



## Legislation Text

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**File #:** 21-0028R, **Version:** 1

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### RESOLUTION GRANTING AN INTERIM USE PERMIT FOR A VACATION DWELLING UNIT AT 621 WEST 5TH STREET (BENJAMIN KLISMITH).

#### CITY PROPOSAL:

WHEREAS, pursuant to Section 50-20.3.U and Section 50-37.10.D of the Duluth City Code, 1959, as amended (the "Code"), Mr. Benjamin Klismith (the "Applicant") applied for an interim use permit and the application was duly referred to the city planning commission (planning commission file no. PL 20-166);

WHEREAS, the commission gave due notice of public hearing to consider the application during a public hearing to occur on December 8, 2020; and

WHEREAS, the city planning commission, at its regular meeting on December 8, 2020, considered the application's consistency with the use specific standards for vacation dwelling units and the criteria for granting interim use permits and voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below; and

WHEREAS, Minnesota Statutes Section 462.3597 authorizes the city to issue an interim use permit that allows a use to exist until a specified date or until an amendment to this chapter authorizes or prohibits that use.

RESOLVED, that the city council finds that:

(a) That Applicant's application for an interim use permit for a vacation dwelling unit was duly referred to the planning commission as file no. PC 20-166, that the commission gave due notice of a public hearing to be held at its regularly scheduled meeting of December 8, 2020, that said hearing was held, that the application was duly considered at said meeting and that the commission voted to recommend approval of an interim use permit for a vacation dwelling unit subject to the conditions listed below.

(b) That the Applicant has requested in writing that its application be modified to reduce the maximum number of permitted bedrooms from 8 to 6, resulting a reduction of the maximum number of guests to 13.

(c) That the Applicant has requested in writing that its application be modified to reflect the addition of a seven (7) foot high privacy fence, more fully described in Attachment 2, running a distance of 52 feet in length.

(d) Based on the evidence in the record of the application for an interim use permit for a vacation dwelling unit contained in PL 20-166 and on the testimony and evidence received during the public hearing, the application, as so modified, is consistent with the use specific standards for vacation dwelling units and the criteria for granting interim use permits contained in Section 50-20.3 U and Section 50-37.10 D of the Code.

(e) A time limit is needed to protect the public health, safety and welfare from potential longer

term impacts of the requested use at this location.

FURTHER RESOLVED, that the city council hereby grants Applicant an interim use permit to operate an six-bedroom vacation dwelling unit for up to 13 guests located in the R-1, Residential-Traditional District at 621 West 5<sup>th</sup> Street legally described below, subject to the conditions set forth below:

010-1290-01000 - E1/2 LOT 107, BLOCK 060 OF THE D ULUTH PROPER THIRD DIVISION

010-1290-01080 - LOT 106 & ELY ½ OF LOT 108, BLOCK 060 OF THE DULUTH PROPER THIRD DIVISION

010-1290-00980 - LOT 0105, BLOCK 060 OF THE DULUTH PROPER THIRD DIVISION

FURTHER RESOLVED, that the land use supervisor is authorized to issue an interim use permit for a vacation dwelling unit on the subject property (in the form of that attached hereto as Exhibit A) subject to the following conditions:

- a) The interim use permit shall not be effective until Applicant has received all required licenses and permits for operation required by the Code and by State statute and provided copies thereof to the land use supervisor; and
- b) Said permit shall remain in effect for up to six years following the effective date of this resolution, or until there is a change in ownership of the property, whichever occurs first; and
- c) Applicant shall adhere to the terms and conditions listed in said permit

FURTHER RESOLVED, that the land use supervisor may approve such changes or modifications to the applicant's plans as included in applicant's application as are otherwise authorized under the Code, provided that no such administrative approval shall constitute a variance from Chapter 50.

**STATEMENT OF PURPOSE:** This resolution grants to Benjamin Klismith (the "Applicant") an interim use permit for a 6-bedroom vacation dwelling unit at 621 West 5<sup>th</sup> Street. The interim use permit remains in effect for six years, or until the property changes hands, whichever occurs first.

The planning commission's recommendation of approval was for an 8-bedroom vacation dwelling unit. Subsequent to the planning commission consideration, but prior to council consideration, Applicant provided a written request to City Planning staff requesting a reduction in total bedrooms from eight (8) to six (6). The reduction in total bedrooms within the permit is permissible based on the existing planning commission recommendation because it is a reduction in the magnitude and intensity of the use and does not otherwise result in any other impacts to the use or site.

Applicant submitted a further written request related to installation of a privacy fence between the subject property and the neighbors located at 625 W. 5<sup>th</sup> Street. The proposed privacy fence would be seven feet in height, and 52 feet in length. By including this privacy fence, paired with existing retaining walls, it is the intent of Applicant to fully screen the rear yard and driveway expansion from view of the property owners to the west. The fence is depicted in Attachment 2.

Applicant has applied for all the required inspections and licenses.

On December 8, 2020, the city planning commission held a public hearing on the proposal and heard testimony from citizens. The planning commission voted 6 yeas, 2 nays, and 0 abstentions, to recommend that the city council approve the interim use permit with conditions.

Request filed: October 13, 2020

Action deadline: February 10, 2021