



**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 19-101	<b>Contact</b>	John Kelley
<b>Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	August 13, 2019
<b>Deadline for Action</b>	<b>Application Date</b>	July 9, 2019*	<b>60 Days</b>
	<b>Date Extension Letter Mailed</b>	July 18, 2019	<b>120 Days</b>
<b>Location of Subject</b>	Approx. 4609 Grand Avenue (north side of Grand Avenue if front of 4609 Grand Ave.)		
<b>Applicant</b>	Cooper Industries, LLC/Eaton Corporation	<b>Contact</b>	Jeff Tracy
<b>Agent</b>	Geosyntec	<b>Contact</b>	Jeff Tracy
<b>Legal Description</b>	See Attached		
<b>Site Visit Date</b>	August 2, 2019	<b>Sign Notice Date</b>	June 25, 2019
<b>Neighbor Letter Date</b>	N/A	<b>Number of Letters Sent</b>	N/A

### Proposal

The applicant is seeking a concurrent use permit to install, maintain, and sample a groundwater monitoring well associated with the former Diamond Tool and Horseshoe Site.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-B	Commercial	Neighborhood Commercial
<b>North</b>	MU-C	Residential	Trad. Nghbhd/Neighborhood Commercial
<b>South</b>	MU-C	Commercial	Neighborhood Commercial
<b>East</b>	MU-B	Commercial	Neighborhood Commercial
<b>West</b>	R-1	Commercial	Gen Mixed Use/Neighborhood Commercial

### 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. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions;
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):**

Principle #5 - Promote reinvestment in neighborhoods.

Duluth is strongly defined by its neighborhoods. This system should be supported 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 character.

Governing Principle #8 - Encourage mix of activities, uses and densities

Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide.

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

Initiate land use, site design, transportation, building design, and materials policies which reduce consumption of finite resources, generation of solid waste, and introduction of toxic materials to land, air, or waters. Also implement resiliency in design and operation with City systems and infrastructure that serve both public and private land uses.

### **Future Land Use**

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.

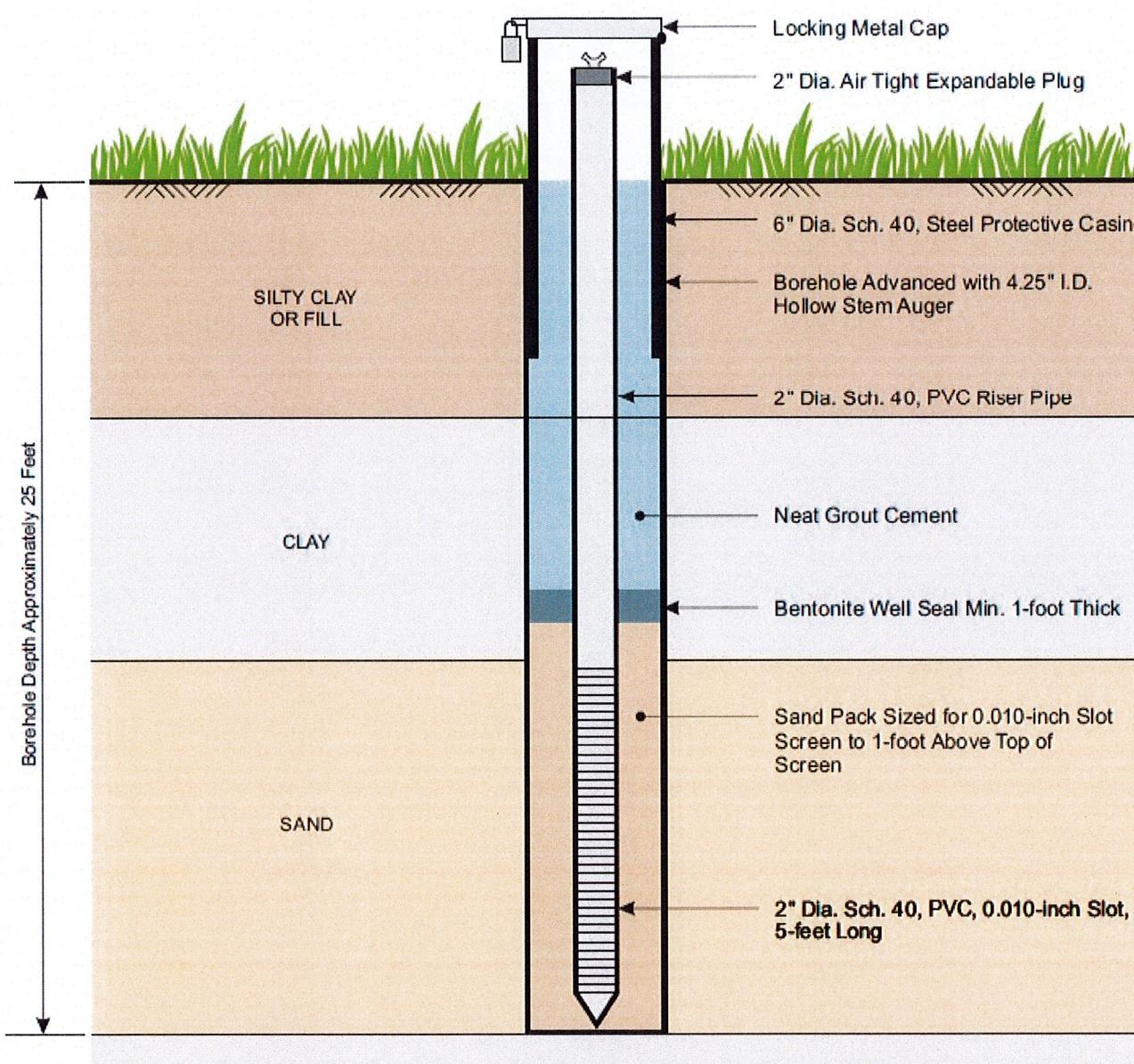
### **Review and Discussion Items**

- 1) The applicant is seeking a concurrent use permit to permit to install, maintain, and sample a groundwater monitoring well associated with the former Diamond Tool and Horseshoe Site.
- 2) The monitoring well will be located within the Grand Avenue right-of-way (ROW) west of the existing sidewalk and on a grassy area between the sidewalk and edge of the ROW. The well protective casing will be elevated above grade level. 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.
- 3) Concurrent use permits are approved by the City Council via an ordinance. Unlike street right-of-way vacations, concurrent use permits are not recorded at with St. Louis County as they are voidable agreements between the City and property owners.
- 4) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against all occurrences in the right-of-way. Other protections for the city and the public are typically included in the ordinance that is submitted for the City Council's review. The applicant is working to comply with the insurance requirements.
- 5) The City Engineering Department has stated that they are okay with the monitoring well concurrent use permit as proposed. No comments were received from the public or other government agencies at the time this staff report was written.
- 6) Per UDC Sec. 50-37.1.N, approved concurrent use permits lapse if the project or activity authorized by the permit has not begun within one-year.

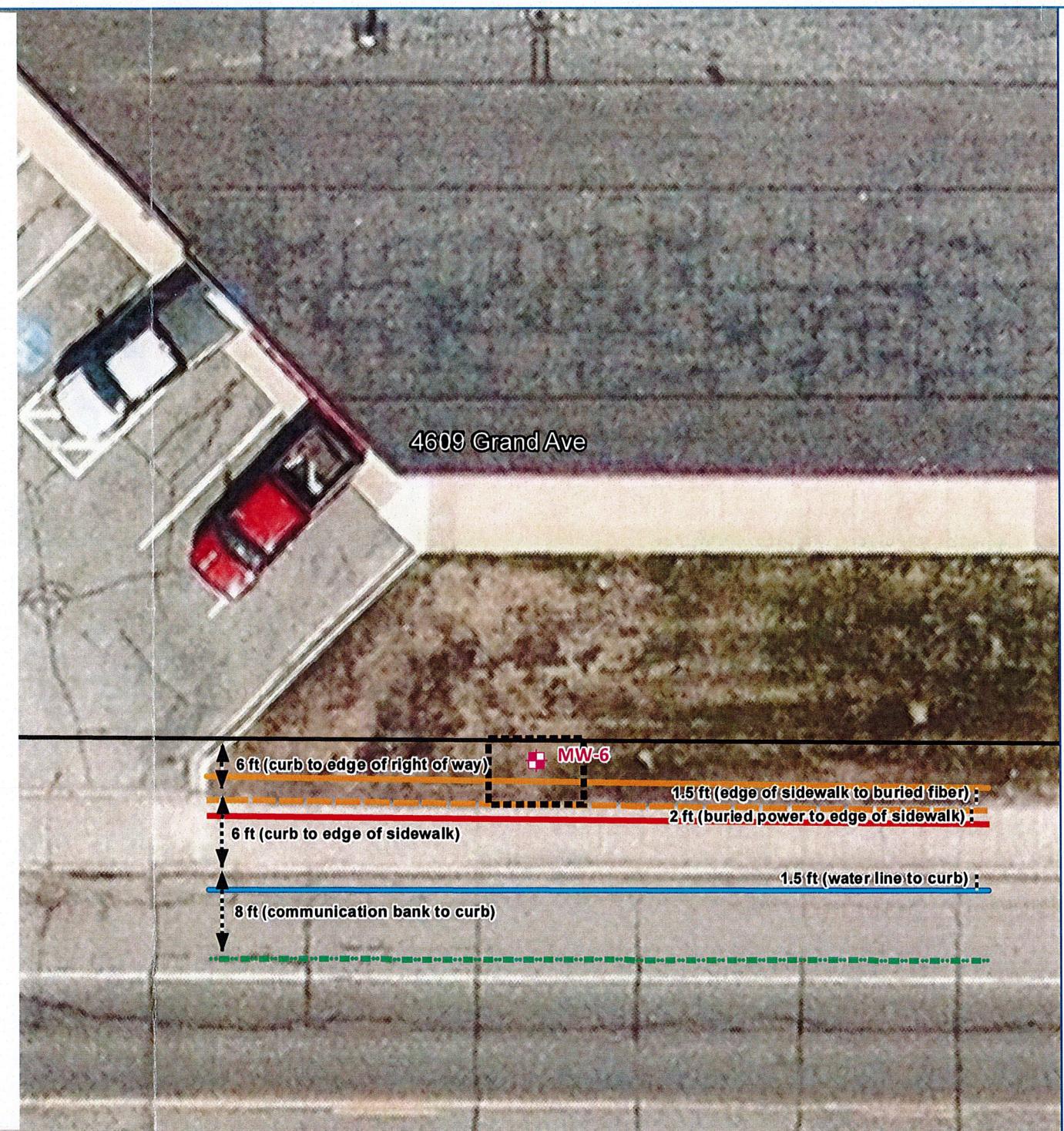
**Staff Recommendation**

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

- 1) Applicant shall construct and 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 must remove the obstructions at the applicant's expense if directed to by the City with appropriate notice.
- 4) The structure will need to comply with any applicable engineering standards, or building or fire code requirements.
- 5) 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.

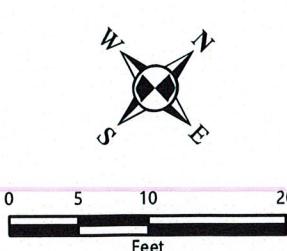


Conceptual Cross Section of Proposed Groundwater Monitoring Well



- Proposed Ground Monitoring Well
- Buried Fiber Line #1
- Buried Fiber Line #2
- Buried Power Line
- Communication Bank
- Water Line
- St. Louis County Parcel Boundary
- Proposed Area of Concurrent use of Street

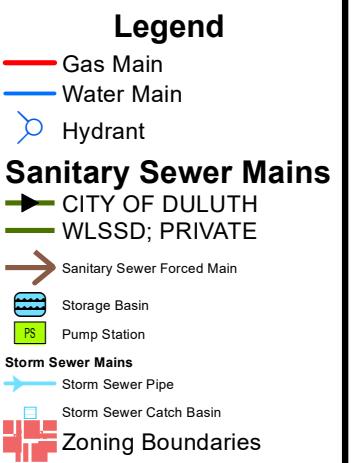
Note: All locations approximate, see survey for locations and dimensions.



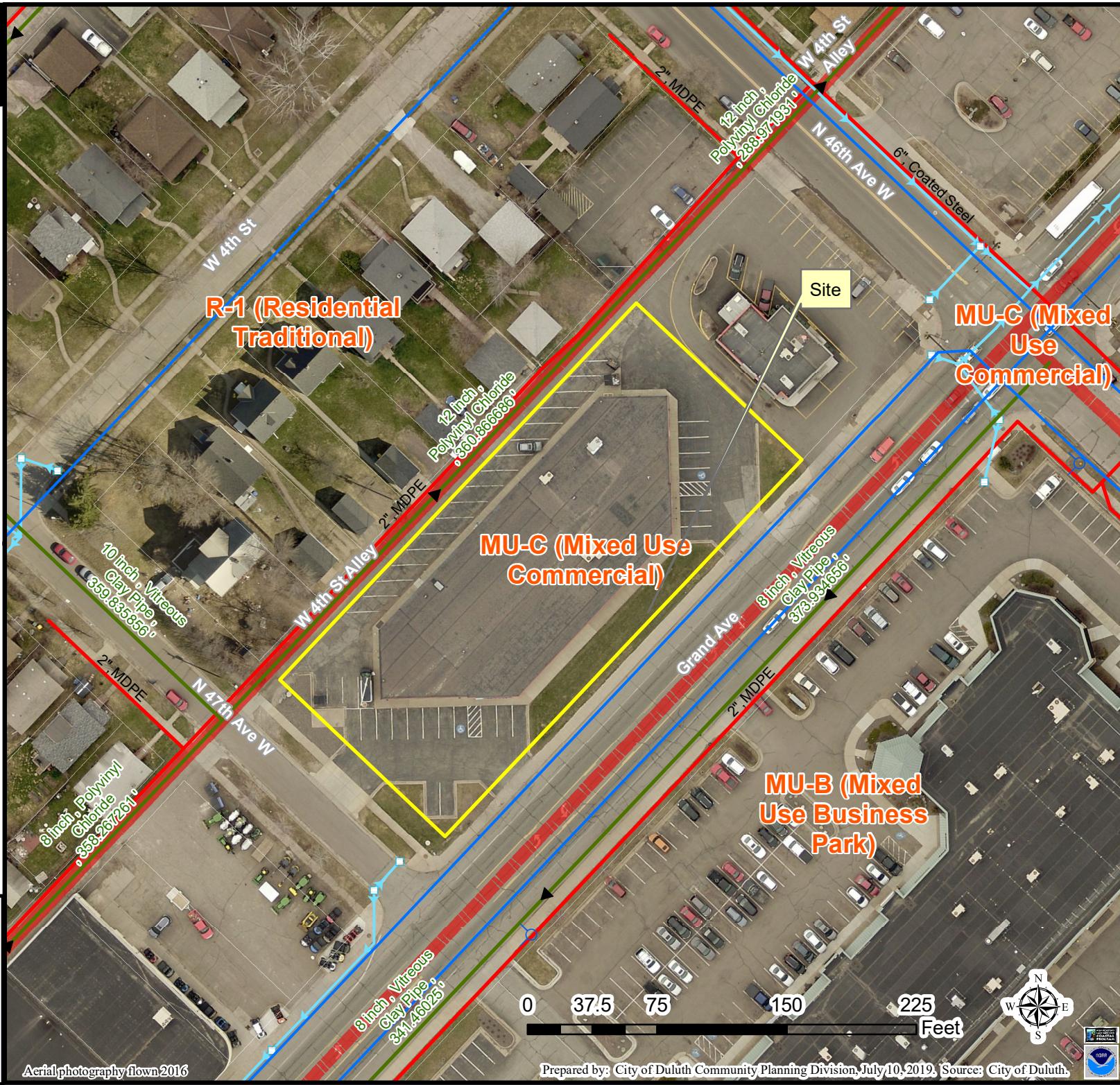
PROPOSED WELL LOCATION  
Former Diamond Tool Facility  
Duluth, Minnesota

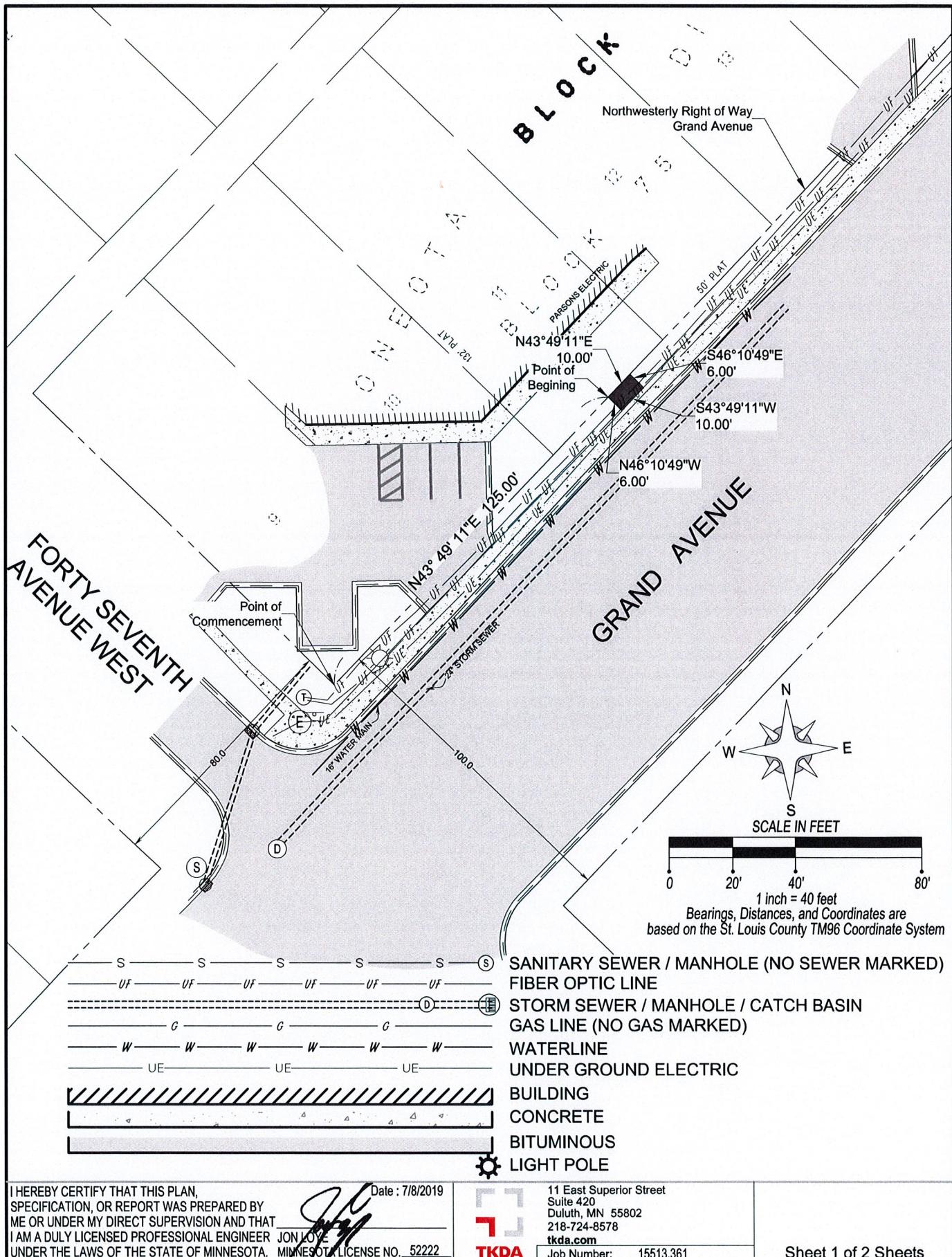


PL 19-101  
Concurrent Use Permit



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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 JON LOVE UNDER THE LAWS OF THE STATE OF MINNESOTA. MINNESOTA LICENSE NO. 52222 Date : 7/8/2019

Date : 7/8/2019



11 East Superior Street  
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218-724-8578  
**tkda.com**  
Job Number: 15513

Job Number: 15513.361

Sheet 1 of 2 Sheets

A description for a parcel of land for a concurrent use permit for a groundwater monitoring well in a public right of way.

That part of Grand Avenue (platted as Sixth Street) as platted in the plat of ONEOTA described as follows:

Commencing at the southwest corner of Lot 9, Block 75, ONEOTA: thence N43° 49' 11" E along the northwesterly Right of Way of said Grand Avenue, 125.00 feet to the point of beginning of the parcel to be described; thence N43° 49' 11" E, continuing along the northwesterly Right of Way of said Grand Avenue, 10.00 feet; thence S46° 10' 49" E, 6.00 feet; thence S43° 49' 11" W, 10.00 feet; thence N46° 10' 49" W, 6.00 feet to the point of beginning and there terminating.

I HEREBY CERTIFY THAT THIS PLAN,  
SPECIFICATION, OR REPORT WAS PREPARED BY  
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Sheet 2 of 2 Sheets

## **John Kelley**

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**From:** Peggy Billings  
**Sent:** Tuesday, July 23, 2019 8:25 AM  
**To:** John Kelley  
**Subject:** Monitoring Well concurrent use permit

John,

All parties are okay with the monitoring well concurrent use permit as proposed, no changes requested.

*Peggy Billings*

Engineering Technician  
411 W 1<sup>st</sup> St, Room 211  
Duluth, MN 55802  
218-730-5068