



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	PL13-075	Contact	Kyle Deming, kdeming@duluthmn.gov	
Application Type	Interim Use Permit	Planning Commission Date	June 11, 2013	
Deadline for Action	Application Date	May 9, 2013	60 Days	July 8, 2013
	Date Extension Letter Mailed	May 22, 2013	120 Days	September 6, 2013
Location of Subject	1520 Minnesota Ave.			
Applicant	William Michels	Contact	billmichels@visi.com, 612-382-3743	
Agent	Mike Barrett	Contact	278-590-0080	
Legal Description	LOTS 71 and 73 INC LOT 74, Upper Duluth Minnesota Avenue (Parcel ID: 010-4390-00390)			
Site Visit Date	May 23, 2013	Sign Notice Date	May 28, 2013	
Neighbor Letter Date	May 23, 2013	Number of Letters Sent	28	

Proposal

Interim Use Permit for two vacation dwelling units; Unit A consisting of 3 bedrooms in a two-story dwelling and, Unit B consisting of 2 bedrooms in a one-story dwelling behind Unit A.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Dwellina and accessory dwellina	Traditional Neighborhood
North	R-1	Dwellinqs	Traditional Neighborhood
South	R-1	Dwellinqs	Traditional Neighborhood
East	R-1	Park Point Beach	Preservation
West	R-1	Dwellinqs	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.

5-1

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 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. 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 three off-street parking spaces end-to-end. This arrangement will require "jockeying" cars around when the vehicle closest to the house is needed and there are cars parked behind it, which is acceptable if all of the vehicle owners are sharing a single household. However, the applicant's request is to rent out Units A and B to different parties, which is not conducive to "jockeying" cars, and the likely result is guests parking on the street to avoid the situation. Therefore, staff's recommends that only one five-bedroom vacation dwelling unit be allowed at the property.
- 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 Units 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.
- 7.) Two letters (attached) were received from neighbors regarding this application.

Staff Recommendation (include Planning Commission findings, i.e., recommend to approve):

Based on the above findings, staff recommends the Commission recommend approval of an Interim Use Permit for one vacation dwelling unit 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 13-075

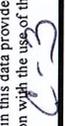
Interim Use Permit

Vacation Dwelling Unit

1520 Minnesota Avenue

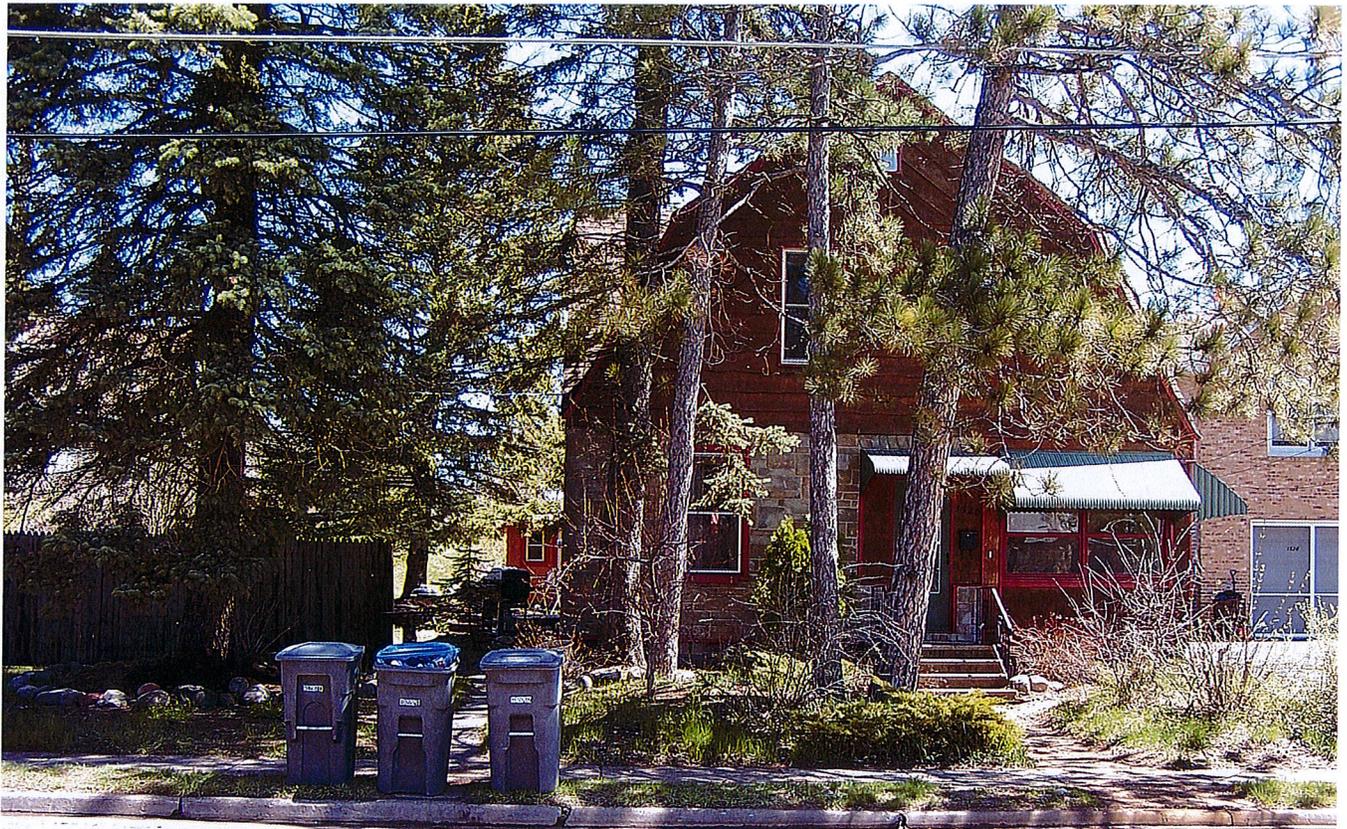


The City of Duluth has tried to ensure that the information contained in this map or electronic document is accurate. The City of Duluth makes no warranty or guarantee concerning the accuracy or reliability. This drawing/data is neither a legally recorded map nor a survey and is not intended to be used 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.



Aerial photography flown 2011

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

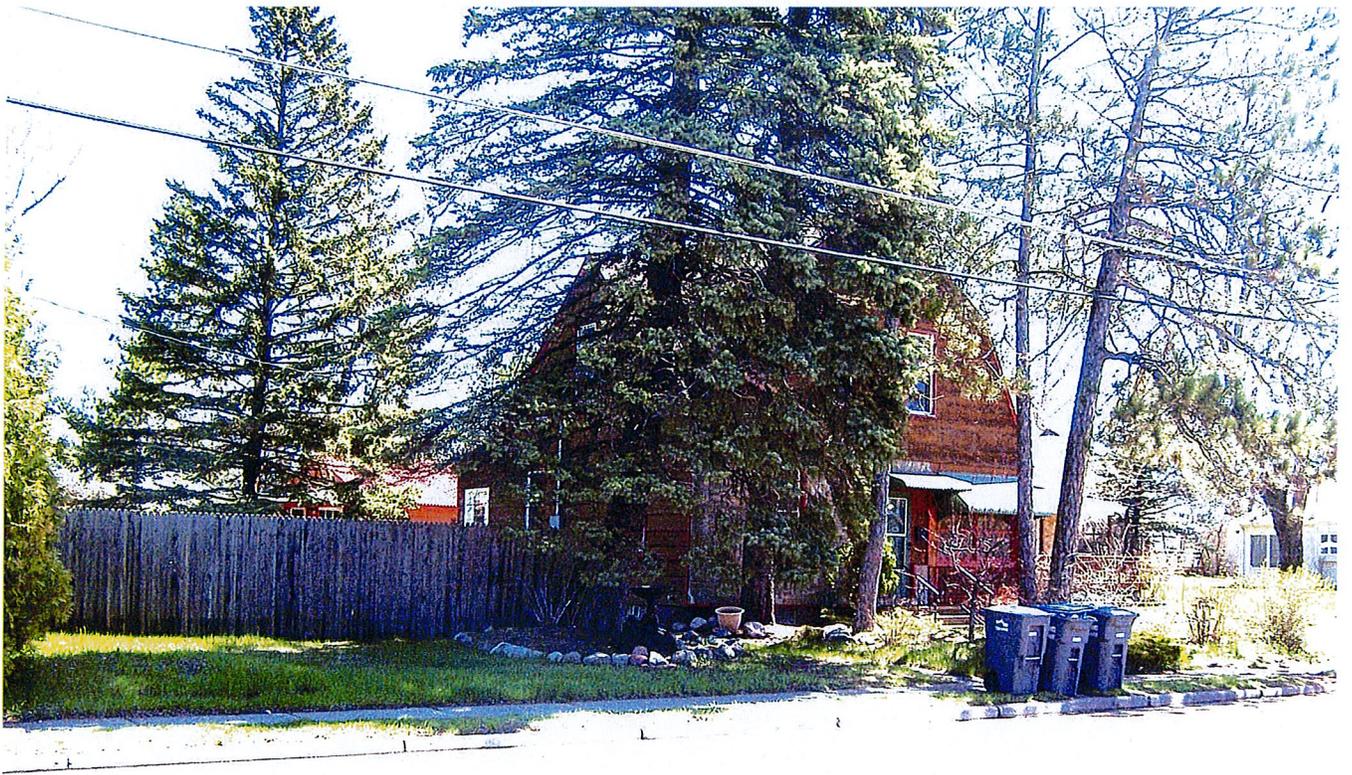


05/23/2013



05/23/2013

C-4



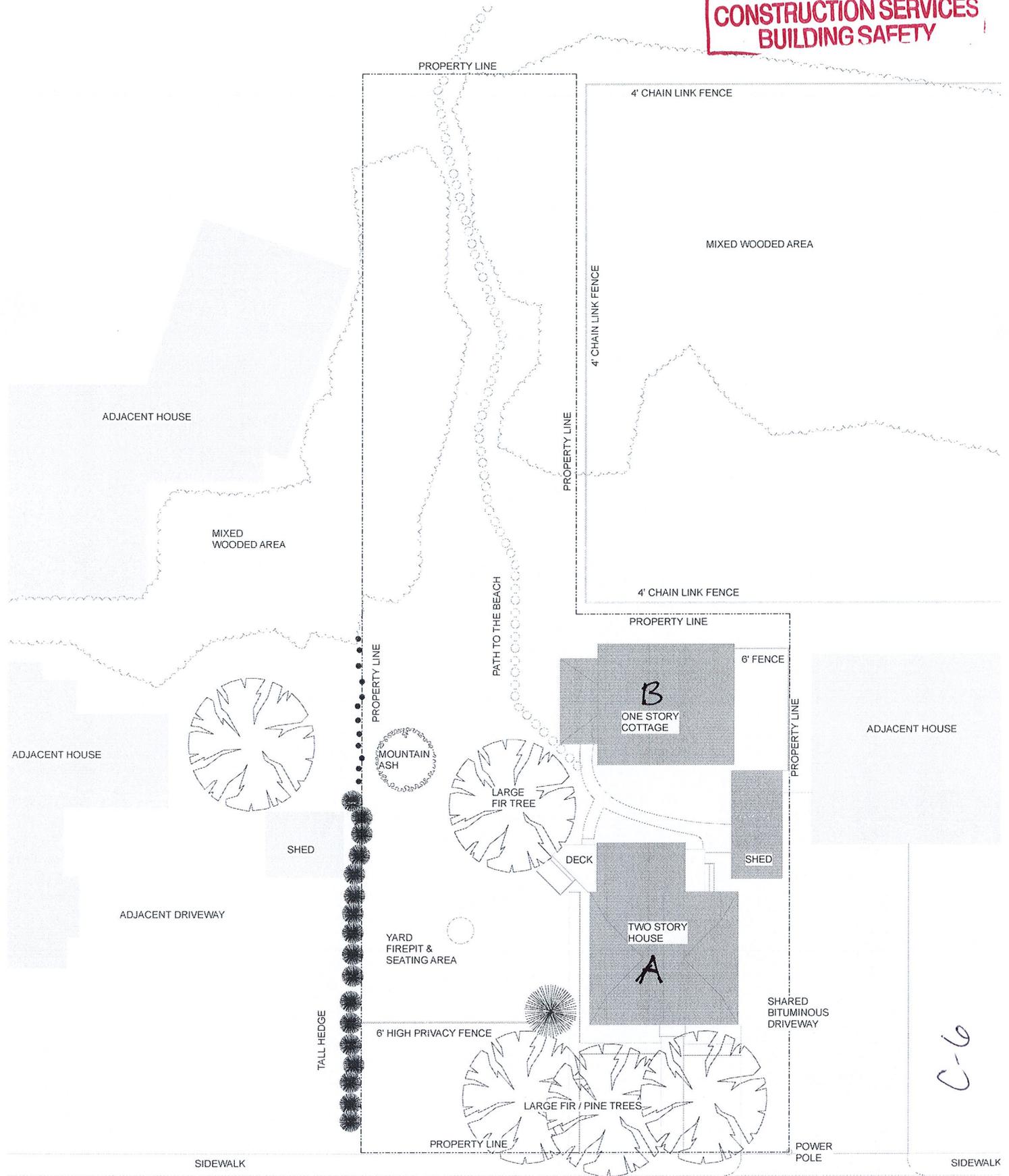
05/23/2013

C-5

RECEIVED

MAY 09 2013

CONSTRUCTION SERVICES
BUILDING SAFETY



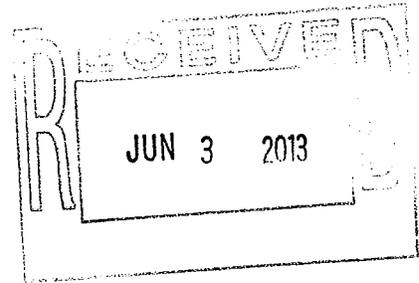
C-6

MINNESOTA AVENUE

RECEIVED MAY 09 2013

May 31, 2013

Planning Commission
411 West First St
Room 208
Duluth MN 55802



RE: Interim Use Permit request for 1520 Minnesota Ave
William Michels – property owner

Dear Planning Commission members,

My name is Molly Haugen and I am an adjacent home owner to the above referenced property. My home sits next to Mr. Michels' 40 foot back lot. It is the one with the brown roof.

I am writing to express my opposition to Mr. Michels' petition to operate two vacation dwelling units on this property. He has already been renting these two units for more than 5 years, so I have a lot of experience with its use.

My objections fall into three main categories: 1. Occupancy levels 2. Regulation violations 3. The interference of my enjoyment of my property.

Occupancy levels

The property consists of a single family home with two bedrooms and a two- bedroom "bunkhouse" that lies directly behind the house. (this is a formerly unoccupied structure that Mr. Michels improved to make to habitable.) As can be seen from Mr. Michels' own marketing literature, in addition to the bedrooms, he also advertises extra sleeping space in the living room, game room and living room of the bunkhouse. Altogether, he offers this property to sleep 12 people. As if that occupancy density wasn't high enough, there have also been instances in which the renters have also set up tents in the side and back lot to accommodate even more people.

The two dwellings sit on an 80x100 foot lot. If this was a long-term rental space, an occupancy level of 12 would be considered a tenement. Is there a distinction between 12 permanent residents and 12 residents that turn over every few days?

My understanding of the theory behind vacation rentals is that they allow a vacationer to experience someone's home much the way the homeowner does - to experience a destination the way a "local" does. In short, substituting one family for another. In no way would Mr. Michels occupy this home with 12 people.

I believe that the density of two vacation dwellings on this property is beyond the intent of this type of use. If this is not an example of over-occupancy, what would be? Also, if this permit is granted for both of these dwellings, this property will be used by other applicants as the standard of what is acceptable. There may be additional renovation on other existing home sites to add to their income base. All of this will be done at the expense of the original concept behind the vacation rental philosophy.

C-7

2. Regulation violations

Over the last 5 years, Mr. Michels has flaunted many of the regulations that come with vacation rentals. The first one is the occupancy levels. As seen from this own marketing literature, he has had large groups rent this over the years. Groups of 10 -16 are not uncommon. He advertises it as perfect for large groups. In reality, even if you include both properties, his maximum capacity should have been 9 people. There are only a few vacation rentals that cater to large crowds. His is one. Of course, the number of occupants at any given point doesn't affect Mr. Michels personally, as his residence is in Minneapolis and he never actually meets the occupants. I have on occasion called Mr. Michels to complain about the number of renters and their noise. On one occasion, he told me to call the police about the noise. I replied that it seemed that it is his obligation to keep his renters under control, not mine.

On another occasion, when I told him there were about 30 people staying all over the property, he investigated, and called me back saying, they were having a wedding party weekend. He said he thought he had rented to a group coming up for a wedding, not hosting a wedding. On no occasion has the number of occupants been lowered to the proper level after a complaint.

Mr. Michels has allowed his renters to use his outdoor space, including a large fire pit, until all hours of the night. This fire pit, along with the large number of occupants, has combined to create a campground effect. Many resorts and actual campgrounds impose a "quiet time" between the hours of 10pm – 8am to limit disturbing neighbors. Mr. Michels imposes no such rule. During a conversation with Mr. Michels in which I complained about the noise around the campfire, I asked him if he would like to live next door to the property. He replied, "No I would not." I think that says it all.

Mr. Michels also has a history of violating the minimum required stay. He admitted as much to me by this statement, "I can't help it if the renter sublets it to someone else." With this statement, he admits that he turns the control of his property over to his renters.

In addition, he has never given me the name of anyone local to call when there is a problem.

3. Enjoyment of my property

I understand the concept of property owner's rights. I also am a property owner and have some rights. Am I asking too much to expect that the city of Duluth should take action when a property owner chronically violates the rules under which he has been licensed?

Clearly, the number of complaints that I have had about this property are directly related to the number of people occupying it. When there are 6 or fewer, there are no problems. But when there are more than that, the noise level rises in proportion. Think of your last Thanksgiving celebration with 14 family members. How quiet was it? Now think of this event taking place under your bedroom window.

One could make the argument that vacation renters should have no adverse impact on a neighborhood as they are just substitutes for a family that would reside in the dwelling anyway. In theory that is true. But when an owner stuffs his property with a ridiculous level of sleep spaces, actively violates his maximum capacity rule and imposes no restrictions on activity, this theory falls apart.

In conclusion, I am asking the Planning Commission to deny Mr. Michels' request for two vacation dwellings, and to instead limit him to just one permit for the property. In addition, to require him to abide by all the city's rules, impose quiet hours of 10 pm-8 am and provide his neighbors with a local contact who is able to resolve issues.

I believe these points represent a reasonable compromise between his ability to generate income and my ability to enjoy my property.

I hope I have presented a reasonable argument and solution to what has been a frustrating situation.

Sincerely,

A handwritten signature in black ink, appearing to read 'Molly Haugen', with a stylized flourish at the end.

Molly Haugen
1505 Lake Ave S

218-940-2690

• reviews

Accommodation and Amenities for this vacation house rental in Duluth, Minnesota

- Property Type:**house
- Meals:**Guests provide their own meals
- Floor Area:**1500 sq. ft.
- Location Type:**Beach
Beach View
- Theme:**Historic
Luxury
Firewood
Shampoo
Towels Provided
Iron & Board
- General:**Parking ...
Heating
Clothes Dryer
Living Room
Basic Soaps
Dishwasher
Microwave
Pantry Items ...
- Kitchen:**Oven
Ice Maker
Stove
Coffee Maker
- Dining:**Dining ...
Dining Area
3 Bathrooms
- Bathrooms:**Bathroom 2 - toilet , shower , Beach House
Bathroom 1 - toilet , jetted tub , combination tub/shower , Beach House
Bathroom 3 - toilet , shower , Cottage
- Bedrooms:**4 Bedrooms, Sleeps 12
Bedroom 1 - 1 queen , Beach House
Bedroom 2 - 1 queen , Beach House
Living Room - 1 sleep sofa /futon , Beach House
Game Room - 1 sleep sofa /futon , Beach House
Bedroom 3 - 1 double , Cottage
Bedroom 4 - 2 twin/ single , Cottage
Living Room - 1 sleep sofa /futon , Cottage
- Entertainment:**Video Library
Satellite / Cable
Video Games
Bicycles ...
- Outside:**Outdoor Grill Gas
Outdoor Grill
- Suitability:**pets considered
non smoking only
- Pool / Spa:**Whirlpool
autumn foliage
- Attractions:**cinemas
restaurants
museums
sledding
horseshoes
- Leisure Activities:**boating
antiquing
walking
horseback riding
- Local Services & Businesses:**fitness center
- Sports & Adventure Activities:**scuba diving or snorkeling
snorkeling
freshwater fishing
golf
tennis
cross country skiing
snorkeling/diving
surfing
hiking
hot air ballooning
wind-surfing
rock climbing
snowmobiling
- Notes:**Fire pit with seating
- Beachfront
- Downtown
- Family
- Tourist Attractions
- Laundry Soap
- Parking Off Street
- Alarm Clock
- Washing Machine
- Paper Towels
- Wireless Internet
- Linens Provided
- Toilet Paper
- Ceiling Fans
- Refrigerator
- Dishes & Utensils
- Kitchen
- Toaster
- Stove
- Cooking Utensils
- seating for 8 people
- Video Game Console
- VCR
- DVD Player
- Wood Deck
- Deck / Patio
- children welcome
- jetted tub
- live theater
- zoo
- health/beauty spa
- beachcombing
- gambling casinos
- scenic drives
- shopping
- sight seeing
- wildlife viewing
- sailing
- kayaking
- snowboarding
- ice skating
- jet skiing
- fishing
- hunting
- deepsea fishing
- skiing
- roller blading
- mountain biking
- cycling
- swimming

C-10

Learn more about this vacation rental at the owner's website:

Comprehensive Duluth attractions and events guide.
Things to see and do along the North Shore.

November 2013	December 2013	January 2014
s m t w t f s	s m t w t f s	s m t w t f s
3 4 5 6 7 8 9	8 9 10 11 12 13 14	5 6 7 8 9 10 11
10 11 12 13 14 15 16	15 16 17 18 19 20 21	12 13 14 15 16 17 18
17 18 19 20 21 22 23	22 23 24 25 26 27 28	19 20 21 22 23 24 25
24 25 26 27 28 29 30	29 30 31	26 27 28 29 30 31

February 2014	March 2014	April 2014
s m t w t f s	s m t w t f s	s m t w t f s
1	1	1 2 3 4 5
2 3 4 5 6 7 8	2 3 4 5 6 7 8	6 7 8 9 10 11 12
9 10 11 12 13 14 15	9 10 11 12 13 14 15	13 14 15 16 17 18 19
16 17 18 19 20 21 22	16 17 18 19 20 21 22	20 21 22 23 24 25 26
23 24 25 26 27 28	23 24 25 26 27 28 29	27 28 29 30
	30 31	

Email Owner

Changeover Day: sunday

- Overview
- Photos
- Map
- Calendar
- Rates
- Amenities
- Reviews

Rental Rates for this vacation house rental in Duluth, Minnesota

Rental Basis: Per property
 Rental rates quoted in: USD

Approximate equivalent in:

Rate Period	Nightly	Weekend Night	Weekend	Weekly	Monthly *	Event	Minimum Stay
Base Rate	\$450			\$2,450	\$9,800		5 nights
Winter Season Nov 1 - Apr 30	\$125	\$225 Fri, Sat		\$700	\$2,380		2 nights
Spring May 1 - Jun 15	\$200	\$425 Fri, Sat		\$1,575	\$5,600		2 nights
Fall Sep 1 - Oct 31	\$200	\$425 Fri, Sat		\$1,575	\$5,600		2 nights

Additional information about rental rates

Deposit required to secure rental reservation.

Fees And Taxes \$75 cleaning fee and state and local taxes of 10.875% additional.

* Approximate monthly rate. Actual rate will depend on the days of the month you stay.

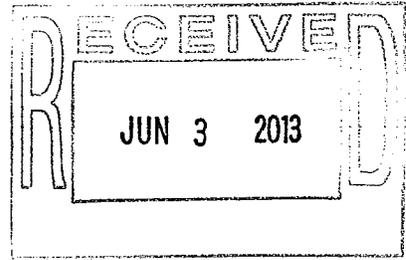
Payment is usually accepted in the quoted currency (USD) unless the currency and the amount is specifically agreed in advance with the owner / advertiser.

Email Owner

- Overview
- Photos
- Map
- Calendar
- Rates
- Amenities

C-11

Gary A. Hopp
1437 S. Lake Ave.
Duluth, MN 55802



Date: Monday, June 3, 2013

Planning Commission
City of Duluth
411 West First Street
Duluth, MN 55802

Reference: Interim Use Permit to allow two Vacation Dwelling Units (PL-13-075)

Dear Planning Commission:

My letter is concerning the two Vacation Dwelling units located at 1520 Minnesota Avenue owned by William Michels. Mr. Michels has owned this property since 2005 and to the best of my knowledge has been actively renting out this property for almost as long. One of the current rental advertisements for this property can be found on the following web site: <http://www.vrbo.com/95500>.

I am greatly concerned as this property has a great impact on the surrounding neighbors, property values, and ecology of Park Point. Here is a list of my concerns:

- 1) While I have never personally filed any nuisance complaints about this property, I have on numerous occasions experienced loud music and a "party like atmosphere" from this property well past 10pm in the evening.
- 2) It is not uncommon to find evidence of fires on the beach and trash (including beer bottles and cans) at the base of the trail leading from this property.
- 3) There appear to be times when excess renters have occupied the property with as many as 15 or more persons at a time.
- 4) It is not uncommon to see large fires burning in the fire pit located on the property and there is no longer a local fire hall available to response to fire or other medical emergencies.
- 5) As evidenced in the aerial photo, the trail between the beach and this property is eroded to a much greater degree than that of other homes indicating excessive use and traffic and causing great harm to the environmentally sensitive sand dunes.
- 6) No investigation been completed by the planning commission on the subject property to determine the history of past nuisance events dating back to 2005 when the current owner acquired the property that might indicate an ongoing problem.

C-10 C-12

- 7) The current property advertisement indicates pets are allowed yet has no fenced in enclosure to control them.
- 8) The current property advertisement does not indicate the owner has any permits to legally rent the property under existing City codes.
- 9) The property is currently advertised as "4 bedrooms – sleeps 12". This is in excess of the city code for a 4 bedroom vacation home which is 10 persons.
- 10) The property is currently advertised as having a Minimum stay of only 2 nights between Sept 1 and Sept 15, the current code requires 5.
- 11) The property is currently advertised as having monthly rentals; the current code permits stays of only up to 21 days.
- 12) To the best of my knowledge, the property owner has never notified any neighbors with contact information for the local managing agent.
- 13) At least one of the advertised bedrooms does not appear to have a proper egress window in the event of fire.
- 14) Since this property has been used as a rental property dating back possibly to 2005, does the owner have or ever had and of the following:
 - a. Required State and local sales tax number and licensure to support these activities?
 - b. Required permits from the City and State for guest occupancy?
 - c. Previous inspections and permits by the Fire Prevention Office?
 - d. Previous interim use permits?
 - e. Prior guest and vehicle records?

Please consider the above mentioned issues and concerns that I have with this property. I feel that with past history as a reference, that these proposed vacation rentals, their owner, and future renters will not be in compliance with city/state codes and ordinances and continue to be a nuisance in our neighborhood. As such I am recommending that the planning commission deny this permit.

Sincerely,



Gary A. Hopp

C-11 C-13