



CITY OF DULUTH
Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL17-128	Contact	Kate Van Daele, Kvandaele@duluthmn.gov	
Type	Concurrent Use Permit	Planning Commission Date	September 12, 2017	
Deadline for Action	Application Date	August 8, 2017	60 Days	October 7, 2017
	Date Extension Letter Mailed	August 18, 2017	120 Days	December 6, 2017
Location of Subject	4002 Woodland Avenue			
Applicant	Lowell Lyons	Contact		
Agent		Contact		
Legal Description				
Site Visit Date	August 30, 2017	Sign Notice Date	August 29, 2017	
Neighbor Letter Date	August 30, 2017	Number of Letters Sent	30	

Proposal

Applicant requests a concurrent use permit to park cars for his auto business in the Red Wing Street right-of-way. Due to the footprint of the property, there is only room in the front of the building to park cars currently under repair. All sides of the building, including the corner of Woodland and Red Wing, are all in the right-of-way, because the building is constructed up to the property line.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N	Commercial	Mixed-Use Neighborhood
North	MU-N	Commercial	Mixed-Use Neighborhood
South	MU-N	Commercial	Mixed-Use Neighborhood
East	MU-N	Commercial	Mixed-Use Neighborhood
West	MU-N	Commercial	Mixed-Use Neighborhood

Summary of Code Requirements

UDC Section 50-37.7.C. – 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.

IV-C-1

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

Governing Principle #4: Support emerging economic growth sectors – Woodland's mixed-use zoning accommodates many businesses and supports Duluth's economy.

Governing Principle #6: Reinforce the place-specific – This building has had a longtime presence in the Woodland neighborhood. Using the right-of-way to support the business will continue the tie to the neighborhood's history.

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 orientated to neighborhood or specialty retail markets.

The building located at 4002 Woodland has been used as an auto repair shop for decades. The current business K & J Auto has historically parked cars within the right-of-way and has not adhered to the parking space standards, resulting in complaints from citizens. The building was built in 1922. The applicant bought the building in 2004.

With street improvements planned for Red Wing Street in 2018, in addition to St. Louis County improving Woodland Avenue in 2019, the City of Duluth approached the applicant with the opportunity to be assessed by improving the right-of-way off of Red Wing Street, and allowing for the applicant to park cars along the side of the building.

C-2

Review and Discussion Items

Staff finds that:

- 1) The applicant requests a concurrent use permit to park cars under repair along the side of a building that was constructed to the property line, requiring parking in the public right-of-way.
- 2) The proposed concurrent use will not harm or inconvenience the health, safety, and general welfare of the city. No utilities or sidewalk are located within this portion of the right-of-way on the Red Wing side of the property.
- 3) The area proposed for the concurrent use permit will not take away from the public's ability to use the public right-of-way. Existing sidewalks along the Woodland side of the property will remain.
- 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.
- 5) 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 the County as they are voidable agreements between the City and property owners should the City's requirements for the right-of-way change.
- 6) City Engineering reviewed the application materials and noted that the property owner is responsible for snow removal along sidewalks. Under a concurrent use permit, the City is not liable for damage to items within the right-of-way, including damage from snow loads placed in the sidewalk while plowing.
- 7) City Engineering noted that there is a storm sewer within the applicant's proposed parking area. This area must remain unobstructed and accessible. In addition, the applicant shall prevent any pollutants from entering the storm sewer.
- 8) a. Parking spaces shall be constructed in accordance to the UDC parking design standards for standard sized vehicles at a size of 9' x 17' feet. Parking in front of the building (Woodland Ave. side) would be limited to four cars. The garage door and front door entrance to the building shall at all times remain unobstructed. The width of the front of the building is 70' long, which allows for a 36-inch-wide front door, and a six-foot garage door to access the inside of the auto shop.

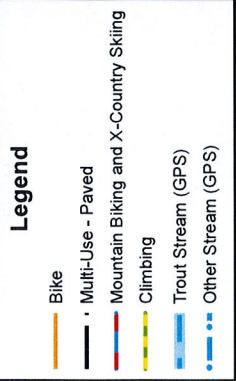
b. On the Red Wing Street side of the building, cars would be limited to 12 spaces, based on the 117' length of the building. This would ensure that no vehicle would be parked over the storm sewer. Comments from the Engineering Department requested that the right-of-way on the corner of Woodland Ave. and Red Wing St. be left open so that drivers on Red Wing St. have a clear view on either side of Woodland Ave. before entering the intersection. *Please see the exhibit provided by the City Engineering Department that shows where parking would not be allowed (on the corner of Woodland Ave. and Red Wing for safety concerns). This is a part of the improvement assessment that the applicant will be agreeing to pay for.
- 9) The building that the applicant owns is 5,610 square feet. According to the UDC Sec. 50-24-1 for Auto and Light repair & Service centers are allowed two off-street parking spaces per 1,000 square feet of gross floor area. This would equate to a total of eleven spaces. If the building was to be built today, the maximum number of spaces per the 150% maximum would be 16.8 spaces. The applicant's site plan proposes 23 parking spaces. Twenty-three spaces does not meet the 9' x 17' parking design standards and cannot be approved due to safety concerns and consistency with the intent of the UDC.
- 10) In accordance with the City of Duluth's Legislative Code, all vehicles parked outside of the applicant's business must be operable. Inoperative vehicles per Article II of Chapter 30 "create an unsightly condition tending to reduce the value of real property, to invite plundering, to create fire and safety hazards, and constitute an attractive nuisance..." Further, "The accumulation and outside storage of such motor vehicles is further found to promote blight and deterioration in the community, and may violate the zoning regulations of the city in many instances."
- 11) No other City or agency comments were received. As of September 5, 2017 one letter of support and two letters of denial were received by city staff.
- 12) 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

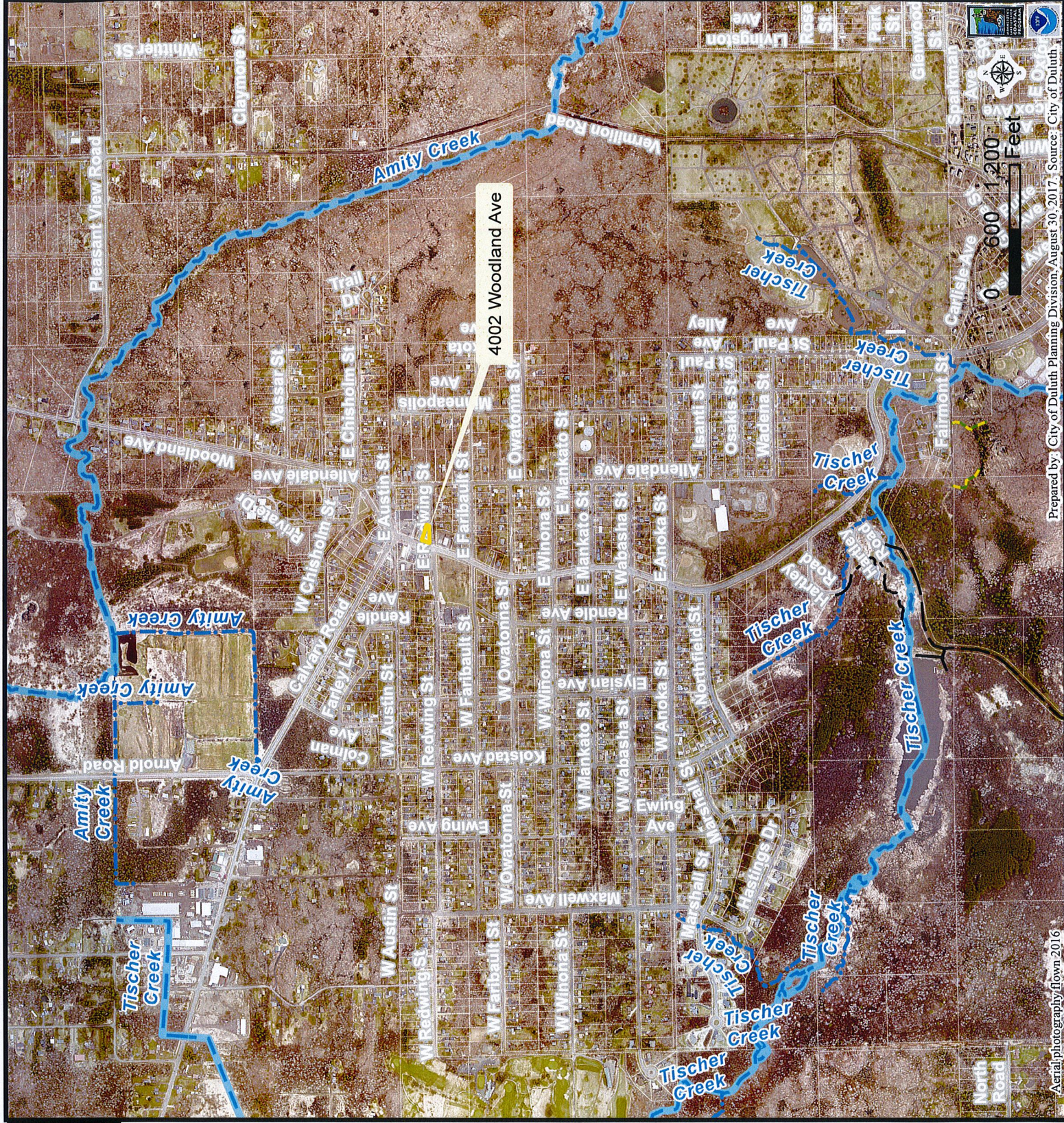
Based on the above findings, staff recommends that Planning Commission approve the concurrent use permit with the following conditions:

- 1) Applicant shall provide proof of liability insurance to fully indemnify the City for all activities in the public right-of-way;
- 2) Prior to Council review, Applicant shall enter into an agreement with the City to be assessed for improvements to Red Wing Street. Such an agreement, between the applicant and the Engineering Department, must be signed before September 15th;

- 3) Vehicles parked on the site and in the right-of-way must at all times remain consistent with the city staff parking exhibit, and meet parking space standards identified in the UDC. Any vehicles failing to comply with the parking exhibit may be ticketed and towed by the City, at the applicant's expense.
- 4) 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.

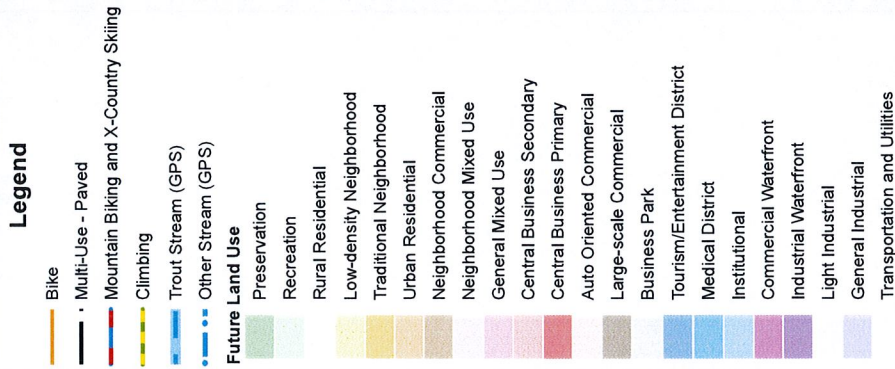


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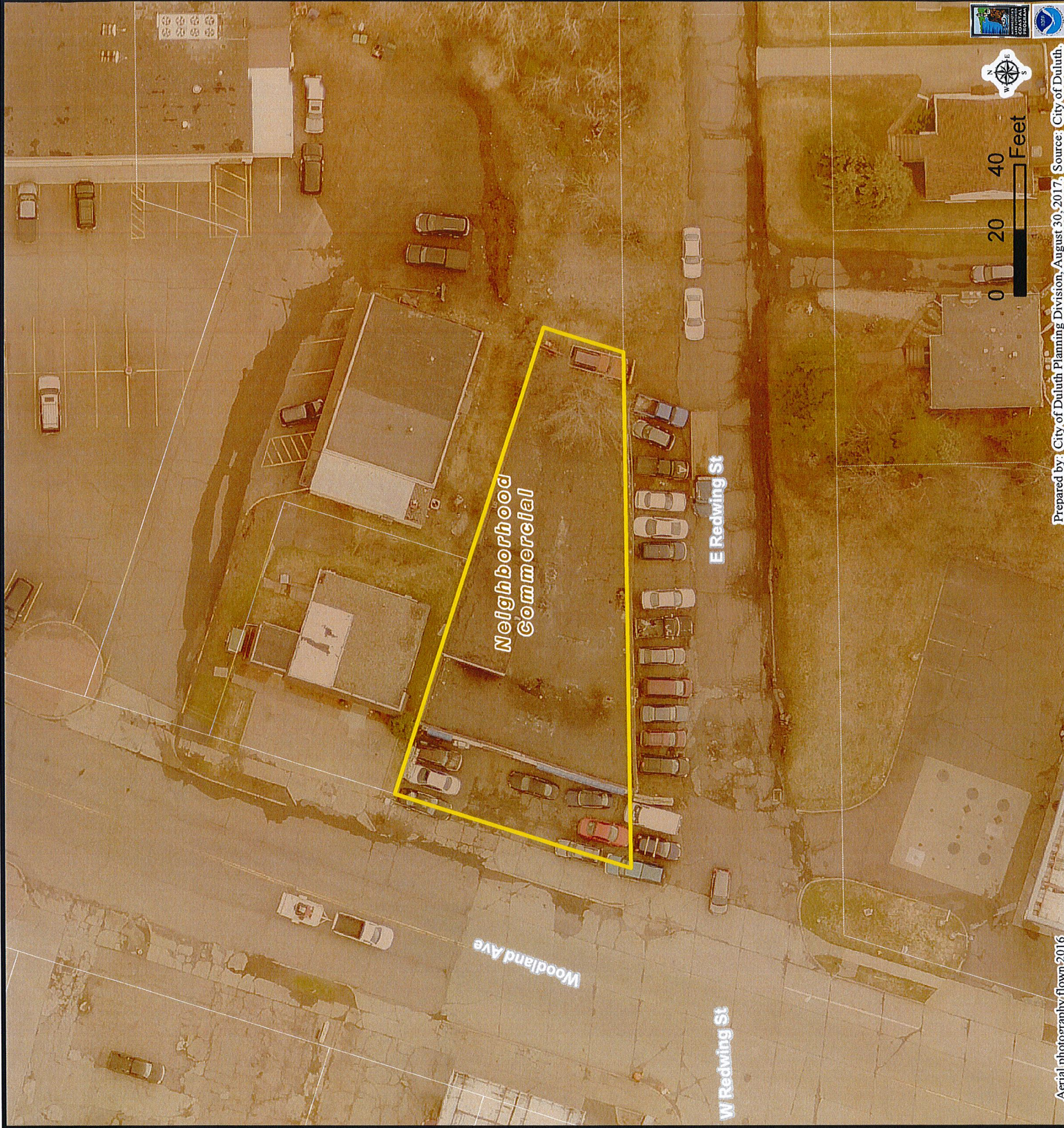


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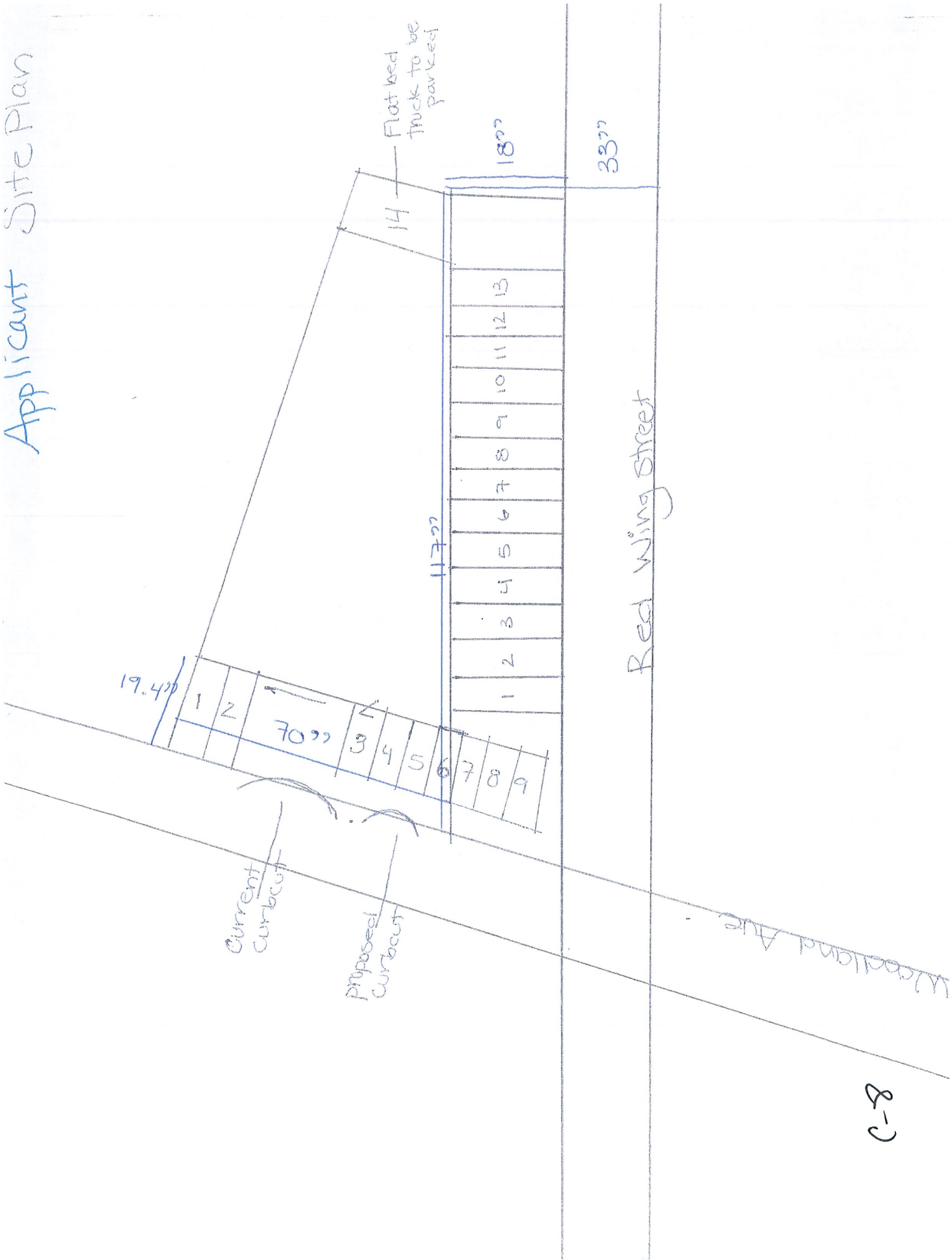




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Applicant Site Plan



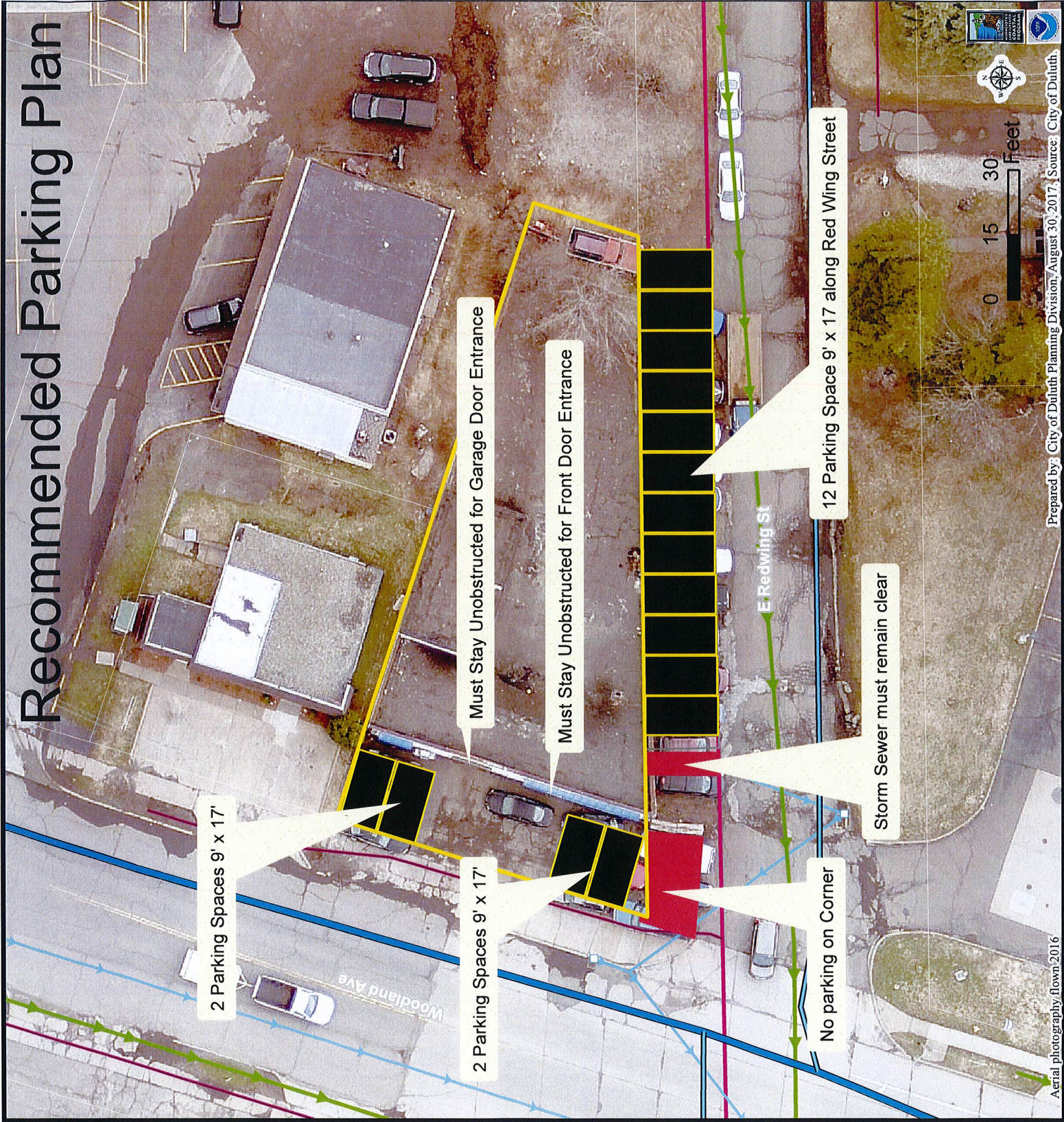


Legend

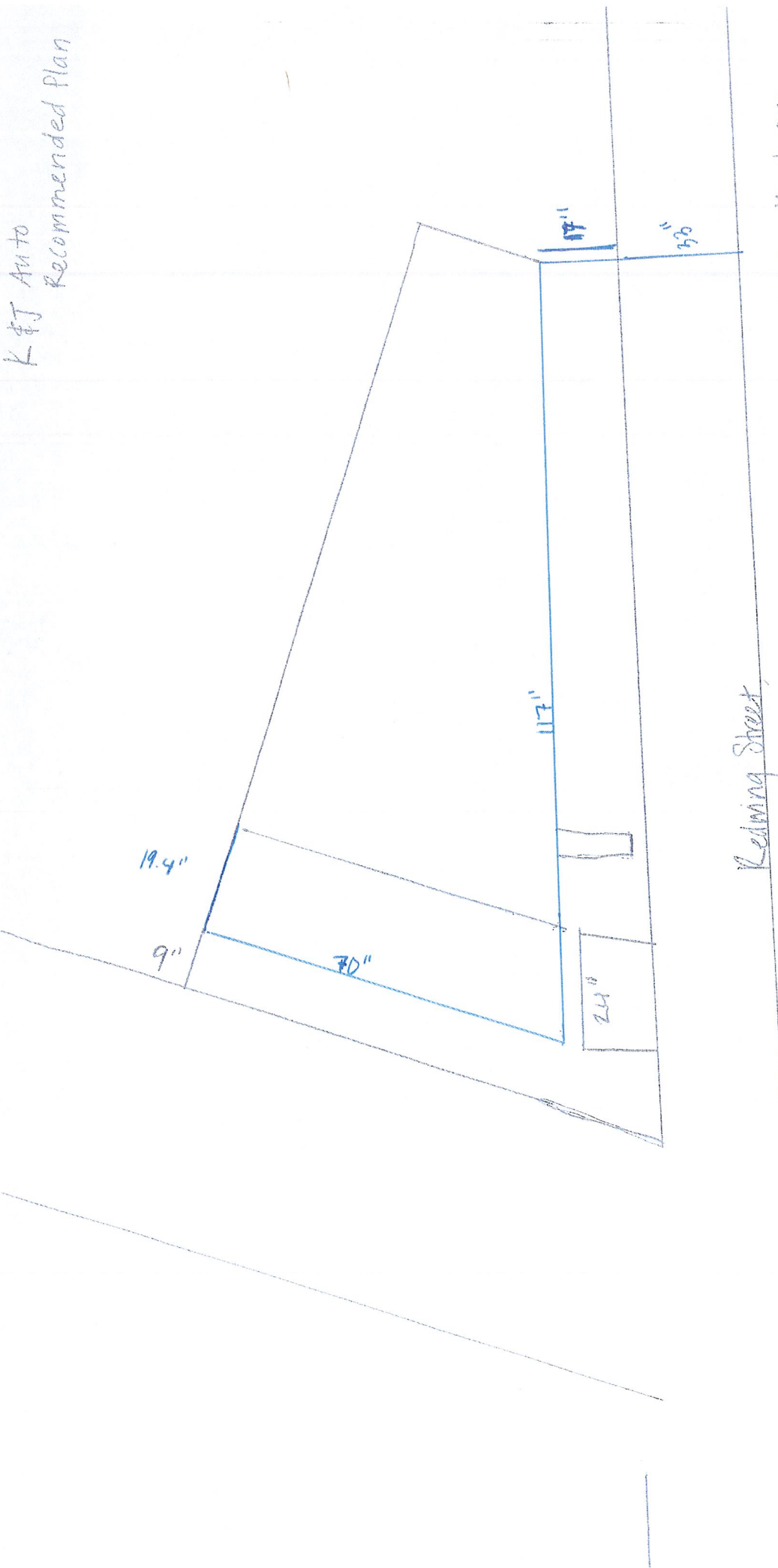
- Bike
- Multi-Use - Paved
- Mountain Biking and X-Country Skiing
- Climbing
- Trout Stream (GPS)
- Other Stream (GPS)
- Water Distribution System
- 30 - 60" Water Pipe
- 16 - 24" Water Pipe
- 4 - 6" Water Pipe
- Sanitary Sewer Collection System
- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Gas Distribution Main
- 8" - 16" Gas Pipes
- 4" - 6" Gas Pipes
- 0" - 4" Gas Pipes
- Storm Sewer Collection System
- Storm Sewer Pipe
- Storm Sewer Catch Basin

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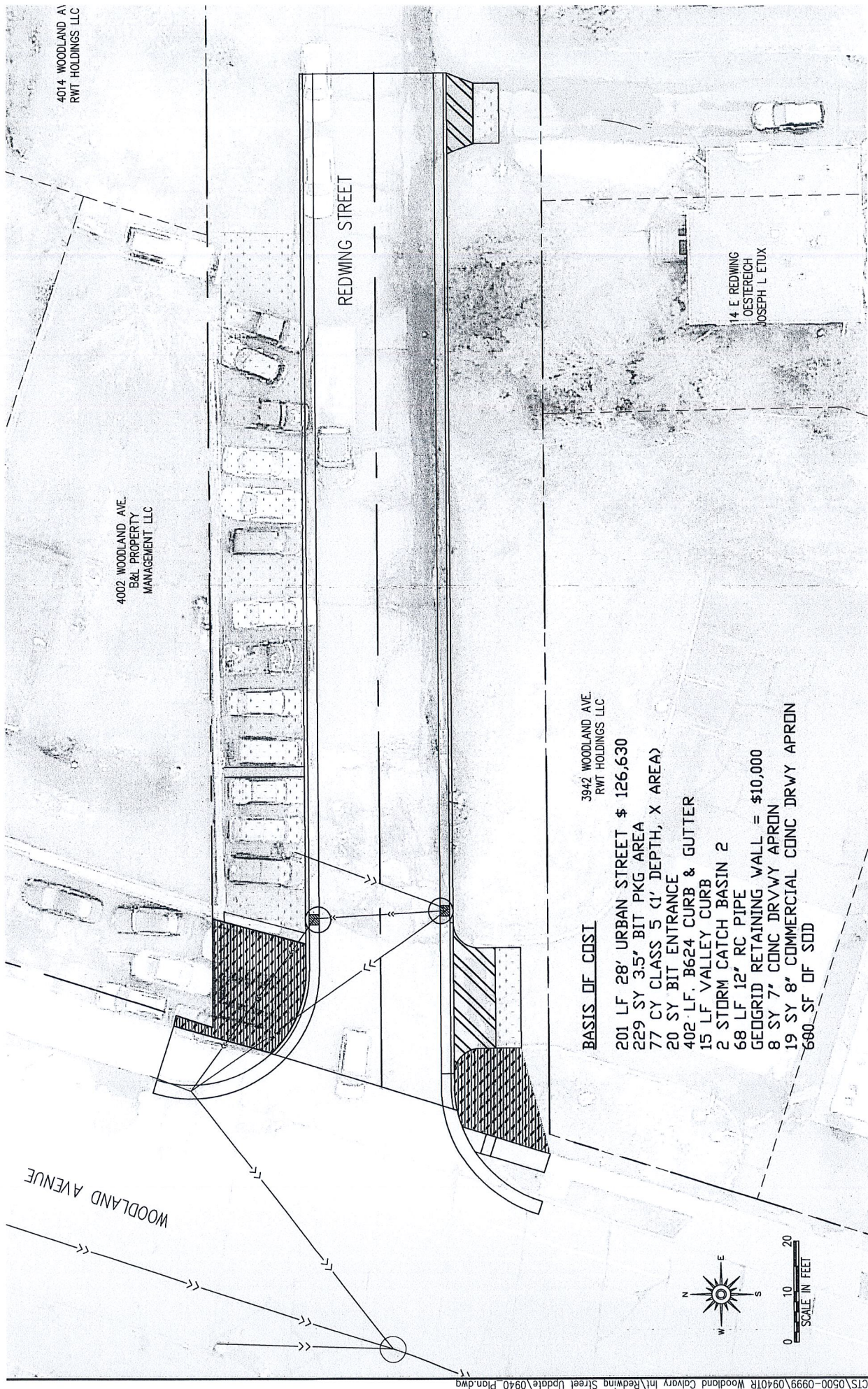
Recommended Parking Plan



K & J Auto
Recommended Plan



* The above spot illustrates 12 parking spots that are 9' x 17' feet. On the Woodland side 4 parking spaces that are 9' x 17' feet per VDC requirements



C-12



C-13

PL17-128 Site Visit Photos



Front of the store



Another view of the front of the store along Woodland Avenue

C-14



Cars parked on the curb and in the right of way along Red Wing Street

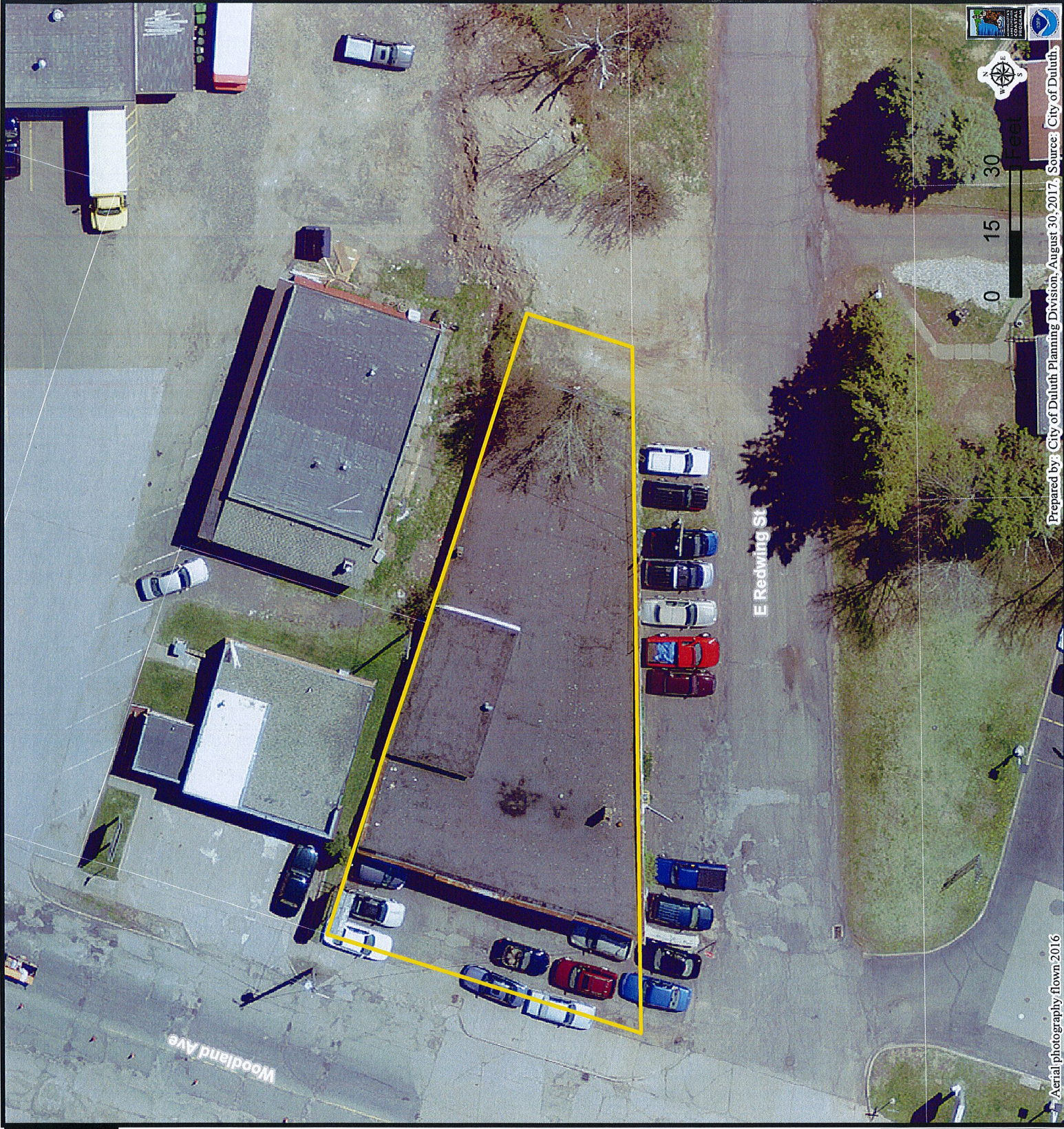


Legend

-  Bike
-  Multi-Use - Paved
-  Mountain Biking and X-Country Skiing
-  Climbing
-  Trout Stream (GPS)
-  Other Stream (GPS)

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City Planning

4002 Woodland Avenue
- 2013 Aerial

Legend

- Bike
- Multi-Use - Paved
- Mountain Biking and X-Country Skiing
- Climbing
- Trout Stream (GPS)
- Other Stream (GPS)

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Kate Van Daele

From: Jim Gruba <jgruba1207@charter.net>
Sent: Wednesday, August 30, 2017 9:39 PM
To: Kate Van Daele
Subject: KJ Auto Service

Hello Kate,

I am writing in support of the KJ Auto Service permit application.

I am a lifelong Woodland resident and KJ customer. KJ Auto Service is an excellent business and provides needed services in Woodland.

While I am surprised a permit is needed as vehicles were parked along Redwing St next to the KJ building while I was a Cobb Elementary patrol boy at Redwing and Woodland in 1972 and prior and since for decades, I urge that a permit be granted.

Having been part of the Woodland business community for more than a decade, managing the Woodland Piggly Wiggly, I have seen businesses succeed and fail in the neighborhood. We do not need another empty building in Woodland, hence I am for granting the permit so KJ Auto Service can succeed.

Sincerely,

Jim

Jim Gruba
323 E Anoka St
Duluth, MN 55803
218-391-5978

21-2

Kate Van Daele

From: James Seitz <bearskin488@gmail.com>
Sent: Wednesday, August 30, 2017 4:39 PM
To: Kate Van Daele
Subject: K&J Auto Service

As a resident of the Woodland neighborhood, I appreciate the opportunity to comment on the vehicle parking permit for K&J Auto Service.

The vehicle parking for this business is an eyesore and a poor reflection on the Woodland business area and the entire Woodland neighborhood. At least one vehicle parked on the Woodland Avenue side of the business has been there for approximately one year.

I am supportive of parking limitations which, I hope, will clean up this area. It is not fair to the residents and business owners of the neighborhood to have to view this mess.

James Seitz
1701 Trail Drive
Duluth, MN 55803

C-19

Kate Van Daele

From: Kelly Dupre <kelly.b.dupre@gmail.com>
Sent: Monday, September 04, 2017 8:03 PM
To: Kate Van Daele
Subject: Woodland Avenue/ Red Wing cars

Dear Ms. Vandaele,

My name is Kelly Dupre and my husband's name is Jeff Stork. We live and own the home at 34 East Calvary Road. We saw the sign at K and J on Woodland Avenue and that is why we are writing to you. As neighbors, we have many thoughts about the junk cars on the property. We have already sent a complaint about this earlier in the summer when our backyard Austin neighbor was having trouble selling his house due to the junk cars and boats on Austin.

We do not support all of the junk cars that are on Woodland and Red Wing at J and K. We think that it makes the corner look really junky and unattractive. We also would like to register another complaint about all of the junk cars and boats that the same person has in the back yards of his rental homes on Calvary Avenue with the back yards being on Austin. He has moved them around a little bit, but they always return in some form or another. It is very discouraging.

We do however support business on the Woodland corner and we think that all of these junk cars is a problem to the other businesses as well as the neighborhood in general. We have had many discussions with several neighbors about this, so we know we are not the only ones who are unhappy about it. We do support the J and K business, but we don't understand the huge number of cars that are sitting there. Many of them have been there for years and have never been moved, so we don't understand how they are a benefit to the J and K business itself. If they are using the cars for parts it seems another location and/or a junk yard out of town/eyesight of the neighborhood would be better for everyone.

There are several business buildings that are vacant and/or for sale on our corner and I'm sure all of these junk cars are at least part of the reason for that. If the corner could be cleaned up both with an improvement with the sidewalks and streets (which we know is scheduled) as well as a clean up of the cars, we can't help but think it would attract other vendors to occupy the empty buildings and improve business for everyone.

Our Woodland corner has the potential to be a lovely little business area for all. We think with the improvements that are coming as well as a general clean up and proper maintenance of gardens and such it would make a huge difference to everyone who lives and visits here.

Thank you for your time and we appreciate any information you could give us about the rules that surround this issue and if there is anything else we can do. Please feel free to contact us should you have any questions or need anymore information.

Sincerely,

Kelly. Dupre and Jeff Stork
(218) 370-1178

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