



Planning & Development Division
Planning & Economic Development Department

Room 160
411 West First Street
Duluth, Minnesota 55802



218-730-5580



planning@duluthmn.gov

June 3, 2020

Re: PL 20-026 Application Changes – June 9, 2020 Planning Commission Meeting

Dear President Nelson and Planning Commissioners:

On May 12, 2020, the Duluth Planning Commission reviewed application PL 20-026, a variance request for reduction in the corner lot setback at 301 S 58th Avenue West (010-4480-01910). This application was unanimously tabled and no decision was made. City staff explored the land exchange with the neighboring property owner, as discussed at the May 12 meeting, as well as alternative design options with the Rebuild Duluth applicant to address lot density concerns expressed by the Planning Commission. Staff findings and changes to application PL 20-026 are summarized below.

Application Proposal: The applicant (DEDA) is seeking a variance to reduce the corner side yard setback from 15' to 5'8" to allow future construction of a housing structure on a currently vacant lot.

Application Modifications: The Rebuild Duluth applicant selected for development on this site has modified their design, removing the previously proposed accessory dwelling unit and maintaining one single family home as depicted in the attached exhibit. This updated design reduces the required number of off-street parking spaces and reduces the household density; only one household will reside on the 25' x 125' lot. The front and rear yard setbacks align with development standards of an R-1 zoned district. The applicant will maintain side yard setbacks of 5'8" on both sides of the proposed single family home, which is consistent with setback requirements for non-corner lots. In addition to a 5'8" side yard setback parallel to Redruth Street on the north side of the lot, the attached exhibit shows a roughly 15'-18' city owned boulevard. This will provide adequate site drainage to the street, unobstructed views from around the corner for motorists and pedestrians, and adequate space for snow removal and storage.

Additional Discussion/Clarification: At the May 12, 2020 meeting, this property was referred to as a tax forfeit property purchased by the Housing and Redevelopment Authority of Duluth Minnesota (HRA) via auction. Staff confirmed with the St. Louis County Land and Minerals Department that this property was not tax forfeit and in fact sold by the previous owner directly to the HRA in 2011. Prior to sale, the lot had a single family home that was demolished in 2011. The HRA conveyed the lot to DEDA in February 2020 for use in the Rebuild Duluth program.

In addition to design modifications, the Planning Commission requested staff explore an opportunity for land swap as suggested by the neighboring property owner, Ms. Ranta. Staff explored this opportunity and established that the UDC would not allow the development of a single family home on Ms. Ranta's offered site without securing a variance due to minimum lot width requirements. The two parcels proposed by Ms. Ranta are located in the Gary New Duluth neighborhood and are considered part of the existing single-family home site. Subdividing the lots to create two home sites would result in non-conforming lots. Additionally, even if Ms. Ranta's property could be appropriately subdivided, the Rebuild Duluth participant prefers the subject property site and location.



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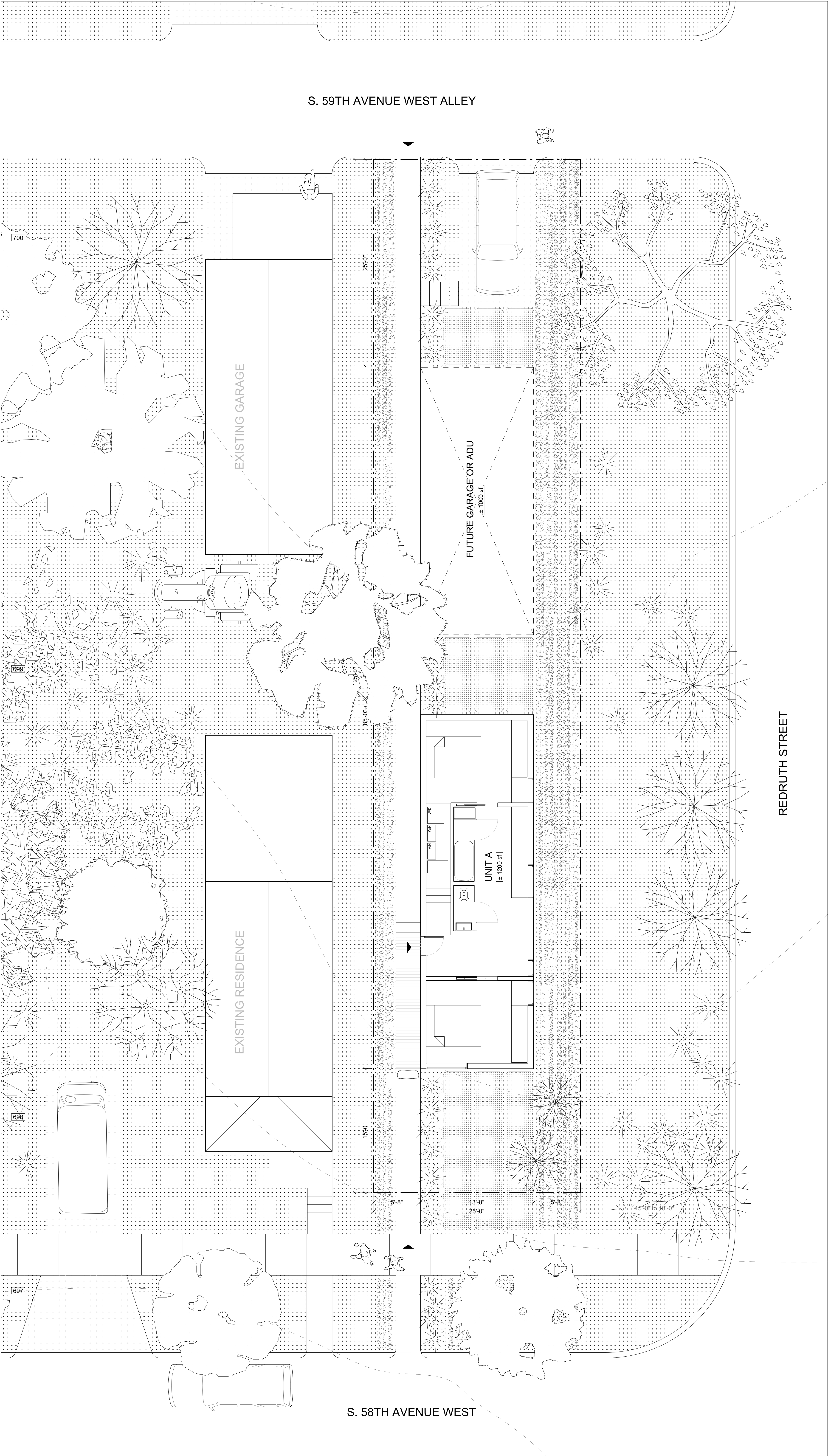
Staff Recommendation: Staff is recommending the Planning Commission approve and adopt this variance without the requirement that future construction plans require a landscaping and buffering plan.

Attached to this memo you will find the revised single-family home design and one additional public comment received on May 13, 2020. Following this memo is the original staff report packet presented on May 12, 2020.

Thank you for your time and consideration.

Respectfully,

Theresa Bajda
Planner II



Wednesday, May 13, 2020

Dear Duluth Planning Commission,

I am writing as a proponent of the planning application PL20-026 to grant a variance to the side yard setback from 15' to 5'-8". I was witness to discussion of this application during the Planning Commission meeting on Tuesday, May 12, and feel that there are a number of items that warrant further discussion. But first there are a few issues that merit clarification:

1. The matter at hand is whether the Planning Commission approves or denies a variance to reduce the side yard setback from 15'-0" to 5'-8". This alone is the central question under consideration. I support the variance for the following reasons:

- a. As a zoning ordinance, the side yard setback is intended to maintain certain clearances between built structures and the curb to provide visibility for motorists, adequate landscaping for water management, room for snow plow wakes, and preserve other public goods. In the case of the lot in question, a city-owned and city-maintained boulevard of 10' between the curb and the lot line already ensures that these public goods are provided for;
- b. As demonstrated in the planning application, at least six other residences within 2 blocks of the lot in question are not in compliance with the corner side yard setback;
- c. The current setback requirements for the lot would permit a buildable area of only 7'-0" wide, precluding any future development on the lot. Without a variance from the corner side yard setback, the lot is unbuildable. The setback requirement poses a practical difficulty inherent to the lot itself;
- d. a structure of located in nearly the same position on the lot existed until 2011 without causing undue harm to the neighborhood.

2. There was a great deal of discussion during tonight's meeting about considerations other than the matter at hand (#1 above). This discussion focused on the way tax-forfeited lots are listed, auctioned, and sold by Saint Louis County. This topic is neither germane to the matter at hand, nor within the Planning Commission's purview to use as a basis for judgment.

- a. Commissioner Schraepfer, echoed by Commissioners Zwiebel and Nelson, suggested that tax-forfeited lots should be offered to adjacent landowners as a matter of best practice. As a citizen and prospective land owner, I find this "right of first refusal" suggestion not only to be unfair to the public at large, but also to reinforce the power held by existing landowners. Luckily, the manner in which Saint Louis County conveys land is not the matter at hand and should not be taken into consideration by the Commission on this application.
- b. Ms. Taimi Ranta, the landowner of the adjacent lot, voiced her opposition to the variance citing a number of concerns:

- (1) the proposed structure will be too close to her home;

- (2) she was not aware the land had been tax-forfeited, listed in the county's tax-forfeit directory, listed at public auction, or made available to be purchased over the counter;
- (3) she would be happy to purchase it from DEDA or exchange it for her lots in Gary West Duluth.
- (4) Ms. Ranta also suggested that property was a rental and not her current place of residence.

I believe these claims warrant closer examination:

- (1) The proposed structure on this 25'-wide lot would be no closer to her house than any other structure built within the allowable buildable area of another 25'-wide lot, per Duluth zoning code. The proposed structure complies with the side yard setback on the side adjacent to Ms. Ranta's lot. In fact, the proposed structure has a more generous sideyard setback on this side at 5'-8" than the minimum of 3'-0" required by zoning code.
- (2) tax-forfeited land and all the listing processes that it undergoes are public record and made publicly available through the Saint Louis County website and other channels
- (3) DEDA acquired the property in question at fair market value via an over the counter sale. Land transfer is not a bargaining system and DEDA cannot be expected to trade.
- (4) The condition of Ms. Ranta's property suggests that it is not fit for habitation. With visibly broken windows and a dilapidated porch, it does not appear to be occupied or maintained and appears to require significant improvement.

It seems clear to me that had the proposed development been located on the opposite side of Ms. Ranta's lot, on a mid-block lot instead of a corner lot, it would not require a variance and therefore not be under review by the Planning Commission. The proposed building would be fully compliant with zoning code for 25'-lot developments in R-1 neighborhoods per Duluth zoning code. Consequently, the manner it was conveyed to DEDA (which is not the matter at hand) would not be a matter of discussion because the proposed development would not have come across the Planning Commissioners' desks.

3. I would also like to point out that the proposed buildable area in question on this lot is identical to the proposed buildable area (PL20-025) that was approved earlier in the same meeting. The same development is planned for both lots. Schematic site plans for both of these lots are available for review upon request. I cannot see how the same building built on lots of the same dimensions located in the same neighborhood can be assessed in different ways. How can the first be acceptable and the second be objectionable?

4. Commissioner Wedul suggested that the proposed development is "inconsistent with the flavor of the neighborhood" following a cursory review of the neighborhood in the Saint Louis County Land Explorer during the meeting. I challenge Ms. Wedul's assessment on several grounds:

- a. Without schematic site plans and building plans, the Planning Commission does not have sufficient information about the size, massing, and arrangement of the proposed development to make this assessment. These plans can be made available upon request.

- b. The proposed development matches the neighboring residences in form and proportion and is actually smaller than many adjacent structures in area, width, and height. It has a handsome material palette consistent with neighboring residences.
- c. While categorized as a duplex in this application, the proposed development could just as well be a primary unit + ADU. It meets all criteria for both duplexes and primary/ADU categories.
- d. The proposed development that was selected for the Rebuild Duluth program features 2 separate structures, similar in massing and arrangement to the house and garage on Ms. Ranta's neighboring lot.

Contrary to Commissioner Wedul's assessment, the proposed development is actually sensitive to and consistent with neighborhood character.

5. Given matters (1), (2), (3), and (4) above, I advocate that the Planning Commission approve the variance unless they can provide good reason that a reduction in corner side yard setback from 15' to 5'-8" causes undue harm.

6. I would also like to refocus the conversation on the added value and benefits of making the lot developable by granting the requested variance. I will reiterate some of the broadly held development goals of the City. Granting the variance would:

- a. return a vacant parcel to the property tax rolls
- b. promote reinvestment in disinvested lots in established neighborhoods
- c. add (2) units of cost-efficient housing to Duluth's rented- or owned-housing stock that are affordable to over 80% of Duluth households per Rebuild Duluth guidelines

Duluth is estimated to have a shortage of almost 4,500 units of housing. Recent changes to zoning code approved by the Duluth City Council allow previously un-developable lots like the one in question to be developed; your Commission can actualize this potential by approving this variance. The groundwork for beautiful, affordable infill housing has been laid. Now is the time to build on it.

All my best,

Benjamin Olsen
2369 Doswell Avenue
Saint Paul, MN 55108



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| | | | | |
|----------------------|--|---------------------------------|--|--------------|
| File Number | PL20-026 | Contact | Theresa Bajda, 218-730-5303 | |
| Type | Variance – Corner Side yard Setback in R-1 | Planning Commission Date | | May 12, 2020 |
| Deadline for Action | Application Date | March 9, 2020 | 60 Days | May 8, 2020 |
| | Date Extension Letter Mailed | Not Applicable | 120 Days | July 7, 2020 |
| Location of Subject | | 301 S 58 th Ave West | | |
| Applicant | Duluth Economic Development Authority | Contact | | |
| Agent | Theresa Bajda – City of Duluth Planning | Contact | 218-730-5303, tbajda@duluthmn.gov | |
| Legal Description | | Parcel ID Number 010-4480-01910 | | |
| Site Visit Date | | March 10, 2020 | Sign Notice Date | 4/23/20 |
| Neighbor Letter Date | | 4/17/20 | Number of Letters Sent | 46 |

Proposal: The applicant is seeking a variance to reduce the corner side yard setback from 15' to 5' 8" to allow future construction of a housing structure on the currently vacant lot.

Staff Recommendation: Staff is recommending that Planning Commission approve and adopt this variance without the requirement that future construction plans require a landscaping and buffering plan.

| | Current Zoning | Existing Land Use | Future Land Use Map Designation |
|----------------|-----------------------|---------------------------|--|
| Subject | R-1 | Vacant lot | Traditional Neighborhood |
| North | R-1 | Single Family Residential | Traditional Neighborhood |
| South | R-1 | Single Family Residential | Traditional Neighborhood |
| East | R-1 | S 58 th Ave W | Traditional Neighborhood |
| West | R-1 | S 59 th Ave W | Traditional Neighborhood |

Summary of Code Requirements:

The Planning Commission shall review and approve the application if it is determined that:

Sec. 50-14.5.1-1 – R1 District Dimensional Standards: Corner Lot; wide of front side yard for dwelling is 15 feet.

Sec. 50-37.9.B – Variance Procedures: “The Planning Commission shall...make a decision on the application based on the criteria in subsections 5037.9.C – 50.37.9.M...”

Sec. 50-37.9.C – General Variance Criteria (paraphrased): Granting of variances of any kind is limited to situations where, due to characteristics of the applicant’s property, enforcement of the ordinance would cause the landowner exceptional practical difficulties or undue hardships. The Planning Commission must find the following for a variance to be granted: a) That the landowner is proposing to use the property in a reasonable manner, b) that the need for relief from the normal guidelines is

due to circumstances unique to the property and not caused by the landowner, c) that granting the variance will not alter the essential character of the area, d) that granting the variance is consistent with the intent of the UDC and the Comprehensive Plan.

Sec. 50-37.9.H: Standards for variances to reduce setbacks: When the application is for the reduction of required front, rear or side yard setback, the commission may require the submission of a landscaping and buffering plan.

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

Governing Principle #1 – Reuse previously developed lands. The proposed variance would allow infill housing construction on a currently vacant lot within an established neighborhood.

Governing Principle #5 – Promote reinvestment in neighborhoods. The variance would allow future housing construction and put a vacant lot back in the tax base.

Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods. The variance would allow new construction of affordable housing on a small 25’ lot that had a previously demolished single family home.

Future Land Use – Traditional Neighborhood: Characterized by grid or connected street pattern with houses oriented 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, neighborhood extensions, and new traditional neighborhood areas.

Recent History – This previously plotted lot had a single-family house that was condemned for human habitation in 2009 and demoed in 2011. As seen in the included neighborhood view exhibit, many lots have housing structures built within the 15ft side yard setback required in R-1 districts on corner lots. This site was selected by City of Duluth and DEDA for use in the Rebuild Duluth Program. The lot will be conveyed to a new owner at no cost once their successful proposal for infill housing and land sale agreement is approved. The Rebuild Duluth program was intended to build a collective knowledge of creative/innovative design for infill housing in Duluth, with focus on how to simplify said development while maintaining affordability. Supported by Mayor Larson and City Administration, priority was given to Rebuild Duluth program applicants during the selection process, whose proposal was for narrow, 25’ lots. The applicant is proposing a two-family home(duplex) for this site. The total square footage of the building footprint proposed for this site is 1,026 square feet.

Review and Discussion Items

Staff finds that:

- 1.) The applicant is requesting a reduction in the corner lot front side yard setback variance to 5' 8" to allow for future construction of a housing structure as part of the Rebuild Duluth Program. Single-family housing is a reasonable use in this zone district.
- 2.) The 25' x 125' parcel would only allow a structure of 7 feet in width if current setbacks for R-1 zoning were adhered to, which demonstrates practical difficulty for this site. Reduction in the required corner lot side yard setback will allow for a feasible housing design for future infill construction. Maintaining a 5' 8" side yard setback on both sides of the property, the applicant can construct a two-family home (duplex) . The total square footage of the building footprint proposed for this site is 1,026 square feet.
- 3.) Variances to setbacks require the submission of a landscaping and buffering plan. Applicants to the Rebuild Duluth program must provide landscaping and stormwater retention designs which thoughtfully consider UDC standards and a diverse vegetation. A buffering and landscape plan for the variance area faces the street and is not recommended.
- 4.) Other homes in the neighborhood are built within the 15 feet corner lot front side yard setback area, as seen in the attached map. This proposed variance will allow for use of the property in a manner consistent with the neighborhood character. This area was platted prior to the existing setback standards.
- 5.) The addition of a housing structure would not impair light or air to neighbors, increase congestion in the neighborhood, create fire danger, or imperil public safety. A landscaping and buffering plan within the variance area would not be favorable as it abuts the street.
- 6.) To date, two public comment was received on 4/21/20 and included with this staff report. In addition, neighborhood residents obtained signatures opposing variance; this is also included with this staff report.
- 7.) Per UDC Section 50-37.1.N, approved variances shall lapse if the project or activity authorized by the permit or variance is not begun within one year of the permit date.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission approve the variance, subject to the following conditions:

- 1.) 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 action; however, no such administrative approval shall constitute a variance from the provisions of UDC Chapter 50.

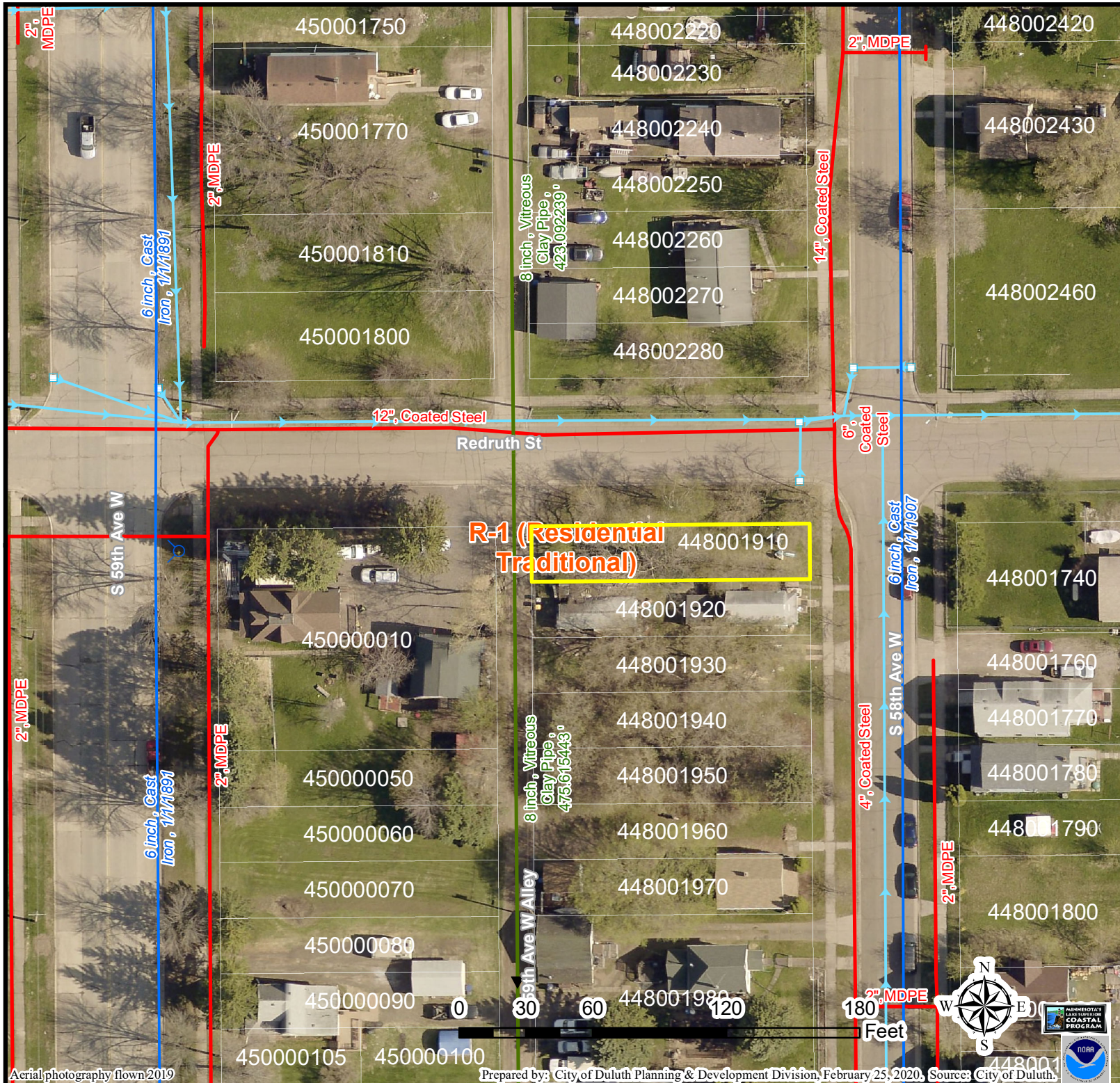


PL20-026
Corner Lot
Front Side Yard Variance

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
- Zoning Boundaries
- Trout Stream (GPS)
- Other Stream (GPS)

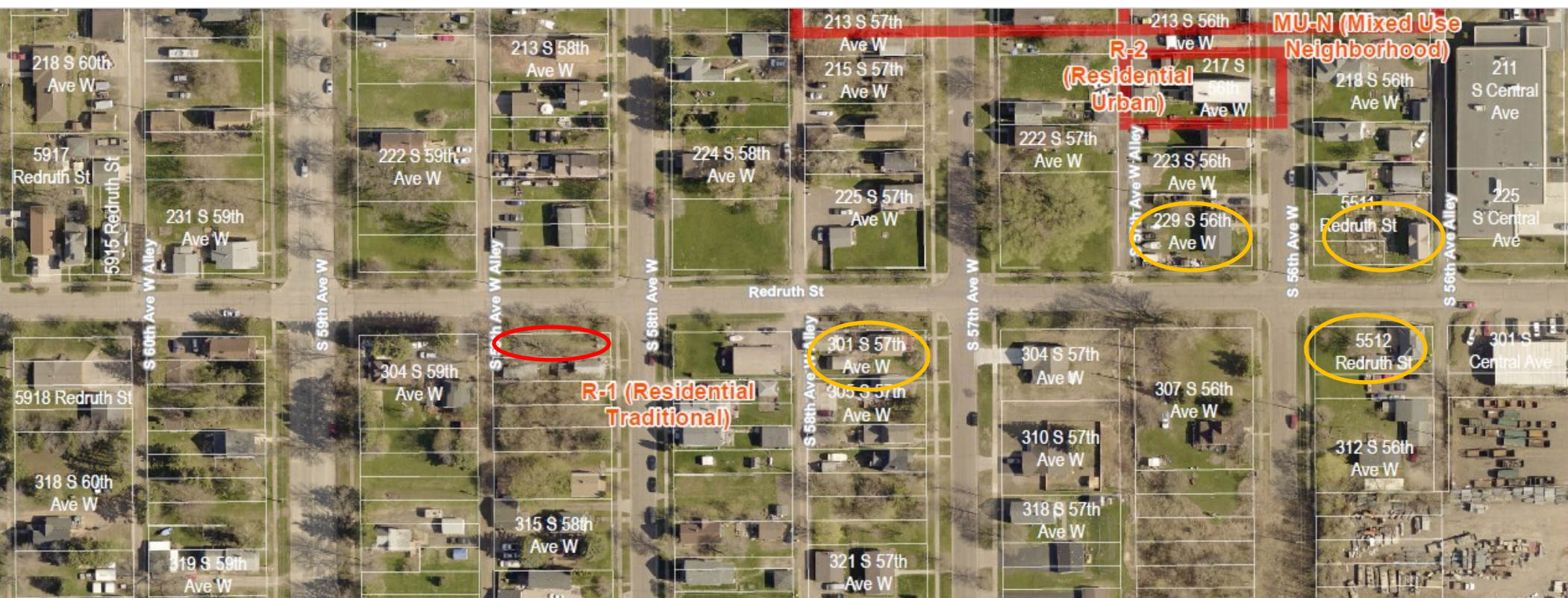
The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used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



PL20-026

Neighborhood View

Corner Lots with less than 15ft front side yard setback



Property seeking variance



Corner lots with less than 15ft
front side yard setback

PL 20-026 Site Visit : 3/12/20

Parcel: 010-4480-01910; 301 S 58th Ave West



PL20-026

Public Comments Received

*Names/signatures removed to preserve confidentiality



Variance 301S 58th ave west

Theresa Bajda

Tue 4/21

You forwarded this message on 4/22/2020 8:24 AM.

[Click here to download pictures.](#) To help protect your privacy, Outlook prevented automatic download of some pictures in this message.

My opinions and concerns. I feel the lot is to small to build a house there. It will encroach on the neighbors home next to it. It will possibly be a hazard to vehicle line of sight around the corner. The snow plows will end up plowing snow right up to the new home. This will cause flooding and structural damage with the tax payers footing the bill. A 25 foot lot is just to small. Kids will have no place to play but in the street. A safety hazard for them. Please do not approve this variance.

To whom it may concern

Variance for 301 S. 59th Ave West

My opinions and concerns. I feel the lot is to small to build a house there. It will encroach on the neighbors home next to it. It will possibly be a hazard to vehicle line of sight around the corner. The snow plows will end up plowing snow right up to the new home. This will cause flooding and structural damage with the tax payers footing the bill. A 25 foot lot is just to small. Kids will have no place to play but in the street. A safety hazard for them. Please do not approve this variance.

213 S 59th Ave W
S. 58th AVE. W

222 S 59th Ave W

219 S. 59th Ave. W.

218 S. 60th Ave W

301 S 59th Ave west

301 S 59th Ave west

231 S 59th Ave W

309 S. 59th W.

327 South 59th Ave West #2

318 S 59th AVE. W.

232 S 59th Ave W.

207 S. 63rd ave

222 S 59th Ave W

My opinions and concerns.

Variance for 301 S. 58th Ave W

I feel the lot is too small to build a house there. It will encroach on the neighbors home next to it. Lower property values. It will possibly be a hazard to vehicle line of sight around the corner. The snow plows will end up plowing snow right up to the new home. This will cause flooding and structural damage with the tax payers footing the bill. A 25 foot lot is just too small. Kids will have no place to play but in the street. A safety hazard for them. Please do not approve this variance.

212 S 57th Ave W

218 4090761

309 S 58th Ave W
218-628-3123

5710 Raleigh St 218-349-4534

213 S 58th Ave W

✓ 217 S 58th Ave W

229 S. 58th Ave W

315 S. 58th Ave W

318 S 58th Ave W

321 S. 57th Ave W

308 S. 58th Ave W

224 S. 58th Ave W

16 S. 58th Ave W

8 S 60th Ave W

5 S 60th Ave W

My opinions and concerns.

variance for 301 S 58th Ave W

I feel the lot is too small to build a house there. It will encroach on the neighbors home next to it. Lower property values. It will possibly be a hazard to vehicle line of sight around the corner. The snow plows will end up plowing snow right up to the new home. This will cause flooding and structural damage with the tax payers footing the bill. A 25 foot lot is just too small. Kids will have no place to play but in the street. A safety hazard for them. Please do not approve this variance.

301 S. 57th Ave W

311 S. 57th Ave W
309 S. 57th Ave W.

329 S. 57th Ave W
55807

325 S. 57th Ave W

328 S 57th Ave W 55807

318 S. 57th Ave W Duluth MN
55807

310 S 57th Ave W Duluth, MN 55807

304 S 57th Ave W Duluth, MN 55807

215 S. 57th Ave W. Duluth 55807