



CITY OF DULUTH

Community Planning Division

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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
	Date Extension Letter Mailed	May 16, 2018	120 Days
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
 Zoning Boundaries



