



Planning & Development Division
Planning & Economic Development Department

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File Number	PL 20-112; Ordinance 20-49-O		Contact	Kris Liljeblad, 218-730-5338	
Type	Concurrent Use Permit		Planning Commission Date		August 11, 2020
Deadline for Action	Application Date		July 9, 2020	60 Days	September 7, 2020
	Date Extension Letter Mailed		N/A	120 Days	November 6, 2020
Location of Subject		32nd Avenue East between London and Greysolon Roads, Duluth, MN			
Applicant	Bob Manzoline, St. Louis & Lake Counties Railroad Authority		Contact		
Agent	Kristy Marken, Krech Ojard & Associates				
Legal Description		Public right-of-way located on either side of NSSRR bridge. See attachment:			
Site Visit Date		July 22, 2020	Sign Notice Date		July 28, 2020
Neighbor Letter Date		July 27, 2020	Number of Letters Sent		36

Proposal: The applicant is proposing to install an active pre-warning overhead sign system on both sides of the low clearance (10'9") North Shore Scenic Railroad Bridge 4A crossing 32th Avenue East between London and Greysolon Roads in Duluth, MN. The active pre-warning signs would be triggered by a laser system, mounted on vertical supports located between the curb and sidewalk on both sides of the avenue, and near each of the intersections of London Road and Greysolon Road. Signs with flashing lights would be located on the railroad bridge and on the roadside for the downhill (southbound approach). The signs are intended to prevent collisions with the railroad bridge by over-height vehicles and to improve safety for the traveling public. The project will be the financial responsibility of the St. Louis & Lake Counties Railroad Authority, not the City or adjacent property owners. This is a companion proposal with PL-111, Ordinance 20-48-O located on 36th Avenue East.

Staff Recommendation: Approval by City Council; Planning Commission recommended approval on August 11, 2020.

	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	Single Family Dwelling	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 – Skywalk related
3. No portion of a public easement proposed for use is being physically used or occupied by the public.
4. Not Applicable – Parking related

Comprehensive Plan Governing Principles and/or Policies:

The Transportation Mission cited in the *Imagine Duluth 2035 Plan* is: “Duluth’s transportation system will connect all users in a way that promotes safety, health, and quality of life.”

Policy #1 – “Improve street conditions to function better for everyone”; Strategy 9. “Adopt measures to reduce vehicular travel speed and improve intersection safety...to improve overall safety conditions, reduce injuries, and eliminate deaths.”

Policy #3 – “Add to the transportation network by systematically enhancing multimodal options.” Strategy 11. “Complete planned trails and bike lanes to connect gaps in the bicycle route network.”

Policy #6 – “Protect and enhance regional transportation networks, especially for the purposes of expanding opportunities for movement of freight.” Strategy 6. “Expand public-private partnerships with rail freight companies to maintain, improve and expand rail infrastructure.”

Funding & Projects – Specific projects include: “Transportation infrastructure that facilitates uphill/downhill mobility.”

Review and Discussion Items

Staff finds that:

- 1.) The applicant is seeking a concurrent use permit to install an active pre-warning sign system, with vertical supports on both approaches to the roadway undercrossing of North Shore Scenic Railroad Bridge 4A on 32nd^h Avenue East between London Road and Greysolon Road. The sign structures are proposed to be located close to the intersections of each cross street to permit oversize vehicles to stop and re-route before becoming committed to going under the low clearance (10’ 9”) railroad bridge. High visibility warning signage, triggered by the active sensors, will be added on the downhill side (southbound) approach and to the railroad bridge itself.
- 2.) The applicant has identified a history of oversize vehicles striking the bridge and/or becoming lodged underneath it,

including recreational vehicles, a pontoon boat, cement and garbage trucks, and a mobile crane. In most cases this causes vehicle damage but has at times required street closure and engineering inspection of the bridge to ensure its structural integrity. This causes disruption for users of both the public roadway and NSRR operations.

- 3.) City Engineering has determined that the specified signage structures satisfy City and MUTCD standards. The proposed project will not impede snow removal on the roadway or sidewalk.
- 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 (sign structures) 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. It will improve health and safety by reducing or eliminating vehicle collisions with the fixed object, NSSR Bridge 4A.
- 6.) 32nd Avenue East will become more important in the future as an access route for non-motorized travel between London Road and the Campus Connector Trail which has a planned connection to the Lakewalk Trail on the north side of NSSR Bridge 4A. 32nd Avenue East is not currently a designated bikeway, nor is one planned at this time.
- 7.) Several neighborhood residents approached Councilor Sipress to oppose Ordinance 20-48-O following approval of the CUP by the Planning Commission on August 11, 2020 prompting two meetings of neighbors with the RR Authority and city representatives. The active warning system described here is a product of those neighborhood meetings as the RR Authority will install the same system at both the 32nd and 36th Avenue East bridge locations.

Staff Recommendation

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

- 1.) Applicant shall construct any structures within the limits identified in attached Exhibit A.
- 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 or Council approval; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Legal Description

Public right-of-way located on either side of NSRR Bridge 4A:

Sign 32A - Commencing at the northwesterly corner of Lot12, Block 24 of the Part of East Duluth and of First Addition to East Duluth Plat, City of Duluth, St. Louis County, Minnesota; thence southerly 16.00 feet along the easterly right-of-way line of 32nd Avenue East to the point of beginning; Thence southerly along the easterly right-of-way line, 10.00 feet, thence westerly at a right angle, 66.00 feet, more or less, to the westerly right-of-way line of 32nd Avenue East; thence northerly along said right-of-way line a distance of 10.00 feet; thence easterly at a right angle 66.00 feet, more or less, to the point of beginning.

Sign 32 B - Commencing at the southwesterly corner of Lot 14 Block 38 of the Part of East Duluth and of First Addition to East Duluth Plat, City of Duluth, St. Louis County, Minnesota; Thence southerly 190.00 feet along the easterly right-of-way line of 32nd Avenue East to the point of beginning; Thence southerly along the easterly right-of-way line a distance of 10.00 feet; thence westerly at a right angle 66.00 feet, more or less, to the westerly right-of-way line of 32nd Avenue East, thence northerly along said right-of-way line a distance of 10.00 feet; thence easterly at a right angle, 66.00 feet, more or less, to the point of beginning.



