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	PL 16-046	**Contact**	Kyle Deming, 218-730-5329		
Application Type	Interim Use Permit, Vacation Dwelling Unit	**Planning Commission Date**	June 14, 2016		
Deadline for Action	**Application Date**	May 12, 2016	**60 Days**	July 11, 2016	
	Date Extension Letter Mailed	May 31, 2016	**120 Days**	September 9, 2016	
Location of Subject	1329 Minnesota Avenue				
Applicant	David Wade	**Contact**	davewmaryr@gmail.com, 218-720-3895		
Agent		**Contact**			
Legal Description	010-4390-01850				
Site Visit Date	June 2, 2016	**Sign Notice Date**	May 31, 2016		
Neighbor Letter Date	June 2, 2016	**Number of Letters Sent**	28		

Proposal

The applicants would like to use their 3 bedroom single family home as a vacation rental property. A vacation dwelling unit allows for periods of occupancy of 2 to 29 days, with a minimum stay of 2 nights.

Note: On May 23th, 2016 City Council approved amendments to the Unified Development Chapter regulating vacation dwelling units per Ordinance 16-022-O. The amendments to 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
West	P-1	Vacant	Recreational

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.

A-E-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.

Finding: The site is developed consistent with the future land use above and the applicants are not proposing to alter that.

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.) The applicant is applying for an Interim Use Permit for a vacation dwelling unit in an existing single family home. The minimum rental period shall not be less than 2 nights.
2.) The applicant owns a 40' x 100' lot on Minnesota Ave. According to St. Louis County records, the 2-story structure was built in 1899 and has a main floor sq. ft. of 1,172. It has 3 bedrooms so the maximum number of guests is 7.
3.) The applicant has a contract with St. Louis County to purchase a 40' x 100 lot (formerly tax forfeited) abutting their property to the rear where two gravel off-street parking spaces (and an occasional RV/trailer) are located and accessed from St. Louis Ave. Staff recommends that this purchase be completed by September 30, 2017 to ensure these parking spaces are retained.
4.) The applicant will be the managing agent (residing elsewhere in Duluth) and have designated Tim Wade (residing in Hermantown) as their backup. They have provided the contact info. to property owners within 100' of their property.
5.) Concerning the requirement for a dense urban screen: the applicant's property is bounded by a 6' tall fence on the north side of the back yard and a 6' tall fence on the south side of the deck. There is an area of the backyard beyond the deck that is not screened to the south side, however, the landowner, John Pegg has indicated that he does not want a fence in this location.
6.) The applicant has obtained an Operational Permit from the Fire Department, a Hotel/Motel License from City Clerk, and has filed with the State of MN and City of Duluth to pay the applicable taxes. The applicant has completed an inspection from the Minnesota Department of Health as part of the process for obtaining a Lodging License and will obtain the Lodging License if the Interim Use Permit is approved by the City Council.
7.) A time limit on this Interim Use is needed to minimize negative impacts to surrounding residential uses. Staff recommends that the City Council resolution of approval expire upon change in ownership of the property or in six years, whichever occurs first.
8.) The applicant must comply with Vacation Rental Regulations (attached), including maintaining a guest record, posting permit numbers where advertising, providing information to guests on City rules.
9.) Staff recommends conditions about beach access and quiet hours (see Staff Recommendations) which the Planning Commission has added to previous vacation rental permits on Minnesota Point.
10.) No public or agency were received. E-mail comment from neighbor Pegg that fence in backyard not needed.

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 provided evidence of all required licenses and permits.
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 (guest record book; 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 ordinances on parking, parks, pets and noise, and posting permit number on advertisements).
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.
5.) The applicants must complete the acquisition of the tax forfeited land by September 30, 2017 and provide evidence of the purchase to the Director of Planning and Construction Services.
6.) 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 consistent with the requirements of the UDC, Chapter 50.

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

CITY OF DULUTH

DEPARTMENT OF PLANNING & CONSTRUCTION SERVICES
Community Planning Division
411 West First Street – Room 208 - Duluth, Minnesota 55802-1197
218-730-5580 – An Equal Opportunity Employer

Vacation Rentals Regulations

(Amended May 2016)

Vacation rental units are defined in the City of Duluth Legislative Code Chapter 50 (Unified Development Chapter) as Vacation Dwelling Units and Accessory Vacation Dwelling Units and are subject to the regulations described here. NOTE: Renting a portion of a dwelling while the owner is present is called an Accessory Home Share and is not covered by the regulations below. Please see Sec. 50-20.5.G and Sec. 50-37.17 for Accessory Home Share regulations.

Definitions:

Vacation Dwelling Unit – a dwelling unit, as defined by this Chapter, offered for trade or sale, whether for money or exchange of goods or services, for periods of 2 to 29 days.

Accessory Vacation Dwelling Unit – an accessory dwelling unit as defined by this Chapter that is used as a vacation dwelling unit as defined by this Chapter for periods of occupancy from 2 to 29 days.

Vacation Dwelling Units and Accessory Vacation Dwelling Units are allowed as an Interim Use in RR-1, RR-2, R-1, R-2, R-P, MU-N, and F-5 districts. All vacation rentals must obtain an Interim Use Permit. No more than 60 permits may be issued for either vacation dwelling units or accessory vacation dwelling units.

Vacation Dwelling Unit Interim Use Permit Standards:

1. The minimum rental period shall be not less than two consecutive nights.
2. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.
3. Off-street parking shall be provided at the following rate:
    a. 1-2 bedroom unit, 1 space
    b. 3 bedroom unit, 2 spaces
    c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
    d. Vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
4. 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.
5. The property owner must obtain all licenses and permits from the City of Duluth and State of Minnesota required for guest occupancy on the property for 2 to 29 days.
6. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.
7. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbeque grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties.
8. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first. An owner of a vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as amended, for the remainder of the permit term.
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.
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;
    c. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked;

E.3

d. Property rules related to use of exterior features of the property, such as decks, patios, grills, recreational fires, pools, hot tubs, saunas and other outdoor recreational facilities;
e. Applicable sections of City ordinances governing noise, parks, parking and pets;

13. Permit holder must post their permit number on all print, poster or web advertisements;
14. Prior to rental, the building must be inspected and an Operational Permit issued by the Fire Prevention office.
15. Permit holder must apply for and be granted State and local sales tax numbers, including Hotel and Motel Use Sales Tax.

Accessory Vacation Dwelling Unit Interim Use Permit Standards:

An accessory vacation dwelling unit may be created within, or detached from, any one-family dwelling or vacation dwelling unit in those districts shown where allowed by Table 50-19.8, provided these standards are met:

1. Only one accessory vacation dwelling unit may be created per lot.
2. No variances shall be granted for an accessory vacation dwelling unit.
3. An accessory vacation dwelling unit shall contain no more than 800 square feet of floor area and shall be consistent in character and design with the primary dwelling.
4. If a separate outside entrance is necessary for an accessory vacation dwelling unit located within the primary building, that entrance must be located either on the rear or side of the building.
5. The minimum rental period shall be not less than two consecutive nights.
6. The total number of persons that may occupy the vacation dwelling unit is one person plus the number of bedrooms multiplied by two.
7. Off-street parking shall be provided at the following rate:
   a. 1-2 bedroom unit, 1 space
   b. 3 bedroom unit, 2 spaces
   c. 4+ bedroom unit, number of spaces equal to the number of bedrooms minus one.
   d. Accessory vacation dwelling units licensed on May 15, 2016, are entitled to continue operating under the former off-street parking requirement. The parking exemption for accessory vacation dwelling units licensed on May 15, 2016, expires upon transfer of any ownership interest in the permitted property.
8. 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.
9. The property owner must obtain all licenses and permits from the City of Duluth and State of Minnesota required for guest occupancy on the property for 2 to 29 days.
10. The property owner must provide required documents and adhere to additional requirements listed in the City of Duluth's UDC Application Manual related to the keeping of a guest record, designating and disclosing a local contact, property use rules, taxation, and interim use permit violations procedures.
11. The property owner must provide a site plan, drawn to scale, showing parking and driveways, all structures and outdoor recreational areas that guests will be allowed to use, including, but not limited to, deck/patio, barbeque grill, recreational fire, pool, hot tub, or sauna, and provide detail concerning the provision of any dense urban screen that may be required to buffer these areas from adjoining properties.
12. The interim use permit shall expire upon change in ownership of the property or in six years, whichever occurs first. An owner of an accessory vacation dwelling unit permitted prior to May 15, 2016, may request, and the land use supervisor may grant, an application for adjustment of an existing permit to conform to this section, as amended, for the remainder of the permit term.
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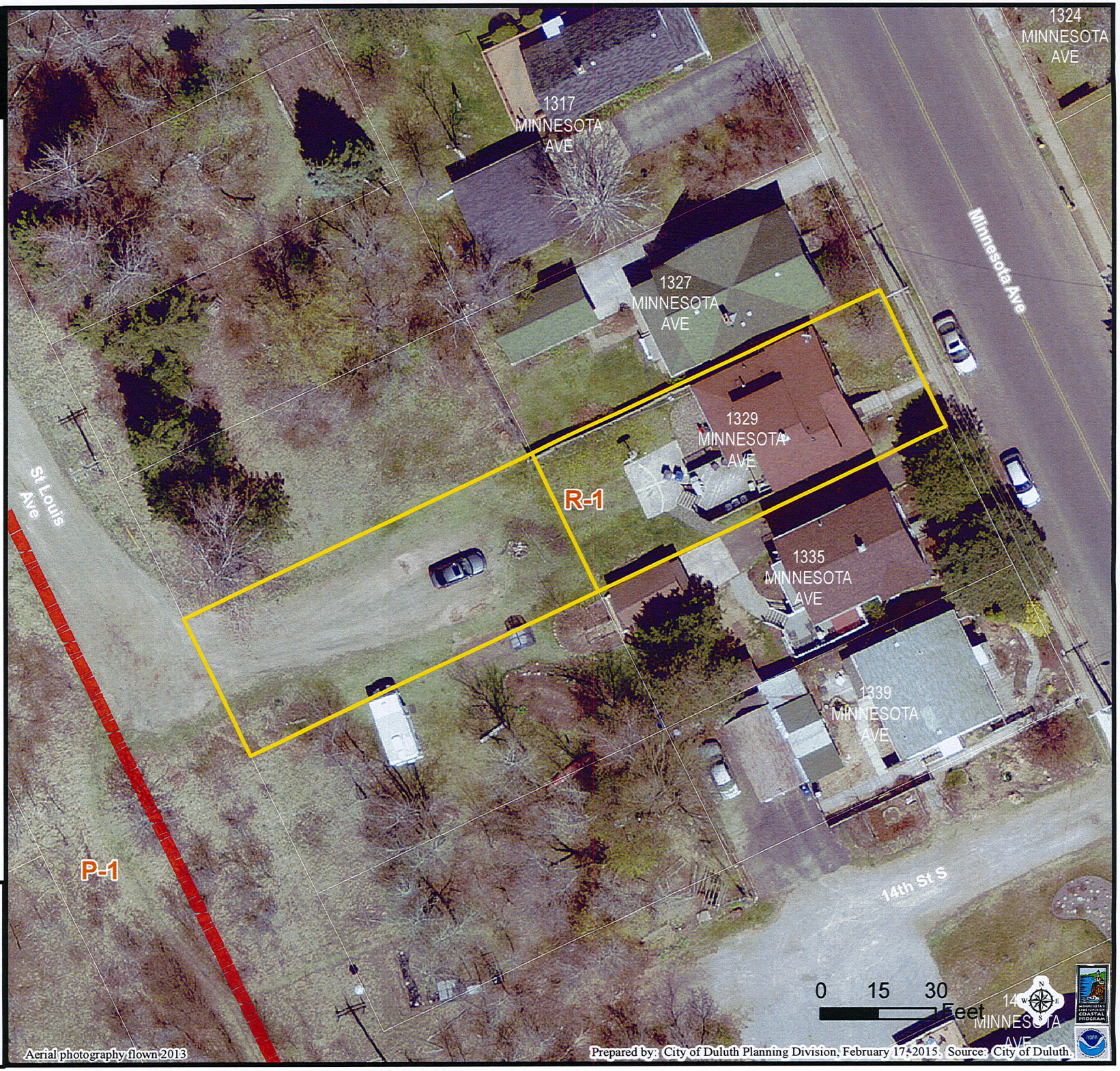
14. Permit holder must designate a managing agent or local contact who resides within 25 miles of the City and who has authority to act for the owner in responding 24-hours-a-day to any complaints from neighbors or the City. The permit holder must notify the Land Use Supervisor within 10 days of a change in the managing agent or local contact's contact information.
15. 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.
16. 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;
    c. The maximum number of vehicles, recreational vehicles, and trailers allowed at the property and where they are to be parked;
    d. Property rules related to use of exterior features of the property, such as decks, patios, grills, recreational fires, pools, hot tubs, saunas and other outdoor recreational facilities;
    e. Applicable sections of City ordinances governing noise, parks, parking and pets;
17. Permit holder must post their permit number on all print, poster or web advertisements;
18. Prior to rental, the building must be inspected and an Operational Permit issued by the Fire Prevention office.
19. Permit holder must apply for and be granted State and local sales tax numbers, including Hotel and Motel Use Sales Tax.

E-4

City Planning
PL 16-046
1329 Minnesota Ave
Interim Use Permit-VDU
Zoning Map

Legend

Zoning Boundaries



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MINNESOTA'S LAKE SUPERIOR COASTAL PROGRAM

SAINT LOUIS

SITE MAP
Building Safety

Wade Inn
1329 MN
Ave. Duluth, MN 55802

N

0 5 10 20 Feet
1 inch = 14 feet

Printed: 5/2/2016

Map Created
9-28-2012

Dave Wade
218-720-3895
DaveWMaryR@Gmail

E-6

From: John Pegg <jpeggduluth@yahoo.com>
To: Dave Wade <dave.wade@newpagecorp.com>
Cc: Dave & Mary Wade <davewmaryr@aol.com>
Subject: No fence needed!
Date: Thu, Apr 21, 2016 11:22 am

Hi Dave and Mary -

I'm writing to let you know that we would prefer NOT to have any additional fencing between our homes. Having aaaaaaaaaaaaaaaa fence between our garage and you back deck would inconvenience both of us in terms of access to our back lots and our driveway, and it would cause problems during the winter for snow removal. I have not found any of your guests to be intrusive or problematic and see no need of additional fences. Thank you

John

John & Lyn Clark Pegg
1335 Minnesota Ave.
Duluth, MN 55802
218-349-1786
"When the power of love overcomes the love of power, the world will know peace" - Jimi Hendrix

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RECEIVED MAY 12 2016

FRONT – MN AVE

REAR

REAR