additional shrouds or screens that would cause the pole to look more crowded and abnormal than as proposed.

- (e) New electrical and other utility service lines must be undergrounded whenever possible to avoid additional overhead lines; for metal poles, undergrounded cables and wires must transition directly into the pole base without any external junction box; and

Barring any unforeseen issues, this SWF will draw power from existing electrical lines attached to it. It will therefore not require the construction of any new overhead or underground lines. The subject pole is not metal.

- (f) Unless otherwise required for compliance with FAA or FCC regulations, new wireless facilities shall not include any permanently installed lights; and

The Proposed SWF will not include any permanently installed lights besides a streetlight like the one currently mounted to the pole.



(g) Any new facility and/or equipment and other improvements associated with a new facility must not obstruct any access to fire hydrants or fire escapes, or aboveground or underground public infrastructure, such as underground public utility lines; and

The proposed SWF will not obstruct access to fire hydrants or fire escapes, or aboveground or underground public infrastructure, such as underground public utility lines.

(h) Unless indicated otherwise by the Land Use Supervisor or City Engineer, the color of the antennas and related accessory equipment shall be made to match the existing pole color; if no pole exists, color should match the poles in the immediate area.

Applicant intends to paint the proposed equipment to match the pole as close as possible.

Respectfully Submitted:

A handwritten signature in blue ink, appearing to read 'Joe Goldshlack', written over a horizontal line.

Dated: May 7, 2021

Joe Goldshlack

SAC Wireless o.b.o. AT&T

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Chicago, IL 60661

(517) 648-0023

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