



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 19-113	Contact	Jenn Reed Moses, 730-5328	
Type	Concurrent Use Permit	Planning Commission Date		9/10/19
Deadline for Action	Application Date	8/16/19	60 Days	10/15/19
	Date Extension Letter Mailed		120 Days	12/14/19
Location of Subject	5401 E Superior St			
Applicant	Spirit of the Lake Community School	Contact		
Agent	N/A	Contact		
Legal Description	Parcel ID Number 010-2840-00570			
Site Visit Date	9/3/19	Sign Notice Date	8/27/19	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal

The Spirit of the Lake Community School would like to continue to use two existing parking spaces within the right of way of 5401 E Superior Street as accessible parking.

Staff Recommendation

Staff is recommending that planning commission recommend approval to City Council.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N	Former church	Mixed Use Neighborhood
North	R-1	Residential	Residential Traditional
South	MU-N	Residential	Mixed Use Neighborhood
East	MU-N	Residential	Mixed Use Neighborhood
West	R-1	Residential	Residential Traditional

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):

Governing Principle #1 – Reuse previously developed lands: includes adaptive reuse of existing building stock and historic resources, as this strengthens neighborhoods. This property is a former Methodist church that was vacant, and will now be used as a school.

Governing Principle #11 – Consider education systems in land use actions: Neighborhood-based schools promote walkable, safe communities and reduce transportation expenses. This school is located in the Lakeside neighborhood.

Future Land Use – Mixed Use Neighborhood: 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.

Recent History:

- Early 2018: Lester Park United Methodist Church discontinues operation and lists property for sale.
- August 14, 2018: Planning Commission approves a variance to allow a school to operate in a building 3' from the side property line and 9' from the rear property line. At this time, property owner is informed that existing parking within the right of way of 54th Avenue E did not have a proper concurrent use permit, so a condition of the variance approval was that the school must either apply for and receive a concurrent use permit for this parking, or remove the parking.

Review and Discussion Items

Staff finds that:

- 1.) The applicant is seeking a concurrent use permit to use an existing paved area within the right of way for accessible parking. This area was paved and striped when the applicant purchased the property from the Methodist church in 2018.
- 2.) The concurrent use would provide two parking spaces, which are the only accessible spaces on the site. These two spaces bring the total site parking to 11 spaces (which includes parking in a nearby gravel lot adjacent to the alley).
- 3.) While there are no known snow clearing issues previously, the City's Street Maintenance Division has indicated concerns about alley access for snow clearing if a car is parked in the northernmost space, as well as snow from clearing operations being deposited into the parking area. The applicant is aware of these concerns and has been advised additional permit conditions will specify the school's responsibility for snow clearing in these situations.
- 4.) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against occurrences in the right of way. Other protections for the city and the public are typically included in the ordinance that is submitted to City Council. The ordinance will require the applicant be responsible for snow clearing within the parking area, including snow from City plowing operations that lands within the area, and that the school will responsible for alley clearing in the event that a parked vehicle blocks a plow's access to the alley.
- 5.) 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.
- 6.) No public, agency, or other comments have been received as of August 29, 2019.

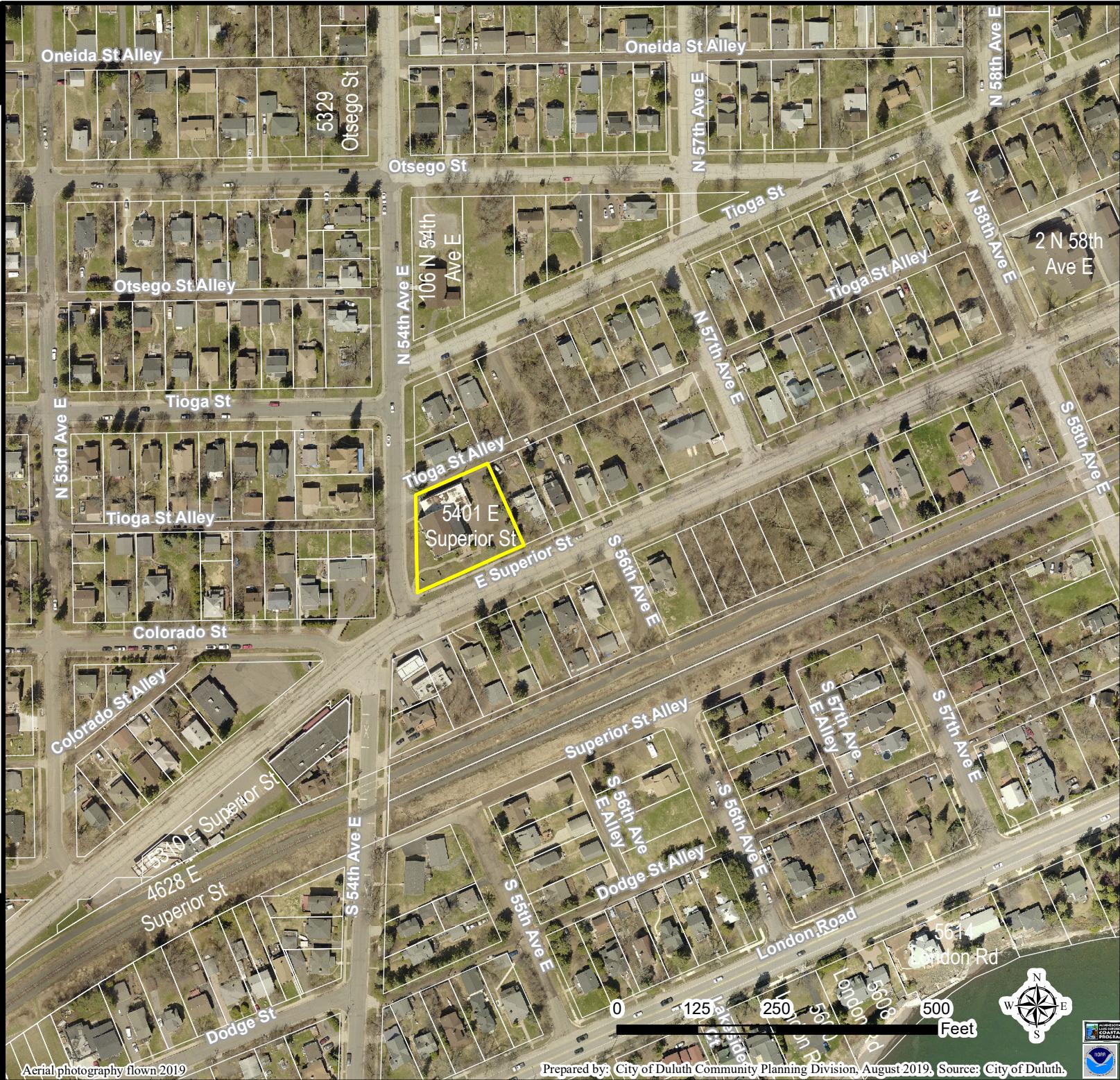
Staff Recommendation

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

- 1.) The school may continue to use and maintain the existing parking spaces but may not alter or reconstruct the area. Any future changes shall require a subsequent Concurrent Use Permit or, if snow clearing or other issues arise, relocation of the accessible parking.
- 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 will remove the obstructions at the applicant's expense if directed to by the City with appropriate notice.



Concurrent Use Permit
5401 E Superior St.



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

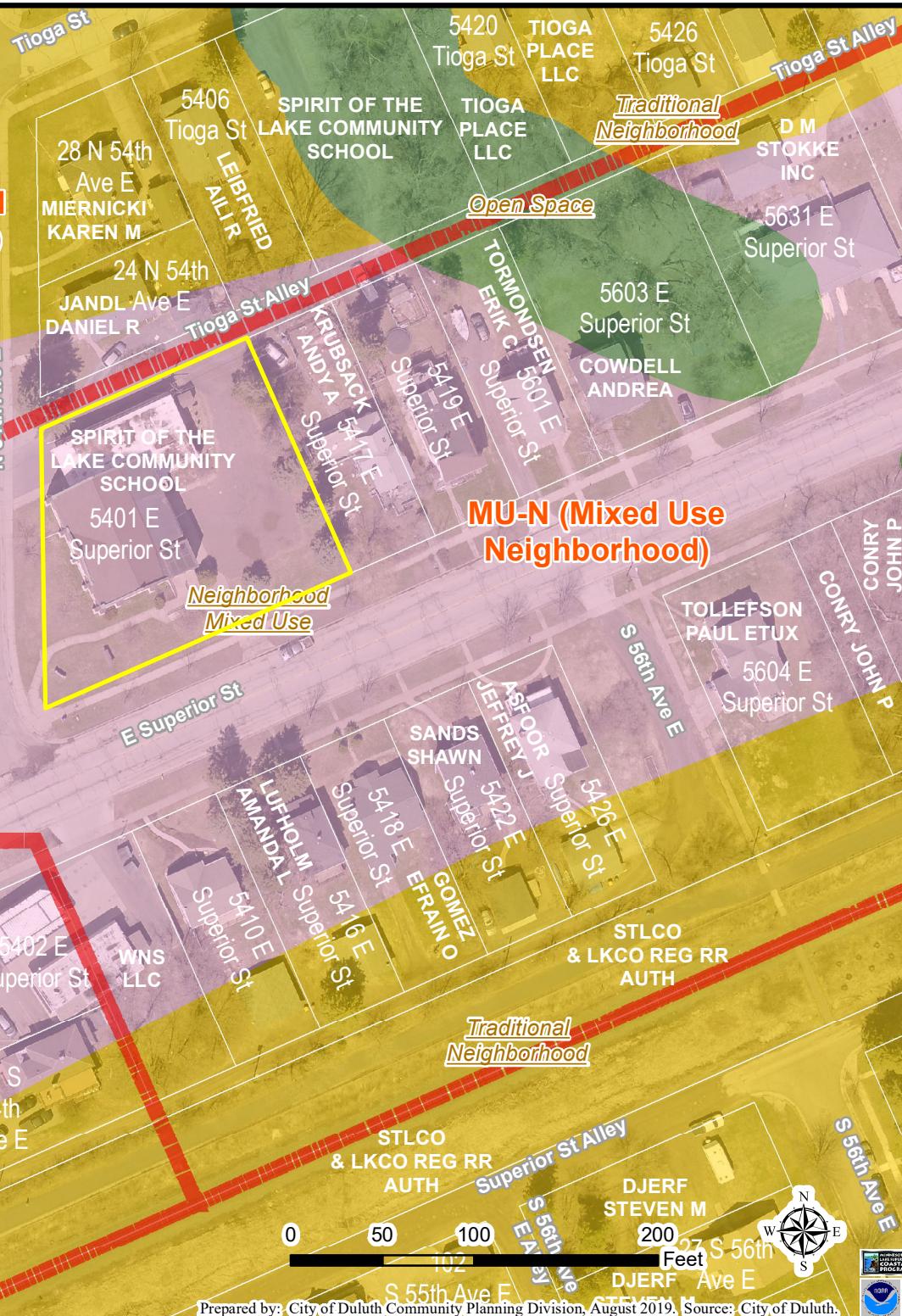
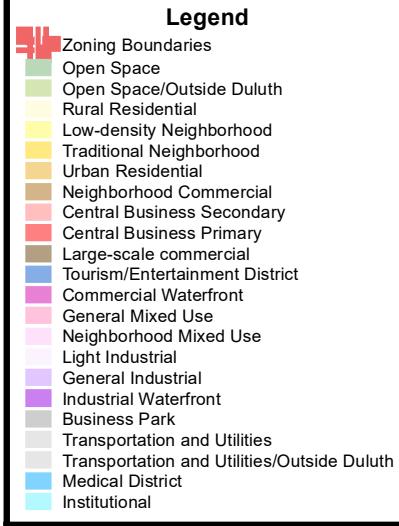
Prepared by: City of Duluth Community Planning Division, August 2019, Source: City of Duluth.





Concurrent Use Permit
5401 E Superior St.

BRYSON ALAN C	5325 Tioga St	105 N 54th Ave E LASPINA ANTHONY T
	5331 Tioga St	



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Certificate of Survey

Exhibit for existing
 "Accessible Parking Plan"
 in City of Duluth Right of Way
 along 54th Avenue East adjacent
 with Lot 18 in Block 11 in the plat
 of LESTER PARK 2ND DIVISION.

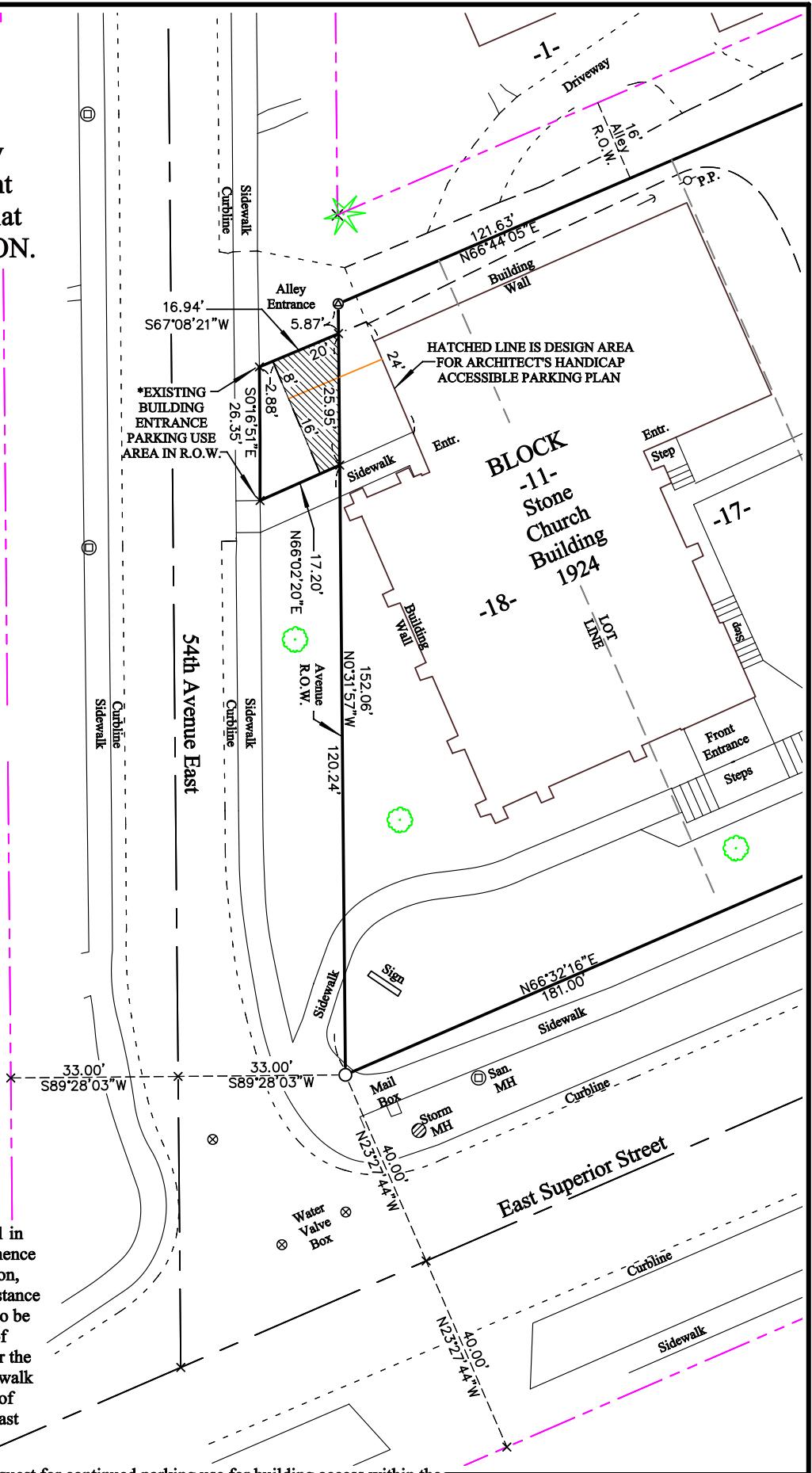


0 30 60
 SCALE IN FEET

St. Louis County Coordinate
 SLCTM96(mod)-NAD83
 VRS GPS-Geoid09
 U.S. Feet-NAVD88

LEGEND

- Found Survey Monument:
 See Map for Description.
- Set Property Corner: 5/8"
- Rebar x 2' long with 1" d.
 RLS Cap inscribed 24587.
- ◎ Set 1" d. Pavement Spike
 labeled "Survey Mark."
- × Computed Survey Position.



*Area of Use in City Right of Way for continued Handicap Accessible Parking Entrance to Building at 54th Avenue East to be described as follows:

Commencing at the SW corner of Lot 18 in Block 11 in the plat of LESTER PARK SECOND DIVISION; thence N0°31'57"W, bearing assumed for basis of description, along the right of way line of 54th Avenue East a distance of 120.24' to the point of beginning of parking area to be described; thence continue N0°31'57"W a distance of 25.95'; thence S67°08'21"W a distance of 16.94' near the city sidewalk; thence S0°16'51"E along the city sidewalk a distance of 26.35'; thence N66°02'20"E a distance of 17.20' to the said right of way line of 54th Avenue East and there terminating at the point of beginning.

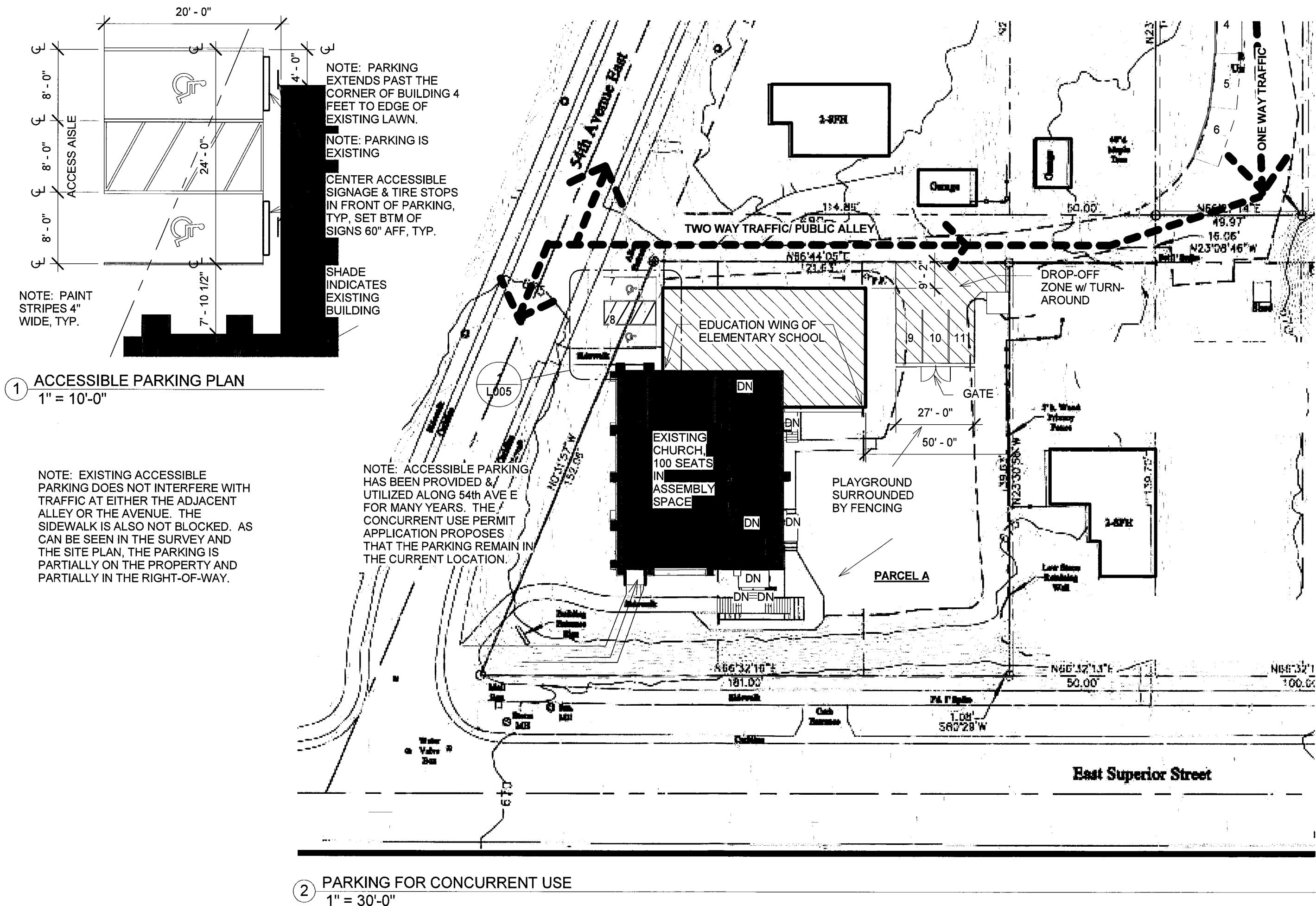
Request for continued parking use for building access within the Right of Way of 54th Avenue East and Superior Street affecting Parcel No. 010-2840-00570 on Lot 18 of Block 11 in the plat of LESTER PARK SECOND DIVISION

Spirit of the Lake Community School
 819 N. 18th Avenue E.
 Duluth, MN 55812

I HEREBY CERTIFY THAT THIS PLAN, SPECIFICATION, OR DRAWING IS FOR THE USE OF THE SURVEYOR ONLY, AND IS NOT TO BE COPIED OR USED FOR ANY OTHER PURPOSE, AND THAT I AM A DULY LICENSED Land Surveyor UNDER THE LAWS OF THE STATE OF Minnesota.

NAME: Anthony Lueck
 SIGNATURE: Anthony Lueck
 DATE: 6/1/2018 Print # 8/2/2019 LIC. No. 24587





Jennifer Moses

From: Jennifer Moses
Sent: Monday, August 26, 2019 3:14 PM
To: 'SLCS'
Cc: Kaleb Montgomery; Cindy Voigt; Bruce Kellerhuis
Subject: Concurrent Use Permit - Parking

Hello,

As we have been reviewing your application for a Concurrent Use Permit at 5401 E Superior St., I wanted to let you know about some concerns that have arisen regarding the existing parking, centered on snow clearing. The existing alley is very narrow, as you know, and the snow plows already have challenges getting the alley plowed. I'm not sure whether the previous owners had any issues related to this (and if you are in touch with them you may want to reach out and ask about snow clearing), but given the narrow space here, 1. If there is anyone parked in the space closest to the alley, the plow would not be able to gain access to the alley (which of course is used by neighbors as well, so this could potentially impact them) and 2. The snow from alley plowing would land in the parking spaces, and you would be responsible for removing that snow. I wanted you to understand this before we moved forward, as we would include language in the staff report and city council ordinance about your responsibility for snow clearing in the area, and consequences if a plow is unable to gain access due to parked cars. Although it has been used for parking up until this point, the City has never before granted official approvals, so we want to make sure any concerns are addressed at this point. I'm happy to talk about these concerns if you'd like. I understand you've had the unfortunate circumstance of buying this property with the understanding that the prior improvements were fully allowed, and that you are depending on these spaces for your accessible parking for the building, so we'd like to keep working with you on the CUP process even though we will need to add caveats about snow clearing.

As a reminder, your sign notice for the Concurrent Use Permit is required to be in place by tomorrow, 8/27. Let me know if you have any questions.

Thanks,

Jenn

Jenn Reed Moses, AICP | Community Planning Division | City of Duluth | 411 W 1st Street Room 110, Duluth, MN 55802
| 218-730-5328 (direct) | jmoses@duluthmn.gov