



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 21-205	Contact	John Kelley, jkelley@duluthmn.gov	
Type	Minor Subdivision	Planning Commission Date		January 11, 2022
Deadline for Action	Application Date	December 7, 2021	60 Days	February 5, 2022
	Date Extension Letter Mailed	December 22, 2021	120 Days	April 6, 2022
Location of Subject		Maxwell Avenue – PID 010-0670-00225		
Applicant	Gloria Carlson	Contact		
Agent		Contact		
Legal Description		See Attached		
Site Visit Date	January 4, 2022	Sign Notice Date		N/A
Neighbor Letter Date	N/A	Number of Letters Sent		N/A

Proposal

Applicant is requesting a Minor Subdivision to divide one lot into two lots. The current parcel is approximately 20,145 square feet and the division will create two lots. Both Parcel A and Parcel B will be approximately 10,000+ square feet.

Recommended Action: Approval with conditions.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood
West	R-1	Residential	Traditional Neighborhood

Summary of Code Requirements

50-33.1 General: All subdivision plats and replats, and all registered land surveys, shall create lots, streets and walkways and open spaces consistent with the requirements of the zone district within which the land is located.

50-37.5, D 1. The planning commission shall approve the application if it determines that the application:

- (a) The lot or lots to be subdivided or combined have frontage on an improved public street;
- (b) Each proposed lot meets the minimum zoning requirements of the district that it is in.
- (c) If an existing structure on a lot complies with the requirements of this Chapter, then after the minor subdivision structures on each of the resulting lots will still comply with the requirements of this Chapter; and
- (d) If one or more of the existing lots, or a structure on one or more of those lots, does not comply with the

requirements of this Chapter, the proposed relocation will not create any new nonconformity or increase any existing nonconformity between the requirements of this Chapter.

50-14.5.A. R-1 minimum lot area: 4,000 square feet; minimum lot frontage: 40 feet.

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

Governing Principle #1 - Reuse previously developed lands. Directs investment to sites which have the potential to perform at a higher level than their current state.

Future Land Use: Traditional Neighborhood - Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects, neighborhood extensions, and new traditional neighborhood areas.

History: The current parcel contains a 20,145 square foot and is vacant land. The underlying plat is "Colman's 2nd Acre Tract Addition"; the existing tax parcel consists of two previously platted lots with frontage on the platted Maxwell Avenue.

Review and Discussion Items

1. Applicant is requesting a Minor Subdivision to divide a single lot into two lots. Both parcels will have frontage on Maxwell Avenue.
2. The exhibit does indicate a wetland on the eastern half of the proposed lots. The applicant has provided an approved wetland delineation for future site development. Proposed use of the lots are for single family dwellings, shared driveway, accessory dwelling units and shared parking between the principle and accessory dwellings. The applicant will need to make application for a wetland replacement plan, if needed (the exemption is 5% of the wetland area you own), closer to when they are planning to impact the wetlands if necessary.
3. Both parcels are zoned R-1, which has a minimum lot size of 4,000 square feet and have the required street frontage along Maxwell Avenue. The proposed subdivision, if approved, would not make the parcels non-conforming due to lot frontage, lot area, or similar bulk standard.
4. The Engineering Department stated the applicant will need a shared driveway access agreement (applicant is working on this now), need to extend the existing water main in Maxwell, install a water service off the main to Parcel A and another separate water service off the main to serve Parcel B, and the applicant will also need 2 separate sanitary laterals – one to serve Parcel A and one to serve Parcel B.
5. No public, agency, or other City comments were received.
6. The attached exhibit demonstrates compliance with Minnesota statutes 462.358 and 505 or 508, as applicable.
7. Approval of this Minor Subdivision signifies that City of Duluth UDC standards are met. St. Louis County may have additional requirements. This subdivision approval lapses if deeds are not recorded with St. Louis County within 180 days. Applicant must provide the City with proof of recording.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission approve the Minor Subdivision with the following conditions:

- 1) Appropriate deeds be filed with St. Louis County within 180 days. Prior to recording the deed that results from this adjustment, the Planning Division will need to stamp the deed, indicating compliance with the local zoning code.
- 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 approval; however, no such administrative approval

shall constitute a variance from the provisions of Chapter 50.



PL 21-205
Minor Subdivision
Site map

Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Easement Type**
- Utility Easement
- Other Easement
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRRI)

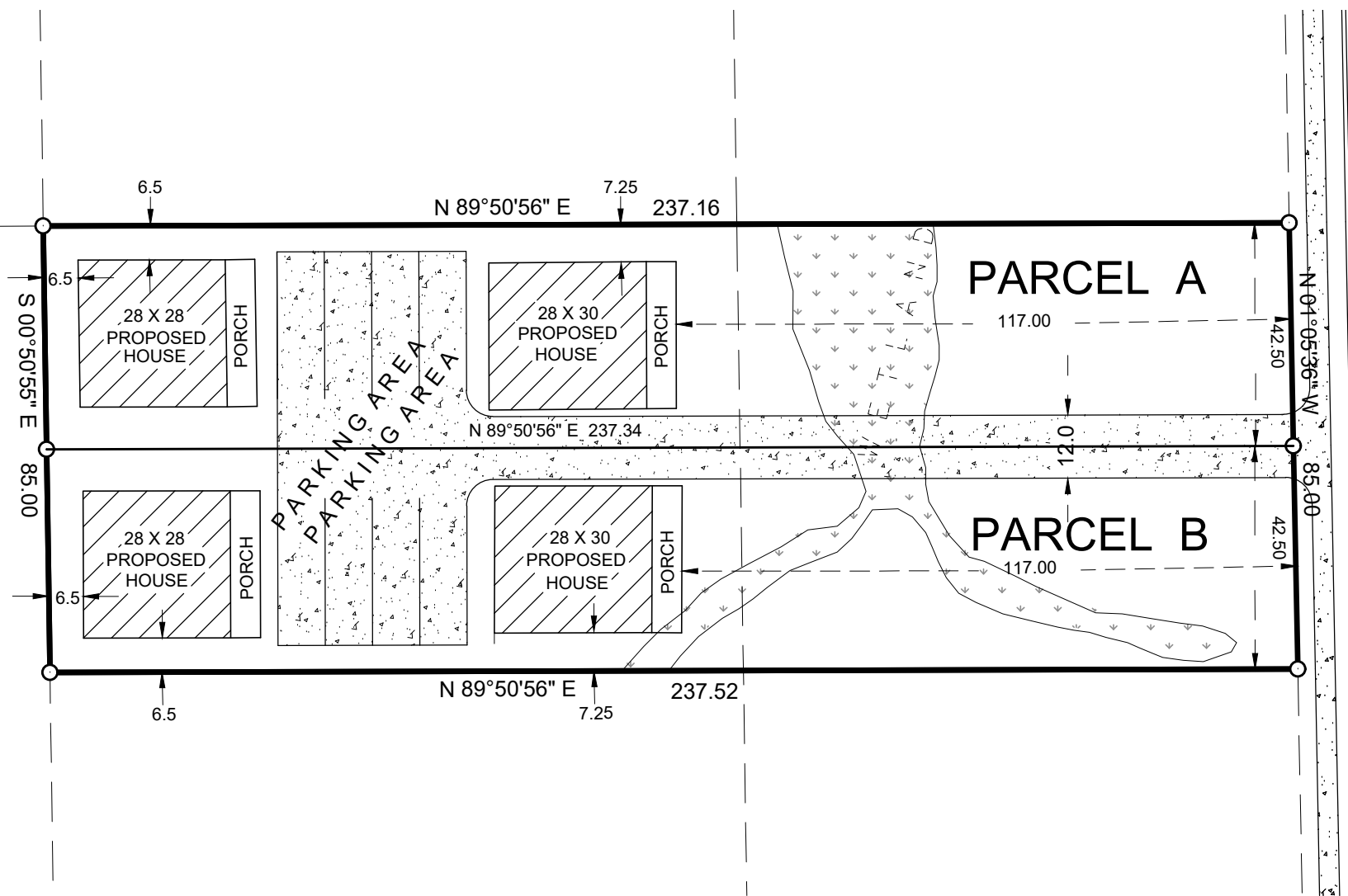
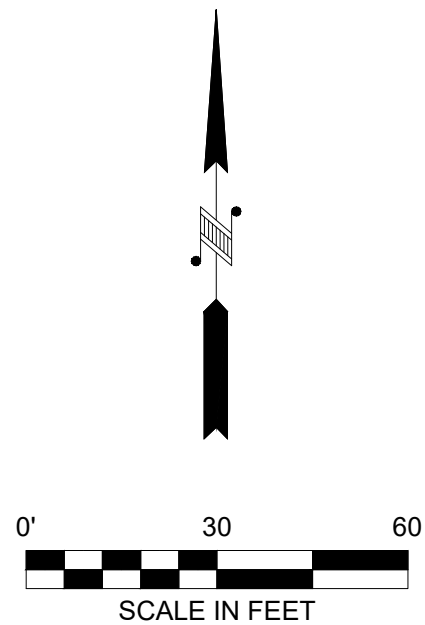
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used 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 2016

Prepared by: City of Duluth Community Planning Division, May 3, 2019. Source: City of Duluth.

**CERTIFICATE OF SURVEY
FOR: GLORIA CARLSON**



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 Land Surveyor under the laws of the State of Minnesota.

Date: 12-20-21

Ronald L. Krueger MN License No. 14374

PARCEL A LEGAL DESCRIPTION

The North 42.50 feet of Lots 11 and 12 Block 2 Colmans Second Acre Tract Addition To Duluth

PARCEL B LEGAL DESCRIPTION

The South 42.50 feet of the North 85.00 feet of Lots 11 and 12 Block 2 Colmans Second Acre Tract Addition To Duluth

DATE: 12/20/21
SCALE: 1 IN = 30 FEET
PROP ADD: Maxwell Avenue
PROJECT NO: 21-32

RON KRUEGER
Land Surveyor
7066 HIGHWAY 8
SAGINAW, MN 55779
Phone: 218-390-4030

Minnesota Wetland Conservation Act Notice of Decision

Local Government Unit:	City of Duluth	County:	St. Louis
Applicant Name:	Gloria Carlson	Applicant Representative:	Boreal Wetland Services
Project Name:	Maxwell Avenue	LGU Project No. (if any):	PL 21- 180
Date Application Received by LGU:	10/18/2021		
Date of LGU Decision:	11/13/2021		
Date this Notice was Sent:	11-15-2021		

WCA Decision Type - check all that apply

<input checked="" type="checkbox"/> Wetland Boundary/Type	<input type="checkbox"/> Sequencing	<input type="checkbox"/> Replacement Plan	<input type="checkbox"/> Bank Plan (not credit purchase)
<input type="checkbox"/> No-Loss (8420.0415)	<input type="checkbox"/> Exemption (8420.0420)		
Part: <input type="checkbox"/> A <input type="checkbox"/> B <input type="checkbox"/> C <input type="checkbox"/> D <input type="checkbox"/> E <input type="checkbox"/> F <input type="checkbox"/> G <input type="checkbox"/> H		Subpart: <input type="checkbox"/> 2 <input type="checkbox"/> 3 <input type="checkbox"/> 4 <input type="checkbox"/> 5 <input type="checkbox"/> 6 <input type="checkbox"/> 7 <input type="checkbox"/> 8 <input type="checkbox"/> 9	

Replacement Plan Impacts (replacement plan decisions only)

Total WCA Wetland Impact Area:
Wetland Replacement Type: <input type="checkbox"/> Project Specific Credits: <input type="checkbox"/> Bank Credits:
Bank Account Number(s):

Technical Evaluation Panel Findings and Recommendations (attach if any)

<input type="checkbox"/> Approve <input type="checkbox"/> Approve w/Conditions <input type="checkbox"/> Deny <input type="checkbox"/> No TEP Recommendation

LGU Decision

<input type="checkbox"/> Approved with Conditions (specify below) ¹ List Conditions:	<input checked="" type="checkbox"/> Approved ¹	<input type="checkbox"/> Denied
Decision-Maker for this Application: <input checked="" type="checkbox"/> Staff <input type="checkbox"/> Governing Board/Council <input type="checkbox"/> Other:		
Decision is valid for: <input checked="" type="checkbox"/> 5 years (default) <input type="checkbox"/> Other (specify):		

¹ *Wetland Replacement Plan approval is not valid until BWSR confirms the withdrawal of any required wetland bank credits. For project-specific replacement a financial assurance per MN Rule 8420.0522, Subp. 9 and evidence that all required forms have been recorded on the title of the property on which the replacement wetland is located must be provided to the LGU for the approval to be valid.*

LGU Findings – Attach document(s) and/or insert narrative providing the basis for the LGU decision¹.

<input type="checkbox"/> Attachment(s) (specify): <input checked="" type="checkbox"/> Summary: Approve a wetland delineation prepared by Boreal Wetland Services October 19, 2021

¹ Findings must consider any TEP recommendations.

Attached Project Documents

<input type="checkbox"/> Site Location Map <input checked="" type="checkbox"/> Project Plan(s)/Descriptions/Reports (specify): Application
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Appeals of LGU Decisions

If you wish to appeal this decision, you must provide a written request within 30 calendar days of the date you received the notice. All appeals must be submitted to the Board of Water and Soil Resources Executive Director along with a check payable to BWSR for \$500 *unless* the LGU has adopted a local appeal process as identified below. The check must be sent by mail and the written request to appeal can be submitted by mail or e-mail. The appeal should include a copy of this notice, name and contact information of appellant(s) and their representatives (if applicable), a statement clarifying the intent to appeal and supporting information as to why the decision is in error. Send to:

Appeals & Regulatory Compliance Coordinator
Minnesota Board of Water & Soil Resources
520 Lafayette Road North
St. Paul, MN 55155
travis.germundson@state.mn.us

Does the LGU have a local appeal process applicable to this decision?

☒ Yes¹ ☐ No

¹If yes, all appeals must first be considered via the local appeals process.

Local Appeals Submittal Requirements (LGU must describe how to appeal, submittal requirements, fees, etc. as applicable)

Planning Commission 160 City Hall, 411 West First Street Duluth, MN 55802

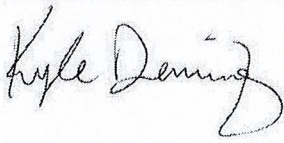
Notice Distribution (include name)

Required on all notices:

<input checked="" type="checkbox"/> SWCD TEP Member: R.C. Boheim	<input checked="" type="checkbox"/> BWSR TEP Member: David Demmer
<input checked="" type="checkbox"/> LGU TEP Member (if different than LGU contact): Kyle Deming	
<input checked="" type="checkbox"/> DNR Representative: Sam Martin	
<input type="checkbox"/> Watershed District or Watershed Mgmt. Org.: NA	
<input checked="" type="checkbox"/> Applicant (notice only):	<input checked="" type="checkbox"/> Agent/Consultant (notice only):

Optional or As Applicable:

<input checked="" type="checkbox"/> Corps of Engineers:	
<input type="checkbox"/> BWSR Wetland Mitigation Coordinator (required for bank plan applications only):	
<input type="checkbox"/> Members of the Public (notice only):	<input type="checkbox"/> Other:

Signature: 	Date: 11-13-2021
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This notice and accompanying application materials may be sent electronically or by mail. The LGU may opt to send a summary of the application to members of the public upon request per 8420.0255, Subp. 3.

SHARED DRIVEWAY EASEMENT AGREEMENT

This Shared Driveway Easement Agreement ("Agreement") is made by and between Daniel M. Carlson and Gloria J. Carlson, husband and wife ("Grantors"), and Daniel M. Carlson and Gloria J. Carlson, husband and wife, ("Grantees").

A. Daniel M. Carlson and Gloria J. Carlson are the record owners of certain real property in St. Louis County, Minnesota, legally described as follows:

The North 42.50 feet of Lots Eleven (11) and Twelve (12), Block Two (2), COLMAN'S SECOND ACRE TRACT ADDITION TO DULUTH ("Parcel A"); and

The South 42.50 feet of the North 85 feet of Lot Eleven (11) and Twelve (12), Block Two (2), COLMAN'S SECOND ACRE TRACT ADDITION TO DULUTH ("Parcel B");

B. There is a planned shared driveway and parking lot on both Parcel A and Parcel B as shown on the Certificate of Survey attached hereto as Exhibit A; and


C. The parties desire to enter into a shared driveway easement agreement to maintain the driveway and parking area on the properties.

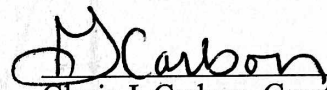
NOW, THEREFORE, for good and valuable consideration, the parties hereby agree as follows:

1. The parties do hereby grant and convey to the other party an easement for driveway access to the other party's property as set forth on the Certificate of Survey attached as Exhibit A;
2. Maintenance and repairs of the shared driveway and parking area shall be shared equally between the parties;
3. Each party agrees to indemnify and hold harmless the other party from any personal or property damage or liability which may arise from the use of this easement or from any maintenance or repair undertaken pursuant to this agreement, except in the case of gross negligence or intentional act.
4. This shared driveway easement shall run with the land and shall be binding upon the heirs, representatives, successors and/or assigns of the parties herein.
5. This written easement agreement contains the entire agreement between the parties, and supercedes any prior oral or written agreement with respect to the matters stated herein. The parties may only amend this agreement by written amendment.

6. This agreement shall be governed by the laws of the State of Minnesota. Venue shall be in St. Louis County, Minnesota.

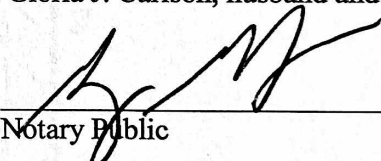
Dated: January 3, 2022

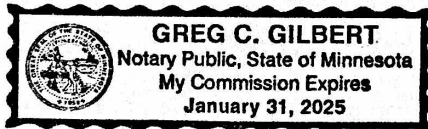

Daniel M. Carlson, Grantor and Grantee


Gloria J. Carlson, Grantor and Grantee

STATE OF MINNESOTA)
)ss.
COUNTY OF ST. LOUIS)

The foregoing instrument was acknowledged before me this 3rd day of January, 2022, by Daniel M. Carlson and Gloria J. Carlson, husband and wife.

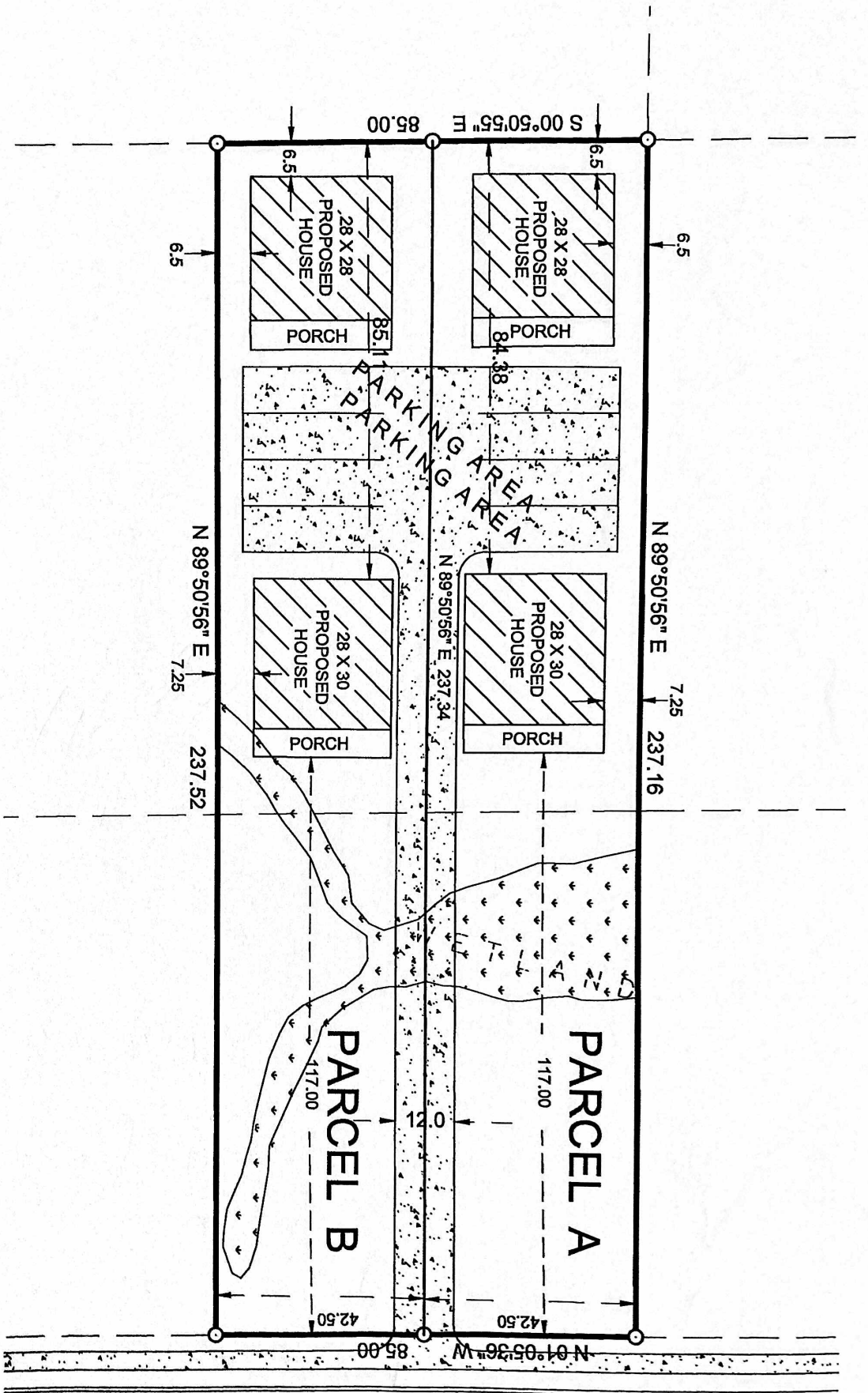

Notary Public



Drafted By:

Greg C. Gilbert
Gilbert Law Office
1831 East 8th Street, Suite 103
Duluth, MN 55812
(218) 625-8777

MAXWELL AVENUE



PARCEL A LEGAL DESCRIPTION
The North 42.50 feet of Lots 11 and 12 Block 2 Colmans Second Acre Tract Addition To Duluth

PARCEL B LEGAL DESCRIPTION

The South 42.50 feet of the North 85.00 feet of Lots 11 and 12 Block 2 Colmans Second Acre Tract Addition To Duluth

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[Signature]