



**Planning & Development Division**  
*Planning & Economic Development Department*

Room 160  
 411 West First Street  
 Duluth, Minnesota 55802

📞 218-730-5580

✉️ [planning@duluthmn.gov](mailto:planning@duluthmn.gov)

<b>File Number</b>	PLCUP-2409-0001		<b>Contact</b>	Chris Lee, <a href="mailto:clee@duluthmn.gov">clee@duluthmn.gov</a>	
<b>Type</b>	Concurrent Use Permit		<b>Planning Commission Date</b>	October 8, 2024	
<b>Deadline for Action</b>	<b>Application Date</b>	September 4, 2024	<b>60 Days</b>	November 3, 2024	
	<b>Date Extension Letter Mailed</b>	September 18, 2024	<b>120 Days</b>	January 2, 2025	
<b>Location of Subject</b>	711 Martha St				
<b>Applicant</b>	Festies Inc		<b>Contact</b>	David Sundberg	
<b>Agent</b>			<b>Contact</b>		
<b>Legal Description</b>	PIN: 010-2270-00910				
<b>Site Visit Date</b>	September 23, 2024		<b>Sign Notice Date</b>	September 24, 2024	
<b>Neighbor Letter Date</b>	N/A		<b>Number of Letters Sent</b>	N/A	
<b>Proposal</b>					
The applicant is seeking a concurrent use permit to construct a staircase and retaining wall in the right-of-way for Martha Street.					
<b>Staff Recommendation</b>					
Staff is recommending Planning Commission recommend approval to the City Council.					

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Traditional Neighborhood
<b>North</b>	R-1	Residential	Traditional Neighborhood
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	R-1	Residential	Traditional Neighborhood
<b>West</b>	R-1	Residential	Traditional Neighborhood

<b>Summary of Code Requirements</b>	
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:	
<ol style="list-style-type: none"> <li>1. The proposed concurrent use will not harm or inconvenience the health, safety and general welfare of the city;</li> <li>2. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions (does not apply in this instance);</li> <li>3. No portion of a public easement proposed for use is being physically used or occupied by the public.</li> </ol>	

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

**Governing Principle #5 – Promote reinvestment in neighborhoods.** Land use should foster neighborhood reinvestment, maximize public investment in infrastructure, and diversify residential opportunities.

**Future Land Use – Traditional Neighborhood:** Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Limited commercial, schools, churches, and home businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth’s older neighborhoods, infill projects, neighborhood extensions, and new traditional neighborhood areas.

**History:** The property had a single family home built in 1925 that was demolished. A new home on the existing foundation will have a front door faces Martha Street and has historically had a stair on that side.

**Review and Discussion Items:**

Staff finds that:

- 1) The applicant is seeking a concurrent use permit to reconstruct a failed entry step and repair an existing retaining wall.
- 2) The applicant is proposing to use 353 square feet of the Martha Street right of way.
- 3) The area proposed for the concurrent use permit will not take away from the public’s ability to use the public right-of-way, nor will it harm or inconvenience the health, safety and general welfare of the city. The proposed private improvements are set back from the sidewalk on Martha Street.
- 4) Concurrent use permits are approved by the City Council via an ordinance. Unlike street right-of-way vacations, concurrent use permits are not recorded at with St. Louis County as they are voidable agreements between the City and property owners. City engineering has indicated that they have no concerns with this proposal.
- 5) The City of Duluth requires concurrent use permits to include liability insurance to indemnify the City against all occurrences in the right-of-way. Other protections for the city and the public may be included in any ordinance approving a concurrent use permit adopted by the City Council.
- 6) Staff have coordinated with City Engineering in the review of the application. No other comments were received from the public or other government agencies at the time this staff report was written.
- 7) 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.

**Staff Recommendation**

Based on the above findings, Staff recommends that Planning Commission approve the concurrent use permit with the following conditions:

- 1) Applicant construct and maintain the project as identified in the attached exhibits. A complete legal description must be provided prior to this item going to City Council for approval
- 2) Applicant 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.
- 3) Applicant will remove the obstructions at the applicant's expense if directed to by the City with appropriate notice.
- 4) 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.




















PLCUP-2409-0001  
 Concurrent Use Permit  
 711 Martha St



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.



**LEGEND**

-  CONCRETE SURFACE
-  BITUMINOUS SURFACE
-  EXISTING BUILDINGS
-  CONCURRENT USE AREA
-  ohu OVERHEAD UTILITIES
-  RETAINING WALL
-  CENTER LINE
-  RIGHT OF WAY LINE
-  EXISTING EASEMENT LINE
-  BOUNDARY LINE AS SURVEYED
-  EXISTING PLAT LINE
-  CONCURRENT USE LINE
-  CONCRETE CURB & GUTTER
-  FOUND CAPPED REBAR RLS. NO. 49505
-  SET CAPPED REBAR RLS. NO. 49505
-  ELEC METER
-  REFER TO SURVEYOR'S NOTES
- POC-POINT OF COMMENCEMENT
- POB-POINT OF BEGINNING

LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 364975

Lot 40 Block 2 HOMEWOOD ADDITION TO DULUTH

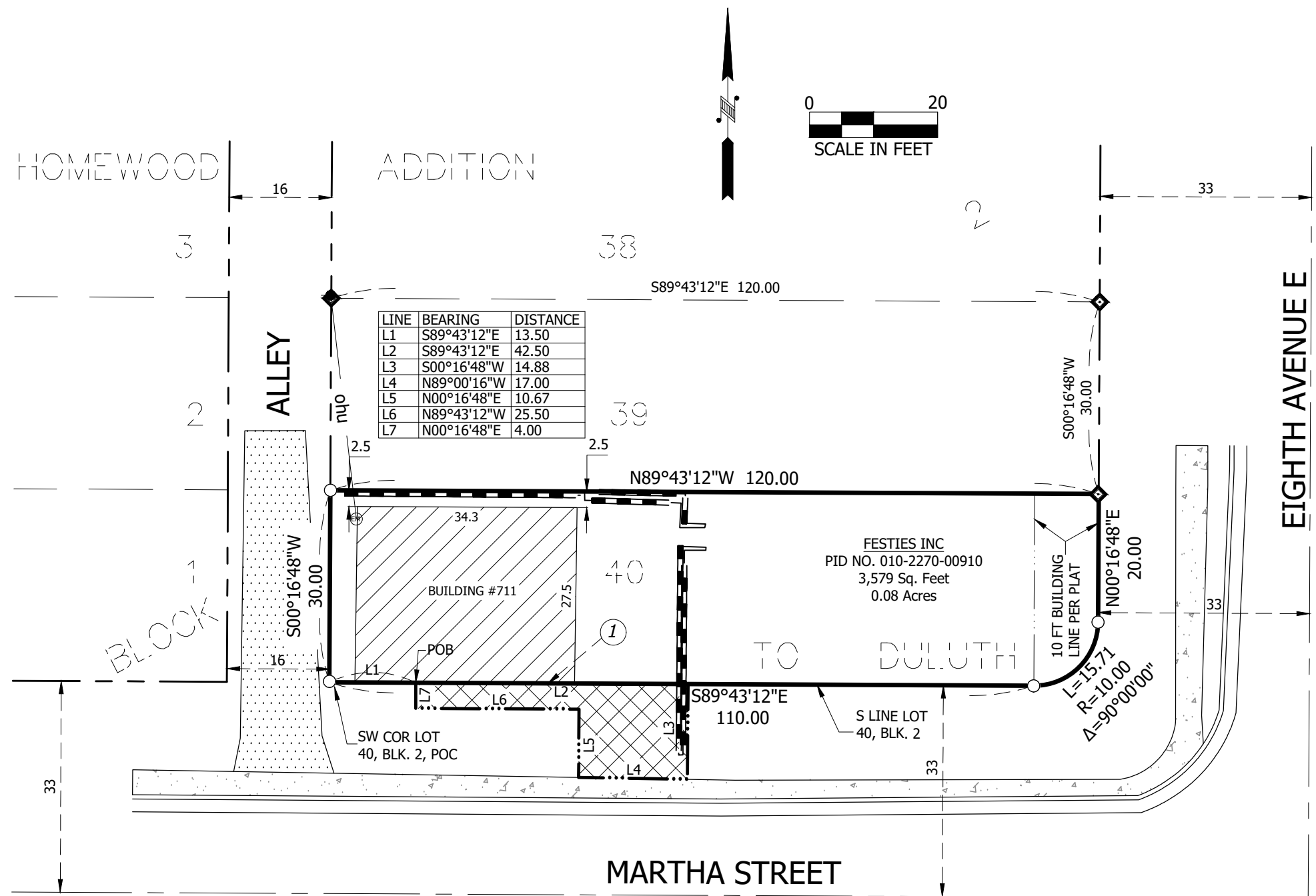
**SURVEYOR'S NOTES**

1. SOUTHERLY WALL OF BUILDING LIES ON OR NEAR THE SOUTHERLY LINE OF LOT 40, BLOCK 2.
2. 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. THE SURVEYOR ASSUMES NO RESPONSIBILITY FOR SHOWING THE LOCATION OF RECORDED OR UNRECORDED EASEMENTS OR OTHER ENCUMBRANCES NOT PROVIDED TO THE SURVEYOR AS OF THE DATE OF THE SURVEY.
3. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
4. BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.
5. 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.
6. DUE TO SNOW AND ICE COVERAGE, SOME FEATURES MAY NOT HAVE BEEN VISIBLE DURING THE COURSE OF THIS SURVEY.

**LEGAL DESCRIPTION OF CONCURRENT USE AREA**

That part of Martha Street, as dedicated on HOMEWOOD ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota described as follows:

Commencing at the Southwest corner of Lot 40, Block 2, said HOMEWOOD ADDITION TO DULUTH; thence on an assumed bearing of South 89 degrees 43 minutes 12 seconds East, along the South line of said Lot 40 for a distance of 13.50 feet to the point of beginning of the parcel herein described; thence continue South 89 degrees 43 minutes 12 seconds East, along said South line 42.50 feet; thence South 00 degrees 16 minutes 48 seconds West 14.88 feet; thence North 89 degrees 00 minutes 16 seconds West 17.00 feet; thence North 00 degrees 16 minutes 48 seconds East 10.67 feet to a line parallel with and distant 4.00 feet South of the South line of said Lot 40; thence North 89 degrees 43 minutes 12 seconds West, along said parallel line 25.50 feet; thence North 00 degrees 16 minutes 48 seconds East 4.00 feet to the point of beginning. Said parcel contains 353 square feet.



**CERTIFICATE OF SURVEY**

<p>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.</p> <p><i>David R. Evanson</i></p> <p>David R. Evanson MN License #49505</p> <p>DATE: 01-26-2024</p>	<p>CLIENT: FESTIES INC C/O DAVE SUNDBERG ADDRESS: 711 MARTHA ST, DULUTH, MN 55805</p> <p>DATE: 01-26-2024</p>	<p>REVISIONS: 4-25-24 ADD CONCURRENT USE AREA/9-16-24 REVISE CONCURRENT USE AREA</p> <p>JOB NO: 24-020</p> <p>SHEET 1 OF 1</p>
	<p><b>ALTA</b> LAND SURVEY COMPANY</p> <p>PHONE: 218-727-5211 LICENSED IN MN &amp; WI WWW.ALTLANDSURVEYDULUTH.COM</p>	