



CITY OF DULUTH

Community Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

File Number	PL18-061	Contact	John Kelley, 218-730-5326	
Type	Concurrent Use Permit	Planning Commission Date		June 12, 2018
Deadline for Action	Application Date	May 9, 2018	60 Days	July 8, 2018
	Date Extension Letter Mailed	May 16, 2018	120 Days	September 6, 2018
Location of Subject		1231 East 9 th Street		
Applicant	Jordan Decaro	Contact		
Agent	Jordan Decaro	Contact		
Legal Description		010-0500-01860		
Site Visit Date		June 1, 2018	Sign Notice Date	May 29, 2018
Neighbor Letter Date		N/A	Number of Letters Sent	N/A

Proposal

The applicant is requesting a concurrent use permit to accommodate a wall of the existing structure that is located in the public right of way. The northeasterly side of the structure is 0.8 feet into the 13th Avenue East Right-Of-Way (ROW). In addition the existing mansard roof overhang encroaches 1.4 feet into the ROW.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N	Mixed Use Neighborhood	Urban Residential
North	R-1	Residential	Traditional Neighborhood
South	MU-N	Residential	Urban Residential
East	MU-N	Gas Station	Urban Residential
West	MU-N	Residential	Urban Residential

Summary of Code Requirements

UDC Section 50-37.7. Concurrent Use of streets permit: 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 for use is being physically used or occupied by the public.

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

Principle #5 - Strengthen neighborhoods: The present city is an historical amalgam of villages and other independent units of government, contributing to the present condition of Duluth being strongly defined by its neighborhoods. This condition should be reinforced through land use, transportation and public service delivery patterns which strengthen neighborhood identity. New institutional expansions, major public infrastructure or large commercial or industrial uses should not divide historic neighborhood patterns.

Governing Principle #7 – Create and Maintain Connectivity: Rights of way are an important component of vehicular, pedestrian, and infrastructure connectivity, and those needs must be considered when granting a concurrent use permit.

Principle #8 - Encourage mix of activities, uses and densities: Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide.

Future Land Use- Neighborhood Mixed Use: A transitional use between more intensive commercial uses and purely residential neighborhoods. Includes conversions of houses to office or live-work spaces. May include limited commercial-only space oriented to neighborhood or specialty retail markets.

History - The property was purchased by the applicant in 2017. The two story building was constructed in 1916 and was previously operated as a harp repair shop. There is an apartment above the first floor space.

Review and Discussion Items

Staff Finds that:

- 1) The Planning Commission at their February 13, 2018 meeting approved a Special Use Permit (SUP) for a Pizza restaurant. The building encroachment into the ROW is prompting the need for a concurrent use permit. The encroachment of the building into the right-of-way was not discovered during the SUP review process.
- 2) The entire length of the northeasterly portion of the building is located 0.8 feet within the 13th Avenue East ROW. Additionally, the existing mansard roof overhang encroaches 1.4 feet into the ROW.
- 3) The concurrent use area requested is 69.50' x 2.50' and covers 174 square feet.
- 4) The building has been in this location since 1916 and the proposed concurrent use will not harm or inconvenience the health, safety, and general welfare of the city.
- 5) No public, agency, or City comments have been received.
- 6) 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. As this is an existing building, the use will begin immediately.

Staff Recommendation

Based on the above findings, Staff recommends that Planning Commission recommend approval of the Concurrent Use Permit subject to the following conditions:

- 1) Applicant shall construct and maintain the project as identified in exhibit dated May 18, 2018.
- 2) Applicant shall provide 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.



- Legend**
Future Land Use - Plus
Future Land Use
- Preservation
 - Recreation
 - Rural Residential
 - Low-density Neighborhood
 - Traditional Neighborhood
 - Urban Residential
 - Neighborhood Commercial
 - Neighborhood Mixed Use
 - General Mixed Use
 - Central Business Secondary
 - Central Business Primary
 - Auto Oriented Commercial
 - Large-scale Commercial
 - Business Park
 - Tourism/Entertainment District
 - Medical District
 - Institutional
 - Commercial Waterfront
 - Industrial Waterfront
 - Light Industrial
 - General Industrial
 - Transportation and Utilities

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 2016

0 12.5 25 50 75 Feet

Prepared by: City of Duluth Community Planning Division, March 26, 2018. Source: City of Duluth.





Legend

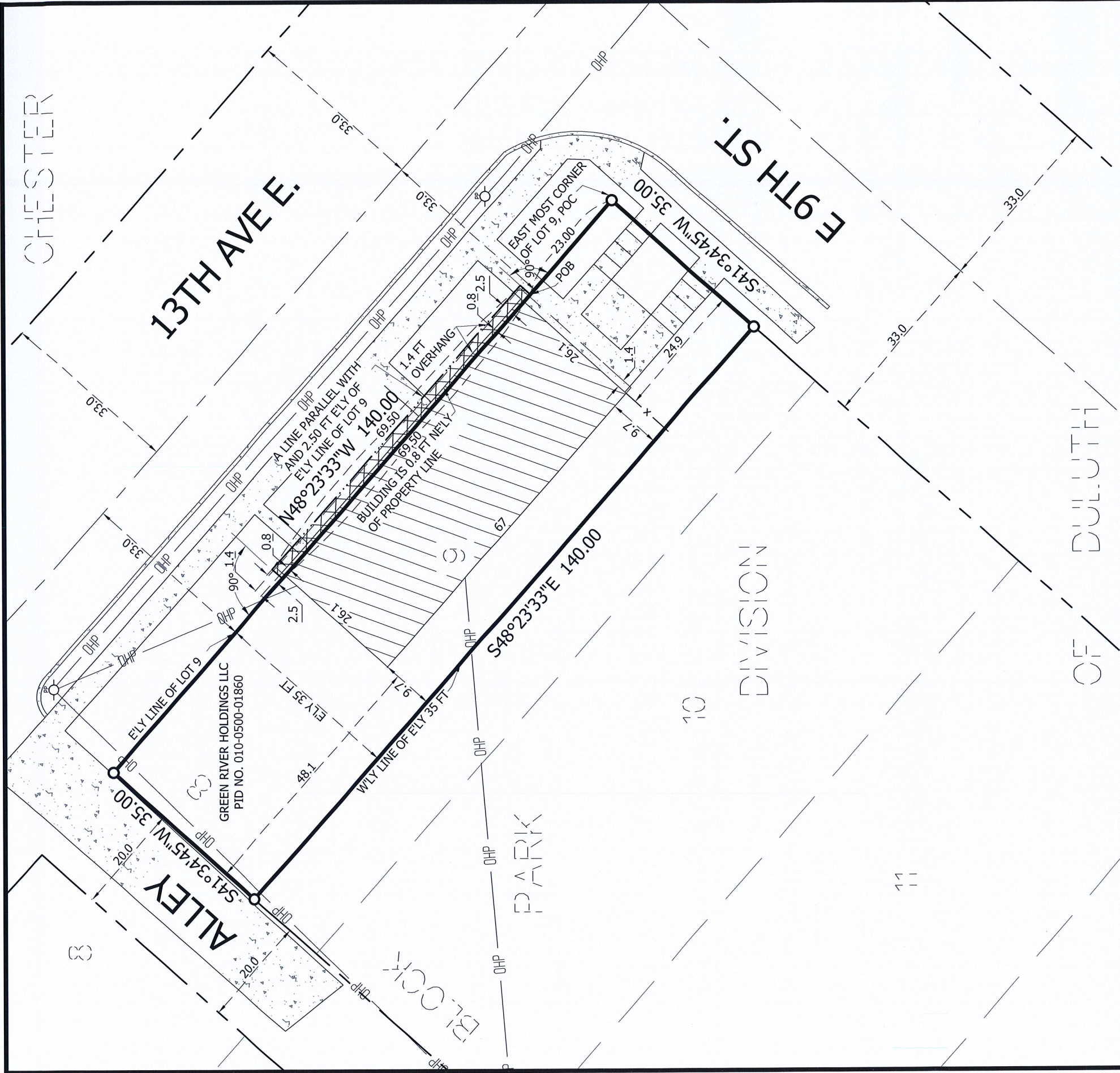


Zoning Boundaries

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LEGAL DESCRIPTION PER DOCUMENT NO. 1319337

All that part of Lot 9, Block 8, Chester Park Division of Duluth lying Easterly of a line parallel with and distant 35 feet from the Easterly line of said lot, St. Louis County, Minnesota.

LEGAL DESCRIPTION OF PROPOSED CONCURRENT USE AREA

That part of 13th Avenue East as dedicated on CHESTER PARK DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows: Commencing at the East most corner of Lot 9, Block 8, said CHESTER PARK DIVISION OF DULUTH; thence Northwesterly, along the Easterly line of said Lot 9 for a distance of 23.00 feet to the point of beginning of the parcel herein described; thence continue Northwesterly, along said Easterly line of Lot 9 for a distance of 69.50 feet; thence Northeasterly, deflecting 90 degrees to the right 2.50 feet to the intersection with a line parallel with and distant 2.50 feet Easterly of said Easterly line of Lot 9; thence Southeasterly, deflecting 90 degrees to the right 69.50 feet; thence Southwesterly, deflecting 90 degrees to the right 2.50 feet to the point of beginning.

Said concurrent use area contains 174 square feet.

SURVEYORS NOTES

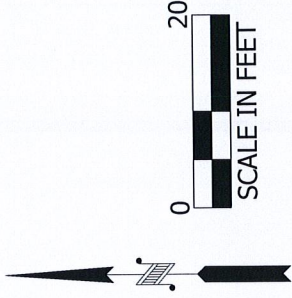
1. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996.
2. BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY.
3. SEE ARCHITECTURAL PLAN FOR BUILDING & FOUNDATION DIMENSIONS.
4. NO SPECIFIC SOILS INVESTIGATION HAS BEEN COMPLETED ON THIS LOT BY ALTA LAND SURVEY COMPANY. THE SUITABILITY OF SOILS TO SUPPORT THE SPECIFIC STRUCTURE PROPOSED IS NOT THE RESPONSIBILITY OF ALTA LAND SURVEY COMPANY OR THE SURVEYOR.
5. 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.

LEGEND

	CONCRETE SURFACE		FENCE LINE
	EXISTING BUILDINGS		OVERHEAD UTILITIES
	PROPOSED CONCURRENT USE AREA		CENTER LINE
			RIGHT OF WAY LINE
			BOUNDARY LINE AS SURVEYED
			SET CAPPED REBAR RLS. NO. 49505
			UTILITY POLE
			POINT OF COMMENCEMENT
			POINT OF BEGINNING

PROPERTY AREA
4,900 Sq. Feet

CONCURRENT USE AREA
174 Sq. 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: JANUARY 17, 2018 MN Lic. No. 49505

CERTIFICATE OF SURVEY

CLIENT: JORDAN DECARO	REVISIONS: 5-18-18 ADD CONCURRENT USE AREA AND LEGAL
DATE: JANUARY 17, 2018	
ADDRESS: 1231 E 9TH ST. DULUTH, MN	
JOB NUMBER: 18-004	