

**Town of Duluth  
Planning Commission  
Meeting Minutes  
July 23, 2020**

The meeting was called to order at 6:30 pm by Chair, Liz Strohmayer. The meeting was held at the Town Hall.

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

Absent: Dave Edblom and Pam West.

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

The agenda was approved as presented

Heil Public Hearing for Bed and Breakfast Conditional Use

Sue presented the request. Donna Heil and Chris Fletcher were requesting a conditional use permit for a bed and breakfast at their home at 1456 West Knife River Road. The proposed use as described by the applicant is: "The use is a single-family dwelling that is occupied by the owner. The lower level provides a space that can be used as a bed and breakfast. It is the same space that I used to raise my family. This is a short-term rental. Our visitors are quiet and respectful and I am available and on site while they are here." They have been operating the rental without a permit and are now applying for one to be in compliance with the Town's Ordinance.

The house meets all setbacks, for FAM-3 except possibly the side yard setback. The required setback is 75 ft and Donna estimated it was at 60 ft, although on the St Louis County GIS site, it appears to be closer to the required 75 ft.

Sue read through a summary of the questions about the use from the application.

- Hours of Operation: Open for arrival and departure
- Employees, deliveries, etc. visits to site per day: None
- Users to site per day: Varies depending on number of guests and their purpose
- Average traffic to site: 3 vehicles per day
- Maximum traffic per day: 4 vehicles per day
- Additional parking needed: None
- Signage: One 24''x24'' sign on each side of mailbox
- Will activities generate dust, smoke, smells pollution, etc.: No
- Will noise be heard on adjacent properties: No
- Proposed structures: No new structures
- Outdoor work and storage areas: None
- Wetlands: No wetlands will be impacted
- Wastewater: Permit 17707
- Water supply: Well
- Household garbage: Garbage pickup is same as for owner

Blane asked what the capacity of the rental unit was.

Donna said that it is two bedrooms with a small kitchen. There is a queen bed and a twin bed in each room plus there is a trundle bed, so capacity is 7. There is also a portable crib for infants.

Sue read the criteria for deciding a variance and Donna's responses to those criteria from the application.

**Is the proposed use consistent with the CLUP and with the spirit and intent of the Ordinance?**

*Applicant states:* The bed and breakfast that I request a permit for is located in the lower level of my home. The is the same space I raised my family in since 2006. No changes have been made to the structure. I have updated the interior and acquired energy efficient appliances to be used there. I have 10 acres. My home is set back 480 ft from the road and out of sight of any of the neighbors. Once the kids went off to college, I thought this would be a perfect place for guests to come visit our community along the north shore and enjoy peace and serenity of Clover Valley. My well and septic was designed to accommodate a large family so having guests should be no problem with water and sewer. I have radiant floor heat. Traffic is much less than when I had the kids home. I have plenty of parking in my driveway. Quiet time is 10 pm. Dogs are allowed but are closely monitored. I have gotten positive feedback from my neighbors within a 3/4 mile radius. This brings value to me monetarily which will help me to retire and stay in my home. It also brings value to our community by supporting tourism in and along the north shore. By sharing with my guests the natural beauty of the deep woods, encouraging them to gaze at the starlit night sky waking to birds singing they find peace and respite, This is especially true in there troubling times of pandemics crowded city live and civil unrest. I hope that you will approve my application.

**Is the proposed use compatible with the existing neighborhood?**

*Applicant states:* The use of my home for a bed and breakfast is compatible in my neighborhood. My home is secluded. The other homes in the neighborhood are private country homes as is mine. The neighbors approve. It seems like a good fit.

The applicant indicated that the proposed use would not impede normal and orderly development and improvement in the surrounding area. She said that the location and character of the proposed use was consistent with a desirable pattern of development because it is the same home they have lived in since it was built in 2006.

The applicant stated that wetlands are not an issue, the use does not exceed allowable impervious surfaces, topography and vegetation and soil conditions are adequate to accommodate the proposed use, there are adequate utilities, the proposed use will not create potential health and safety, environmental lighting, noise, signing or visual problems, and there will be no increased demand for public services.

Regarding the Community Participation Report, Donna felt that she had positive input from all of the neighbors she contacted. There were only questions from two neighbors. One said that she didn't want any shooting or trespassing. Donna told her that they don't allow guns or fireworks. Donna said some renters like to walk down to the creek and the neighbor said that was okay. Another neighbor was concerned about dogs. Both of these neighbors were positive about the rental once their questions were answered.

Larry asked what her experience with renting has been so far.

Donna said that it has been very positive. She is a nurse and owned a cleaning business at one time. She really enjoys the guests and has always liked interacting with people.

Liz asked how common it was for her to have 7 guests.

Donna said it was not very common. Their usual renters are a couple or one or two couples with kids. They may get 7 people once per month.

Chris said that sometimes there is a special event like a family reunion and they will get up to 7 people.

Liz asked how long they have been renting.

Donna said maybe a little over a year.

Liz said that there have not been complaints.

Chris said that they have seen an increase in visitors since the pandemic, especially health professionals wanting to get away.

Larry asked how long people typically stayed.

Chris said that some stay for up to a week, but usually it's just for the weekend.

Liz asked if they plan on renting year around.

Donna said that they did. They had people come up from Texas because they wanted a white Christmas. They have not had snowmobilers much, but have had leaf watchers and skiers. Winter does tend to be quieter.

Chris said that they have a lot of visitors that stay with them while visiting family in the area.

There was no public testimony. No comments had been received by the Township regarding the proposal and no one was present to comment.

Sue explained the difference between a conditional use and an interim use:

The Planning Commission may designate the conditional use as an interim use if the proposed use meets any of the following criteria:

- a. There is a time certain (for example, a date or particular event) when the use will terminate or the type of use is one that is inherently temporary.
- b. The type of use creates a heightened concern for public health and safety, requiring a closer monitoring of the use after the permit is issued.
- c. There will be a known change in zoning in the near future or there is a belief that future development patterns in the area will conflict with the conditional use being requested.

Angela moved to hear the request of Donna Heil for a bed and breakfast at 1456 West Knife River Road as an interim use ending upon a change of ownership of the property.

Blane seconded.

Jerry Hauge asked if a shorter time should be set in order to evaluate the rental before granting an interim use that goes until the property is sold.

Liz said that because the applicant is in the home and because they have already been renting for a year without problems, she doesn't think it is necessary. The permit would be for a bed and breakfast, not a short-term rental. If they were to move out of the home and rent it, it would be a short-term rental at that point and would require a different permit.

Angela agreed. They live in the same house. She is comfortable not putting a time limit on it.

The motion passed unanimously.

Angela moved that the interim use for a bed and breakfast 1456 West Knife River Road be approved because all twelve of the necessary findings for a conditional use in Section 7 of Article IX of the Zoning Ordinance are met so the use can be approved without modifications or additional conditions.

Blane seconded.

Liz said there is no new construction involved for this use. The rental is contained within the existing building. So, she agrees that all twelve of the requirements are met without going into each in detail.

The motion to allow the use as an interim use ending upon a change in property ownership passed unanimously.

Donna asked what the rationale was for not allowing campers or tents.

Liz said that it is specified in the Ordinance that tents and RVs cannot be used for this purpose.

Donna said short-term rentals are a relatively a new thing and all kinds of structures are used.

Chris asked if there were a way to revisit the Ordinance.

Sue said that the Town has just completed a proposed Comprehensive Land Use Plan and when that is approved the Commission will look at the Ordinance to see if there is anything in the CLUP that would lead to revising the Ordinance. The Commission does the work and the public is invited to comment.

Donna asked if she could provide a proposal.

Liz said that there is an opportunity for public comment at the end of every meeting. If she can't come to the meeting, she could send her comments.

Sue noted that short term rentals are always a balance between the rights and needs of the community vs the rights of the property owner to rent their property. She said that short-term rentals were first included in the Ordinance in 2009. Since then, that part of the Ordinance has been updated at least twice, partly in response to issues arising from short-term rentals in the Town. For the last revision to the Ordinance, a report on short-term rentals was put together based on extensive research and public input from open houses.

Next on the agenda was to determine a use for a potential project proposed for the Nokomis property. This proposal had been presented at the previous Commission meeting. The property is the 8 acre lot that the Nokomis building is on plus an adjacent 24 acres and is in SMU-6. The proposed project was to create a travel destination with a strong modern Scandinavian design. The existing Nokomis building would be redone to include a number of saunas, plunge pools, and resting areas with large glass building fronts connecting it to the lake. There would also be a small café with spa-style food and 6 rental units stepped up the hill behind the main building.

Sue read Article V Section 4.E of the Ordinance: “Uses not Listed in This Ordinance. The appropriate land use classification for uses not specifically mentioned in this Ordinance will be determined by the Town of Duluth Planning Commission.”

She said that of the uses listed in Table 5.3 in the Ordinance, this use would be closest to a Planned Unit Development (PUD), but commercial PUDs are not permitted in SMU-6. The use fits all of the PUD definitions on page 11, but is more of a mixed-use recreational development.

Larry said he saw it as kind of a hybrid of the defined PUDs.

Angela did not want to make it so specific that if something were to happen and it had to be sold, it became a detriment to the next owner.

Liz thought that it fit the commercial definition but agreed that there was a lot more to it. The overall definition describing a PUD is a much broader definition. But only the specified types of PUDs are included in Table 5.3. In both the previous and the proposed CLUP, there is an emphasis on supporting health and well-being and recreation. So, the idea of a hybrid mixed use made sense to her.

After considering the general definition of a PUD, the Commission felt it fit the proposed use:

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.

Sue said that the Town’s attorney said that it was not necessary to consider whether the use fit in other zone districts.

Angela said that it also fit the description for SMU-6.

Liz said the spirit of SMU-6 is more mom-and-pop than Lutsen-style resort. A conditional use allows the use to be decided on a case by case basis. The definition works, but it is not in Table 5.3.

Angela said that the matrix is a visual reference, the text is the controlling factor.

Jerry said that he still thought the use was a better fit under the definition for commercial PUD. Other resorts and businesses that predate the Ordinance, like Clearwater or Beachway, are commercial PUDs that are grandfathered in. If the goal is to phase them out because they don’t fit, leave it as it is. If the goal is to keep that kind of activity along the shore, change the table.

Liz thought that it would be a good idea to revisit PUDs in general. For this project they could apply for a straight up PUD and the Commission would hear it as a conditional use.

Liz made a motion that the proposed Nokomis project fits under the general definition of Planned Unit Development in the Ordinance and that it be allowed in SMU-6 as a conditional use.

Angela seconded and the motion passed unanimously.

The minutes were approved as presented.

Sue asked if everyone had had a chance to look over the proposed Comprehensive Land Use Plan for any changes that might need to be made before sending it on to the Town Board.

The Commission thought it was good.

Blane moved that the Commission approves the proposed Comprehensive Land Use Plan and recommends it to the Town Board. Angela seconded and the motion passed unanimously.

### **Directors Report**

It was agreed to begin the Coastal Program grant for reviewing the Ordinance in January. Sue said that she would let them know that January would be the start date,

Mike said that the Bille case has been pushed back to October. The State has not been hearing civil cases due to COVID.

Sue said that there would be a variance hearing at the August meeting for a side yard setback for a property on the shore.

### **Old Business**

None.

### **Concerns from the Audience**

None.

Sue asked about what Commission members' preferences were for conducting the August meeting, in person again or via Zoom? It was decided to check in with a poll closer to the meeting and if one member is more comfortable with Zoom, then everyone will participate via Zoom.

The meeting adjourned at 8:44.