

**Town of Duluth
Planning Commission
Meeting Minutes
August 26, 2021**

The meeting was called to order at 6:30 pm by Chair Liz Strohmayer.

In attendance: Dave Edblom, Liz Strohmayer, Pam West, Angela Wilson, Blane Tetreault, and Justin Osadjan.

Absent: Dave Meyer.

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

The agenda was approved as presented.

Mike said that at the most recent Town Board meeting the Board decided that each Township group could determine its own masking requirements related to Covid-19. The Board decided to make masks optional for their meetings.

The Commission decided that they would require masks at their meetings.

The minutes were approved without change.

Hoffman Conditional Use Hearing

The applicant, Nathan Hoffman, was not able to be present but called into the meeting to answer questions. Sue introduced the hearing and described the process. Nathan is requesting a conditional use to use his home at 1690 Aho Rd as a high-frequency short-term rental.

Sue showed maps of the area and of the site. The property is located in FAM-3 and all of the required dimensional standards for the zone district and for a high-frequency short-term rental are met except for the road setback. She read the proposed use from the application:

I would like to use the property for personal use as a vacation home for me and my family. I would also like to rent it out as a vacation rental. I have teenage children and we cannot use the place as much as I would like at this time. I would like the flexibility of renting it as a vacation home to general tourists, hikers, bikers, x-county skiers, etc.

Sue went over the operational details as given in the application. For hours of operation, Nathan intends to use the property 24 hours a day as a rental. For visitors to the site per day, he indicated NA. Sue asked him if he will have any employees like cleaners, etc. and the number of renters that would visit the site per day. Nathan said that he intended to use a vacation rental management company out of Duluth, Heirloom Property Management. They already manage a long-term rental for him. The home is 4 bedrooms, so he anticipates a maximum of 8 renters at a time. Sue asked who would be responding to complaints if there are any. Nathan said that he and Heirloom would respond to complaints.

Sue continued from the application. For traffic, Nathan said that the rental would generate a similar amount of traffic as someone who lives there year around, so it would not be an increase. The total number of vehicles coming to the site per day would be 2 on average and a maximum of 4. There is a large parking area so parking will be adequate. There will not be a sign. He indicated that there would be no activities that would generate dust, smoke, etc. Sue asked if he would provide a fire ring and allow fires. He said that he did intend to allow campfires. The application showed that there would be no noise that would affect adjacent properties. The structure to be used for the rental already exists. There will be no outdoor work or storage areas. No wetlands will be affected. A septic system is in place for wastewater and water is supplied by well. For waste management he intends to use a dumpster. Nathan said that may change and that he was going to talk to the waste management company to see what they recommend.

Beth went over the Community Participation Report. There were 10 neighbors within the notification area. Nathan talked to his adjacent neighbor, Bruce Aho, and left letters in the mailboxes of the remaining nine neighbors. He received no comments from those neighbors. The report shows that Bruce was “concerned that renters may turn around in his driveway, possible pets entering property and harassing chickens, etc.” Nathan’s response was that he “would put up a sign that clearly marks our property to hopefully minimize any risk that people would drive into his driveway. We may allow 1 dog per renter, but I think we are far enough away and our trails would be even farther away from his farm.”

Public Testimony

One email had been received from Robert Brasel. Beth read the email:

My only concern about such use is noise/parties. Because of my distance from this property, I don’t envision it would be a problem, however if it was next door my feelings would be different. Non- residents don’t have much impetus to respect a neighbor’s peace and quiet.

Bruce Aho spoke. He said that he would not change his behavior to accommodate the rental. If people started using his driveway as a turn-around he would put a gate across it. The County currently uses his driveway as a turn around when they plow snow. If he puts a gate up a new turn around will need to be created. He said that he has fences and cattle. If someone has an accident who will be responsible? He said that he is not against it, but will do what he needs to. He also said that a dumpster would attract bears.

End of public testimony

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, I do not believe the use by vacation renters will be different than yearly use.

Is the proposed use compatible with the existing neighborhood?

Applicant response: Yes, no change – as above.

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

Applicant response: NA

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, single house on 40 acres of woods.

Sue asked Nathan for more details regarding how the proposed use is consistent with the Comprehensive Plan. Nathan said that he was not sure. He said it was compatible with the neighborhood because the rental would not be any different than if he lived there year around. His proposed use will not impede normal development for the area because other than a few trails, there will not be any changes.

Will the proposed use comply with the wetlands requirements?

Applicant response: NA.

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.

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

Applicant response: No new construction.

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

Applicant response: Yes, well and septic use with no problems for 20 years of use.

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

Applicant response: No, secluded from surrounding neighbors.

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

Applicant response: Yes, easy access.

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: Yes, there has not been an issue in the past.

Nathan said that there is a small fire pit and he will allow fires. As to public services, he does not think there will be a heightened need compared to a year around resident being there.

Sue explained the difference between a conditional use and an interim use. The Commission's first decision is whether to hear the request as a conditional use or an interim use.

Liz noted that there was a lack of detail in the application, especially regarding the information that the Commission usually uses to make a decision. She said that the Commission might consider tabling the matter until further documentation is provided.

Pam said that eight of ten neighbors did not respond for the Community Participation Report. In addition, there is still a "for sale" sign on the property. Nathan said that he put letters in the neighbor's mailboxes asking if they had any concerns. He assumes that since they didn't respond, they didn't have concerns. The purchase process is ongoing.

Angela asked if the Commission were to allow the use as an interim use and not as a conditional use if he would still want it as an interim use. Nathan said he would.

Angela made a motion to hear the request as an interim use. Dave seconded. The motion passed unanimously.

Angela moved to deny the request for an interim use because insufficient evidence was presented to support the proposal and to show that the applicant is entitled to the use. Blane seconded. The motion passed unanimously and the request was denied.

Liz said that her main concerns were the lack of response from the community and the lack of detail and thought that went into the application to support approval of the use. She would recommend looking at the CLUP for guidance.

Nathan asked what the next step would be.

Sue said that he should be able to reapply if he wishes to. She will double check to make sure that is the case.

Hoffman CUP Decision

Sue summarized the hearing held at the July meeting for a request by Genise Hannah and Sean Forde for a conditional use for a high-frequency short-term rental at their home at 5420 McQuade Rd. The

Commission decided to hear the request as an interim use. Two motions were made, one in favor of allowing the use and one denying it. The vote on both motions was tied, so the decision was tabled. Everyone had reviewed the minutes from the hearing and there were no additional questions.

The applicants were not able to be present, but Sean called in to the meeting to answer questions.

Justin asked if anything about the proposal had changed in the month since the hearing.

Sean said that he tried again to reach those neighbors who had not replied to the original request for input for the community participation report, but did not have any luck. Otherwise, the house has been sitting except for one friend.

Angela noted that at the hearing, one neighbor had been particularly concerned. Have they had any additional conversations with that person?

Sean said that when he talked with that neighbor, they had had a good conversation. He had stressed that they were catering the listing towards families by making it higher priced. He stressed that if approved, he and Genise will provide a letter to all of their neighbors that would include the contact information for the property management company, Heirloom, as well as their own and his father's contact information. If the rental is not working and there are complaints, they will pull the plug. They do not want to disturb or upset the neighbors.

Beth read a letter from the neighbor with concerns, submitted following the hearing.

I was planning to attend the meeting tonight concerning the high frequency rental permit application... on McQuade Road. However, something last minute has prevented me from attending. My concerns all remain the same as I had voiced last month. Safety, noise, traffic, the influx of strangers coming and going and the anxiety that comes with all of it. My hope is the permit is denied. However, if anything is passed, I would hope it would be temporary and on a trial basis as was discussed last month. I do not remember the term that was used for this purpose. I hope the conditional permit that was applied for, never be passed, as my understanding is that it remains in place even after the house is sold.

Tim Forde, Sean's father, said that Sean and Genise were able to contact 16 of the 20 neighbors in the notification area and 15 were okay with it. In addition, there is a historic precedent in the Township of approving this kind of request. The fact that Sean and Genise will be out of the country during the rental should not be a deterrent, as many of the property owners renting their homes do not live nearby. If they have to deal with issues, the property management company is immediately available and Sean and Genise are available by phone, as well. The property management firm has experience with this. If there are issues, they will turn up during the interim use period.

Angela said that she felt that there were two others besides the neighbor who came to the hearing in July who had similar misgivings about the proposed rental. The home is in a residential neighborhood and at least one person felt that having a short-term rental there would significantly affect the neighborhood. There are other options for the applicants besides short-term rental or leaving the home vacant. In neighborhoods along the shore, there is an expectation that not all homes are year around residences and that there will be some vacation rentals. On McQuade Road the homes are residential, not cabins.

Liz pointed out that there are rentals on Wildwood Road and on West Knife River Road that are not on the shore but are in residential neighborhoods.

Angela said that there have been some rentals in these areas from before she was on the Commission and they have not been problematic. These rentals also have someone living on-site or locally much of the time and are not run by a property management company.

Liz felt that the applicants have shared their desire to be a part of the community and they care how their neighbors feel, both important things to her. They will live in the home during the summer. She thought it would be appropriate to allow the use as an interim use.

Justin said that Genise had said they have not been mowing the grass where the trails are located. He thought specifically stating that people cannot go on the trails as a part of the house rules might create an attractive nuisance. A simple no trespassing sign might be better. He suggested making the interim use for 9 months so they could reapply in June if they chose to.

Dave said that he thought a year would be better.

Liz agreed, saying it would give them more flexibility to be here to attend to matters.

Blane said that the rationale for allowing the use for a short time is so that if there are problems, the permit ends sooner. But the Town can pull the permit at any time if something goes wrong, right?

Sue said that the Town always has that recourse and a permit can be withdrawn for violation of conditions. But it is a process and may take a while. If there is an issue, you contact the owners and the process begins.

Blane felt that the negative feedback from the community was not founded on fact and should not be an impediment to allowing the use.

Liz said that community participation is an important part of the process and the Commission needs to take it at face value.

Justin moved to approve the request as an interim use for a period of twelve months. Dave seconded.

Justin moved to split the motion to assess the criteria individually. Angela seconded. The motion to split the motion passed unanimously.

Liz moved that the proposed use is consistent with the Comprehensive Plan and within the spirit and intent of the Ordinance because it is in balance with the neighborhood and natural amenities and allows for minor tourism in the area which is encouraged by the CLUP. Blane seconded. The motion passed by a vote of four to two. Voting against were Angela and Pam.

Blane moved that the use is compatible with the existing neighborhood because it will remain a residence and will be occupied by the owner at times during the year. There will be no structural changes to the

home or the property relative to this request. Justin seconded. The motion passed by a vote of four to two. Voting against were Angela and Pam.

Justin moved that that the use will not impede the normal development of the surrounding area because this is a single-family residence and it allows the owners to purchase the home and live in it part-time until they can move to the area. Dave seconded. The motion passed by a vote of four to two. Voting against were Angela and Pam.

Dave moved that the location and character of the proposed use is consistent with a desirable pattern of development for the area because it's a residential area, the home is existing and the use is primarily residential. Nor are there any negative implications for development in the area. Blane seconded. The motion passed by a vote of four to two. Voting against were Angela and Pam.

Pam moved that Items 5, 6, 7, and 8: Compliance with wetlands requirements; meets impervious surface requirements; adequate topography, vegetation and soil conditions; and no impact to public waters during or after construction are all met or do not apply. They will allow vegetation to grow to camouflage trails. The pond will be off limits. Angela seconded. The motion passed unanimously.

Liz moved that adequate utilities already exist because there will be no construction that will alter the amount of use. Pam seconded. The motion passed unanimously.

Blane moved that the use will not create potential health and safety, environmental, lighting, noise, signing, or visual problems because they are not changing the existing structure. They have established rules regarding noise and other potential issues. Justin seconded.

Angela said that she disagreed with the language that the use will not create a potential for safety concerns because a near neighbor expressed concern for their safety if the request were to be approved.

The motion passed by a vote of four to two. Voting against were Angela and Pam.

Justin moved that the location of the site is appropriate with respect to existing or future access roads because adequate road access exists and no there will be no new construction. The amount of traffic will be equivalent to having a full-time family there. Angela seconded. The motion passed unanimously.

Liz moved that current public services are adequate and will continue to be adequate for this use. Blane seconded. The motion passed unanimously.

Liz said that the applicants will be occupying the home for three of the next twelve months, so she thought allowing the rental for 250 days through the year would be adequate.

Angela said that because of the concerns voiced by some of the neighbors, she would prefer the rental be allowed for fewer days, say 200.

The Commission agreed to add the condition that the rental be allowed for 200 days during the next year.

Justin said that given concerns regarding trespassing and safety it would be good to have the property lines clearly delineated with a fence or signage or something similar.

The Commission agreed to add the condition that property lines be delineated to make them clear to renters.

The Commission agreed to allow the use to start on September 1. There is a 15-day appeal period following the decision.

The overall motion that the interim use, for a period of 12 months, commencing on September 1, 2021, with a limit of 200 rental days and the condition that the property lines be delineated passed by a vote of four to two. Voting in favor: Liz, Dave, Blane, and Justin. Voting against: Angela and Pam.

A short break was taken while the decision and findings of fact was drafted.

Sue said that there may be a conditional use hearing for an isolated camping spot off of Old North Shore Road in September. The Commission agreed to a one-quarter mile notification area.

The newsletter will be out with an article announcing the October 19 date for the open house on the Draft Zoning Ordinance. The Commission agreed to meet on November 16th to go over comments received at the open house, Thursday December 2nd for the public hearing and Thursday December 16th to review further comments and recommend the draft to the Town Board.

Mike reported that the Board is now allowing rentals at the Town Hall again. They are discussing problems with bonfires along the shore.

Angela said that given recent discussions, the Commission should consider short-term rental frequency caps, maybe by zone district.

Dave said that he agreed that a short-term rental can alter the character of the neighborhood.

Sue said that when considering new policies for short-term rentals for the Ordinance revision, the Commission decided on two things – one, to only allow one short-term rental per owner, and two, to make all short-term rentals interim uses. She said that it is hard to account for cumulative effect of things like multiple short-term rentals. It can be hard for people to grasp. Different communities approach it differently. Some limit short-term rentals to help maintain the number of the community's more affordable housing units.

Angela said that some web sites that facilitate short-term rentals collect the occupancy tax and submit it to the governing entity. The Town currently gets no such benefits from short-term rentals.

Sue said short-term rentals could be licensed instead of falling under land use. There are a lot of ramifications with licensing.

Mike said that enforcement is the hardest part. You can put limitations on things but have to have a mechanism for enforcement.

The meeting adjourned at 9:34.