

**Town of Duluth
Planning Commission
Meeting Minutes
November 30, 2022**

The meeting was called to order at 6:31 by Chair Angela Wilson.

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

Absent: Dave Meyer.

Also attending: Liz Strohmayer, Planning Director, and Tim Strom, Town Board liaison to Planning.

The agenda was approved as presented.

Public Hearing for Draft Ordinance Changes

There was no one from the public in attendance and no comments had been received prior to the meeting.

Dave said he was reviewing the Ordinance and he did not recall the conversation that led to making it a requirement that a high-frequency short-term rental had to be the primary residence of the owner. He thought that requirement made having a HFSTR onerous and more like a bed and breakfast. Why would there be a prohibition against someone living in one home in the Township and renting another property in the Township as a HFSTR?

Liz recalled a reasoning that it would allow for snowbirds or people who leave their home for a period of time to be able to rent it out. HFSTRs were not meant to be a primary source of income in this scenario. She also recalled discussing different versions of this before deciding.

Blane said that concerns over housing shortages drove part of that conversation.

Angela pointed out that home owners who want to rent for an event like Grandma's Marathon can still do that under the low-frequency short-term rental permit.

Dave said that under the current rules, the use is virtually shut down. He recalls the reasoning being to keep developers from coming in and buying up properties to use as HFSTR income properties. The idea was that if the owner of the rental was required to live in the Township, that they would be more responsible to the community.

Justin said that it wasn't just the Commission that had concerns over HFSTRs, the community expressed concerns about itinerant short-term renters. He wondered if the community would find it acceptable to rent an accessory structure on the property the owner resides on. It would have the closer oversight the community wants and it would not be removing stock from the housing market. Is it something that is worth discussing?

Liz said that a second dwelling on a parcel is considered a subordinate dwelling and is only allowed for use by family members.

Angela said that on one hand there are members of the community who have an interest in a use of their property that does not really run afoul of the Town's CLUP. The Township's housing inventory is not at risk from someone renting a cabin on their property.

Dave said the HFSTR use is still fairly limited because an individual can only have one HFSTR in the Township.

Liz said that a guest cottage is allowed in the Ordinance – strictly for guests and not commercial, and a subordinate dwelling is allowed, but there is nothing in between. WWOOFERs would be considered guests in a guest cottage as it's not being rented.

Liz read the definition for principal single-family dwelling: A detached residence, including a mobile or manufactured home, designed for one family only and having an approved sewage disposal system. Hosted HFSTRs are defined as being a part of a principal, single-family dwelling. HFSTRs are defined as being a single-family residential dwelling. From those definitions, she thinks the intention is to not allow HFSTRs in subordinate structures. A lot of things would have to be changed in the Ordinance to allow renting of a subordinate or accessory structure.

It was decided that it could be worthwhile to review the rules for HFSTRs in light of the ideas offered, but Ordinance Number 6 is fairly new and it was thought that it would be a good idea to see how well the current language works before thinking about changing it again.

Angela said that the proposed Ordinance changes on the agenda tonight are housekeeping changes. The Commission can still move these forward and then consider additional changes at a late date.

Tim said the reason for the recommendation that the HFSTR language be moved from Article IX to Definitions pertains to potential variance requests. Variances are not considered for uses, but geographic or dimensional standards can be subject to variance requests. It has been argued that the conditions in question could potentially be considered geographic conditions and, as such, subject to variance requests. By putting some of the requirements in the definition of the use, it becomes a part of the defined use and not subject to variance requests. If the Commission is feeling uncertain about HFSTRs, they can choose not to recommend that change and leave it open to the possibility of a variance. He said that even if the language is moved to the definition, it may not be bulletproof. Someone could appeal to the Town Board.

Dave said that he prefers to not have a gray area like this and would prefer that it be clearer and not dependent on someone spotting a loophole that potentially allows a variance.

Blane agreed that leaving the option to request a variance in these situations seemed like a sticky way to go. Why would you grant one and not another?

Tim said that the idea is that a variance is a kind of safety valve – it can allow for things that you didn't think of. But to grant a variance, the situation has to be unique to the property and it's not clear how wanting two HFSTRs in the Township, or building a cabin to use as a HFSTR could be considered unique to a property. By the same token, if you allowed HFSTR of accessory structures, would the community want to see everyone build a cabin for a HFSTR? Probably not.

Justin said that when he first joined the Planning Commission, he felt that the rules were restrictive - why not let a person do what they want with their property? But he now understands. Still, renting a second structure on your property seems reasonable to him. When hearing a variance or conditional use, it can be hard to say no. It is difficult to say no to one and yes to another, and even though every situation is different, it can seem unfair.

Tony recalled his experience with the County. If a constituent wanted something, even if it was against another administrative part of the County, that person could go before the Board and the Board could

override the other administrative department's wishes. If an applicant is turned down, the Town Board can make those decisions through an appeal.

Liz said that the Town of Crystal Bay heard about our HFSTR regulations and are looking to us for a model to better manage their HFSTRs. They also plan on sharing it with Lake and Cook County as they are all struggling with the issue.

Pam thought that the language should be moved as proposed. Let it stand for a period of time and see how it goes.

Blane agreed, but asked about the requirement that residents live within two miles of the rental if the lot is less than 2 acres. This language is now extraneous and conflicts with other language.

Angela said that there is no scenario in the current Ordinance where this would apply.

Angela moved that the Commission recommend to the Board that the following change to the Ordinance be adopted: Move paragraphs 2, 3 and 4 from *Article IX, Section 20, Performance Standards for Dwellings, High-Frequency Short-Term Rental, A. Special Requirements and Conditions* to the definition for Dwelling, Principal, High-Frequency Short-Term Rental in *Article II, Definitions*.

Pam seconded and the motion passed with all in favor except Blane, who abstained.

Angela moved that the Commission recommend to the Board that the following changes to the Ordinance be adopted: Change designation in Table 5.3 for Accessory Structure between 1000 & 2000 sq ft from Not Allowed in SSUR-1 to permitted with Performance Standards; change Table 16.1 – Permit and Administrative Fees such that “Conditional Use Permit” under “Conditional Uses” be amended to “Conditional / Interim Use Permit” for each applicable instance; remove the word “conditional” from the line in Fees reading “Conditional / Interim Use Permit High-Frequency Short-Term Rental; and increase the annual fee for Low-Frequency Short-Term Rentals from \$68 to \$100 per year.

Pam seconded.

The motion passed unanimously.

The public hearing portion of the meeting was closed.

RV Rental Business Inquiry

An inquiry was made by someone who wanted to have an RV rental business on a two-acre lot in Zone District SC-1.

Pam asked how many RVs they were talking about. Is that something the Town would have control over?

Liz said that there is nothing in the Ordinance limiting the number of RVs you can have on your property, only that you can't have people living in them.

Angela thought it seemed like a business that could potentially be allowed. She had questions about waste disposal when the campers are returned.

Tony noted that there is a drainage ditch that runs right through the property in question into the Talmadge River. They would need some kind of catchment to contain vehicle fluids. And perhaps a fence to screen the vehicles.

Liz said that commercial uses in SC-1A are conditional uses, so the Commission would have the opportunity to put conditions on the use.

The Commission said that it could be considered under a conditional use, but that there would be a lot of questions and it was not straightforward.

Liz said that this person also wanted to know if they could have camping in the rental RVs on-site. She said that use would not be allowed under HFSTRs or under the isolated camping site use. A campground requires a minimum of 10 acres. They could apply for a variance.

The Commission felt that that use on that property would not be allowed under the Ordinance.

The October 27th minutes were approved as presented.

Directors Report

Liz said that no applications for variances or conditional uses had been received for December, so there will be no December meeting.

She said that she has had to do a lot of enforcement lately. Among the issues is that people have not realized that permits are required for driveways. She recently talked to one of the primary driveway contractors in the Township and expects the incidence of driveways without permits to decrease. There are a couple other enforcement issues on her radar when Land Use Permit applications slow down. It's been a really busy year.

Liz said Beth expects to step down from the Planning secretary position around this time next year, so the Town will be posting to fill the position. In light of the sheer volume of work in the department, it was decided to change the position to a hybrid planning secretary / planning assistant position with increased hours. The workload has increased to the point that it is clear that an assistant to the Planning Director is necessary. There is a lot of interest in the Township, probably due to its proximity to Duluth and the amount of undeveloped land. The inquiries regarding properties and issues in the Township have really increased and each inquiry requires research and a well-considered answer.

Tim announced that the annual Christmas party would be immediately following the Town Board meeting on December 8th.

Old Business

None.

Concerns from the Audience

None.

The meeting adjourned at 8:04.