



**CITY OF DULUTH**

Community Planning Division

411 W 1<sup>st</sup> St, Rm 110 \* Duluth, Minnesota 55802-1197

Phone: 218/730.5580 Fax: 218/723-3559

<b>File Number</b>	PL 19-004	<b>Contact</b>	Chris Lee, 730-5304	
<b>Type</b>	Concurrent Use Permit	<b>Planning Commission Date</b>	February 12, 2019	
<b>Deadline for Action</b>	<b>Application Date</b>	January 18, 2019	<b>60 Days</b>	March 19, 2019
	<b>Date Extension Letter Mailed</b>	January 28, 2019	<b>120 Days</b>	May 18, 2019
<b>Location of Subject</b>	4729 McCulloch St			
<b>Applicant</b>	Tom Kolar	<b>Contact</b>		
<b>Agent</b>	Dave Evanson	<b>Contact</b>		
<b>Legal Description</b>	See Attached, PIN: 010-3010-03530			
<b>Site Visit Date</b>	January 28, 2019	<b>Sign Notice Date</b>	January 29, 2019	
<b>Neighbor Letter Date</b>	February 1, 2019	<b>Number of Letters Sent</b>	39	

**Proposal**

The applicant is requesting a concurrent use permit to accommodate an existing garage structure located in the platted right of way at 4729 McCulloch Street.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	Residential	Neighborhood Commercial
<b>North</b>	R-1	Residential	Neighborhood Commercial
<b>South</b>	R-1	Residential	Traditional Neighborhood
<b>East</b>	R-1	Residential	Neighborhood Commercial
<b>West</b>	R-1	Residential	Neighborhood Commercial

**Summary of Code Requirements**

UDC Section 50-37.7. Concurrent Use of streets permit: 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) 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 #5 - Strengthen neighborhoods:** The present city is an historical amalgam of villages and other independent units of government, contributing to the present condition of Duluth being strongly defined by its neighborhoods. This condition should be reinforced through land use, transportation and public service delivery patterns which strengthen neighborhood identity. New institutional expansions, major public infrastructure or large commercial or industrial uses should not divide historic neighborhood patterns.

**Governing Principle #7 – Create and Maintain Connectivity:** Rights of way are an important component of vehicular, pedestrian, and infrastructure connectivity, and those needs must be considered when granting a concurrent use permit.

**Principle #8 - Encourage mix of activities, uses and densities:** Cities have evolved as a mix of land uses, building types, housing types, and activities. Accommodating choice while protecting investment is a balance to strike in land use regulation. Mixed uses provide opportunity for a diversity of activity that segregated, uniform uses do not provide.

**Housing Policy #4 –** Improve the quality of the city’s housing stock and neighborhoods

**Housing Policy #5 –** Expand the cohesiveness of “One Duluth” by expanding a variety of housing opportunities throughout the city while maintaining unique community characteristics within distinct individual neighborhoods

**Future Land Use- Neighborhood Commercial:** Small- to moderate-scale commercial, serving primarily the adjacent neighborhood(s). May include specialty retail; community gathering businesses such as coffee shops or lower intensity entertainment; offices; studios or housing above retail (storefront retail with vertical mixed use). Typically situated in or adjacent to residential neighborhoods. May transition to neighborhood mixed use.

## **Review and Discussion Items**

Staff Finds that:

- 1) The property contains a 2,620 square foot, two-story home that was constructed in 1891. There is currently a multi-family rental license for the house. The 280 square foot garage was constructed at an unknown time, according to St. Louis County Records. In 2002, there was a building permit to repair the garage and reside with vinyl siding.
- 2) A portion of 48<sup>th</sup> Avenue East where the garage currently resides was partially vacated in 1918 (File No. T-155). 105 square feet of the garage is still located within portions of right of way that remain unvacated.
- 3) The concurrent use area requested is 21’ x 5’ and covers 105 square feet.
- 4) The building has been in this location for many years and the proposed concurrent use will not harm or inconvenience the health, safety, and general welfare of the city.
- 5) No public, agency, or City comments have been received.
- 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. As this is an existing building, the use will begin immediately.

## **Staff Recommendation**

Based on the above findings, Staff recommends that Planning Commission recommend approval of the Concurrent Use Permit subject to the following conditions:

- 1) Applicant shall provide 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, and comply with other conditions in the approved ordinance.





PL 19-004: 4729 McCulloch St

**Legend**

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PL 19-004: 4729 McCulloch St

**Legend**

- Gas Main
- Water Main
- Hydrant

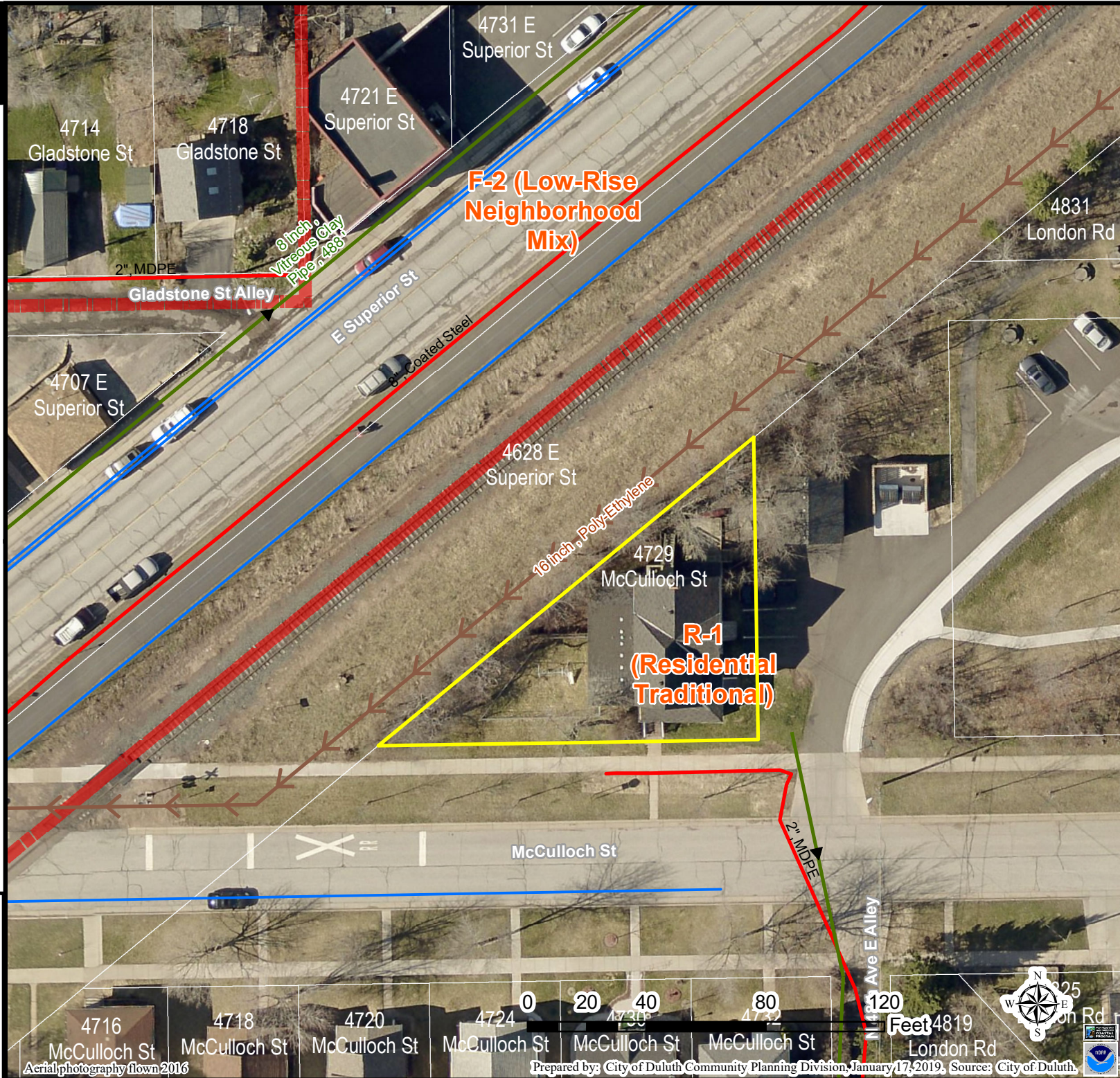
**Sanitary Sewer Mains**

- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main

**Storm Sewer Mains**

- Storm Sewer Pipe
- Storm Sewer Catch Basin

**Zoning Boundaries**



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PL 19-004: 4729 McCulloch St

**Legend**

- Gas Main
- Water Main
- Hydrant

**Sanitary Sewer Mains**

- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main

**Storage Basin**

- 

**Pump Station**

- PS

**Storm Sewer Mains**

- Storm Sewer Pipe
- Storm Sewer Catch Basin



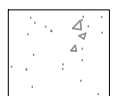
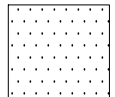

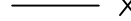








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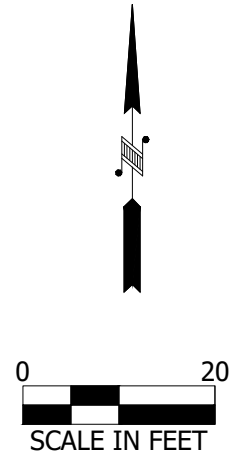
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# LEGEND

-  CONCRETE SURFACE
-  BITUMINOUS SURFACE
-  EXISTING BUILDINGS
-  FENCE LINE
-  CENTER LINE
-  RIGHT OF WAY LINE
-  BOUNDARY LINE AS SURVEYED
-  FOUND SANDSTONE MONUMENT
-  FOUND SURVEY MONUMENT
-  SET CAPPED REBAR RLS. NO. 49505
-  POC POINT OF COMMENCEMENT
-  POB POINT OF BEGINNING



### LEGAL DESCRIPTION PER DOCUMENT 1063437

All that part of Lots 9, 10 and 11, Block 50, lying South of the Right of Way of the Duluth and Iron Range Railroad, LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota.

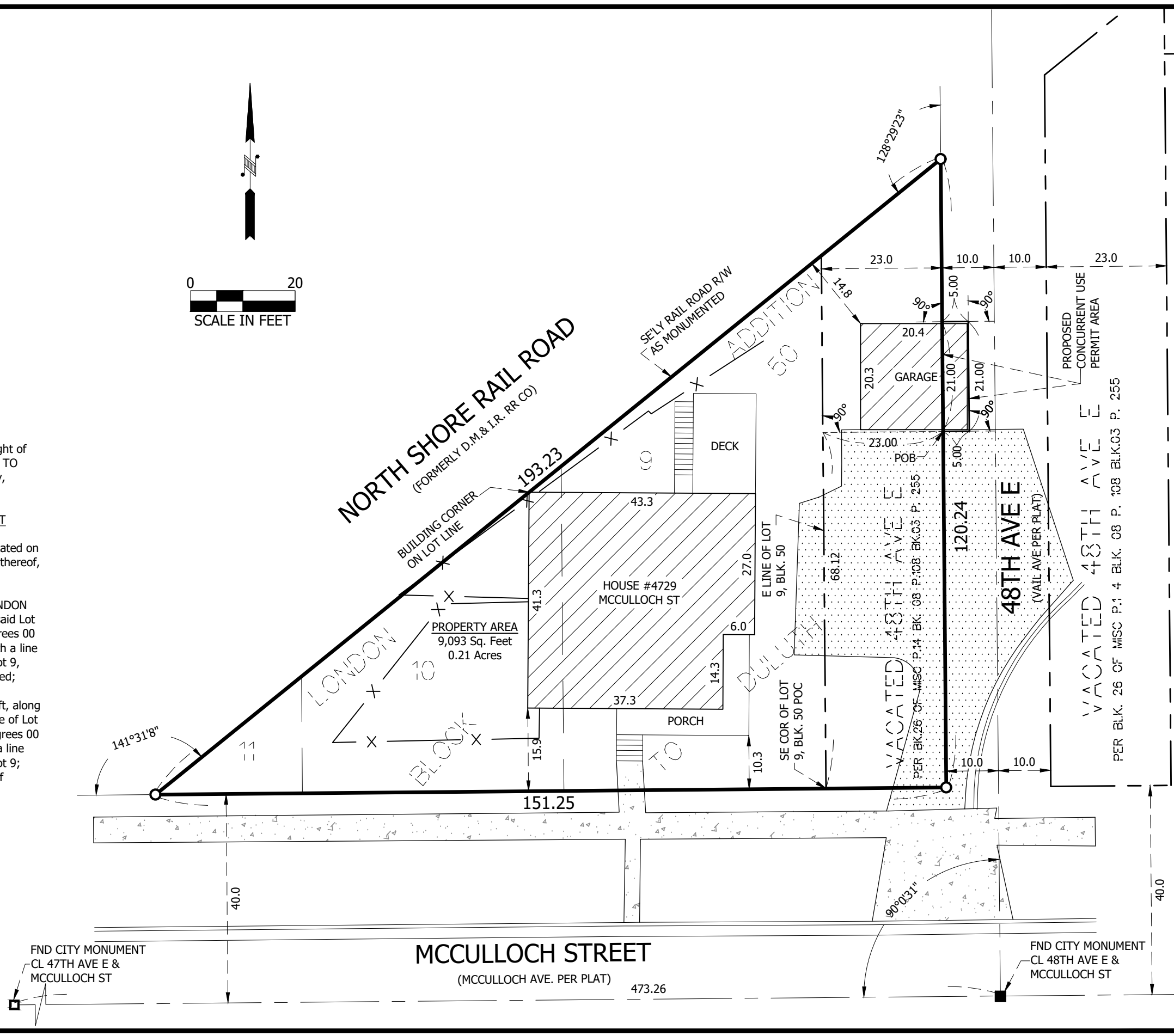
### LEGAL DESCRIPTION FOR PROPOSED CONCURRENT USE PERMIT

All that part of 48th Avenue East also known as Vail Ave as dedicated on LONDON ADDITION TO DULUTH, according to the recorded plat thereof, St. Louis County, Minnesota, described as follows:

Commencing at the Southeast corner of Lot 9, Block 50, said LONDON ADDITION TO DULUTH; thence Northerly along the East line of said Lot 9 for a distance of 68.12 feet; thence Easterly, deflecting 90 degrees 00 minutes 00 seconds to the right 23.00 feet to the intersection with a line parallel with and distant 23.00 feet Easterly of said East line of Lot 9, said point being the point of beginning of the land herein described; thence continue Easterly on last described line 5.00 feet; thence Northerly, deflecting 90 degrees 00 minutes 00 seconds to the left, along a line parallel with and distant 28.00 feet Easterly of said East line of Lot 9 for a distance of 21.00 feet; thence Westerly, deflecting 90 degrees 00 minutes 00 seconds to the left 5.00 feet to the intersection with a line parallel with and distant 23.00 feet Easterly of said East line of Lot 9; thence Southerly along said parallel line 21.00 feet to the point of beginning.  
Said parcel contains 105 Sq. Feet.

### SURVEYORS NOTES

1. BEARINGS ARE BASED ON THE ST. LOUIS COUNTY TRANSVERSE MERCATOR COORDINATE SYSTEM OF 1996.
2. BUILDING DIMENSIONS SHOWN ARE FOR HORIZONTAL & VERTICAL PLACEMENT OF STRUCTURE ONLY.
3. 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.



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

<b>CERTIFICATE OF SURVEY</b>	
CLIENT: TOM KOLAR	REVISIONS: 1-17-2019 SHOW PROPOSED CONCURRENT USE PERMIT AREA
DATE: 10-31-2017	2-1-2019 CITY COMMENTS
ADDRESS: 4729 MCCULLOCH ST DULUTH, MN	
JOB NUMBER: 17-320	

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  
MN Lic. No. 49505  
Date: 2-1-2019





PL 19-004: 4729 McCulloch St

### Legend

- Open Space
- Open Space/Outside Duluth
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Central Business Secondary
- Central Business Primary
- Large-scale commercial
- Tourism/Entertainment District
- Commercial Waterfront
- General Mixed Use
- Neighborhood Mixed Use
- Light Industrial
- General Industrial
- Industrial Waterfront
- Business Park
- Transportation and Utilities
- Transportation and Utilities/Outside Duluth
- Medical District
- Institutional



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