



**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 22-146	<b>Contact</b>	Chris Lee, clee@duluthmn.gov	
<b>Type</b>	Variance – required driveway locations	<b>Planning Commission Date</b>	September 13, 2022	
<b>Deadline for Action</b>	<b>Application Date</b>	August 11, 2022	<b>60 Days</b>	October 10, 2022
	<b>Date Extension Letter Mailed</b>	August 19, 2022	<b>120 Days</b>	December 9, 2022
<b>Location of Subject</b>	925 East 4 <sup>th</sup> Street			
<b>Applicant</b>	Lunar Legacy, LLC	<b>Contact</b>	David Nelson	
<b>Agent</b>	Heirloom Property Management	<b>Contact</b>		
<b>Legal Description</b>	PIN: 010-3830-15150, 010-3830-15090, 010-3830-15070, 010-3830-15050,			
<b>Site Visit Date</b>	September 1, 2022	<b>Sign Notice Date</b>	August 30, 2022	
<b>Neighbor Letter Date</b>	August 31, 2022	<b>Number of Letters Sent</b>	73	

**Proposal**

A variance to allow a multi-family dwelling to be constructed that has two driveways in alternate locations from the requirements per UDC Section 50-22.

**Recommended Action:** Approve with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	F-6	Funeral Home	Neighborhood Mixed Use
<b>North</b>	R-1	Residential	Neighborhood Mixed Use
<b>South</b>	F-6	Mixed Use Retail	Neighborhood Mixed Use
<b>East</b>	P-1	Portland Square	Neighborhood Mixed Use
<b>West</b>	F-6	Multifamily	Neighborhood Mixed Use

**Summary of Code Requirements**

Sec. 50-22.12 – Parking Lot, Loading & Access – No driveway permitted if alley access is available; If no alley exists, 1 driveway permitted per frontage; 2 driveways may be permitted through (special exception) if frontage exceeds 200.

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 Comprehensive Plan.

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

General Principle 1: Reuse previously developed lands. 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.

Housing Policy 4 - Policy #4 – Improve the quality of the city’s housing stock and neighborhoods

Zoning – Mid-Rise Neighborhood Shopping Form District (F-6) - This district was created to respond to the commercial nodes present in the Central Hillside neighborhood Main Street Building II, Corridor Building II, and Cottage Commercial Building I provide flexibility in the style of commercial building, with the Cottage Commercial building type especially applicable when it’s located adjacent to residential development.

Future Land Use – Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live -work spaces. May include limited commercial - only space oriented to neighborhood or specialty retail markets.

**History:** The property was previously used as a funeral home. In 2022 the funeral home was purchased by the current owners who propose constructing housing on the site.

## Review and Discussion Items

Staff finds that:

1. Applicant is proposing to construct a 6-story multifamily structure with 121 residential units and 97 covered parking stalls.
2. In F-6, a Corridor II Building is required to have parking access from the alley when the alley is present. The applicant is proposing to have one driveway on East 4<sup>th</sup> St. and one on 10<sup>th</sup> Ave E.
3. The applicant states that the extreme topography makes it difficult to have a single driveway from the alley that can access two floors of parking. The slope on the subject property is 14 degrees from 4<sup>th</sup> St. to alley.
4. The applicant is proposing a reasonable use of the site by constructing a large multifamily structure.
5. The proposal is consistent with the Comprehensive Plan principles and strategies and UDC to increase the density of housing on high traffic corridors and reuse infill lots.
6. The need for a variance is caused by site constraints unique to this site and not caused by the applicant.
7. Granting the variance will not alter the essential character of the area as there are other properties that have had driveways from 4<sup>th</sup> Street only and do not have access from the alleyway.
8. The variance, if granted, will not impair an adequate supply of light or air because the buildings on adjacent properties.
9. The variance, if granted, will not increase congestion on public streets.
10. St Louis County. Public Works, as the controlling agency of this stretch of 4<sup>th</sup> Street, has approved an additional driveway.
11. The variance, if granted, will not increase fire danger as the Fire Department possesses equipment for fighting fires on structures of this size and larger.
12. Granting the variance is not expected to unreasonably diminish established property values in the area.
13. Granting the variance is not expected to impair the health, safety, or public welfare of inhabitants of the city due to factors identified above. The applicant is proposing a pedestrian warning system on E 4<sup>th</sup> St.
14. No comments from citizens, City staff, or any other entity were received regarding the application.
15. 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 allow a height of up to 40 feet for the properties listed in the legal description above, with the following conditions:

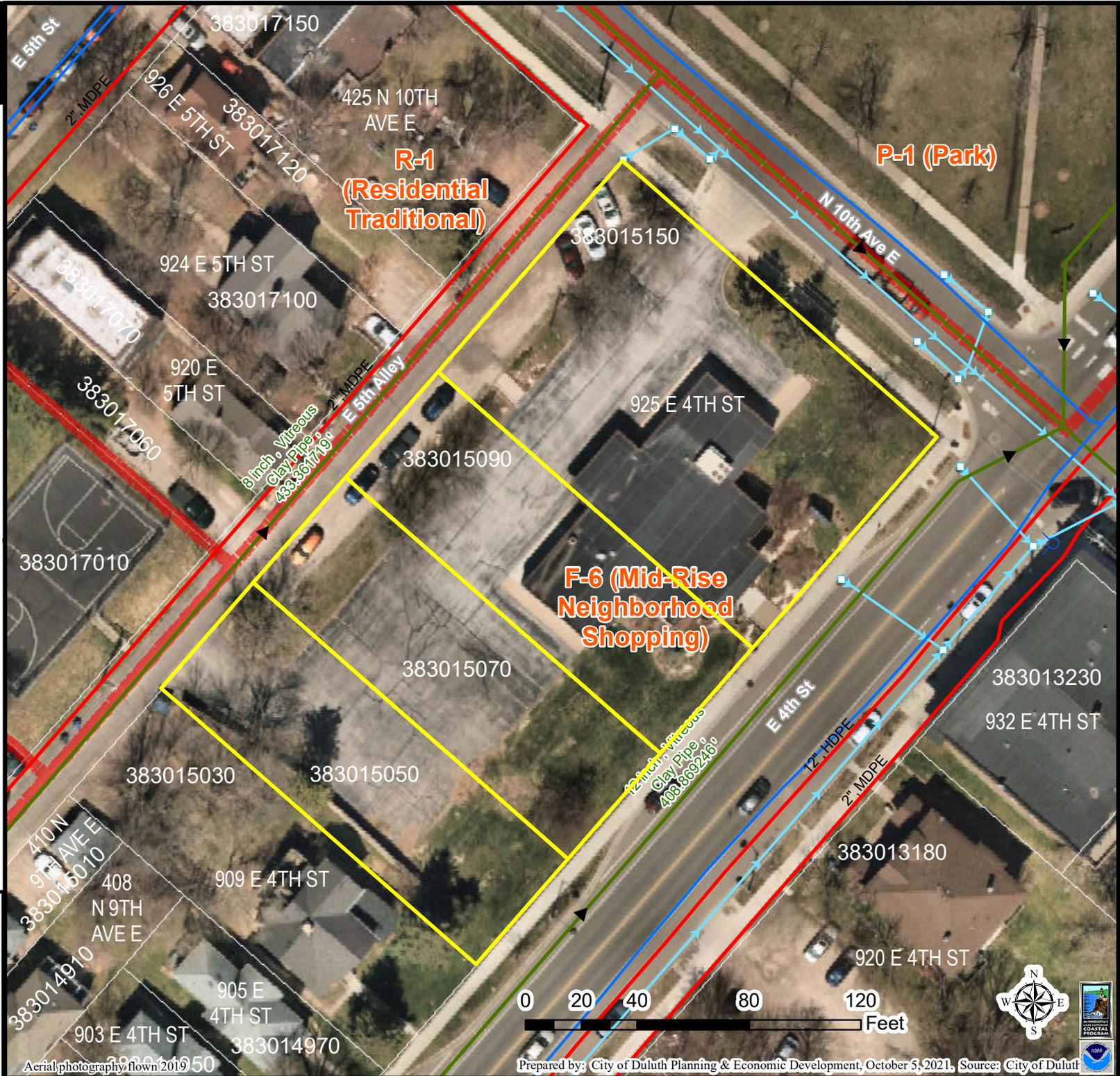
- 1) The project be limited to, constructed, and maintained based on the plans submitted with the application that shows the locations of the driveways.
- 2) A pedestrian warning system is installed to warn sidewalk users a vehicle is approaching.
- 3) Any alterations to the approved plans that do not 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.



PL22-146  
Variance  
925 E 4th St

**Legend**

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
  - CITY OF DULUTH
  - WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- PS Pump Station
- Storm Sewer Mains
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
- Zoning Boundaries

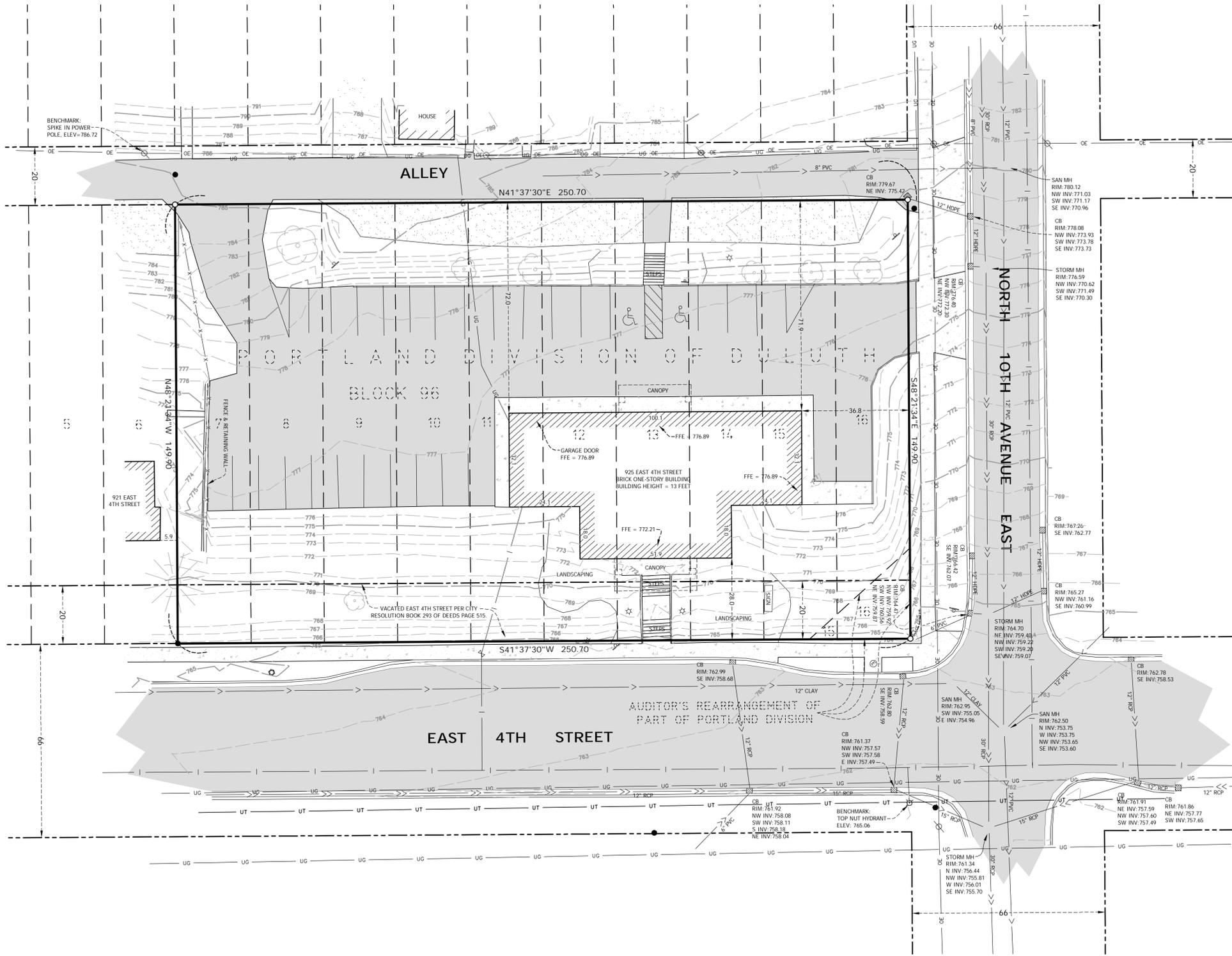


The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used 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, October 5, 2021, Source: City of Duluth

T:\Doran Architecture\22-067 Portland Square Duluth.dwg 8/12/2022 3:04 PM



Document No. 682534

**PROPERTY DESCRIPTION:**

Lots 7 through 16, inclusive, Block 96, PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota; and Lots 15 and 16, Block 96-1/2, AUDITOR'S RE-ARRANGEMENT OF PART OF PORTLAND DIVISION OF DULUTH, according to the recorded plat thereof, said St. Louis County; also a 20.00 foot wide strip lying on the southerly side of each of said Lots 7 through 16, inclusive, Block 96, said PORTLAND DIVISION OF DULUTH; and Lots 15 and 16, Block 96-1/2, said AUDITOR'S RE-ARRANGEMENT OF PART OF PORTLAND DIVISION OF DULUTH, which said 20.00 foot wide strip was formerly the northerly 20.00 feet of East Fourth Street and was vacated for the uses and purposes of a street by resolution of the Common Council of the City of Duluth, passed September 25, 1912 and recorded in Book 293 of Deeds, at Page 515.

**SURVEYOR NOTES:**

Orientation of the bearing system is based on the west line of Lot 7, Block 96, PORTLAND DIVISION OF DULUTH, to have a bearing of N 48°21'34" W, St. Louis County Transverse Mercator Coordinate System of 1996.

JPJ Engineering has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.

Parcel Identification Numbers for this property are 010-3830-15050, 010-3830-15070, 010-3830-15090 and 010-3830-15150.

Contour interval is one foot, all elevations are based on NAVD88 datum. Benchmark: MNDOT control point 6982 AU, elevation = 949.85. Benchmark: Spike set in power pole at northerly right of way line of Alley, opposite northwest corner of this property, elevation = 786.72. Benchmark: Top nut of hydrant at southwest quadrant of East 4th Street and North 10th Avenue East, elevation = 765.06.

Area of this property is 37,580 square feet or 0.8627 acres ±.

**LEGEND:**

- Iron monument found
- 1/2 inch iron monument set, marked "JPJ ENG 21401"
- ⊕ Power pole
- ☆ Light pole
- ⊥ Sign
- ⊠ Catch basin
- ⊙ Sanitary sewer manhole
- ⊙ Storm sewer manhole
- Sanitary sewer line
- Storm sewer line
- Watermain line
- Overhead power line
- Underground gas line
- Underground telephone line
- ☀ Conifer tree
- ☀ Deciduous tree
- ▨ Gravel surface
- ▨ Bituminous surface
- ▨ Concrete surface
- ♿ Handicap parking space



SCALE: 1 INCH = 20 FEET

0 10 20 40  
SCALE IN FEET

REVISION DESCRIPTION  
DATE

**CERTIFICATE OF SURVEY & TOPOGRAPHY**

For: Doran Architecture  
925 East 4th Street, Duluth, Minnesota 55805  
Lots 7-16, Block 96, PORTLAND DIVISION OF DULUTH, including vacated East 4th Street, St. Louis County, Minnesota.

**CERTIFICATION:**

We hereby certify that this is a true and correct representation of a survey of the boundaries of the land above described and of the location of all buildings, if any, thereon, and all visible encroachments, if any, from or on said land.

Signed this 8th day of August, 2022, for: JPJ Engineering, Inc.  
*Randy M. Mortis*  
Randy M. Mortis PLS License Number 21401  
Revised August 12, 2022

SURVEY BY :	SBB JR
DRAWN BY :	AJC
DESIGNED BY :	
APPROVED BY :	RMM
DATE :	8/08/2022
PROJECT NUMBER :	22-067
SHEET NUMBER :	1 of 1

Site Information		
Description	G.S.F.	Site Area %
Site Area	37,500	
Site Acres		0.861
Building Footprint	26,400	70.40%
Pervious Surface	6,600	17.60%
Impervious Surface	4,500	12.00%
Total		100.00%

Residence			
Net to Gross Rentable Area Efficiency		0.83	
Net SF per Apartment Unit*		675	
Residence	G.S.F.	Net Rentable	# Units
Level 1	5,400	4,482	6.0
Level 2	8,800	7,304	10.0
Level 3	21,900	18,177	26.0
Level 4	23,200	19,256	28.0
Level 5	23,200	19,256	28.0
Level 6	23,200	19,256	28.0
Total GSF)		87,731	
Unit Count			126

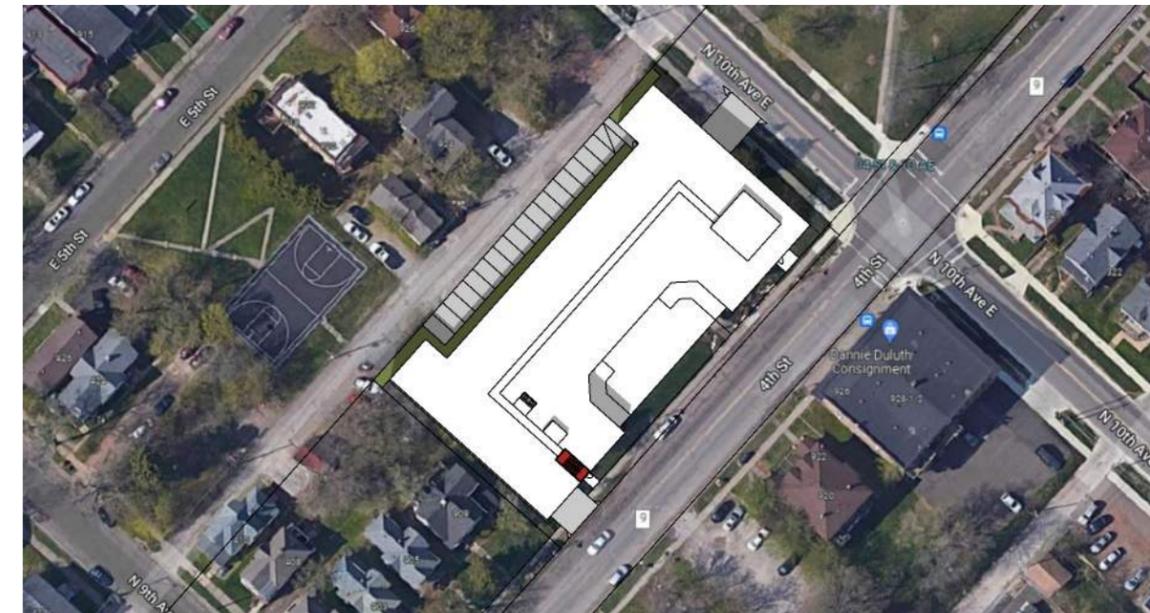
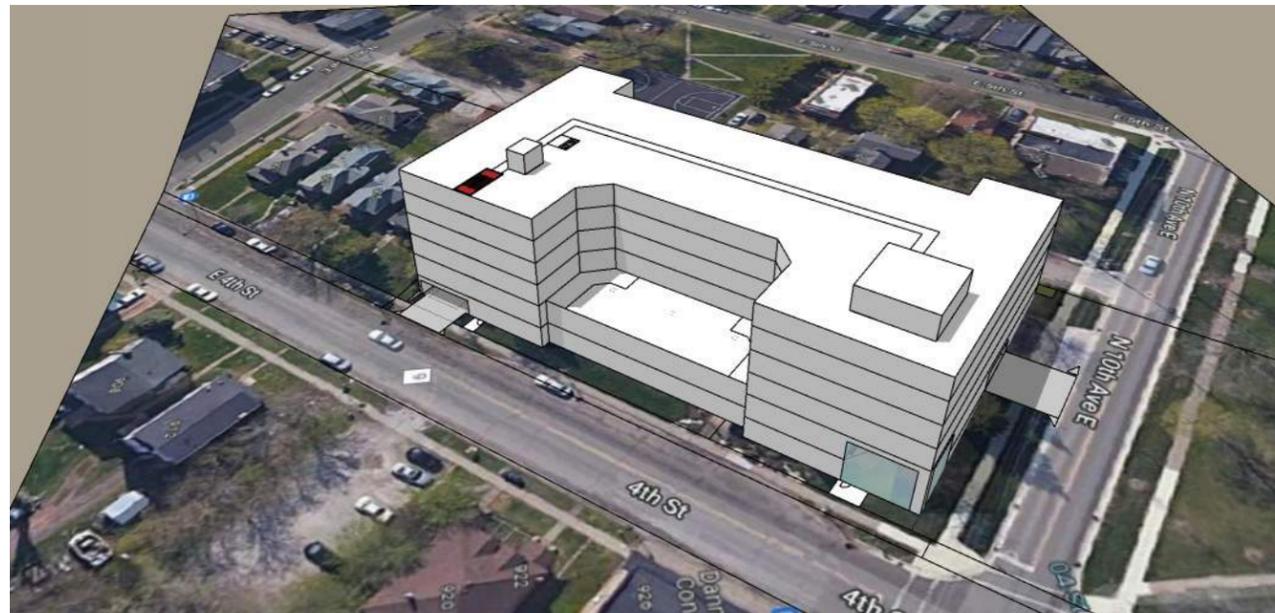
\*Min Ave Unit Size to meet Min parking requirement

Density			
Units / Acre Residence:		146.4	
FAR: (Parking Garage NIC)		3.85	
Residence Parking			
Covered/Surface Stalls	S.F. /	400	180
Level 1 Garage, Trash, and Maint.	18,000	47	
Level 2	16,300	43	
Surface		17	
On Street Short Term		4	
Total	34,300	111	
Parking to Unit Ratio		0.88	

Amenity		
Level 1 Lobby, Leasing, Mail, Fitness		3,000
Level 3 Club & Game Room		1,300
Rooftop Ent Suite / Tower		900
Total		4,300

Area Totals		
	GSF	Units
Residence	105,700	126
Amenity	4,300	
Parking Garage	34,300	
Total	144,300	126

Zoning**		
Zoning Compliance Shown Below for Reference		
Current Zoning	F-6 Formed Base	
Proposed Zoning Path	Corridor Building II Zoning Shown	
	Compliance in Green	Variance in Red
Description	Requirement	Shown
Occupation of Corner	Yes	Yes
Front Build To Coverage	75%	90%
Height From Ave. Grade Plane	55'	55'
Min Landscape Area	15%	18%
Street Frontage BTZ	0' to 15'	8' to 12' Sidwalk
Side Yard Min	0'	7'
Rear Yard Setback	5'	7'
Access On Rear Only	Yes	No*
Active Liner on ground floor facing primary street	30'	38'
1 Ent per Front Main Façade	2	2
Min Parking To Unit Ratio ( 1:1.25 with 30% reduction w/ Transit within 1/4 mile)	0.88	0.88
* Site has 14% Grade Change, making alley access ramp down parking extremely challenging		
**See Attached Zoning Excerpt pdf for more detail		



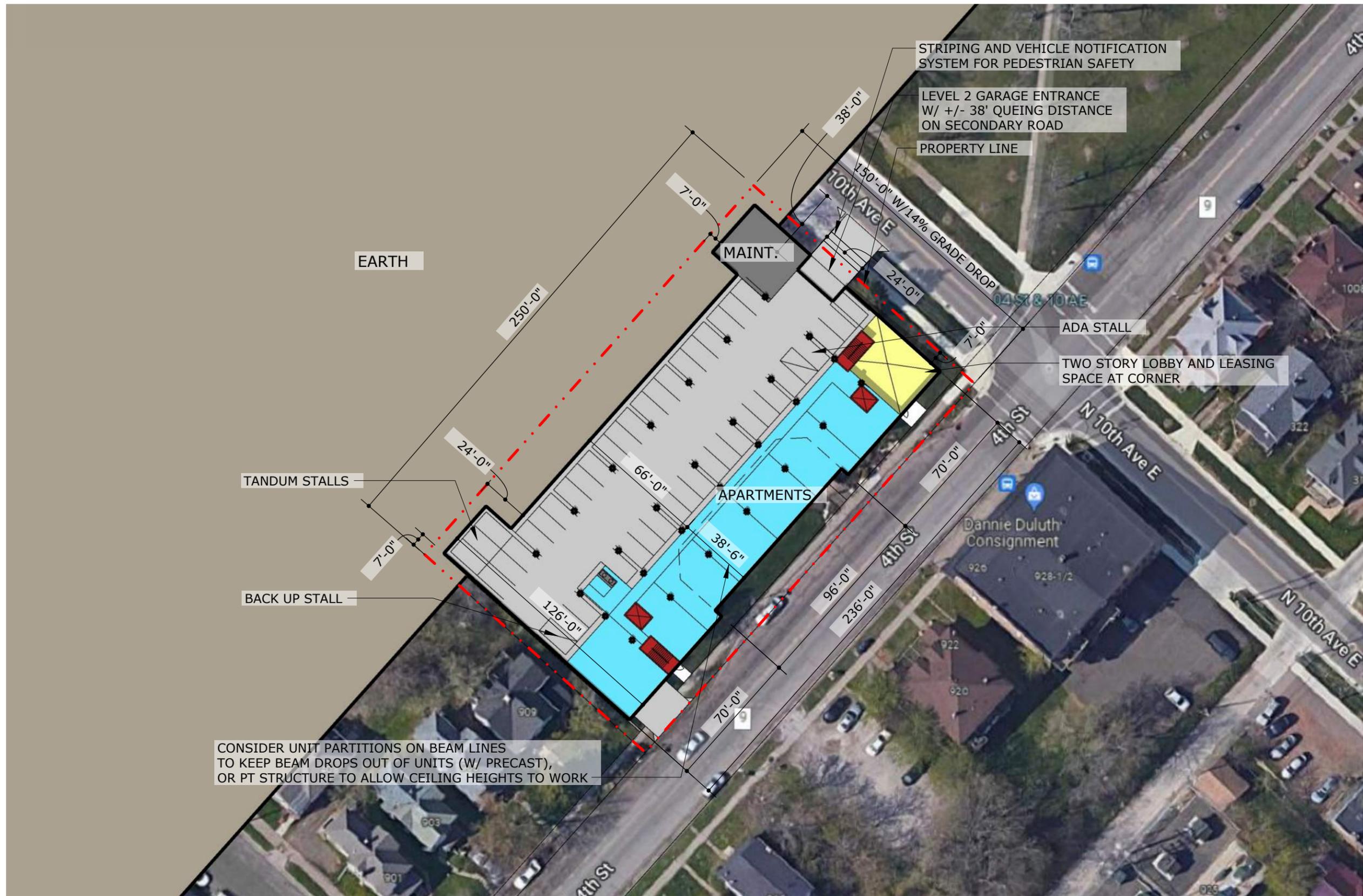


SCALE: 1" = 50'





SCALE: 1" = 50'



SCALE: 1" = 50'



SCALE: 1" = 50'



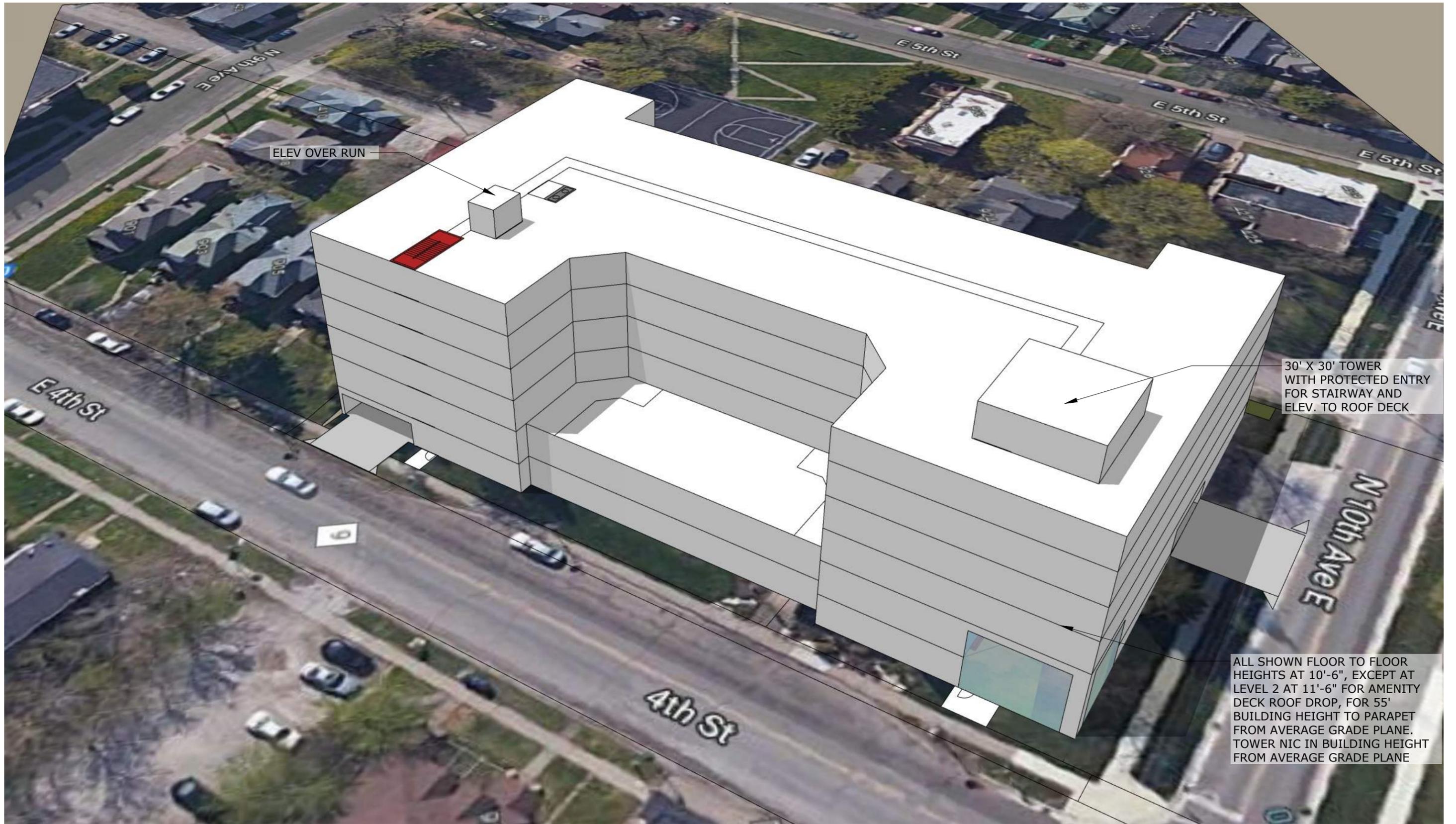
SCALE: 1" = 50'

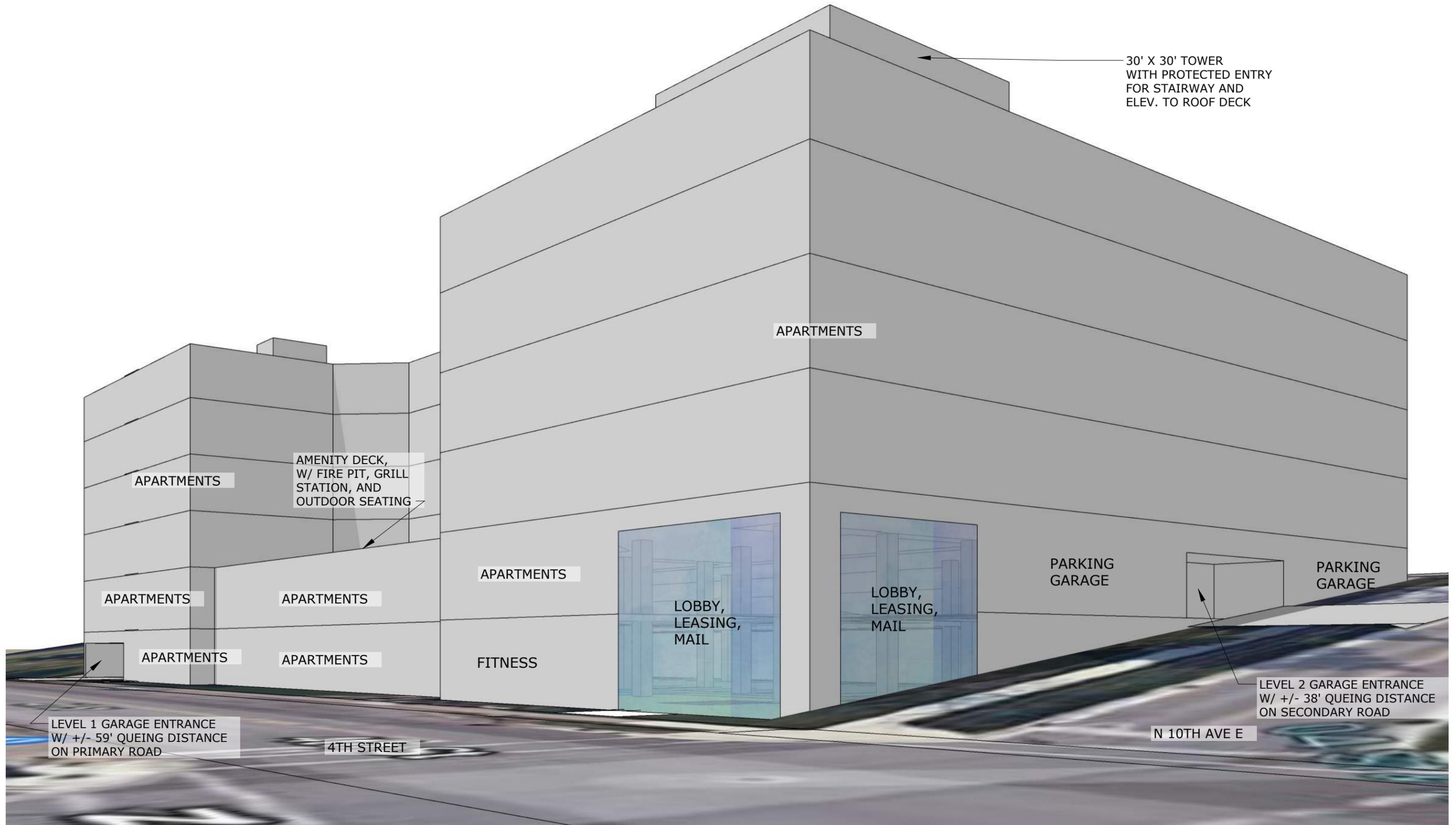


ALL SHOWN FLOOR TO FLOOR HEIGHTS AT 10'-6", EXCEPT AT LEVEL 2 AT 11'-6" FOR AMENITY DECK ROOF DROP, FOR 55' BUILDING HEIGHT TO PARAPET FROM AVERAGE GRADE PLANE. TOWER NIC IN BUILDING HEIGHT FROM AVERAGE GRADE PLANE



SCALE: 1" = 50'





## Chris Lee

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**From:** Victor Lund <LundV@StLouisCountyMN.gov>  
**Sent:** Monday, August 29, 2022 10:02 AM  
**To:** Chris Lee  
**Cc:** Jim Foldesi; Matt Hemmila  
**Subject:** RE: Pending Items for September 13th Duluth Planning Commission Meeting  
**Attachments:** RE: Portland Square Development

This message was sent securely using Zix®

Good Morning, Chris,

St. Louis County Public Works has a comment on the following item...

PL22-146, Variance from Driveway Requirements at 925 E 4th St by Lunar Legacy LLC

4<sup>th</sup> Street is designated as a county road (CSAH 9) at this proposed apartment. I had a discussion with Nicholas Adams with Heirloom Property Management regarding a proposal to construct a driveway connection from this proposed apartment building to 4<sup>th</sup> Street located ~230 ft west of 10<sup>th</sup> Ave E. Based upon the distance of the proposed driveway from the intersection of 10<sup>th</sup> Ave E, the all-way stop control at the intersection of 10<sup>th</sup> Ave E, and the configuration of the apartment building (basement parking), I approved the access. See my attached email to Nicholas stating this approval. During our discussion, Nicholas also mentioned that they are planning to install a pedestrian warning system that would warn drivers exiting the apartment building about the presence of pedestrians on the sidewalk on 4<sup>th</sup> Street. Please note St. Louis County will not require this system, but it is certainly permissible. The installation/maintenance and ownership of this system is the responsibility of the apartment building.

Let me know if you have any questions.

Thanks!

### Victor Lund, PE, PTOE

Traffic Engineer  
St. Louis County, MN  
Direct: 218-625-3873  
Main: 218-625-3830  
[lundv@stlouiscountymn.gov](mailto:lundv@stlouiscountymn.gov)  
[www.stlouiscountymn.gov](http://www.stlouiscountymn.gov)

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**From:** Jim Foldesi <foldesij@StLouisCountyMN.gov>  
**Sent:** Monday, August 29, 2022 7:37 AM  
**To:** Victor Lund <LundV@StLouisCountyMN.gov>  
**Cc:** Matt Hemmila <HemmilaM@StLouisCountyMN.gov>  
**Subject:** FW: Pending Items for September 13th Duluth Planning Commission Meeting

Vic – please review. Thanks.

James T. Foldesi  
St. Louis County Public Works  
Public Works Director/

## Variance Application Supplemental Form

925 E 4<sup>th</sup> St Duluth, MN

Parcel ID: 010-3830-15150, 15090, 15070, 15050

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

### **UDC Section 50-22: Permitted Driveway Locations**

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:

**We are requesting a variance to allow for driveway access on both E 4<sup>th</sup> Street and N 10<sup>th</sup> Ave E to allow for the entrances to two independent levels of indoor parking for a multifamily residential building. Based on the current UDC, parking entrance is required off of the alley, due to the steep grade of the property, that would place parking entrance on the third floor of the building. This creates difficulty in functionality and design of the building.**

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 topography of the property is a 14 degree grade from 4<sup>th</sup> street to the alley. This is common in the geography of the entire area.**

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 property is located within a F6 zoning, which is intended for high density usage. To build a high density apartment building, a significant amount of parking is required per zoning. The existing property currently has a driveway entrance off of 10<sup>th</sup> Ave E and Portland Manor, and existing 5 story multi family residential building (831 E 4<sup>th</sup> St) has a driveway entrance off of 4<sup>th</sup> Ave E due to similar topography issues.**

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 project being proposed with the approval of the variance for driveway location would consist of 121 residential units. With the approved driveway variance the project would include 97 indoor parking spots with entrances from E 4<sup>th</sup> St and 10<sup>th</sup> Ave E. The current proposed building with the approved variance would also allow for 17 outdoor surface parking stalls located along the alley adjacent to the building. By approving the variance, it provides the ability to maximize under utilized space to create more housing density with ample off street parking which is in line with Image Duluth 2035.**

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 variance requested for the project does not add any light or air pollution. All lighting for the building will conform to building codes as required in the permitting process. E 4<sup>th</sup> Street at this location is a county road and per conversations with St. Louis County Traffic Engineer Victor Lund, the proposed driveway access to 4<sup>th</sup> is approved pending variance approval by the City of Duluth Planning Commission. Email correspondence of approval is attached to this supplemental form. Per St Louis County, the driveway access on 4<sup>th</sup> St will require a driveway permit, which includes maintaining ADA sidewalk requirements across the driveway. The same planning will be applied to N 10<sup>th</sup> Ave E driveway to ensure pedestrian safety across the driveway. The project architect and builder are also considering the addition of pedestrian notification of exiting vehicles on the exterior of the building at both driveway locations.**

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:

**There is no change.**

7. 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**

**No.**