



## MEMORANDUM

**DATE:** January 13, 2026  
**TO:** Duluth Planning Commission  
**FROM:** Chris Lee, Planner II  
**RE:** Final Plat Amendments for Harbor Highlands First Addition.

Recommended Action: Adopt Resolution for PLSUB-2510-0013, waiving the subdivisions requirements of UDC Section 50-37.5 for The Housing and Redevelopment Authority of Duluth for property located in the plat of Harbor Highlands First Addition.

The preliminary plat for Harbor Highlands First Addition was approved by the Planning Commission on August 20, 2024 (PLSUB-2406-0003). A final plat was approved by Planning Commission on March 27, 2025 (PLSUB-2411-0007), but the Plat has not yet been recorded with St. Louis County.

The City received the following documents from The Housing and Redevelopment Authority of Duluth as a request to waive the subdivision regulations to convey property by a metes and bounds description:

1. Letter from Attorney James Aird on behalf of The Housing and Redevelopment Authority of Duluth;
2. Draft deed conveying property by metes and bounds;
3. Draft Resolution; and
4. Plat of Harbor Highlands First Addition.

Ideally, The Housing and Redevelopment Authority of Duluth would have filed the plat of Harbor Highlands First Addition, and then conveyed property to One Roof Community Housing by lot and block descriptions in accordance with the plat. However, it is unable to file the plat without consent from the Department of Housing and Urban Development. This request had been made due to issues obtaining approval from the Department of Housing and Urban Development, causing unnecessary hardship in complying with the City's subdivision regulations. Planning Commission approval of the attached resolution will permit the City to certify the transfer of property by a metes and bounds description, upon the condition that the plat of Harbor Highlands First Addition is immediately recorded with St. Louis County.

The attached letter also describes minor mathematical corrections to two parcels that can be approved as an after action review by the Land Use Supervisor as these constitute minor changes to the plat.

Decisions of the PC are able to be appealed to the City Council within 10 calendars days of the decision.

# FRYBERGER

— LAW FIRM —

**JAMES B. AIRD**  
Duluth Office  
[jaIRD@fryberger.com](mailto:jaIRD@fryberger.com)  
218.725.6821

January 2, 2026

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

**Re: *PLSUB-2411-0007***  
***Harbor Highlands First Addition (the “Plat”)***  
***Amendment to Final Plat Approval***

Dear Planning Commission:

This firm represents the Housing and Redevelopment Authority of Duluth, MN (the “**HRA**”). This letter supplements and provides further information to support the HRA’s request to amend a prior final Plat approval, previously approved March 27, 2025, under File Number **PLSUB-2411-0007**.

Pursuant to the City’s Unified Development Chapter (“**UDC**”) § 50-37.5 and Minn. Stat. § 462.358, Subd. 4b(c), the HRA requests that the Planning Commission waive the requirements of UDC § 50-37.5 for the enclosed Quit Claim Deed (the “**Deed**”) from the HRA to One Roof Community Housing (“**One Roof**” or the “**Developer**”) which would otherwise be noncompliant under the UDC. The proposed Deed is submitted along with this letter.

Further amendment to the Plat is also necessary for two minor adjustments:

- First, simply to reflect that the HRA and One Roof would *jointly* dedicate the Plat as owners, immediately after the recording of the Deed.
- Second, the Plat has been amended to correct two minor mathematical errors, each one-hundredth of a foot, found on the southwesterly lines of Lot 1 and Lot 9, Block 1.

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FRYBERGER, BUCHANAN, SMITH & FREDERICK, P.A.

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In all other respects, the Plat is the same as it was when approved by the Commission on March 27, 2025.

UDC § 50-37.5 notes that “This Section applies to all applications to subdivided unplatted land.” Minn. Stat. § 462.358, Subd. 4b(a) provides that: “In a municipality in which subdivision regulations are in force and have been filed or recorded as provided in this section, no conveyance of land to which the regulations are applicable shall be filed or recorded, if the land is described in the conveyance by metes and bounds or by reference to an unapproved registered land survey made after April 21, 1961 or to an unapproved plat made after such regulations become effective.” The metes and bounds description found in the Deed does not qualify for one of the exemptions listed in UDC § 50-37.5(A)(2).

However, the UDC in Section 50-37.5(A)(2) further states that “in any case in which compliance with the foregoing restrictions will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the planning commission may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded.” This is supported by Minnesota Statutes § 462.358, Subd. 4b(c).

A waiver of the requirements of UDC § 50-37.5 is necessary because the HRA cannot obtain further revisions to prior approvals from the U.S. Department of Housing and Urban Development (“**HUD**”) for disposition of this Property in a timely fashion (further exacerbated by HUD staff retirements, layoffs, and a government shutdown). HUD staff has requested the HRA make all efforts to close the transaction as previously approved by HUD. The HRA cannot follow HUD’s current requirements to close on the transaction with One Roof while remaining in compliance with § 50-37.5 of the UDC. This presents an unnecessary hardship.

Waiver of UDC § 50-37.5 for the Deed in this case will allow the development to proceed, and any nonconformity created by the Deed will be immediately cured by the recording of the Plat. Therefore, failure to comply does not interfere with the purpose of the subdivision regulations.

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### **Factual Background**

The HRA owns 3.22 acres of vacant land in the City of Duluth, Minnesota (the “**City**”) in the Harbor Highlands / Central Hillside Revitalization Traditional Neighborhood Development, which said land is legally described as follows:

Tract B, Registered Land Survey No. 82, St. Louis County, Minnesota.

(hereinafter the “**Property**”).

The Property is subject to several recorded Declarations of Trust in favor of HUD. The HRA requires HUD’s approval to convey the land to the Developer. The HRA has obtained such approval. However, the approval by HUD uses a legal description which is a “metes and bounds” description based on the “pre-plat” legal description. Current HUD approvals therefore require the conveyance be made to the Developer *prior to* recording of the Plat.

In HUD’s most recent approval, the legal description used by HUD allows for a conveyance to the Developer of all the Property, except a parcel of land which was identified previously as a possible site for an extension of Lake Avenue (the “**Lake Avenue Extension Lot**,” identified on the proposed final plat as “Lot 8, Block 1”).

The HRA removed the Lake Avenue Extension Lot from HUD’s approval to accommodate the Commission’s desire to pursue the Lake Avenue extension. In its preliminary Plat approval, the Commission asked the HRA to provide space for a right of way to be dedicated for the future connection of Lake Avenue in the Plat (the “**Condition**”). Fulfilling the Condition will require further approval from HUD.

Seeking to accommodate the Condition, and seeking the most expedient possible way to close on the transaction, convey the Property to the Developer, and begin development of the Property, the HRA removed the Lake Avenue Extension Lot entirely from HUD’s approval of the disposition of the Property.

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HUD has therefore approved the disposition of all of the Property except the Lake Avenue Extension Lot. It is the HRA's intention to convey all the Property to One Roof, except for the Lake Avenue Extension Lot, which the HRA will retain. After recording of the Plat, the HRA will revisit the disposition of the Lake Avenue Extension Lot (which will then be legally described as "Lot 8, Block 1") with HUD. Pursuant to the Condition, the HRA will continue to use its best efforts to obtain all consents from HUD necessary, proper, and advisable to achieve the Condition for the Lake Avenue Extension, which may include, if appropriate, a later amendment to the Plat.

Notwithstanding the failure to meet the foregoing Condition, it is worth noting that the Planning Commission has already, on March 27, 2025, approved the final Plat.

The HRA now simply requests that the Planning Commission allow the recording of the Deed to the Developer using the HUD-approved "pre-plat" legal description. This would briefly create a non-conforming lot, but such nonconformity will be immediately cured by recording of the Plat.

Further delay unnecessarily jeopardizes the Developer's funding sources, and delays construction of 20+ new units of housing at a time when recent reports suggest the City will require nearly 9,000 new units of housing by 2035. Waiving the requirements of UDC § 50-37.5 for the Deed to One Roof will solve the problem imposed by the current HUD requirements and allow this development to proceed. The HRA will then continue to use its best efforts to revisit if and under what conditions HUD may release the Lake Avenue Extension Lot for road purposes.

The City needs new housing. One Roof is ready to build it. The HRA is ready to convey land for that purpose. HUD has approved the disposition of all but one lot in this Property for housing. The Planning Commission has previously approved this Plat. Accordingly, the HRA respectfully requests that the Planning Commission waive UDC § 50-37.5 for the Deed, so that development can proceed on all lots except the Lake Avenue Extension Lot.

Sincerely,

*/s/ James B. Aird*

James B. Aird  
Fryberger Law Firm  
Attorneys for the Housing and Redevelopment Authority of Duluth, MN

(top 3 inches reserved for recording data)

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## QUIT CLAIM DEED

DEED TAX DUE: \$1.65

Date: \_\_\_\_\_, 2026

FOR VALUABLE CONSIDERATION, the **HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH, MINNESOTA**, a public body corporate and politic under the laws of the State of Minnesota ("Grantor"), hereby conveys and quitclaims to **ONE ROOF COMMUNITY HOUSING**, a non-profit corporation under the laws of the State of Minnesota ("Grantee"), real property in St. Louis County, Minnesota, legally described as follows:

See attached **Exhibit A**.

*Check here if all or part of the described real property is Registered (Torrens)*

together with all hereditaments and appurtenances belonging thereto.

This Deed is subject to that certain Public Housing Demolition/Disposition/Conversion Use Agreement (the "Use Agreement") between U.S. Department of Housing and Urban Development ("HUD"), Grantor, and Grantee dated \_\_\_\_\_, 2026 and recorded in the Office of the Registrar of Titles of St. Louis County, Minnesota on \_\_\_\_\_, 2026 as Document No. \_\_\_\_\_. Pursuant to and subject to the terms of the Use Agreement, should the Grantee fail to meet its obligations under the Use Agreement, the fee title to the real property described in this Deed shall automatically revert to the Grantor.

*Check applicable box:*

- The Seller certifies that the Seller does not know of any wells on the described real property.
- A well disclosure certificate accompanies this document or has been electronically filed. (If electronically filed, insert WDC number: \_\_\_\_\_.)
- I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.
- This deed transfers real property in exchange for \$3,000 or less of consideration.

HOUSING AND REDEVELOPMENT AUTHORITY OF  
DULUTH, MINNESOTA, a public body corporate and politic  
under the laws of the State of Minnesota.

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By Jill A. Keppers  
Its Executive Director

State of Minnesota, County of St. Louis

This instrument was acknowledged before me on \_\_\_\_\_, 2026, by Jill A. Keppers, as Executive Director of the HOUSING AND REDEVELOPMENT AUTHORITY OF DULUTH, MINNESOTA, a public body corporate and politic under the laws of the State of Minnesota.

(stamp)

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*(signature of notarial officer)*

THIS INSTRUMENT WAS DRAFTED BY:

Fryberger, Buchanan, Smith & Frederick, P.A.  
302 West Superior Street, Suite 700  
Duluth, MN 55802-5150  
JBA / 13848-323

TAX STATEMENTS FOR THE REAL PROPERTY DESCRIBED  
IN THIS INSTRUMENT SHOULD BE SENT TO:

One Roof Community Housing  
12 E. 4<sup>th</sup> Street  
Duluth, MN 55805

**EXHIBIT A**  
**LEGAL DESCRIPTION**

Tract B, REGISTERED LAND SURVEY NO. 82, according to the recorded plat thereof, St. Louis County, Minnesota, EXCEPT that part described as follows:

Commencing at the Southwest corner of said Tract B; thence on an assume bearing of North 18 degrees 46 minutes 31 second East, along the Westerly line of said Tract B 353.68 feet to the point of beginning of the parcel herein described; thence continue North 18 degrees 46 minutes 31 seconds East, along said Westerly line 58.69 feet; thence North 00 degrees 33 minutes 43 seconds East, along said Westerly line 7.71 feet; thence South 70 degrees 46 minutes 57 seconds East 92.74 feet to the Westerly right of way line of Harbor Highlands Drive; thence South 11 degrees 05 minutes 06 seconds West, along said Westerly right of way line 28.47 feet; thence South 19 degrees 13 minutes 03 seconds West, along said Westerly right of way line 37.82 feet; thence North 70 degrees 46 minutes 57 seconds West 93.85 feet to the point of beginning. Said parcel contains 6,163 square feet or 0.14 acres.

Torrens Property, Certificate of Title No. 327976.

PLANNING COMMISSION, CITY OF DULUTH, MINNESOTA

RESOLUTION FOR PLSUB-2510-0013

RESOLUTION OF THE CITY OF DULUTH PLANNING COMMISSION FINDING AN  
UNNECESSARY HARDSHIP, WAIVING STRICT COMPLIANCE WITH MINN. STAT. 462.358  
AND UDC 50-37.5

WHEREAS, the Housing and Redevelopment Authority of Duluth, Minnesota (the "HRA") has proposed to plat Tract B, Registered Land Survey No. 82 (the "Land") as "HARBOR HIGHLANDS FIRST ADDITION" (the "Plat"); and

WHEREAS, the HRA intends to convey most of the Land to One Roof Community Housing, a Minnesota nonprofit corporation (the "Developer"); and

WHEREAS, development of the Land requires the release of various Declarations of Trust (the "Declarations of Trust") in favor of U.S. Department of Housing and Urban Development ("HUD"); and

WHEREAS, the preliminary plat approval approved by the Commission required the HRA to satisfy the following unfulfilled condition: "Provide space for right of way be dedicated for the future connection of Lake Avenue in the plat" (the "Lake Avenue Condition"); and

WHEREAS, the final plat approved by the Commission on March 27, 2025 required the HRA to sign a development agreement committing to the construction of the unfulfilled condition within two years after the approval of the final plat; and

WHEREAS, in order to facilitate achieving the Lake Avenue Condition, the HRA had previously removed the area identified for the Lake Avenue Connection from its request to release the Declarations of Trust with HUD; and

WHEREAS, HUD has approved the disposition of the Land and sale to the Developer, except the area identified for the Lake Avenue Connection, which said area is described by the following metes and bounds description:

That part of Tract B, REGISTERED LAND SURVEY NO. 82, according to the recorded plat thereof, St. Louis County, Minnesota, EXCEPT that part described as follows:

Commencing at the Southwest corner of said Tract B; thence on an assumed bearing of North 18 degrees 46 minutes 31 second East, along the Westerly line of said Tract B 353.68 feet to the point of beginning of the parcel herein described; thence continue North 18 degrees 46 minutes 31 seconds East, along said Westerly line 58.69 feet; thence North 00 degrees 33 minutes 43 seconds East, along said Westerly line 7.71 feet; thence South 70 degrees 46 minutes 57 seconds East 92.74 feet to the Westerly right of way line of Harbor Highlands Drive; thence South 11 degrees 05 minutes 06 seconds West, along said Westerly right of way line 28.47 feet; thence South 19 degrees 13 minutes 03 seconds West, along said Westerly right of way line 37.82 feet; thence North 70 degrees 46 minutes 57 seconds West 93.85 feet to the point of beginning. Said parcel contains 6,163 square feet or 0.14 acres.

(the excepted part referred hereto as the "Lake Avenue Connection Lot"); and

WHEREAS, conveyance of the Land, except the Lake Avenue Connection Lot, by metes and

bounds, is not in compliance with Minn. Stat. § 462.358 or Section 50-37.5 of the City's Unified Development Chapter (the "UDC"); and

WHEREAS, further amendment to the documents HUD has approved will lead to unnecessary hardship and unreasonable delay in the recording of the Plat and development of the Land into single-family homes; and

WHEREAS, Minn. Stat. § 462.358, Subd. 4b(c) and UDC Section 50-37.5 both provide that in any case in which compliance with the restrictions of the statute or ordinance will create an unnecessary hardship and failure to comply does not interfere with the purpose of the subdivision regulations, the planning commission may waive such compliance by adoption of a resolution to that effect and the conveyance may then be filed or recorded; and

WHEREAS, the Commission finds that an unnecessary hardship exists given the current requirements of HUD to convey the Land, except the Lake Avenue Connection Lot, via metes and bounds, and given a significant delay that would be required to amend HUD's approval of the disposition of the Land; and

WHEREAS, after conveyance of the Land, except the Lake Avenue Connection Lot, to the Developer, the HRA and the Developer will jointly Plat the Land into HARBOR HIGHLANDS FIRST ADDITION, and the recording of said plat will cure any nonconformity related to the Lake Avenue Connection Lot; and

WHEREAS, waiver of the strict requirements of UDC Section 50-37.5 does not interfere with the purpose of the subdivision regulations in this case.

**NOW, THEREFORE, BE IT RESOLVED** by the Commission as follows:

RESOLVED, that pursuant to Minnesota Statutes Section 462.358, Subd 4b(c), the Commission finds an unnecessary hardship caused by the documents pertaining to the release of the Declarations of Trust as currently approved by HUD, which convey a portion of the Land by metes and bounds to the Developer prior to the recording of the plat.

FURTHER RESOLVED, pursuant to Minnesota Statutes Section 462.358, Subd 4b(c) and UDC 50-37.5, the Commission hereby waives the requirements of UDC Section 50-37.5 to allow the conveyance of the Land, except the Lake Avenue Connection Lot, to the Developer, prior to recording of the Plat, provided that such conveyance is recorded concurrently with the Plat.

Dated: \_\_\_\_\_, 2026

\_\_\_\_\_  
President

ATTEST:

\_\_\_\_\_  
Secretary

This instrument was drafted by:

James B. Aird  
Fryberger Law Firm

302 W. Superior St., Suite 700  
Duluth, MN 55802

