

**Town of Duluth
Planning Commission
Meeting Minutes
February 24, 2022**

The meeting was called to order at 6:33 pm by Acting Chair Dave Edblom.

In attendance: Dave Edblom, Angela Wilson, Blane Tetreault, and Dave Meyer.

Absent: Pam West and Justin Osadjan.

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

The agenda was approved as presented.

Public Hearing for Sorenson High-Frequency Short-Term Rental Conditional Use Application

Sue introduced the hearing. Introductions were made all around. Brian and Kristi Sorenson were present. Their application was for a conditional use for a high-frequency short-term rental at 5395 North Shore Drive.

Sue presented the process for the public hearing. She explained the difference between a conditional use and an interim use. She then introduced the application. The property is located in SMU-6 and meets all of the dimensional requirements for the zone district and for a short-term rental. She showed the vicinity map, the site photo and the site sketch for the property. The proposed use, as stated in the application is:

We would like to rent the property on a more frequent basis than provided for in the low-use permit. The renters would be family groups, with a minimum renter age of 25 and an occupancy limit of 6 people (3 bed, 1 bath house). ATV or snowmobile use would not be permitted on the premises.

Sue reviewed the operational details as submitted in the application. The hours of operation will be 24/7 during time of rental contract. Starting and end times were not specified in the application and Sue asked what those times would be. Kristi said that check in would likely be between 3 and 4 pm and check out between 10 and 11 am, as these times are typical for the area. Sue continued. The numbers of employees, customers, deliveries and others that will visit the site each day are up to 3 employees (cleaner, snow removal, and lawn care) as needed and 2 to 6 renters per day. The applicants stated that “The traffic patterns will be similar to regular use for a single-family residence. Minimum rental periods will be set to 2-4 nights, depending on the season. The majority of rental is expected on weekends.” The total number of vehicles coming to the site will average 2 per day with a maximum of 3 per day. For parking, the application states that “Adequate parking is provided on the property: 2 car detached garage plus driveway parking (set back from neighbors).” There will be no signage. There will be a grill and firepit on the property that will create minimal smoke consistent with typical residential use. Noise is expected to be consistent with typical residential use. The rental terms of use will state 10 pm - 8 am quiet hours, and an outdoor noise monitoring device will be installed in the backyard to ensure noise does not exceed acceptable levels. There will be no new structures. There will be no outdoor work areas. Wetlands will not be affected as the property does not have any low areas or areas with standing water. Wastewater will be through DNSSD, the water supply is a well and waste disposal will be through North Shore Sanitary residential service garbage collection.

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

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

Applicant response: We believe the proposed use is consistent with the Comprehensive Plan and within the spirit and intent of the Ordinance in that it caters to families or small groups of people who would occupy the home in a similar manner to those in the neighborhood today, and continue to respect the area's natural surroundings. We appreciate the core value of non-crowded living, and purchased our home because we wanted to have the privacy of a wooded, 2-acre lot, while still having a sense of nearby neighbors that we could know and actively engage with.

We currently have some, but not complete, flexibility to work remotely for our occupations. And two young (preschool/elementary aged) children. At present, this gives us opportunities to spend extended weekends/weeks at the house. In the future, we hope to have complete work flexibility that would allow us to move to Duluth Township full time. Looking to the existing goals and policies, and the aspiration for 2030, we appreciate the reiteration that the Township seeks to balance the community needs and costs with individuals' freedoms to use their property. We look forward to becoming a part of this community for many years to come.

Is the proposed use compatible with the existing neighborhood?

Applicant response: We believe it is compatible with the existing neighborhood because we plan to use the house the majority of the time for our family's use. When we're not there, it will be renting to families or small groups similar to those in the neighborhood. We will take a number of measures to ensure the rental use is consistent with typical single family residential patterns: minimum rental age will be set at 25, renters will be required to tell us about their plans for the trip before bookings will be confirmed, groups will be limited to 6 (consistent with a 3 bed/1 bath home), parties and events will not be allowed on the property, quiet hours will be established (aligned with any neighbor input/concerns), exterior security cameras and noise monitoring devices will be installed, and property boundaries will be clearly marked and communicated to any renters. We will also use a local property management company, providing 24/7 local agency during all rental periods (likely Heirloom Property Management or Messina Property Management).

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

Applicant response: No. We do not believe this proposal would impede the above.

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. The renters will be small family groups consistent with the widely spaced family housing on the street.

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.

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

Applicant response: Yes. There will be no abnormal activities that would affect the above.

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

Applicant response: There is no proposed construction.

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

Applicant response: Yes. There is a private well on-site. Wastewater through DNSSD.

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

Applicant response: No safety problems; no change in environment, lighting, or noise. No visual modifications.

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

Applicant response: Yes.

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: No. Will not be increased by the proposed use. Proposed use does not differ from normal residential needs.

Brian summarized the Community Participation Report. He said that they sent out 20 letters to the neighbors in the notification area. They received one phone call from Julie and Dan Neiman who had no major concerns, but shared information regarding property lines and paper roads from a survey they had done on their property. Brian said they wanted to make sure to contact their closest neighbors so they visited in person with the neighbors on either side of them as well as the nearest neighbor across the road from their home. He said that one neighbor, Michael Heinzen, had some concerns regarding safety and what measures they planned to take to assure that the rental would not be a problem. Brian said that he told him that their intent is to rent to small families and small groups of people who are not likely to be party groups but who are grown and mature adults.

Dave Edblom asked if they are currently living at the property. Brian said that it is not their primary address. They currently live in St Anthony Village. Dave asked if anyone was living at the property. Brian said that no one was and that they were using it primarily on weekends.

Blane asked about the plan for managing the rental. Brian said that they looked at a couple of property management companies. They had a positive experience when they purchased the home through Messina Group Realty. Messina has a property management service that would meet their needs. They also have

talked with Heirloom Property Management Service. Heirloom offers a more in-depth service and controls the rental more. This has its advantages but takes some control from the owner, including not being able to set a minimum age and not being able to vet potential renters. Kristi said that Heirloom controls the marketing of the rental and limits the number of questions you can ask a potential renter before agreeing to rent to them. Kristi said that they care about the home and their neighbors and hence want a greater degree of oversight in vetting potential renters.

Angela asked how long they have owned the property. Kristi said they have owned it since November 10.

Dave Meyer asked if it was currently a short-term rental. Kristi said that they are not currently renting it. Dave asked if they have had other rental property. Kristi said they have not.

Angela asked why the low-frequency permit did not meet their needs. Brian said that they looked at that, but they would like more flexibility. They may not rent it that frequently, but they know they will not be able to be there as much as they would like and want the flexibility to rent more often. Angela asked how frequently they plan to rent. Brian said that they will use it the majority of the time but can't use it all the time. At the most they would like 150 days of rental availability to allow some flexibility on a month-to-month basis. Angela asked about the concerns expressed by Mr. Heinzen. Were his concerns allayed or does he remain concerned about the additional people in the neighborhood? Mr. Heinzen and his wife were in attendance and said that they still had many concerns.

Kristi said that in addition to the conditions on the rental property they detailed in their application, they remain open to other ideas or approaches their neighbors would like them to take.

Blane said that management has been a significant factor in the success of short-term rentals in the area. He asked when they expect to have the property management in place. Kristi said that they have contracts written up with both management companies and are prepared to sign one of the contracts as soon as a decision is made on the conditional use. They would be able to deliver the property management information by March 1st. They would hope to be able to begin renting on April 1.

Public Testimony

Beth read two email comments.

The first was from Humberto Alercon: "It doesn't meet the criteria to be rented. The structure is too cold and it will undermine security to the neighborhood. The previous owner vandalized my trees to get a lake view."

The second was from Jared Peterson: "I am an adjoining landowner to the Sorenson's property at 5395 North Shore Drive, and I understand they are asking for a conditional use permit to operate a high frequency short-term rental at their property. My concern with the conditional use permit is that the owners will be so far away from the property should there be any issues, and I have concerns about whether a property management company will be responsive. If the commission does decide to approve the conditional use permit, I request that it include the conditions of the neighbors being given a number that is answered 24 hours should there be any issues and that there be no trespassing on neighboring properties."

Present at the Town Hall to testify were Michael and Jodi Heinzen. Jodi spoke. She lives next door to the property. She is 100 % opposed to the proposed use of the property as a short-term rental.

She has experienced extreme stress and anxiety over the proposal since having received the Sorensens' letter. It stresses her out that strangers may see her and think that she is alone. She lives with that fear. People partying will come back to the wrong house and try to get in her door. She works from home and doesn't want to deal with that. She likes to have her windows open and does not want to have to listen to noise and partying. She is concerned about possible sex offenders renting. She is too close to that property. The bedroom closest to the woods is where her grandchildren sleep and she will worry about people breaking into their bedroom. Cars will be turning around in their driveway. People will go to the wrong house and try to get in after they are partying and are drunk. She is afraid of what she might do if that happens.

Another neighbor rented his home and there were constant problems and no respect for neighbors' properties. He even allowed a chainsaw carver to set up a camper right next to their garage with a view into their windows. It would be like having a mini motel next door. The firepit is right on the side of their property and there will be smoke and ashes. She likes to sit outside and doesn't want to have to listen to vacation renters or smell smoke.

She welcomes the Sorensens as a family but does not agree with their plan to use the home as a short-term rental. She and her husband have lived there 32 years and have worked hard to live where they live and have what they have. She doesn't think it's right that they should have to endure a short-term rental next door. They won't be able to feel comfortable when they go on vacation, not knowing who is in the house next door. She does not want to have to put cameras on her property. She does not think renters will respect the boundaries between the properties. She wants to know who her neighbors are, even if they don't have a close relationship. She doubts that they will move into the house when they are making money off of it.

Background checks don't necessarily mean anything. It will be 150 nights of stress for her. The Township should respect and protect its residents. We respect our neighborhood and other people's properties. She thinks the Sorensens should have checked with the neighbors before purchasing the property if they intended to use it as a short-term rental. The rental will decrease the value of their property. She wouldn't have bought their home if, at the time, there had been a rental next door. She worries that others in the neighborhood will decide to have short-term rentals if this is approved and she will have them on both sides of her property. She doesn't think she should have to live in fear of who is spending the night next door to her every night.

Michael Heinzen spoke. He said he felt the same as Jodi. He knows the Sorensens are nice folks, but he told Brian how he felt when he stopped to talk. He knows from experience there will be smoke from the firepit coming in their windows. He has had an ember fall on his deck and burn a hole. The rental will impact their enjoyment of their home. The rental will raise his property taxes and will make it harder to sell his home. They only have one and a half acres, so could not have a short-term rental themselves. But the properties around them are larger and could have rentals and they would be surrounded by them on their smaller property. It is not why they moved out into the country. He will worry about his wife and who is in the home next door when he is not home. They were happy when they thought a young family was moving in. Then they got the letter saying they intended to use the home as a short-term rental. Most of the renters may be great, but it only takes one time. He said that motels have the same rules and, in his experience, they are noisy and disruptive. Even if the renters aren't loud, it's only 100 ft from their home and it's a disruption.

Kristi said that there were some things that were in the public testimony such as the location of the firepit that she would like to address when it's appropriate. If neighbors have specific concerns or things they would like to be done differently, she would like a chance to address that.

End of Public Testimony

Angela moved that the application be considered as an interim use. Blane seconded. The motion passed unanimously.

Sue read the standards for approval of an interim use. There are 12 necessary findings that must all be met in order to approve the interim use.

Dave Meyer moved to split the question and consider each of the findings individually. Angela seconded and the motion passed unanimously.

Angela moved to deny the permit. Blane seconded.

Blane said that he respects the comments made regarding the proposal. He felt that comments provided a real sense of the impact of the proposed use on neighbors and the emotions related to the use. He felt that if the permit were to be approved, the testimony heard tonight would certainly shape the Sorenson's approach to the short-term rental. The comments were very valuable. He said the Commission is tasked with following the Ordinance and balancing a person's freedom to use their property with community rights and public feedback. It's difficult. He asked about the proposed Ordinance that has been recommended for approval. If the Sorensens' short-term rental permit is approved, it could be affected if the recommended Ordinance is adopted. Should the Commission consider how the future of this rental property might be impacted by approval of the recommended Ordinance?

Sue said that the decision for this request is based only on the Ordinance that is in effect now.

Blane asked if the recommended Ordinance was a public document.

Sue said that it would be posted on the website on March 1.

Dave Edblom said that it doesn't matter if the recommended Ordinance is adopted. We are dealing with the Ordinance we have today.

Blane said that short-term rentals have been very controversial lately everywhere and it was clear they would be an ongoing issue. With the cost of real estate and taxes, people sometimes need a way to offset the costs of owning a home. But you also have neighbors who are afraid that there won't be adequate oversight. There are good and bad management companies and varying degrees of vetting potential renters. He felt that there were too many unknowns for him to feel comfortable making a decision tonight. He would like to have more time.

Angela said that it's on the agenda for a decision tonight. But that doesn't mean it can't be tabled to a future meeting if more time is needed or to allow for more Commission members to be present.

She said that the area is a residential neighborhood and most of the lots are two acres or less. She didn't feel that a high-frequency short-term rental was compatible with the existing neighborhood. She agreed with the neighbors who spoke. If you live in a neighborhood like that, you expect it to be a neighborhood and not have a mini hotel next door. She would feel the same way. The Sorensens could try the low frequency short-term rental option. To her it does create a concern as articulated by the neighbors. It

does create an additional need for public services even if it's simply over a fear of having strangers next door 150 nights a year. Looking at the number of responses, there is one neighbor adamantly opposed and two written comments saying it is not compatible with the neighborhood. This is a request from someone who recognizes that it is not the purpose of the zone and they are asking for something different, a variance from the existing rules, and they have not shown to her satisfaction that the use they are proposing is compatible with the neighborhood they bought their house in.

Blane asked the Sorensons if they had any comments or concerns regarding the statements made regarding their application.

Kristi asked when, historically, there has been concern about the potential outcome of having a use such as they are proposing, how has that been treated? Has the request been denied or approved?

Angela said that sometimes the application is denied and sometimes it's granted.

Dave Edblom said that if an application is approved where concerns have been expressed, conditions are put in place to try to find a way to placate both parties.

Blane said that there are tools that can be used to address concerns. The Commission has to consider how each of the findings apply to the particular application and location. How the rental is going to be managed has always been a big factor, as well.

Brian asked about the Community Participation Report. In reference to the five neighbors who provided input, one of the neighbors is being characterized as being against the proposal. He was not overwhelmingly in opposition, but had some conditions that he wanted to be in place. He was not in opposition if those conditions were met.

Sue asked how many notification letters were sent out. Beth said there were 20 letters sent.

Kristi said that they were able to engage with 3 of the neighbors. And there were 2 additional responses that were sent directly to the Township.

Sue said that that came to 5 responses out of 20 notification letters to neighbors. For whatever reason, 15 people didn't respond.

The Heinzens spoke again, asking that the Commission consider how close the rental and the fire pit would be to their home. They also said that just having a phone number available to call 24 hours a day would not alleviate their concerns.

Dave Edblom called the question.

Blane said that he was going to vote against denying the request. But he was not prepared to approve the permit, either. He felt that there was a lot of emotion surrounding the request and he would rather take time to make a decision based on the Ordinance. He would like to table the decision.

The motion failed with a tied vote; Angela and Dave Edblom voting in favor of denying the permit and Dave Meyer and Blane voting against.

Blane moved to table the motion to the March meeting in order to have additional Commission members present and to consider the facts of the application as they relate to the Ordinance. Dave seconded. The motion passed three to one with Angela voting against.

The decision was tabled until the March 24th Commission meeting.

Kristi said that Blane made a number of references to the proposed Ordinance, and she and Brian would like to ascertain if there are any specific requests or actions the Commission would like to have them undertake before the March meeting.

Sue said that it's up to the Commission, but all of the necessary items for the application have been completed, so nothing more should be necessary. It should be that the matter is taken up from where it was left off this evening. She emphasized that the decisions the Commission makes are based on the current Ordinance.

Blane said that he just wanted to make the Sorensens aware of the possibility that if the permit were approved, any renewal might be under the new Ordinance.

Sue said that she did not know whether a renewal of this Interim Use permit would be subject to the terms of the Ordinance it was approved under or subject to the terms of an Ordinance subsequently approved. It would best be interpreted by an attorney. She will check with the Town's attorney for clarification.

Sue said the Town has 60 days to decide on an application but that this can be extended for another 60 days. She will write a letter to the Sorensens indicating that the Town is going to extend the 60-day period. It gives the Town leeway to make the decision and be within the legal decision period.

Sue thanked the Sorensens for their work and the folks that provided comments.

The minutes were approved as presented.

Director's Report

Sue said that Mike Kahl was stepping down from the Town Board. She thanked Mike for the years he served as Town Board Supervisor. He had responsibility for Town roads, which is not an easy task. He also served on the Planning Commission for six years. Mike said that he has been impressed with the Planning Commission ever since those early years that he was on the Commission. He appreciates how the Commission takes in all of the information and is able to think outside of their own realm of experience. He said that his time on the Commission made him a better person.

Sue said that there continue to be a lot of property splits in the Township. The Town Board will look at the Recommended Ordinance on April 12th. The Annual meeting is on March 8th. The election to fill Mike and John Schifsky's Supervisor seats will also be on March 8th.

Old Business

None.

Concerns from the Audience

None.

The meeting adjourned at approximately 8:10.