



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 21-145	Contact	Adam Fulton
Type	Variance – Clustering requirements	Planning Commission Date	September 28, 2021
Deadline for Action	Application Date	August 19, 2021	60 Days October 18, 2021
	Date Extension Letter Mailed	Sept. 2, 2021	120 Days December 17, 2021
Location of Subject	Northwest of intersection of Skyline Parkway and Hwy 2 (PIN 010-2741-01076)		
Applicant	Cynthia and Rick Crawford, owners	Contact	Available, on file
Agent	Northland Consulting Engineers, SAS Landscape Architects, Alta Surveyors	Contact	Available, on file
Legal Description	See attached.		
Site Visit Date	September 9, 2021	Sign Notice Date	September 14, 2021
Neighbor Letter Date	September 2, 2021	Number of Letters Sent	7

Proposal: Applicant is requesting a variance to provide exemption from the clustering requirements of UDC Section 50-33.5 in the RR-1 zoning district.

Recommended Action: Staff recommends approval, subject to the conditions of this report.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	RR-1	Vacant	Low density neighborhood
North	R-1	Rural residential	Low density neighborhood
South	RR-1	Vacant	Low density neighborhood
East	RR-1	Vacant	Open space
West	R-1	Mobile home park	Open space, Traditional neighborhood

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 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 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. 50-33.5 – Specific layout standards: When (i) a tract or parcel of land in the R-C or RR-1 districts, or (ii) a parcel of land in the RR-2 districts with sewer service, is proposed for platting to create five or more residential building lots, those lots shall be clustered as described in this Section in order to retain the open character of the land and reduce the amount of the tract occupied by building sites;

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

Governing Principle #3: Support existing economic base. Supporting Duluth's existing economic foundation maintains jobs, tax base, and opportunity. Economic activity with specific location requirements may be subject to displacement or site competition with changes in real estate values. This traditional economic activity faces change as a result of global economic patterns, changing markets, new regulation, and aging of extensive infrastructure. Nevertheless, fundamentals remain and the economic contribution, sometimes taken for granted, is significant.

Site History: The site was rezoned in 2017 (PL 17-138) from R-1 to RR-1. Prior to this city-initiated rezoning, the R-1 zoning for the site did not require clustering of housing for the property.

Review and Discussion Items:

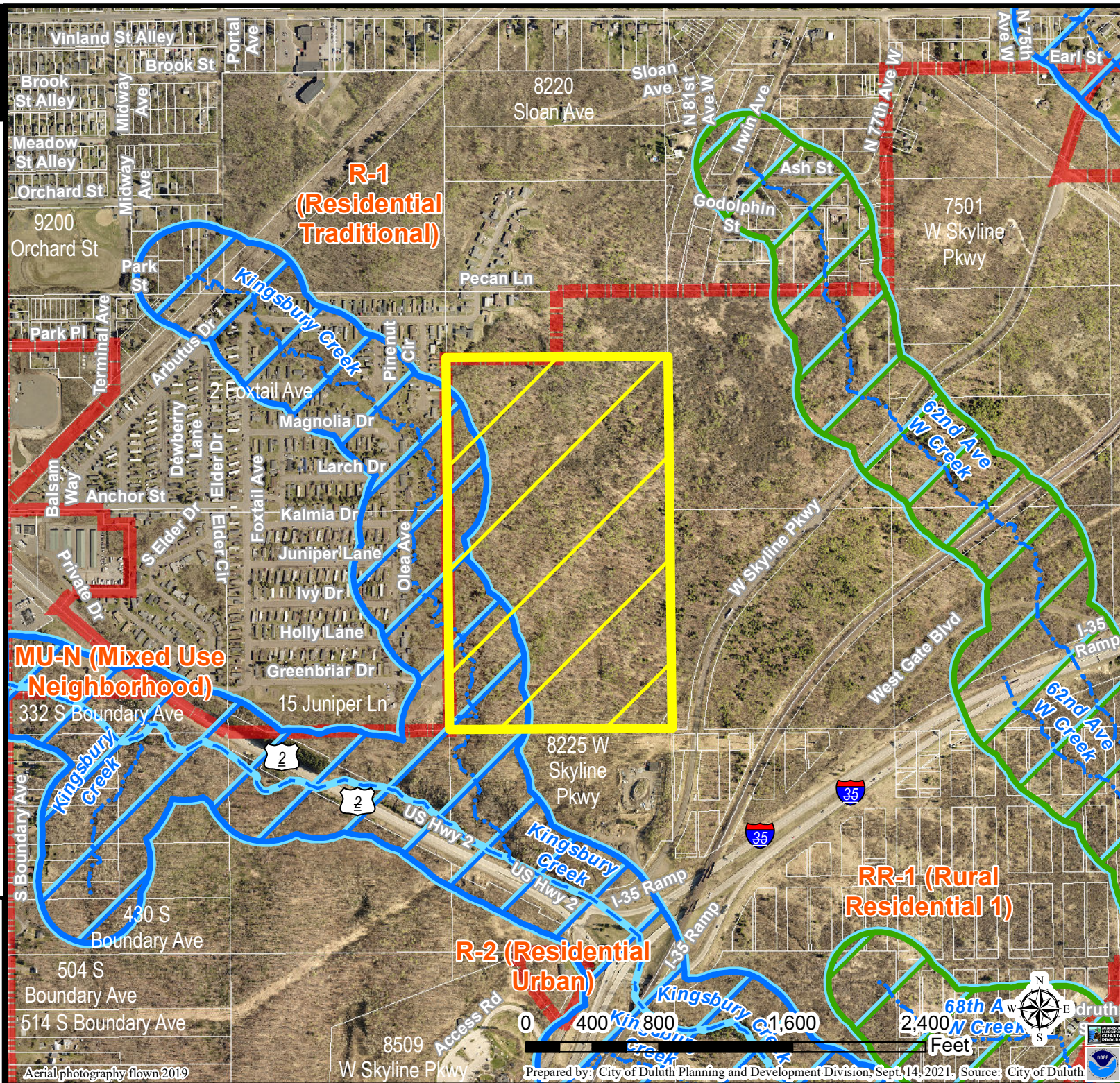
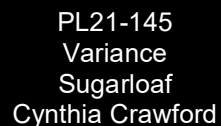
Staff finds that:

- 1) The applicant asserts that the use of cluster requirements of the UDC would result in the construction of additional roadway surface, additional clearing of trees and modifications to native vegetation, and additional impacts to wetlands and underlying site hydrology.
- 2) The cluster requirements are established to result in reductions of site impacts, so if the use of those would result in greater site impacts than would be achieved through a non-clustered development, the cluster requirements would impede the reasonable use of the site for development, and would be inconsistent with the policy directives of the comprehensive plan.
- 3) The proposed development is a reasonable use of land consistent with the surrounding built environment. The proposed variance is reasonable in this context.
- 4) The installation of public utilities such as sewer and water, which would more practically allow for clustering on the site, is not feasible due to the long distance the site is located from such utilities, the long term cost of funding potential pumping stations, the practicability of installing such utilities given topography, bedrock, and the potential for greater environmental impacts to wetlands to allow for installation of those utilities.
- 5) The recent city-initiated rezoning created a practical difficulty for the property owners, resulting in alternative UDC regulations that necessitated unexpected modifications to site layout and design.
- 6) The necessity to establish sites for two potential septic systems on each lot constitutes a practical difficulty resulting from other governmental regulations established to protect other environmental attributes (contamination due to failed septic systems). The lot size established in the clustering requirements is not practical to provide for sites for two septic systems given the presence of bedrock and wetlands on the site.
- 7) The underlying surface geology of bedrock and wetlands results in a need for a greater level of mass grading to support clustering. Mass grading of this site, which would be necessary for clustering and would be located at the south end of the site, is undesirable as it could negatively impact the Kingsbury Creek watershed.
- 8) The proposal will not alter the essential character of the neighborhood. The development is consistent with existing character of the area, and conforms to other requirements of the RR-1 zoning district. It provides for a lower level of traffic impacts to Skyline Parkway and its intersection with Highway 2.
- 9) No public, agency, or City comments have been received.
- 10) 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:

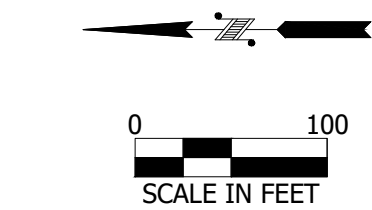
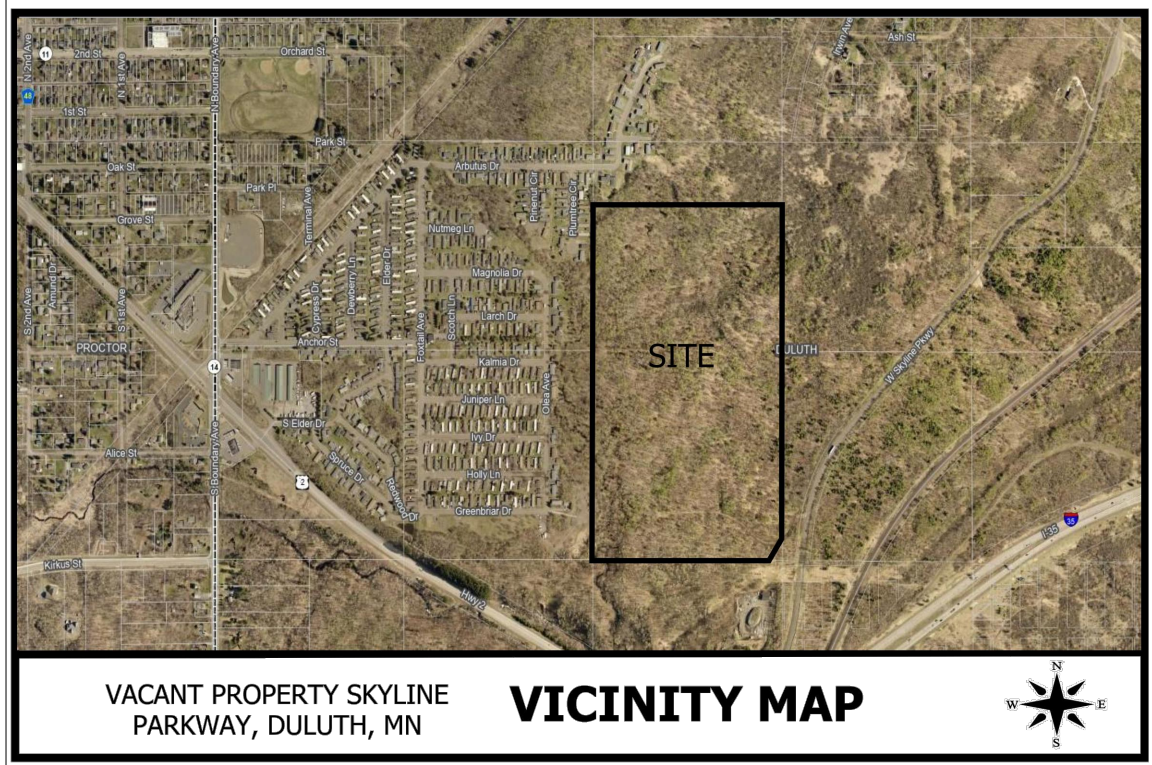
Based on the above findings, Staff recommends that Planning Commission grant the variance to provide an exemption to the development from the requirements of UDC Section 50-33.5 related to clustering, with the following conditions:

- 1) The project be limited to, constructed, and maintained based on the site plan submitted with the application, including Planning Files 21-144 and 21-145.
- 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.



PRELIMINARY PLAT OF SUGARLOAF

LOCATED IN PART OF SEC. 11, TWP.49 N, RGE. 15W ST. LOUIS COUNTY MINNESOTA



OWNER/DEVELOPER
RICK & CYNTHIA CRAWFORD
28 EAST PINE MOUNTAIN RD.
GRAND MARAIS, MN 55604

CIVIL ENGINEER
NORTHLAND CONSULTING ENGINEERS L.L.P.
102 S 21ST AVENUE WEST, SUITE 1
DULUTH, MN 55806
PHONE (218) 727-5995
EMAIL info@nce-duluth.com

SURVEYOR
ALTA LAND SURVEY COMPANY
DAVID R. EVANSON, MN STATE REG. NO. 49505
P.O. BOX 161138
102 S 21ST AVENUE WEST, SUITE 4
DULUTH, MN 55816-1138
PHONE (218) 727-5211
EMAIL info@altasurveyduluth.com
PRELIMINARY PLAT COMPLETED AUGUST 2, 2021

LEGAL DESCRIPTION FOR PRELIMINARY PLAT PURPOSES ONLY
NW 1/4 of SE 1/4 EXCEPT the Nly 400 feet thereof Section 11 Township 49 North Range 15 West of the Fourth Principal Meridian

AND
SW 1/4 of SE 1/4 Section 11 Township 49 North Range 15 West of the Fourth Principal Meridian EXCEPT that part described as follows:
Commencing at the SE corner of said SW 1/4 of SE 1/4; thence North along the Ely line of said SW 1/4 of SE 1/4 a distance of 137 feet, more or less, to a point; thence SW 1/4 in a straight line to a point on the Sly boundary line of said SW 1/4 of SE 1/4 distant 84.85 feet West of the SE corner of said SW 1/4 of SE 1/4; thence Ely along the Sly line of said SW 1/4 of SE 1/4 a distance of 84.85 feet to the SE corner of said SW 1/4 of SE 1/4 which is the point of beginning and ending, as set out in Book 625 of Deeds page 273.

AREA SUMMARY	
TOTAL AREA	68.22 AC
TOTAL LOT AREA	68.22 AC
TOTAL ROAD EASEMENT AREA	4.39 AC
NUMBER OF LOTS	13
NUMBER OF BLOCKS	1
NUMBER OF OUTLOTS	0
LARGEST LOT IN SQ. FEET	288,295 SQ. FEET
SMALLEST LOT IN SQ. FEET	217,657 SQ. FEET

- ### LEGEND
- BITUMINOUS SURFACE
 - PROPOSED ROAD & DRIVEWAY S
 - PROPOSED WET LAND FILL AREA
 - EXPOSED LEDGE ROCK PER OTHERS
 - WET LAND PER OTHERS
 - 4,800 Sq. Feet PROPOSED BUILDING PAD
 - C/L OF CREEK PER OTHERS
 - CREEK BANK PER OTHERS
 - TREE/BRUSH LINE PER OTHERS
 - PROPOSED SEPTIC LINE
 - DITCH/SWALE
 - SETBACK LINE
 - WET LAND LINE PER OTHERS
 - SECTION SUBDIVISION LINE
 - RIGHT OF WAY LINE
 - PROPOSED EASEMENT LINE
 - BOUNDARY LINE AS SURVEYED
 - PROPOSED PARCEL LINE
 - ALUM CAPPED MONUMENT
 - FOUND T-STAKE MONUMENT
 - FOUND STONE MONUMENT
 - SET CAPPED REBAR RLS. NO. 49505
 - PROPOSED WELL LOCATION

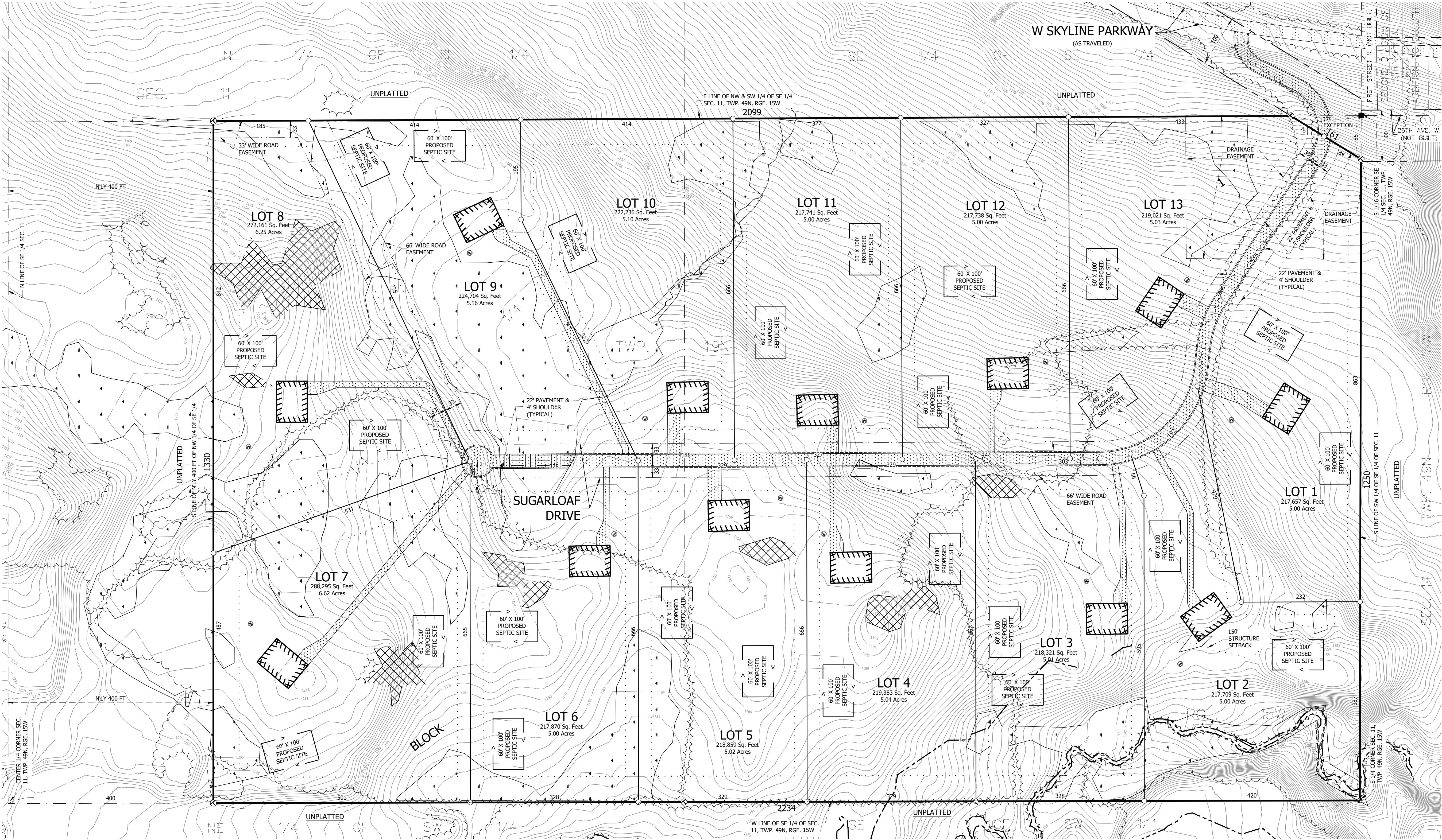
- ### SURVEYOR'S NOTES
- THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
 - BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1995. (NAD 83 2011)
 - NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.
 - CONTOUR DATA SHOWN HEREON WAS DERIVED FROM LIDAR DATA PROVIDED BY THE TOWNOR. IT IS RECOMMENDED ON THE GROUND MEASUREMENTS BE INCORPORATED INTO ANY AREA OF PROPOSED DESIGN AND CONSTRUCTION.
 - EXISTING FEATURES SHOWN HEREON, WERE PROVIDED BY OTHERS.

ZONING AND BUILDING SETBACKS PER THE CITY OF DULUTH
CURRENTLY ZONED- RR-1 RESIDENTIAL RURAL. SEE TABLE 50-14.3 FOR DISTRICT DIMENSIONAL STANDARDS.

FLOOD ZONE INFORMATION
BUILDINGS LOCATED WITHIN ZONE C (AREAS MINIMAL FLOODING). PER FIRM FLOOD INSURANCE RATE MAP COMMUNITY-PANEL NUMBER 270421 0035 C, EFFECTIVE DATE: APRIL 2, 1982.

SITE ADDRESS
VACANT PROPERTY
PID NO. 010-2741-01076

ALTA
LAND SURVEY COMPANY
PHONE: (218) 727-5211
WWW.ALTLANDSURVEYDULUTH.COM





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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"):

City of Duluth UDC Section 50-33.5 - Clustered development in RR-1 when (5) or more lots developed, 50% unsubdivided

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 owner has a 68 acre parcel of land. By RR-1 standards with 5 acre lots the owner could have 13 lots. The UDC notes that when (5) or more lots are proposed to be subdivided that they shall be "clustered." By creating 2.5 acre lots and leaving the 50% of the lot subdivided, the development of this lot requires significantly more roadway to serve each platted parcel.
This results in additional clearing, wetland impacts and overall impervious surface to create the same number of lots.

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 owner has a 68 acre parcel of land. By RR-1 standards with 5 acre lots the owner could have 13 lots. The UDC notes that when (5) or more lots are proposed to be subdivided that they shall be "clustered." By creating 2.5 acre lots and leaving the 50% of the lot subdivided, the development of this lot requires significantly more roadway to serve each platted parcel.
This results in additional clearing, wetland impacts and overall impervious surface to create the same number of lots.

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:

These circumstances significantly reduce the developable area of the parcel. By allowing the variance the owner will have less public road impact, 5 acre minimum lot. are written in the UDC and were not created by the owner in any way.

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 lots will still meet the minimum standard lot dimensions in RR-1 of 5 acres lots. The single family homes will be constructed in a manner less dense than under the cluster requirement. Lots will be more disconnected creating more spacing for on site sewer treatment systems (septic mounds). Less overall disturbance of the property.

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:

The lot will still meet the minimum standard lot dimensions in RR-1 of 5 acres lots. The single family homes will be constructed in a manner less dense than under the cluster requirement. Traffic volumes will be low and will not impact the low volumes of traffic on Skyline Parkway. Access to freeway nearby. Fire truck turnaround provided at the cul de sac for any life safety traffic through subdivision.

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:

The lot will still meet the minimum standard lot dimensions in RR-1 of 5 acres lots. The single family homes will be constructed in a manner less dense than under the cluster requirement fitting in with the overall rural feel and open space that RR-1 is meant to maintain.

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: _____

Shoreland Zoning will affect multiple lots, 150' structure setback and 75' impervious setback will be met by each lot. Individual homes will be evaluated in detail at the time of building permit review.