

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-0150R

RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 1615 EAST SUPERIOR STREET (JEREMY PAGGEN).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council hereby grants Jeremy Paggen an interim use permit to operate a vacation dwelling unit located at 1615 East Superior Street and as described by the following:

West half of Lot 12 and all of Lot 13, Block 59, Endion Division (PID 010-1480-01460); 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 (PL13-018); the commission gave due notice of public hearing and considered the application during a public hearing occurring on March 12, 2013; and

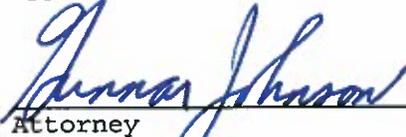
(f) The city planning commission, at their regular meeting on March 12, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation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

FURTHER RESOLVED, that an interim use permit for the subject property, is

approved subject to the following condition:

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 3/15/2013

STATEMENT OF PURPOSE: This resolution grants an interim use permit to Jeremy Pagen for a vacation dwelling unit at 1615 East Superior Street. The applicant's property is a two-unit structure and the proposal is to convert the first and second floors into a five bedroom vacation dwelling unit while the third floor remains a separate dwelling unit where the applicant plans to live. The site was previously a bed and breakfast with a third floor owner's residence.

The applicant's proposal meets the use specific criteria for vacation dwelling units. The site has six off-street parking stalls exceeding the requirement for four stalls (three for the vacation dwelling unit and one additional stall for the third floor unit).

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.

The interim use permit will remain in effect six years or until the property changes hands, whichever occurs first.

Request filed: February 5, 2013
Action deadline: June 5, 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	PL13-018	Contact	Kyle Deming, kdeming@duluthmn.gov	
Application Type	Interim Use Permit	Planning Commission Date	March 12, 2013	
Deadline for Action	Application Date	February 5, 2013	60 Days	April 6, 2013
	Date Extension Letter Mailed	February 21, 2013	120 Days	June 5, 2013
Location of Subject	1615 E. Superior St. (East Hillside)			
Applicant	Jeremy Paggen	Contact	jeremypaggen@edinarealty.com, 320-224-9863	
Agent	Same	Contact		
Legal Description	Parcel I.D. #010-1480-01460			
Site Visit Date	February 27, 2013	Sign Notice Date	February 21, 2013	
Neighbor Letter Date	February 22, 2013	Number of Letters Sent	47	

Proposal

Interim Use Permit for one (1) Vacation Dwelling Unit consisting of five (5) bedrooms in an existing two-family dwelling. The first and second floors of the building will be the vacation dwelling unit (previously a Bed and Breakfast) and the 3rd floor is a separate unit where the owner lives.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	2-family dwelling	Urban Residential
North	R-2	Multi-family dwellings	Urban Residential
South	R-2	Multi-family dwellings	Urban Residential
East	R-2	4-family dwelling	Urban Residential
West	R-2	1-family dwelling	Urban Residential

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 is 75' wide by 150' deep. It has 6 off-street parking spaces (4 required), 3 spaces for each vacation dwelling unit is required and 1 space for the owner's dwelling units. The parking spaces are accessed via a shared driveway that is covered by a driveway easement and maintenance agreement;
- 3.) The applicant is the managing agent and they plan to live on the 3rd floor of the property. The applicant has notified all owners within 100 feet;
- 4.) A time limit on this Interim Use is needed to verify that the Vacation Dwelling Unit 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.

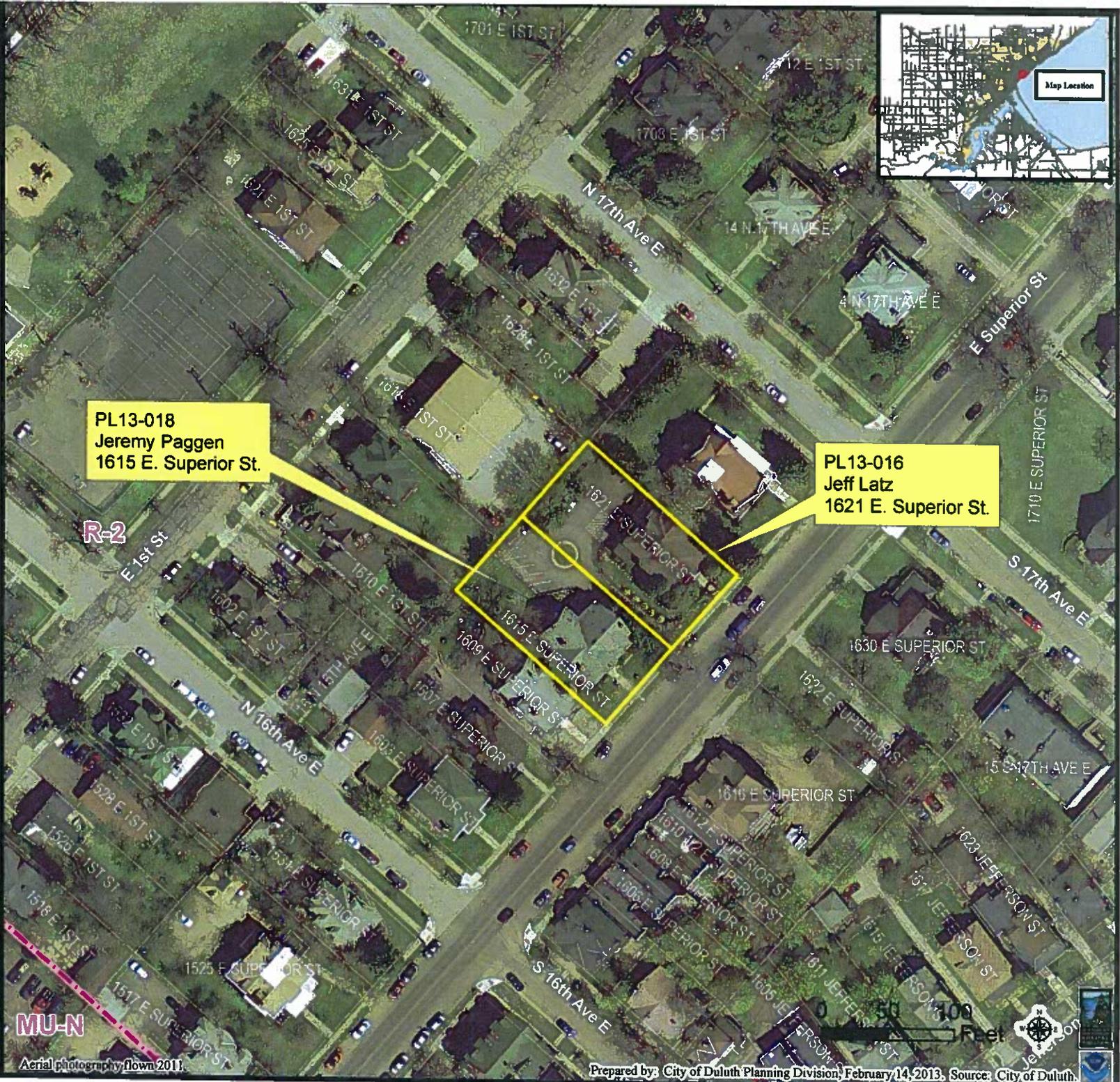
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Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



City Planning

PL13-016 & PL13-018
 Vacation Dwelling Unit Interim Use
 Permits
 1621 East Superior St.: Jeff Latz
 1615 E. Superior St.: Jeremy Paggan



PL13-018
 Jeremy Paggan
 1615 E. Superior St.

PL13-016
 Jeff Latz
 1621 E. Superior St.

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

MU-N

Aerial photography flown 2011.



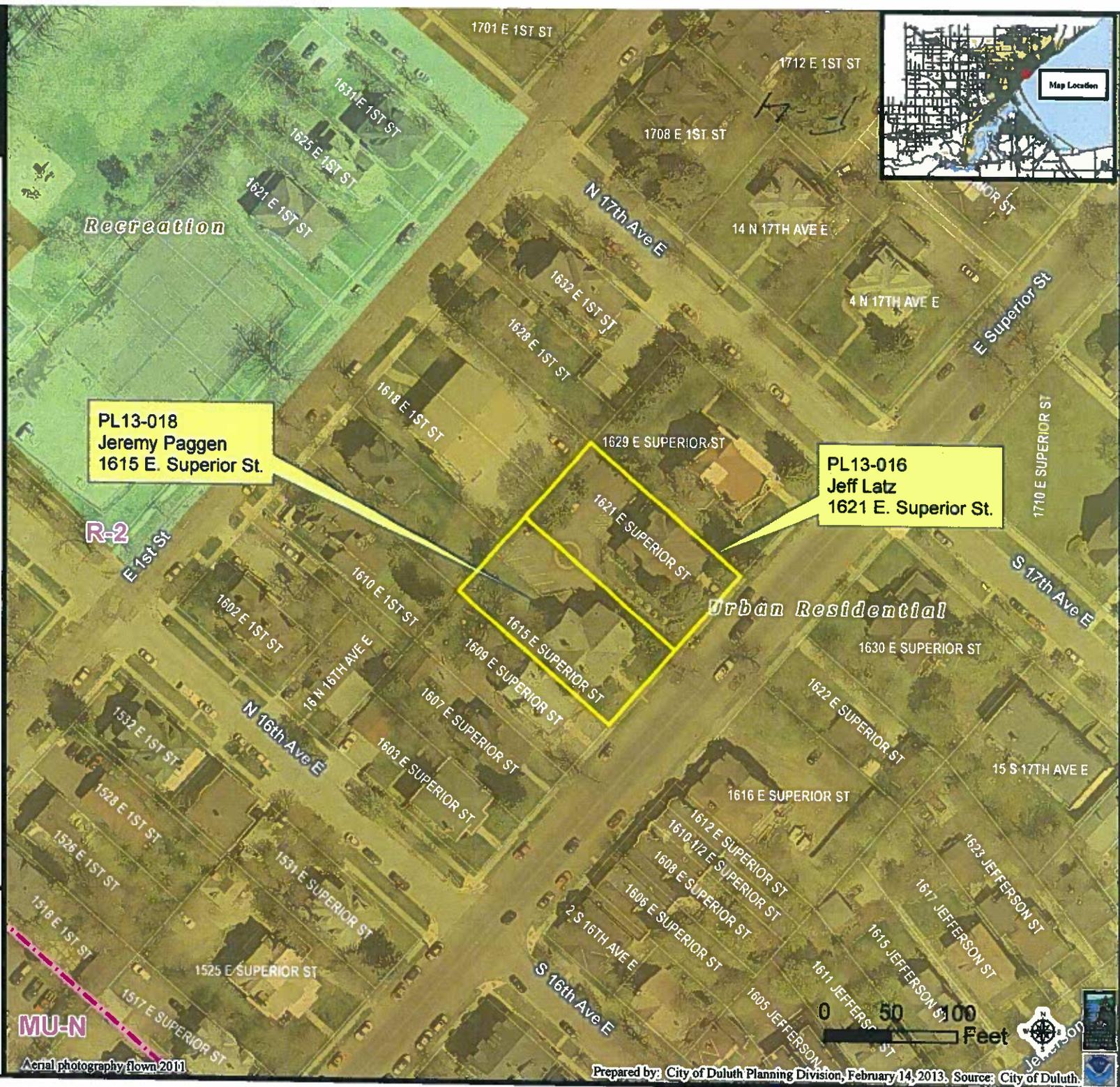
City Planning

PL13-016 & PL13-018
 Vacation Dwelling Unit Interim Use
 Permits
 1621 East Superior St.: Jeff Latz
 1615 E. Superior St.: Jeremy Paggan

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

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Aerial photography flown 2011

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



1615 E. Superior St



1615 E. Superior St - driveway shared with 1621 E. Superior St.

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1615 B. Superior St. - rear parking



1615 B. Superior St.

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Application for Interim Use Permit for VRBO

**Jeremy and Trish Paggen
1615 East Superior St.
Duluth, MN 55812
320-224-9863**

We are applying for an interim use permit for our property at 1615 East Superior, Duluth MN, 55812 which is currently zoned R-2 and was previously the A. Charles Weiss Inn Bed and Breakfast. Our home is a three story two family dwelling. We have a separate entrance that comes in through the back gate. The backyard will be off limits to VRBO guests and is completely fenced in and padlocked. The VRBO guests will park in the backyard in any of the 6 parking spots and then take the path from backyard to the front door. The guests will be allowed to use the first and second floor and will have no access to the basement, back hall or 3rd floor where are living space is located. The VRBO will consist of 6 bedrooms and five bathrooms, a kitchen, dining room, parlor, library, music room, living room and pantry.

I discussed the proposed special use interim permit with the planning staff prior to submitting this application and have attached the pre app verification, Application cover sheet, Special use or interim use permit checklist, Required fee and Site plan. I have received my Federal, State and City Tax Identification numbers and also submitted the correct documentation and payment to the city clerk to obtain a hotel motel license, I have had a health inspection from Sara Schaffer with the State Department of Health and a Fire Inspection to obtain a operational permit and have filled out the appropriate paperwork to license my property

I will abide and adhere to the following Vacation Rental 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 from periods of occupancy from 3 to 21 days. This use will not include hotel, motel or bed and breakfasts.

Accessory dwelling unit- an accessory dwelling unit as defined by this chapter is used for periods of occupancy from 3 to 21 days.

Our Property is zoned R-2 and we are filing to obtain the interim use permit.

1. We will abide by the minimum rental period not being less than five nights from June 15th to September 15th and 2 nights the rest of the year.
2. Our home contains six bedrooms so our occupancy as outlined in the regulations will be 13.

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3. We have 6 off street parking spots and meet the minimum of 3 as outlined in regulations.
4. We will not allow more than one motor home (or pickup mounted camper) and /or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) parked at site on or off street.
5. I have and am obtaining all licenses and permits required by the City of Duluth and the State of Minnesota required for guest occupancy on the property from 3 to 21 days.
6. I will keep and provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.
7. I understand the Interim Use Permit shall expire upon change of ownership of the property or within six years, whichever occurs first.

Accessory Vacation Dwelling unit Interim Use Permit Standards:

I understand that an accessory vacation dwelling unit may be created within or detached from any one family dwelling or vacation dwelling unit as shown where allowed by table 50-19.8, provided we meet standards.

We adhere to standards that only one accessory vacation dwelling unit may be created per lot and know that no variances shall be granted for an accessory vacation dwelling. The accessory vacation dwelling will be no more than 800 square feet of floor area and consistent in character and design with the primary dwelling. The separate outside entrance to the accessory vacation dwelling unit that is located within the primary building should be located on the side or rear of home. And will adhere to the previous 7 outlined vacation rental regulations.

We will also keep a guest record including name, address, phone number and vehicle (and trailer) license plate information for all guests and will provide to the city within 48 hours notice.

We will be managing the property since we are living in the third story of home and will be on premise for all stays 24 hours a day from any complaints from neighbors. We will notify the Land Use Supervisor within 10 days if there is a change of the managing agent or local contacts contact information. Our contact information is:

**Jeremy Paggen (320) 224-9863. Trish Paggen(320) 249-7253
1615 East Superior Street
Duluth Mn 55812**

We will also provide the contact information name, address, and phone number to neighbors within 100 feet of the property boundary and notify the neighboring property within ten days of change of the managing agent or local contacts contact information.

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The neighboring properties that I notified within the 100' boundary are:

1630 E SUPERIOR ST	IOP INVESTMENTS LLC	2416 E 3RD ST	DULUTH MN 55812
1616 E SUPERIOR ST	KACHELMYER MARTIN J	1616 1/2 E SUPERIOR ST	DULUTH MN 55812 UPPER MONTCLAIR NJ 07043
1606 E SUPERIOR ST	DATZ ASSOCIATES INC	546 VALLEY RD po box 43297	
1608 E SUPERIOR ST	BIRKHOFFER DAVID H	PO BOX 3604	DULUTH MN 55803
1612 E SUPERIOR ST	TUCKER THEODORE C	2351 SHRUBLAND AVE	DULUTH MN 55804
1610 1/2 E SUPERIOR ST	TUCKER THEODORE C	2351 SHRUBLAND AVE	DULUTH MN 55804
1610 E 1ST ST	PRAIRIE COMMUNITY SERVICES, INC.	801 NEVADA AVE	MORRIS MN 56267
1616 E 1ST ST	DENNO ROBERT W	1616 E 1ST ST	DULUTH MN 55812
1618 E 1ST ST	MELHUS MANAGEMENT CO	306 W MICHIGAN ST STE 300	DULUTH MN 55802
	MELHUS MANAGEMENT CO	306 W MICHIGAN ST STE 300	DULUTH MN 55802
1628 E 1ST ST	SCHOENBORN JOSEPH P	1628 E 1ST ST	DULUTH MN 55812
	PRAIRIE COMMUNITY SERVICES, INC.	801 NEVADA AVE	MORRIS MN 56267
	SHIPROCK INVESTMENT LLC	128 W 1ST ST	DULUTH MN 55802
16 N 16TH AVE E	COFFIN CYNTHIA & EMILY RAMSEY	16 N 16TH AVE E	DULUTH MN 55812
1609 E SUPERIOR ST	PETERSON PATRICIA M & JOHN W	13657 ELKWOOD DR	APPLE VALLEY MN 55124
1607 E SUPERIOR ST	FINSTROM DOUGLAS PAGGEN JEREMY & SEXTON-PAGGEN T	1060 160TH AVE SE	KERKHOVEN MN 56252
1615 E SUPERIOR ST		1745 75TH AVE NE	SAUK RAPIDS MN 56379
1629 E SUPERIOR ST	VANAHEIM PROPERTIES LLC	309 W 1ST ST SUITE 200	DULUTH MN 55802
1621 E SUPERIOR ST	LATZ PROPERTIES	PO BOX 62	LUTSEN MN 55612

We will disclose in writing to our guests the following regulations:

Our name, address and phone numbers.

That the maximum amount of guests are 13.

That we have five parking spots on property and where they are located and that we will not allow more than one motor home (or pickup mounted camper) and /or one trailer either for inhabiting or for transporting recreational vehicles (ATVs, boat, personal watercraft, snowmobiles, etc.) parked at site on or off street.

The property rules that the gated and locked yard is not to be used at all and that can use the front yard, porch, grill and garbage cans are located for disposal of trash.

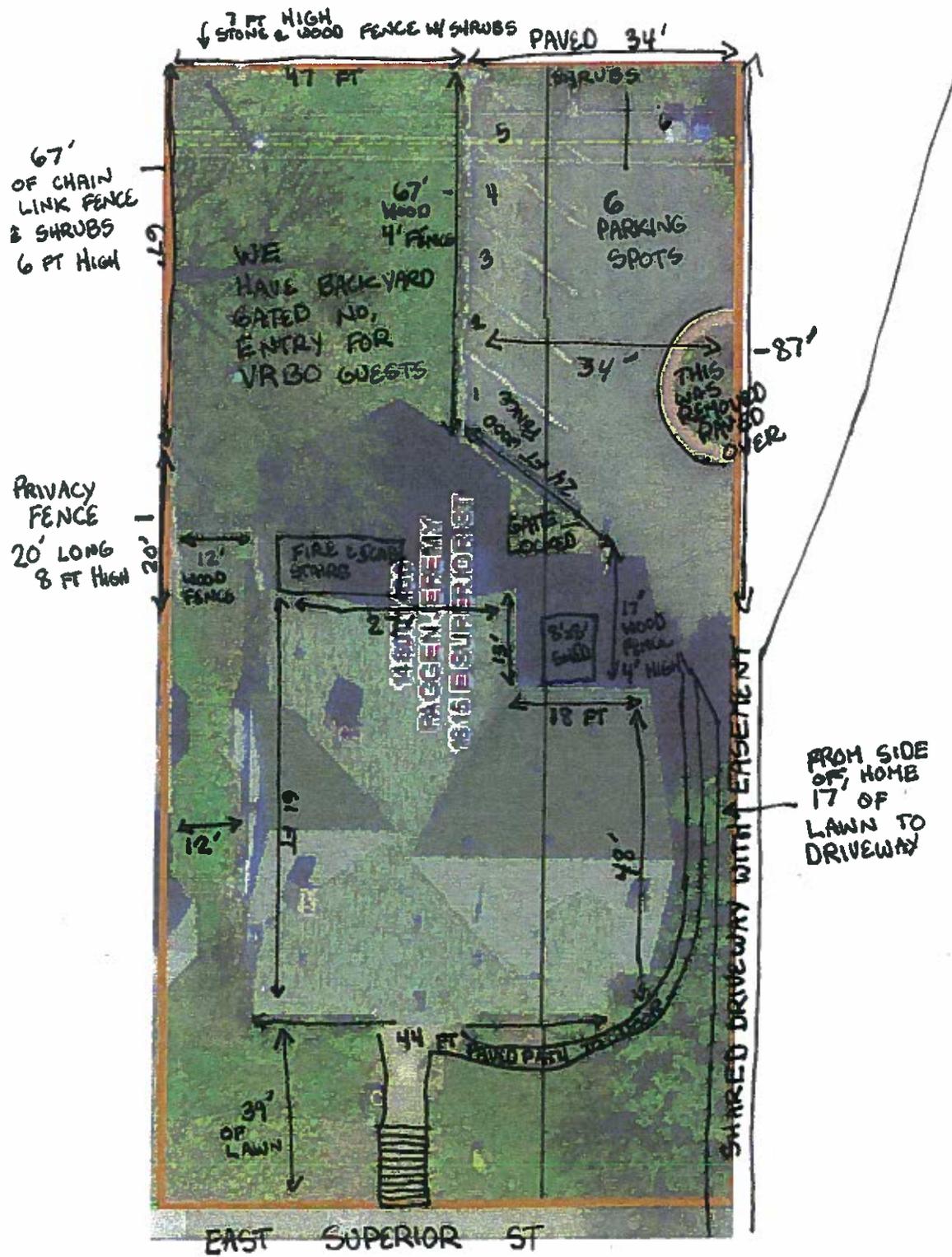
Also the applicable Sections of City ordinances governing noise, parks, parking and pets.

We understand that if we are cited for any nuisance event as described in chapter 40, Article III of the Duluth Legislative Code and that the Land Use Supervisor may suspend the Interim Use Permit for 90 days and if we are cited for any nuisance event a second time. The Interim Use Permit shall be revoked.

We will post our permit number on all print, poster or web advertisements.

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EAST SUPERIOR STREET

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SHARED DRIVEWAY

GRASS
STONE
PATH TO
BACKYARD

GRASS

ENTRY

HOME

SHED

GRILL

GARBAGE

GRASS

GATE

PRIVACY
FENCE

FIRE ESCAPES
TO 2ND AND
3RD FLOOR
TWISTY STAIRS

PARKING 1

PARKING 2

PARKING 3

PARKING 4

PARKING 5

PARKING 6

FENCE

BACKYARD
GATES ARE
LOCKED
VRBO
GUESTS HAVE
ACCESS TO
YARD ONLY
FRONT
FENCE

STONE
WALL

F-11

Kyle Deming

From: John Peterson <john@win-winhousingolutions.com>
Sent: Wednesday, February 27, 2013 10:57 AM
To: Kyle Deming
Subject: 1621 and 1615 E Superior St Applications for Vacation dwelling unit

Kyle,

My wife and I own and manage 1609 E Superior St and 1601-03 E Superior St as a rental properties.

We have no objection to these applications.

1615 has been a bed and breakfast before.

The vacation rental is a logical use of these large units and their location.

John Peterson
President, Win Win Housing Solutions
612-747-2508

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City of Duluth
Planning Division

411 West First Street • Room 208 • Duluth, Minnesota 55802-1197
218-730-5580 • Fax: 218-730-5904 • www.duluthmn.gov

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**INTERIM USE PERMIT
FOR
VACATION DWELLING UNIT**

Permit Number: PL13-018

Issued Date: April 22, 2013

Permit Holder:

Jeremy Paggen
1615 E. Superior St.
Duluth, MN 55812

jeremypaggen@edinarealty.com

320-224-9863

Permit Location:

1615 E. Superior St.
West half of Lot 12 and all of Lot 13, Block 59
Endion Division
PID 010-1480-01460

Permit Terms:

1. The number of vacation dwelling units issued under this permit is 1.
2. The vacation dwelling unit consists of 5 bedrooms.
3. The total number of persons that may occupy the vacation dwelling unit is 11.
4. The number of off-street parking spaces provided for the vacation dwelling unit is 3.
5. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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: Jeremy Paggen/Trish Paggen
1615 E. Superior St.
Duluth, MN 55812
jeremypaggen@edinarealty.com
320-224-9863/320-249-7253
11. 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.
12. 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;
13. 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.
 14. Permit holder must post the permit number on all print, poster or web advertisements;
 15. 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.
 16. 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.
 17. 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.
 18. Permit holder must apply for and be granted a Hotel/Motel/B&B License from the City Clerk and must maintain licensure.
 19. 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.

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).