

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-0184R

RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 206 NORTH 11TH AVENUE WEST (TED W. STEIN AND CARELLE STEIN).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council hereby grants Ted W. Stein and Carelle Stein, an interim use permit to operate a vacation dwelling unit located at 206 North 11th Avenue West and as described by the following:

Lot 173, except Easterly 25 feet of Southerly 78 feet, Block 100, Duluth Proper Second Division (PID 010-1160-00760, 00710, 00720, 00740, 00770); 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 (PL13-038); the commission gave due notice of public hearing and considered the application during a public hearing occurring on April 9, 2013; and

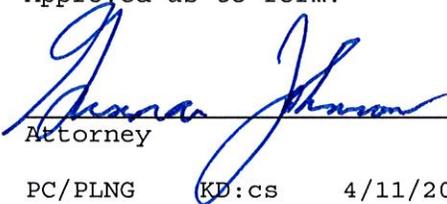
(f) The city planning commission, at their regular meeting on April 9, 2013, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling 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 interim use permit shall not be effective until the applicant has provided evidence that the required notice has been sent to property owners within 100 feet; and

(b) 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 4/11/2013

STATEMENT OF PURPOSE: This resolution grants to Ted W. Stein and Carelle Stein an interim use permit for a vacation dwelling unit at 206 North 11th Avenue West. 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. Behind the home are three off-street parking spaces (two are required). The applicant has two managing agents within the required distance and has asked for a delay in notifying neighbors within 100 feet of the property of the managing agent's contact info. This resolution makes neighbor notification a condition of the permit being effective.

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 condition described above.

Request filed: March 1, 2013
Action deadline: June 29, 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	PL13-038	Contact	Kyle Deming, kdeming@duluthmn.gov	
Application Type	Interim Use Permit	Planning Commission Date	April 9, 2013	
Deadline for Action	Application Date	March 1, 2013	60 Days	April 30, 2013
	Date Extension Letter Mailed	March 20, 2013	120 Days	June 29, 2013
Location of Subject	206 N. 11th Ave. W. (Observation Hill)			
Applicant	Ted W. Stein & Carelle Stein	Contact	carelle@cpinternet.com, 651-270-2443	
Agent	Same	Contact		
Legal Description	Lot 173 except E 25 ft of S 78 ft, Block 100, Duluth Proper 2nd Div. (PID 1160-760, 740, 710, 720, 770)			
Site Visit Date	March 27, 2013	Sign Notice Date	March 25, 2013	
Neighbor Letter Date	March 25, 2013	Number of Letters Sent	42	

Proposal

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

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-2	One-family dwelling	Traditional Neighborhood
North	R-2	Apartment building	Traditional Neighborhood
South	R-2	Dwellings	Traditional Neighborhood
East	R-2	Dwellings	Traditional Neighborhood
West	R-2	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.

1-5

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.) Behind the home and accessed from the alley are three parking spaces, more than the required 2 off-street parking spaces;
- 3.) The applicant has two managing agents and both live within the required distance. The applicant has requested a delay in meeting the requirement for notifying neighbors within 100' of the property of the managing agents contact info. and staff supports this request and recommends making the notification a condition of final approval;
- 4.) In the narrative provided by the applicant (see attached) they indicate that meeting the five night minimum stay during the off-season months is not sustainable for them and that the ordinance change proposed by staff (see PL 13-036) to reduce this to two night minimum stay year round in R-2, MU-N, and F-5 districts is desirable;
- 5.) 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.

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 not be effective until the applicant has provided evidence that the required notice has been sent to property owners within 100 ft.;
- 2.) 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.

F-2

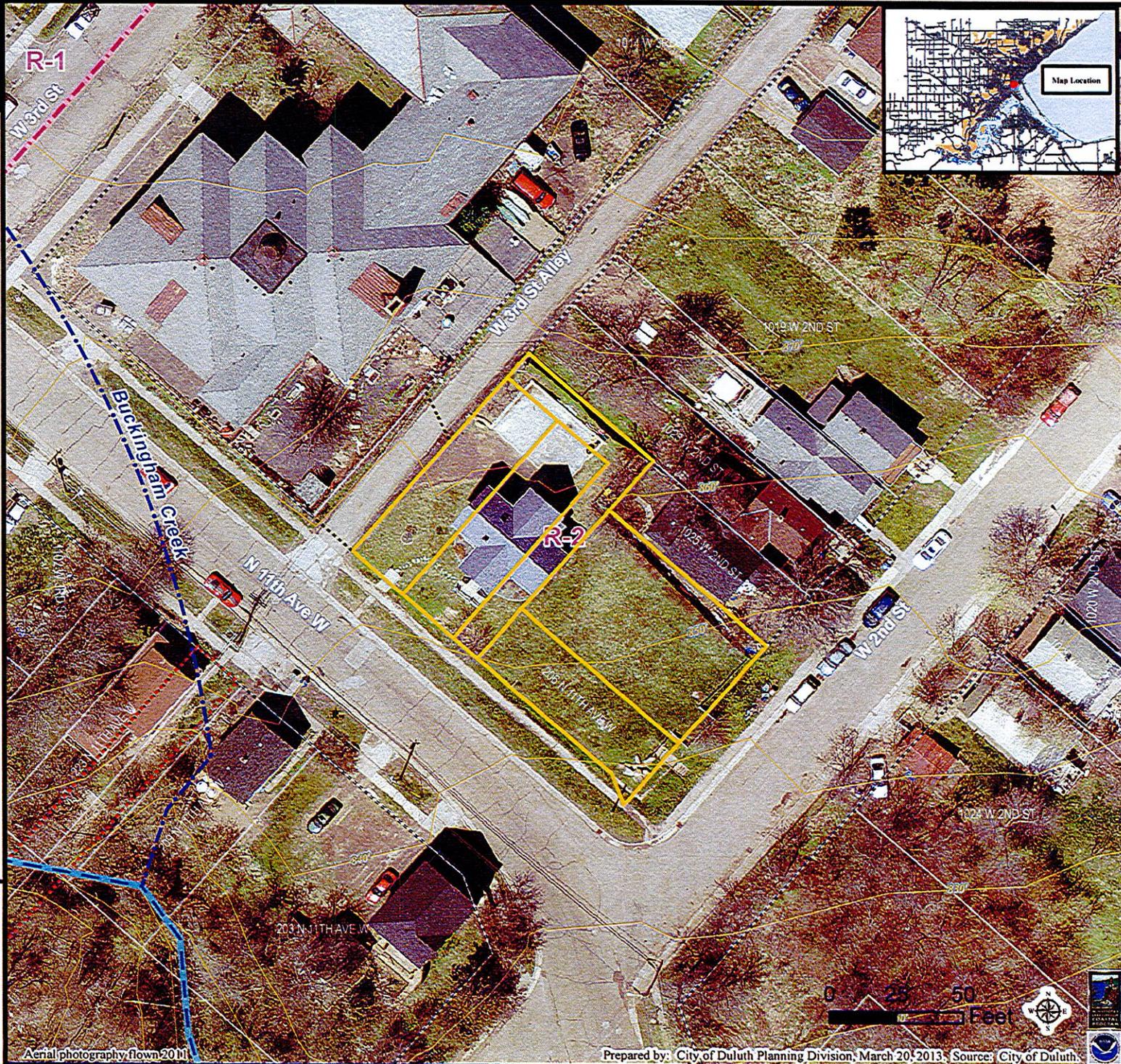
Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)



City Planning

PL 13-038

Interim Use Permit
206 N 11th Avenue W



Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- 10' Contour (elev. change)

Right-of-Way Type

- Road or Alley ROW

Easement Type

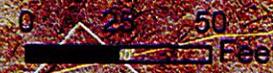
- Utility Easement
- Other Easement
- Zoning (Final)

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E-3

Aerial photography flown 2011

Prepared by: City of Duluth Planning Division, March 20, 2013; Source: City of Duluth.





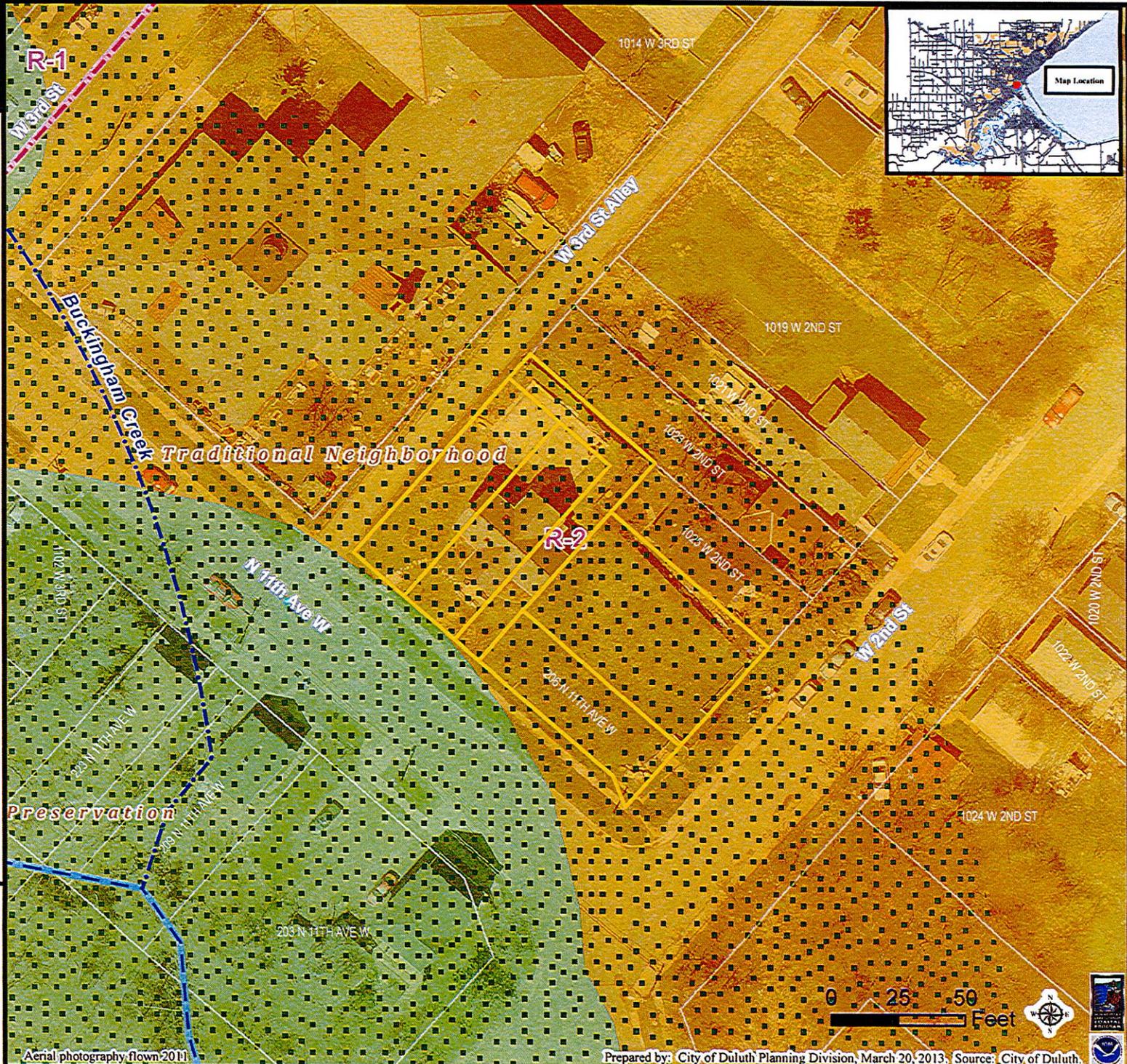
City Planning

PL 13-038

Interim Use Permit
206 N 11th Avenue W

Legend

- Trout Stream (GPS)
- Other Stream (GPS)
- 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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EH

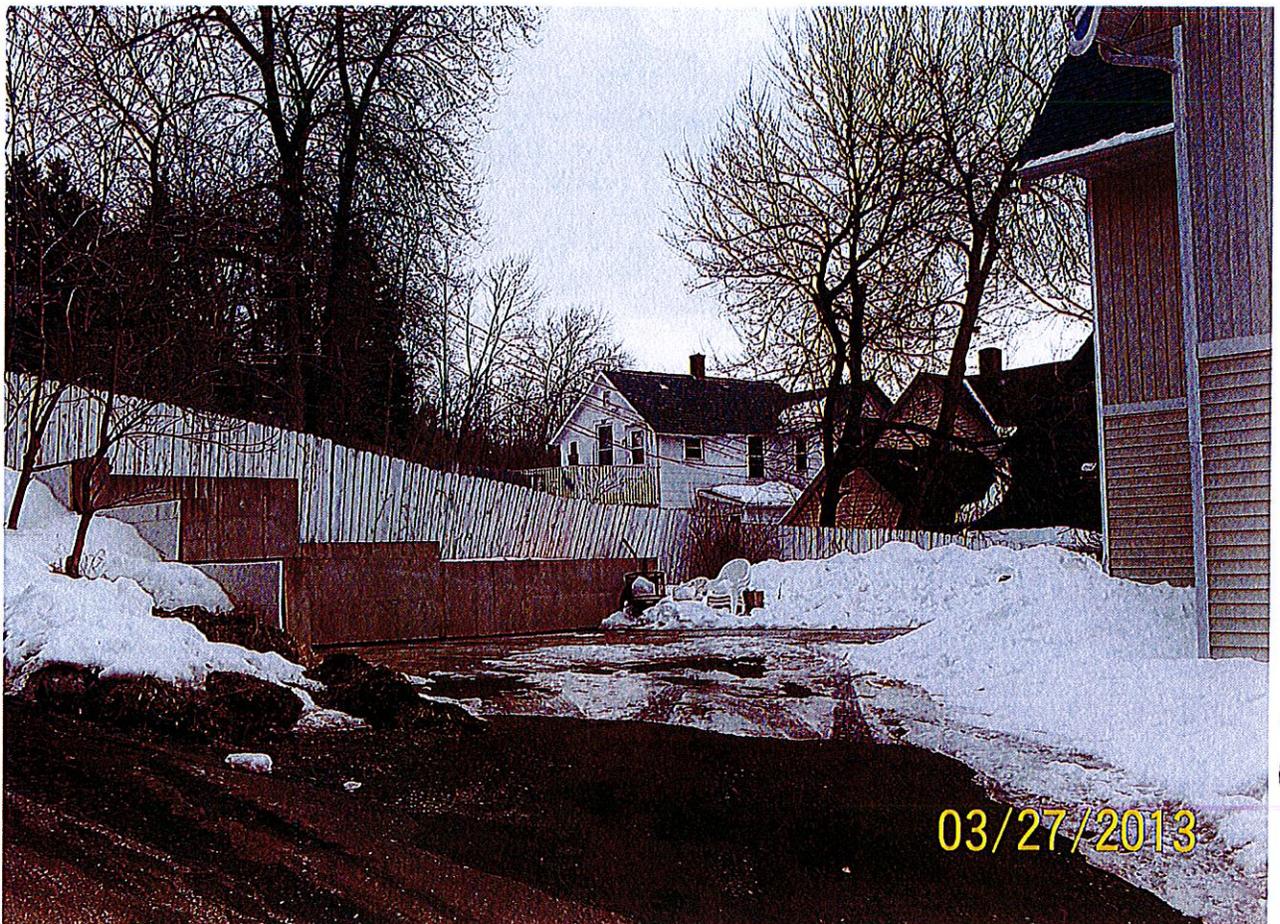
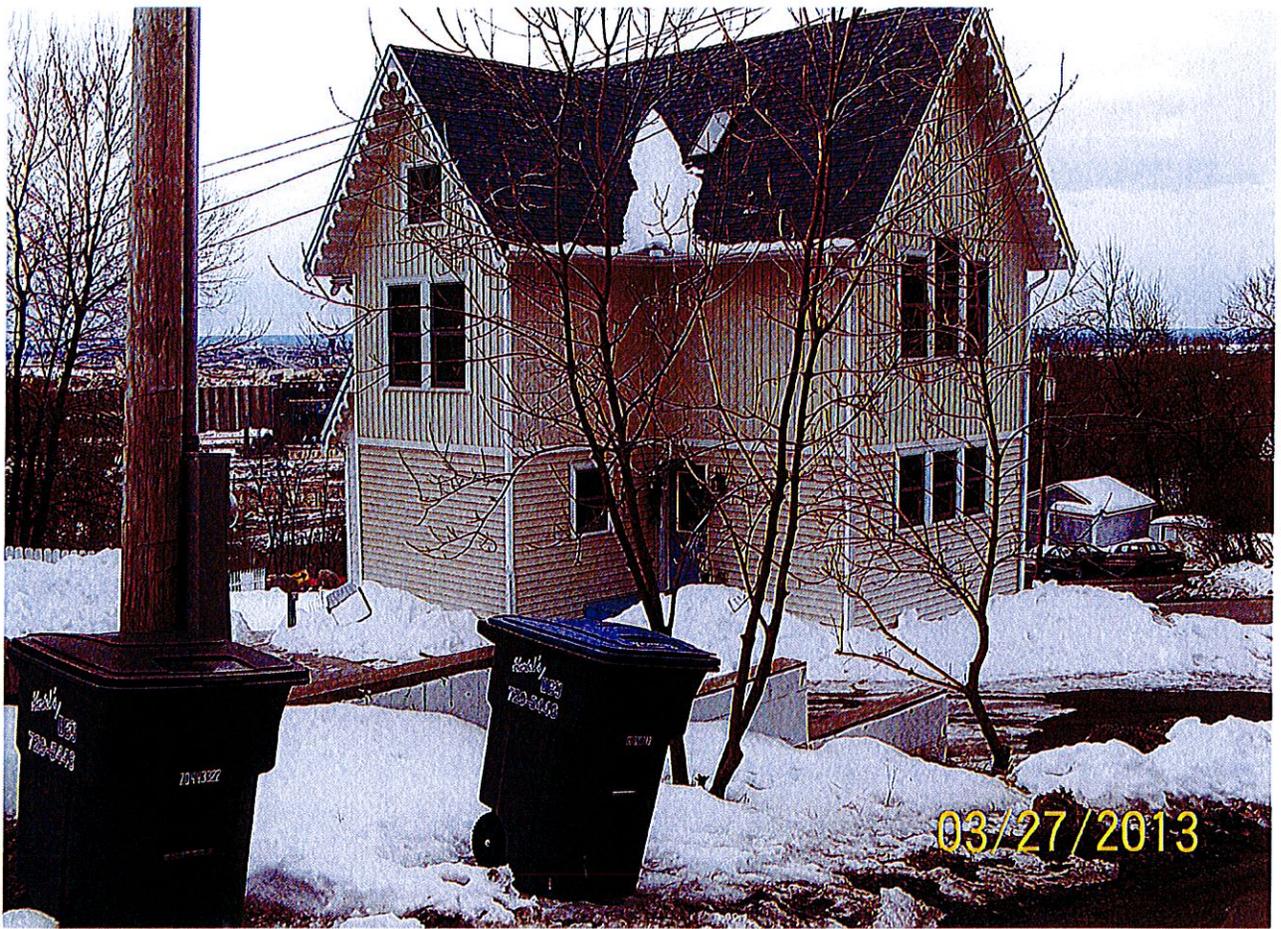
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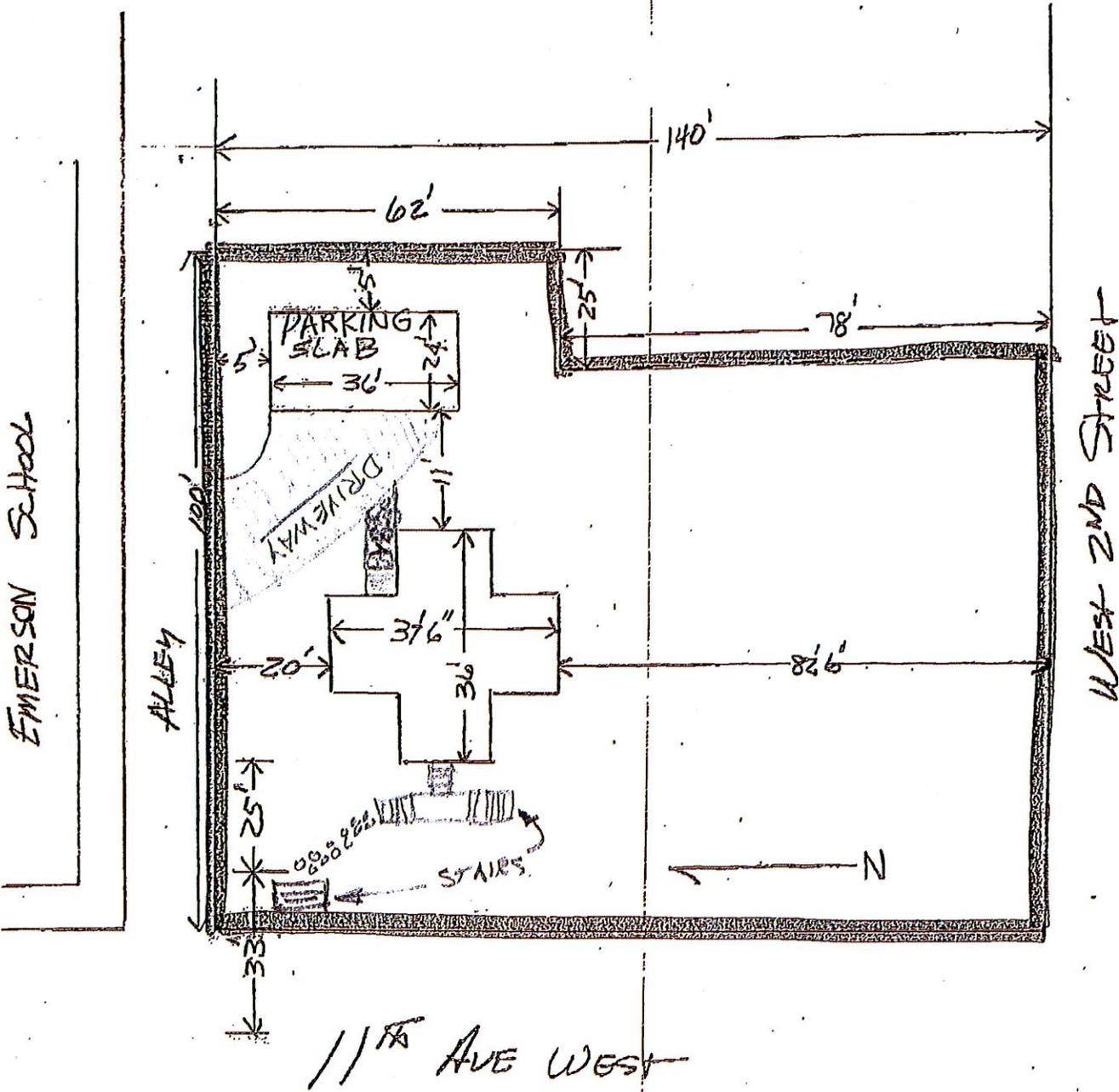




6-5



E-6



HILLSIDE COTTAGE GUESTHOUSE, LLC
 (STEIN HOUSE) 206 N. 11TH AVE WEST

Narrative**HILLSIDE COTTAGE GUEST HOUSE LLC**

Hillside Cottage is a whole house rental in Duluth, Minnesota. It is located in "Little Italy", a first ring development just west of downtown and the government complex on Mesaba Avenue. It has a view of Lake Superior and the harbor on all three levels. We were the first guesthouse in Duluth, opening our doors in 2003. Hillside Cottage has always paid state sales tax and the Duluth lodging tax on all rental income. We have had an on-site caretaker for the last two years. We have never had a complaint about our guests. We have 3 off-street parking spaces located at the rear of the Cottage.

Hillside Cottage serves a very specific niche market: as a retreat/vacation house for families and/or small groups for short stays. It attracts families and small groups that cannot get reservations at Canal Park, local resorts or B&Bs because of the cost or unavailability. (For example, we have made our Cottage very welcoming for young children.)

We designed the Cottage ourselves. A small 3-man company (Dick Lombardi - Creative Construction - a native of Little Italy) constructed the main structure for us. We completed the majority of interior finish work ourselves. The Cottage was built to look like "Grandma's house", a beautiful, inspiring, and restful place, so that guests would want to return again and again for the experience of Duluth and the North Shore. This has happened. Our guests have come from all over the world (the UK, Germany, France, Uruguay), not just the Twin Cities; though predominantly from out-state or out-of-state. The Cottage is a part of VisitDuluth.com, the main travel and tourism site for Duluth (www.hillsidecotteduluth.com). In VisitDuluth's annual publication and on-line, Hillside Cottage is listed immediately below Fitgers Hotel. Our Cottage has been labeled by the St. Paul Pioneer Press as "The Duluth Dollhouse."

We have always operated the guesthouse with a 2 night minimum stay in the winter months, and a three night minimum stay for the months of June - September. We certainly prefer long-terms rentals of over 7 days, but this is not the way our guests wish to reserve the Cottage. Most of the annual income for Hillside Cottage is generated in the summer months. If we are required to have a 5 night minimum stay in the summer months, we will lose substantial income and will have to close our doors. We operate on a shoe-string right now.

- 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).