



Staff Report for PLCUP-2605-0010

Application Information:

Application Type: Concurrent Use Permit

Location of Subject: 307 Canal Park Dr

Legal Description: 010-2500-00210

Applicant: Vitta Pizza Inc.

Applicant Contact: Brad Erickson

Agent: n/a

Agent Contact: n/a

Staff Contact: Christian Huelsman,

chuelsman@duluthmn.gov

Deadline for Action:

Application Date: May 20, 2026

Date Extension Letter Mailed: June 8, 2026

60 Days: July 19, 2026

120 Days: September 17, 2026

Site Visit Date: July 1, 2026

Sign Notice Date: June 30, 2026

Neighbor Letter Date: n/a

Number of Letters Sent: n/a

Proposal:

The applicant is seeking a concurrent use permit for a pergola and barricade to provide code compliant, permanent, outdoor seating within the public right-of-way.

Recommended Action:

Staff recommends approval with conditions.

Zoning and Land Use:

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	F-3	Commercial	Tourism/Entertainment
North	F-3	Commercial	Tourism/Entertainment
South	F-3	Commercial	Tourism/Entertainment
East	F-9	Lodging	Tourism/Entertainment
West	F-5	Commercial	Tourism/Entertainment

Summary of Code Requirements:

50-37.7.C – Concurrent use of streets permit criteria (summarized): 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;
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):

Principle #9 – Support private actions that contribute to the public realm – The uses and activities contained in the buildings directly impact the surroundings. Standards are appropriate to apply in areas where private actions abut public areas so that these actions not only do not detract from, but also enhance the public areas.

Future Land Use: Tourism/Entertainment – Retail, entertainment and lodging facilities, meeting facilities, waterfront-related uses, and open space uses. Includes medium densities and building heights, as well as building design standards.

History: The one-and-a-half-story commercial structure was built in 1901. Vitta Pizza has operated in the north end of the building since 2011.

Review and Discussion Items:

Staff finds:

1. The applicant is seeking a concurrent use permit to provide code compliant, permanent, outdoor customer seating within the public right-of-way. The proposed concurrent use consists of two pergolas: one measuring 10 ft by 11 ft, north of the primary entrance; and the other measuring 7.5 ft by 17 ft, south of the primary entrance. The pergola structures also feature barricades that serve as bar stool seating, in accordance with code requirements for licensed premises for serving of intoxicating liquor (Section 8-54 of the Duluth Legislative Code). The seating includes 4 four-top tables with 16 total seats, 2 two-top tables with 4 total seats, and 18 bar stool seats.
2. The City has records of approved Sidewalk Use Permits for outdoor seating annually since 2011. Sidewalk Use Permits allow temporary uses within the space, and the applicant is seeking approval for an ongoing permit to continue to operate this seating area.
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 available sidewalk width between the curb and pergolas provides the minimum space for the required "accessible route" of 36 inches wide, per the ADA National Network): the available width between the curb and the south pergola measures 6 feet; a sculptural statue centered in front of the primary entrance provides a similar distance from the pergolas; the distance between the curb and north pergola measures 7 feet.
4. Concurrent use permits are approved by the City Council by ordinance. Unlike street right-of-way vacations, concurrent use permits are not recorded at with St. Louis County as they are revocable agreements between the City and property owners.
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 public may be included in any ordinance approving a concurrent use permit adopted by the City Council.
6. One comment was received from Resource Renew, stating that the applicant may be subject to Capacity Availability Fees (CAF), and should get a CAF fee determination completed prior to receiving building permits. However, upon sharing that the outdoor seating has been previously approved and will not be expanded, it was determined that a CAF determination will not be necessary after all. The pergolas will be less than the minimum 200 sq ft required by State Building Code to necessitate building permits (MN Building Code 1300.0120 Subp. 4). If applicant wants to make any expansions or additions to the existing pergolas, the proposal will be reviewed to determine whether a building permit is needed at that time, as well as a revision to this concurrent use permit. No other City, agency, or public comments were received.
7. Per UDC Section 50-37.1.N, approved Concurrent Use Permits lapse if the project or activity authorized by the permit or variance is not begun within one year.

Staff Recommendation:

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

1. The applicant shall construct and maintain the project as identified in the attached exhibits.
2. The applicant will provide annual proof of liability insurance and agree to indemnify the City against any occurrences in the right-of-way that are due to items cover under this permit.

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3. The applicant will remove the obstructions at the applicant's expense if directed 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.
 5. The approved permit shall lapse if the project or activity authorized by the permit is not begun within one year of the permit date. The building official may extend this period one time for a period of up to one year if the property owner presents a written request showing the reasons for the delay were outside the owner's control.

Map for PLCUP-2605-0010:



Figure 1.
Aerial imagery captured in 2025, showing Parcel #010-2500-00210 outlined along the west side of Canal Park Drive. Proposed concurrent use areas for pergolas and outdoor seating are located on each side of the primary entrance to the business.

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.

Survey Exhibit

Legal Descriptions:

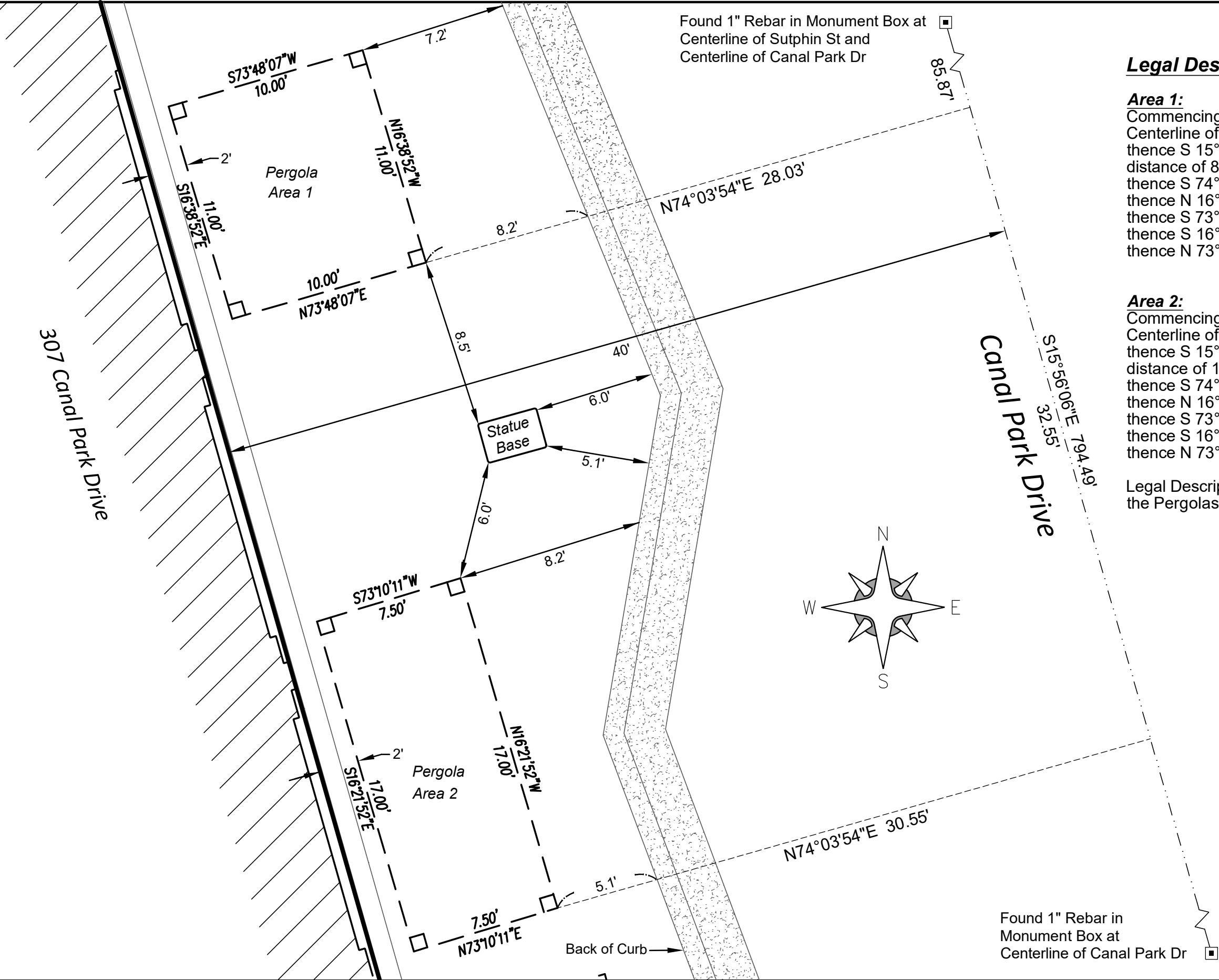
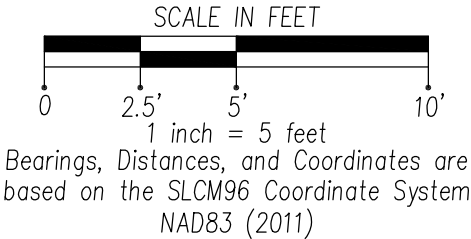
Area 1:
Commencing at the Centerline of Sutphine Street and the Centerline of Canal Park Drive;
thence S 15°56'06" E, along the Centerline of Canal Park Drive, a distance of 85.87';
thence S 74°03'54" W a distance of 28.03' to the point of beginning;
thence N 16°38'52" W a distance of 11.00';
thence S 73°48'07" W a distance of 10.00';
thence S 16°38'52" E a distance of 11.00';
thence N 73°48'07" E a distance of 10.00' to the point of beginning

Area 2:
Commencing at the Centerline of Sutphine Street and the Centerline of Canal Park Drive;
thence S 15°56'06" E, along the Centerline of Canal Park Drive, a distance of 118.42';
thence S 74°03'54" W a distance of 30.55' to the point of beginning;
thence N 16°21'52" W a distance of 17.00';
thence S 73°10'11" W a distance of 7.50';
thence S 16°21'52" E a distance of 17.00';
thence N 73°10'11" E a distance of 7.50' to the point of beginning

Legal Descriptions are based on the base (ground dimensions) of the Pergolas.

Legend

- Property Line
- Platted Centerline
- Concrete
- Building
- Found 1" Rebar in Monument Box



Twin Ports Land Surveying LLC
General Provisions of Land Surveying Agreement

Exhibit A

