

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-0178R

RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 3330 MINNESOTA AVENUE (COTTAGE ON THE POINT, LLC/PATRICIA BURNS).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council hereby grants Cottage on the Point, LLC/Patricia Burns and William M. Burns an interim use permit to operate a vacation dwelling unit located at 3330 Minnesota Avenue and as described by the following:

ALL THAT PART OF S1/2 OF LOT 294 AND ALL OF LOTS 296 & 298, MINN AVE, LOWER DUL AND SLY 1/2 OF LOT 293 AND ALL OF LOTS 295 & 297, LAKE AVE, LOWER DUL DESCRIBED AS FOLLOWS; BEG AT NW COR OF THE ABOVE DESCRIBED PARCEL; THENCE SLY ALONG W LINE 50 FT THENCE 19 DEG 21' 57" TO THE LEFT 25.10 FT THENCE 60 DEG 52' 47" TO THE LEFT 72.73 FT THENCE ON A LINE PARALLEL WITH AND 14 FT DISTANT FROM S LINE OF LOTS 297 & 298 43.91 FT THENCE 90 DEG LEFT 86 FT TO N LINE OF PARCEL THENCE 90 DEG LEFT 123.82 FT TO PT OF BEG (PID 010-3110-03585); 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 (PL13-019); the commission gave due notice of public hearing and considered the application during a public hearing occurring on April 9, 2013; and

(f) The city planning commission, at their regular meeting on April 9, 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; and

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

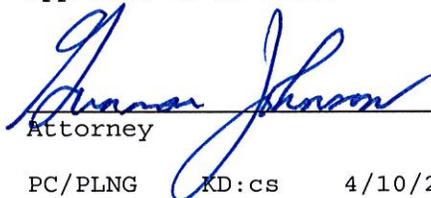
(a) The applicant must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach; and

(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; and

(d) The interim use permit shall not be effective until an operational permit is granted by the fire department and a lodging license is granted by the state of Minnesota.

Approved as to form:

  
\_\_\_\_\_  
Attorney

PC/PLNG KD:cs 4/10/2013

STATEMENT OF PURPOSE: This resolution grants to Cottage on the Point, LLC/Patricia Burns and William M. Burns an interim use permit for a vacation dwelling unit at 3330 Minnesota 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 a three-bedroom vacation dwelling unit except pending applications for a city fire operational permit and a state lodging license. This resolution sets as a condition the granting of those approvals before the interim use permit is in effect. The property has the required two off-street parking spaces and the applicant lives next to the property.

On April 9, 2013, the city planning commission held a public hearing on the proposal, heard testimony from citizens, and voted 6 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: February 5, 2013

Action deadline: July 5, 2013, per extension granted by the applicant



**CITY OF DULUTH**

Planning Division

411 W 1<sup>st</sup> St, Rm 208 \* Duluth, Minnesota 55802-1197

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

**STAFF REPORT**

<b>File Number</b>	PL13-019	<b>Contact</b>	Kyle Deming, kdeming@duluthmn.gov	
<b>Application Type</b>	Interim Use Permit	<b>Planning Commission Date</b>	April 9, 2013	
<b>Deadline for Action</b>	<b>Application Date</b>	February 5, 2013	<b>60 Days</b>	April 6, 2013
	<b>Date Extension Letter Mailed</b>	March 20, 2013	<b>120 Days</b>	July 5, 2013 extra extension
<b>Location of Subject</b>	3330 Minnesota Ave.			
<b>Applicant</b>	Cottage on the Point LLC / Patricia Burns	<b>Contact</b>	bpburns@chartermi.net, 218-727-3738	
<b>Agent</b>	Same	<b>Contact</b>		
<b>Legal Description</b>	Parts of Lot 294, 296, and 299, Lower Duluth, Minnesota Avenue (PID 010-3110-03585)			
<b>Site Visit Date</b>	March 27, 2013	<b>Sign Notice Date</b>	March 24, 2013	
<b>Neighbor Letter Date</b>	2/22, 2/25, and 3/26/ 2013	<b>Number of Letters Sent</b>	21	

**Proposal**

Interim Use Permit for one vacation dwelling unit consisting of three bedrooms.

	<b>Current Zoning</b>	<b>Existing Land Use</b>	<b>Future Land Use Map Designation</b>
<b>Subject</b>	R-1	One-family dwelling	Traditional Neighborhood
<b>North</b>	R-1	Dwellings	Traditional Neighborhood
<b>South</b>	R-1	Dwellings	Traditional Neighborhood
<b>East</b>	R-1	Dwellings	Traditional Neighborhood
<b>West</b>	R-1	Dwellings	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.

D-1

**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 some of the required agency approvals, but the following applications are pending: City Fire Operational Permit, and State Lodging License;
- 2.) The applicant has a driveway large enough to park the required 2 vehicles;
- 3.) The applicant is the managing agent. They live next door to the site and have provided the required notification to neighbors within 100';
- 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 to surrounding residential uses thereby causing damage to the public's health, safety and welfare. The time limit will be up to six years from the effective date of the Council resolution approving the interim use permit.
- 5.) In previous vacation dwelling unit interim use permit reviews the Planning Commission has recommended conditions that the applicant notify their guests in writing where the nearest pedestrian access to the Lake Superior beach may be found as well as the requirement of quiet at the property between 10 p.m. and 8 a.m. and staff has forwarded these conditions below should the commission decide to recommend them at this location.

**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 applicant must disclose to all guests, in writing, the location of the nearest legal access to the Lake Superior beach; and
- 2.) The applicant must disclose to all guests, in writing, that quiet hours shall be observed between the hours of 10 p.m. and 8 a.m.; and
- 3.) The applicant adhere to the terms and conditions listed in the interim use permit document and any modifications deemed necessary by the Land Use Supervisor provided that no such administrative approval shall constitute a variance from Chapter 50;
- 4.) The Interim Use Permit shall not be effective until the City Fire Operational Permit and State Lodging License have been granted.

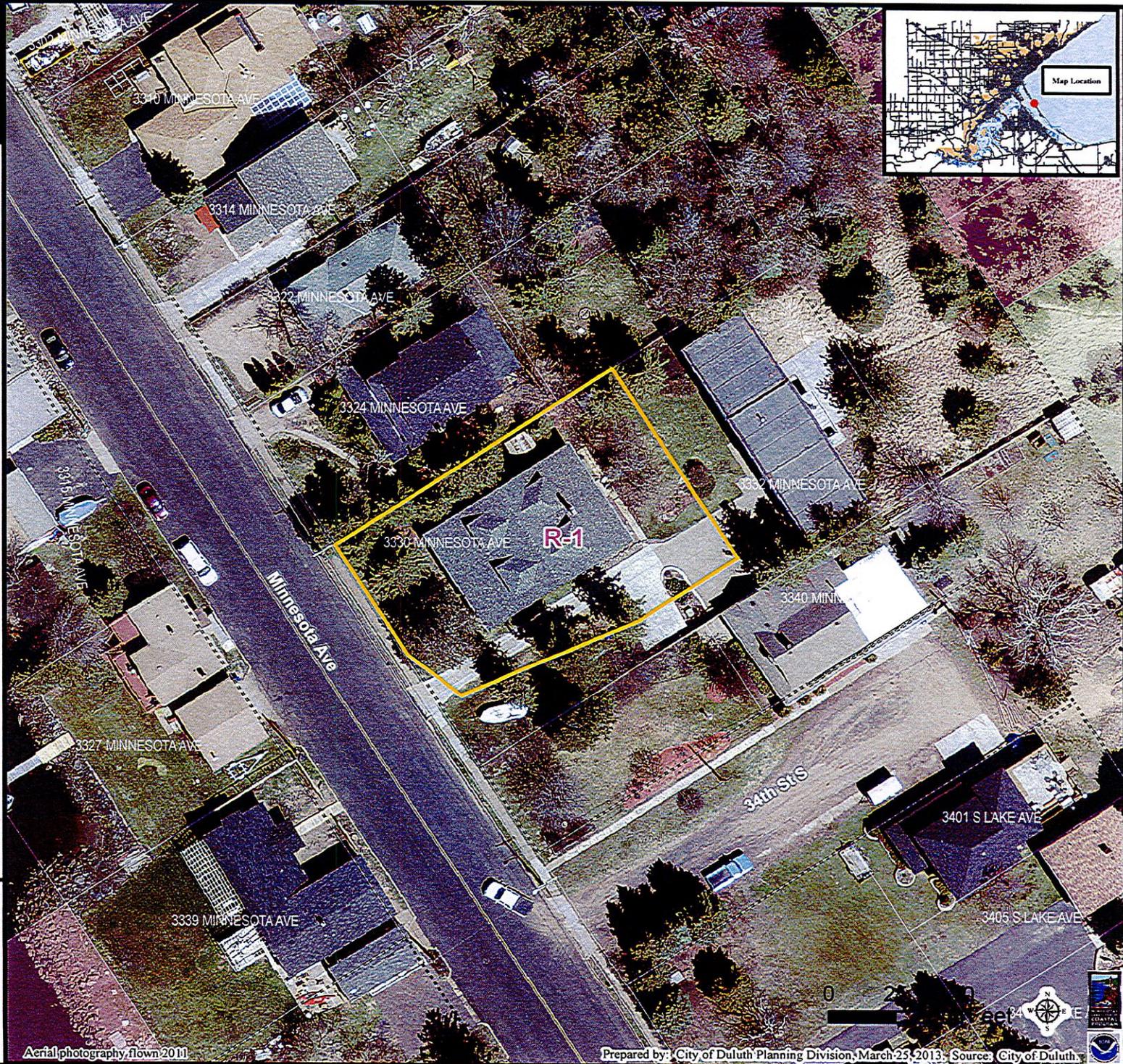
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**Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)**



# City Planning

PL13-019 Vacation Dwelling Unit  
Interim Use Permit  
3330 Minnesota Ave: Cottage on Pt.



**Legend**

**Right-of-Way Type**

- Road or Alley ROW
- Vacated ROW

**Easement Type**

- Utility Easement
- Other Easement
- 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.

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Aerial photography, flown 2011

Prepared by: City of Duluth Planning Division, March 25, 2013; Source: City of Duluth





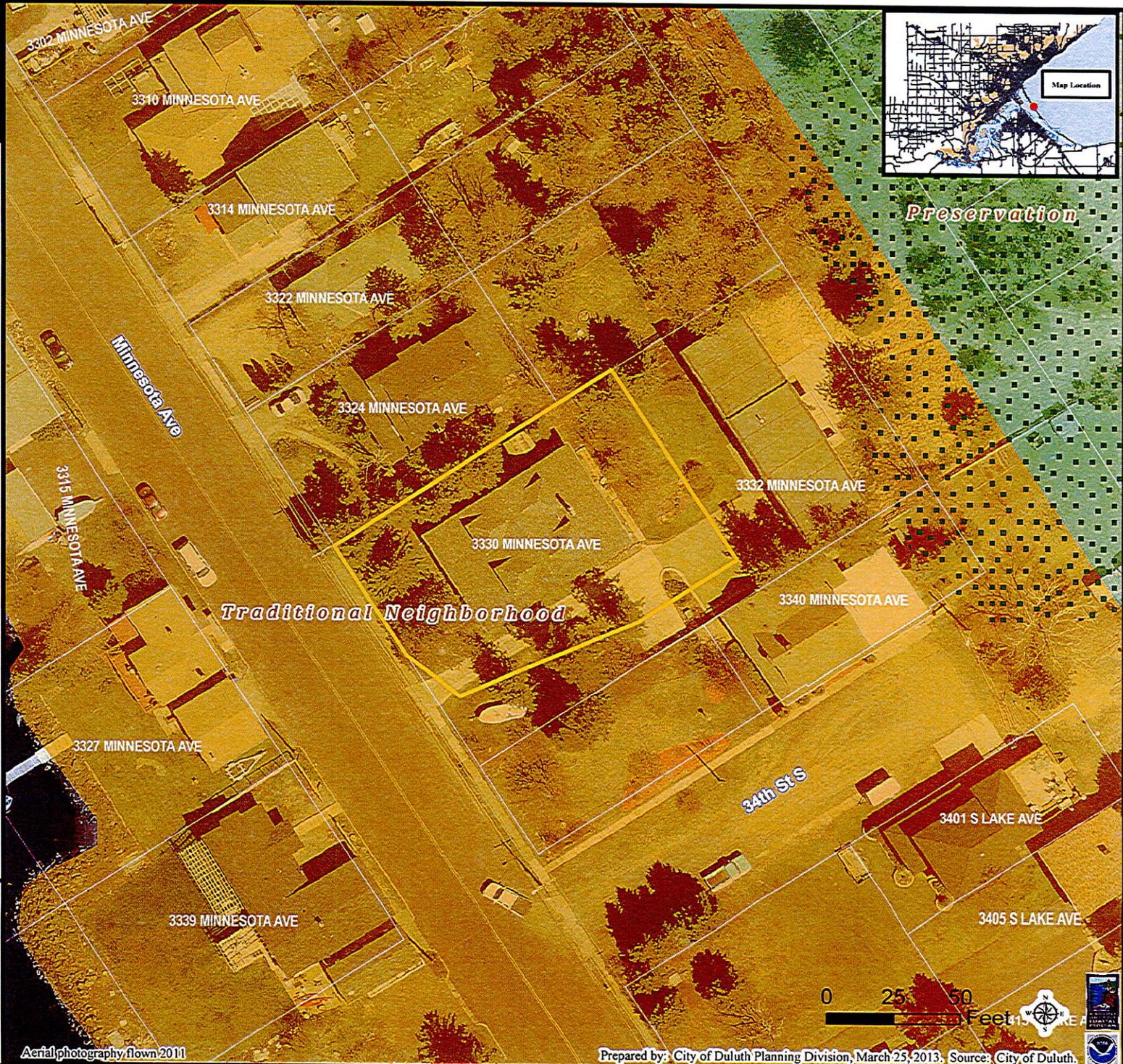
# City Planning

PL13-019 Vacation Dwelling Unit  
Interim Use Permit  
3330 Minnesota Ave: Cottage on Pt.

**Legend**

**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, March 25, 2013. Source: City of Duluth.



3330 Minnesota Ave.



3330 Minnesota Ave.



3330 Minnesota Ave.



3330 Minnesota Ave.

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City of Duluth  
Planning Division

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## INTERIM USE PERMIT FOR VACATION DWELLING UNIT

**Permit Number:** PL13-019

**Issued Date:** April 22, 2013

**Permit Holder:**

Cottage on the Point, LLC/Patricia Burns  
3332 Minnesota Ave.  
Duluth, MN 55802  
218-727-3738  
[bpburns@chartermi.net](mailto:bpburns@chartermi.net)

**Permit Location:**

3330 Minnesota Ave.  
ALL THAT PART OF S1/2 OF LOT 294 AND ALL OF  
LOTS 296 & 298, MINN AVE, LOWER DUL AND SLY  
1/2 OF LOT 293 AND ALL OF LOTS 295 & 297, LAKE  
AVE, LOWER DUL DESCRIBED AS FOLLOWS; BEG AT  
NW COR OF THE ABOVE DESCRIBED PARCEL;  
THENCE SLY ALONG W LINE 50 FT THENCE 19 DEG  
21' 57" TO THE LEFT 25.10 FT THENCE 60 DEG 52'  
47" TO THE LEFT 72.73 FT THENCE ON A LINE  
PARALLEL WITH AND 14 FT DISTANT FROM S LINE  
OF LOTS 297 & 298 43.91 FT THENCE 90 DEG LEFT  
86 FT TO N LINE OF PARCEL THENCE 90 DEG LEFT  
123.82 FT TO PT OF BEG (PID 010-3110-03585)

**Permit Terms:**

1. The number of vacation dwelling units issued under this permit is 1.
2. The vacation dwelling unit consists of 3 bedrooms.
3. The total number of persons that may occupy the vacation dwelling unit is 7.
4. The number of off-street parking spaces provided for the vacation dwelling unit is 2.
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: Cottage on the Point, LLC/Patricia Burns  
3332 Minnesota Ave.  
Duluth, MN 55802  
218-727-3738  
[bpburns@chartermi.net](mailto:bpburns@chartermi.net)

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.
20. The permit holder must disclose to all guests in writing the location of the nearest legal access to the Lake Superior beach.
21. The permit holder must disclose to all guests in writing that quiet hours shall be observed 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).