



**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 20-120		Contact	Chris Lee, clee@duluthmn.gov	
Type	Variance – minimum lot area for multi-family dwelling		Planning Commission Date		September 8, 2020
Deadline for Action	Application Date		July 24, 2020	60 Days	September 22, 2020
	Date Extension Letter Mailed		August 18, 2020	120 Days	November 21, 2020
Location of Subject		106 South 15 <sup>th</sup> Avenue East			
Applicant	James Talago		Contact		
Agent			Contact		
Legal Description		See attached			
Site Visit Date		August 31, 2020	Sign Notice Date		August 25, 2020
Neighbor Letter Date		August 26, 2020	Number of Letters Sent		53

**Proposal**

A variance to reduce the minimum lot area (5,000 square feet) to construct a multi-family dwelling unit. The proposal is to allow for a reduction of 223 square feet, with a total lot size of 4,773 square feet.

**Recommended Action:** Approve variance with conditions.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-2	Residential	Urban Residential
<b>North</b>	R-2	Mixed-Use Commercial	Urban Residential
<b>South</b>	R-2	Residential	Urban Residential
<b>East</b>	R-2	Residential	Urban Residential
<b>West</b>	MU-N	Residential	Central Business Secondary

**Summary of Code Requirements**

Sec. 50-37.9. B – Variance Procedures. “The Planning Commission shall...make a decision on the application based on the criteria in subsections 50-37.9. C – 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 hardship. 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 regulations 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.

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

Governing Principle #5 – Promote reinvestment in neighborhoods.

Governing Principle #8 – Encourage a mix of activities, uses, and densities. – The current lot is underutilized with the existing structure. This property is served by transit and utilities that makes a strong case for increased density among an area where the higher density already exists.

Housing Policy #2 - Provide affordable, attainable housing opportunities

Housing Policy #4 – Improve the quality of the city’s housing stock and neighborhoods

Zoning – Residential-Urban (R-2): The R-2 district is established to accommodate multi-family apartments and townhouses, in an urban setting. This district also allows for single-family detached dwellings, duplexes and group living accommodations as shown in Table 50-19.8. The district is intended primarily for locations closer to commercial and mixed use activity centers, and may serve as a transition between lower-density residential areas and more intense commercial and mixed use neighborhoods.

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.

Related files: PL 20-121: variance to reduce the rear yard setbacks to construct an addition to a structure

History: The property currently contains a 1,667 square foot, 3-bedroom residential structure constructed in 1901.

**Review and Discussion Items**

Staff finds that:

- 1) The applicant is proposing to construct an addition to the existing home that will contain 5 units, creating a 6-unit multi-family dwelling. The current platted lot is 4,773 square feet. A minimum lot area for a dwelling of this type is 5,000 square feet. The subject property is short 223 square feet.
- 2) The applicant is proposing to use the property in a reasonable manner through development of apartments that are otherwise consistent with zoning requirements. Other surrounding properties currently contain multi-family dwellings including some located on similar legal-nonconforming lots. The applicant expresses that the practical difficulty of the lot size is restrictive based on the current code standards and that similar density exists on other lots.
- 3) The applicant is not proposing to alter the character of the neighborhood as there are similar structures in the neighborhood, several within a two-block radius. This lot sits within a transitional space between commercial uses and residential uses. Increasing the density on this lot will provide infill housing in an area that can support it through existing infrastructure and comprehensive plan goals for land use in the area.
- 4) The variance, if granted, would not impair adequate light and air to surrounding properties, would not result in congestion on the surrounding streets.
- 5) The variance, if granted, would not result in congestion on the surrounding streets, would not impair fire or emergency service access, and would not diminish established property values in the surrounding area.
- 6) The variance, if granted, would not impair the intent of the UDC expressed in Sec. 50-2. The variance is consistent with the Comprehensive Plan designation of the property as Urban Residential and housing policy that seeks to foster opportunities for creative housing types and concepts.
- 7) No comments from citizens, City staff, or any other entity have been received.
- 8) Per UDC Section 50-37.1.N. approved variances lapse if the project or activity authorized by the permit or variance is not begun within one-year.

**Staff Recommendation**

Based on the above findings, staff recommends that Planning Commission grant the Variance with the following conditions:

- 1) The project be limited to, constructed, and maintained according to the plans submitted with the date of 7/24/2020;
- 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; however, no such administration approval shall constitute a variance from the provisions of Chapter 50.



# PL 20-120 & PL 20-121 Location Map

**Legend**

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
  - CITY OF DULUTH
  - WLSSD; PRIVATE
  - Sanitary Sewer Forced Main
- Storage Basin
- PS Pump Station
- Storm Sewer Mains
  - Storm Sewer Pipe
  - Storm Sewer Catch Basin
- Vacated ROW
- Easement Type**
  - Utility Easement
  - Other Easement
  - Zoning Boundaries

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 2019

Prepared by: City of Duluth Planning & Development Division, February 25, 2020. Source: City of Duluth.



Engineering  
Land Surveying  
Economic  
Development

JPJ ENGINEERING, INC.  
5670 Miller Trunk Hwy  
Suite A  
Duluth, MN 55811  
Phone: 218-720-6219  
www.jpjeng.com

**CERTIFICATE OF SURVEY**  
**For: James Patrick**  
106 South 15th Avenue East, Duluth, Minnesota 55812  
Part of Lot 1, Block 39, ENDION DIVISION OF DULUTH, St. Louis County, Minnesota.

SURVEY BY :	RMM
DRAWN BY :	RMM
DESIGNED BY :	RMM
APPROVED BY :	RMM
DATE :	6/30/2020
PROJECT NUMBER	20-739
SHEET NUMBER	1 OF 1

### PROPERTY DESCRIPTION:

The north 50.00 feet of Lot 1, Block 39, ENDION DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota and the south 33.00 feet of the north 83.00 feet of said Lot 1.

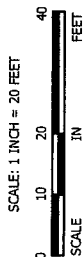
### SURVEYOR NOTES:

Orientation of the bearing system is based on the southwesterly line of Lot 1, Block 39, ENDION DIVISION OF DULUTH, to have a bearing of N 37°42'21" W.

JPJ Engineering has made no investigation or independent search for easements of record, encumbrances, restrictive covenants, ownership title evidence, or any other facts that an accurate and current title search may disclose.

Total gross area of the property is 4,773 square feet or 0.1096 acres ±.

Parcel Identification Numbers are 010-1460-03670.



### LEGEND:

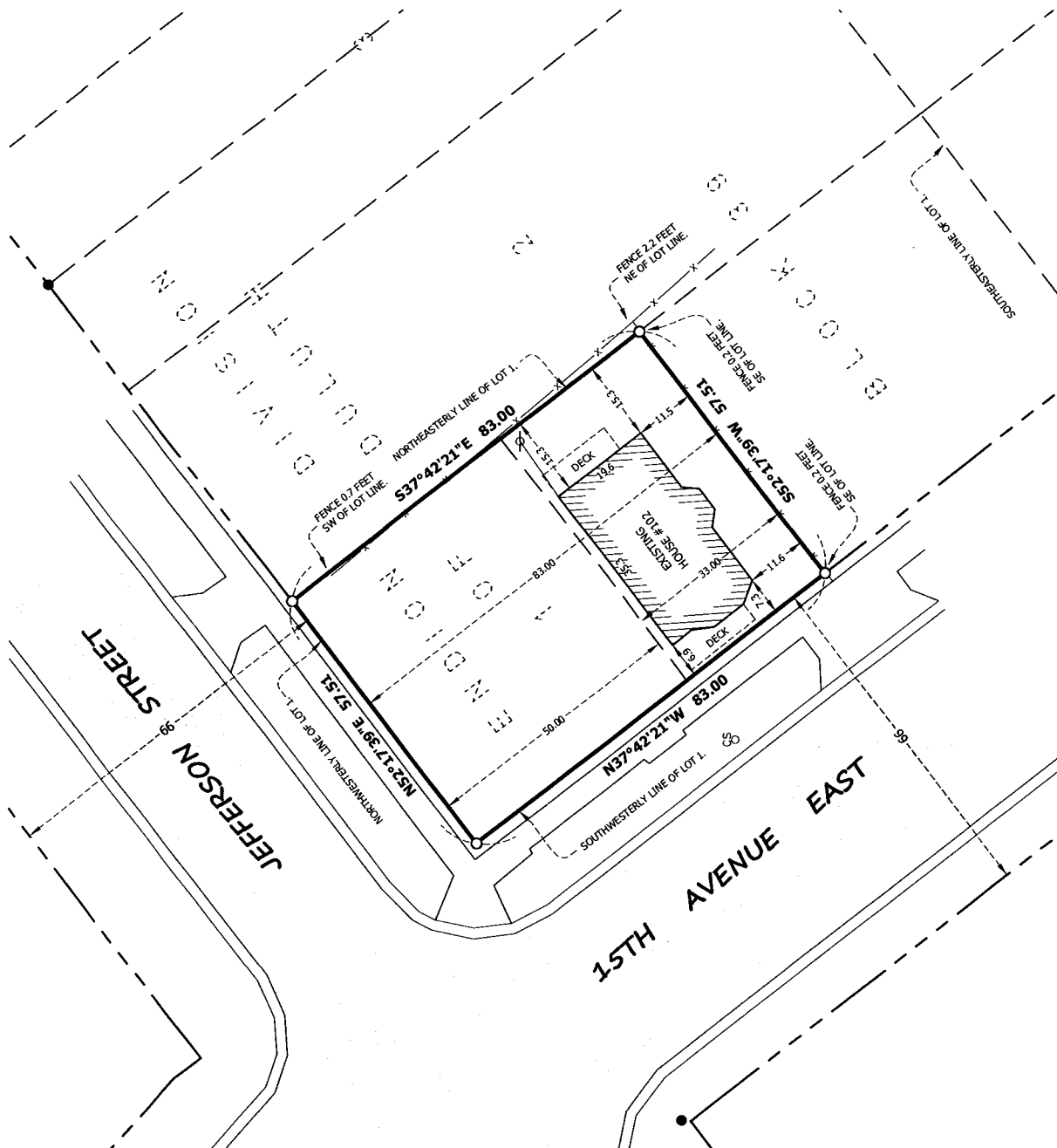
- Iron monument found
- 1/2 inch iron monument set, marked "JPJ ENG 21401"
- ⊗ Water curb stop
- ⊘ Power pole
- x — Fence line
- ▭ Concrete surface
- ▭ Bituminous surface

### CERTIFICATION:

We hereby certify that this is a true and correct representation of a survey of the boundaries of the land above described and of the location of all buildings, if any, thereon, and all visible encroachments, if any, from or on said land.

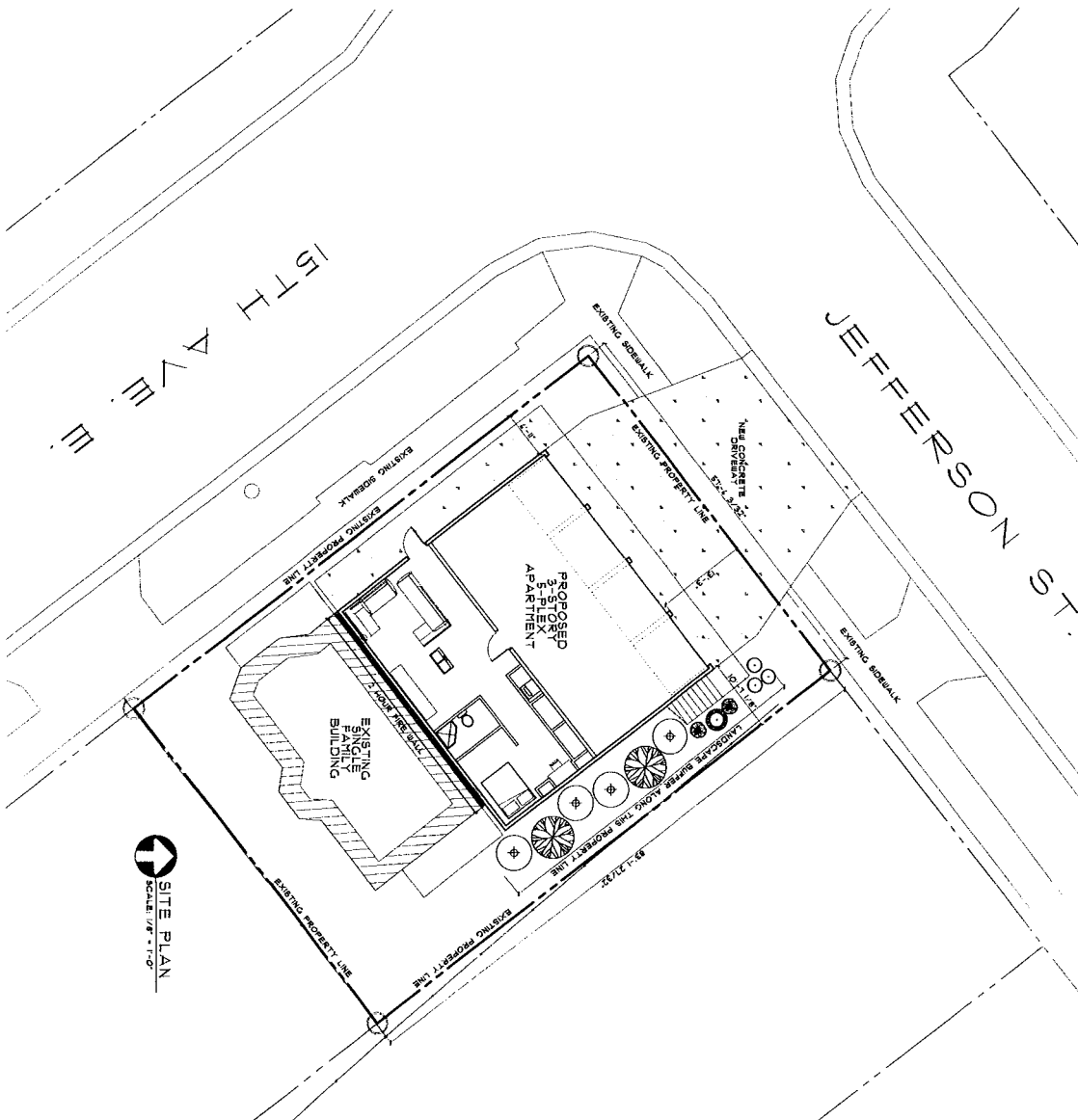
Signed this 30th day of June, 2020 for JPJ Engineering, Inc.

*Randy M. Morten*  
Randy M. Morten, PLS License Number 21401





<b>ZONING REQUIREMENTS</b>	
EXISTING ZONING DISTRICT	R-1
MAXIMUM BUILDING HEIGHT	45'-0"
PROPOSED BUILDING HEIGHT (T.O. RAILING)	34'-6"
<b>SITE DATA</b>	
GROSS ACREAGE	4.884 S.F.
GROSS BUILDING AREA	4,540 S.F.
<b>BUILDING SETBACKS</b>	
SIDE YARD (JEFFERSON) SETBACK	15'-0"
PROPOSED SETBACK	MATCH EXIST
FRONT YARD (15TH AVE) SETBACK	25'-0"
PROPOSED SETBACK	MATCH EXIST
REAR YARD SETBACK	25'-0"
PROPOSED SIDE (RESIDENTIAL)	10'-1 1/8"
<b>PARKING CALC</b>	
0.30 STALLS PER UNIT	
TOTAL UNITS	5
STALLS REQUIRED	2
STALLS PROVIDED	5
- 3 ENCLOSED/2 OUTSIDE	



AD10

PROPOSED:  
**5-PLEX  
APARTMENT**  
DULUTH, MN

**JP**  
JAMES PATRICK  
—ARCHITECTS—

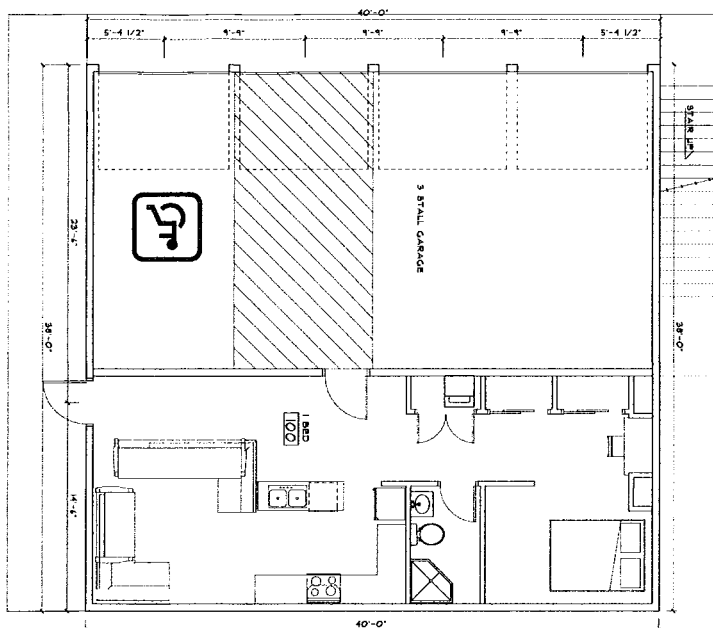
These drawings are not valid for bidding, permit, or other use without the written consent of the architect. Copies are not valid.

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 architect under the laws of the State of MINNESOTA.

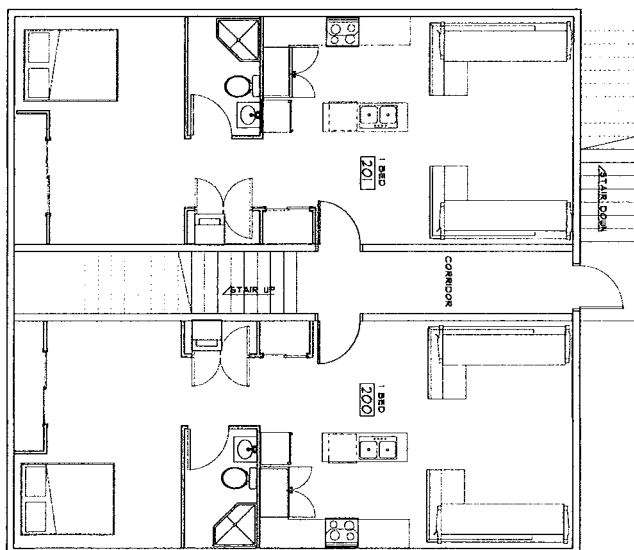
Name: **MORTAN E. COLE**

**COLE GROUP**  
ARCHITECTS LLC

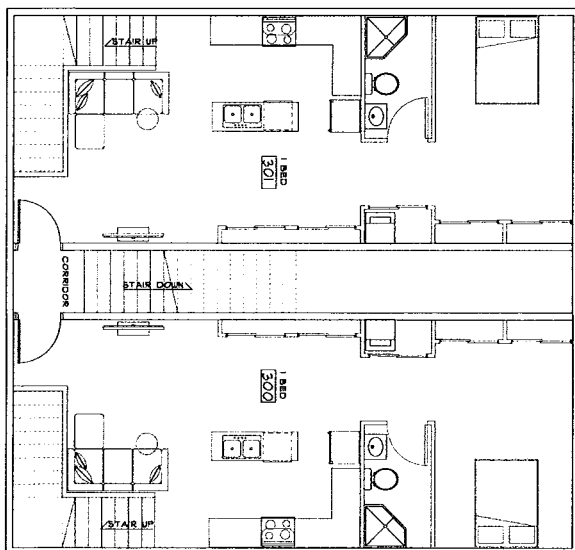
200 Park Avenue NW  
Suite 101  
Duluth, MN 55812  
(612) 452-4530  
mcolegroup@gmail.com



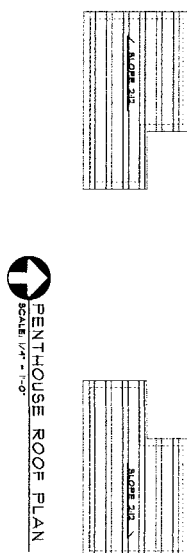
**FIRST FLOOR PLAN**  
SCALE: 1/4" = 1'-0" 1320 GROSS S.F.



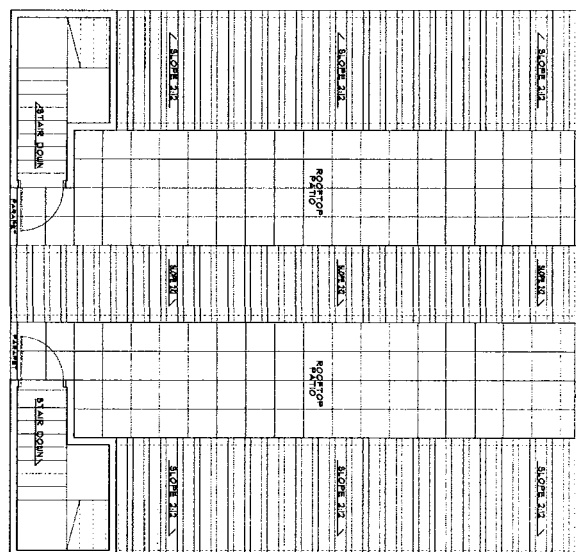
**SECOND FLOOR PLAN**  
SCALE: 1/4" = 1'-0" US20 GROSS S.F.



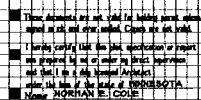
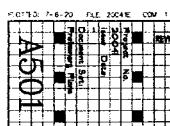
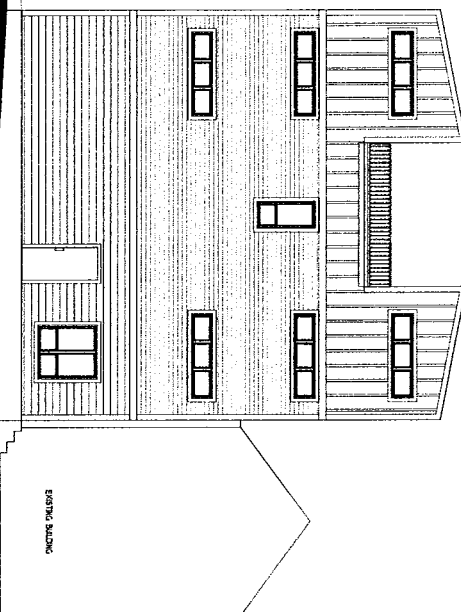
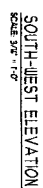
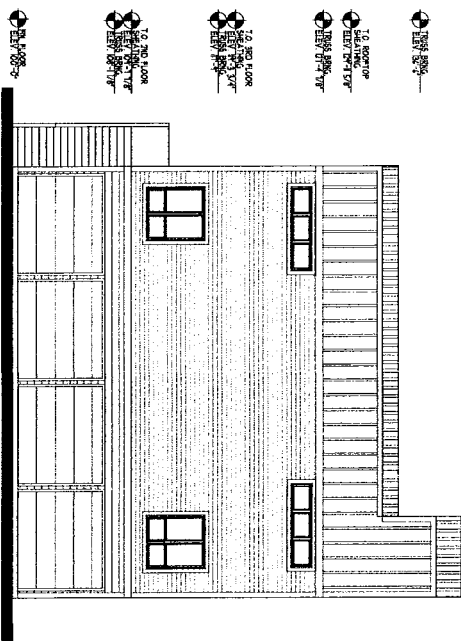
THIRD FLOOR PLAN  
SCALE: 1/4" = 1'-0" 1520 CROSS S.F.



**PENTHOUSE ROOF PLAN**  
SCALE: 1/4" = 1'-0"



**ROOF DECK PLAN**  
SCALE 1/4" = 1'-0" 1/50 CROSS S.W.





- 1. Please explain how the exceptional narrowness, shallowness or shape of the property, or exceptional topographic or other conditions related to the property, would result in practical difficulties under strict application of the requirements of the UDC:**
  - a. The parcel at 106 S 15<sup>th</sup> Ave E is 4,773 Square Feet. This property has the dimensions of 57.51' x 83'. Currently the lot has an existing single-family residence which we are proposing to add an addition on to which would add 5 units to the building. The current zoning allows for an additional 5 units to be added to the vacant land adjacent to the existing home but because we are 223 SQFT shy of the 5,000 required we must seek a variance. We have designed our 5-unit structure to adhere to all regulations with-in the UDC.
  
- 2. Please explain how the special circumstances or conditions that create the need for relief is due to circumstances unique to the property, and were NOT created by the property owner or the property owners' predecessors-in-interest:**
  - a. The circumstances that are preventing this parcel from expanding from a single-family residence to a 6-unit building is that the lot is short of 5,000 SQFT. The owner of the parcel purchased this property and did not decrease the existing square footage of the lot nor make any changes to the property personally that would warrant the need for relief. This is a legal city lot with-in the City of Duluth.
  
- 3. Please explain the special circumstances or conditions applying to the building or land in question are peculiar to this property or immediately adjoining properties, and do not apply generally to other land or buildings in the vicinity:**
  - a. The property in question currently stands as a single-family residence in an R2 zoning district. The variance which we are applying for is needed to build an additional units 5 on the site. Under the R2 zoning district we need 750 SQFT of lot coverage per unit which is attainable on this specific site. The special circumstances are that the parcel is 227 SQFT less than the 5000 SQFT required for multi-family. This parcel is a platted lot with-in the city of Duluth in a multi-family zone district.
  - b. In the surrounding two blocks adjacent to the site there are several properties that do not currently meet the UDC Guidelines such as;
    - i. 109 S 15<sup>th</sup> Ave E. This property is a duplex rental that sits on a 1900 SQFT parcel with on street parking only.
    - ii. 31 S 17<sup>th</sup> Ave E. This property is a multifamily property consisting of 3 or more units. The lot is under the 5,000 SQFT requirement under the UDC.
    - iii. 1708 Greysolon Rd. This parcel is less than 4000 SQFT and houses a 3 unit building.
    - iv. 1713 Jefferson St. This parcel is less than 5,000 SQFT and currently has a duplex on the property
  - c. The surrounding neighborhood around the subject parcel is a majority of older rental housing stock consisting of both single-family homes and multifamily dwellings. By building a new structure we will be increasing the property values and rejuvenating an area that does not see many new structures being built.

- 4. Please explain how the application proposes to use the property in a reasonable manner, which would not be permitted by this code except for a variance:**
- The application proposes to increase the market rate housing stock and utilized the urban in-fill lots within the city. We are proposing to add a unique building which will enhance the Jefferson Street façade. We have come up with a newer concept for this neighborhood that will increase the property values and appeal to the area. This new building will have 5 one-bedroom apartments with the upper two units having access to the rooftop deck. Our proposal adheres to the UDC Guidelines and building codes.
- 5. Please explain how that if the variance is granted it will not impair an adequate supply of light and air to adjacent property, or unreasonably increase the congestion in public streets or the danger of fire or imperil the public safety, or unreasonably diminish or impair established property values within the surrounding areas, or in any other respect impair the health, safety or public welfare of the inhabitants of the city:**
- The proposed addition will still maintain about 26' from the NE neighbor which is more of a separation that most of the single-family homes in the area. There are several nearby buildings where the separation is around 2'-0".
  - This area appears to be in a transitional stage where it has single-family and multi-family so the neighboring streets are already set up for this type of density and traffic flow. The site is next to two collector streets (E. Superior and London Rd) so the additional traffic will have easy access to collector streets without going through several single-family neighbors.
  - As described in the other responses, it is our understanding this would increase property values as this area has seen growth and higher density lots popping up nearby.
  - The building will comply with the new version of the MN state building code so the addition will include all the latest code requirements as it pertains to the health, safety and public welfare for the addition, existing home and neighboring parcels.
- 6. Please explain how, if the variance is granted, it will not substantially impair the intent of zoning code and the official zoning map, and will not alter the essential character of the neighborhood:**
- As our preliminary plans show the building is very well designed 5 units structure with covered parking for 3 vehicle and an additional space for another vehicle. The new building has a modern provincial design that will enhance the corner appeal. The location of the parcel is within walking/biking distance from many amenities and businesses. This building will also feature a rooftop deck that will have built-in garden beds for the residences. It is crucial to take advantage of the rooftop sunlight exposure and be able to grow and enjoy the outside air.

**Does your variance request need to meet any of the specific criteria in UDC Section 50-37.9, subsections D through M (E. Unsewered Areas, F. Two Family Dwellings in R-1, G. Parking Regulations, H. Reduce Setbacks, I. MU-C District, J. Airport Overlay, K. Flood Plain Regulations, L. Shorelands, or M. Non-Conforming Buildings)?**

This request does need to meet the UDC Sections G. Parking Regulations, and H. Reduced Setbacks. These sections have been addressed in our preliminary plans.

# Pictometry

