



Planning & Development Division
Planning & Economic Development Department

Room 160
 411 West First Street
 Duluth, Minnesota 55802

218-730-5580

planning@duluthmn.gov

File Number	PL 20-039	Contact	Chris Lee, 218-730-5304	
Type	Concurrent Use Permit	Planning Commission Date		May 12, 2020
Deadline for Action	Application Date	March 31, 2020	60 Days	May 30, 2020
	Date Extension Letter Mailed	April 16, 2020	120 Days	July 29, 2020
Location of Subject	3322 Minnesota Avenue			
Applicant	Mary DuBois	Contact	N/A	
Agent		Contact		
Legal Description	Parcel ID Number: 010-3110-03550			
Site Visit Date	April 26, 2020	Sign Notice Date	April 28, 2020	
Neighbor Letter Date	N/A	Number of Letters Sent	N/A	

Proposal: The applicant is proposing to construct a pavilion on an existing concrete and stone foundation located directly adjacent to the property. The concurrent use area will be 14 feet x 21 feet.

Staff Recommendation: Staff is recommending that Planning Commission recommend approval to City Council.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Single Family Dwelling	Traditional Neighborhood
North	R-1	Single Family Dwelling	Traditional Neighborhood
South	R-1	Single Family Dwelling	Traditional Neighborhood
East	R-1	Vacant	Traditional Neighborhood
West	R-1	Single Family Dwelling	Traditional Neighborhood

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
3. 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):

Governing Principle #1 – Reuse previously developed lands: includes adaptive reuse of existing building stock and historic resources, as this strengthens neighborhoods. This property currently contains a single family residence and this foundation and fireplace have historically served the homes occupants.

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 and neighborhood extensions, and new traditional neighborhood areas.

Recent History – Currently the property contains a 1,200 square single family home constructed in 1915.

Review and Discussion Items

Staff finds that:

- 1.) The applicant is seeking a concurrent use permit to construct a wooden pavilion over an existing concrete and stone foundation and a fireplace in the right of way for Lake Avenue. The proposed concurrent use area will be 294 square feet or 14 feet by 21 feet.
- 2.) City Engineering has determined that Lake Avenue at this portion will not be improved because of its proximity to the lake.
- 3.) This concurrent use permit would not impact any Park Point street ends nor impede public access to the lake.
- 4.) 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.
- 5.) 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.
- 6.) No other public, agency, or other comments have been received as of April 28, 2020.

Staff Recommendation

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

- 1.) Applicant shall construct any structures within the limits identified in the attached exhibit.
- 2.) The structure will need to comply with any applicable engineering standards, and building or fire code 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 obstructions 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 structure 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.



PL 20-039: CUP

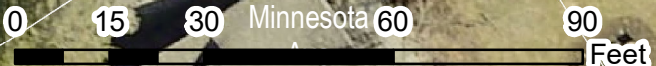


Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains
 - CITY OF DULUTH
 - WLSSD; PRIVATE
 - Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains
 - Storm Sewer Pipe
 - Storm Sewer Catch Basin
- Zoning Boundaries

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 2019





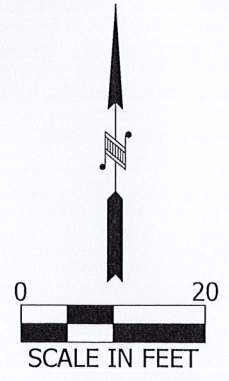
Concurrent Use Area
showing foundation

LEGAL DESCRIPTION PER CERTIFICATE OF TITLE NO. 346931

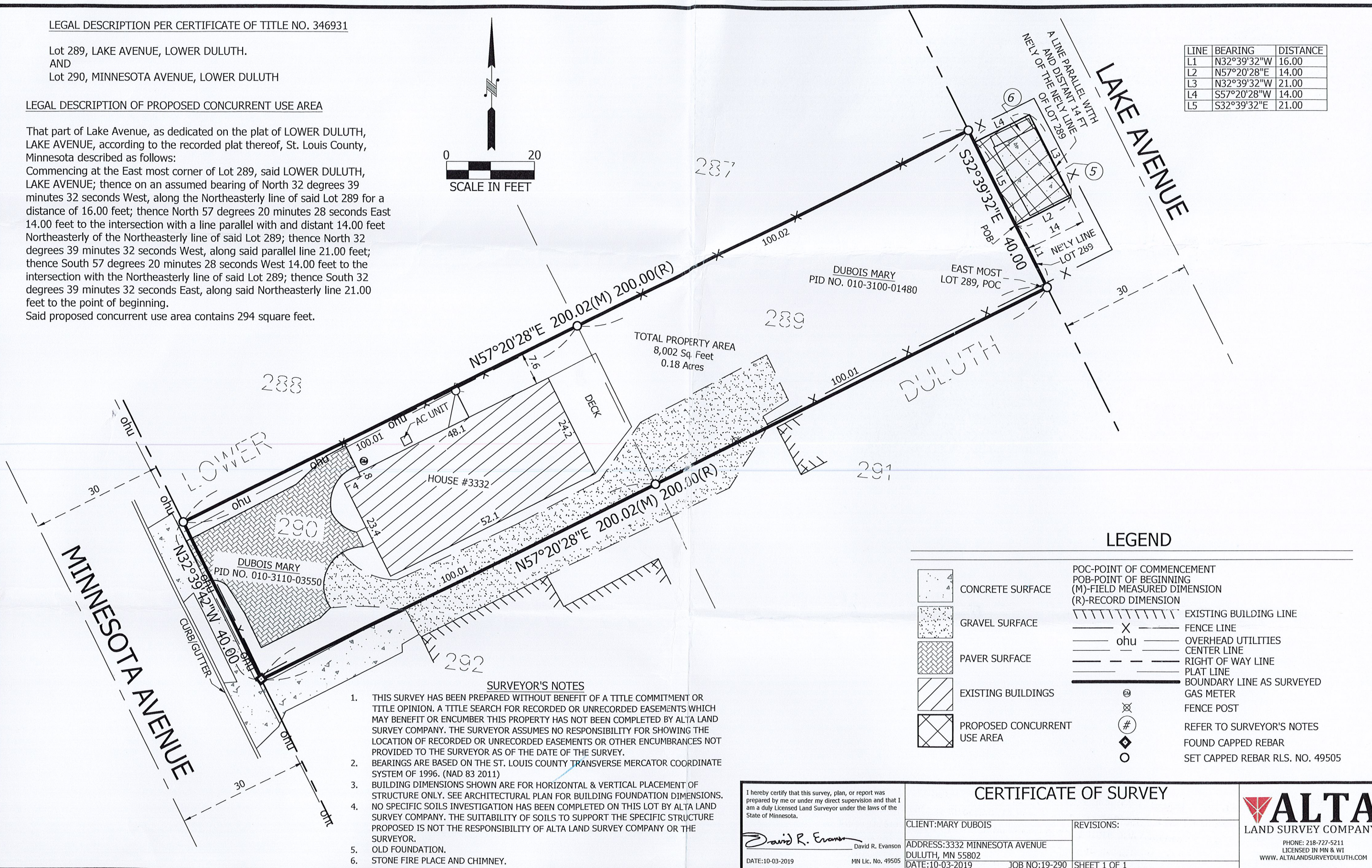
Lot 289, LAKE AVENUE, LOWER DULUTH.
AND
Lot 290, MINNESOTA AVENUE, LOWER DULUTH

LEGAL DESCRIPTION OF PROPOSED CONCURRENT USE AREA

That part of Lake Avenue, as dedicated on the plat of LOWER DULUTH, LAKE AVENUE, according to the recorded plat thereof, St. Louis County, Minnesota described as follows:
Commencing at the East most corner of Lot 289, said LOWER DULUTH, LAKE AVENUE; thence on an assumed bearing of North 32 degrees 39 minutes 32 seconds West, along the Northeastly line of said Lot 289 for a distance of 16.00 feet; thence North 57 degrees 20 minutes 28 seconds East 14.00 feet to the intersection with a line parallel with and distant 14.00 feet Northeastly of the Northeastly line of said Lot 289; thence North 32 degrees 39 minutes 32 seconds West, along said parallel line 21.00 feet; thence South 57 degrees 20 minutes 28 seconds West 14.00 feet to the intersection with the Northeastly line of said Lot 289; thence South 32 degrees 39 minutes 32 seconds East, along said Northeastly line 21.00 feet to the point of beginning.
Said proposed concurrent use area contains 294 square feet.



LINE	BEARING	DISTANCE
L1	N32°39'32"W	16.00
L2	N57°20'28"E	14.00
L3	N32°39'32"W	21.00
L4	S57°20'28"W	14.00
L5	S32°39'32"E	21.00



TOTAL PROPERTY AREA
8,002 Sq. Feet
0.18 Acres

LEGEND

	CONCRETE SURFACE		POC-POINT OF COMMENCEMENT
	GRAVEL SURFACE		POB-POINT OF BEGINNING
	PAVER SURFACE		(M)-FIELD MEASURED DIMENSION
	EXISTING BUILDINGS		(R)-RECORD DIMENSION
	PROPOSED CONCURRENT USE AREA		EXISTING BUILDING LINE
			FENCE LINE
			OVERHEAD UTILITIES
			CENTER LINE
			RIGHT OF WAY LINE
			PLAT LINE
			BOUNDARY LINE AS SURVEYED
			GAS METER
			FENCE POST
			REFER TO SURVEYOR'S NOTES
			FOUND CAPPED REBAR
			SET CAPPED REBAR RLS. NO. 49505

SURVEYOR'S NOTES

- 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.
- BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996. (NAD 83 2011)
- BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY. SEE ARCHITECTURAL PLAN FOR BUILDING FOUNDATION DIMENSIONS.
- 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.
- OLD FOUNDATION.
- STONE FIRE PLACE AND CHIMNEY.

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:10-03-2019 MN Lic. No. 49505

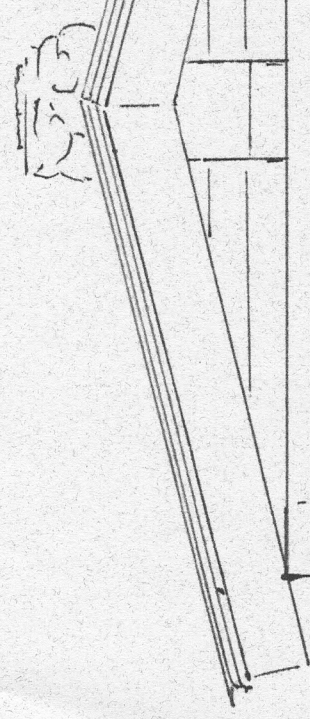
CERTIFICATE OF SURVEY
CLIENT:MARY DUBOIS
ADDRESS:3332 MINNESOTA AVENUE
DULUTH, MN 55802
DATE:10-03-2019
REVISIONS:
JOB NO:19-290
SHEET 1 OF 1

ALTA
LAND SURVEY COMPANY
PHONE: 218-727-5211
LICENSED IN MN & WI
WWW.ALTLANDSURVEYDULUTH.COM

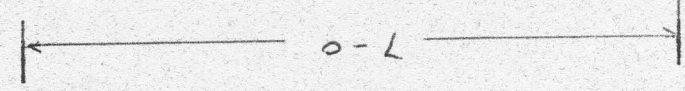


EAST ELEV

$\frac{12}{31}$



- Metal Roofing
- 5/8 OSB SHEETING
- 1x8 RUFFSAWN PLANK



Ruff Sawn Lap Siding

METAL FLASHING

South EIE