



**Planning & Development Division**  
Planning & Economic Development Department

Room 160  
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Duluth, Minnesota 55802



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File Number	PL 22-040	Contact	John Kelley, <a href="mailto:jkelley@duluthmn.gov">jkelley@duluthmn.gov</a>	
Type	Special Use Permit – Restaurant in new commercial building	Planning Commission Date		April 12, 2022
Deadline for Action	Application Date	March 9, 2022	60 Days	May 8, 2022
	Date Extension Letter Mailed	March 15, 2022	120 Days	July 7, 2022
Location of Subject		1303 West Arrowhead Road		
Applicant	1303, LLC	Contact	Alex Bushey	
Agent	Arola Architecture Studio, LLC	Contact	Ryan Arola	
Legal Description		PID # 010-1560-02210		
Site Visit Date	April 1, 2022	Sign Notice Date		March 29, 2022
Neighbor Letter Date	March 21, 2022	Number of Letters Sent		29

**Proposal**

A new 3,500 square foot commercial building with a 1,500 square foot restaurant and outdoor dining area. The second tenant space in the building will be for office use, which is a permitted use (true?). A restaurant less than 5,000 square feet in the MU-N zone district requires a special use permit.

**Recommended Action:** Approve with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	MU-N	Residential	Urban Residential
<b>North</b>	R-1	Residential	Urban Residential
<b>South</b>	MU-N	Commercial	Neighborhood Mixed Use
<b>East</b>	R-1	Residential	Traditional Neighborhood
<b>West</b>	MU-N	Office	Urban Residential

**Summary of Code Requirements**

Sec. 50-37.10 – Special Use Permits: Planning Commission shall approve the application or approve it with modifications, if it is determined that the application meets the following criteria:

1. The application is consistent with the Comprehensive Land Use Plan;
2. The application complies with all applicable provisions ... including any use-specific standards ..., and is consistent with any approved district plan for the area.
3. The Commission may deny any application that would result in a random pattern of development with little contiguity to existing or programmed development or would cause anticipated negative fiscal or environmental impacts.

#### Sec. 50-20.3.Q Restaurants

1. In the R-2 and MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area;
2. Drive-ins ... are only allowed in the MU-N, MU-C, MU-B, MU-P, F-2, F-3, F-4, and F-5 zone districts;
3. Drive-through lanes shall allow for stacking space for 5 cars;
4. When in the MU-N district, additional standards include distance to property lines; hours of operation; screening for noise and glare, and limitation to one drive-through.

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

Governing Principle #1 – Reuse previously developed lands. This property is currently developed with ...

Economic Development Policy #3: Priority will be given to investment that reuses previously developed lands and limits increase in utility operation or maintenance costs.

Zoning – Mixed Use-Neighborhood (MU-N) - a mix of neighborhood-scale, neighborhood serving non-residential uses and a range of residential uses located in close proximity. Non-residential uses may include small-scale retail, service and professional offices that provide goods and services to the residents of the surrounding neighborhood.

Future Land Use – Urban Residential - Greatest variety of residential building types, medium to high densities. Applicable to larger infill areas close to downtown, entertainment or activity centers, and waterfront residential areas. May include student housing areas, live/work units, and limited neighborhood retail. Connected or adjacent to parks and open space.

**History:** Site was zoned R-2 prior to 2018 (PL 18-068) when it was rezoned to MU-N.

#### **Review and Discussion Items**

Staff finds the following:

1. Applicant is proposing to construct a commercial building for restaurant and office use along West Arrowhead Road and Dodge Avenue. This is a commercial development, which according to the HE-O is required to be concentrated on a major road. The building is located adjacent to Arrowhead Road, which is a major road; while Dodge Avenue is used for ingress and egress, this is necessary for traffic safety, and traffic for this development will not significantly impact neighborhood streets. The approximate 3,500 sq. ft. building consists of a 1,400 sq. ft. restaurant with an outdoor eating area and a 2,100 sq. ft. office space with associated parking, landscaping, and lighting. Section 50-21.3, Exceptions and encroachments, does allow for a deck to encroach up to 10 feet within the front yard setback. A restaurant with less than 5,000 sq. ft. in the MU-N zone district requires a special use permit. There is a companion application for a Higher Education Overlay (HE-O) Planning Review for this site as well (PL 22-045).
2. Sec. 50-20.3.Q Restaurants. In the MU-N district, no use shall exceed 5,000 sq. ft. in gross floor area. The proposed development site is located in the MU-N zoning district with the building being approximately 3,500 square feet and the restaurant space is approximately 1,400 square feet in size. All other use specific standards for restaurants in the MU-N zone district are applicable to drive-through windows. The proposed restaurant will not have a drive-through window or lane.
3. Sec. 50-23. Connectivity and Circulation. A sidewalk connects the front of the building to existing sidewalk along West Arrowhead Road. A sidewalk will be constructed along lot frontage on Dodge Avenue.
4. Sec. 50-24. Parking. The proposed use of a portion of the building for a restaurant would require 6.5 spaces per 1,000 sq. ft. of gross floor area. The restaurant space inclusive of the outdoor eating area would require 11 spaces. The applicant is applying the 30% public transit reduction in parking due to the proximity of a DTA bus stop. Seven parking spaces are then required and have been provided for the restaurant use. The additional tenant space in the building is for office use and requires 2.5 spaces per 1,000 sq. ft. of gross floor area. The office space is shown on the site plan as 2,116 sq. ft. and would require 6 spaces. The site plan depicts 17 parking spaces.
5. Sec. 50-25. Landscaping. The site is 16,500 sq. ft. in size and therefore requires street frontage landscaping. The site plan depicts the correct number of trees and shrubs required per street frontage along Dodge Avenue and West Arrowhead Road. The adjacent property to the north is residential with a single family home. There is a 6 foot tall privacy fence shown on the site plan along the north property line for screening between land uses. The UDC also

requires three small shrubs per 25 feet of boundary lot line be installed in front of the fence facing the house. The applicant will need to submit a revised landscape plan showing the required shrubs along the proposed fence line to the north. The parcel is over 10,000 square feet in size and does require a tree inventory. The applicant has completed a tree inventory which includes 3 special trees exceeding 20 inches in diameter. The applicant is proposing to remove all of the trees onsite with the exception of 3 trees within the right of way along Dodge Avenue. Removal of special tree species 20 inches diameter at breast height (DBH) or greater is prohibited unless the land use supervisor (LUS) determines that the location of the trees are preventing development or redevelopment that cannot be physically designed to protect the trees. The LUS has determined that the site can't be developed in a manner to protect the existing trees. The applicant has completed a tree replacement plan. The City Forester has reviewed the tree inventory/replacement plan and has stated that it meets the tree replacement requirements. The site plan shows replacement tree locations as required.

6. Sec. 50-26. Screening. The applicant is proposing a dumpster enclosure on the north end of the site. The applicant will need to provide dumpster enclosure and any roof top mechanical detail on a revised site plan meeting the UDC requirements.
7. Sec. 50-27. Signs. The site plan shown a sign on the southern property line adjacent to the sidewalk along Arrowhead Road. Sign permits are a separate action and will require the submittal of a sign permit application for review and approval.
8. Sec. 50-28. Storm Water and Erosion. The applicant will need to submit a storm water plan for review and approval. A building permit for this project will not be approved by City Engineering unless the storm water plans are approved.
9. Sec. 50-29. Sustainability. Does not apply because the building is less than 10,000 sq. ft.
10. Sec. 50-30. Building Design. Does not apply because the building is less than 10,000 sq. ft.
11. Sec. 50-31. Exterior Lighting. Staff recommends a photometric plan and light fixture cut sheets be provided at time of building permit application.
12. The City Engineering Department had the following comments: Applicant to provide engineering with documentation regarding sight distances at Dodge and Arrowhead with their proposed landscaping; Add sidewalk on Dodge; There's a Mill & Overlay project planned for 2022 summer that may impact construction at this location; Be sure to get a driveway permit from Engineering. The storm water engineer has not received a storm water plan to review.
13. The City Forester stated that the street trees (sugar maple) aren't the hardiest tree around Duluth so normal construction work without adequate protection around them will cause a significant decline in those trees. The Forester would like to see a more detailed replacement plan; the estimation of a tree with a mature canopy of 60-75' growing from a space the size of a single parking space seems a bit optimistic around here.
14. Staff received one email (see attached) regarding the proposed development. Additional comments received will be forwarded to the Planning Commission.
15. Approved special use permits shall lapse if the project or activity authorized by the permit or variance is not begun within one year of the permit date. The building official may extend this period one time for a period of up to one year if the property owner presents a written request showing the reasons for the delay was outside the owner's control.

#### **Staff Recommendation:**

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

- 1) Applicant shall submit a lighting plan with photometric plan that fully conforms to the requirements of the UDC.
- 2) Applicant shall submit dumpster enclosure and roof top mechanical screening plans that fully conform to the requirements of the UDC.
- 3) Applicant shall submit a storm water management plan for approval by City Engineering prior to the issuance of a building permit.
- 4) The applicant shall submit a revised landscape plan showing the required shrubs along the proposed northern fence line.
- 5) Prior to issuance of building permit, Applicant shall submit a financial security in the form of a cash escrow or Letter of Credit in the amount of 100% of the installed value of the landscaping to insure survivability of all required landscaping for at least one year after installation.
- 6) The project be limited, constructed, and maintained consistent with plans titled "Commercial Building" by Arola Architecture Studios, LLC
- 7) 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.





1303 West Arrowhead Road



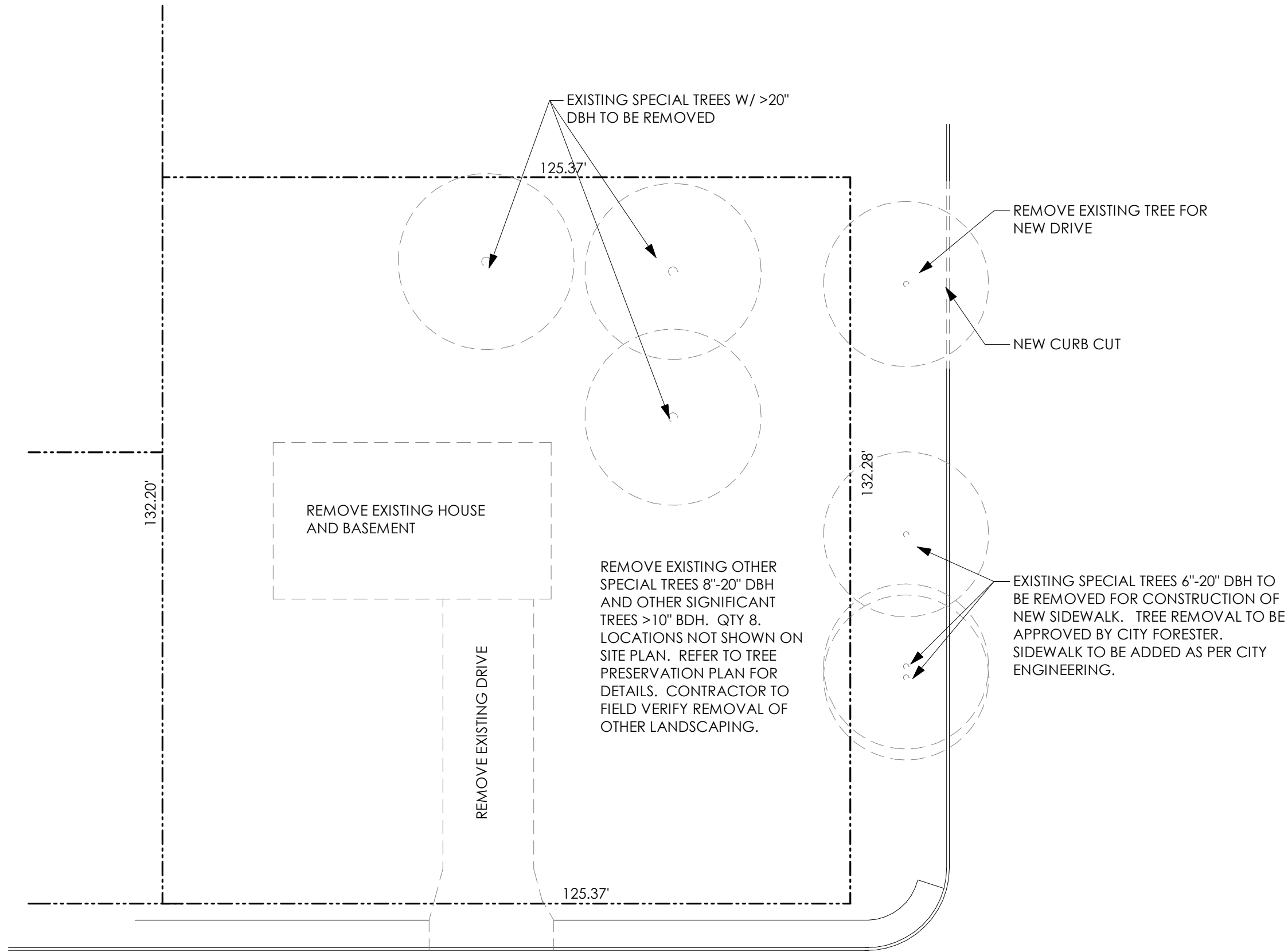
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used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



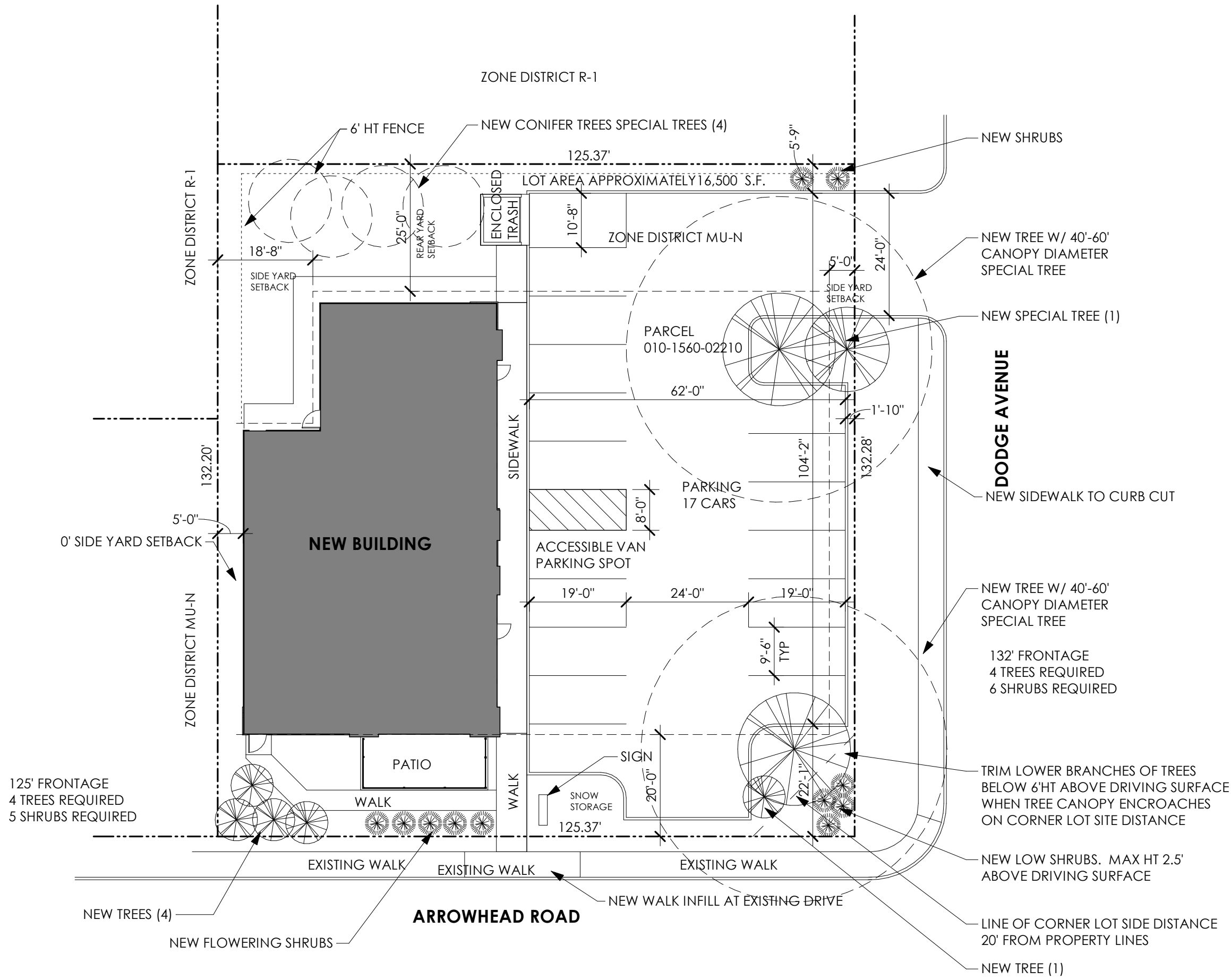
Aerial photography flown 2016

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





① SITE DEMOLITION PLAN  
1" = 20'-0"



② SITE PLAN/ LANDSCAPE PLAN  
1" = 20'-0"

#### ZONING SUMMARY

- ZONE DISTRICT: MU-N (MIXED USE - NEIGHBORHOOD)
- HIGHER EDUCATION OVERLAY
- PROPOSED USES
  - TENANT 1 - RESTAURANT < 5,000 S.F.
  - SPECIAL USE PERMIT REQUIRED
  - TENANT 2 - UNDETERMINED
- PARKING REQUIRED
  - TENANT 1 - RESTAURANT (1,520 GROSS S.F.)
  - 6.5 SPACES PER 1,000 SF GROSS FLOOR AREA
  - 10 SPACES + 30% PUBLIC TRANSIT REDUCTION=
  - 7 SPACES REQUIRED
  - TENANT 2 - UNDETERMINED
  - ESTIMATED 10 SPACES REQUIRED

TABLE 50.15.2.1 MU-N DISTRICT DIMENSIONAL STANDARDS		
LOT STANDARDS		
Minimum lot area per family	One-family	4,000 sq. ft.
	Two-family	2,500 sq. ft.
	Multi-family	500 sq. ft.
	Efficiency unit	380 sq. ft.
	Townhouse or live-work dwelling	2,200 sq. ft.
No lot of record containing 5,000 sq. ft. or less shall be used except for a one-family dwelling or a permitted non-dwelling use		
Minimum lot frontage	One-family, two-family, or townhouse dwelling	30 ft.
	Multi-family or non-residential	50 ft.
STRUCTURE SETBACKS		
Minimum depth of front yard	For all structures 35 feet in height or less	The smaller of 20 ft. or overage of adjacent developed lots facing the same street
	For portions of all structures higher than 35 feet	An additional 20 feet beyond the required front yard setback above
Minimum width of side yard	General, unless listed below	5 ft.
	Non-residential use adjacent to residential district or use	15 ft.
	Non-residential use adjacent to non-residential district or use	0 ft.
	Multi-family adjacent to single-family district or use	10 ft.
	Multi-family adjacent to multi-family district or use	0 ft.
Minimum depth of rear yard		25 ft.
STRUCTURE HEIGHT		
Maximum height of building	Non-residential use	45 ft.
	Residential or mixed use (general)	75 ft.
	Residential or mixed use (within 500 ft. of R-1 or R-2 district)	45 ft.
Section 50.21 Dimensional standards contains additional regulations applicable to this district.		

[REDACTED]

Sent: Friday, March 25, 2022 6:05 PM

To: planning <[planning@DuluthMN.gov](mailto:planning@DuluthMN.gov)>

Subject: Re: special use permit 22-040

To Whom it May Concern at the Planning Comission:

Please reconsider placing a commercial building/restaurant at 1303 Arrowhead Road.

There is already a lack of safety making a left turn onto Dodge Ave from W Arrowhead Rd as well as making a turn from Dodge Ave onto Arrowhead Road in either direction. Traffic and pedestrian safety as well as the traffic back up from the Arrowhead and Kenwood intersection makes the intersection dangerous now. Especially as the sidewalk in front of the proposed restaurant is bus access sidewalk. It will make getting to public transit less safe if cars are turning left trying to beat oncoming traffic into the commercial building. Part of the draw of living on Woodrich Circle for my aging parents was the walk ability of the neighborhood which is already significantly impacted.

Mixed use neighborhoods should have more of a buffer between restaurant traffic and lights than the small area between the houses on Dodge and the proposed spot on Arrowhead.

There are noise, traffic, light pollution and safety issues with adding more and more non-residential businesses to this area before the expansion of the Kenwood shopping center is even complete.

Woodrich Circle was a quiet residential neighborhood with shopping close by. The mixed use of tearing down multiple homes and continuing to tear down more makes this area more commercial than residential.

As my parents are residents on Woodrich Circle I have taken their input as well as added my own concerns to this email.

Lorene Schwab

Donna and Tom Frisk