



Staff Report for PLCUP-2606-0012

Application Information:

Application Type: Concurrent Use Permit

Location of Subject: 101 E Superior St

Legal Description: 010-0910-00180

Applicant: Duluth Coffee Company Inc.

Applicant Contact: Eric Faust

Agent: n/a

Agent Contact: n/a

Staff Contact: Christian Huelsman,

chuelsman@duluthmn.gov

Deadline for Action:

Application Date: June 8, 2026

Date Extension Letter Mailed: June 8, 2026

60 Days: August 7, 2026

120 Days: October 6, 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-7	Commercial	Central Business Primary
North	F-8	Commercial	Central Business Primary
South	F-7	Vacant Land	Central Business Primary
East	F-7	Commercial	Central Business Primary
West	F-7	Commercial	Central Business Primary

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 – An area adjacent to and supporting the primary central business area or a standalone area provided a similar mix of destination land uses but at a lower intensity than the primary Central Business area. Includes mixed regional and neighborhood retail, employment centers, public spaces, medium density residential, and public parking facilities. Characterized by pedestrian-oriented design, medium densities, and mixed-use buildings.

History: The two-story commercial structure was built in 1905. Duluth Coffee Company has operated its roastery in the building since 2012.


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 a wooden barricade across 107 E Superior St and 25 feet of the City-owned HART Parking Ramp property at 125 E Superior St, permanent sidewalk seating across the front façade of the building, and a pergola measuring 42 ft along the sidewalk by 11 ft and a depth of 11.65 ft. The total proposed concurrent use area is 100.29 ft by 11.65 ft. (Note: The pergola extends eastward in front of City-owned land. The applicant has been working with City of Duluth Property Services on activation of this space.)
2. The City has records of approved Sidewalk Use Permits for outdoor seating annually since 2021. 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 barricade delineating the concurrent use area is 7.01, as reflected on the survey exhibit. While an existing traffic signal light and hydrant stand just outside the barricade, the remaining distance from the curb provides the required "accessible route".
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 covered under this permit.
 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 PLVAR-2603-0007:

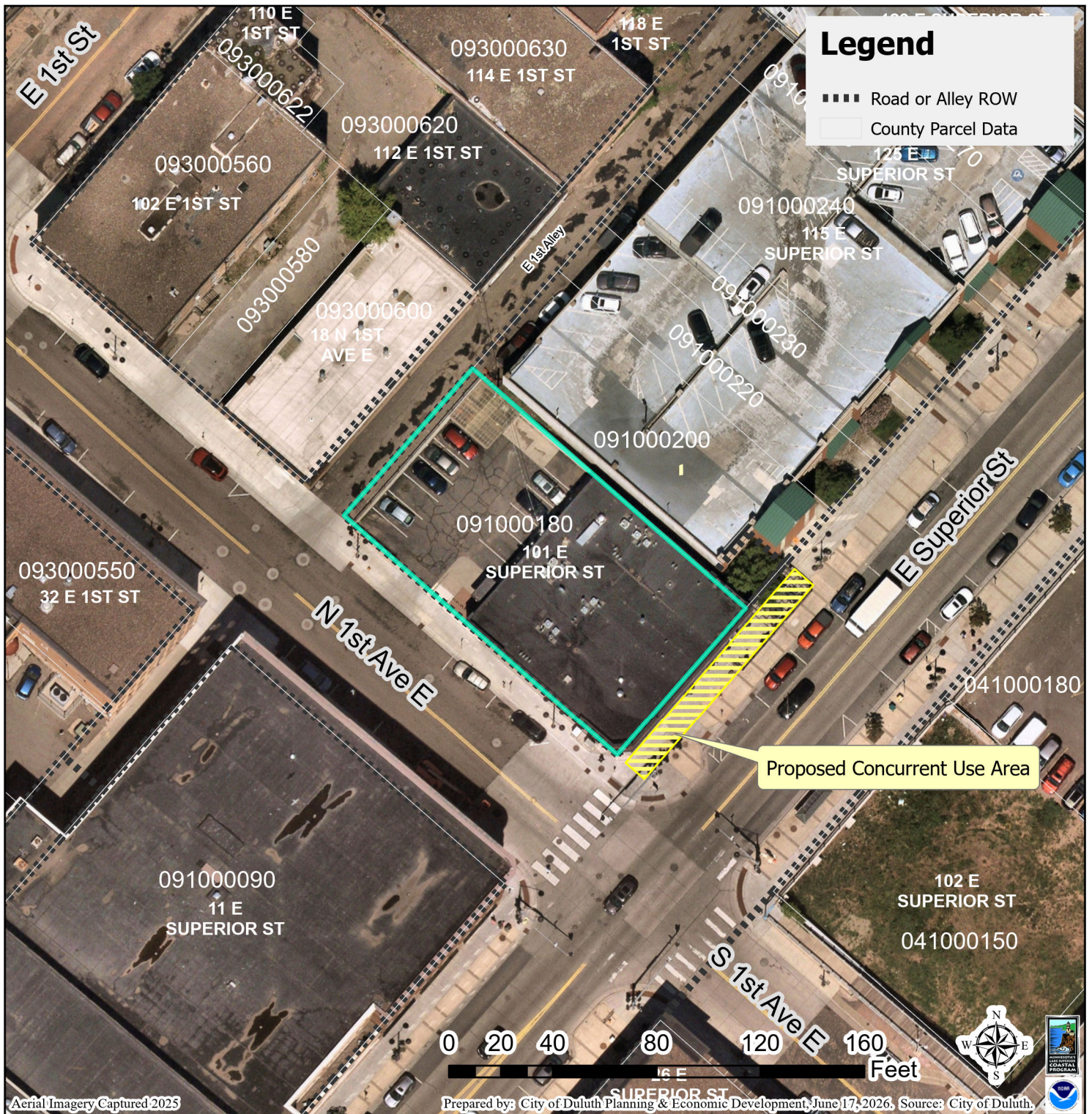


Figure 1.

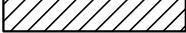






Aerial imagery captured in 2025, showing Parcel #010-0910-00180 outlined along the north side of East Superior Street, on the northeast corner with North 1st Avenue East. The proposed concurrent use area for a pergola and outdoor seating is located along the frontage of primary entrance of the business, extending east in front of the greenspace of the Hart Parking Ramp.

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.

EXHIBIT CONCURRENT USE

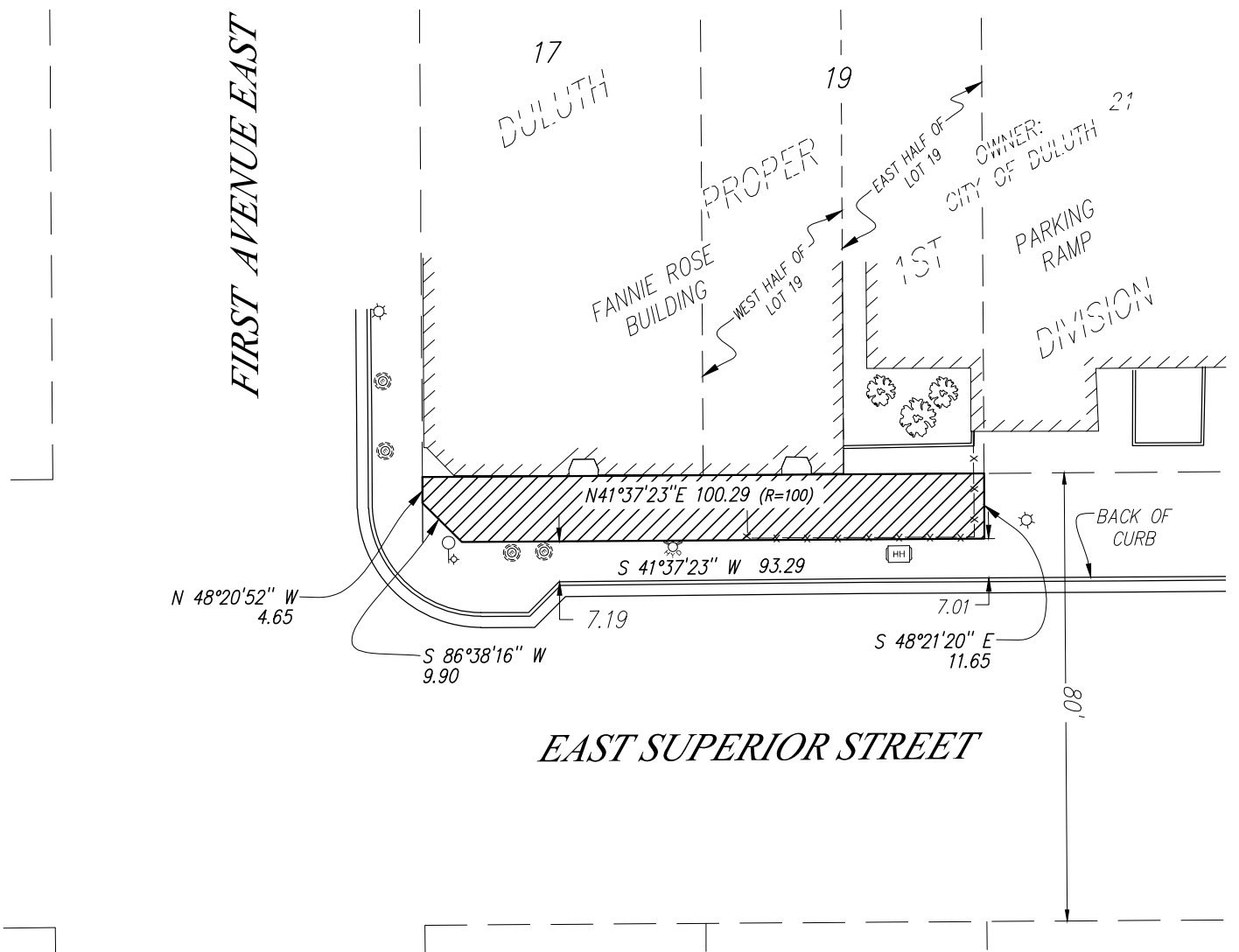
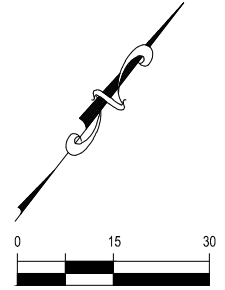
part of SUPERIOR STREET
DULUTH PROPER FIRST DIVISION

LEGEND

-  CONCURRENT USE AREA
-  EXISTING ELECTRIC MANHOLE
-  LIGHT POLE
-  TRAFFIC SIGNAL LIGHT
-  HYDRANT
-  HAND HOLE
-  DECIDUOUS TREE

APPROVED BY:

CITY ENGINEER



I hereby certify that this plan, specification, 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.

Print Name: Paul A. Vogel License # 44075

Signature:  Date: 06/05/2026

DATE PREPARED: 06/05/26

PROJ NO: 260322

FILE: 260322 Concu

SHEET 1 of 1 SHEETS



21 W. Superior St., Ste. 500 | Duluth, MN 55802 | 218.727.8446

LEGAL DESCRIPTION:

All that part of Superior Street, DULUTH PROPER FIRST DIVISION, City of Duluth, St. Louis County, Minnesota described as follows:

Beginning at the most southerly corner of Lot 17, East Superior Street, DULUTH PROPER FIRST DIVISION; thence North 41 degrees 37 minutes 23 seconds East along the southeasterly line of said Lot 17 and Lot 19, DULUTH PROPER FIRST DIVISION a distance of 100.29 feet to the most easterly corner of said Lot 19; thence South 48 degrees 21 minutes 20 seconds East along the southeasterly extension of the northeasterly line of said Lot 19, a distance of 11.65 feet; thence South 41 degrees 37 minutes 23 seconds West, a distance of 93.29 feet; thence South 86 degrees 38 minutes 16 seconds West, a distance of 9.90 feet; thence North 48 degrees 20 minutes 52 seconds West, a distance of 4.65 feet to the Point of Beginning.

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.

Paul A. Vogel

Signed



Date 06/05/2026

License No. 44075