

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

13-0403R

RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 2931 LAKE AVENUE SOUTH (JENNIFER BECKEY).

CITY PROPOSAL:

RESOLVED, that:

(a) The city council hereby grants Jennifer Beckey and Steven R. McDonald an interim use permit to operate a vacation dwelling unit located at 2931 Lake Avenue South and as described by the following:

South 10 feet of Lot 213 except North 5 feet of South 10 feet of West 37 feet and all of Lot 215, Lower Duluth, Lake Avenue (PID 010-3100-01090); 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 13-076); the commission gave due notice of public hearing and considered the application during a public hearing occurring on July 9, 2013; and

(f) The city planning commission, at their regular meeting on July 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 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 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 of the subject property; and

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

(d) 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

(e) 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 7/26/2013

STATEMENT OF PURPOSE: This resolution grants to Jennifer Beckey and Steven R. McDonald an interim use permit for a 4-bedroom vacation dwelling unit at 2931 Lake Ave. S. 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 a Fire Operational Permit from the City and a Lodging License from the State. These agencies have made inspections of the site and the applicant will be making the required improvements. The City and State will reinspect and issue a Fire Operational Permit and Lodging License if the required improvements are

sufficient. This resolution delays the effective date of the permit until the applicant has obtained the required Fire Operational Permit and Lodging License.

The applicant's managing agent lives within the required distance of the property. The applicant has asked to delay providing the managing agent's contact information to all property owners within 100 feet of the subject property until the City Council has voted on the interim use permit and this resolution delays the effective date of the permit until evidence of the required notice has been provided.

The two required off-street parking spaces are provided on the applicant's property.

On July 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 3 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: May 10, 2013
Action deadline: September 7, 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

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**INTERIM USE PERMIT
FOR
VACATION DWELLING UNIT**

Permit Number: PL13-076

Issued Date: August 12, 2013

Permit Holder:

Jennifer Beckey
Steven R. McDonald
4285 Manor Court Road
Minnetonka, MN 55345
jenniferjbeckey@gmail.com
612-619-2325

Permit Location:

2931 Lake Ave. S.
S 10 FT OF LOT 213 EX N 5 FT OF S 10 FT
OF W 37 FT AND ALL OF LOT 215, Lower Duluth,
Lake Avenue
PID 010-3100-01090

Permit Terms:

1. The number of vacation dwelling units issued under this permit is 1.
2. The vacation dwelling unit consists of 4 bedrooms.
3. The total number of persons that may occupy the vacation dwelling unit is 9.
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: Susan Hawkinson
907 W. 3rd St.
Duluth, MN 55808-2303
218-727-0593
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;



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	PL13-076	Contact	Kyle Deming, kdeming@duluthmn.gov	
Application Type	Interim Use Permit	Planning Commission Date	July 9, 2013	
Deadline for Action	Application Date	May 10, 2013	60 Days	July 9, 2013
	Date Extension Letter Mailed	May 22, 2013	120 Days	September 7, 2013
Location of Subject	2931 Lake Avenue South			
Applicant	Jennifer Beckey	Contact	jenniferjbeckey@gmail.com, 612-619-2325	
Agent	N/A	Contact	N/A	
Legal Description	S 10' of LOT 213 EX N 5' of S 10' of W 37' & all of LOT 215, Lower Duluth Lake Ave. (010-3100-01090)			
Site Visit Date	May 23, 2013	Sign Notice Date	May 28, 2013	
Neighbor Letter Date	May 23, 2013	Number of Letters Sent	21	

Proposal

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

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Dwellina	Traditional Neighborhood
North	R-1	Dwellings	Traditional Neighborhood
South	R-1	Dwellings	Traditional Neighborhood
East	R-1	Park Point beach	Preservation
West	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.

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 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 the applicant will be making the required improvements. The City and State will soon reinspect and issue a Fire Operational Permit and Lodging License if the required improvements are sufficient. Staff recommends that a condition of approval be that the applicant obtain the required Fire Operational Permit and Lodging License.
- 2.) The driveway on the applicant's property provides the required three off-street parking spaces.
- 3.) The applicant has a local managing agent who lives within the required distance.
- 4.) The applicant has asked to delay providing contact info. to property owners within 100' of the subject property until the City Council has voted on the interim use permit. Staff has provided for this by adding this as a condition of approval.
- 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.
- 6.) 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 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.) 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.; and
- 3.) The applicant must disclose to all guests, in writing, the location of the nearest legal access to the Lake Superior beach; and
- 4.) 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
- 5.) 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.

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



City Planning

PL 13-076

Interim Use Permit
Vacation Dwelling Unit
2931 Lake Avenue S

Legend

DuluthStream_cl TROUT_FLAG

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

Water Distribution System

- 30 - 60" Water Pipe
- 16 - 24" Water Pipe
- 4 - 6" Water Pipe

Sanitary Sewer Collection System

- Sanitary Sewer Collector
- Sanitary Sewer Interceptor
- Sanitary Sewer Forced Main

- Storage Basin
- Pump Station

Gas Distribution Main

- 8" - 16" Gas Pipes
- 4" - 6" Gas Pipes
- 0" - 4" Gas Pipes

Storm Sewer Collection System

- Storm Sewer Pipe
- Storm Sewer Catch Basin
- Discharge_Points

Right-of-Way Type

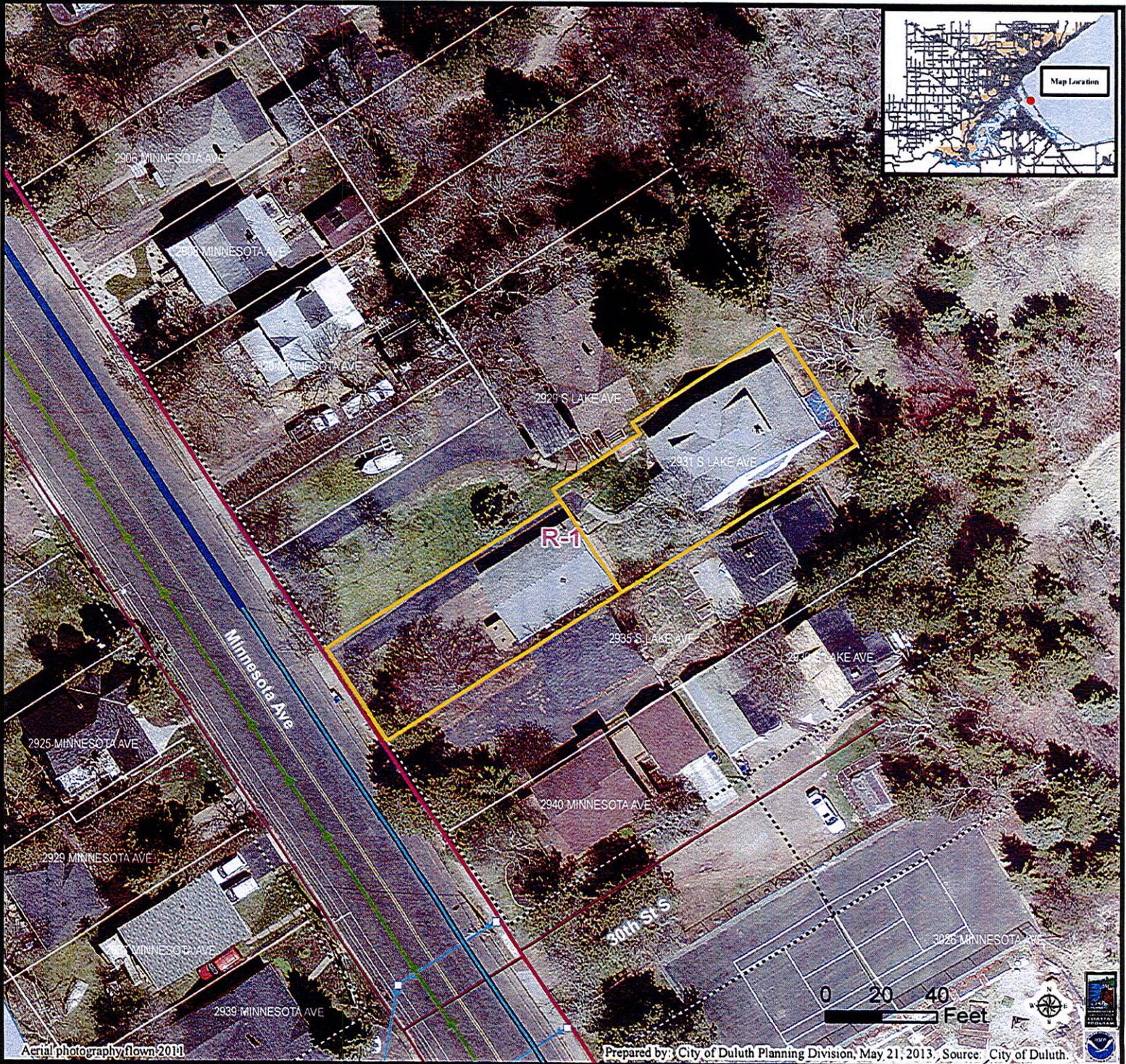
- Road or Alley ROW
- Vacated ROW

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.

D-3



Aerial photography, flown 2011

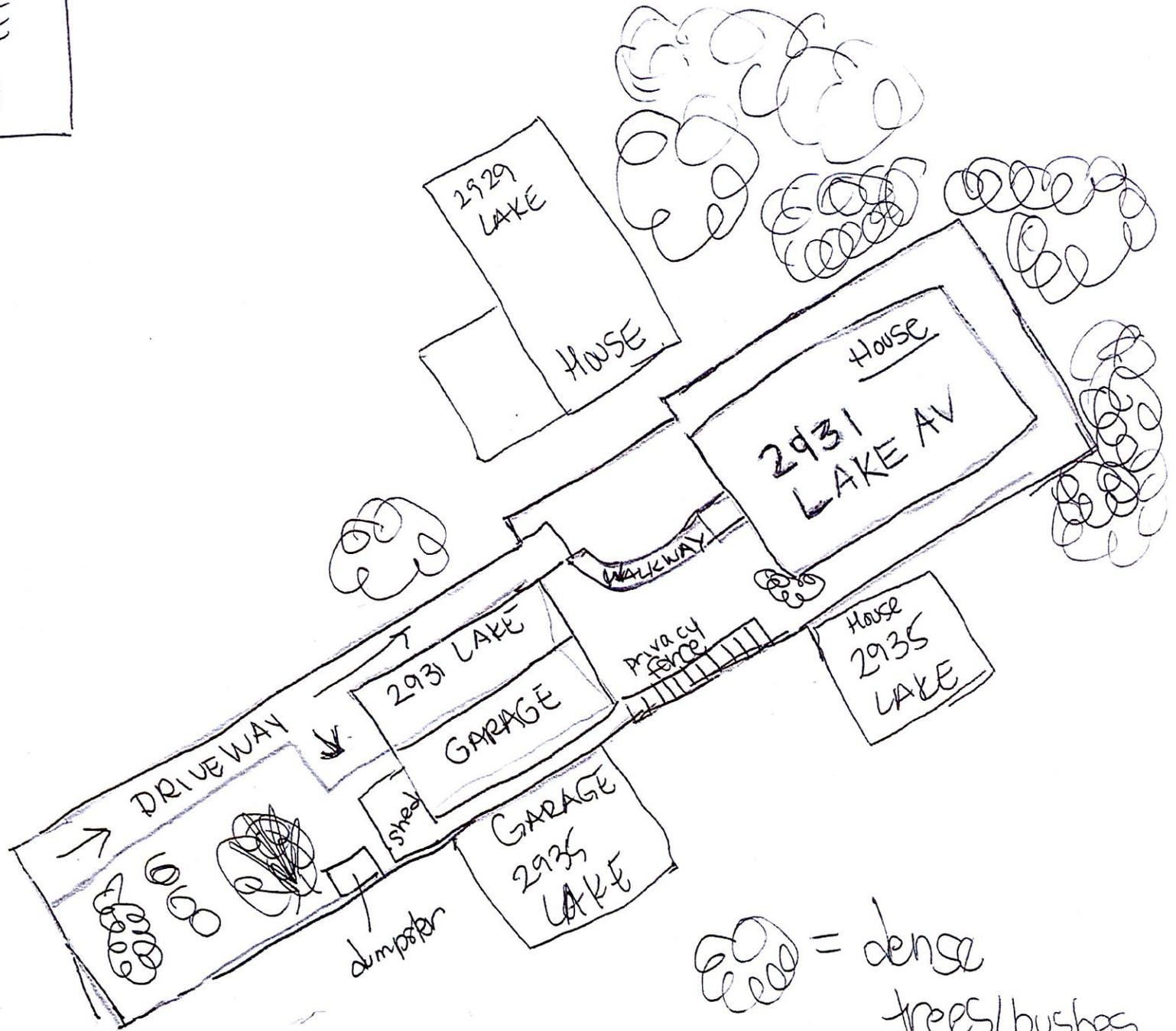
Prepared by: City of Duluth Planning Division, May 21, 2013, Source: City of Duluth.

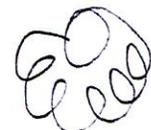


4 D-4

2931 LAKE Site Plan

driveway
can fit
3 cars
easily



 = dense
trees/bushes