



Planning & Development Division
Planning & Economic Development Department

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File Number	PL 20-125	Contact	Kris Liljeblad, 218-730-5338	
Type	Concurrent Use Permit	Planning Commission Date	September 8, 2020	
Deadline for Action	Application Date	August 11, 2020	60 Days	October 10, 2020
	Date Extension Letter Mailed	N/A	120 Days	December 9, 2020
Location of Subject	710 S. 59 th Avenue W, Duluth, MN			
Applicant	Hallett Rail and Storage Services	Contact	Jeff Heller, North Shore Track	
Agent	Krech Ojard & Associates	Contact	Scott Stempihar, P.E.	
Legal Description	Public right of way of Waseca Industrial Road. See attached.			
Site Visit Date	August 19, 2020	Sign Notice Date	August 18, 2020	
Neighbor Letter Date	August 27, 2020	Number of Letters Sent	18	

Proposal: The applicant is proposing to install a new spur track and at-grade railroad crossing of Waseca Industrial Road off an existing private industrial spur track from the Burlington Northern Santa Fe Railway (BNSF) mainline to provide additional service to their property within the Hallett Industrial Park Plat. This is related to CUP PL-124 located on S 59th Ave W and both new at-grade crossings would support industrial expansion within the Hallett Industrial Park Plat.

Staff Recommendation: That Planning Commission recommend approval to City Council.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	I-G	Public right of way	Public right of way
North	R-1	Traditional neighborhood	Traditional neighborhood
South	I-G	Heavy industrial manufacturing	Heavy industrial manufacturing
East	I-G	Heavy industrial manufacturing	Heavy industrial manufacturing
West	I-G	Heavy industrial manufacturing	Heavy industrial manufacturing

Summary of Code Requirements:

UDC Section 50-37.7C. 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. Not Applicable – Skywalk related
3. No portion of a public easement proposed for use is being physically used or occupied by the public.
4. Not Applicable – Parking related

Comprehensive Plan Governing Principles and/or Policies:

The Economic Development Mission cited in the *Imagine Duluth 2035 Plan* is: “Duluth’s economic environment will advance the success and health of our community by promoting growth through an expanded tax base and the creation of new jobs and innovative ideas.” Economic Policy #3 – “Build on existing economic strengths and competitive advantages.” Strategy S1: “Promote employer expansions that include job growth, as well as new commercial and industrial development to support and enhance the level of activity in the Industry and Commerce Priority Areas.”

Transportation Mission: “Duluth’s Transportation system will connect all users in a way that promotes safety, health, and quality of life.” Policy #6 – “Protect and enhance regional transportation networks, especially for the purpose of expanding opportunities for movement of freight.” Strategy S2: “Promote the use of appropriate regional freight corridors and intermodal facilities for the success of water-borne commerce and shipping by truck and rail.” Strategy S6: “Expand public-private partnerships with rail freight companies to maintain, improve and expand rail infrastructure.”

Transformational Opportunities: “Preserve and expand economic opportunities within Duluth’s industrial waterfront.”

Review and Discussion Items

Staff finds that:

- 1.) The applicant is seeking a concurrent use permit to install a new spur track and at-grade railroad crossing of Waseca Industrial Road off an existing private industrial spur track from the BNSF mainline to the Hallett facility. The same spur track would also cross S 59th Ave W, and is the subject of the related CUP PL 20-124.
- 2.) The applicant has indicated that the expansion of Dock 7 for the sale, transshipment (rail to waterborne and rail to truck) and storage of rail cargoes on their site is contingent upon upgraded railroad access. The convenient access of Hallett’s dock site to the BNSF mainline and Mike’s Yard provide for regular rail switching service from one to three times a day of up to 15 rail cars at a time.
- 3.) The proposed CUP for an at-grade rail crossing of Waseca Industrial Road is consistent with Comprehensive Plan policies and strategies as identified above.
- 4.) City Engineering has determined that the proposed use of public right of way will cause minimal disruption of vehicular travel on S 59th Ave W and Waseca Industrial Road, which serve the Hallett Industrial Park Plat. The new railroad spur and crossings will be designed and constructed to comply with BNSF and Federal Railroad Administration (FRA) standards.
- 5.) Waseca Industrial Road serves low traffic volume which would be subject to infrequent delays. Thus, the proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city.
- 6.) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against occurrences in the right of way. Other protections for the city and the public are typically included in the ordinance that is submitted to City Council. The ordinance will also state that the City is not responsible for removal/replacement of the applicant’s infrastructure should the City need to access the right-of-way in the permitted area.
- 7.) No comments have been received as of September 1, 2020.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission recommend approval of the concurrent use permit to City Council with the following conditions:

- 1.) Applicant shall construct the proposed at-grade railroad/roadway crossings within the limits identified in the attached exhibit.
- 2.) The proposed at-grade railroad/roadway crossings will need to comply with applicable engineering standards and FRA requirements.
- 3.) Applicant shall provide annual proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit.
- 4.) Applicant will remove the at-grade crossing at the applicant’s expense if directed to by the City with appropriate notice.
- 5.) The City shall not be responsible for any damage to the at-grade railroad/roadway crossing caused by work in the right of way.
- 6.) 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.

Legal Description

Description of Proposed Right of Way to be Used:

A 60' wide area of Waseca Industrial Road right of way to be used for railroad purposes. The centerline of said area is described as follows: Commencing at the southwest corner of Outlot A of Hallett Industrial Park Plat, City of Duluth, St. Louis County, Minnesota; Thence north 89 degrees 55 minutes 06 seconds east 294.94 feet along northerly right of way line of Waseca Industrial Road to the point of beginning; Thence south 76 degrees 19 minutes 00 seconds east 25.85 feet; Thence along a tangential curve concave to the southwest, having a radius of 603.80' and a central angle of 18 degrees 21 minutes 51 seconds to the southerly right of way line of Waseca Industrial Road and there terminating. The sidelines of said area are to be prolonged or shortened to terminate at the northerly and southerly right of way lines of Waseca Industrial Road.

