CITY OF DULUTH
Planning Division

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STAFF REPORT

File Number	PL 16-050		**Contact**	John Kelley, 218 730-5326	
Application Type	Interim Use Permit, Acc. Vacation Rental		**Planning Commission Date**	June 14, 2016	
Deadline for Action	**Application Date**	May 13, 2016	**60 Days**	June 12, 2016	
	Date Extension Letter Mailed	July 22, 2015	**120 Days**	August 11, 2016	
Location of Subject	1235 Minnesota Avenue				
Applicant	Tom and Marianne Thiry		**Contact**	mthiry40@gmail.com	
Agent			**Contact**		
Legal Description	010-4390-01940				
Site Visit Date	June 2, 2016		**Sign Notice Date**	May 31, 2016	
Neighbor Letter Date	May 31, 2016		**Number of Letters Sent**	20	

Proposal

The applicants would like to use their accessory dwelling unit as a vacation rental property. An accessory vacation dwelling unit allows for periods of occupancy of 2 to 29 days, with a minimum of 2 nights.
Note: On May 23th, 2016 City Council approved amendments to the Unified Development Chapter regulating accessory vacation dwelling units per ordinance 16-022-O. The amendments to accessory vacation dwelling unit use specific standards will become effective June 25th, 2016. The Planning Commission shall review this proposal per the amended use specific standards for vacation dwelling units.

	Current Zoning	Existing Land Use	Future Land Use Map Designation
Subject	R-1	Residential	Traditional Neighborhood
North	R-1	ResidentiaL	Traditional Neighborhood
South	R-1	Residential	Traditional Neighborhood
East	R-1	Residential	Traditional Neighborhood/Recreation
West	MU-W	US Coast Guard	Transportation & Utilities

Summary of Code Requirements (reference section with a brief description):

UDC Section 50-19.8. Permitted Use Table. An Accessory 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):

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.

The proposed accessory vacation dwelling rental is located on an existing lot and within an existing accessory dwelling unit in a residential neighborhood. The use, dwelling unit and lot are consistent with traditional neighborhood character.

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 an accessory vacation dwelling unit in an existing accessory dwelling unit. The minimum rental period shall be not be less than two consecutive nights.
2) A time limit on this Interim Use is needed to minimize negative impacts to surrounding residential uses thereby causing damage to the public's health, safety and welfare. Section 50-20.3.U.7 states the interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first.
3) The applicants property is located at the "S Curve" (South Lake Avenue and Minnesota Avenue) on Park Point. The lot has two units, a principle dwelling unit and an accessory dwelling unit. The accessory dwelling unit has one bedroom, which would allow for a maximum of 3 people.
4) The property has street frontage along the "S Curve" with an address of 1235 Minnesota Avenue. The lot has no curb cut to allow for off street parking. The applicant has met with the City Engineering Department (see attached letter) to review the site for a curb cut off of Minnesota Avenue. The applicant also met with Planning Staff to review the required parking location regulations. The applicant intends on providing a pad for two parking spaces in the northeast corner of the lot for the vacation rental unit.
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 provided a site plan showing existing buffering/screening between adjacent properties. The north side of the property has a combination of building, fencing and shrubs for existing screening. The southwest corner of the rear yard is screened with an existing fence and trees to buffer the area form the adjacent property for guests outdoor recreation use.
7) Applicant has completed an inspection from the Minnesota Department of Health as part of the process for obtaining a Lodging License (on 5/9/16), and one with the City's fire prevention officer (operational permit issued on 5/10/16). The Applicant has applied for a Hotel/Motel License and has acquired a Tourism Tax permit.
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 or agency comments were received. City Engineering commented on curb cut location and proximity to utilities. Parking may not block sidewalk at anytime.

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.
3) The curb cut on Minnesota Avenue shall be constructed prior to the issuance of the Interim Use Permit meeting the design requirements of the City of Duluth Engineering Department.
4) The parking area shall be constructed prior to the issuance of the Interim Use Permit meeting the parking area requirements in Table 50-24.3 of the Unified Development Chapter.
5) The parking space shall meet the parking dimensional design standards for standard vehicle size requirements in Table 50-24.4 of the Unified Development Chapter.
6) The applicant must disclose to all guests, in writing, the location of the nearest legal access to the Lake Superior beach; and
7) 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.
8) Per Section 50-20.5.I.2 of the UDC no variance shall be granted for an accessory dwelling unit.

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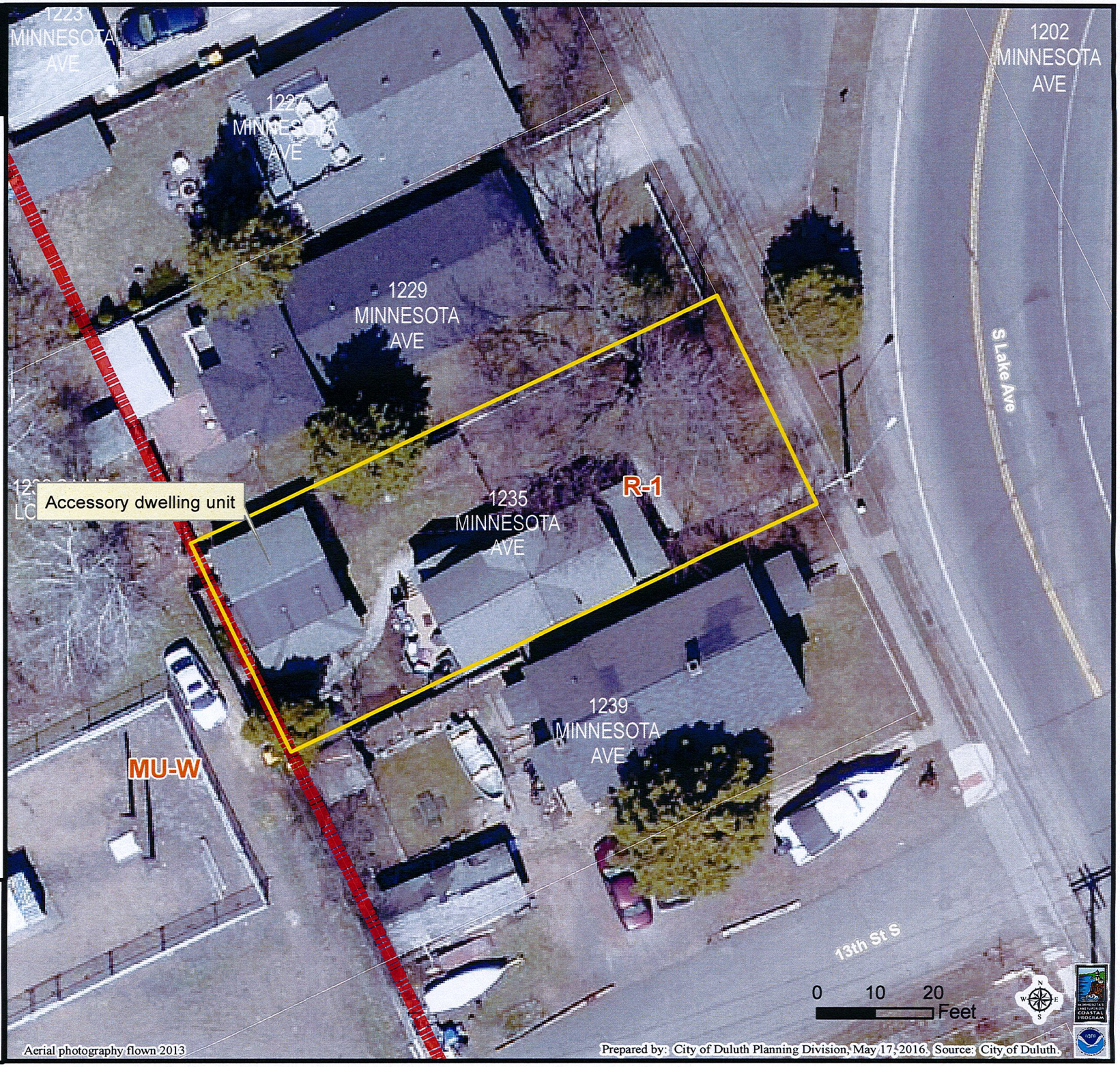
Attachments (aerial photo with zoning; future land use map; site plan; copies of correspondence)

City Planning
PL 16-049/16-050
1235 Minnesota Ave
Interim Use Perit-VDU
Zoning Map

Legend

Zoning Boundaries



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City Planning

PL 16-049/16-050
1235 Minnesota Ave
Interim Use Perit-VDU
Zoning Map

Legend

Future Land Use - Plus

Future Land Use

- Preservation
- Recreation
- Rural Residential
- Low-density Neighborhood
- Traditional Neighborhood
- Urban Residential
- Neighborhood Commercial
- Neighborhood Mixed Use
- General Mixed Use
- Central Business Secondary
- Central Business Primary
- Auto Oriented Commercial
- Large-scale Commercial
- Business Park
- Tourism/Entertainment District
- Medical District
- Institutional
- Commercial Waterfront
- Industrial Waterfront
- Light Industrial
- General Industrial
- Transportation and Utilities

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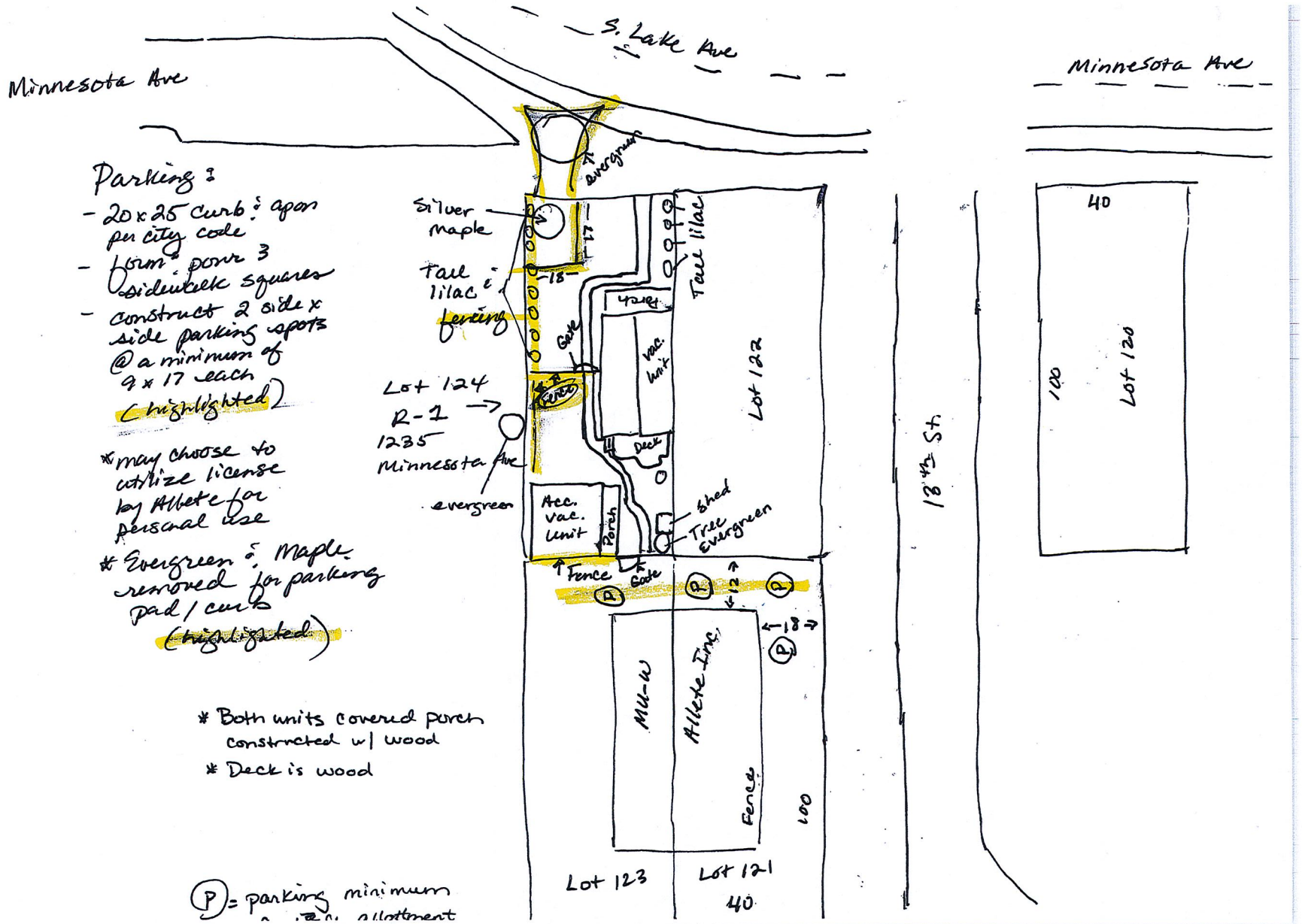
Minnesota Ave
S. Lake Ave
Minnesota Ave
Parking:
- 20 x 25 curb & apron per city code
- form & pour 3 sidewalk squares
- construct 2 side x side parking spots @ a minimum of 9 x 17 each (highlighted)
* may choose to utilize license by Allete for personal use
* Evergreen & Maple removed for parking pad / curb (highlighted)
* Both units covered porch constructed w/ wood
* Deck is wood
(P) = parking minimum
Silver Maple
Tall lilac & fencing
Gate
Lot 124
R-1
1235 Minnesota Ave
evergreen
Acc. vac. unit
Porch
Deck
vac. unit
Tall lilac
Lot 122
Shed
Tree Evergreen
Fence
Gate
MU-W
Allete Inc.
Fence
Lot 123
Lot 121
40
100
18th St.
40
100
Lot 120

D-5

Interim Use Permit-Vacation Dwelling Unit

City of Duluth

Planning Commission

411 West First Street

Rm 210

Duluth, MN 55802

Tom and Marianne Thiry

1235 Minnesota Ave.

Duluth MN 55802

651-252-9633

Email: mthiry40@gmail.com

PARCEL ID # 010-4390-01940

Describe the reasons for this request:

1. We are requesting a permit for a vacation dwelling and accessory dwelling unit. We have and intend to continue to homestead this property.
2. We began looking for property in Duluth that would serve as our home; a place for our daughter to live when attending college; and a place that could help support the home with rental income.
3. My husband was diagnosed with stage IV cancer in April of 2014 and has since retired from his 27 year career as a Journey Man Electrician with the local 110 (Hunt Elec.). In August 2014 I became unable to work; for the first time since age 12.
4. We sought Duluth for its opportunity for education, vocation, health care and strong community based culture.
5. The property we purchased is the perfect fit for our family. It has two dwelling units which allows for our daughter (Sadie Broll) to manage the property when we are away; thus providing her housing and vocation while furthering her education. It allows us to return to a place with good health care as we are unsure of when that will be critical.
6. We have invested our income from the sale of our home; as well as income from our retirement fund. We hope that the return on investment supports the community on Park Point; the City of Duluth Tourism and taxation, as well as provide us a means to have a home and a way to assist with the mortgage. We built that home on virgin farm land completing most projects ourselves when the money and time allowed. We raised four children at that home in that community and put our heart and soul into the property.

7. We have done good research and found contractors to manage booking/ inquires/ taxation/ maintenance etc. As our intention is to preserve the dwelling for our own living in this community; to be good stewards of the area, and work within our own limitations.
8. We have already completed improvements to the home through: an energy audit and subsequent action on recommendations; install fire/ carbon monoxide alarms; custom door (not cheap) replacement; new sump and back up sump; installation of a drain system under the washer; cleaned up the decks and gardens; and restored the decking material. We intend to repaint trim and decking this spring with the help of our children. We intend to refinish the exterior within the next two years.
9. We hope that the income from the vacation dwelling units will support the continued maintenance and homestead of this very unique and original property on Park Point. We hope that it brings joy to families visiting this great place!

Our progress with requirements:

1. We completed our pre-app meeting on 4/18/16.
2. We completed inspections with life/ fire/ safety and MDH lodging divisions.
3. We have obtained an operational permit from the City of Duluth Fire Department issued 5/10/16 license # FPOP2016-7152. The MDH lodging license will be issued post City planning approval.
4. We have been working with Jill Helmer at Allete Inc. to develop a license to utilize lots 121 and 123 for the parking requirements. We have obtained an initial draft of that license for your review. Which we may choose for personal use.
5. We have notified neighbors: Mark Elden 1239 MN Ave.; Trevor Lindblom 1229 MN Ave.; Patricia Greene 1227 MN Ave. and Terry and Karen Slattery 1301 MN Ave. We spoke directly with Mark and Karen and sent a card to all; which included our intention for application and our contact information.

Parking:

My site plan will show areas intended for parking. If you reference the map you will see that Minnesota Ave was stopped short at our neighbor to the left- while Lake Ave makes the bend in front of our house- MN Ave does not begin again until it reaches our neighbor to the right.

I do not know the history of this planning; however, it left our property without on street access. I suspect it is for safety reasons given it is on a curve protecting the Franklin Playground. I request your consideration of that historical planning when reviewing the parking license.

Our contractor met on site with Engineering to review driveway / parking design. This was approved by zoning / engineering. It will be completed post planning review. (It is a 10K expense so we think it wise to wait)

We look forward to being good stewards to this community; and are encouraged by the hopes and opportunities that Duluth has for us.

With Respect

Tom and Marianne Thiry

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