CITY OF DULUTH
Planning Division

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STAFF REPORT

File Number	PL 15-111		**Contact**	Steven Robertson, 218 730 5295	
Application Type	Interim Use Permit, Vacation Rental		**Planning Commission Date**	August 11, 2015	
Deadline for Action	**Application Date**	July 16, 2015		**60 Days**	September 15, 2015
	Date Extension Letter Mailed	July 22, 2015		**120 Days**	November 14, 2015
Location of Subject	718 North 7th Avenue East				
Applicant	Teresa McNelly and Rob McCleary		**Contact**	termcnel@aol.com	
Agent			**Contact**		
Legal Description	010-3940-1750				
Site Visit Date	July 30, 2015		**Sign Notice Date**	July 27, 2015	
Neighbor Letter Date	July 29, 2015		**Number of Letters Sent**	81	

Proposal

The applicants would like to use their existing 4 plex apartment as a two unit vacation rental property. A vacation dwelling unit allows rentals for 3 to 21 days, with a minimum of 2 nights, with the exception of a minimum of 5 nights from June 15 to September 15 for properties zoned RR-1, RR-2, R-1, and R-P.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1/R-2	Residential/Urban Residential	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood
West	R-1/MU-N	Residential	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.

II. E-1

Comprehensive Plan Findings (Governing Principle and/or Policies) and Current History (if applicable):

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.

Note: Interim Use Permits are approved, approved with recommendations, or denied by the City Council by resolution after a public hearing is held by the Planing Commission. Interim Use Permits expire if the project or activity authorized by the permit is not begun within 1 year.

Discussion (use numbered or bullet points; summarize and attach department, agency and citizen comments):

1) Applicants are applying for an Interim Use Permit for two rental units in an existing four-plex. The minimum rental period shall not be less than 2 nights except for the period from June 15 to Sep. 15 when the min. rental period shall not be less than 5 nights.
2) A time limit on this Interim Use is needed to verify that the Vacation Dwelling Unit can function without negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Typically Planning Staff recommends that the City Council resolution states that approval shall expire upon change in ownership of the property or in six years, whichever occurs first.
3) The applicant owns a portion of two lots, Lots 15 and 16 of Block 10 of Nortons Division of Duluth; the two lots total 40 feet wide by 100 feet long. According to St. Louis County records, the structure was built in 1912 and has a main floor sq. ft. of 2,160, with a gross area of 4,320 sq. ft. It has 4 units; two 2 bedroom units and two 1 bedroom units.
4) The applicant will rent out both of the two bedroom units, allowing a maximum of 5 guests in each unit at any one time; the applicant will provide two street parking space behind the structure for the vacation rental units, with two additional off-street parking spaces (stacked or tandem) for the other two long-term rental units. The Fire Department does not object to tandem parking for renters when the units are in the same structure. As long as the minimum number of parking spaces are provided per the parking requirements, and those are not stacked or tandem parking spaces, there is not in conflict with the UDC.
5) Permit holders must designate a managing agent or local contact who resides with 25 miles of the City and who has authority to act for the owner in responding 24 hours a day to complaints from neighbors or the City. Permit holder must provide the contact information for the managing agent or local contact to all property owners within 100 feet of the property boundary. Applicant will act as managing agent (as applicant lives in home adjacent to this property).
6) The applicant has not provided any plans showing additional buffering/screening. While the site is tight and the applicant will not have an area for guests outdoor recreation use, the Planning Commission may want to consider additional screening to reduce land use conflicts between this property and the home directly to the north (such as a fence along the parking lot).
7) Applicant has completed an inspection from the Minnesota Department of Health as part of the process for obtaining a Lodging License (on 7/10/15), and one with the City's fire prevention officer (operational permit issued on 7/1/15). Applicant will apply for a Hotel/Motel License and a Tourism Tax permit if approved by the City Council.
8) Applicant must comply with Vacation Regulations (included with staff report), including providing information to guests on city rules (included with staff report as "Selected City Ordinances on Parking, Parks, Pets, and Noise").
9) No public, agency, or City comments were received.

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

Based on the above findings, Staff recommends that Planning Commission recommend approval subject to the following:
1) The Interim Use Permit shall not be effective until the applicant has received all required licenses and permits for operation.
2) The applicant shall adhere to the terms and conditions listed in the interim use permit document and provide evidence of compliance, which will be included in the resolution to the City Council (guest record book including name, address, phone number and vehicle license plate; name, address, and phone number of local contact/managing agent to property owners within a 100 feet; rules of how the property can be used must be provided to guests including selected city ordinances on parking, parks, pets and noise; and acknowledge that interim use permit may be suspended in the event of multiple nuisance calls).
3) Any alterations to the approved plans that do not alter major elements of the plan may be approved by the Land Use Supervisor without further Planning Commission review; however, no such administrative approval shall constitute a variance from the provisions of Chapter 50.

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

City Planning

PL 15-111
718 N 7th Ave E

Legend

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

Zoning Boundaries

- Zoning Boundaries

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

Right-of-Way Type

- Road or Alley ROW
- Vacated ROW

Easement Type

- Utility Easement
- Other Easement

Shoreland Overlay Zone

- Cold Water
- Natural Environment
- General Development

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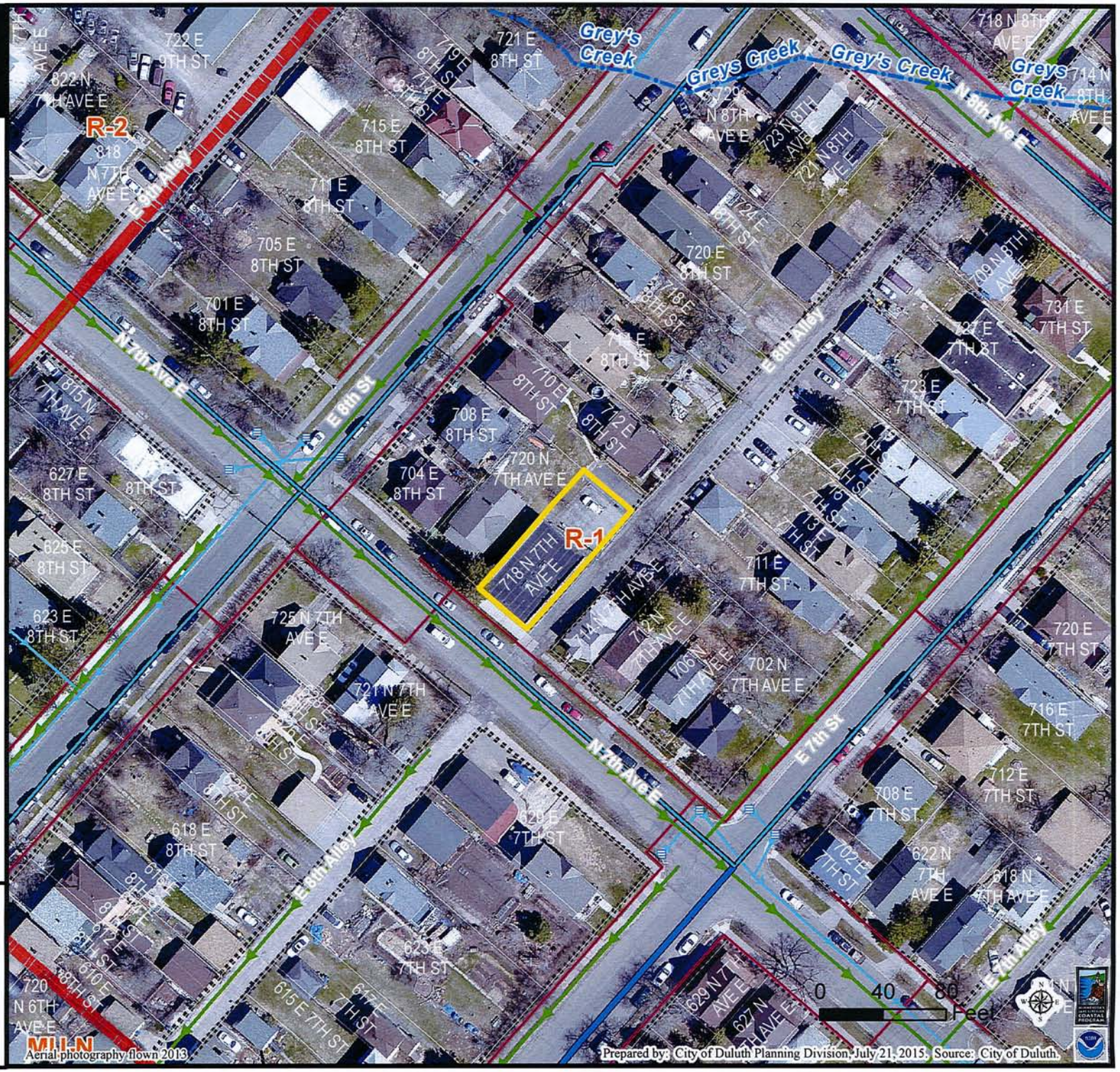

City Planning

PL 15-111

718 N 7th Ave E

Legend

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Index_

- Intermediate
- Index
- Trout Stream (GPS)
- Other Stream (GPS)

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C-4

APPLICATION PROPOSAL FOR INTERIM USE PERMIT (VACATION RENTAL)

- We, the applicants, Teresa McNelly and Rob McCleary have lived in the same house in the East Hillside neighborhood for 23 years. (712 E. 8th Street)
- We purchased a duplex and fourplex on our city block 11 and 9 years ago.
- Our reasoning behind purchasing these buildings was neighborhood improvement as well as part time income for Teresa, allowing flexible work from home, being available to her growing children.
- We live behind the duplex from the East 8th Sreet view and behind the fourplex from the 7th Avenue East view. We have maintained residential rental licenses for 9 years and have our fourth fourplex licensing inspection scheduled for July 21, 2015 with Life Safety.
- Both the duplex and fourplex were originally built with rental units as their purpose, not as single-family homes.
- Our neighborhood is a mix of rental property and homeowners

THE SUBJECT OF THIS REQUEST IS THE FOURPLEX AT 718 N 7TH AVE EAST

- We are in our 9th year of renting this two 2 bedroom and two 1 bedroom rental property.
- We have completely renovated this building attempting to keep as much original character as possible, investing copious amounts of time and money, bringing up to code and upgrading cosmetically.
- WE ARE REQUESTING TO CONVERT THE UPPER 2 UNITS TO VACATION RENTAL UNITS. THESE ARE 2 BEDROOM UNITS.
- We are troubled by the difficulty in finding local renters who don't smoke or have pets.
- We experienced the negative effects of the recession in owning real estate. Currently we are experiencing negative effects of the increase in development of large rental complexes being newly built in Duluth. The "1% vacancy rate" which is so often publicly quoted has not been our experience.
- If an interim use permit were approved, allowing rental to 5 persons in each unit, we would prefer 3-4 people occasionally and 1-3 renters frequently. We have always been cognizant of noise levels and number of vehicles crowding the neighborhood.
- We are interested in having mostly 21-30 or more days of stay with potential renters needing a private furnished living quarters with cooking availability.

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- Furnished apartments also prevent the wear and tear of renters moving in/out their own furnishings.

- We live next door and would be able to monitor any disturbances.

- To our knowledge there have been no disturbances in 9 years that we didn't address ourselves. And these have been very few. (there was one 911 emergency medical call – Diabetes related.)

- Green space is limited—there would be no outdoor activities including, but not limited to fire pit or outdoor cooking.

- An approved interim use permit would allow us the flexibility to rent for 5-7 days, along with 21-30 plus day stays. We are less interested in 2-3 day stays, but, if need be would have this flexibility also.

- There is sufficient room behind the building for the 2 off-street parking space requirement for the interim use permit and 2 additional spaces for the residential licensing requirement. (see site plan mapping)

- We have obtained and complied with:
    1. Preliminary MDH inspection.
    2. Fire Operational Permit
    3. State Tax ID number
    4. Permit for City of Duluth Tourism Tax
    5. Providing a professional Architect report as per Change of Use ordinance

- Once the Interim Use Permit is approved we will:
    1. Notify our neighbors within 100' of the property of the intended use.
    2. Compile a binder to provide City of Duluth Rules and Regulations to our guests.
    3. Apply for City of Duluth Hotel/Motel licensure with the City Clerk's office.
    4. Obtain a Lodging License from the State Department of Health—preliminary inspection has been completed.
    5. Apply for a Change of Use Permit as per the Construction Services requirements.
    6. Follow all and additional requirements of the permit process.

We appreciate in advance your affirmative consideration in granting an interim use permit for vacation rental use of the two upper units at 718 N. 7th Ave E.

Sincerely,

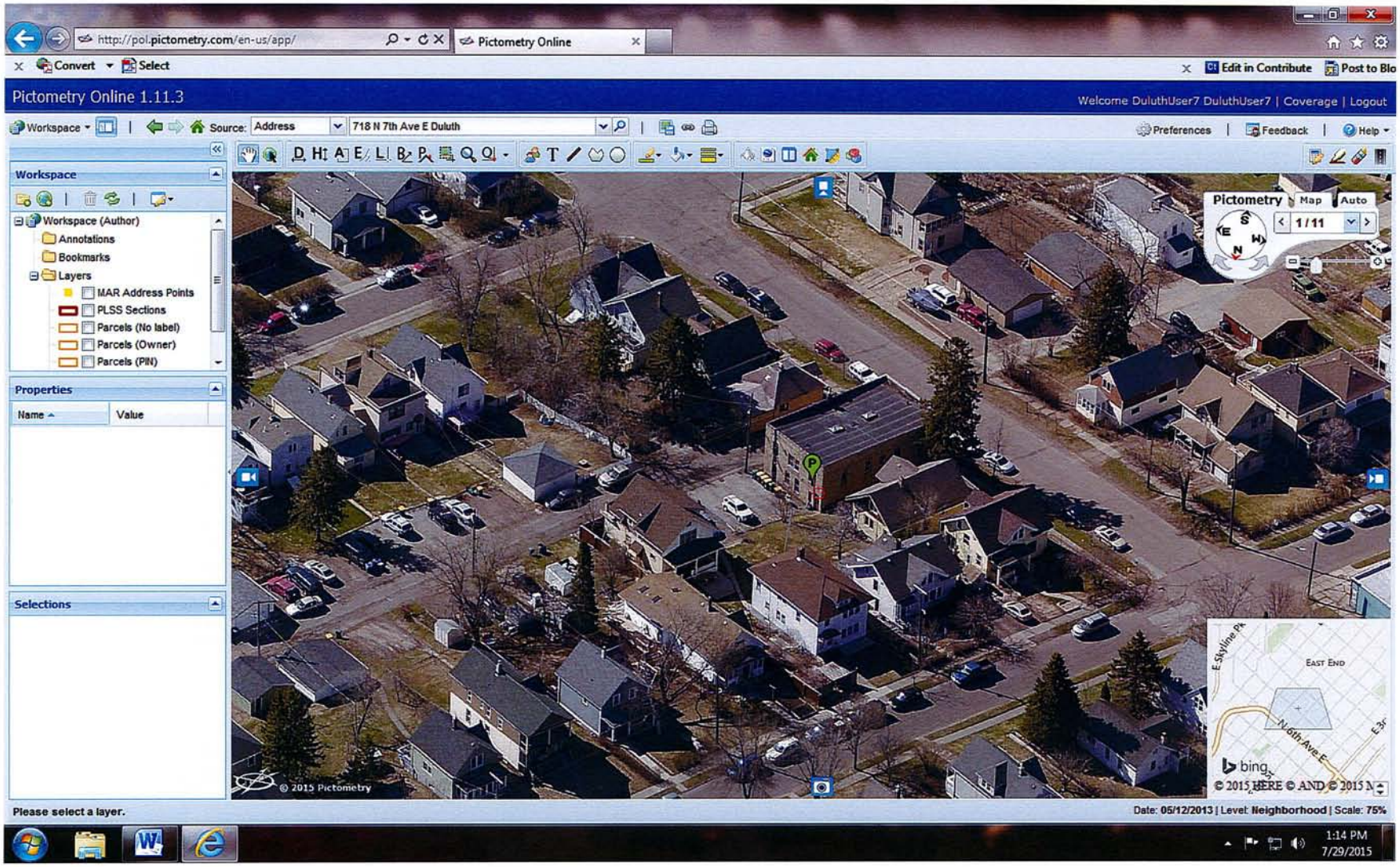
Teresa McNelly

Rob McCleary

9-19

N. 7th Ave E
E 8th St
718 N. 7th Ave E
Subject
32' Deep
LAWN
9'
17'
9'
17'
9'
17'
9'
17'
Remove 2' lawn
6' for garbage recycle containers
8th St. Alley
33' long
712 E 8th St.
Rob McCleary
Teresa McNelly
Residence

E-7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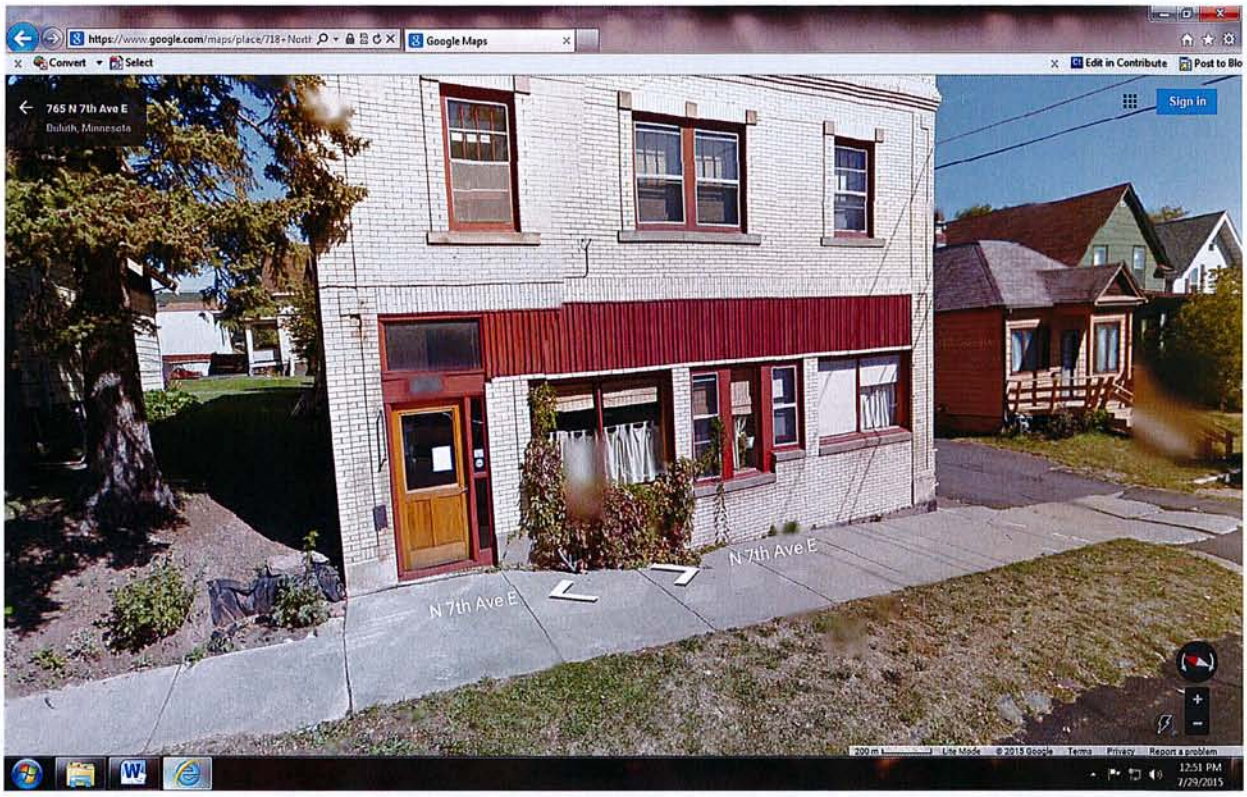
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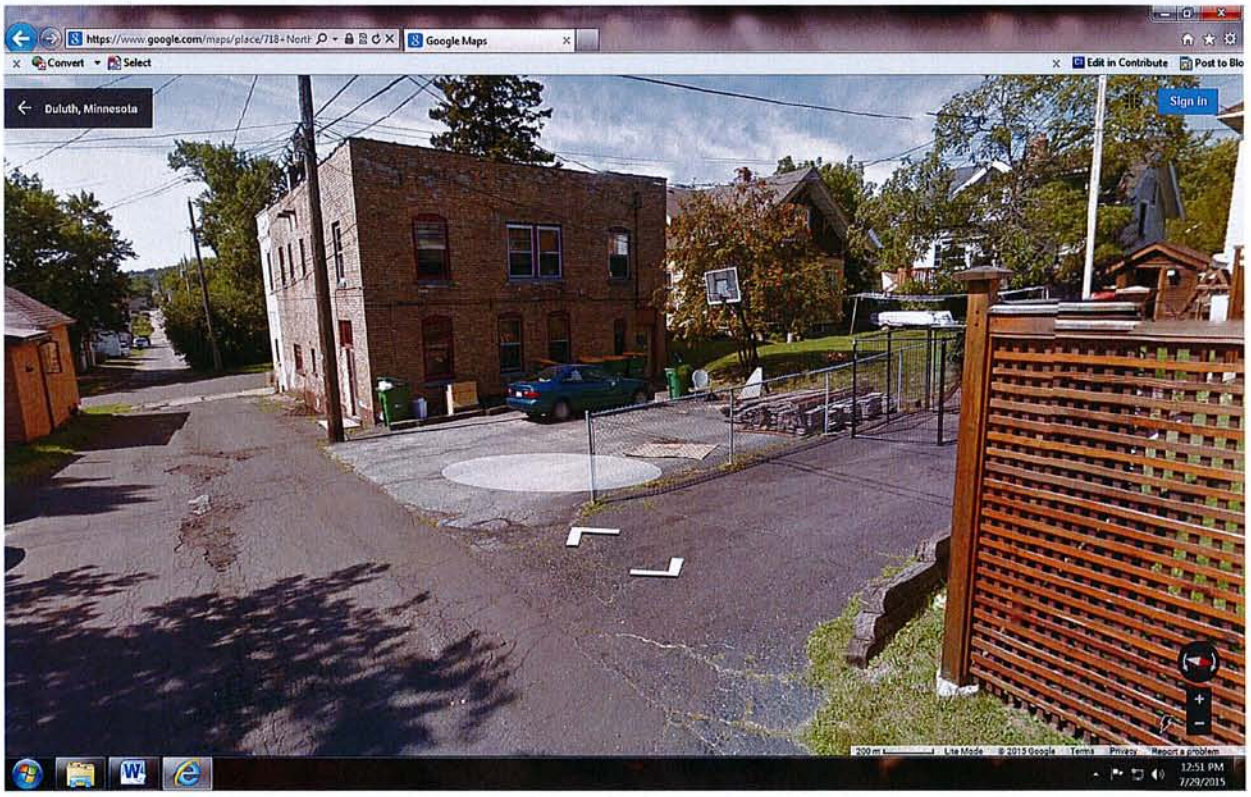
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