



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 21-200	Contact	John Kelley	
Type	Concurrent Use Permit	Planning Commission Date	January 11, 2022	
Deadline for Action	Application Date	November 24, 2021	60 Days	January 23, 2022
	Date Extension Letter Mailed	December 22, 2021	120 Days	March 24, 2022
Location of Subject	2801 West Superior Street			
Applicant	WB Ibiza, LLC	Contact	Marshall Jackson	
Agent		Contact		
Legal Description	See Attached	Sign Notice Date	December 28, 2021	
Site Visit Date	January 4, 2022	Number of Letters Sent	N/A	

Proposal

The applicant is seeking a concurrent use permit to use an existing stairwell located within the right of way of North 28th Avenue West.

Staff Recommendation

Staff recommends that the Planning Commission recommend approval of the concurrent use permit to the City Council (via ordinance).

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-5	Bar/Residential	General Mixed Use
North	F-5	Commercial	General Mixed Use
South	F-5	Commercial	General Mixed Use
East	F-5	Commercial	General Mixed Use
West	F-5	Commercial/Residential	General Mixed Use

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. Any proposed skywalk will significantly improve the circulation of pedestrians in the city without exposure to weather conditions (does not apply in this instance);
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. The applicant is proposing to reuse of an existing building with the CUP for access via the stairwell to a basement apartment.

Future Land Use

General Mixed Use: The broadest mix of uses, including light industrial, office, commercial, and residential use, with performance standards to ensure compatibility. Includes areas that are in transition from industrial uses and large redevelopments that require master plans and phased development. General or heavy industrial can be included when a large site is master planned to allow appropriate separation of uses.

History

The building was constructed in 1914 and is 6,800 square containing apartments on upper floors and a bar on the first floor.

Review and Discussion Items:

- 1) The applicant is seeking a concurrent use permit to continue use of an existing stairwell within the right of way of North 28th Avenue West. The stairwell is a 5' x 16' segment located in the right of way.
- 2) 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 stairwell is an existing access to a basement apartment and is approximately 12' from the street curb. There is 7' of sidewalk between the stairwell and street curb. The stairwell will not interfere with pedestrian circulation. The stairwell has a fence/guard rail along the edge to protect pedestrians from falling into the area.
- 3) 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.
- 4) 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 are typically included in the ordinance that is submitted for the City Council's review.
- 5) No comments were received from the public or other government agencies at the time this staff report was written, except for minor comments from engineering on the exhibits (scale bars have the wrong dimensions).
- 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.

Staff Recommendation

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

- 1) Applicant construct and maintain the project as identified in the attached exhibits.
- 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) The structure will need to comply with any applicable engineering standards, or building or fire code requirements.
- 5) 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 21-200
Concurrent Use Permit
Site map

Legend

- Gas Main
- Water Main
- Hydrant

Sanitary Sewer Mains

- CITY OF DULUTH
- WLSSD; PRIVATE

Sanitary Sewer Forced Main

Storage Basin

PS Pump Station

Storm Sewer Mains

- Storm Sewer Pipe
- Storm Sewer Catch Basin

Easement Type

- Utility Easement
- Other Easement

Zoning Boundaries

- Trout Stream (GPS)
- Other Stream (GPS)
- Wetlands (NRRI)

Image RGB

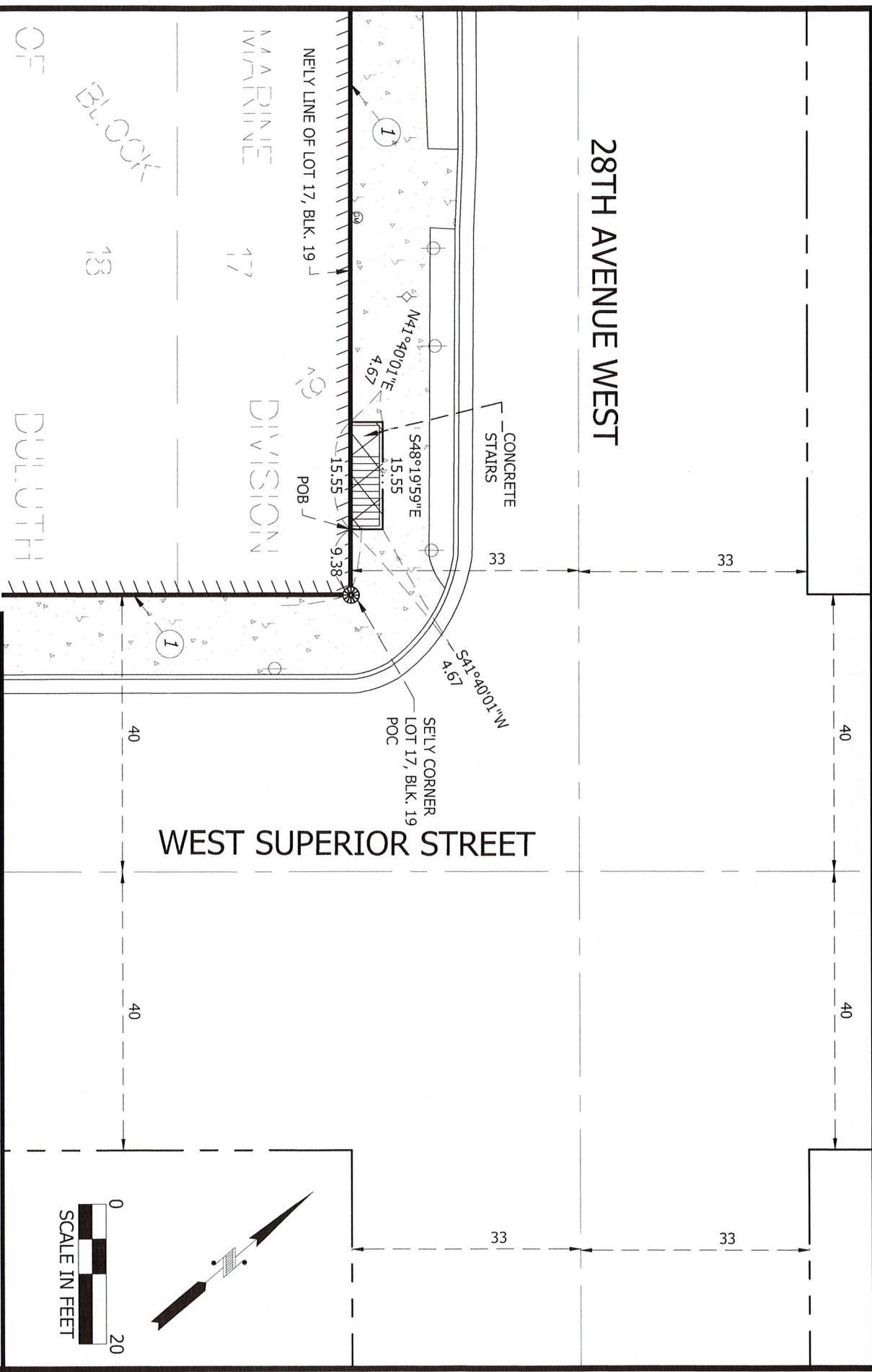
- Red: Red
- Green: Green
- Blue: Blue

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.



28TH AVENUE WEST

WEST SUPERIOR STREET



CONCURRENT USE EXHIBIT

CLIENT: MBI DEVELOPMENT

REVISIONS:

ADDRESS: 2801 W SUPERIOR ST.,

DULUTH, MN 55806

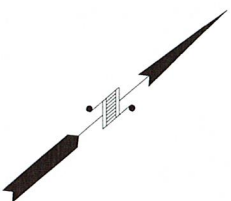
DATE: 11-23-2021

JOB NO: 21-335 SHEET 2 OF 2

ALTA
LAND SURVEY COMPANY

PHONE: 218-727-5211
LICENSED IN MN & WI
WWW.ALTA LANDSURVEYDULUTH.COM

0 20
SCALE IN FEET



LEGAL DESCRIPTION PER DOC. NO. 973087
LOTS SEVENTEEN (17), EIGHTEEN (18), NINETEEN (19), TWENTY (20) AND TWENTY-ONE (21), BLOCK NINETEEN (19),
MARINE DIVISION OF DULUTH.

LEGAL DESCRIPTION FOR CONCURRENT USE AREA

A parcel of land lying within the platted right of way of 28th Avenue West, MARINE DIVISION OF DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:
Commencing at the Southeasterly corner of Lot 17, Block 19 said MARINE DIVISION OF DULUTH; thence North 48 degrees 19 minutes 59 seconds West, along the Northeastery line of said Lot 17 for a distance of 9.38 feet to the point of beginning of the parcel herein described; thence North 48 degrees 19 minutes 59 seconds West, along said Northeastery line 15.55 feet; thence North 41 degrees 40 minutes 01 seconds East 4.67 feet; thence South 48 degrees 19 minutes 59 seconds East 15.55 feet; thence South 41 degrees 40 minutes 01 seconds West 4.67 feet to the point of beginning. Said parcel contains 73 Sq. Feet.

LEGEND

	CONCRETE SURFACE		CONCURRENT USE LINE
	PROPOSED CONCURRENT USE AREA		EXISTING BUILDING LINE
	POB-POINT OF BEGINNING		CENTER LINE
	POC-POINT OF COMMENCEMENT		RIGHT OF WAY LINE
			BOUNDARY LINE AS SURVEYED
			EXISTING PLAT LINE
			CONCRETE CURB & GUTTER
			GAS METER
			UTILITY VAULT
			SIGN
			REFER TO SURVEYOR'S NOTES
			SET GIN SPIKE

SURVEYOR'S NOTES

1. THE FOUNDATION OF BUILDING 2801 W SUPERIOR STREET LIES ON THE SURVEYED BOUNDARY LINE.
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)

CONCURRENT USE EXHIBIT

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

DATE: 11-23-2021

MN Lic. No. 49505

CLIENT: MBJ DEVELOPMENT

REVISIONS:

ADDRESS: 2801 W SUPERIOR ST,

DULUTH, MN 55806

DATE: 11-23-2021

JOB NO: 21-335 SHEET 1 OF 2

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