



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

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

<b>File Number</b>	PL 24-045	<b>Contact</b>	Jenn Moses, jmoses@duluthmn.gov	
<b>Type</b>	Variance – Retaining Wall	<b>Planning Commission Date</b>	May 14, 2024	
<b>Deadline for Action</b>	<b>Application Date</b>	April 8, 2024	<b>60 Days</b>	June 7, 2024
	<b>Date Extension Letter Mailed</b>	April 18, 2024	<b>120 Days</b>	August 6, 2024
<b>Location of Subject</b>	Area between 3 <sup>rd</sup> and 4 <sup>th</sup> Avenues W below 3 <sup>rd</sup> St and above W 3 <sup>rd</sup> St Alley			
<b>Applicant</b>	St Louis County, Jerry Hall	<b>Contact</b>		
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	PIN 010-0980-00850	<b>Sign Notice Date</b>	April 27, 2024	
<b>Site Visit Date</b>	April 30, 2024	<b>Number of Letters Sent</b>	41	

**Proposal**

The applicant is requesting a variance to retaining wall standards requiring terracing on tall retaining walls (UDC Section 50-26.4-B). The applicant is proposing to build a 12' tall retaining wall, without terracing, along 3<sup>rd</sup> Street and 3<sup>rd</sup> Avenue W.

**Staff Recommendation**

Staff recommends that the Planning Commission approve the variance.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-5	Parking Lot	Central Business Secondary
<b>North</b>	MU-N	Residential	Urban Residential
<b>South</b>	F-5	Parking	Central Business Secondary
<b>East</b>	MU-N	Residential	Central Business Secondary
<b>West</b>	F-5	Parking	Central Business Primary

**Summary of Code Requirements**

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would cause the landowner exceptional practical difficulties. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief for from the normal regulations is due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

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

**#10 Take actions that enhance the environment, economic, and social well-being of the community**

This project includes ADA upgrades and landscaping implementation that will make the space more navigable for all citizens, improve stormwater treatment and improve aesthetics.

Future Land Use

Central Business Secondary- An area adjacent to and supporting the central business primary area or a stand-alone area providing a similar mix of destination land uses but at a lower intensity than the primary CB area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities

History

The property is currently used for parking with lots that are not conforming with the UDC. In 2023, the site received a Special Use Permit (PL 23-217) for reconstruction of the parking lot including grading, paving, stormwater treatment, and landscaping.

**Review and Discussion Items:**

Staff finds that:

1. The applicant is planning a parking lot reconstruction on the site, a reasonable and allowed use in this zone district.
  2. To eliminate the ice and accessibility hazards of the current sloped lots, significant grading will create a parking lot with a more manageable grade. This grading necessitates a retaining wall along the north and east sides of the lot where it abuts 3<sup>rd</sup> Street and 3<sup>rd</sup> Avenue W.
  3. Zoning regulations state that retaining walls more than six feet tall shall be terraced to minimize visual impacts on residents, neighboring properties and the public realm; terraces should be a minimum of four feet wide with landscaping.
  4. Applicant's engineers have noted that under zoning requirements, two walls would be required. In order to meet 1:1 slope requirements advised by structural engineers, these terraces would need to be separated by 7 feet instead of the minimum of 4 feet. This results in difficulties with meeting the terracing requirements: a) if the upper wall is placed close to the property line, the construction and required shoring for the construction would result in significant impacts not only to the roadway of 3<sup>rd</sup> Street but also to the gas line close to the property line; and b) if placed further away from the property line to avoid impacts to the right of way, it results in the loss of 30 parking spaces, which is a significant portion of the project.
  5. This practical difficulty is due to the steep slope on the site, the presence of adjacent streets, and the proximity of the nearby gas line. This difficulty was not created by the landowner.
  6. Applicant is requesting a single 12' high retaining wall without terracing along 3<sup>rd</sup> Street and 3<sup>rd</sup> Avenue W. This wall and the required shoring would fit within the property, avoiding impacts to the street and gas line.
  7. Applicant has indicated willingness to design the wall with different materials or aesthetic treatments that will mimic the appearance of two shorter walls and minimize the impact of a blank wall façade.
  8. The proposal will not alter the essential character of the neighborhood, which contains surrounding surface parking lots and downtown buildings. Because the retaining wall is facing down the hill, residential properties uphill will not experience any negative visual impacts. The primary visual impact is anticipated to be views from the St Louis County Government Service Center, which is the applicant for this project, with additional visual impacts to people on 3<sup>rd</sup> and 4<sup>th</sup> Avenues W.
  9. The variance will not impair an adequate supply of light and air to adjacent properties. Because this project will eliminate the steep slopes currently in the parking lot, it is anticipated to improve the safety concerns related to ice and snow for users of the parking lot.
  10. The proposal will not increase congestion in public streets or unreasonably diminish or impair established property values within the surrounding areas.
  11. Staff discussed this project with the City's Chief Utilities Engineer, who confirmed the location of the gas main in 3<sup>rd</sup> Street. No other City, public, or agency comments were received.
- 1) Per UDC Section 50-37.1.N, approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

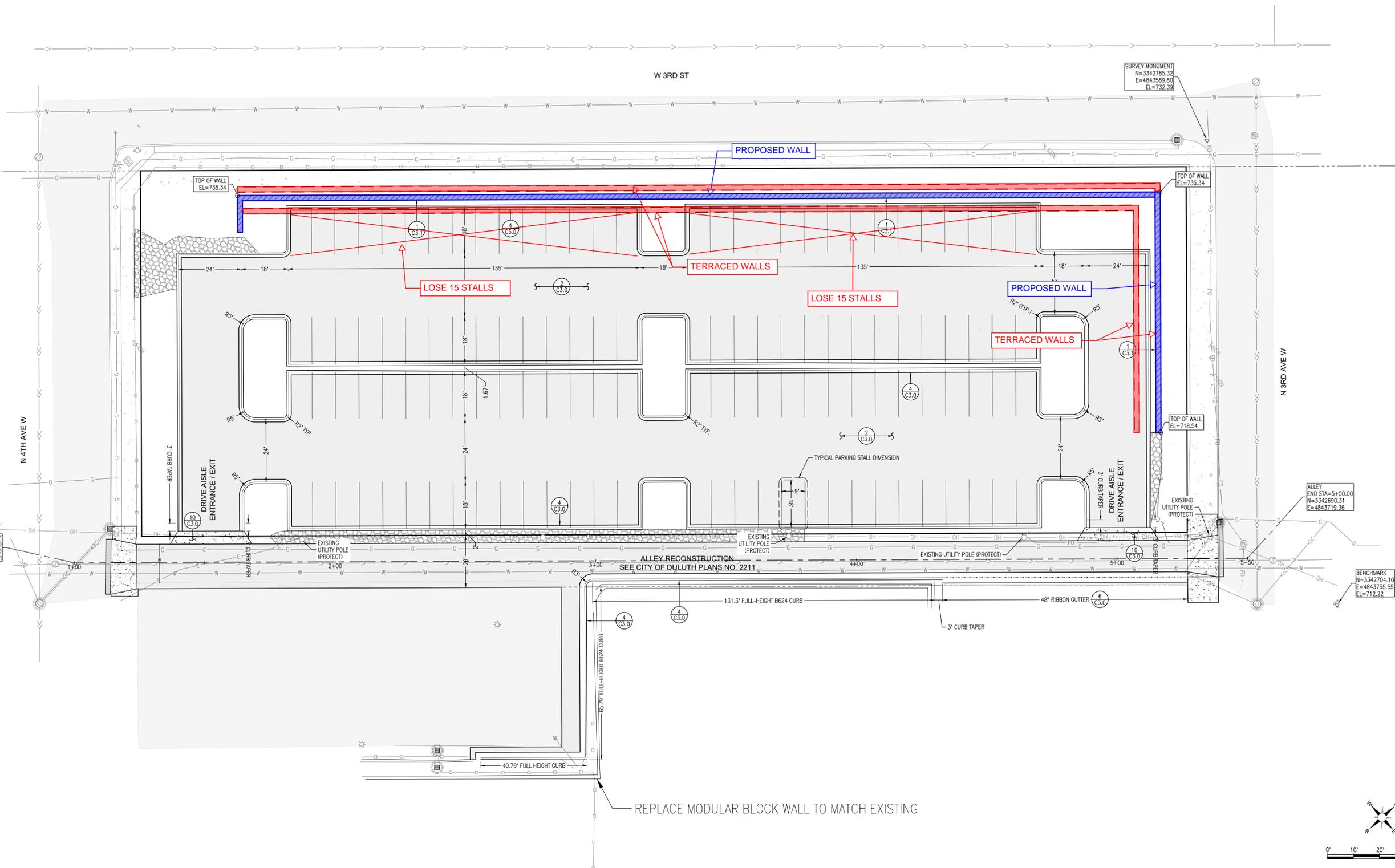
**Staff Recommendation**

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

- 1) The project be constructed and limited to the plans submitted with the proposed retaining wall no taller than 12' in height.
- 2) Applicant shall submit plans showing changes in color, materials, or other visible design to break up the façade of the wall and mimic the appearance of two smaller walls on the site. These plans shall be approved by the Land Use Supervisor prior to receiving any permits for construction.
- 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; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



SITE LEGEND AND NOTES		
REF	DESCRIPTION	SYMBOL
	CONCRETE	
	BITUMINOUS PAVEMENT	
	NEW VEGETATION	
	B612 CURB & GUTTER	
	BOLLARD	
	SWALE FLOW LINE	



**ST. LOUIS COUNTY GREEN LOT**  
PARKING LOT RECONSTRUCTION  
W 3RD ST., DULUTH, MN 55802

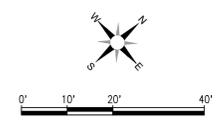
I hereby certify that this plan, specification, or report was prepared by me or under my direct supervision and that I am a duly licensed Professional Engineer under the laws of the State of Minnesota.  
N.E. V. V. V.  
Lic. No. 68926  
Engineer: David G. Boff

REVISIONS:

PROJECT: 23-007  
CHECKED: TTP  
DRAWN: JFM  
DATE: 04-26-24

Sheet Title  
**SITE PLAN**

Sheet Number  
**C5.0**



V:\Projects\23-007 - 022 - Duluth - Green Lot - Reconstruction\DWG - Site Plan.dwg, Apr 15, 2024, 3:10pm, TTP



PL24-045  
 Variance  
 3rd Street Parking Lot

**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.

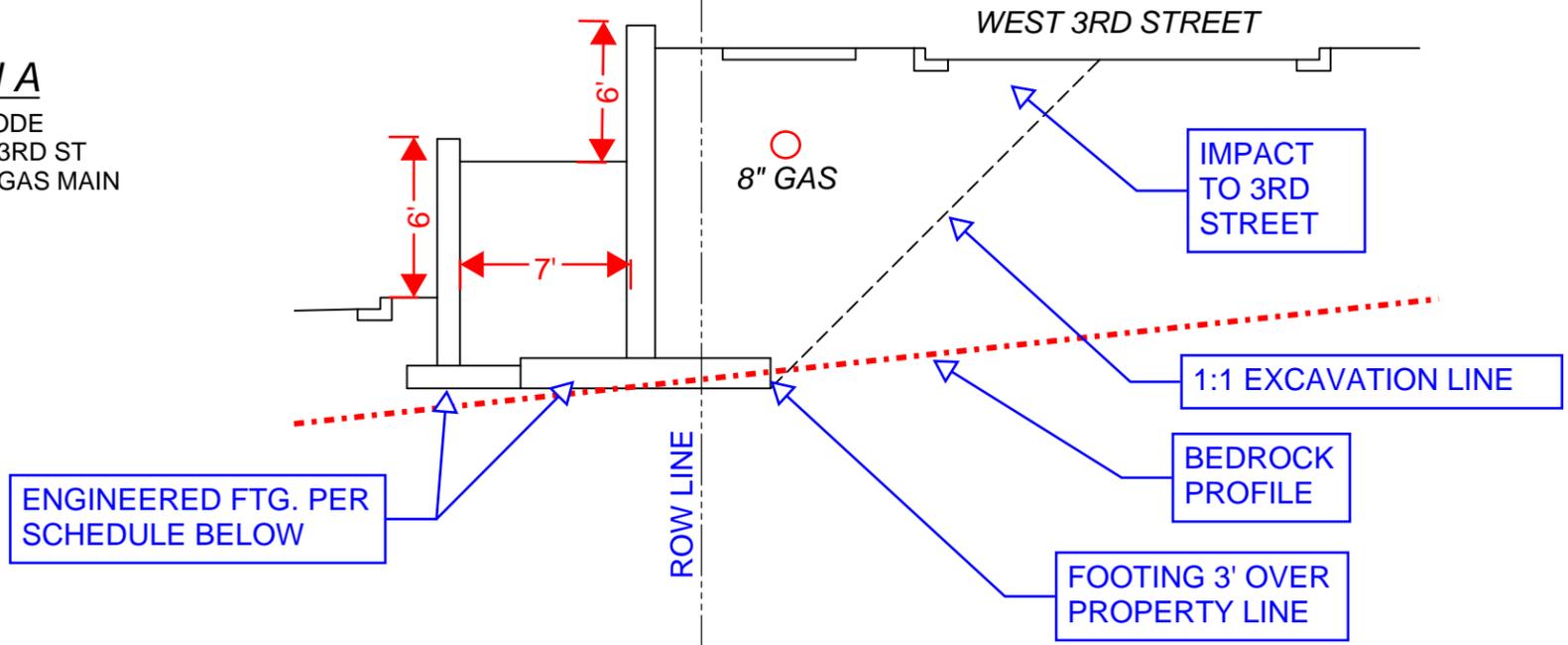


Aerial photography flown 2019

Prepared by: City of Duluth Planning & Economic Development, May 7, 2024 (Source: City of Duluth)

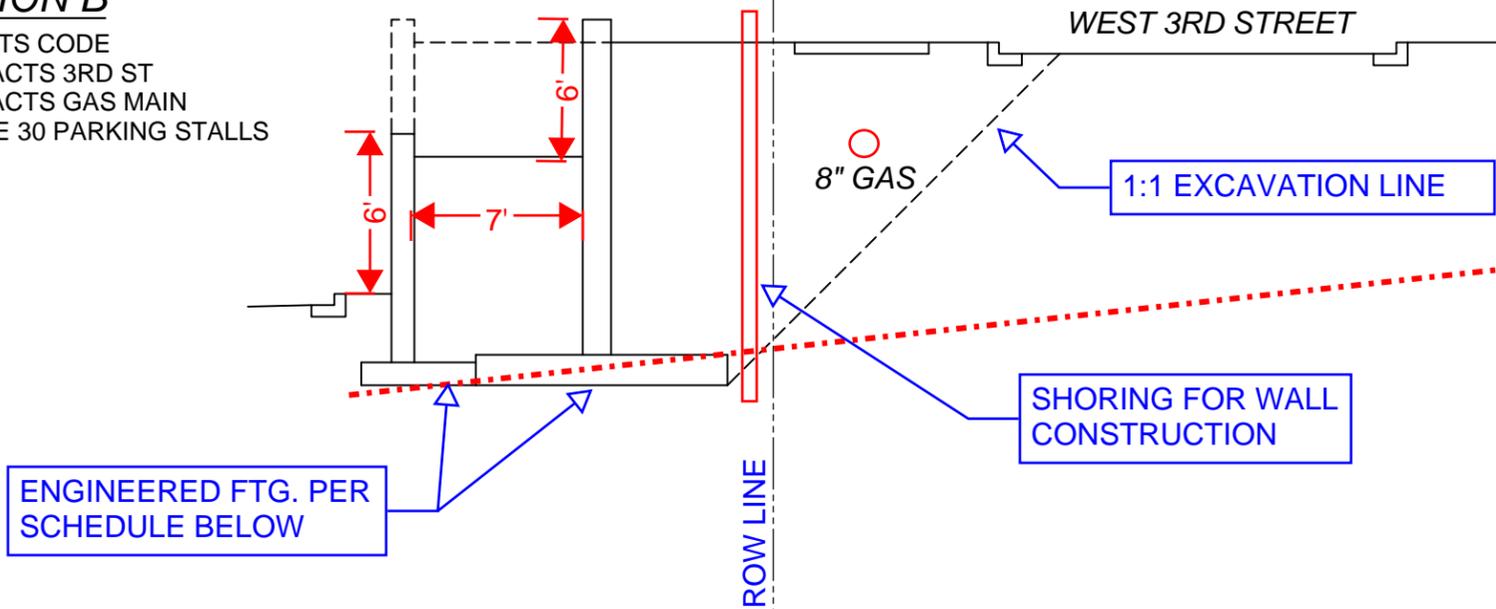
### OPTION A

- MEETS CODE
- IMPACTS 3RD ST
- IMPACTS GAS MAIN



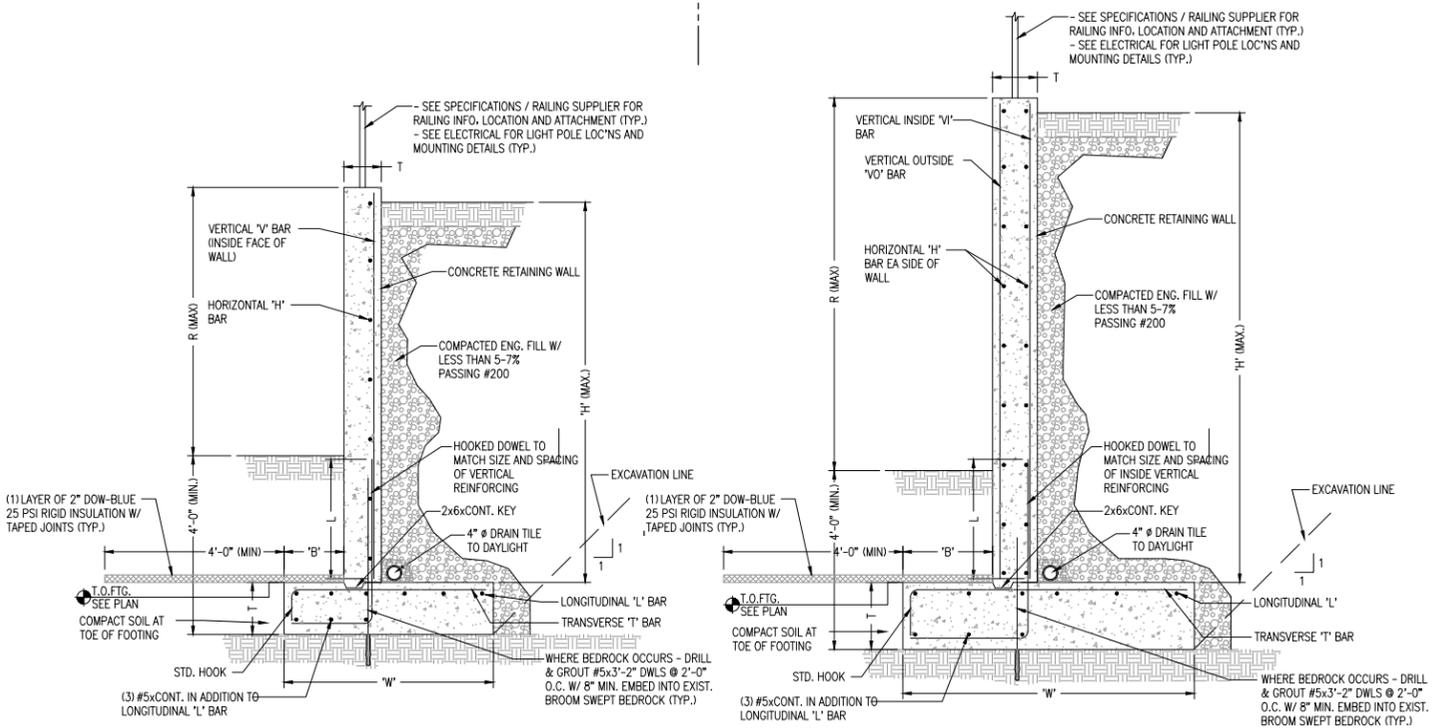
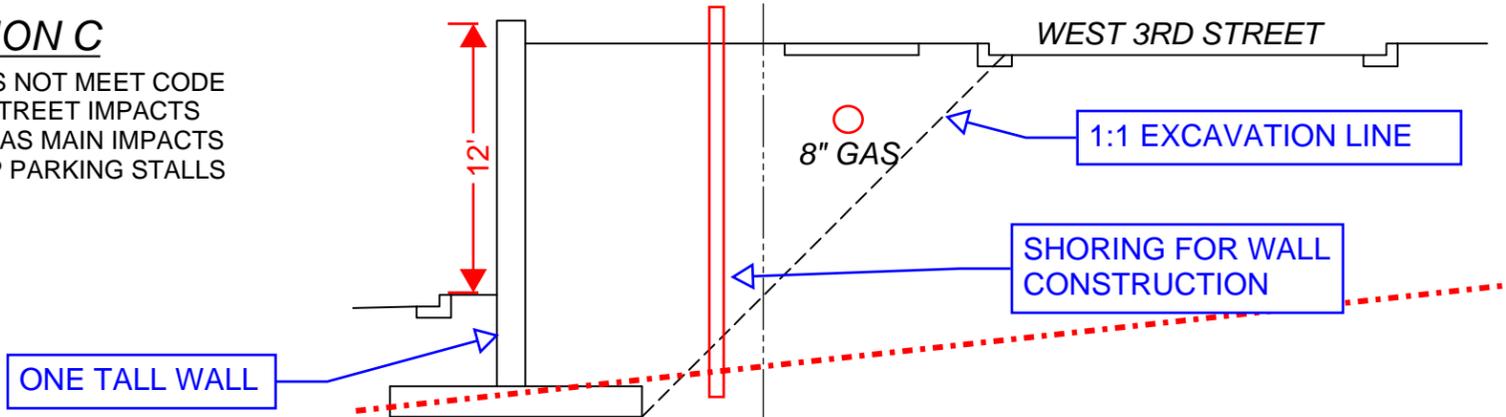
### OPTION B

- MEETS CODE
- IMPACTS 3RD ST
- IMPACTS GAS MAIN
- LOSE 30 PARKING STALLS



### OPTION C

- DOES NOT MEET CODE
- NO STREET IMPACTS
- NO GAS MAIN IMPACTS
- KEEP PARKING STALLS



RETAINING WALL SCHEDULE									
CONCRETE GEOMETRY					REINFORCING				
R (MAX.)	H (MAX.)	T <sub>w</sub>	W	B	T <sub>r</sub>	V	H	L	T
5'-0"	8'-0"	8"	4'-0"	1'-0"	1'-0"	#5 @ 16" O.C.	#4 @ 12" O.C.	(4) #5xCONT.	#4 @ 16" O.C.
6'-0"	9'-0"	10"	5'-0"	1'-4"	1'-0"	#5 @ 14" O.C.	#5 @ 15" O.C.	(5) #5xCONT.	#4 @ 14" O.C.
7'-0"	10'-0"	10"	5'-8"	1'-6"	1'-0"	#5 @ 12" O.C.	#5 @ 15" O.C.	(6) #5xCONT.	#4 @ 12" O.C.

RETAINING WALL SCHEDULE										
CONCRETE GEOMETRY					REINFORCING					
R (MAX.)	H (MAX.)	T <sub>w</sub>	W	B	T <sub>r</sub>	V <sub>i</sub>	V <sub>o</sub>	H	L	T
8'-0"	11'-0"	12"	7'-0"	2'-0"	1'-2"	#6 @ 12" O.C.	#4 @ 12" O.C.	#4 @ 15" O.C.	(8) #5xCONT.	#5 @ 16" O.C.
10'-0"	13'-0"	15"	9'-3"	3'-0"	1'-4"	#6 @ 12" O.C.	#4 @ 12" O.C.	#4 @ 13" O.C.	(10) #5xCONT.	#5 @ 12" O.C.
13'-6"	15'-0"	15"	11'-0"	4'-8"	1'-4"	#7 @ 10" O.C.	#4 @ 12" O.C.	#4 @ 13" O.C.	(12) #5xCONT.	#6 @ 14" O.C.
15'-6"	17'-0"	18"	13'-0"	6'-6"	1'-4"	#8 @ 10" O.C.	#4 @ 12" O.C.	#5 @ 12" O.C.	(14) #5xCONT.	#6 @ 10" O.C.



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## Variance Application Supplemental Form

In order to submit a complete variance application, please explain how your request meets all of the below variance criteria. This is information that is required by the zoning code and will be shared with the Planning Commission during their review. You may fill out this form, or attach your information in a separate letter. This information will be shared with the Planning Commission in order to help them determine the appropriateness of the variance application and request.

**List the UDC Section you are seeking relief from** (example: "50-14.5 – front yard setback in an R-1"):

50-26.4 Fences and walls section B.2.a

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

The existing parking lot has been built into a hill at a very steep grade (11-12%). As part of the project the grade will be reduced to 7-8%. This will require a wall with a maximum height of 11 feet along west 3rd street. The property line is 9 feet from back of wall. if terracing is required, west 3rd street would be heavily impacted during construction.

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

The parking lot is bound by city streets and alleys on all four sides. The elevation of the alley is being adjusted slightly to help minimize the wall height. The elevation of the other three city streets doesn't allow this lot to be built as desired.

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

This is a significant challenge to many properties downtown since the city is built into a hill. Other facilities have been allowed the increased wall height.

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

The proposed improvement including a new parking surface and landscaping will dramatically improve the aesthetics of the property. Much of the wall will be screened from view by trees and shrubs. Also a stormwater management feature will be added to make for cleaner stormwater discharge.

**5. Please explain how that if the variance is granted it will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety or public welfare of the inhabitants of the city:**

No building is planned for so there will be no impact to light or air. Congestion will be the same or reduced since the parking lot stall count will be lowered due to city standards. This is a parking use and will not danger the safety, health, or welfare of the residents.

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

Retaining walls are common on this city block. Including parcels owned by the city of Duluth, St. Louis County, and private parties. With this wall the property will be substantially improved for functionality. No changes to zoning or code.

**Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M (E. Unsewered Areas, F. Two Family Dwellings in R-1, G. Parking Regulations, H. Reduce Setbacks, I. MU-C District, J. Airport Overlay, K. Flood Plain Regulations, L. Shorelands, or M. Non-Conforming Buildings)?** Yes  No

Discuss what subsections are applicable and how this request meets those: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_