

**Town of Duluth
Planning Commission
Meeting Minutes
February 23, 2023**

The meeting was called to order at 6:40 pm by Chair Angela Wilson.

In attendance: Angela Wilson, Dave Edblom, Justin Osadjan and Dave Meyer.

Absent: Pam West, Blane Tetreault, and Tony Mancuso.

Also attending: Liz Strohmayer, Planning Director

The meeting was held over Zoom with a representative at the Town Hall due to winter storm and illness.

The agenda was approved as presented.

New Business

The Commission set the notification area for the Bergstedt / Nakamura variance hearing. The request is for variances from the requirements for a high-frequency short-term in order to apply for an Interim Use Permit for a second high-frequency short-term rental. The notification area was set for an area encompassing a radius of one-quarter mile from the subject property as well as all of the properties on Wildwood Road west of Homestead Road.

Liz reported that she had gotten a complaint from a neighbor of the property that was previously the Clearwater Grill and Red Swan Catering. The owners of the property are continuing to operate Red Swan Catering, but have converted the restaurant area to apartments. They do not have the proper permits for this use. The restaurant/catering business was grandfathered in. Liz said she would like input from the Commission as to what type of use this would be now. Adding apartments inside the building changes the nature of the use. Would it be a mixed use now?

Justin asked how long have they had apartments there.

Liz said she wasn't sure. The restaurant closed during COVID. It seemed to have started with a couple of apartments, but there appear to be at least half a dozen now and they are working on more. She said that on one hand, going from a bar and restaurant to long-term residential rentals results in less traffic and probably a less impactful use, but if it's a new use, they need to have the permits for it.

Dave Meyer said that the property has always been an event center and restaurant/caterer. It was not an apartment complex. So, it should be looked at it as a rental property.

Dave Edblom asked for the definition of residential.

Liz said there is not a specific definition for residential in the Ordinance, but it is a part of the definitions for all the rentals and other dwellings and is generally considered to include sleeping, cooking, eating, living, and sanitation facilities.

Dave Edblom said that commercial and residential mixed uses are allowed in that zone district and that seemed appropriate to him.

Angela said that it's not single family residential because it's multiple residences. The Ordinance includes definitions and requirements for duplexes, triplexes, and fourplexes, but not apartment buildings. A Planned Unit Development implies a level of planning that did not occur in this situation, so that doesn't fit either.

Liz thought the use best fit under Commercial, Principal Structure Mixed Use. If the Commission were to go with that category, would it be considered already in use and not needing new permitting or a new use which does require additional permitting? The catering company is grandfathered in, but the apartment rentals are new.

Angela felt that more information was needed. It would be good to know what they have done and what they plan to do. If it's one building with six units in it – is that the same as a fourplex? Is it one address with apartment numbers? Is there a central lobby or do they all have their own doors directly out of the building?

Liz said that she will talk with the owners to get a better idea of what they are doing.

Minutes

The January minutes were approved as presented.

Director's report

Justin asked if there has been anything new on the hosted short-term rental that was denied in January.

Liz said that they applied for and received a low-frequency short-term rental permit. Otherwise, nothing.

Justin asked if they had signed an affidavit of residency.

Liz said that residency is not a requirement for LFSTRs. This triggered a conversation about what should be required to prove residency. Liz said the Commission had the power to require what they thought necessary.

Dave Edblom asked if an affidavit is good enough.

Angela said that an affidavit has no real effect and there is no real penalty for it. However, state law requires that you use your primary residence on your driver's license. She said that being consistent and providing a rationale for whatever is required is important. She suggested a tax statement, voter registration, driver's license, or vehicle registration.

The Commission agreed that any one of those seemed like it would be adequate.

Old Business

The Town Board asked that the Commission determine what or if the Township should regulate potential THC enterprises given the legalization of the sale of certain THC products under Minnesota Statute 151.72. The Statute does not provide further guidance.

Justin said that he felt that any regulation could be modeled on what is required for alcohol. He doesn't see how it would be different from alcohol.

Angela said that she was concerned about trying to regulate it locally. It seemed to her that the State would address it further in their current session and that the Township should put a moratorium on it for the time being.

Dave Meyer agreed that regulating it similarly to alcohol made sense. He didn't see it as a pressing issue for our Township. A moratorium seems like a good idea for now.

Liz said that there seemed to be two primary concerns - first, the proximity of any THC related business to schools and second, manufacturing. There is no way to anticipate if there is going to be a demand. We do get a lot of inquiries about manufacturing-type enterprises.

Angela said that there could be a security risk related to THC business if a large amount of cash is involved in the business.

Justin said that he thought it more likely that the Town would see producers than retailers. He agreed with a moratorium and waiting for further direction from the State.

Angela moved that the Commission recommend to the Town Board that the Board adopt a moratorium on any THC related businesses, including distribution, manufacture, retail, and storage, for a period of 12 months. Justin seconded. The motion was approved unanimously.

The meeting adjourned at 7:38.