



**CITY OF DULUTH**  
Community Planning Division

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

<b>File Number</b>	PL17-060	<b>Contact</b>	Kate Van Daele, 218-730-5301	
<b>Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	May 9, 2017	
<b>Deadline for Action</b>	<b>Application Date</b>	April 3, 2017	<b>60 Days</b>	June 2, 2017
	<b>Date Extension Letter Mailed</b>	April 14, 2017	<b>120 Days</b>	August 1, 2017
<b>Location of Subject</b>	5805 Oneida Street			
<b>Applicant</b>	Katie Brunelle	<b>Contact</b>		
<b>Agent</b>		<b>Contact</b>		
<b>Legal Description</b>	Lots 16 and 17			
<b>Site Visit Date</b>	April 22, 2017	<b>Sign Notice Date</b>	April 25, 2017	
<b>Neighbor Letter Date</b>	N/A	<b>Number of Letters Sent</b>	N/A	

**Proposal**

Applicant seeks a concurrent use permit for encroachment of their garage into the 58<sup>th</sup> Ave East right-of-way. This application was a condition of the owners previously approved variance to build an addition onto their legally non-conforming home.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
<b>Subject</b>	R-1	Single Family Residential	Residential Traditional
<b>North</b>	R-1	Single Family Residential	Residential Traditional
<b>South</b>	R-1	Single Family Residential	Residential Traditional
<b>East</b>	R-1	Single Family Residential	Residential Traditional
<b>West</b>	R-1	Single Family Residential	Residential Traditional

**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) No portion of a public easement proposed of use is being physically occupied by the public.

4) F-1



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

**Future Land Use- Traditional Neighborhood:** Characterized by a grid or connected street pattern, houses orientated with shorter dimensions 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 and neighborhood extensions, and new traditional neighborhood areas.

#### **Governing Principle #5- Strengthen Neighborhoods**

Applicant applied for a variance to build an addition of their home that was entirely within the rear yard setback. This variance was approved by Planning Commission on March 14<sup>th</sup>, and as a condition of that approval, city staff required a concurrent use permit to be obtained for the encroachment of their garage being in the right-of-way into the 58<sup>th</sup> Ave East Street.

### **Review and Discussion Items**

Staff finds that:

- 1) Applicant is requesting a concurrent use permit for the encroachment of three feet of their detached garage onto 58<sup>th</sup> Ave East right-of-way.
- 2) A concurrent use permit is required for encroachment into a public right-of-way. The applicant was not the original builder of the home which was built in 1924. The garage was built in 1958, also not by the applicant which went over the property line and into the right-of-way.
- 3) The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city.
- 4) The area proposed for the concurrent use permit will not take away from the public's ability to use the public right-of-way.
- 5) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against all occurrences in the right-of-way.
- 6) 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.
- 7) No comments were received from the public or government agencies at the time this staff report was written. City Engineering has reviewed the application materials and has no concerns.
- 8) 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 provide proof of liability insurance to indemnify the City against any occurrences in the right-of-way that are due to items covered in this permit,
- 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.

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# City Planning

PL 17-011: Variance  
5805 Oneida St

## Legend

### Zoning Boundaries

Zoning Boundaries

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

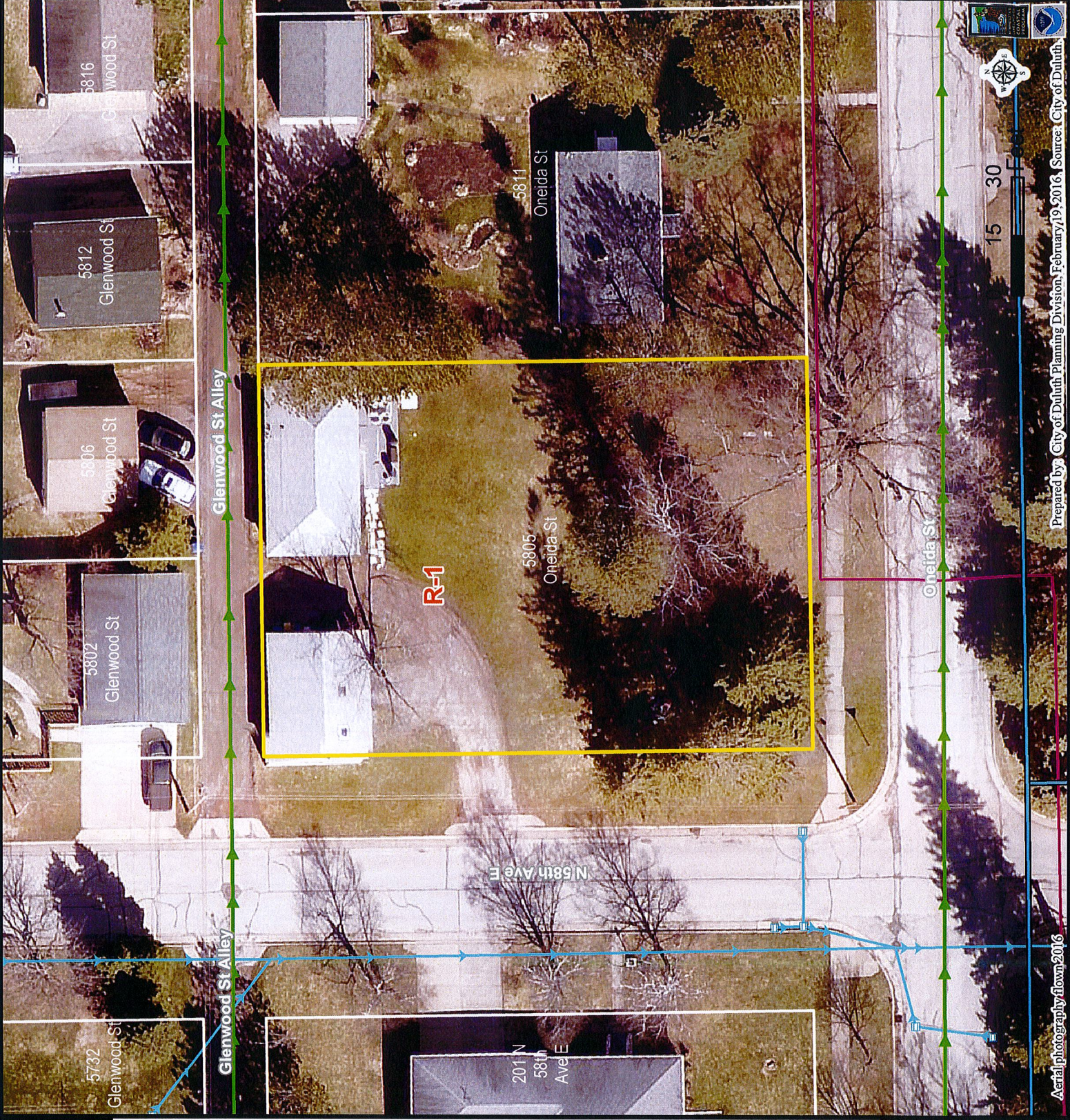
4" - 6" Gas Pipes

0" - 4" Gas Pipes

### Storm Sewer Collection System

Storm Sewer Pipe

Storm Sewer Catch Basin



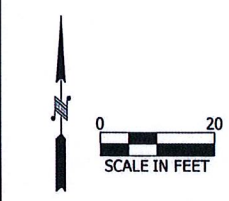
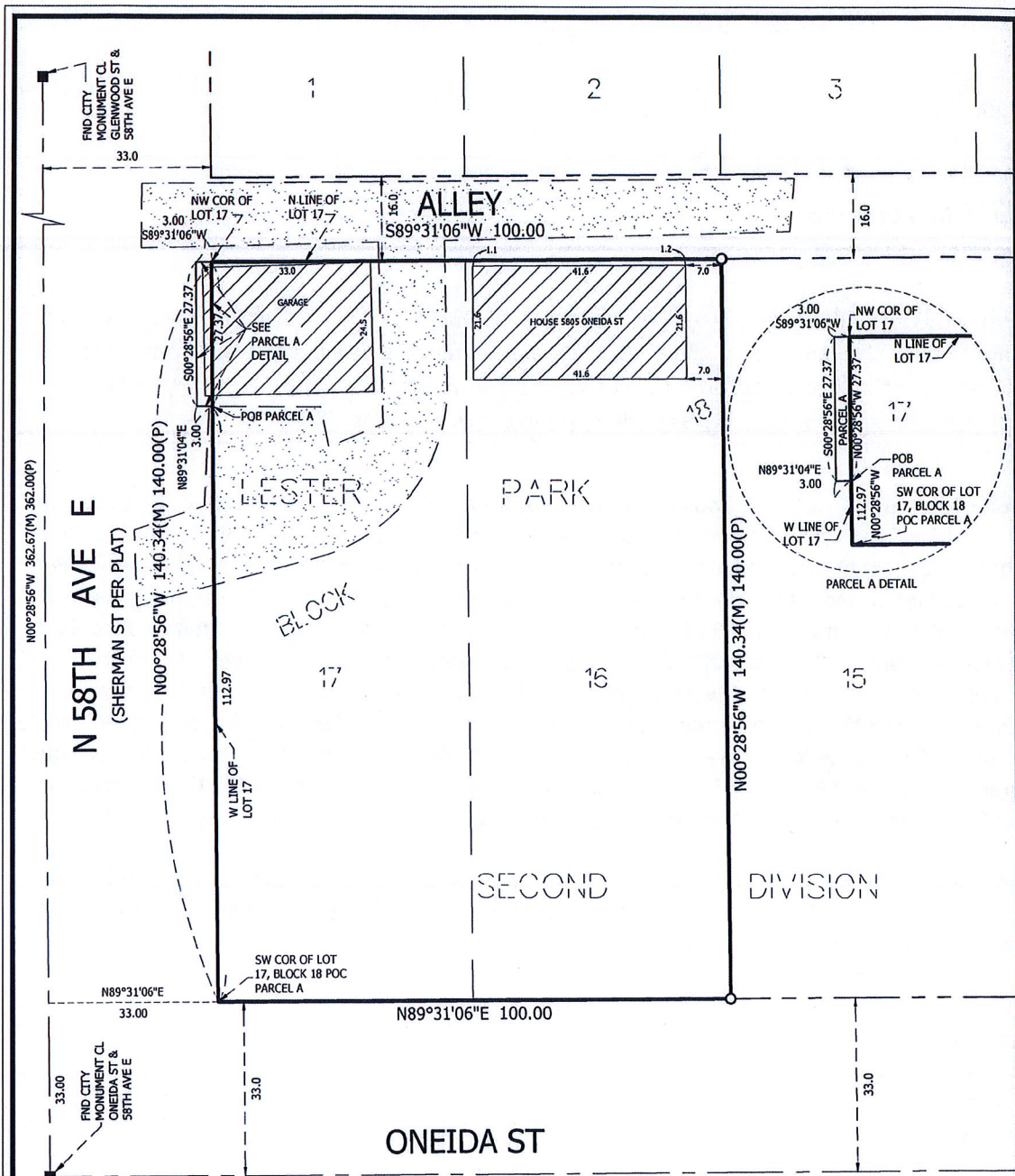
Aerial photography flown 2016

Prepared by: City of Duluth Planning Division, February 19, 2016. Source: City of Duluth.

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BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996.

BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY.

THIS SURVEY HAS BEEN PREPARED WITHOUT BENEFIT OF A TITLE COMMITMENT OR TITLE OPINION. A TITLE SEARCH FOR RECORDED OR UNRECORDED EASEMENTS WHICH MAY BENEFIT OR ENCUMBER THIS PROPERTY HAS NOT BEEN COMPLETED BY ALTA LAND SURVEY COMPANY.

**LEGAL DESCRIPTION PER DOC. 993577**

Lots 16 and 17, Block 18, LESTER PARK SECOND DIVISION, according to the original and duplicate plats thereof of record in the Office of the Register of Deeds, St. Louis County, Minnesota.

**LEGAL DESCRIPTION OF PARCEL A**

A portion of Sherman Street, also known as North 58th Avenue East, lying adjacent to Lot 17, Block 18, LESTER PARK SECOND DIVISION, according to the original and duplicate plats thereof of record in the Office of the Register of Deeds, St. Louis County, Minnesota described as follows:

Commencing at the Southwest corner of said Lot 17; thence North 00 degrees 28 minutes 56 seconds West, along the West line of said Lot 17 for a distance of 112.97 feet to the point of beginning of the parcel herein described; thence continue North 00 degrees 28 minutes 56 seconds West, along said West line of Lot 17 for a distance of 27.37 feet to the Northwest corner of said Lot 17; thence South 89 degrees 31 minutes 06 seconds West, along the West extension of the North line of said Lot 17 for a distance of 3.00 feet to the intersection with a line which is parallel with and distant 3.00 feet West line of said Lot 17; thence South 00 degrees 28 minutes 56 seconds East, along said parallel line 27.37 feet; thence North 89 degrees 31 minutes 04 seconds East 3.00 feet to the point of beginning.

Said parcel contains 82 square feet.

I hereby certify that this survey, plan, 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.

*David R. Evanson*  
David R. Evanson

Date: 3-27-2017  
MFLC No. 49505

CERTIFICATE OF SURVEY	
CLIENT: CHRIS PICKARD / KATHLEEN BRUNELLE	REVISOR:
DATE: 3-27-2017	
ADDRESS: 5805 ONEIDA ST	
JOB NUMBER: 17-081	

**ALTA**  
LAND SURVEY COMPANY

\* LAND SURVEYING  
\* LAND DEVELOPMENT  
\* PLATTING  
\* LEGAL DESCRIPTIONS  
\* CONSTRUCTION STAKING

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