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May 16, 2025

Alyssa Denham
City Clerk
411 West First Street
Duluth, Minnesota 55802

RECEIVED

MAY 21 2025

RE: Planning Commission Appeal

**CITY OF DULUTH
CITY CLERK'S OFFICE**

Dear Ms. Denham,

On behalf of my clients, I am officially filing an appeal for the issuance of an Interim Use Permit for an outdoor living site at 1533 W. Arrowhead Rd (PLIUP-2503-0016). The Duluth Planning Commission issued this Interim Use Permit on May 13, 2025.

This appeal is being brought because the Planning Commission issued this Interim Use Permit in violation of the Duluth Legislative Code, including but not limited to:

1. A dense urban screen must be placed on all sides of permit user property that are adjacent to residential areas.
 - a. Staff has interpreted the code to require a dense urban screen only on adjacent property lines that are **actively** being used as residential property. This requirement is not found in the Duluth Legislative Code;
 - b. Snow fencing does not constitute a dense urban screening:
 - i. Temporary, plastic snow fencing does not constitute a **dense** urban screening;
 - ii. Snow fencing does not constitute a screening when it is laying on the ground. This snow fencing has already blown down (on the neighbor's property);
 - iii. Snow fencing is not permitted in front yards;
 - c. Portions of the existing snow fence were constructed without the necessary permit process required by city code:
 - i. Portions of the fence are over four (4) feet which require a zoning permit;
 - ii. Portions of the fence are over seven (7) feet which require a building permit;
 - iii. The existing snow fence was constructed on neighbor's property as no survey was done, no setbacks established, and they used the neighbor's property marker for guidance;
 - d. Staff found that trees and vegetation provided additional buffering between the site and the North property line:
 - i. These trees and vegetation are not on Applicant's property;

- ii. These trees and vegetation are owned by a neighbor and should not be included in Applicant's requirement to provide a dense urban screening between their property and adjacent landowners.
- e. Chum officials stated that they do not like fencing as it interferes with their line-of-sight to the occupants of the cars:
 - i. The existing snow fence, and any potential future fencing, would be behind the cars and cannot interfere with their line of sight.
 - ii. Staff persons will be on-site making rounds or observing the occupants of the site and a dense urban screen will not interfere with their requirements of observation.
- 2. Lack of adequate toilet facilities as required by the Duluth Legislative Code.
 - a. Current code requires one (1) bathroom for every four (4) occupied sites or per eight (8) occupants;
 - b. The current facility lists two single toilets and two (2) potential additional multi-stall toilets may be made available for use.
 - c. Either a 50 person or 50 car maximum occupancy at the site will not have enough toilets as required by code.
- 3. Applicant and Chum officials, affiliates of Applicant and the organization tasked with ensuring the outdoor living site complies with all rules and requirements, have not been truthful with city officials and/or the neighbors:
 - a. Church officials informed neighbors that they would construct a chain link fence around their site because a privacy fence would cost too much;
 - b. Chum officials have explained their violation of the dense urban screen requirement as their concern that a dense urban screen might interfere with their operational line-of-sight;
 - c. Chum officials have stated that mechanics will be brought to the site to work on automobiles at the site. This was not listed in the application, nor is it a permitted use under the interim outdoor living site permit or as an existing church activity;
 - d. The Application clearly states no tents will be allowed, however, at the May 13, 2025 Planning Commission meeting, Joel Kilgour, stated that they intend to allow pop-up tents and tents that are attached to vehicles.
 - e. The application states that no drugs or alcohol will be allowed on site, however, Chum officials told neighbors that "we will only enforce if there's drinking and driving or open selling of drugs;"
 - f. The permit application lists maximum occupancy at 50 persons, however, Chum officials told neighbors they will not turn away anyone;
 - g. After the May 13, 2025 Planning Commission meeting where the application was approved for a 50 person limit, Joel Kilgour of Chum, told the media that they would limit their operation to 50 vehicles.
 - h. Chum officials state this is only a temporary fix for the loss of a site at the Damiano Center, however, Chum officials told neighbors that Vineyard Church will be their permanent site and they do not plan to

move back downtown after construction at Damiano Center is complete.

4. A member of the Planning Commission, at the May 13, 2025 meeting, prior to voting on whether or not to approve the Application, stated on the record that the Application did not comply with the Duluth Legislative Code:
 - a. Commissioner Adate stated that this is a good program and I'm willing to bend the rules.
5. Potential violations of open meeting law:
 - a. Commissioner Rhodes, during a public hearing, voted to proceed with an illegal vote knowing that notice requirements had not been met.
 - b. Chum officials informed neighbors that they have a good working relationship with the city and this application will be approved. This statement was made before any public hearings or discussions took place.
6. Violations of due process and equal protection requirements.

I request this matter be scheduled for a hearing, within 60 days, before the entire City Council to review these recent actions of the Planning Commission.

If you have any questions, please feel free to contact me. Payment of the \$400 filing fee is included with this written request for appeal.

Sincerely,

Brenda Miller

Brenda Miller
Attorney at Law