

**Town of Duluth
Planning Commission
Meeting Minutes
June 25, 2020**

The meeting was called to order at 6:30 pm by Chair, Liz Strohmayer. The meeting was held at the Town Hall with Commission members attending via Zoom due to the continuing COVID-19 pandemic.

In attendance: Liz Strohmayer, Jerry Hauge, Larry Zanko, Dave Edblom, Pam West, Angela Wilson and Blane Tetreault.

Absent: No one.

Also attending: Sue Lawson, Planning Director and Mike Kahl, Town Board liaison to the Planning Commission.

Approval of the minutes was moved to the end of the meeting agenda and the agenda was approved with that change.

First item on the agenda was a public hearing to hear a conditional use application submitted by Liz Marinos to have horses in zone district SMU-6. However, Sue said that a discrepancy was found in the Ordinance just prior to the meeting. Table 5.3, the Zoning District Land Use Matrix, shows that livestock are allowed with a conditional use in SMU-6. But on page 49, under Livestock Performance Standards, it says that one animal unit per acre is allowed in SMU-6. These performance standards were changed in the last Ordinance update but Table 5.3 was not updated to reflect this change.

Liz felt that keeping horses in SMU-6 should be an allowable use because and it was an error that Table 5.3 had not been updated and that Liz (Marinos) should not have to apply for a conditional use to have horses.

Angela agreed. She said that the Town is the drafter of the Ordinance and the law usually goes against the drafter if there is ambiguity. She moved that it is a permitted use and that the application fee be refunded.

Liz seconded.

The motion passed unanimously.

The Commission thanked Liz Marinos for her cooperation in submitting the application and going through the process. They apologized for the mistake that triggered the conditional use process for her. Sue said that the Town would refund her application fee.

The individual with the Nokomis project proposal was not scheduled to join the meeting yet, so the Commission moved on to the next item on the agenda which was the interpretation of Ordinance language for short-term rentals.

Sue said that there is an applicant who wants to have a lodge, an RV camper and a tent for short-term rentals. The Ordinance refers to the "the dwelling," singular, when laying out requirements for short-term rentals. In addition,

there is a clause that says that no temporary sleeping facilities are allowed during the rental. Does that mean that the renters can't bring a tent or RV or does it mean that the owner may not provide those?

Both Larry and Jerry felt that it meant both.

Liz agreed that since it's not specified, it should be interpreted as both. The Ordinance refers specifically to sleeping facilities. She said that there are two things to consider – first, what are temporary sleeping facilities, and two, are multiple STRs on one property allowable? To her, multiple STRs on one property fit more of a resort type use.

Larry said with the tent and RV it is more like a campground.

Everyone agreed that RVs and tents are not suitable STRs.

Liz made a motion that the RV and tent were not allowable short-term rental units as the Ordinance does not allow temporary sleeping facilities for STRs.

Angela seconded.

The motion passed unanimously.

Larry made a motion that only one short-term rental unit is allowable per property based on Section 22 of Article IX of the Ordinance which speaks of "the dwelling," singular.

Liz seconded.

The motion passed unanimously.

Sue the said that if the short-term rental is in her house and she lives in the same house while it is rented, then would the use be a bed and breakfast instead of a STR? She read the definition for bed and breakfasts:

A building designed as a single-family dwelling containing from one to six dwelling units providing lodging accommodations by prior arrangement, for compensation, with restrictions on the time involved. The primary residence in the building must be occupied by the building owner on a permanent basis. It may or may not include serving of meals to guests. It must have an approved sewage disposal system.

The Commission agreed that it would be a bed and breakfast. They decided on one-quarter mile as the notification area for the conditional use hearing for this application.

The minutes were approved with the following correction: Delete the sentence regarding gasoline in garages from the greenhouse discussion.

Director's Report

Sue said that she put an article in the newsletter announcing the hearing for the proposed Comprehensive Land Use Plan and inviting comments on it. The hearing will be on the third Thursday of July at the Town Hall. All

COVID-19 directives will be in place. In the newsletter it is recommended that anyone wishing to comment submit their comments ahead of time by mail, email or dropping them off. The plan is available on the website.

Sue said that she also submitted the application for a STAR grant to the Coastal Program for updating the Ordinance. The grant will start this fall or in January, depending on the grant. Those meetings will be on the third Thursday of the month. The plan is to go through the whole Zoning Ordinance.

Sue said that the Board is trying to get a credit card so it will be easier to get a subscription service for cloud storage. When we have that in place it might also work for distributing meeting information.

Scott Graden, of the New Scenic Café, joined the meeting via Zoom.

Sue said that Scott wanted to present a proposal he has for the former Nokomis restaurant site. Before it was Nokomis it was the Shore Crest restaurant and before that it was a motel with a restaurant and swimming pool. She said that the Commission needed to consider Scott's proposed use in the context of the history and location – is it something that would fit there? And if it would fit the area, and it doesn't fit under one of the established uses in the Ordinance, the Commission needs to determine what the use would be and define it.

Scott introduced himself. He said that he had considered buying the property when it was still the Shore Crest but he didn't want to compete with the New Scenic Café. The property has been in the back of his mind ever since. His feeling is that interest in self-care, like yoga, saunas, etc., is rising. He has spent the past 6 years seriously considering and researching this use for the property, including visiting Scandinavia a number of times.

The property is the 8 acre lot that the Nokomis building is on plus an adjacent 24 acres. His idea is to create a space with three saunas, a couple of plunge pools, and resting areas in the existing building. There will also be a small café with spa-style food and small bites. There will be a strong emphasis on design, with large glass building fronts connecting it to the lake. He anticipates that it will be a travel destination, where the journey is a part of the overall experience. Its connection to Lake Superior will be important. He wants the design to invite guests in. He plans on keeping the Kiviranta name from the recently proposed development for the site. Kiviranta means stone house on the shore.

He also plans to have six separate buildings, similar to what you would see in a Scandinavian fishing village, for rentals. Except for footings, they will all be above grade. They will be traditional construction, with red corrugated metal exteriors. They will be lined up, going up the hill similar to the Kiviranta condominium design, with each building set back to cover half of the previous building.

There are 24 acres adjacent to the 8 acre Nokomis site with trails. There will be a small building to get in and out of outdoor gear and clothing – much like they have at Korkki Nordic. He hopes to have about 30k of trails and will maintain them for cross country skiing in the winter.

The project will require collaborations with the local population. It is not something he can do alone; he will have investors. However, he needs agreement from the Township that the project would be allowable under the Ordinance in order to take the project to the next step.

He showed a presentation with detailed renderings of the project. The footprint of the existing Nokomis building would stay the same. There will be large glass windows overlooking the lake with shutters that will look like the

exterior of the building when closed. There will be a large entryway – an entry wardrobe – similar to that at the New Scenic to welcome people and invite them in. A separate white building would house a café, juice/wine bar area with seating for about 30.

Jerry said that he thought the concept fit well with previous uses. He liked the plan.

Pam agreed. She thought it was well thought out. The property is big enough for the project.

Liz said that he had mentioned he might need variances for some of the buildings – what would these be?

Scott said that the footprint of the Nokomis building is grandfathered in but the addition for seating towards the southwest might not meet setbacks. In addition, he plans to put a pitched roof on the Nokomis building which currently has a flat roof. So the height of the building may exceed what's allowed. Those and possibly impervious surface area. But he could do a pervious surface parking area.

Jerry said that the Kiviranta project had a stormwater management plan.

Sue said that the stream on the site is a trout stream which requires an increased setback. A PCA permit would also be required for stormwater control measures.

Scott said that Rondi Erickson shared the Kiviranta plans with him. He has the stormwater plan and would use elements from those plans.

The Commission agreed that the project would fit in in the area.

Blane asked if the property to the east was a private residence.

Scott said that the property to the east was owned by the Pearsons. In conversations he has had with them, they are excited about the project, but he has not yet shown them the information he showed the Commission tonight.

Angela said she did not realize how close that property owner was to the back of the red rental units.

Jerry said that that property owner had been in favor of the Kiviranta development.

Scott said that he tried to follow the Kiviranta plans so it would be a similar impact. There was a handshake approval on the concept with the neighbor, but the specifics would need to be presented to him.

Angela said that the Kiviranta project was owned condos, not a “hotel,” for lack of a better word.

Scott said that there was a VRBO element to Kiviranta. It was anticipated that the condo owners would not necessarily live there year around, that it would be a vacation place.

Larry asked if the 24 adjoining acres would remain pretty much as they are now.

Scott said the Nokomis parcel is 8 acres and is long and narrow. There is a line of trees between the buildings on the site and the neighbors. The 24 acres has trails cut on it and will remain pretty much the same.

Larry asked what the time frame would be for the project.

Scott said that he has already spent a decade on the research. He has contacted investors and has had a positive response. COVID has made things more difficult. The soonest, optimistically, would be three years.

Sue asked the Commission what this use would this be called. A commercial enterprise like this is not named in the Ordinance. There are essentially four Planned Unit Development definitions, it could fall under PUD commercial, but in Table 5.3 commercial PUDs are not allowed in SMU-6. Nor are mixed-use PUDs. The basic PUD is not in Table 5.3. The definition for a PUD is:

A type of development characterized by a unified site design for a number of dwelling units or dwelling sites on a parcel, whether for sale, rent, or lease, and also usually involving clustering of these units or sites to provide areas of common open space, density increases, and a mix of structure types and land uses. These developments may be organized and operated as condominiums, time share condominiums, cooperatives, full fee ownership residences, commercial enterprises, or any combination of these, or cluster subdivisions of dwelling units, residential condominiums, townhouses, apartment buildings, campgrounds, recreational camping vehicle parks, resorts, hotels, motels, and conversions of structures and land uses to these uses.

Liz said that the basic definition is a broad definition the three types of PUDs follow from.

Sue said the only PUD allowed in SMU-6 in Table 5.3 is residential. Nokomis was a commercial use that was grandfathered in. It is not a commercial zone district. The New Scenic is the same.

Liz asked if, because it has been vacant, Nokomis would no longer grandfathered in.

Sue said that she could look into that. She asked Scott if he needed a decision tonight or is there time to do some research. She would hope they could have something for the July Commission meeting.

Scott said that the only problem was that the property is currently for sale and he would like to be able to give the seller a response.

Sue said that she would research options. The Commission has agreed that it fits in neighborhood. They just need to decide what to call it and what it would be allowed under for the Ordinance.

The Commission agreed that it would be best to table the matter until the July meeting in order to do some research and figure out a definition that would fit.

On another subject, Sue said that she would like the Commission to determine if a new structure Scott has put up at the New Scenic Café needs a land use permit. Scott got a variance for the new entryway. Since then he has done some landscaping and incorporated structure and fences. The new landscaping is located on what was originally a parking lot, but has been a garden area since Scott and Rita acquired the restaurant. The garden has been taken out and there is now a wall with built-in seats and a large chimney in that area. The new landscaping sits behind the variance line. Would the chimney be considered a piece of artwork, landscaping, or a fireplace? Does the Commission think it is a structure that needs a land use permit or is it a part of the landscaping?

Scott said that the area in question is where cars used to drive up to the original restaurant. When they bought the restaurant, they put in a retaining wall and soil and planted it. They have now taken out that dirt and put in seating. The chimney is behind the allowed variance line and below the allowed height, which was also a variance. It will be painted white. David Salmela originally had a chimney like this in front of every condo at Kiviranta.

Angela said that if it is less than 10 ft by 10 ft, it doesn't need an LUP and it is covered under the variance he already has.

Liz read the definition of structure from the Ordinance:

Anything more than thirty (30) inches high placed, constructed, or erected with a fixed location on the ground, including portable buildings, mobile homes, signs, earth sheltered homes, and swimming pools. Fences, utility poles, lawn lights, non-commercial communication towers not containing dish antennas, non-commercial wind generating towers, and related minor equipment shall not be considered structures. Unattached decks regardless of height shall be considered a structure if within the shore setback area for principal structures.

Angela moved that he does not need a separate variance for this structure whether it is a structure or an accessory structure.

Blane seconded.

Scott said that he is trying to get people who come to the Scenic to stay. They have had lots of requests for more outdoor seating. They had a firepit but the smoke drafting was a problem. They were looking for a place for people to cluster and hang out and enjoy the fire and a glass of wine.

The motion passed unanimously.

Sue said there are two airstream trailers parked at the restaurant. One is used as a portable kitchen. The second is parked further back and is not rented out, but is stored there. She wanted the Commission to be aware of these in case there were questions about them.

Old Business

None.

Concerns from the Audience

None.

The meeting adjourned at 8:20.