

**Town of Duluth
Planning Commission
Meeting Minutes
July 22, 2021**

The meeting was called to order at 6:45 pm by Acting Chair Angela Wilson.

In attendance: Pam West, Angela Wilson, Blane Tetreault, and Justin Osadjan.

Absent: Dave Meyer, Dave Edblom and Liz Strohmayer.

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

The agenda was approved as presented.

Hannah Conditional Use Hearing

The applicant, Genise Hannah, was present. Sue introduced the hearing and described the process. Genise is requesting a conditional use to use her home at 5420 McQuade Rd as a high-frequency short-term rental during times that her family is out of the country and not using it.

Sue showed maps of the area and of the site. All of the dimensional requirements for the zone district, MUNS-4, and for the short-term rental are met except impervious surface. She read the proposed use from the application.

My husband and I work in Korea as international school teachers during the school year but bought the 5420 McQuade property to come home to during the summer. To offset the costs while we are away, we would like to use the property as a short-term rental.

Sue read a summary of operational details as given in the application.

Hours of Operation: Available 24/7, 365 day / year.
Employee, delivery visits to the site per day: One property manager.
Visitors to site per day: 2 to 10 guests max.
Vehicle visits to site per day: 1 to 2 average, maximum of 5.
Parking: Existing parking area.
Signage: Only house number.
Outdoor Work Areas/Smoke: No.
Noise possibly heard on adjacent properties: Guests talking. 10 PM quiet time.
Proposed Structures: None. All structures exist already.
Outdoor Work Areas: None.
Wetlands: No wetlands are impacted. House already in place.
Wastewater: Septic.
Water Supply: Well.
Household Garbage: Garbage disposed of by cleaning service.

Genise said that they now plan to use a waste management service for household garbage.

Sue read the criteria for a conditional use and the applicant's responses from the application.

Is the proposed use consistent with the Comprehensive Plan and with the spirit and intent of the Ordinance?

Applicant response: Yes. We will meet all requirements.

Is the proposed use compatible with the existing neighborhood?

Applicant response: Yes. The occupancy will be no different than when my family comes to live in it during summer and during Christmas.

Will the proposed use impede the normal and orderly development and improvement in the surrounding area of uses?

Applicant response: No, it will not.

Is the location and character of the proposed use considered to be consistent with a desirable pattern of development for the area?

Applicant response: Yes, will still be consistent with regular living use as well as only be in use when our family is not in town.

Will the proposed use comply with the wetlands requirements?

Applicant response: Yes.

Does the total amount of impervious surfaces exceed that allowed in the zoning district?

Applicant response: No.

Sue said that the property does not meet the impervious surface requirements.

Are the topography, vegetation and soil conditions adequate to accommodate the proposed use?

Applicant response: Yes. Regular household use.

Will the proposed use impact public waters during or after construction or impact wetlands without appropriate mitigation measures?

Applicant response: It will not impact any more than the regular household use.

Are there adequate utilities (water supply, wastewater treatment), access, drainage, stormwater retention, and supporting facilities?

Applicant response: Yes, well water and septic on site are sufficient.

Will the proposed use create potential health and safety, environmental, lighting, noise, signing, or visual problems?

Applicant response: No.

Is the location of the site appropriate with respect to existing or future access roads?

Applicant response: Yes. Driveway will suffice as parking and property and short-term rental will not affect access road.

Will the demand for public services, such as police and fire protection, solid waste disposal, schools, road maintenance, sewer and water facilities increase?

Applicant response: There would be no increase in demand.

Pam asked about the property management company. How long do they take to come out if there's a problem?

Genise said the property manager will be Steve Pool, of Heritage Property Management in Duluth. There are managers who are on call for any kind of maintenance or complaint. The renters will have Steve's direct number. She will provide cards with his information and her email. They will also send the cards to all the neighbors on the notification list.

Genise said that they decreased the maximum number of guests they would allow to 8. They don't want to attract parties. There are 3 bedrooms that are quite big. One has two twin beds and a queen.

Pam asked if they would have a minimum age for the responsible renter.

Genise said that they would have to be at least 21.

For the Community Participation Report, Genise said there were some concerns, mostly with strangers coming into the area. One person was worried about trails, but they will make it very clear to renters where their property is and they will not be providing trails. Nor will guests be allowed near the ponds. They will be keeping the rental rates on the high side. Her thinking is that Airbnb requires the money up front and if the rental price is higher, it will be less likely to have issues. They have been teaching for over 10 years and now have a family. They want a place to live when they come home for the summer. When they are not home, they don't want the house sitting empty. They plan on moving permanently to the area when they are done teaching overseas. They have already discussed shutting the rental down if there are problems.

Justin asked if the trails the neighbor was concerned about were accessible from the rental property.

Genise said that it was not obvious where the trails are. They will not be mowing them. Airbnb has a two-way rating system which allows for a lot of communication between property owners regarding renters.

Public Testimony

One neighbor was present to speak. She said that she lives alone and if the home is rented every week, it will be like having new neighbors every time and would be very uncomfortable for her. She lived north of Grand Rapids for 15 years and had problems with hunters. She did not move to the area to have a hotel in the neighborhood and worry about her safety. There are trails behind her house and she has had people hike or snowshoe in to her trails. She does not want to have more people potentially doing that. It makes her very nervous. Short-term rentals make a neighborhood less stable.

Angela said that looking closely at the Community Participation Report, she sees that there was no response from four of the neighbors. Two of the neighbors that did respond expressed concerns similar to those just expressed.

Genise said that she had conversations with those two neighbors and they felt that with the rules that would be in place and with the property manager, that it would be okay. As to the four neighbors that didn't respond, Genise said that she tried calling them and then tried going around to the homes. The dates are in the report.

Pam asked about the possibility of allowing the rental as an interim use for a very short time, like two months, to get an indication of how things would go.

Blane asked what months they expected to be at the home.

Genise said they would be home approximately 3 months out of the year, roughly 2 months in the summer and 1 in the winter.

Blane said that meant it would be a short-term rental for 9 months of the year.

Justin asked if they have considered just renting the home longer term, to a visiting UMD faculty member, for instance.

Genise said that they want the flexibility to come home if they need to.

Justin asked what options a concerned neighbor would have.

Genise said they will be providing neighbors with their personal contact information as well as contact information for the property management service.

Angela asked how many days during a year they anticipated the home being available for rental.

Genise said that they would like to be allowed to rent 365 days a year, so they could be flexible about when they are here. Actual rental would probably only be for 9 or 10 months out of the year.

Angela moved to hear the request as an interim use. Blane seconded. The motion passed unanimously.

Angela moved to deny the interim use. Pam seconded.

Pam said that she felt there were significant concerns from the neighbors.

Blane said that he respects community involvement but that the Commission also needs to consider the structure that has been created for short-term rentals and that it has proven successful. The interim use permit allows the Town to better ensure that there is due diligence on the part of the homeowner and that the rental is a success. He doesn't see how this request is any different from others that the Commission has approved, other than having a community member who has spoken against it.

Sue suggested looking at the Comprehensive Land Use Plan for guidance. She read the policies for short-term rentals from page 6.2 of the Plan.

1. Ensure that the quantity of short-term rentals in the Township do not detract from the rural character of the neighborhoods they are located in.

2. Ensure that the costs to the Township are outweighed by the benefits of short-term rentals in regard to public safety and Town resources needed to support them.
3. Balance the community needs for maintaining ruralness and cohesive neighborhoods with individuals' freedoms to use their property.

Blane said that that tourism is vital in our community. We don't want an excessive number of short-term rentals, but he doesn't think we are at that number yet. In this situation, a 12 month interim use would actually be 9 months. He didn't know how much use the rental would get in non-summer months, so it might not be that heavily used. If they were given a 12 month interim use, it would be a good indication of how the rental would affect neighbors. If it didn't work out, there are ways to address concerns and potentially withdraw the permit. It doesn't make sense to operate on "what-ifs."

Pam said that the owner living so far away could be an issue. There wouldn't be much that could be done if there were a problem.

Genise asked what kind of a problem that would be. How would it be different than if she lived in the cities?

Pam said that if she were in the cities, she would be able to be here in a few hours.

Genise said that she could not fathom a problem that the property manager would not be able to handle. In addition, her husband's parents live in the cities and they could come in an emergency.

Blane said that the primary concerns with vacation rentals are disruptions, noise, and renters trespassing on neighboring properties. Even if you lived close by, those problems may not be completely preventable. A lot depends on your renters. He knows how VRBO and Airbnb work, and they allow the homeowner to vet potential renters. Having neighbors that are concerned will encourage the homeowner to be much more conscientious about what happens at the rental, as well.

Genise said that she understands that it can be worrying for something new to come into the neighborhood, but she would just like to be given the chance to show it could succeed.

Angela said that community values for the CLUP were developed by asking community members what they valued in the Township. Three themes emerged -- ruralness, natural environment and community life. Someone who doesn't live in the neighborhood and buys a property and then rents it out as a short-term rental has not made an investment in the community. So, she believes that the proposed use is not consistent with the CLUP. It is significant to her that so many of the neighbors did not respond for the Community Participation Report and three neighbors were specifically against the proposed use. She said that it's important to listen to everyone.

Genise said that she has been living in the home since May. She has had neighbors over for dinner. They are not buying it as an investment airbnb property. No one would live in their rental during the summer if it had been purchased for income. The reason they want it is so they can be in their own home when they are here and can be a part of the community. She knows about small communities and being a good neighbor. They will be full time residents when their kids become old enough for school.

Blane said that the primary concern from the community is strangers coming into the neighborhood, which he can understand. But he doesn't believe renters represent a danger to the community. He would be interested in seeing crime statistics for a community in terms of short-term rentals. He doesn't believe a vacation rental would attract individuals who would see it as an opportunity to commit crimes. You have to assume if appropriate precautions are taken and people are vetted, that it won't happen. There are

other short-term rentals in the Township and there was some opposition at times, but there have not been complaints.

Sue said that there is no requirement that you have to have lived in the Township or in the neighborhood to have a short-term rental. The Commission can set conditions such as rental frequency and can limit the time span for the interim use. It is a requirement for a conditional or interim use that it be consistent with the CLUP.

Justin asked if it would be possible to request feedback from the neighbors who hadn't responded for the Community Participation Report and then revisit it next month.

Sue said that all of the neighbors in the notification area got a letter introducing the proposed use and letting them know that they will be contacted. They were also invited to come to the hearing and / or submit comments to the Town. The CPR encourages conversations between neighbors. You learn about their concerns and they learn something about you. If they don't respond, you can't conjecture as to their thoughts or reasons for not responding / responding. They were offered various opportunities to comment on the proposal and chose not to do so.

Beth said that this was a very typical number of non-responses for a CPR.

Blane said he sees allowing the rental as an interim use as a good compromise and an opportunity to see how things go. He would like to assume that a good plan with good guidelines will go well. If more people in the neighborhood wanted short-term rentals there was a potential that the number of rentals could distort the community. But that is not the case at this point.

Sue said that there are currently 8 short-term rentals in the Township. Some communities, the City of Duluth included, have strict limits and have capped the number of STRs. Thus far, The Town has not capped short-term rentals.

Angela said that a lot of communities are moving towards short-term rental caps. There is a recent study out of Northeastern University showing that there is an increase of crime through the following year that corresponds to the number of short-term rentals. Their hypothesis is that the rentals affect the social structure of the neighborhood.

Genise said that those statistics result from people buying properties to use for short-term rentals for income. That is a business and it is different from what she is proposing.

Justin said that he agrees with Blane and would like to consider an interim use for maybe a six-month period.

Pam thought that three months would be better.

Genise said that the family is leaving at the end of the month and the house won't be ready yet. She is not sure when it will be ready to go.

Sue said that three months may not be enough time for the administrative process. Interim use permits expire without further action and the application must be submitted no later than 60 days prior to the expiration date of the permit. So three months would be a little short. It is also useful to think about what a reasonable period of time to judge the use would be.

Angela amended her motion to deny the interim use by adding the following language: The proposed interim use does not meet the criteria of Article IX Section 7.B.1 in that it is not consistent with the CLUP nor with the spirit and intent of the Ordinance. The proposed interim use does not meet the necessary findings of Article IX Section 7.B.10 in that the proposed use will create a potential safety problem.

Pam seconded the motion as amended.

The vote on the motion tied with Pam and Angela voting in favor and Blane and Justin voting against.

Sue asked Genise when she planned to start renting if her application were approved. Genise said she hoped to start September 1.

Sue said that in that scenario, a six-month period would end February 28. The period would include the fall season.

Pam said that she would be willing to allow it for a short period of time. She would like to see consistent communication with the neighbors, especially those with concerns, as a part of the permit.

Justin said that he would like to grant an interim use for a limited time to see if concerns about trespassers and the like were substantiated. There are successful airbnbs in the Township. Issues have not arisen from those. He would be interested in getting real world data in this case.

Pam made a motion to grant the interim use for a period of 6 months. Blane seconded.

Justin made a motion to split the motion and consider the criteria individually. Angela seconded. The motion passed unanimously.

Blane moved that the proposed use is consistent with the CLUP and with the spirit and intent of the Ordinance. The CLUP includes a policy that the quantity of short-term rentals in the Township not detract from the rural character of the neighborhoods they are located in. He believes this proposed rental fits that policy. The proposed short-term rental also meets the policy that the community needs for maintaining ruralness and cohesive neighborhoods be balanced with individuals' freedoms to use their property. The CLUP encourages tourism activity that does not detract from the community and the proposed use does that. Justin seconded.

The vote on the motion was tied with Blane and Justin voting in favor of the motion and Pam and Angela voting against.

Angela said that she did not agree that the proposal, with the circumstances presented, is consistent with the CLUP.

Blane moved to table the discussion to the next Commission meeting. Justin seconded. The motion passed unanimously.

The June 24, 2021 meeting minutes were approved as presented.

Ordinance Update

Sue proposed changing the setbacks for the Greenwood Cliffs area (SUR-2). The Commission previously agreed to reducing lot size and width for both SUR-1 (Greenwood Beach) and SUR-2. The two districts have similar lot sizes and widths so it makes sense that the setbacks be similar. The Commission agreed.

Sue said that the current Ordinance allows the maximum impervious surface area on a lot to exceed the maximum allowed (up to twice the allowed area) with a variance and a Stormwater Management Plan by a licensed engineer. She suggested that a variance not be required if the Stormwater Management Plan is submitted as required.

Angela said that she liked the idea of requiring a variance because it creates a higher standard for exceeding allowed impervious surface requirements. It also provides for a second look by an entity that was not hired by the applicant. She asked how frequently this came up.

Sue said that it has not come up a lot, but that it might come up more as 4.5 acre lots increase and people want to have more amenities on their lots.

Blane said that given that it didn't happen very much anyway, it didn't seem like it would add too much to the Commission's schedule to require a variance. The effects resulting from increased impervious surfaces is something that everyone is concerned about. Having a variance hearing gives the opportunity for oversight if needed.

It was agreed to leave the language, including the requirement for a variance, as is.

It was agreed to add definitions for pastures and feedlots to the Ordinance. Rabbits were included as pets and/or with poultry or fowl in sections pertaining to those animals. The sentence allowing access to shores for watering purposes for livestock was deleted.

The Commission agreed that the language on glamping, renamed "Isolated Camping Sites," was as decided at the June meeting.

Sue said that there would be an open house for presenting the Ordinance to the community and for seeking comments in October.

Pam made a motion to approve the draft Ordinance for submission to the Coastal Grant Program. Angela seconded. The motion was approved unanimously.

Sue thanked the Commission for their work on the Ordinance.

Director's Report

Sue said that land use permits are slow but there are a lot of property split applications coming in.

The Aho Road short-term rental conditional use hearing is scheduled for August.

Old Business

None.

Concerns from the Audience

None.

The meeting adjourned at 9:04.