

**Town of Duluth
Planning Commission
Approved Meeting Minutes
February 23, 2014**

The meeting was called to order at 7:03 p.m. by Chair Paul Voge.

Present: Paul Voge, Jo Thompson, Jerry Hauge, John Schifsky, Brigid Pajunen and Larry Zanko

Absent: Wayne Dahlberg

Also present: Sue Lawson - Planning Director

It was moved that the agenda be changed to move the CUP hearing up to immediately following approval of the agenda. The agenda, as amended, was approved unanimously.

Public Hearing

Stacey Seering, 5902 River Road, applied for a Conditional Use Permit (CUP) for a short-term rental on his property. Sue started the hearing with an overview of the hearing process. Following the public testimony, the first decision to be made is whether to hear the use as an interim use or as a conditional use. The main difference between the two is that a conditional use goes with the property and an interim use is time-limited.

She then presented the proposed use. The proposed use is for a high-frequency short-term rental which is defined in the Ordinance as “a rental of a single family dwelling for less than or equal to thirty days at a frequency greater than four times per calendar year.”

The zone district is FAM-3. This zone district is “intended to recognize and promote the development of the Township’s forestry and agricultural industry, to maintain and promote the rural character of the Township, and to prevent urban and suburban encroachment on the area. A low level of development is important in this district since the uses encouraged in FAM-3 would be less compatible in a more urban setting.” The property is 19 acres, so it meets the minimum lot area requirement as well as the other dimensional requirements for FAM-3.

She showed a vicinity map and a site map of the property.

As stated in the application submitted by Stacey Seering, the hours of operation would be seven days per week; 24 hours per day, the number of visitors to the site, per day, would be seven; additional car traffic would be an average of .38 units per day with a maximum of .76 units per day. There would be no signs for the rental. Parking would be right next to the rental unit. Anticipated activities would be hiking, fishing and swimming in the Sucker River, and a campfire by rental the building. It is possible that smoke from the campfire as well as noise from guests talking around the campfire or on the porch could impact neighbors. The septic system was built in 1994 and was inspected in 2013 and certified at that time. Water is supplied from a well. Waste disposal would be household waste included in regular garbage collection.

Stacey completed a Community Participation Report (CPR) as a part of the application. He was able to reach 20 of the 21 people in the notification area. Sue summarized the concerns that were voiced by neighbors. There were concerns about renters’ driving habits on Wildwood Road, renters not respecting the Sucker River (leaving trash, etc.), and renters hiking along the Sucker River. There were also concerns that renters knew what land was private, that renters not trespass on others’ land and/or easements, and that renters not be allowed to use recreational vehicles departing from the rental.

Sue summarized how Stacey addressed these concerns. He said that on the web page for the rental, he would include where the nearest public recreational trails are located and would provide a detailed map showing public and private lands. He would include in the rental agreement that hiking along the river can only be done on the rental side of the river in the downstream direction and a sign will be placed at the river access point asking to keep the river clean. He would state in the rental agreement that the power line easement is not public and should not be used for recreational vehicles. He would post no trespassing signs along the driveway easement which will further encourage renters to realize those woods are private. And he would include a section in the rental agreement addressing the speed limit on Wildwood Road along with talking to renters about it upon their arrival.

Additional questions were received by the Planning office regarding this use being a commercial business or a hotel/motel, and the potential for this CUP to change the current zone designation. Sue replied to these concerns and Stacey re-contacted those neighbors. He confirmed with them that his contact information is required to be on file with the Township if issues were to come up and that he fully intends to be on the property when the additional building is being rented. He said that it is his hope to make a little money and to provide families a fun and convenient place to stay in order to enjoy all the North Shore has to offer.

Stacey then addressed the Commission about his proposed use. He said he will require a two night minimum stay and will require the main renter to be at least 25 years old. He also intends to use the building to accommodate his own family over the holidays. This is the reason that they do not just rent it long-term. The maximum occupancy will be seven people. The house is basically a two bedroom, one bath house. As far as traffic is concerned, if a family rents it, it will probably be just one vehicle. If it is a group, it would probably be two vehicles. The most he would rent the property is 140 days out of 365. There is a long driveway to the rental unit with parking at the rental.

Regarding activities at the rental, Stacey said that he has made a hiking trail on his 19 acres and has constructed a campfire ring near the proposed rental. There is a swimming hole on the property on the river and he would offer that to renters. There is hiking downstream on the river. It would be in the rental agreement to stay on the same side of the river as the property. As for noise, the closest person to the rental is Rita Bergstedt, approximately 150 feet away, and she has said that she has no objections. The next closest is one-quarter mile up the driveway and they would not be able to hear anything.

Stacey said that he talked to Jeff Crosby about the septic system and it was his recommendation to put in another 1000 gallon tank and put it on a timer system to flow into the 500 gallon tank so it would not overwhelm the mound system.

John asked what he meant by 20 weeks of rental.

Stacey responded that it would be 140 days through the calendar year.

Larry asked if he reached 140 days, would he cut off renting.

Stacey said yes, but he was not planning on counting relatives or other non-paying guests.

Jo said that by definition, this would be a vacation rental and a license is required in Minnesota.

Sue said that getting all required permits and licenses was a requirement for short-term rentals in the Ordinance. She read the requirements from Article VIII Section 15.A of the Ordinance:

1. All short-term rentals require a minimum lot size of two (2) acres.

2. The side and rear setbacks shall be fifty (50) feet unless the adjacent property is zoned commercial, FAM or LIU, then the setbacks shall be as required for the applicant's land use district. All SENSO and SLO setbacks apply regardless of adjacent property zoning.
3. Licensing and permits. The owners shall obtain any and all licenses, permits, or other governmental approvals required by any governmental agency, board, department, or other governmental entity with jurisdiction.
4. Property oversight and complaint response. Thirty (30) days prior to rental of the property in any calendar year and anytime the contact information changes, the property owner shall provide to the Township Planning Director the name and phone number of a contact person. This phone number shall also be provided to all other property owners within five hundred (500) feet of the lot boundary. The contact person must be available at all times during rental periods, and able to be at the property within thirty (30) minutes.
5. Rental Frequency. Low-frequency short-term rental frequency is limited to once during any thirty (30) day period. Once during any thirty (30) day period means that a subsequent rental cannot begin less than thirty (30) days from the initiation of the prior rental. The allowable rental frequency for high-frequency short-term rentals will be established as part of the conditional use permit.
6. Rental Records. A log shall be kept of the renter, date of arrival, date of departure, and number of guests for all rentals. A copy of the log shall be provided to Planning Director upon request.
7. Parking. Off street parking shall be provided.
8. Temporary Sleeping Facilities. No temporary sleeping facilities may be used on the property during rentals (i.e. recreational camping vehicles, tents, etc.).
9. Low-frequency short-term rentals require a land use permit. High-frequency short-term rentals require a conditional use permit.

Sue said that these are the requirements for every short-term rental. The Commission may add others. Licensing is through the MN Department of Health.

Paul asked if Stacey would need a contact person if his intent was to be home during all rentals.

Stacey said that Steve Willemarck would be a contact if necessary.

Sue asked if he would have a time that renters would need to check in by so there would not be late night arrivals.

Stacey said that he hadn't thought about that but it could be addressed.

Paul asked if there was any restrictive language in the driveway easement agreement that would affect his having a short-term rental.

Robert Collison provided a copy of the easement agreement. The easement is across a portion of his land and was originally given to Rita Bergstedt so she could access her land. Since then, Don McTavish built there and he was given access to the easement. Now Rita has sold her home and is building another. His concern is that he is losing control of his property. They also changed the name of the road to River Road without consulting him.

Sue said that naming a road has to do with the fire department and safety.

Keith Darsow said that dispatch told him that any time a road or easement has three or more dwellings on it, the County assigns a road name.

Mr. Collison said that his understanding when he granted the easement was that there were only two homes on it. The driveway is 1600 ft and goes down the east 30 acres of his property. Now he will have no control over who goes down the road and on his property.

Public Testimony

Mr. Collison spoke first. He reiterated that he was concerned about traffic across the easement. He said that he has no way of knowing if someone belongs there or not. Anyone can go off the easement onto his property. He said his son lives at the top of the easement and recognizes the cars using the easement now. With a short-term rental there, he won't know any more who is using the easement. He feels like he has no rights about who can access his property. In addition, some of the things that Rita Bergstedt was supposed regarding the easement have not been done and it has been 20 years. The easement was originally only for ingress and egress to Rita's property.

Dale Sohlstrom said that he doesn't have a problem with the permit. He lives on the 20 acre parcel two twenties east of Robert Collison's property. Twenty weeks per year is different from 140 days per year. Fifty-two weekends is 104 days, so it could conceivably be rented every weekend. He does have some concerns about increased traffic. But he said that Stacey has been a good neighbor. Between a conditional use and an interim use, he said that he would prefer that it be an interim use so that it could be revisited in case there are problems beyond what is anticipated at this point.

Keith Darsow said that he feels similarly to Dale. He was not aware of the easement factor, but has no problem with Stacey using the building on his property as a rental for extra income. He also appreciates that the Seerings will be present for rentals.

Richard Ehrlander said that he had two concerns. The first was about signage and that has already been addressed. Secondly, he wants to know if the rental were to become a problem, could it be taken away. Otherwise, he said, he was fine with it.

Steve Willemarck said that he agreed with both Keith and Dale. It would be good if it could be looked at again if there was a problem. He doesn't see that it's likely to be a problem. He said that sitting around a campfire enjoying the north woods is something everyone does. If something were to arise, he might reconsider. As for the easement, he cannot form an opinion on that. His property borders all the way down the road on the east side of the easement.

Robert Collison asked about liability. He said that he has property in town and if someone gets hurt on his property, he pays.

Paul said that the easement was private, so would have to be in the easement.

Paul asked what the agreement was for maintenance of the road.

Stacey said that he and Rita and Kathy McTavish each have a percentage of the responsibility for the maintenance. They have already arranged this.

Robert Collison said that he had an idea that since it is on his property, he should have some say about what goes on.

Paul said that the Commission has to assume that Stacey has legal access to his property and it should not affect their decision.

Keith said that regarding trespassing and hunting, no one wants strangers roaming their property. He assumes that the Seerings will get the necessary information to the renters, and he assumes they will not advertise the rental for

hunting. He said that as long as the Seerings are up front with their guests and tell them where they can and can't be, it seems okay.

Donine Dunphy said that they own the 20 acres right next to Robert Collison and they have a shooting range. Their family owns a total of 40 acres there. Their kids and grandkids hunt that property. She said that if you have seven people in there during hunting season, they are going to hunt. They have had a lot of problems with hunters thinking that their property is public property. Also, she said, if this rental goes through it will make two rentals right next to each other. The McTavishes have a long-term rental there also. It will be turned into a rental neighborhood.

Stacey said that he had no issue with blocking out the two weeks of the rifle deer season.

Public testimony was closed.

Sue read the conditional use/interim use decision criteria from the Ordinance.

The Planning Commission may designate the conditional use as an interim use if the proposed use meets any of the following criteria:

- a. There is a time certain (for example, a date or particular event) when the use will terminate or the type of use is one that is inherently temporary.
- b. The type of use creates a heightened concern for public health and safety, requiring a closer monitoring of the use after the permit is issued.
- c. There will be a known change in zoning in the near future or there is a belief that future development patterns in the area will conflict with the conditional use being requested.

John made a motion to hear the request as an interim use due to heightened concern on the part of neighbors, requiring closer monitoring of the use, with the duration of the use to be for two years.

Brigid seconded and the motion passed unanimously.

John said that Wayne told him that one of his major concerns was the effect of increased traffic on Wildwood Road.

Stacey said that speed and dust on the gravel road would be addressed in the rental lease agreement. He also said that he would talk with renters when they arrived.

Jerry made a motion to approve the interim use for two years with all of the applicable conditions listed Article 8 Section 15.A.

Larry seconded.

Larry moved to make an amendment to the motion that the rifle deer hunting season be blocked out of the rental calendar.

John seconded the motion.

Jerry asked what would be the purpose of doing that. It seemed overly restrictive to him.

Larry said he thought it was a good idea based on the concerns of the neighbors and the willingness of the applicant to block out that time.

Brigid said that it really didn't need to be included as a condition. They will have a two year trial period and they will need to work with the neighbors. He will be screening renters.

The amendment was defeated, four opposed and three in favor.

Brigid made a motion for an amendment that the following conditions be required: A two night minimum stay, at least one of the renters will be 25 years old or older, no more than seven persons in a rental party, and the building will be rented for no more than 140 days per calendar year.

Jo seconded the motion.

Sue asked if it was legal to make distinctions by age as to who you will and will not rent to.

Stacey said that on the VRBO website, a lot of the rentals are listed as only allowing renters 25 years old or older.

The motion for the amendment passed unanimously.

John made a motion for an amendment that the applicant will meet all of St Louis County ISTS requirements including the addition of a 1000 gallon tank as already recommended by St Louis County.

Larry seconded and the motion for the amendment passed unanimously.

Jerry asked what happens at the end of two years.

Sue said that they will then need to apply for a continuation of the permit, which requires the same process: an application, an application fee, a community participation report, a public hearing, etc. If there have not been problems, they may want to consider requesting a conditional use at that time.

Regarding a question about ATV use, Stacey said that renters would be able to bring their ATVs and trailer them off-site to use them. Mr. Collison and Kathy McTavish expressed concern over renters riding ATVs up and down River Road in the CPR. He said he will have maps of nearby trails where they can park and ride or hike or snowmobile. He will also have a map of the Township with private land blocked out. He said that there will be plenty of notification that there is primarily private property around the rental and that ATVs and snowmobiles cannot be ridden to and from the property.

John said that he understands the concern, but he was not sure how it would be policed.

Sue said that based on experience from other STRs in the Township, late check in times were an issue with neighbors.

Stacey said that the only house close to the road is David Elcombe's, near the easement.

John made a motion to approve a two year interim use permit for a short-term rental for Stacey Seering with all of the applicable conditions listed Article 8 Section 15.A of the Ordinance, as well as the following additional conditions:

- 1) There will be a two night minimum stay.
- 2) At least one of the renters will be 25 years old or older.
- 3) There will be no more than seven persons in a rental party.
- 4) The building will be rented for no more than 140 days per calendar year.

5) The applicant will meet all of St Louis County ISTS requirements including the addition of a 1000 gallon tank as already recommended by the County.

It was agreed that the interim use met the conditions for a short-term rental in Article IX Section 7.B of the Ordinance.

The motion passed unanimously.

It was agreed that the decision would be prepared and approved and signed at the March meeting of the Commission. The public hearing was closed.

Approval of Minutes

Sue suggested two changes: insert “sometimes” to make the beginning of the sentence, line 188, read “She said that *sometimes* the more you formalize these...” and delete the last sentence, line 219, beginning “When the Town did the CLUP...”

The January 23 minutes were approved as amended.

Director’s Report

Sue reported that the Board had a budget work meeting and, because we don’t know yet how much it will cost to fulfill the requirements of the MS4, added \$1000 to Planning Commission salaries.

Elections and the annual meeting are coming up on March 11. Sue will make a short presentation on Planning at the annual meeting.

John said that he has been in contact with Judy Gibbs about the Congdon trust land. She is working on finding the original large Congdon map, finding out if the City consider the land park land or City land, and finding out if the City has legal authority over the land. They have agreed to work on a management plan for the land focusing on viewshed and clay bank stabilization.

Sue said that Judy provided a parcel map of the area along the shore, but we need to know if reflects the original parcel information in the County Recorder’s Office.

John said that the legal descriptions are in the materials he put together, but we still need the map.

John said that he has observed several areas on Scenic 61 in the Township where there are cones where the clay is slumping away from the road towards the lake. It is taking the guardrail with it in some spots.

Sue said that the Township’s MS4 application was approved and it will be out for public comment soon. The training for the MS4 Minimal Impact Design Standards (MIDS) calculator that she and Jo were planning on going to was postponed.

Jo said that at the Regional Stormwater Protection Team meeting, St Louis County was invited to look at the MIDS program but they thought a consultant may have to be hired to run the model.

Paul said he won’t be present at the March meeting.

Brigid said that the Commission could look at building structure versus parcel size at the next meeting. She said that she is still working on the brochure and will have a mockup for everyone at the next meeting.

For trails, Paul said that the focus has been narrowed to trailways along the main arteries of the Township. If there is positive feedback from the survey, we can look at the extent of what to plan for and get input from Clint Little on the cost of planning. The Commission could look at getting a STAR grant at that point.

Sue said that Don McTavish gave her a draft of questions for a survey. She will bring those to the next meeting. She said that Star grants are matching grants. The Commission would have to recommend it to the Board.

Sue thanked John for all of the Congdon trust land and McQuade Harbor documents he put together and made copies of.

New Business

None

Concerns from the Audience

None

The meeting adjourned at 9:20.