



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 21-151	Contact	Chris Lee	
Type	Concurrent Use Permit	Planning Commission Date	October 12, 2021	
Deadline for Action	Application Date	August 19, 2021	60 Days	October 18, 2021
	Date Extension Letter Mailed	September 3, 2021	120 Days	December 17, 2021
Location of Subject	107 E 9 th St.			
Applicant	Scott Holm	Contact		
Agent	David Marshall	Contact		
Legal Description	See Attached	Sign Notice Date	September 28, 2021	
Site Visit Date	September 28, 2021	Number of Letters Sent	N/A	

Proposal

The applicant is seeking a concurrent use permit to construct a deck and associated stairs into the right of way of East 9th Street

Staff Recommendation

Staff recommend 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	R-1	Residential	Traditional Neighborhood
North	R-1	Residential	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood
West	R-1	Residential	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. 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 #5 - Promote reinvestment in neighborhoods.

Duluth is strongly defined by its neighborhoods. This system should be supported through land use and transportation that foster neighborhood reinvestment. New development or redevelopment should maximize public investment that strengthens neighborhood commercial centers or diversifies residential opportunities that fit the neighborhood's character.

Future Land Use

Traditional Neighborhood: Characterized by grid or connected street pattern, houses oriented with shorter dimension to the street and detached garages, some with alleys. Includes many of Duluth's older neighborhoods, infill projects, neighborhood extensions, and new traditional neighborhood areas.

History

The home is 798 square feet containing 2 bedrooms built in 1906.

Review and Discussion Items:

- 1) The applicant is seeking a concurrent use permit to construct a new deck into the right of way of East 9th Street. This deck will be 9' x 26' with a 4' x 8.33' 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 closest point of the deck will be approximately 14' from the street curb. There are no sidewalks on the side of East 9th Street and the deck will not interfere with pedestrian circulation.
- 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. The ordinance will require that the project proposer will locate any underground items in accordance with Gopher State One Call rules, and that the city will bear no responsibility for locating any facility related to the concurrent use permit except as it is legally responsible under the Gopher State One Call rules.
- 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:

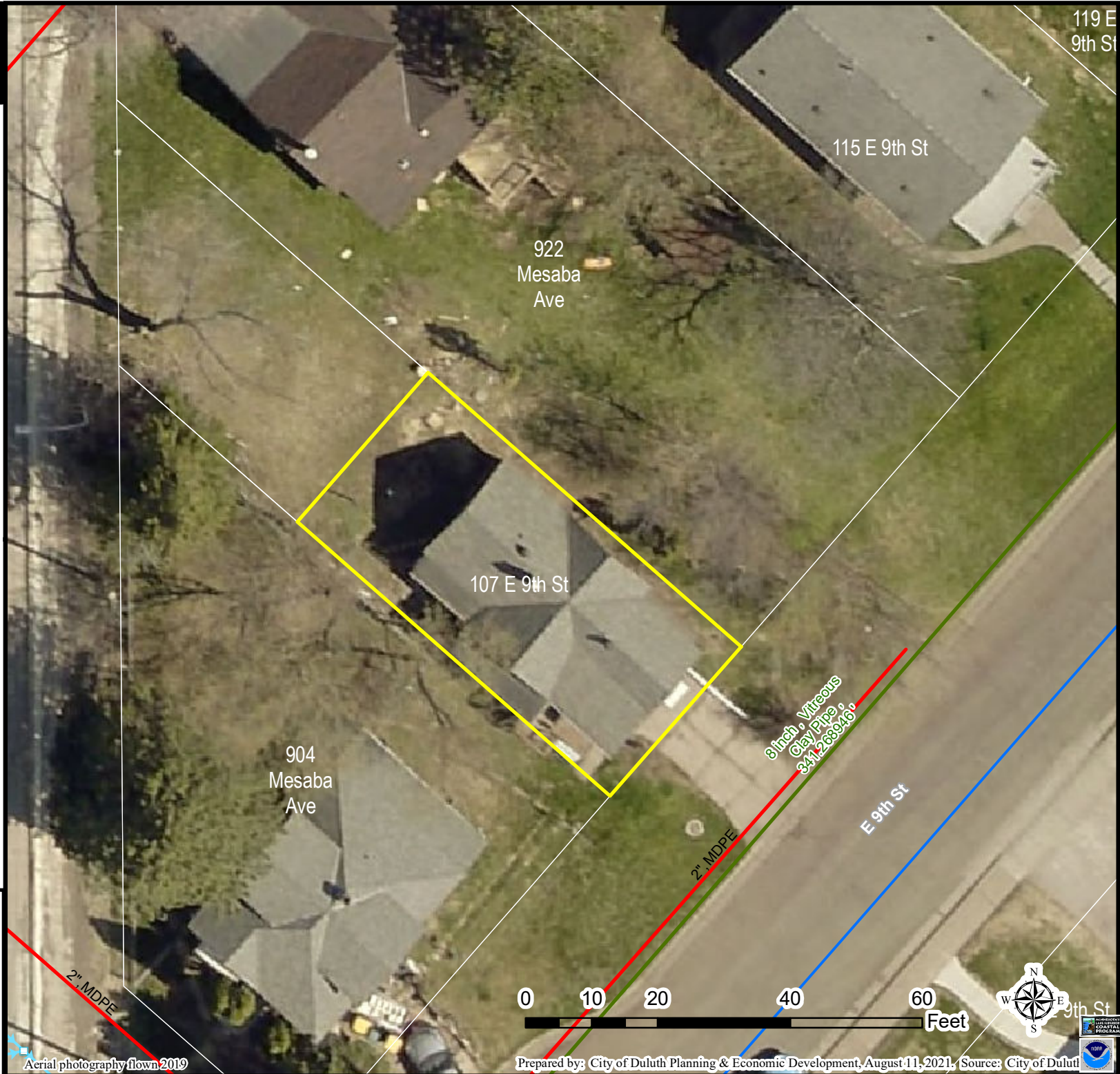
- 1) Applicant construct and maintain the project as identified in the attached exhibits.
- 2) Applicant provide annual proof of liability insurance to indemnify the City against any occurrences in the right of way that are due to items covered under this permit.
- 3) Applicant will remove the obstructions 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 21-151 CUP
107 E 9th St

Legend

- Gas Main
- Water Main
- Hydrant
- Sanitary Sewer Mains**
- CITY OF DULUTH
- WLSSD; PRIVATE
- Sanitary Sewer Forced Main
- Storage Basin
- Pump Station
- Storm Sewer Mains**
- Storm Sewer Pipe
- Storm Sewer Catch Basin



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.

Aerial photography flown 2019

Prepared by: City of Duluth Planning & Economic Development, August 11, 2021. Source: City of Duluth

119 E 9th St

115 E 9th St

922 Mesaba Ave

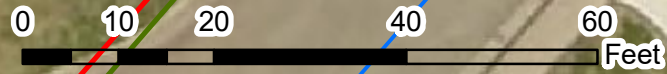
107 E 9th St

904 Mesaba Ave

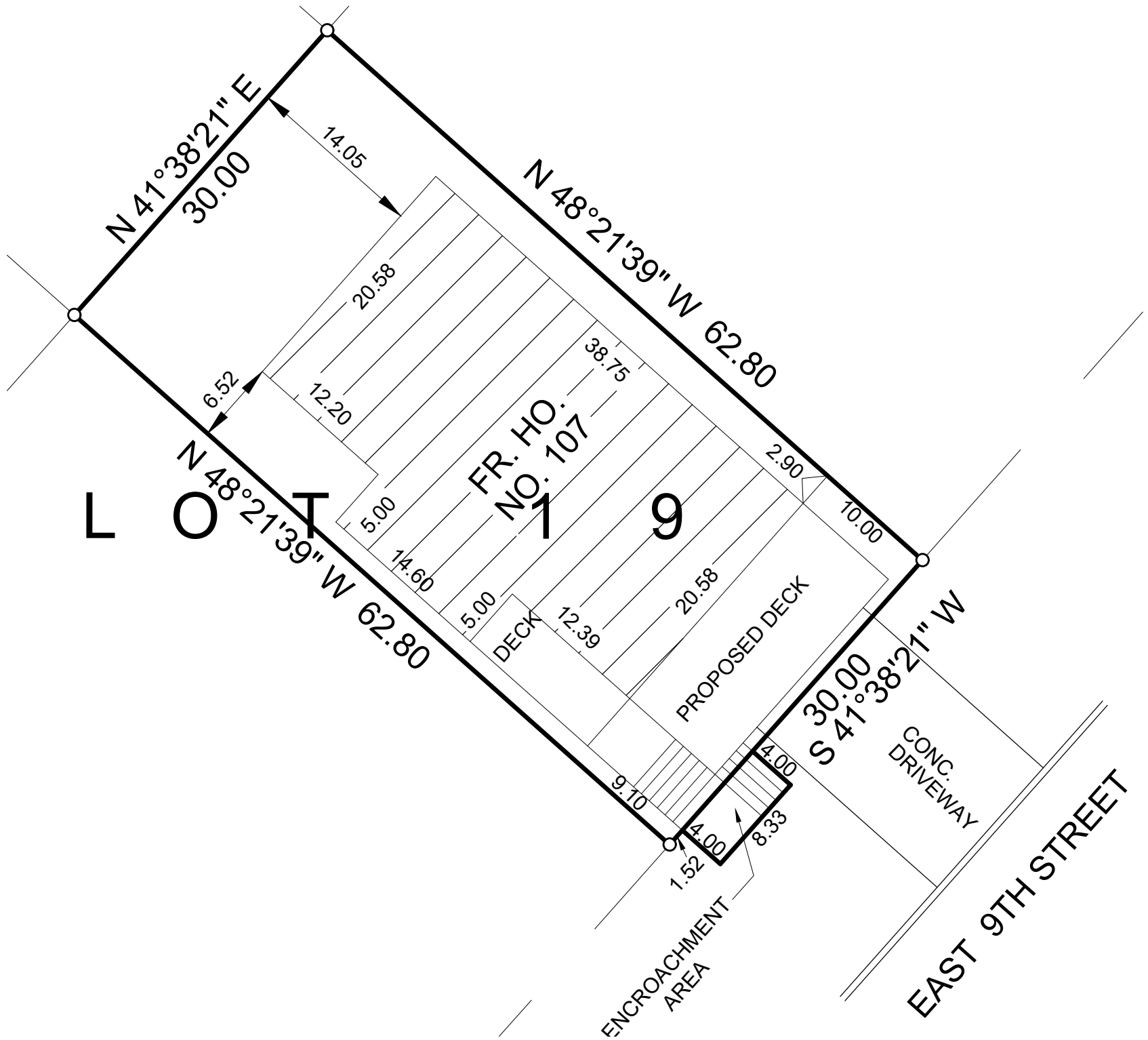
8 inch Vitreous Clay Pipe
341-2689461

2" MDPE

E 9th St



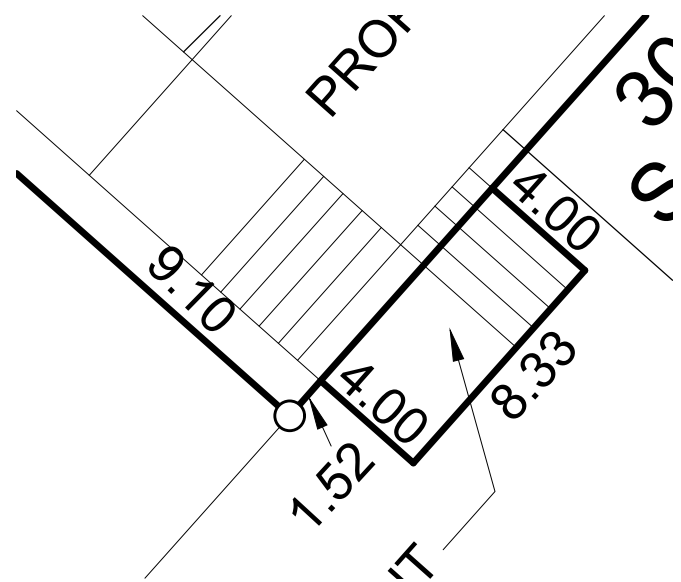
**CERTIFICATE OF SURVEY
FOR: SCOTT HOLM**



ENCROACHMENT LEGAL DESCRIPTION

That part of the East 9th Street right of way lying adjacent to the Southerly 62.80 feet of the Easterly 30.0 feet of Lot 19, Block 128 described as follows:

Commencing at the most Southerly corner of the Easterly 30.0 feet of the Southerly 62.80 feet of said Lot 19; thence Northeasterly along the Southerly line of said Lot 19 a distance of 1.52 feet to the point of beginning of the parcel to be described; thence Southeasterly at right angles a distance of 4.0 feet; thence Northeasterly at right angles a distance of 8.33 feet; thence Northwesterly at right angles a distance of 4.0 feet to the Southeasterly line of the Southerly 62.80 feet of the Easterly 30.0 feet of said Lot 19; thence Southwesterly along said line to the point of beginning and there terminating.



ENCROACHMENT DETAIL

LEGAL DESCRIPTION

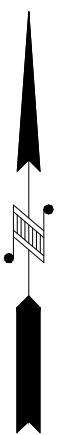
THE SOUTH 62.80 FEET OF THE EAST 30.0 FEET OF LOT 19, BLOCK 128, DULUTH PROPERTY THIRD ADDITION

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.

Date: 7-28-2021
Ronald L. Krueger

Ronald L. Krueger MN License No. 14374

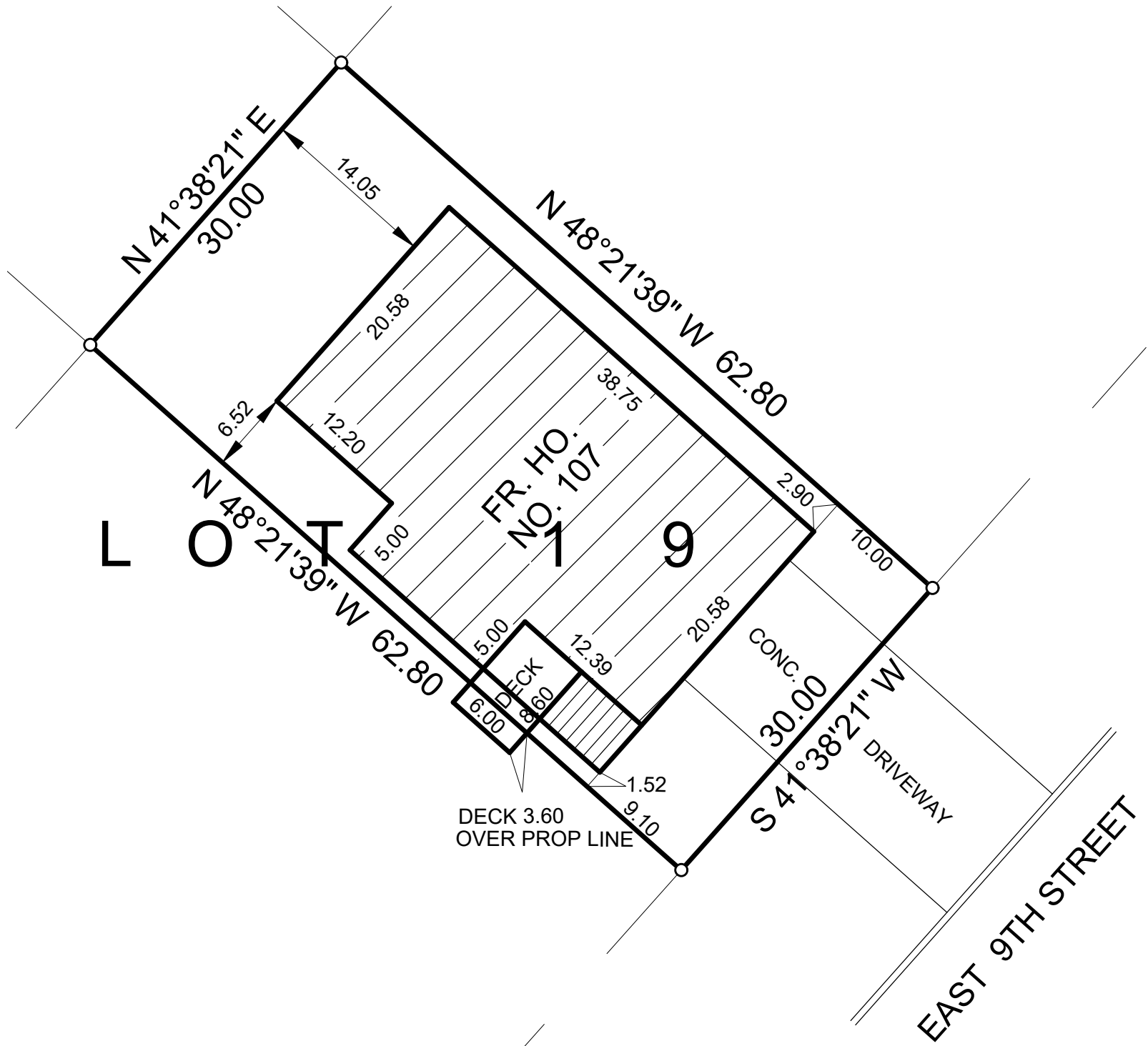
RON KRUEGER
Land Surveyor
7066 HIGHWAY 8
SAGINAW, MN 55779
Phone: 218-390-4030



SCALE IN FEET

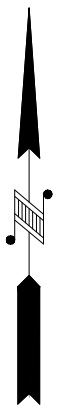
DATE: 7/28/21
SCALE: 1 IN = 20 FEET
PROP ADD: 107 EAST 9TH STREET
PROJECT NO: 20-19

**CERTIFICATE OF SURVEY
FOR: SCOTT HOLM**



LEGAL DESCRIPTION

THE SOUTH 62.80 FEET OF THE EAST 30.0 FEET OF LOT 19,
BLOCK 128, DULUTH PROPERTHIRD ADDITION



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.

Date: 9-16-2020

Ronald L. Krueger
Ronald L. Krueger MN License No. 14374

DATE: 9/16/20
SCALE: 1 IN = 20 FEET
PROP ADD: 107 EAST 9TH STREET
PROJECT NO: 20-19

RON KRUEGER
Land Surveyor
7066 HIGHWAY 8
SAGINAW, MN 55779
Phone: 218-390-4030



ZONING NOTICE

Name: Scott Hiller
Address: 307 S. 5th Street, Duluth, MN 55805
Description of Project: New Deck and Staircase with
Railing on East 5th Street

Type of Approval: Conditional Use Permit

Contractor: Marshall Construction, P.O. Box 1000,
6 Carol Marquette, Duluth, MN 55802
Contract: City of Duluth, Planning & Development Division
250-720-1382 - planning@duluthmn.gov

Date: Time: Place of Hearing: Tue, 10/20/2020 5:00pm
Online: 2020-10-20 10:00am - 10:00am