

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-0147R

RESOLUTION GRANTING AN INTERIM USE PERMIT FOR TWO
VACATION DWELLING UNITS AT 1003-1005 SOUTH LAKE AVENUE
(JOEL AND JOY JOHNSON).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council hereby grants Joel and Joy Johnson and Island Twin Homes, LLC, an interim use permit to operate two vacation dwelling units located at 1003-1005 South Lake Avenue and as described by the following:

Lots 178 and 180, Upper Duluth, Lake Avenue (PID 010-4380-02120); and

(b) Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use; and

(c) The city council finds that a time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use at this location; and

(d) The interim use permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and

(e) Pursuant to Section 50-20.3.V and Section 50-37.10 of the Duluth City Code, 1959, as amended, the applicant applied for an interim use permit and the application was duly referred to the city planning commission (PL13-006); the commission gave due notice of public hearing and considered the application during a public hearing occurring on March 12, 2013; and

(f) The city planning commission, at their regular meeting on March 12, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for two vacation dwelling units subject to the conditions listed below; and

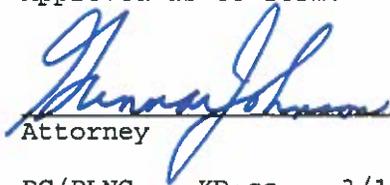
FURTHER RESOLVED, that an interim use permit for the subject property, is approved subject to the following conditions:

(a) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach and that all other accesses are on private property; and

(b) The applicant must disclose to all guests in writing that quiet hours shall be observed between the hours of 10:00 p.m. and 8:00 a.m.; and

(c) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications to the document that may be deemed necessary by the land use supervisor provided that no such administrative approval shall constitute a variance from the provisions of Chapter 50.

Approved as to form:



Attorney

PC/PLNG KD:cs 3/14/2013

STATEMENT OF PURPOSE: This resolution grants to Joel and Joy Johnson an interim use permit for two vacation dwelling units at 1003-1005 South Lake Avenue. The interim use permit remains in effect for six years, or until the property changes hands, whichever occurs first.

The applicant's proposal meets the use specific criteria for vacation dwelling units. Each of the vacation dwelling units are proposed to be three bedrooms and the applicant is providing four off-street parking spaces for each vacation dwelling unit (two in each garage with two spaces in front of each garage).

On March 12, 2013, the city planning commission held a public hearing on the proposal, heard testimony from citizens, and voted 9 yeas, 0 nays, and 0 abstentions, with 0 commissioners absent, to recommend that the city council approve the interim use permit with conditions relating to quiet hours at the property and disclosure to guests the location of the nearest legal beach access.

Request filed: January 15, 2013

Action deadline: May 15, 2013



CITY OF DULUTH
Planning Division

411 W 1st St, Rm 208 * Duluth, Minnesota 55802-1197
Phone: 218/730.5580 Fax: 218/723-3559

STAFF REPORT

File Number	PL13-006	Contact	Kyle Deming, kdeming@duluthmn.gov	
Application Type	Interim Use Permit	Planning Commission Date	March 12, 2-13	
Deadline for Action	Application Date	January 15, 2013	60 Days	March 16, 2013
	Date Extension Letter Mailed	February 21, 2013	120 Days	May 15, 2013
Location of Subject	1003 and 1005 Lake Ave. S.			
Applicant	Joel and Joy Johnson	Contact	lbb@lakeheadboatbasin.com, 218-722-1757	
Agent	Same	Contact		
Legal Description	Parcel I.D. #010-4380-02120			
Site Visit Date	February 27, 2013	Sign Notice Date	February 23, 2013	
Neighbor Letter Date	February 22, 2013	Number of Letters Sent	29	

Proposal

Interim Use Permit for two (2) Vacation Dwelling Units consisting of three (3) bedrooms each.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Two-family dwelling	Traditional Neighborhood
North	R-1	Dwellings	Traditional Neighborhood
South	R-1	Vacant	Traditional Neighborhood
East	R-1	Dwellings	Traditional Neighborhood
West	R-1	Boat storage	Traditional Neighborhood

Summary of Code Requirements (reference section with a brief description):

UDC Section 50-19.8. Permitted Use Table. A Vacation Dwelling Unit is an Interim Use in an R-1 District.
 UDC Sec. 50-37.10.B ... Council shall make, a decision to adopt, adopt with modifications or deny the application based on the criteria in subsection C below. The ... Council may impose appropriate conditions and safeguards, including but not limited to financial security pursuant to Section 50-37.1.P, a development agreement regarding the design, construction, and operation of the special use, to protect the Comprehensive Land Use Plan, to conserve and protect property and property values in the neighborhood and to ensure that all conditions of the special use permit will continue to met.
 UDC Sec. 50-37.10.E ... the Council shall only approve an interim use permit, or approve it with conditions, if it determines that:
 1. A time limit is needed to protect the public health, safety and welfare from potential longer term impacts of the requested use in that location or to allow the city time to develop a regulation addressing the potential longer term impacts of the requested use in that location; 2. The applicant agrees to sign a development agreement with the city confirming that (a) approval of the permit will not result in increased costs to the city if the property is later acquired by the city through eminent domain; (b) the use will be terminated at the applicant's expense on the date(s) stated in the permit, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures of improvements related to the use, and (d) the applicant agrees to all conditions imposed by the city. No interim use permit shall be issued until a development agreement confirming these points is executed.

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Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

Governing Principle #8 - Encourage mix of activities, uses, and densities
Governing Principle #5 - Strengthen neighborhoods

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. Limited commercial, schools, churches, and home-businesses. Parks and open space areas are scattered through or adjacent to the neighborhood. Includes many of Duluth's older neighborhoods, infill projects and neighborhood extensions, and new traditional neighborhood areas.

- 4-8 units/acre
- Form standards and conservation development an option
- Mix of housing types (i.e. town homes and 4-plexes) at corners
- Limited commercial uses (i.e., 'corner store') serving neighborhood market

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

Staff finds that:

- 1.) The applicant has submitted the required materials and agency approvals.
- 2.) The site has the required 2 off-street parking spaces per dwelling (4 total), though they are not paved, in addition to 4 garage stalls available to guests. Staff recommends that a condition of final approval be that the driveway be paved before July 15, 2013 or the Interim Use Permit be revoked;
- 3.) The applicant will be the managing agent and lives within the required distance. Applicant has notified all owners within 100';
- 4.) A time limit on this Interim Use is needed to verify that the Vacation Dwelling Units at this location can function without negative impacts on surrounding residential uses thereby causing damage to the public's health, safety and welfare.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, staff recommends the Commission recommend approval of the Interim Use Permit subject to the following conditions:

- 1.) The Interim Use Permit shall be revoked on July 15, 2013 if the off-street parking spaces are not improved with a dust-free, hard surface material such as concrete or bituminous or pervious pavers.

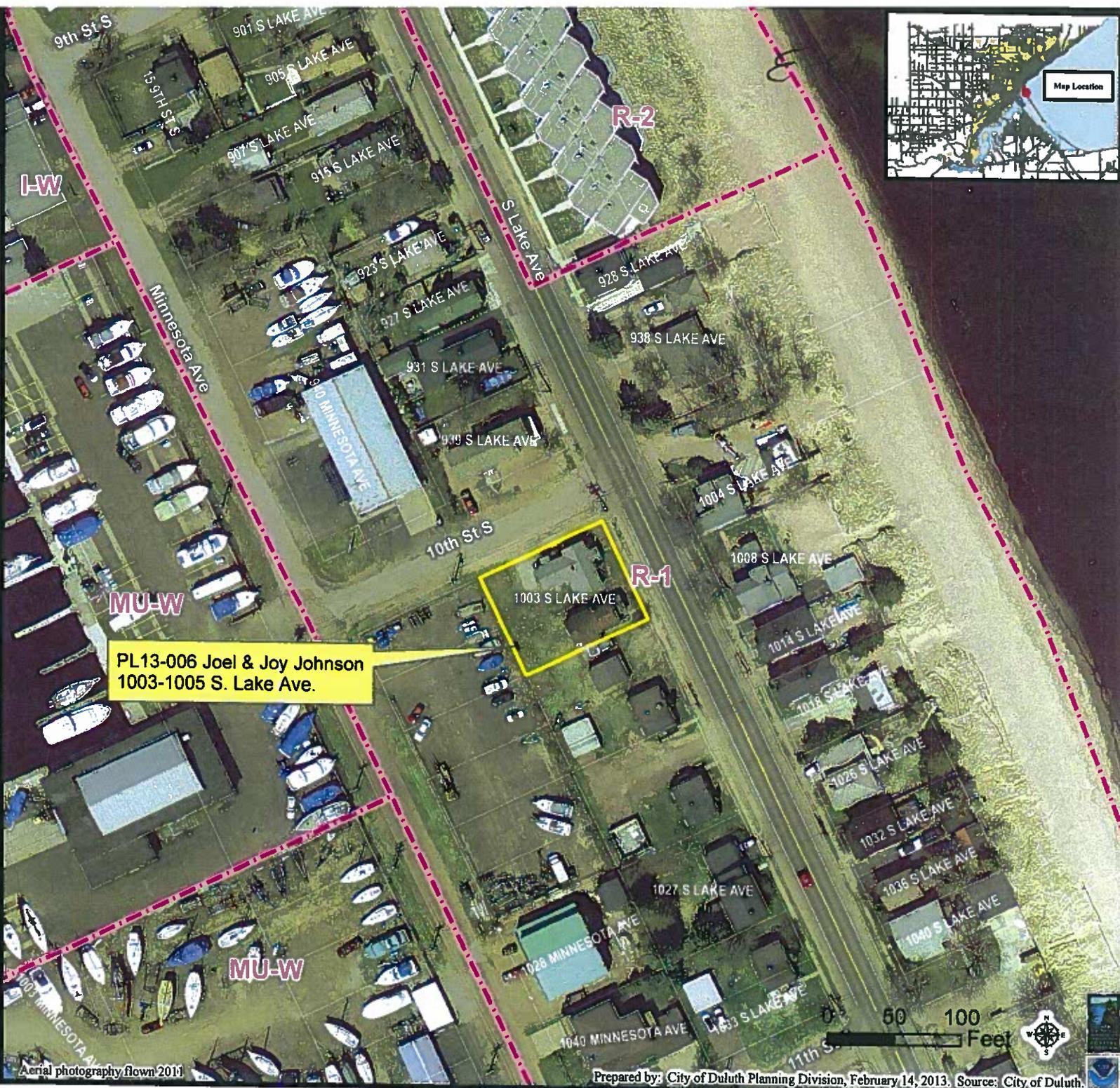
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Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



City Planning

PL13-006
 Vacation Dwelling Unit Interim Use
 Permit
 1003-1005 S. Lake Ave.
 Joel & Joy Johnson



PL13-006 Joel & Joy Johnson
 1003-1005 S. Lake Ave.

Legend

 Zoning (Final)

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 2011

Prepared by: City of Duluth Planning Division, February 14, 2013. Source: City of Duluth.



PL13-006
 Vacation Dwelling Unit Interim Use
 Permit
 1003-1005 S. Lake Ave.
 Joel & Joy Johnson



Legend

	Zoning (Final)
	Future Land Use
	Preservation
	Recreation
	Rural Residential
	Low-density Neighborhood
	Traditional Neighborhood
	Urban Residential
	Neighborhood Commercial
	Neighborhood Mixed Use
	General Mixed Use
	Central Business Secondary
	Central Business Primary
	Auto Oriented Commercial
	Large-scale Commercial
	Business Park
	Tourism/Entertainment District
	Medical District
	Institutional
	Commercial Waterfront
	Industrial Waterfront
	Light Industrial
	General Industrial
	Transportation and Utilities
	Sensitive Lands Overlay



**PL13-006 Joel & Joy Johnson
 1003-1005 S. Lake Ave.**

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Aerial photography flown 2011

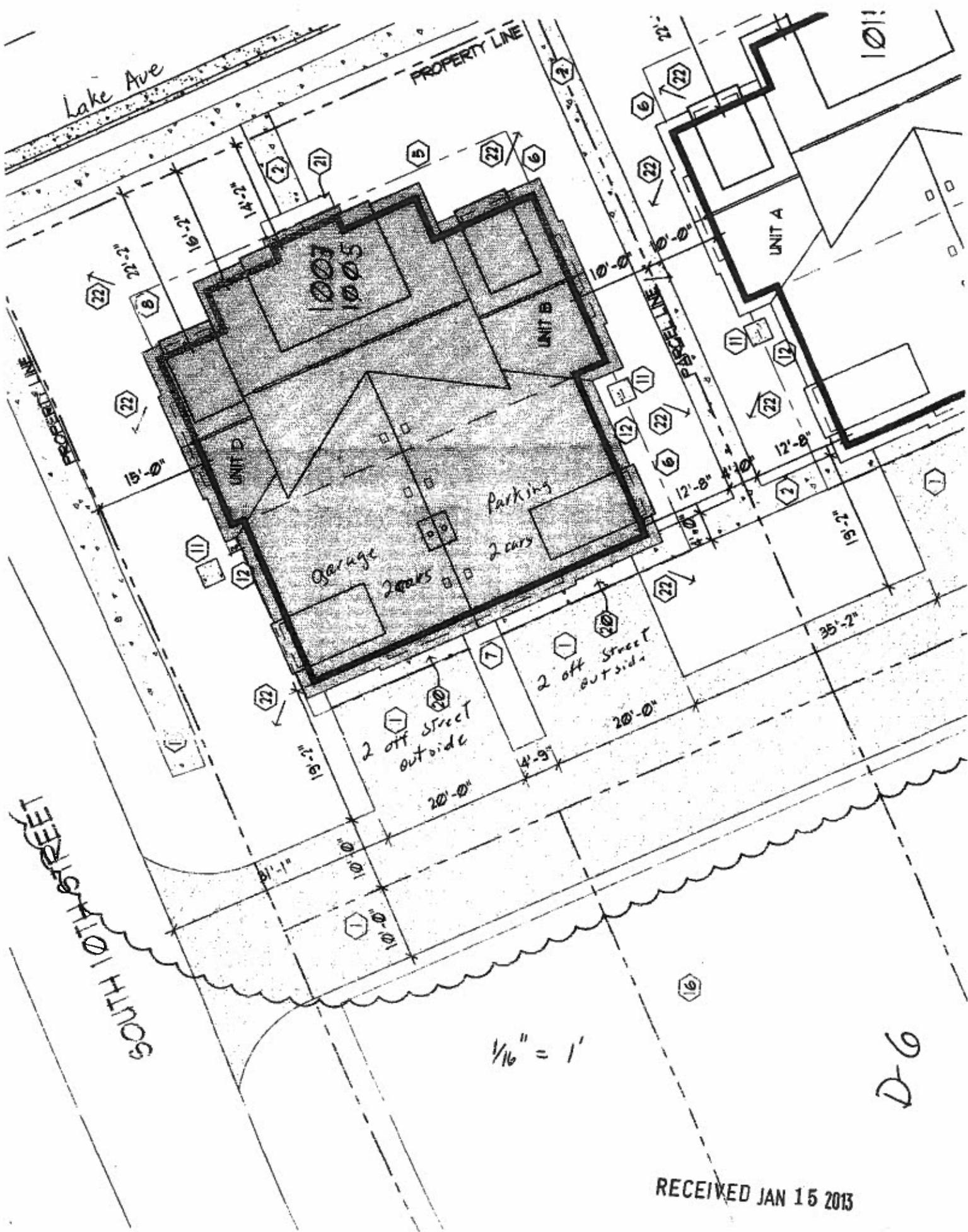


1003-1005 Lake Ave S looking south east from 10th St.



1003-1005 Lake Ave South looking north east from 10th St

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Vacation Rentals Regulations

Vacation Dwelling Unit –a habitable unit in a dwelling providing sleeping, cooking, eating, living and sanitation facilities that are physically separated from other habitable units that may or may not be located in the same building for periods of occupancy from 3 to 21 days. This use does not include hotels, motels, or bed and breakfasts.

Vacation Dwelling Units and Accessory Vacation Dwelling Units are allowed as an Interim Use in RR-1, RR-2, R-1, R-2, R-P, MU-N, and F-5 districts. All vacation rentals must obtain an Interim Use Permit.

Vacation Dwelling Unit Interim Use Permit Standards:

1. The minimum rental period shall not be less than 5 nights during the period from June 15 to September 15. The minimum rental period shall not be less than 2 nights during the rest of the year.
2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.
3. Off-street parking shall be provided at the following rate:
1-2 bedroom unit, 1 space
3-4 bedroom unit, 2 spaces
5+ bedroom unit, 3 spaces
4. Only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.
5. The property owner must obtain all licenses and permits from the City of Duluth and State of Minnesota required for guest occupancy on the property for 3 to 21 days.
**Rental property license # 022028018 (2- units), MN Dept of Health –FBL-27322-36356 –
2-Hotel/Motel 10 occupants. Copies attached**
6. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures. **MN State Tax # 2297000, City of Duluth –Sales and Hotel/Motel tax #41541000A. Copies attached**
7. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.

The above regulation are being followed to the best of managements' ability and understanding of the rules.

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In addition to the UDC Interim Use Permit requirements listed above, Vacation Dwelling Units and Accessory Vacation Dwelling Units must adhere to the following regulations:

1. Permit holder must keep a guest record including the name, address, phone number, and vehicle (and trailer) license plate information for all guests and must provide a report to the City upon 48 hours' notice.
2. Permit holder must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the Land Use Supervisor within 10 days of a change in the managing agent or local contact's contact information.
3. Permit holder must provide the name, address, and phone number for the managing agent or local contact to all property owners within 100' of the property boundary. The permit holder must notify neighboring properties within 10 days of a change in the managing agent or local contact's contact information.
4. Permit holder must disclose in writing to their guests the following rules and regulations:
 - The managing agent or local contact's name, address, and phone number;
 - The maximum number of guests allowed at the property;
 - The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked;
 - Property rules related to use of exterior features of the property, such as decks, patios, grills, recreational fires, pools, hot tubs, saunas and other outdoor recreational facilities;
 - Applicable sections of City ordinances governing noise, parks, parking and pets;

5. If a permit holder is cited for any nuisance event as described in Chapter 40, Article III of the // Duluth Legislative Code, the Land Use Supervisor may suspend the Interim Use Permit for 90 days.

The above regulation are being followed to the best of managements' ability and understanding of the rules. The rules will also be included in our properties on site manual

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**City of Duluth
Planning Division**

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**INTERIM USE PERMIT
FOR
VACATION DWELLING UNIT**

Permit Number: PL13-006

Issued Date: April 22, 2013

Permit Holder:

Joel and Joy Johnson
Island Twin Homes LLC.
800 E. Second St.
Superior WI 54880
lbb@lakeheadboatbasin.com
218-722-1757

Permit Location:

1003-1005 S. Lake Ave.
Lots 178 and 180, Upper
Duluth, Lake Avenue
PID 010-4380-02120

Permit Terms:

1. The number of vacation dwelling units issued under this permit is 2.
2. Vacation dwelling unit #1 consists of 3 bedrooms.
3. Vacation dwelling unit #2 consists of 3 bedrooms.
4. The total number of persons that may occupy vacation dwelling unit #1 is 7.
5. The total number of persons that may occupy vacation dwelling unit #2 is 7.
6. The number of off-street parking spaces provided for vacation dwelling unit #1 is 2.
7. The number of off-street parking spaces provided for vacation dwelling unit #2 is 2.
8. For each vacation dwelling unit only one motorhome (or pickup-mounted camper) and/or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) may be parked at the site, on or off the street.
9. The minimum rental period shall not be less than 5 nights during the period from June 15 to September 15. The minimum rental period shall not be less than 2 nights during the rest of the year.
10. The property owner must maintain all licenses and permits from the City of Duluth and State of Minnesota required for guest occupancy on the property for 3 to 21 days.
11. The interim use permit shall expire upon change in ownership of the property or in six years from the "issue date" listed above, whichever occurs first.
12. Permit holder must keep a guest record including the name, address, phone number, and vehicle (and trailer) license plate information for all guests and must provide a report to the City upon 48 hours' notice.
13. Permit holder must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the Land Use Supervisor within 10 days of a change in the managing agent or local contact's contact information.
 - a. Managing agent: Joel & Joy Johnson
800 E. Second St.
Superior, WI 54880
lbb@lakeheadboatbasin.com
218-722-1757

14. Permit holder must provide the name, address, and phone number for the managing agent or local contact to all property owners within 100' of the property boundary. The permit holder must notify neighboring properties within 10 days of a change in the managing agent or local contact's contact information.
15. Permit holder must disclose in writing to their guests the following rules and regulations:
 - a. The managing agent or local contact's name, address, and phone number;
 - b. The maximum number of guests allowed at the property;
 - c. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked;
 - d. Property rules related to use of exterior features of the property, such as decks, patios, grills, recreational fires, pools, hot tubs, saunas and other outdoor recreational facilities;
 - e. Applicable sections of City ordinances governing noise, parks, parking and pets;
16. If a permit holder is cited for any nuisance event as described in Chapter 40, Article III of the Duluth Legislative Code, the Land Use Supervisor may suspend the Interim Use Permit for 90 days. If the permit holder is cited for any nuisance event a second time, the Interim Use Permit shall be revoked.
17. Permit holder must post the permit number on all print, poster or web advertisements;
18. Prior to rental, the building must be inspected and an Operational Permit issued by the Fire Prevention office. Permit-holder must maintain the property in conformance with this permit and be granted permit renewals as required by the Fire Department.
19. Prior to rental, the building must be inspected and the appropriate lodging license issued by the State of Minnesota and such licensure must be maintained.
20. Permit holder must apply for and be granted State and local sales tax numbers, including Hotel and Motel Use Sales Tax. Permit holder must make required sales tax payments to State and local governments according to the terms established by each taxing authority.
21. Permit holder must apply for and be granted a Hotel/Motel/B&B License from the City Clerk and must maintain licensure.
22. Permit holder agrees that (a) approval of the permit will not result in increased costs to the City if the property is later acquired by the City through eminent domain; (b) the use will be terminated at the permit holder's expense upon change in ownership of the property or 6 years from the permit issue date, whichever occurs first, (c) the termination of the interim use as stated in the permit will create no rights to a nonconforming use and no rights to compensation for termination of the use or for the value of any structures of improvements related to the use, and (d) the applicant agrees to all conditions imposed by the City.
23. The permit holder must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach.
24. The permit holder must disclose to all guests in writing that there shall be no noise emanating from the property between the hours of 10 p.m. and 8 a.m.

Attachments:

Site Plan

Permit Holder

Land Use Supervisor

Date

Date

Please note:

Interim Use Permits approved by the City Council shall lapse if the project or activity authorized is not begun within 1 year of the permit date. The building official may extend this period one time for a period of up to 1 year if the property owner presents a written request showing the reasons for the delay was outside the owner's control (UDC Sec. 50-37.1.N).