

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-0276R

RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 13402 WEST THIRD STREET (MATTHEW EVINGSON).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council hereby grants Matthew Evingson an interim use permit to operate a vacation dwelling unit located at 13402 West Third Street (State Highway 23) and as described by the following:

East 10 feet of Lot 17 and all of Lot 19, Fond du Lac, Third Street (PID 010-1610-00090, 010-1610-00100); 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 (PL13-065); the commission gave due notice of public hearing and considered the application during a public hearing occurring on May 14, 2013; and

(f) The city planning commission, at their regular meeting on May 14, 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

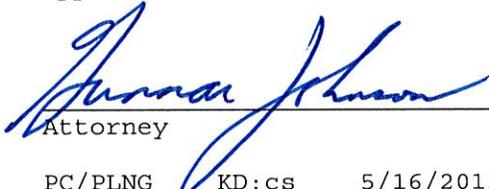
approved subject to the following conditions:

(a) The interim use permit shall not be effective until an operational permit has been granted by the fire department and a lodging license has been granted by the state department of health; and

(b) The required driveway and parking improvements shall be completed by September 30, 2013 or the interim use permit shall be suspended until such improvements are made; 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 5/16/2013

STATEMENT OF PURPOSE: This resolution grants to Matthew Evingson an interim use permit for a vacation dwelling unit at 13402 West Third Street (State Highway 23) in the Fond du Lac neighborhood. The interim use permit remains in effect for six years, or until the property changes hands, whichever occurs first.

The applicant's proposal meets many of the use specific criteria for a five-bedroom vacation dwelling unit, except as noted in the paragraphs below. The applicant will be the managing agent for the property and he lives within the required distance. Neighbors within 100 feet of the property have been given his contact information.

The applicant has extensively renovated the property and final inspections have not yet been conducted. This resolution requires the applicant to be granted an Operational Permit by the Fire Department and a Lodging License by the State Department of Health before the interim use permit is effective.

The three required off-street parking spaces are currently gravel and the applicant has asked for time to pave the driveway and parking spaces. This resolution gives the applicant until September 30, 2013 to make the required pavement improvements or the interim use permit will be suspended until the

improvements are made.

On May 14, 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 condition described above.

Request filed: April 9, 2013

Action deadline: August 7, 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	PL13-065	Contact	Kyle Deming, kdeming@duluthmn.gov	
Application Type	Interim Use Permit	Planning Commission Date	May 14, 2013	
Deadline for Action	Application Date	April 9 2013	60 Days	June 8, 2013
	Date Extension Letter Mailed	April 19, 2013	120 Days	August 7, 2013
Location of Subject	13402 State Hwy. 23 (Fond du Lac)			
Applicant	Matthew Evingson	Contact	mevingson@hotmail.com, 612-247-5844	
Agent	Same	Contact		
Legal Description	E 10 ft. of Lot 17 and all of Lot 19, Fond du Lac, Third Street (010-1610-00090, 00100)			
Site Visit Date	April 29, 2013	Sign Notice Date	April 30, 2013	
Neighbor Letter Date	April 25, 2013	Number of Letters Sent	8	

Proposal

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

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	MU-N	One-family dwelling	Neighborhood Commercial
North	R-1	One-family dwelling	Traditional Neighborhood
South	MU-N	Campground	Neighborhood Commercial
East	MU-N	One-family dwelling	Neighborhood Commercial
West	MU-N	Campground	Neighborhood Commercial

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

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 except for a Fire Operational Permit from the City and a Lodging License from the State. The applicant has applied for these permits and has inspections scheduled for May 13, 2013. The applicant is currently renovating the home and it won't be ready for inspections until that date. Staff recommends that a condition of approval be that the applicant obtain the required Fire Operational Permit and Lodging License.
- 2.) The applicant is required to provide 2 off-street parking spaces and the site plan shows a driveway from the northwest corner of the lot leading to the required spaces to the east of the home. The driveway and parking spaces must be paved and the applicant has indicated that this will be completed by September 2013, possibly using a pervious paving system. Staff recommends that a condition of approval be that the required parking spaces and driveway be paved by September 30, 2013 or the interim use permit be suspended.
- 3.) The applicant is the managing agent. They live within the required distance from 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.

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 Fire Operational Permit has been granted by the City Fire Department and the Lodging License has been granted by the State Department of Health; and
- 2.) If by September 30, 2013 the applicant has not created the required paved driveway and parking spaces, the Interim Use Permit shall be suspended until the improvements are made; 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.

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



City Planning

PL 13-065

Interim Use Permit
13402 W 3rd Street

Legend

Right-of-Way Type

..... Road or Alley ROW

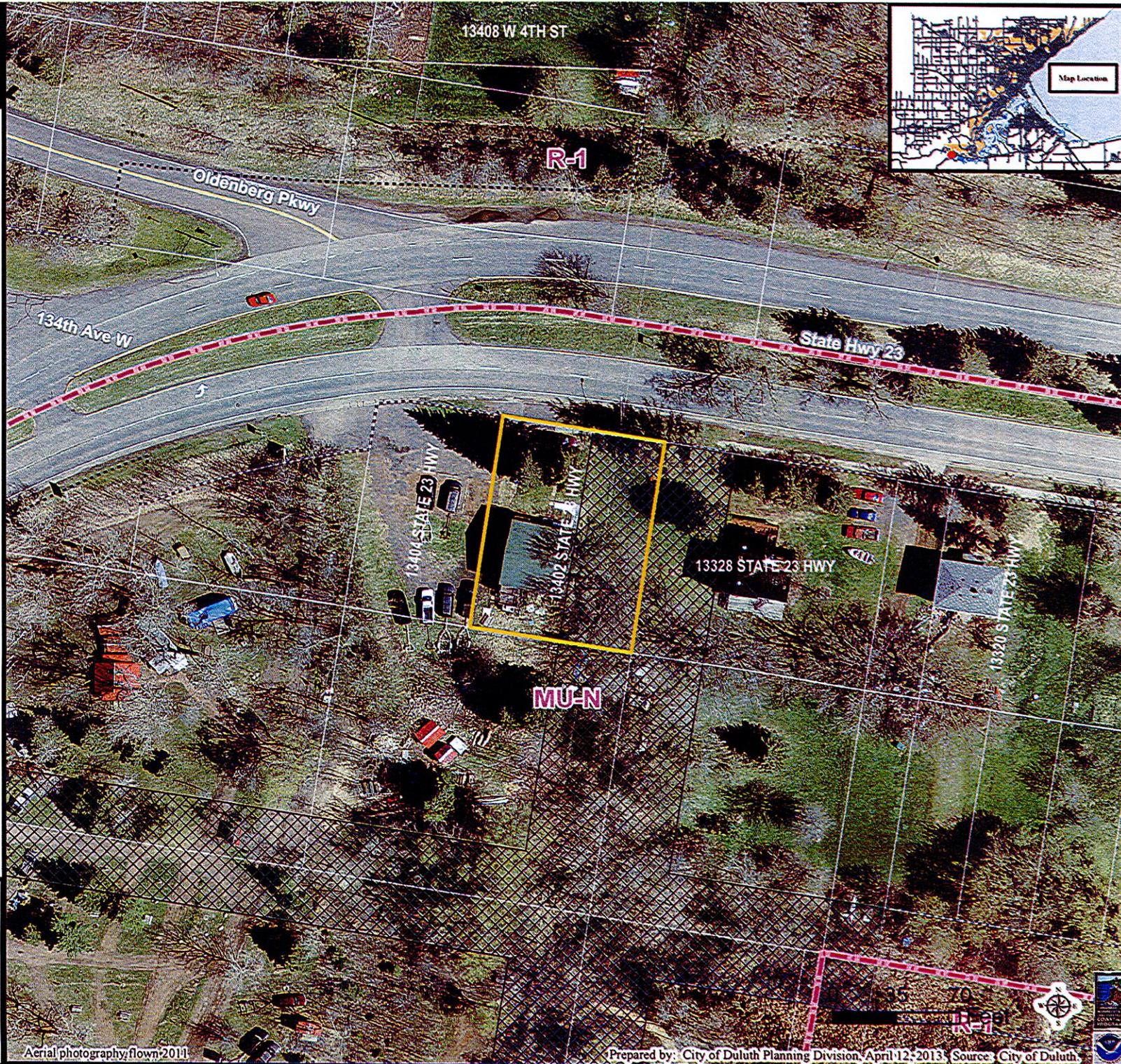
 Vacated ROW

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: frown/2011

Prepared by: City of Duluth Planning Division, April 12, 2013. Source: City of Duluth.





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City of Duluth
Planning Division

411 West First Street • Room 208 • Duluth, Minnesota 55802-1197
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**INTERIM USE PERMIT
FOR
VACATION DWELLING UNIT**

Permit Number: PL13-065

Issued Date: May 28, 2013

Permit Holder:

Matthew Evingson
2105 Kenwood Dr.
Duluth, MN 55811
612-247-5844

mevingson@hotmail.com

Permit Location:

13402 W. Third St. (State Hwy. 23)
E. 10 ft. of Lot 17 and all of Lot 19, Fond du Lac,
Third Street
PID 010-1610-00090, 010-1610-00100

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 3 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: Matthew Evingson
2105 Kenwood Dr.
Duluth, MN 55811
612-247-5844
mevingson@hotmail.com
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 Interim Use Permit shall not be effective until the Fire Department has granted an Operational Permit and the State Department of Health has granted a Lodging License.
 21. If by September 30, 2013 the permit holder has not created the required driveway and parking spaces the Interim Use Permit shall be suspended until such improvements are made.

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).