PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-0335R

RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 702 NORTH SEVENTH AVENUE EAST (CHARLES D. SILL AND LINDA M. SIMMONS).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council hereby grants Charles D. Sill and Linda M. Simmons an interim use permit to operate a vacation dwelling unit located at 702 North Seventh Avenue East and as described by the following:

Southerly 45 feet of Lots 1 and 2, Block 10, Norton's Division (PID 010-3490-01450); 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 (PL 13-056); the commission gave due notice of public hearing and considered the application during a public hearing occurring on June 11, 2013; and

(f) The city planning commission, at their regular meeting on June 11, 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 of Minnesota; and

(b) The applicant shall be regulated as an R-2 vacation dwelling unit with respect to the minimum rental period; 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 6/13/2013

STATEMENT OF PURPOSE: This resolution grants to David Sill and Linda Simmons an interim use permit for a 3-bedroom vacation dwelling unit at 702 N. 7th Ave. E. The interim use permit remains in effect for six years, or until the property changes hands, whichever occurs first.

The applicant has submitted the required materials and agency approvals except for an Operational Permit from the City Fire Department and a Lodging License from the State Department of Health. These agencies have made inspections of the site and the applicant has made the required improvements except for the installation of egress windows that meet code. Due to the significant cost in making this improvement the applicant has asked, and staff and Planning Commission recommend, that the required window replacement be made if the interim use permit is approved.

The applicant's managing agent lives next door to the property and neighbors within 100 feet of the property have been given her contact information.

The neighborhood surrounding the subject property (within 300') is developed at a density of 12 dwelling units per acre (a typical R-1 neighborhood is 4-8 units per acre), consists of 49 one-family dwellings, 20 duplexes, 1 triplex, and 2 4+ unit buildings (a typical R-1 neighborhood is one- and two-family dwellings

only), and consists of 39 lots less than 40' wide (a typical R-1 neighborhood has lots greater than 40' wide). Within a block of the subject property are two brick storefront buildings and a brick rowhouse. This property is situated in a neighborhood more characteristic of an R-2 neighborhood and, therefore, staff and the Planning Commission recommend that the property be regulated as an R-2 vacation dwelling unit with respect to the minimum rental period.

On June 11, 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 the conditions described above.

At the June 11, 2013 City Planning Commission meeting the applicant's were granted a variance from the requirement to provide two off-street parking spaces (PL 13-055).

Request filed: April 03, 2013
Action deadline: August 01, 2013

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

An Equal Opportunity Employer

INTERIM USE PERMIT
FOR
VACATION DWELLING UNIT

Permit Number: PL13-056

Issued Date: June 24, 2013

Permit Holder:
Charles D. Sill & Linda M. Simmons
2111 Marshall Ave.
St. Paul, MN 55104
651-646-6977
cdavsil@aol.com

Permit Location:
702 N. 7th Ave. E.
Sly 45 of Lots 1 & 2, Block 10, Norton's Division
PID 010-3490-01450

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 0 due to a variance granted by the Planning Commission on June 11, 2013 (PL 13-055).
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 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: Joanna Hopkins
       711 E. 7th St.
       Duluth, MN 55805
       218-391-7106
       jjhandssh@yahoo.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;

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 Neigbhorhood - 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 except for a Fire Operational Permit from the City and a Lodging License from the State. These agencies have made inspections of the site and found that, in addition to other less costly deficiencies, the applicant will be required to install egress windows that meet code. Due to the significant cost in making this improvement the applicant has asked, and staff recommends, that the required window replacement be made after the interim use permit is approved.

2.) The applicant's property is required to provide two off-street parking spaces. The applicant has applied for a variance from this requirement (PL 13-055) and staff recommends that approval of this interim use permit be contingent upon the granting of the variance or the provision of the required off-street parking spaces by November 1, 2013.

3.) The applicant's agent lives down the block from the subject property and the applicant has notified all owners within 100' with the agent's contact info.

4.) The neighborhood surrounding the subject property (within 300') is developed at a density of 12 dwelling units per acre (a typical R-1 neighborhood is 4-8 units per acre), consists of 49 one-family dwellings, 20 duplexes, 1 triplex, and 2 4+ unit buildings (a typical R-1 neighborhood is one- and two-family dwellings only), and consists of 39 lots less than 40' wide (a typical R-1 neighborhood has lots greater than 40' wide). Within a block of the subject property are two brick storefront buildings and a brick rowhouse. This property is situated in a neighborhood more characteristic of an R-2 neighborhood and, therefore, staff recommends that the property be regulated as an R-2 vacation dwelling unit with respect to the minimum rental period.

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 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.) Unless a variance from the following requirement is granted, the Interim Use Permit shall be revoked on November 1, 2013 if the required off-street parking spaces are not provided; and

3.) The property be regulated as an R-2 vacation dwelling unit with respect to the minimum rental period; and

4.) 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 13-055 and 13-056
Interim Use Permit
702 N 7th Avenue E

Legend

10' Contour (elev. change)

Right-of-Way Type

Road or Alley 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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City Planning

PL 13-055 and 13-056
Interim Use Permit
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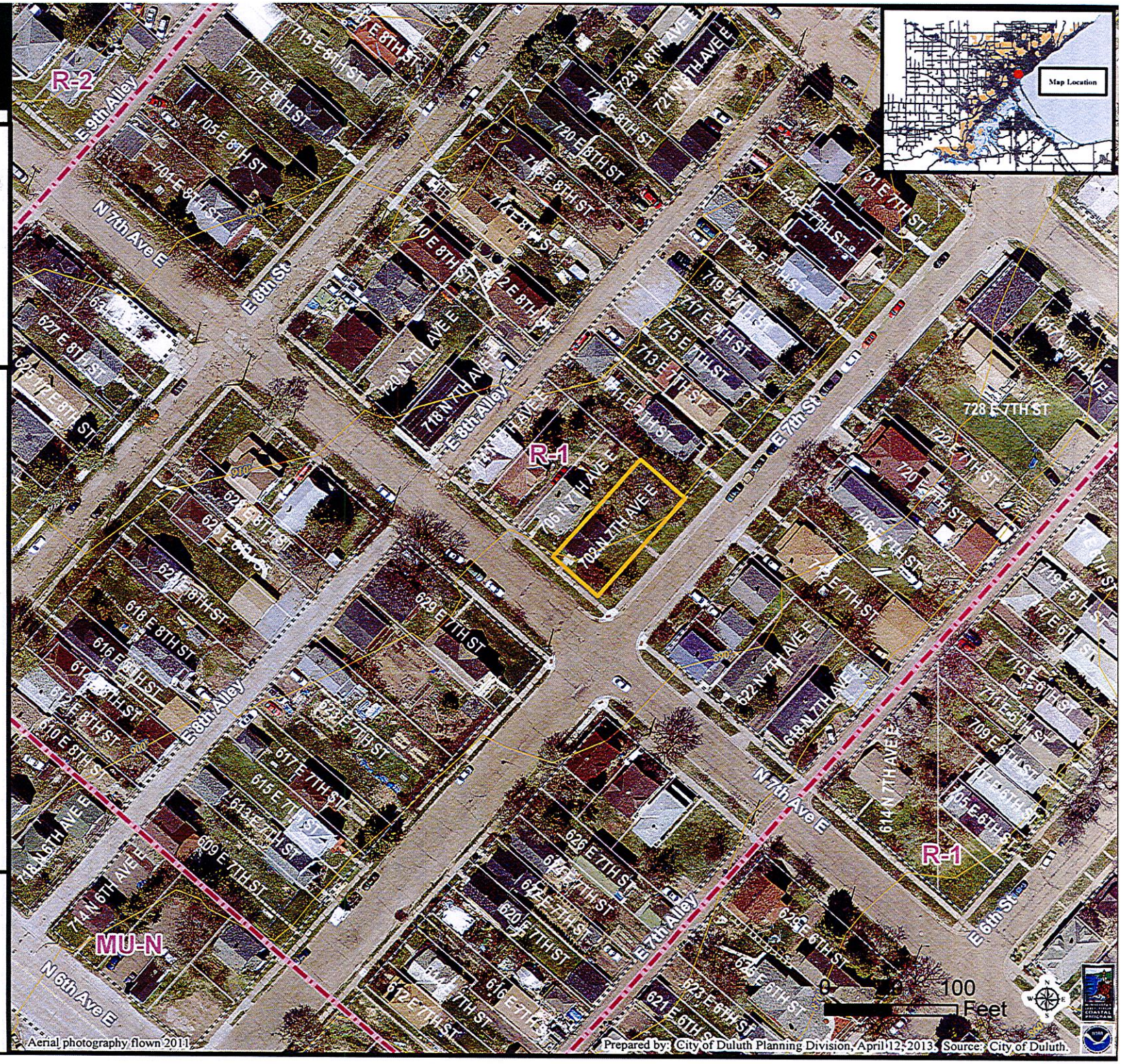

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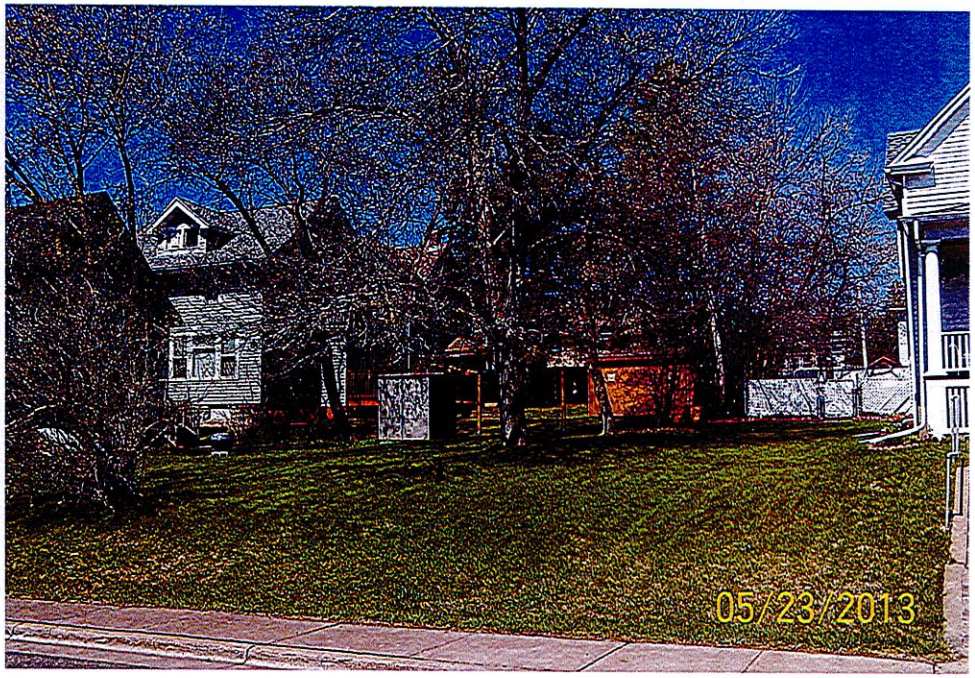

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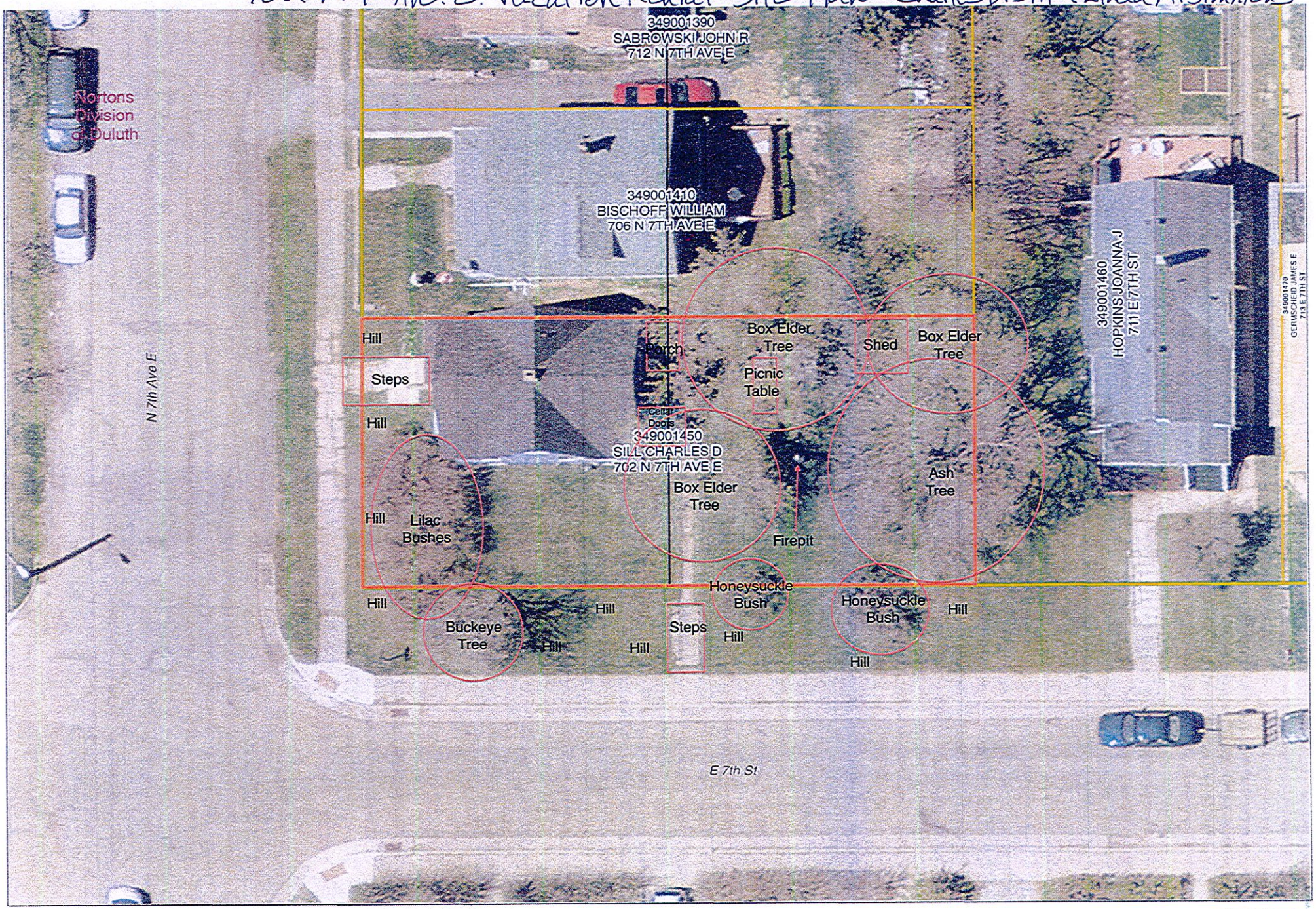
102 N. 1st Ave. E. Vacation Rental Site Plan Charles D. Sill & Linda M. Simmons



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Duluth GIS Mapping

0 10 20 Feet

1 inch = 20 feet

photo date: 2011

Printed: 2/6/2013

Kyle Deming

From: Bill Bischoff <billyholiday4@hotmail.com>
Sent: Monday, June 10, 2013 8:45 PM
To: Kyle Deming
Subject: PL 13-055 and PL 13-056

Kyle, I am sending this letter on behalf of my friend Bill Bischoff who is the neighbor directly next to the property requesting this permit and variance. Would you please see that everyone of the Planning Commission members get a copy of this letter before the meeting tomorrow at 5pm . If possible, please remind them of the letter before the meeting to be sure that they received it and read it.
Thanks, Penny Clark

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RE: Hearing for a Vacation Dwelling Unit Interim Use Permit and Variance at
702 N. 7th Ave. E. (PL 13-055 and PL 13-056) owner Charles Sill and Linda Simmons

My name is William Bischoff 706 N. 7th Ave E. right next door, about 9 feet from my house, to the the house that is applying for the variance discussed by your Commission. The houses are actually 9 feet apart- the property line is much closer.

I have owned and lived here since 1993 (20 years) and have enjoyed the quiet friendly neighborhood that my neighbors and myself have worked hard to provide for each other.

The house in question has been this type of vacation rental for the past few years and although my complains are few there have been many times that I have tried to be a nice neighbor and not complain when I probably should have. Almost every weekend the house next-door to me is inhabited by different group of people. I never know what to expect and am often greeted with groups partying in the yard, since they are "on vacation"!

I work the traditional 5 day week and spend my evening and weekend quiet relaxation time on my back deck facing my well-maintained and manicured yard. This peace and solitude is definitely disrupted by the constant change in vacation occupants. When you never know what to expect, you hope for the best but the unknown has surely taken away from the pleasure that I have enjoyed for the past 20 years.

That brings me to the second variance request for off-street parking. Once again, as mentioned the yards are VERY close and the cars, RVs, ATVs and boats would be parked just to my right. I would also have endure the noise and light infraction that would occur if they are allowed to park in the yard. Since the lots are so close it would feel like they were parking in my own backyard. Plus the constant coming and going all day and all night long is very disruptive.

As the neighbor most effected by the issuance of this permit I ask that you deny the vacation Rental permit. If you feel that the house is eligible for the permit I strongly request that you deny the variance for off-street parking.

Thank you for your time and consideration of my concerns.

Sincerely,
Bill Bischoff