

**Town of Duluth  
Planning Commission  
Meeting Minutes  
December 4, 2024**

The meeting was called to order at 6:30 pm by Chair Angela Wilson.

In attendance: Angela Wilson, Justin Osadjan, Dave Meyer, Tony Mancuso, Nate Nesgoda, and Ken Peterson.

Absent: Pam West.

Also attending: Liz Strohmayr, Planning Director; ArMand Nelson, Town Board liaison to the Planning Commission; Beth Mullan, Secretary; and Laura Herzog, incoming secretary.

The agenda was approved as presented.

**Hoffman HFSTR IUP Extension Public Hearing**

Liz introduced the public hearing and presented the request. Nathan and Angela Hoffman were applying for an extension of the interim use permit for their high-frequency short-term rental (HFSTR) at their property at 1690 Aho Road. Angela Hoffman was present for the hearing. The interim use was originally granted in October 2021 and has been extended yearly since. The current extension runs through the end of 2024. The permit allows them to rent the home for 120 nights per year and requires that dogs be leashed when outside. The property is in FFL-1 and all dimensional requirements are met except for setback from the road, which is 75 ft.

Liz showed the site and aerial vicinity maps. The home was rented a total of 120 nights over the previous year. There have been no complaints regarding the rental.

Angela Hoffman spoke. She said that they have reservations for next summer and hope to renew the interim use. The closest neighbor to the rental is Bruce and they have a good relationship with him. They did try a long-term rental over the previous winter, but that didn't work out at all. They felt that the short-term renters are more responsible. They don't plan on renting it long-term again.

Justin noted that their neighbor, Bruce, came to the initial hearing when they first requested the short-term rental, but he hasn't come to subsequent hearings. Nate said that Bruce would have let him know if he had any issues with the rental.

Dave said that the interim use has been allowed on a year-to-year basis so far. Could the Commission consider allowing it for a longer period, maybe two years, this time?

Liz read the criteria for approval of an extension of an interim use permit:

- 1) Demonstrated compatibility with the neighborhood.
- 2) Any detrimental effects documented during the period of the interim use.
- 3) Any increased costs to the Town as a result of the interim use.

The request can only be evaluated on these criteria. Previously, the Commission discussed extending the permit for a longer period of time but concluded that it was easier to evaluate it on a yearly basis than to rescind it if problems arose.

Liz pointed out that the Ordinance says that if there's a change in the Ordinance such that an interim use becomes non-conforming, the use can be terminated. This use has become non-conforming.

Angela Wilson said that the primary difference in the Ordinance when they first applied and the Ordinance as it is now, is that the owner of the rental is required to live in the actual rental home 9 months out of the year. People who live in the Township are a part of the community. If this application were presented today, it would be denied based on that criterion. Is it fair to others who are in compliance with the current Ordinance? She said that she would not want to make a decision tonight that would prevent a future commission from terminating the use per the current Ordinance language.

Liz said that the Ordinance doesn't say that an interim use that has become non-conforming has to be terminated, only that the option is there to consider it. She feels that it is worded such that approving an extension now would not preclude using this language to terminate the use in the future. In the past, the Commission has indicated that if they did intend to terminate the use, they would give the Hoffmans a period of time, like a year, before the actual termination.

Justin said that the Town has a handful of nonconforming HFSTRs like this one. All of those were originally applied for in good faith and are, to his thinking, grandfathered in.

Liz said that an existing non-conforming interim use is not considered "grandfathered in." Grandfathering applies to conditional uses, but not interim uses. She said that we do have a few rentals that predate mention of STRs in the Ordinance and they are considered grandfathered. The concept is similar, but the terminology is different.

Angela Wilson said that it's an existing use that has not caused problems and she did not think the Hoffmans should be punished by denial of the extension.

Justin asked how they ended up with exactly 120 rental days. Did they have to turn people away?

Angela Hoffman said that the rental company oversees it and is very aware of the limit. Justin asked how often their family uses the home. Angela said that they come up 5 or 6 times a year, often for hockey tournaments. Angela Wilson asked if they anticipate moving to the area when their kids are grown. Angela Hoffman said they would like to be up here more, but it is hard to project that far out. Their youngest is in 8<sup>th</sup> grade.

No comments had been received by the Town nor was anyone present to submit testimony.

Nate said that he would like to extend the permit for two years since there have been no problems with it.

Tony asked how much it cost to apply for an extension. Beth said it was \$100.

Justin said that the current Ordinance requires the owner to be resident in the home for 9 months of the year and only allows the home to be rented for 60 days. Would it make sense to try to bring this STR more into line with that?

Liz read Section 8.E Interim Use Amendments from Article VIII of the Ordinance:

Holders of an interim use permit may propose amendments to the permit at any time, following the procedures for a new conditional use permit set forth in this Ordinance. No significant changes in the circumstances or the scope of the interim use shall be undertaken without approval by the Planning Commission. The Planning Commission shall determine what constitutes significant change. Significant changes include, but are not limited to, hours of operation, number of employees, expansion of structures

and/or premises, and operational modifications resulting in increased external activities and traffic. The Planning Commission may approve significant changes and modifications to interim use permits, and may revise or apply additional conditions. The user agrees to any conditions that the Planning Commission deems appropriate for permission of the use.

Justin asked then if a significant change can be initiated by the Town or by the applicant.

Liz said if the applicant were to want to make a significant change they would need to reapply. The Town can make changes, so could opt to decrease the number of rental nights if they thought it was merited.

Tony said that if 60 days is what is currently allowed, does 120 days seem excessive? Liz said that in the past, STRs were allowed a varied number of nights. 150 to 200 nights per year was typical.

Dave thought it was unreasonable to reduce their number of rental days when their original permit allowed for 120 days. The rental has operated at that level without incident.

Justin said that the current limits are a result of the community expressing some reservation regarding short-term rentals. His sense from community input over time is that folks do not want to live next door to a STR. He is generally in favor of yearly review of HFSTRs but would consider a two year extension with a cap of 90 rental days per year.

Tony said he would support that. They have done a great job and it seemed like a reasonable compromise.

Nate asked Angela Hoffman what she would prefer. Angela said that they do depend on the 120 nights to help pay for it. Nate said that the change would not be insignificant monetarily.

Angela Wilson said that it is not a commercial property. If it were not a short-term rental, someone would live there and be a part of the community. The use was granted, but it was never guaranteed. It's an interim use.

Nate said that they bought it for this purpose and the permit was granted. He didn't think it should be terminated at this point.

Dave said that tourists can spend a lot of money in the area. Traffic is probably less than if a family of four lived there. To him, it does not have a negative impact on the area.

Angela Wilson said that she was more inclined to renew the permit because Bruce is the only neighbor who is potentially impacted by the rental and he is ok with it. But there is definitely an inequity between this rental and others who may want to have a short-term rental but did not apply for it 4 years ago under the previous Ordinance. She struggles with that inequity.

Dave said that he feels that it definitely falls under a grandfather type situation and should be allowed to continue as is.

Nate agreed. The McQuade Road rental was a different situation in that there were a number of close neighbors and at least one expressed concerns with the rental. Here there have been no concerns.

Tony made a motion to approve extension of the permit for one year with the same condition of 120 rental nights per year because it has demonstrated compatibility with the neighborhood, no detrimental effects have been noted, and we are not aware of any increased costs to the Town as a result of the interim use. Angela seconded.

Justin said an alternative could be to extend the permit for two years, but with a reduced number of rental nights. He would like to treat all of our petitioners in a similar way.

Ken felt that we would treat others similarly. There are only a handful in the Township and they are likely to fade away with time. He thought that the new Ordinance takes care of the community's concerns.

The motion passed unanimously.

### **St Louis County Cannabis Ordinance**

Angela said that her understanding was that the way St Louis County's ordinance is written, if a municipality within the County does its own zoning, they have to adopt their own cannabis ordinance and cannot opt to just have the County regulate it as it does with, say, septic systems. Her understanding was that the County's intention was to make the ordinance restrictive to begin with and then less so in the future if warranted because it's easier than adopting lenient language and having to make it stricter down the road. We can make our Ordinance stricter than the County's if we want to. State statutes say that there can be no fewer than one registered retailer for every 12,500 residents.

ArMand said that according to the latest census, there are 794 households in the Township and the population is 2039.

Liz said that under our current Ordinance, there are two commercial zones in the Township where someone could establish a business without first obtaining a conditional use permit. For all other zone districts, if someone wanted to open a cannabis retail operation, they would have to apply for a conditional use. So, one option would be to establish a definition for cannabis retail and determine which zone districts it would be allowed in under a conditional use permit. Hours and other parameters would be established through the conditional use process.

Angela said under State statute 342.13, Local Control, local units of government cannot prohibit the cannabis uses allowed under State law. We could just use St Louis County's language for our Ordinance.

Liz wouldn't be inclined to go into detail establishing all the same details regarding hours, potencies, etc. in our Ordinance.

Ken said that defining it and putting it in the matrix as only allowed in commercial seems like it would take care of it. Dave agreed.

Justin said that he had concerns with Section 7B, which prohibits cannabis cultivators from any zone except Light Industrial, and Section 7C which doesn't allow any cannabis business as a home business or home occupation.

Angela said that cultivation is a different situation than a retail business. They require different applications. Because of the way the statute is written, she thinks we could be less restrictive. But it doesn't necessarily seem like a good idea.

Liz said she sees Justin's point with restricting growers to Light Industrial. She will look at St Louis County's definition for light industrial and also check with MAT about being less restrictive.

She said the Commission should be prepared to review St Louis County's cannabis ordinance at the January meeting. We will also start to consider other changes we might want to make to our Ordinance.

Nate said that he thought there was room for more short-term rentals in the Township, maybe a number based on up to one percent of the homes in the Township. We need regulation, but how much?

Angela said that more STRs could be detrimental to resort owners who are having a hard time keeping their cabins full.

Justin felt that the bigger issue was St Louis County's ordinance which prohibits renting an accessory structure. That type of rental would not pull housing from the market. It's less likely to be impactful because the owner is on the property. It could also open up housing for young families. Ken agreed.

Dave added that he didn't know of anyone who lives in a house for 9 months of the year and then leaves for 3.

Liz said one driving issue is the number of homes on the lakeshore that are not primary residences and would be candidates for short-term rental. It could change the complexion of neighborhoods along the shore. Having the 9-month residency stipulation means that the home is the owner's primary residence and they are contributing to the community. She doesn't know how the 9 month / 3-month split was arrived at.

Justin said that over time he has seen applicants that promise one thing or another, but do not come through. If a rental owner is a member of the community, they are more likely to feel responsibility toward the community.

The September 26 and October 24 minutes were approved as presented.

### **Director's Report**

Liz reported that the Sieverts started construction on their home before submitting the proper permit applications. They did a lot of grading and clearcutting and had nothing to keep sediment from running into the lake. They did not have a land disturbance plan or a vegetation management plan. Whenever vegetation in the Lake Superior Shoreland Overlay is removed to the extent they have, a vegetation management plan is required. They will have to submit a plan and replace much of the vegetation. She made them get silt fencing in place and is working on the other issues.

Nate asked about the junk car ordinance.

Liz said that one issue with the current junk car ordinance is that it only deals with cars, not blight or other junk. And once you start to enforce the ordinance, who do you apply it to? Only those who have had complaints regarding their junk? It also needs more teeth for enforcement. She gave a sample ordinance that allows for fines and costs to be deducted from property tax returns if they are not otherwise paid to the Town's attorney for review.

ArMand said that the Town is hiring a consultant to work on the Town's MS-4. The consultant will help update our stormwater ordinance as well as help with other MS-4 requirements. The Board is still trying to get the Town removed as an MS-4, but his understanding is that it's pretty much impossible.

Liz said she and Sabrina met with the City of Duluth regarding the Congdon trust property along the shore. It was a productive meeting and the City is open to a MOU with the Township allowing the Township to steward the property. It will be a long process but it's encouraging progress.

### **Concerns from the Audience**

None.

The meeting adjourned at 8:25.

<i>Angela Wilson</i>	
<i>Pam West</i>	
<i>Justin Osadjan</i>	
<i>Dave Meyer</i>	
<i>Tony Mancuso</i>	
<i>Nate Nesgoda</i>	
<i>Ken Peterson</i>	