



Planning & Development Division
Planning & Economic Development Department

Room 160
411 West First Street
Duluth, Minnesota 55802

 218-730-5580

 planning@duluthmn.gov

Date: August 4, 2020
To: Planning Commission
From: John Kelley, Planner II
RE: PL 20-060 Shoreland Variance – Construction of garage

Recommended Action: Motion to recommend approval of the variance with the following conditions:

- 1) The project be limited to, constructed, and maintained based on the site plan and drainage plan submitted with the application.
- 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.

At the July 14, 2020 Planning Commission meeting the application for a shoreland variance at 2130 Abbotsford Avenue was removed from the agenda pending a revised variance request. The initial application was to demolish and existing 20' x 32' garage and an 8' x 33' garden shed attached to the east end of the structure that is in poor condition. The applicant was proposing to replace it with a 26 foot wide by 50 foot deep garage, which is inclusive of the garden shed, and in the same configuration. The initial application had the proposed garage approximately 10 feet longer than the existing structure. That application had the new structure encroaching approximately 30' to 40' into the 150' shoreland setback. The current garage also does not meet side yard setback requirements for accessory structures as it straddles the southern property line adjacent to the neighbor's garage. The applicant is proposing a 5-foot setback from the southern property line.

The applicant has submitted a revised variance request to construct a 34' x 46' garage and garden shed in the same configuration as the initial request. The revised building plan shows the structure as 8 feet wider but 4 feet shorter than the initial application. The proposed building would be moved slightly to the east and north, and encroach into the shoreland setback of 150' a few feet deeper than the original application. The applicant has stated that this design will allow the driveway to be narrowed to match the existing driveway to minimize runoff and maximize lawn area. The applicant's mitigation plan is proposing drain tile on the south side of the garage to accommodate drainage from the trench drain on the west side of the garage and into a surface swale on the east side (back of building), and gutters running along the north side of the structure to the swale. The property is forested and has existing ground cover between the garage and Tischer Creek.

Staff recommends approval of the variance with the recommended conditions noted above.

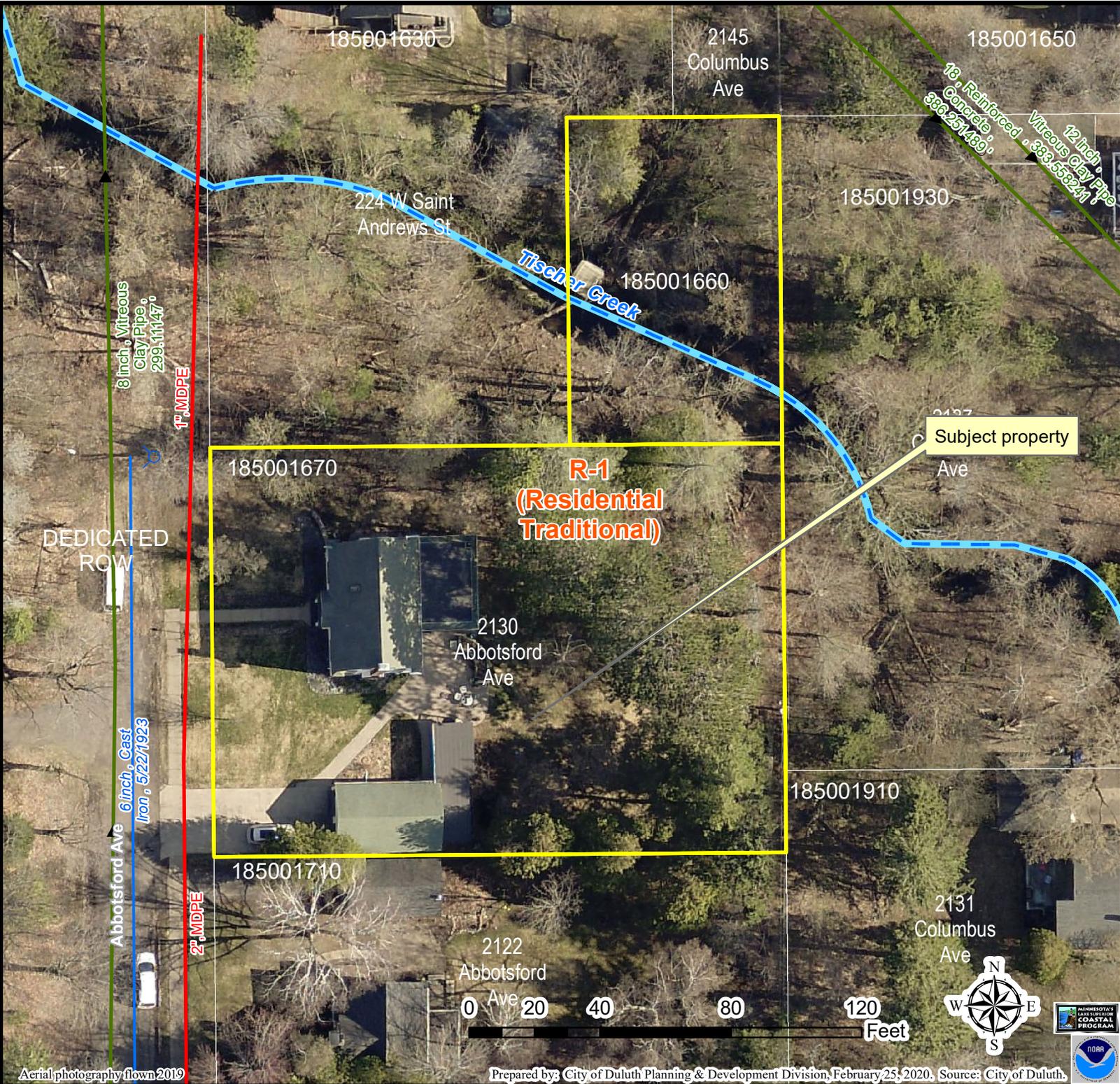


PL 20-060
Area map

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
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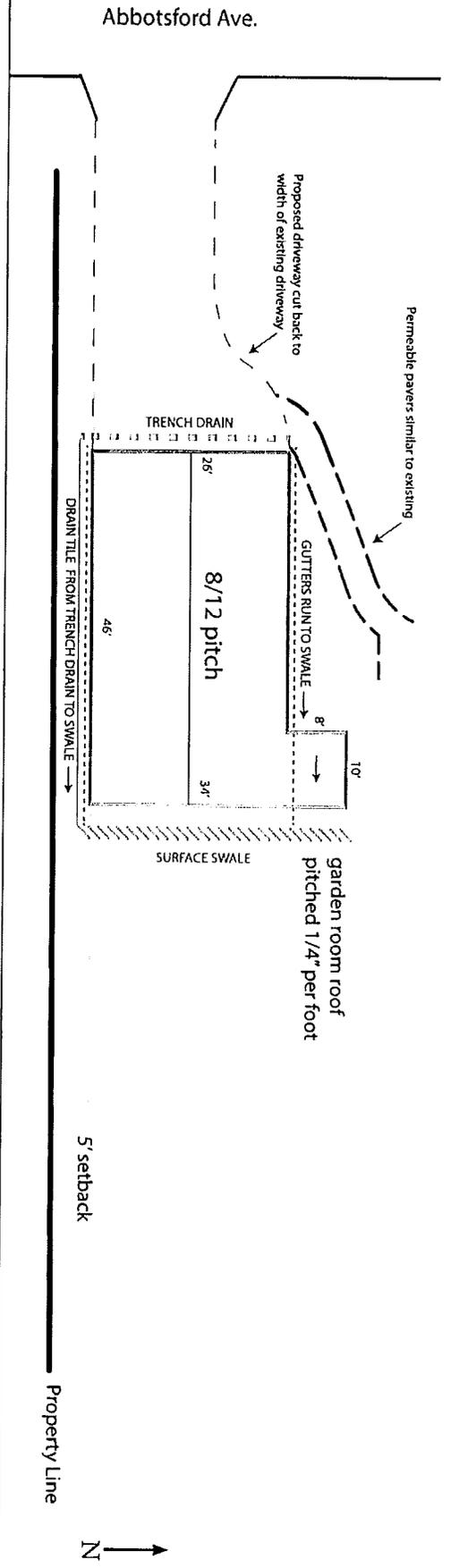
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Aerial photography flown 2019

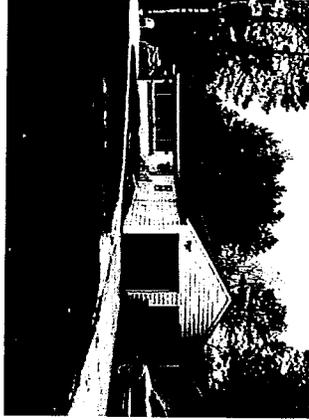


PROPOSED DRAINAGE PLAN



EXISTING CONDITIONS

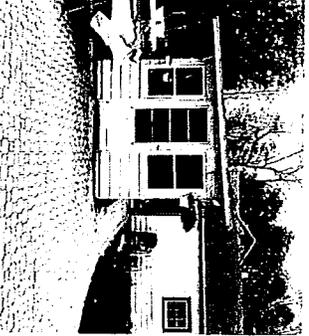
View looking east from street



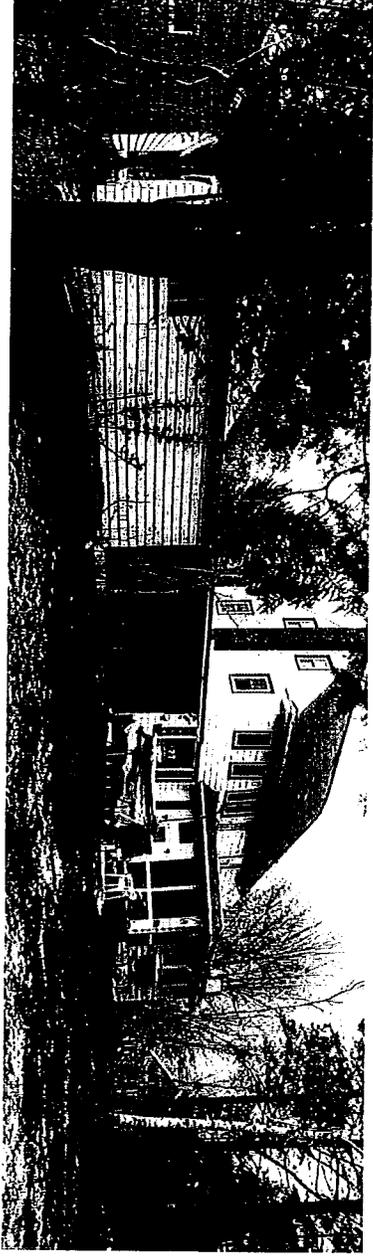
View looking north-east from garage showing existing permeable pavers



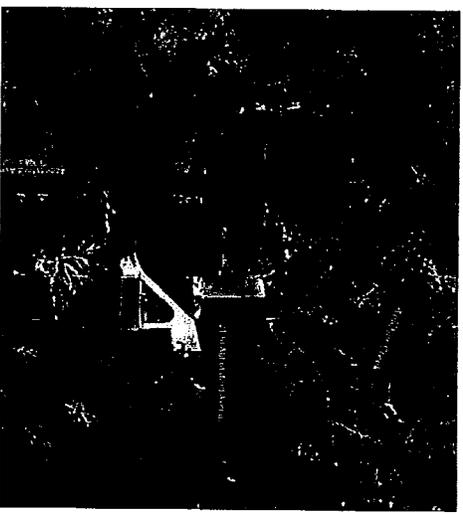
View of garden room and garage looking south from existing patio of permeable pavers



View looking north-west at back of garage and house



Aerial view existing conditions





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File Number	PL 20-060	Contact	John Kelley, jkelly@duluthmn.gov	
Type	Variance – Shoreland structure setback	Planning Commission Date	July 14, 2020	
Deadline for Action	Application Date	May 21, 2020	60 Days	July 20, 2020
	Date Extension Letter Mailed	March 25, 2020	120 Days	September 18, 2020
Location of Subject	2130 Abbotsford Avenue			
Applicant	Leonore Baeumier	Contact		
Agent		Contact		
Legal Description	See attached			
Site Visit Date	June 7, 2020	Sign Notice Date	June 30, 2020	
Neighbor Letter Date	June 30, 2020	Number of Letters Sent	24	

Proposal

The applicant is seeking a variance to remove an existing garage and construct a new garage of similar size and configuration within the 150' shoreland setback of Tischer Creek.

Recommendation

Staff are recommending approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Single Family Homes	Traditional Neighborhood
North	R-1	Single Family Homes	Traditional Neighborhood/Open Space
South	R-1	Single Family Homes	Traditional Neighborhood
East	R-1	Single Family Homes	Traditional Neighborhood/Open Space
West	R-1	Single Family Homes	Traditional Neighborhood

Summary of Code Requirements

Sec. 50-37.9. B – Variance Procedures. “The Planning Commission shall...make a decision on the application based on the criteria in subsections 50-37.9. C – M...”

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 or undue hardship. 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.

Sec. 50-37.9.L – Standards for variances in Shorelands: No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D or results in adverse consequences to the environment. Variances shall include a requirement for the applicant to mitigate the impacts of the variance on shoreland areas.

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

Governing Principle #1 - Reuse of previously developed lands, including adaptive reuse of existing building stock and historic resources, directs new investment to sites which have the potential to perform at a higher level than their current state. This strengthens neighborhoods and is preferred to a dispersed development pattern with associated alteration of natural landscapes and extensions of public services. Site preparation or building modification costs are offset by savings in existing public infrastructure such as streets and utilities, and transit, fire, and police services.

The applicant is proposing to construct the new garage in the general area of the existing structure location.

Governing Principle 5 – Promote reinvestment in neighborhoods through land use and transportation that foster neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the neighborhood's

The homeowner will be reinvesting in their home in the Hunters Park neighborhood by constructing a new garage to replace a very old structure.

Future Land Use, Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home businesses.

History:

House constructed in 1923

Garage constructed in 1948

Review and Discussion Items

- 1) The applicant's existing garage is in poor condition with wall and floor cracks resulting from frost heaving. The applicant has stated the current garage needs to be upgraded to be safe and accessible for the elderly owner.
- 2) The applicant's current 20 foot wide by 32 foot deep garage was constructed in 1948 and has deteriorated to the point that the applicant needs to construct a new garage. There is an 8' x 32' garden shed attached to the east end of the existing garage. The applicant is proposing to remove both and replace it with a 26 foot wide by 50 foot deep garage in the same configuration. The new garage will be approximately 10 feet longer the existing structure and inclusive of a new 8' X 10' garden shed. The proposed structure appears to be encroaching approximately 30' to 40' into the 150' shoreland setback.
- 3) The garage was constructed prior to the adoption of the UDC shoreland setback requirements. Due to the proximity of the garage to Tischer Creek, it's classified as a Coldwater River and requires a 150' setback from the creek's Ordinary High Water Level (OHWL). Since the garage is within the 150' shoreland, a variance to shoreland setback standards is required to construct a structure/garage.
- 4) The current garage also does not meet side yard setback requirements for accessory structures as it straddles the southern property line adjacent to the neighbor's garage. The applicant is proposing a 5-foot setback from the southern property line.
- 5) The applicant is proposing a reasonable use of the site consisting of garage being built to be safe and accessible for the elderly owner and constructed in the general area of the existing structure.
- 6) The proposal will not alter the essential character of the neighborhood as adjacent homes and garages are in proximity to or within to the shoreland setback from Tischer Creek.
- 7) Section 50-37.9.L of the UDC requires mitigation for shoreland variances; the applicant is proposing drain tile via a slot drain on the south side of the garage to a surface drainage swale on the west side (back of building), a trench drain on the west side and gutters running along the north side to the swale. The property is forested and has existing ground cover between the garage and Tischer Creek.
- 8) No other public, private or City comments were received.
- 9) 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 Planning Commission grant the Variance with the following conditions:

- 1) The project be limited to, constructed, and maintained based on the site plan and drainage plan submitted with the application.
- 2) 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

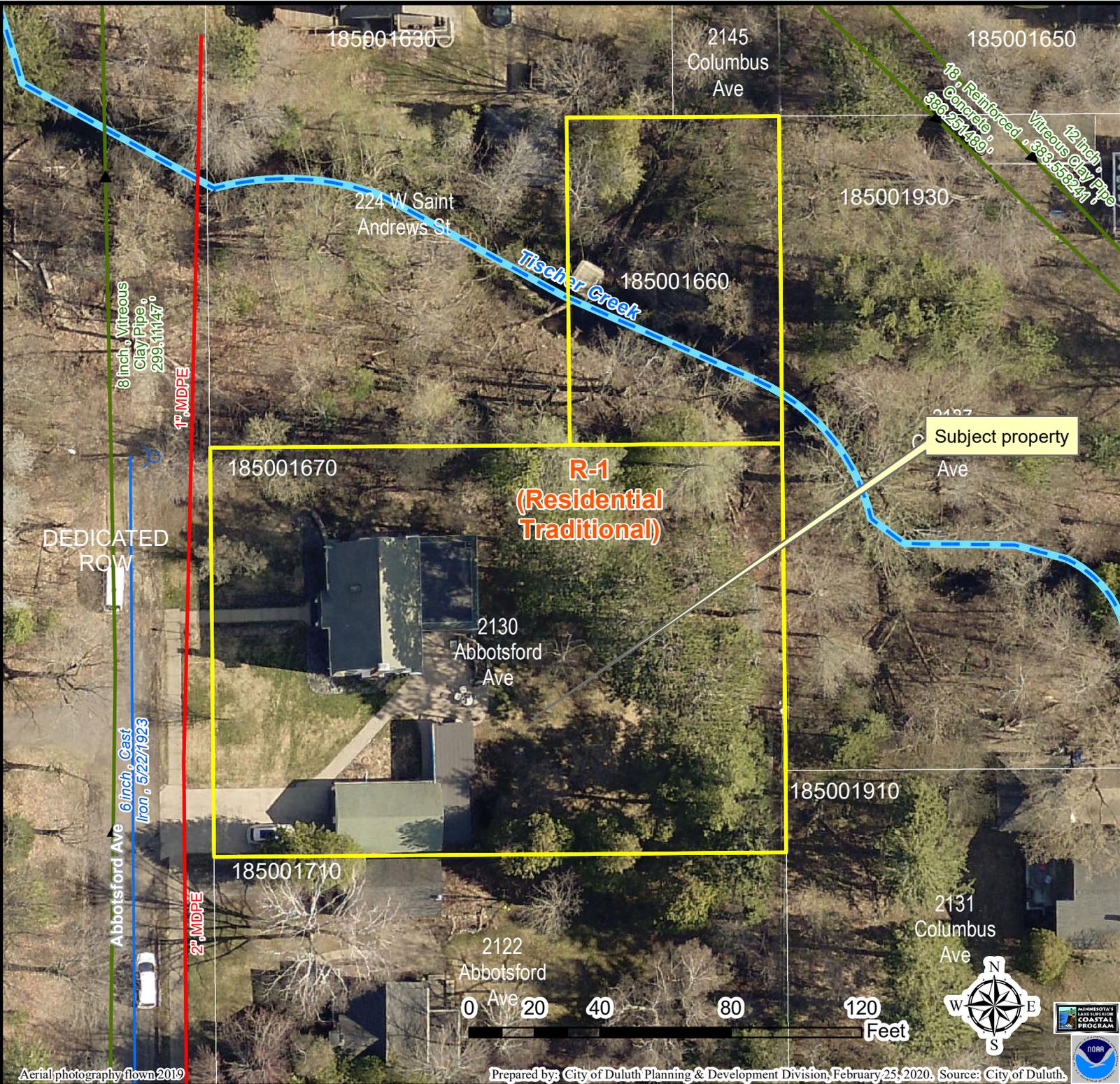


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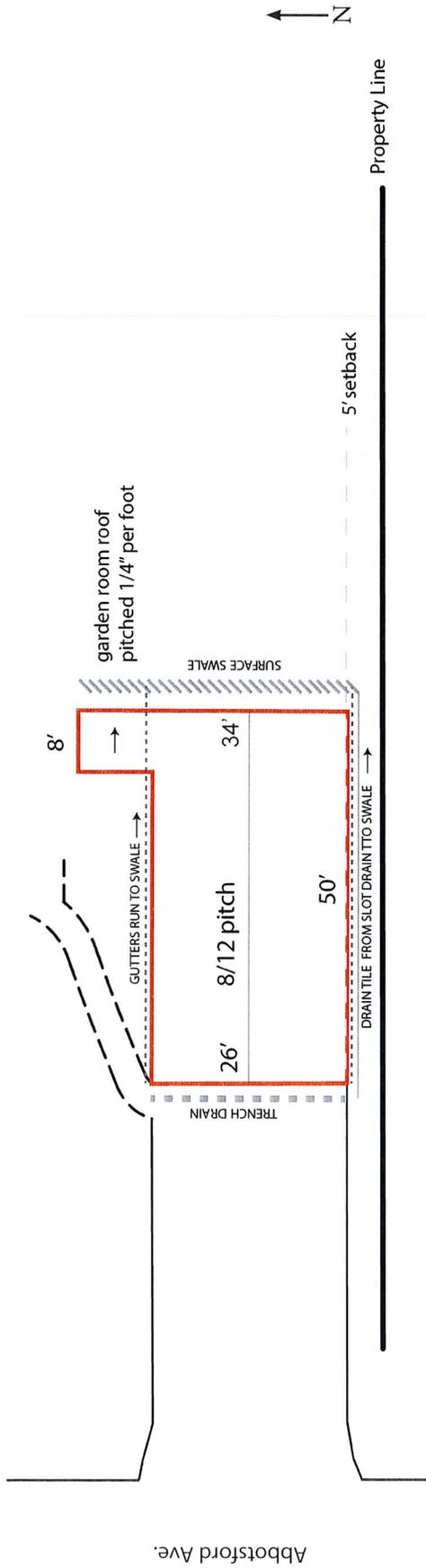


Aerial photography flown 2019



Prepared by: City of Duluth Planning & Development Division, February 25, 2020. Source: City of Duluth.

PROPOSED DRAINAGE PLAN



EXISTING CONDITIONS

View looking east from street



View looking north-east from garage



View looking south from patio



Aerial view existing conditions



View looking north-west at back of garage and house





Boundary and Site Survey for Lots 5 & 6, & North 1/2 of Lot 7, Block 14
 in the plat of GLEN AVON THIRD DIVISION OF DULUTH
 City of Duluth, St. Louis County, Minnesota
 Parcel No. 010-1850-01660 & 01670
 Leonore Bauml
 2130 Abbotsford Avenue
 Duluth, Minnesota 55803

NAME: Anthony Lueck
 LICENSE NO.: 24587
 LICENSE TYPE: Boundary and Site Survey
 LICENSE EXPIRES: 12/31/2020
 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 SURVEYOR UNDER THE
 LAWS OF THE STATE OF MISSOURI.

