

EXHIBIT D



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 20-042	Contact	John Kelley, 218-730-5326	
Type	Concurrent Use Permit	Planning Commission Date		May 12, 2020
Deadline for Action	Application Date	April 8, 2020	60 Days	June 7, 2020
	Date Extension Letter Mailed	April 21, 2020	120 Days	August 6, 2020
Location of Subject	30 West Superior Street			
Applicant	Minnesota Power	Contact	Ken Ogston	
Agent		Contact		
Legal Description	See attached			
Site Visit Date	May 1, 2020	Sign Notice Date		April 28, 2020
Neighbor Letter Date	N/A	Number of Letters Sent		N/A

Proposal: The purpose of this application is to obtain a concurrent use permit for that portion of the Minnesota Power parking structure that extends into Superior Street below the Superior Street level.

Staff Recommendation: Staff is recommending that Planning Commission recommend approval to City Council.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-8	Office/Parking/Plaza/Street	Central Business Primary/Open Space
North	F-7	Office/Commercial	Central Business Primary
South	MU-C	Office/Commercial	Central Business Primary
East	MU-C	Street/Highway	Central Business Primary
West	F-8	Street/Highway	Central Business Primary

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. ... Not Applicable
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: includes adaptive reuse of existing building stock and historic resources, as this strengthens neighborhoods. The area proposed for the concurrent use permit has been a portion of a parking structure built in the 1980's.

Future Land Use – Central Business Primary: Encompasses a broad range of uses and intensities: Governmental campus, Significant retail, Entertainment and lodging, Opportunities for high density housing, Central plaza, public/open space and Public parking facilities.

Review and Discussion Items

Staff finds that:

- 1.) Below the Minnesota Power Building and adjacent plaza areas, is a parking structure owned by Minnesota Power and used by them for private parking. When the parking structure was constructed in the 1980's, 12 feet of the parking structure extended into Superior Street. The applicant is seeking a concurrent use permit for that portion of the Minnesota Power parking structure that extends into Superior Street below the Superior Street level and below Lake Avenue.
- 2.) The City and Minnesota Power have been working together to address the title issues surrounding the property and it appears that a CUP has never been issued for the ramp.
- 3.) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against occurrences in the right of way. Other protections for the city and the public are typically included in the ordinance that is submitted to City Council. The ordinance will state that the City is not responsible for remove/replacement of the applicant's infrastructure should the City need to access the right-of-way in the permitted area.
- 4.) The area proposed for the concurrent use permit will not take away from the public's ability to use the public right of way, nor will it harm or inconvenience the health, safety, and general welfare of the city.
- 5.) No other public, agency, or other comments have been received as of February 4, 2020.

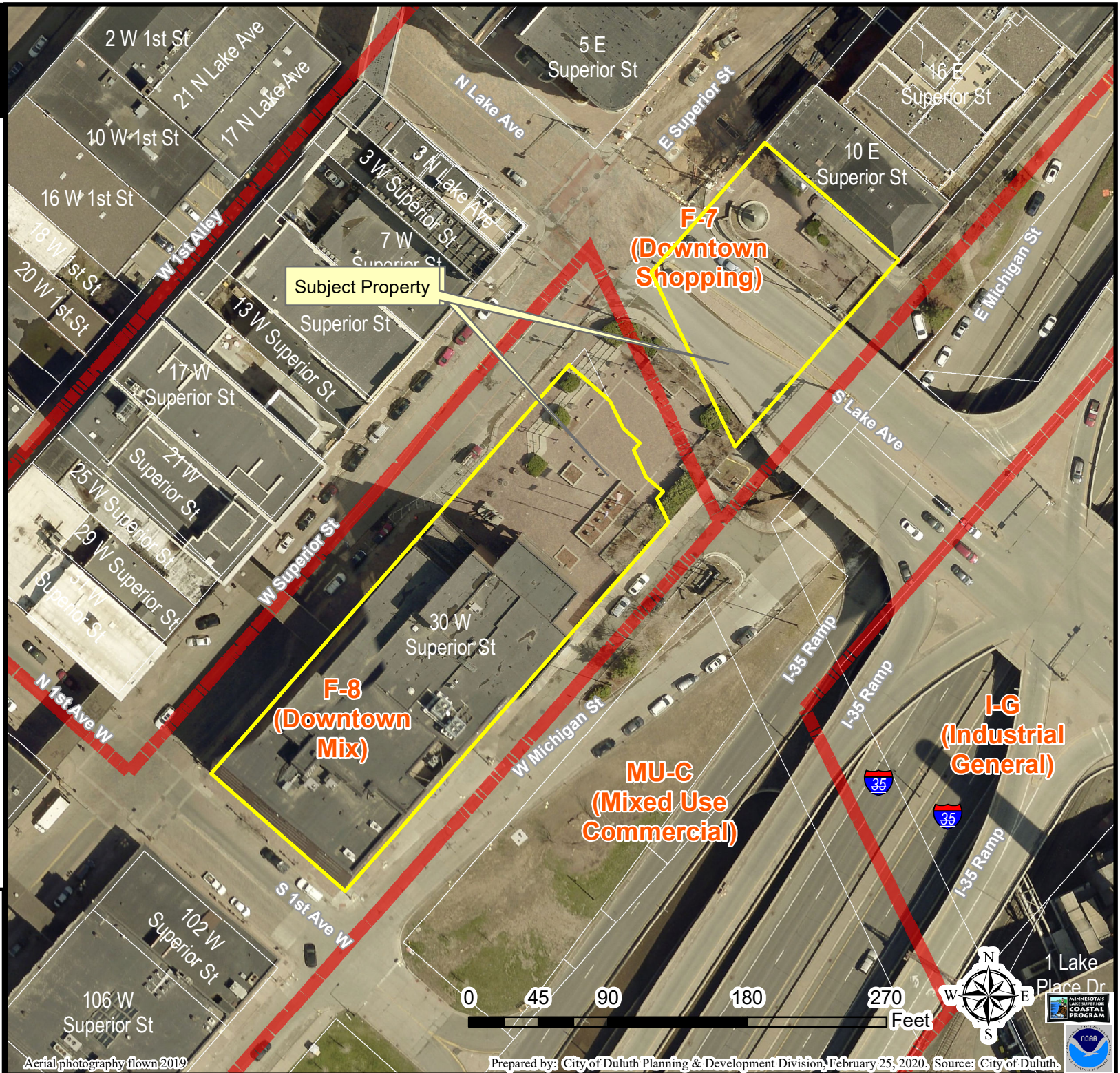
Staff Recommendation

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

- 1.) Applicant shall maintain the project as identified in the attached exhibits.
- 2.) Applicant shall provide annual 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 will remove the obstructions at the applicant's expense if directed to 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.



PL 20-042
 Concurrent Use Permit
 Location map



Legend

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.

Aerial photography flown 2019

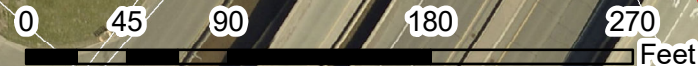
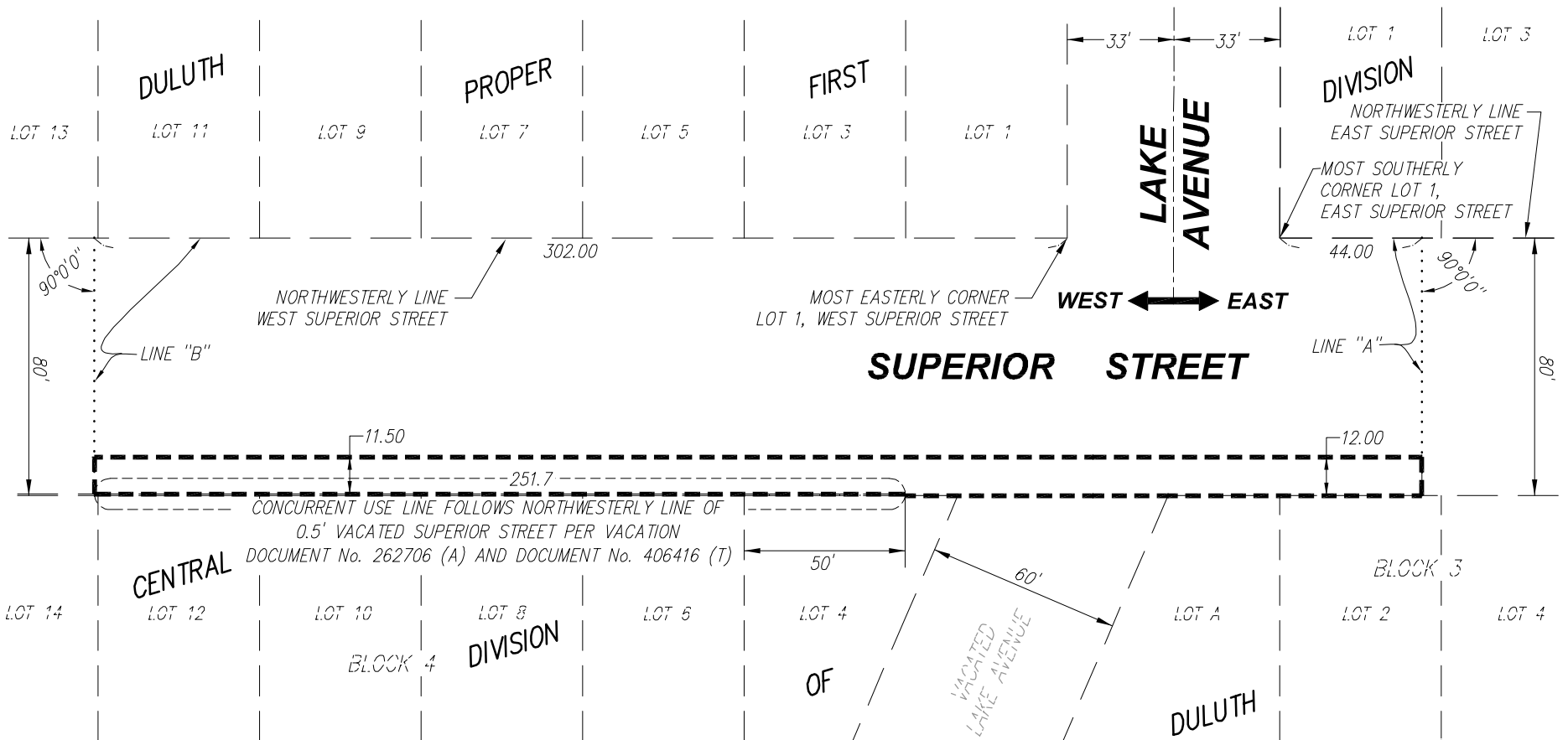
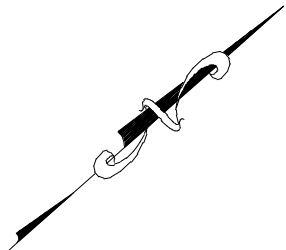


EXHIBIT B



 = CONCURRENT USE PERMIT AREA

APPROVED BY: _____
CITY ENGINEER



(SCALE IN FEET)

Basis of Bearing is Grid North,
St. Louis County Transverse
Mercator 96 Coordinate System.

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 Land Surveyor under the laws of the State of Minnesota.

Print Name: Paul A. Vogel License # 44075

Signature:  Date: 03/11/2020

CONCURRENT USE

DATE PREPARED: 03/11/20

PROJ NO: 200217

FILE: 200217vEXHIB

SHEET 1 of 1 SHEETS



**PERFORMANCE
DRIVEN DESIGN.**
LHBcorp.com

21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.8446

EXHIBIT A

DESCRIPTION :

THAT PART OF THE SOUTHEASTERLY 12.00 FEET OF SUPERIOR STREET, DULUTH PROPER FIRST DIVISION, CITY OF DULUTH, ST. LOUIS COUNTY, MINNESOTA EXCEPT THE SOUTHEASTERLY 6 INCHES OF THE SOUTHWESTERLY 251.7 FEET THEREOF; LYING SOUTHWESTERLY OF LINE "A" AND NORTHEASTERLY OF LINE "B" DESCRIBED AS FOLLOWS:

LINE "A"

BEGINNING AT THE MOST SOUTHERLY CORNER LOT 1, EAST SUPERIOR STREET, SAID DULUTH PROPER FIRST DIVISION; THENCE NORTHEASTERLY ALONG THE NORTHWESTERLY LINE OF SAID EAST SUPERIOR STREET, A DISTANCE OF 44.00 FEET; THENCE DEFLECT TO 90 DEGREES 00 MINUTES 00 SECONDS TO THE RIGHT IN A SOUTHEASTERLY DIRECTION TO THE SOUTHEASTERLY LINE OF SAID SUPERIOR STREET AND SAID LINE THERE TERMINATING.

LINE "B"

BEGINNING AT THE MOST EASTERLY CORNER LOT 1, WEST SUPERIOR STREET, SAID DULUTH PROPER FIRST DIVISION; THENCE SOUTHWESTERLY ALONG THE NORTHWESTERLY LINE OF SAID WEST SUPERIOR STREET, A DISTANCE OF 302.00 FEET; THENCE DEFLECT TO 90 DEGREES 00 MINUTES 00 SECONDS TO THE LEFT IN A SOUTHEASTERLY DIRECTION TO THE SOUTHEASTERLY LINE OF SAID SUPERIOR STREET AND SAID LINE THERE TERMINATING.

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 Land Surveyor under the laws of the State of Minnesota.

Print Name: Paul A. Vogel

License # 44075

Signature: 

Date: 03/11/2020

CONCURRENT USE

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