

**Town of Duluth
Planning Commission
Meeting Minutes
7/28/11**

The meeting was called to order by Chair Dave Chura at 7.

Roll call:

Present: Dave Chura, Brigid Pajunen, , Jo Thompson, John Schifsky, and Paul Voge

Absent: Bill Lannon, Jan Green,

Also present: Sue Lawson, Planning Director, and Barb Crow, Town Board representative to the Commission

The proposed agenda for the evening meeting was approved without change.

The minutes from the June 23rd meeting were approved without change.

Concerns from the Audience – None

Sue introduced the Sami Cultural Center discussion. Marlene Wisuri will represent the group. The realtor for the property, Tom Henderson was also present. They are looking at establishing a cultural center at the property at 5527 North Shore Drive. The property is the former Ironstone House which served as Glen Nelson's home and art studio (according to Mary Anne Sironen.) The Commission needs to decide if this is an appropriate use for the zone district and what kind of use would it be - a conditional use, a use with performance standards, or an over the counter LUP.

Sue described the Township's zoning. Each zone district has a goal statement and dimensional requirements. Additionally, Table 5.3 of the Ordinance describes potential uses and which zone districts, if any, would be appropriate for a use and what permit or requirements would be needed. When a use is not specifically identified in the Ordinance, the Commission looks at the zone and the use and decides whether it is an acceptable use for that zone and what permit would be required. She described the efforts involved in applying for a Conditional Use Permit. The property they are considering for the cultural center is zoned SMU-6.

Marlene introduced the project. She said that when the Sami people and their descendents immigrated to the US, their stories were lost. Over the past 20 years, the people in their organization have accumulated books and archival materials related to the Sami culture. They have been looking for a place to archive these materials where they can be more accessible and people can come and do research. They also hope to have some small classes on Sami history and culture, have some hand crafted items and provide a place and resources for genealogy. Although they have not had a formal location for these activities, they routinely have people coming from around the country, overseas, and Canada. The house that they are looking at is well-suited for that. The two bedroom suite could serve as a guest quarters. They would also like to provide internship opportunities for local students. They have an annual gathering of the clans. Their most recent gathering was about 35 people. They would also like to use the space to produce their Sami journal, display artwork, and conduct some sales. They would not be open regular hours; only by appointment and for special occasions. There would be an on-site caretaker. The needs for water and sewer would be more than for a single family, but not a lot

more. For signage, they plan on flying a flag and having a small sign attached to the building. They are also very interested in environmental issues.

Questions—

Jo asked if they have applied for non-profit status yet, and if so, under what category.

Marlene said that they are working on the application for their 501(c)(3). Education is their primary focus. In response to a question from Paul, she said that the organization would hold the title to the property.

Sue asked about parking.

Tom said that there is room for 2 vehicles in the garage, 4 vehicles behind the house and garage and room for some along the driveway, with some wheels on the grass, for a total of maybe 14 vehicles.

Marlene said that they could also shuttle to the property.

Barb asked how many employees would be on-site to put the journal out.

Marlene said that there would not be steady employees there, only the resident and occasional student interns and volunteers.

Dave asked if the sewer would be assessed at the commercial rate.

Sue said that that would be up to North Shore Sanitary District.

John asked if there were any public health requirements for the well. Noting the well record, he said the well is very shallow there. Is it a sand point well?

Sue said that she assumed they would need to have the water tested. There is no recovery information on the well.

Dave asked how often they would expect to have visitors and for how long and what restriction they would place on who would be allowed to stay there. Would they have it available for rent by members of the organization?

Marlene said they would possibly have visitors up to a couple of times a month for a weekend to a week. It would not be available for rent. It is a loose organization; there will be a membership policy as they move forward.

Dave asked if it would be a kind of a retreat and if people would be making donations to stay there.

Marlene said that yes, it could be considered more of a retreat. In some instances people might make donations when they stay there, but, for instance, people visiting from Norway or a teacher coming in to give a class would stay for free.

Jo asked about weekend gatherings. Would visitors stay at the residence?

Marlene said that some would be staying there. At the gathering at her house last year they had a few people camp. They had about 25 people there for the weekend. These type of gatherings occur once, possibly twice per year.

Dave asked if the gatherings include entertainment or music.

Marlene said that there is usually some traditional Sami music which is similar to a Native American chant. Any larger music event would be at UMD or elsewhere.

Dave asked the Commission what they thought. Is this a use that is potentially suitable for SMU-6 and if so by Conditional Use Permit or through performance standards? His feeling is that it is a use that is compatible with the zone district. However, it does not really fit any of the pre-established uses. Would it be more similar to a B&B or a community center facility? It would not be owned by the community, but would provide a similar function. A school would be a conditional use.

Paul asked what performance standards could potentially apply.

Dave said the Commission could, for example, restrict hours, restrict the number of vehicles allowed on-site, restrict when people arrive, or could require screening from neighboring properties.

Sue said that performance standards could be required with an LUP. The fee for a commercial CUP application is \$500.

Brigid said that she thought it was most similar to a community center and could be permitted with just an LUP with performance standards. It could be a valuable opportunity for international exchange and she thought it unlikely that it would be a threat to neighbors.

John was concerned about the potential for it turning into a kind of on-again, off- again rental situation – a middle-term rental. It is not necessarily a home.

Marlene said that it would be home for the individual living there -- it would be the caretaker's residence.

Paul asked if there were any other County or State standards for parking that would need to be considered.

Sue suggested looking at performance standards for similar facilities.

Dave said that he felt like it would be good use for that area but the Commission should recognize that residents in that area are used to it being residential. Neighbors would be caught by surprise if the use was permitted with performance standards. Permitting it by conditional use with a public hearing would give area residents a chance to weigh in on it and would seem fairer.

Sue said that the Town has always been open in its procedures and in valuing what people think. We could send notices to neighbors regardless.

Dave said that he thought it would be good to do a Community Participation Report (CPR). The applicants could present that to the Commission which would give neighbors a chance to weigh in and might also help determine appropriate performance standards.

Brigid made a motion that the use be considered as an LUP with performance standards. The applicants could review the CPR process and decide how much of that they want to do voluntarily. We could post on the website that we would be looking at and deciding on this proposed use at the next meeting.

John seconded the motion.

Paul said that he thought it was important that we notify neighbors directly.

Sue said that if we make this an LUP with performance standards, then anyone who wanted to have a cultural center could do that without additional review. It would set a precedent. If it is allowed with a CUP, then that use is unique to that property and does not set a precedent.

Barb said that the community center facility listed in Table 5.3 seemed most similar to a cultural center like this one. The community center facility is listed as permitted with performance standards in most zones.

Sue said that performance standards are not site-specific or applicant specific, they are established in the Ordinance. We would have to define the term “cultural center” and establish performance standards for that use.

Dave looked at the definition of a community center facility in the Ordinance: “A building, group of buildings, or use of land intended to serve a community’s educational, recreational, and service activities, typically containing space for a meeting hall, town garage, post office, or fire hall.” He felt that this was quite a bit different from what was being proposed for the cultural center. In addition, a community center would be owned by a public entity.

Paul thought it was more similar to a church in that it would be a privately-owned non-profit.

Jo noted that a community center benefits the whole community. This would be for a limited group, many of whom would be from outside the community.

Brigid amended her motion to consider the use as a conditional use.

John accepted the amendment.

The Commission approved the motion unanimously. They decided on a one-quarter mile notification area. It was determined that the current owner of the property would need to sign the application for the conditional use. The required legal notification for the public hearing would have to be to the newspaper by August 9th in order to have the hearing at the August 25th Planning Commission meeting.

Next on the agenda was a review of the Wordens short-term rental (STR) at 5249 Greenwood Rd.

Sue put together a summary of everything that has happened with the STR since February 17, 2011 when the Town Board allowed the Wordens to continue the use with additional conditions. (See attached.) The review tonight is to see if they met the all of the conditions of their permit satisfactorily.

Sue said that she got a notice from the MN Department of Health today indicating that they did not need a license. This is in conflict with communications she has had with James Backstrom, also from the Department of Health.

Dave read from their advertisement saying that they rented it for \$150 per night or \$900 per week. He thought they were only supposed to advertise it by the week.

Sue said that they did rent the unit for less than 7 days in March and they did not deny this. According to the conditions the Board imposed, they can rent for less than 7 days as long as they only rent one time per week. However, the State requires a license to rent for less than 7 days. On the sheet of rules they give to renters (page 15 in the review packet) they state that the renter is “contracting to rent the entire week Friday to Friday, as our permit only allows us to rent once per week. Your rental rate will be based upon your actual use.” The Township believes they need a license from the State.

In an email to the Wordens on March 28, Sue listed the conditions that were not met 30 days prior to renting the property as stipulated by the Board. If the Commission finds that they were indeed in violation of the conditions of their permit, they can terminate the permit. The Wordens could then appeal it to the Town Board.

At this point, Shawn Worden was conferenced in via Sue’s iPhone.

Dave told Shawn that the Commission is reviewing their STR conditions which were established by the Town Board on February 2011. There have been concerns that some of the conditions may have been violated, specifically the first condition which requires that they get the necessary licensing. The Commission has received conflicting information from different people at the MN Department of Health regarding the need for a license from the State for their rental. The Commission is going to follow up with the Department of Health to get that clarified.

Shawn said that both letters said the same thing.

Dave said that MN Statute 157.15 Subdivision 7 defines a hotel or motel as “a building, structure, enclosure, or any part thereof used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week.” The Wordens online advertisement for the rental says that it is available for rental at a nightly rate of \$150 or a weekly rate of \$900.

Shawn said that she talked to Sara Schaffer from the MN Department of Health about that. It’s so that someone can rent for some nights and get one night free. The daily rate is for people who want to rent more than one week.

Dave asked if someone rented for 8 days, would the 8th day then cost more than the first 7 days?

Shawn said if someone pays for 7 days, they get one night free.

Dave said that the Commission needs to clarify the licensing issue with the Department of Health. They will provide the Department with the letters from the two different people within the Department that gave the conflicting information. Then the Commission will review it again on the 25th of August.

Paul asked Shawn if they were still planning on meeting with Sara Schaffer at their property on August 11.

Shawn said that they were.

Shawn asked what other conditions the Town believes they violated. She said that they were not made aware of any other violations.

Dave said that they did not provide their contact information in time.

Shawn said that at the September Board meeting, they were told that they could continue renting.

Dave suggested that we wait until August 25th to look at this.

Shawn agreed.

The review was set for August 25th at 7 pm and the phone call was ended.

Next was the continuing review and updating of the Ordinance.

John noted that there are significant inconsistencies with punctuation and parallel structure throughout the document.

Sue agreed and said that we should deal with those with this revision. The easiest way to do this is to repeal the current Ordinance and replace it with the updated one. We will still have to show what has changed between the two documents, but do not have to track every change.

Sue said that impervious surface requirements would need to be changed. About one year ago St Louis County removed septic and mound systems as impervious surfaces. This means we need to reduce the amount of allowable impervious surface for each zone district. She will make those calculations. Although the area will be reduced, it doesn't include septic, so the net will be the same.

Sue said that she also added design review requirement to zone district SCO-8B to be consistent on commercial areas.

Sue drafted the changes needed, per the Board's request, to prohibit STRs in the Township. Dave made a motion to accept those changes, Paul seconded and the motion passed unanimously.

The Commission went through the changes to the Ordinance that had been suggested by members of the Commission and the Town Board.

The meeting adjourned at 9:50.