

**Town of Duluth
Planning Commission
Meeting Minutes
October 22, 2015**

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

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

Absent: No one

Also present: Sue Lawson, Planning Director; and Don Sitter, Town Board Supervisor and liaison to the Commission

The agenda was approved with the change of moving the approval of the September minutes to after the public hearing.

Sundberg Design Review

Sue introduced Ray Sundberg. He has the commercial property on the corner of McQuade and Lismore Roads, 5904 McQuade Rd, and is adding on to the building. Sue said that although these commercial design reviews are still a part of the Ordinance, as of December 31 they will no longer be required.

Ray said that he is limited by the amount of space he currently has. The proposed addition will be a heated slab structure with an engineered truss roof system, 2x6 walls and the same siding and roof color as the existing building. They are also putting in a separate structure for cold storage. That building will be a Menard's building with 16 ft sidewalls. There is currently an old shed that will be razed where that building will be located.

Sue said that the proposed additions to the site meet the performance standards for Commercial Districts from the Ordinance. There will be adequate parking and loading areas. The project will maintain and strengthen the character that is unique to the cultural and historical context of the Township. The shop has been there as a tool shed for as long as anyone can remember and Ray is maintaining this. The new building space will be environmentally efficient with 2x6 walls. There are businesses on three of the four corners of that intersection, Johnston Masonry, Bruckelmyer Brothers, and Ray's.

John asked what the siding will be. Ray said that it will be the same steel siding and roof as is on the building now.

Jo noted that the last addition Ray made to the building looks like it has always been there, which is good. She said that she would like to see some buffering vegetation between the driveway and ditches.

Wayne said that he would like to see trees planted on the site that would eventually be of significant size and would give the structures a little scale.

Everyone thanked Ray for coming and presenting the project.

Hearing for Kiviranta PUD Variance from Exterior and Road Setbacks

Everyone introduced themselves. Representing Kiviranta were property owners and members of Lewis Group LLC, Rondi Erickson and Sandy Lewis, architect David Salmela, and landscape architect Travis van Liere.

Sue reviewed the process for Planned Unit Development (PUD) approval and the steps that have been completed by the Lewis Group and the Town to get to this point, the Final Plan hearing. All of the required information for the approval of the preliminary concept plan was submitted and approved. She said that for the hearing tonight, the Commission will first hear the variance request and then, if that is approved, will proceed to hear the Final Plan.

Sue outlined the process for the variance portion of the hearing and introduced the variance. The requested variance is from the Design Criteria for Residential Planned Unit Development (Article XII Section 13) requiring exterior setbacks and the public road setback to be twice that required for the zone district in which the PUD is located. The preliminary concept plan, with setbacks, was approved at the August meeting. This particular requirement for double the setbacks is at the end of the PUD Article, apart from where the other setback requirements are located and was missed in the initial process. As such, the required road centerline setback, doubled, is 220 ft and the required exterior setback, doubled, is 70 ft.

She showed a diagram from Article II of the Ordinance showing how the road centerline setback is measured. The measurement in the example is taken from the face of the building. For the proposed project, measured from the face of the building it is 267 ft 6 in to the centerline. Measured from the corner of the building, it is 171 ft 9 in.

The other part of the variance is for the doubled setback to the sideyard. The property line is angled so the sideyard setback, as proposed, varies from 59 ft 6 in to 50 ft.

Sue read the reasoning provided in the variance application for each of the necessary criteria:

1) Is the proposal in harmony with the general purposes and intent of the Ordinance and consistent with the Comprehensive Plan?

The variance is in keeping with the spirit or intent of the Ordinance by allowing existing non-conforming lots and structures to maintain their current standards as they currently existed prior to the establishment of the Ordinance. The proposed variances are maintaining, replacing and enhancing what is currently there and will be keeping the property in good standards with the health, safety and welfare of the community.

2) Practical Difficulties, Essential Character. "Practical difficulties," as used in connection with the granting of a variance, means that a. The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; b. The plight of the property owner is due to circumstances unique to the property not created by the property owner.

This project strives to redevelop a previously developed parcel of land that was under utilized rather than developing on a new greenfield (untouched/natural) site nearby. It repurposes an existing structure and existing infrastructure already existing on site. Due to the narrow lot size, shifting the structure back from the 200' road setback line and 70' from eastern side yard would significantly impede on the buildable area for the property and require us to develop portions of the property that have been undeveloped. The proposed new structures will be significantly further back from the East Property Line and further back from the existing cabin structures that are proposed to be removed.

Is the proposed variance a use that is allowed under the Zoning Ordinance?

Yes. The variances requested for the proposed new residential Planned Unit Development are allowed / acceptable uses under the Zoning Ordinances.

Sue said that the general purposes for side yard setbacks are to provide for privacy and fire prevention.

Paul asked why the setbacks were doubled.

Sue said she didn't know what the original reasoning was, but it could have been because of the clustered nature of PUDs. There may have been a concern about the possibility of the scale of development being too close to property lines or roads.

Travis said that they looked at ways to modify the design to accommodate this variance, but the narrow lot makes it hard to make changes. The plan had been presented and approved and it would set them back substantially to change the layout at this point.

David said that one of the goals of the initial design was to take this piece of property that had previous uses and to utilize it in a new way without disturbing too much additional land. Making the spacing between the units smaller would reduce the quality of the space. The design they have presented continues to be the most practical and efficient way to provide this number of units and be compatible with the space and landscape.

Jo asked what the setback is from the garages on the west side of the plan and if the whole project could be shifted to the west. She said that tucking the garages up closer to the units such that the garages were accessed from the west would alleviate the need to have two driveways, and she felt like that would be more aesthetically appealing.

Sue said that they own the land to the west, and it is included in the development, so that setback is not an issue.

Travis felt that shifting the development to the west would compromise the integrity of the design. The design has not changed from what they presented in August.

Sue said that she asked the fire department to look at the plan, and they liked the layout and the looping driveway from a firefighting access perspective.

Wayne said that if the development was shifted to the west it would require moving the driveway which would destroy the screening in the infiltration corridor area. Also, shifting to the west would destroy the quality of the space – it would be too narrow. They have done a nice job of balancing what is being done on one side with the other side. The existing former restaurant structure is already out of compliance with the highway setback, so requiring that the new buildings meet the road setback doesn't make sense to him.

David said that the access road was intended to be wider than would be typically normal. It is 20 ft wide which provides space for maneuvering and for fire protection. If the development were moved, the road width would need to be reduced to 12 ft which would still be legal, but not necessarily desirable. As for placement of the structures, it is common sense to use the existing space and not disturb additional undeveloped land.

Wayne asked about the trees on the east side of the development. He assumes that a view is desirable. Will they be selectively cutting those trees?

Travis said that they and the neighbor, Dave Pearson, have agreed to work together to remove dead trees and invasive species, along with selective pruning. The goal is to maintain the tree line.

Public Testimony

Sue read submitted written comments from Mary Ann Sironen:

Dear Fellow Townsfolk,

I'm writing in support of the PUD, Kiviranta, proposed for the old Shorecrest/Nokomis property. The plans we saw look to be appropriate for our area and promise to greatly improve that property and the "neighborhood".

Although David Salmela's industrial looking design doesn't appeal to everyone, I think it's consistent with the name of the project....Rock Beach...and will become a showpiece along the North Shore.

The Erickson/Lewis people have already proven to be good neighbors as we have seen in their association with the Nokomis. It will be good to welcome them to our slice of the township.

Thank you for your continuing work with planning and zoning. It's much appreciated, however unsung your efforts may seem.

Best regards,
Mary Ann Sironen

She then read submitted written comments from Ann Jackson:

Dear Town of Duluth Planning Commission or To Whom It May Concern:

I have lived in the neighborhood of the proposed Kiviranta development for sixty years. After attending a previous meeting and presentation by Sandy and Rondi Lewis and their architect, David Salmela, I fully support this proposed development, and believe that its variances need to be approved, so that this project can move forward.

Kiviranta honors the character and spirit of the North Shore, keeps the existing footprint of the former Nokomis and Shorecrest developments, and most importantly, preserves the woods behind and between Kiviranta and the homes in our neighborhood. If Kiviranta is not approved, it seems likely that another developer would come in, cut down the trees in the woods, and build town homes throughout the entire site. In addition, David Salmela's designs are tasteful and unobtrusive and fit the North Shore, where a different development may not be so.

The Kiviranta development plan is an excellent use for this piece of property. Please approve the Lewis' requests for a variance and let Kiviranta move forward.

Thank you! Ann Jackson

Linda Ross Sellner spoke. She said that she lives in Duluth and is a public servant there. She has a degree in land use planning and serves on the Duluth Public Utilities Commission. She has also served on the Environmental Advisory Council. This is her area of expertise. She said that the Planning Commission does good things. She would like to see them continue the good work. She believes the variance should not be approved. It is not good for the environment, especially not for Lake Superior. She believes allowing this development would set a precedent for additional development on the North Shore.

Larry said that each variance is unique and one does not set a precedent.

Wayne Dahlberg made a motion that the variance from the SMU-6 Shoreland Overlay Exterior Setback Requirements for the road and side yard setbacks for Planned Unit Developments be approved because the planned development would be a vast improvement over the conditions that have existed on the site for many years. Existing structures are already out of compliance. And with the efforts the applicants have shown with stormwater control, the existing stormwater situation will be improved and there should be no additional issue with Lake Superior. The development will improve all aspects of the site. The owners inherited practical difficulties when they acquired the site.

In addition, the proposed variance is in harmony with the general purposes and intent of the Ordinance and is consistent with the Comprehensive Plan because the variance allows existing non-conforming lots and structures to maintain their current standards as they existed prior to the establishment of the ordinance codes. The proposed

variance is maintaining, replacing and enhancing what is currently there and will be keeping the property in good standards with the health, safety and welfare of the community.

The property owner proposes to use the property in a reasonable manner not permitted by the Zoning Ordinance. The plight of the property owner is due to circumstances unique to the property not created by the property owner because the proposed project redevelops a previously developed parcel of land that was under-utilized rather than developing a new greenfield (untouched / natural) site nearby. It repurposes a structure and infrastructure that already exist on site. Due to the narrow lot size, shifting the structure back to meet the 220 ft road setback and the 70 ft east side yard setback would significantly impede on the buildable area for the property and would require development of portions of the property that have been undeveloped. The proposed new structures will be significantly further back from the East Property Line than the existing cabin structures that will be removed.

The variance requested is a use that is allowed under the Zoning Ordinance.

Jo Thompson seconded.

The motion passed unanimously.

Hearing for Kiviranta PUD Final Plan

Sue reviewed the process for the Final Plan hearing. If the Final Plan is approved, it is also necessary to go through the criteria for the associated Conditional Use and then approve/deny the Conditional Use. Conditions can also be applied to the Conditional Use, if granted. The Lewis Group has submitted the following documents to meet the requirements for the Final Plan: Common Interest Community Declaration, Articles of Incorporation for Kiviranta Owners Association, Bylaws of Kiviranta Unit Owners Association, Rules and Regulations, Construction Specifications, and Stormwater Report. She will go through these.

Paul said that he saw that there is a Torrens registration application proceeding going on for this property and there appears to be an issue with the City of Duluth's interest in the property.

Rondi said that they have been working to put the two properties together. There is a question about who owns the portion of the narrow parcel that is on the other side of the Scenic Highway. When they purchased the property they were told that it was Congdon trust land, but the tax record maps show that they own it.

Paul asked if the southeasterly boundary line that they are platting from would change.

Sue pointed out that regardless of happens with that piece, it is not a part of the acreage that will be set aside for the conservation easement.

Sue briefly reviewed the site plans and the Stormwater Management Plan. Since the Preliminary Plan hearing they have taken soil borings, which show that there is adequate room before reaching bedrock to put in the proposed stormwater system.

Larry asked how deep the soil borings went before hitting bedrock.

Travis said that it varied between 9 and 11 ft. The proposed stormwater system does not go deeper than 8 ft. He said that the biggest change in the Stormwater Management Plan from the August presentation is more refinement and detail of the stormwater system and the addition of the curbs and gutters.

Paul asked if the MPCA has reviewed the SWPPP.

Travis said that the project engineer will be taking care of that.

Sue went through the Kiviranta Declaration, focusing on items that had been of concern at the open house or at the preliminary hearing. One of the concerns was about open space. Open space is required by the Ordinance to be permanent and in perpetuity. The attorney the Town engaged to review the papers, Jeffrey Westermann, did not find specifics related to this in the Declaration. In the Declaration, open space is referred to in Section 3.1f and in Section 7.15. Sue distributed a memo from Rondi that she received earlier in the day to address some of the concerns cited by Mr. Westermann (see attached). In it, Section 7.15 is revised to insert the following, if the Town desires.

7.15 (b) There shall be no construction, placement or maintenance of any structure upon the Open Space unless such structure is related to and compatible with the uses of the Open Space which this restriction is intended to protect or provide for.

7.15 (f) The Open Space restrictions set forth in this Section 7.15 shall be permanent, and, notwithstanding any provisions of this Declaration to the contrary, may not be modified or amended in any manner that does not comply with the Open Space Requirements set forth in Article XII, Section 14 or other applicable provisions of the Duluth Township Zoning Ordinance.

Also of note in the Declaration from Section 7 are that business use is restricted, rental of a unit is allowed but must be for a minimum of one year, and garages, driveways and parking areas may only be used by owners and guests and not converted to other uses.

Section 9 of the Declaration deals with maintenance and lists the items the Association will maintain. One of the possibilities discussed by the Commission at the Preliminary Plan hearing was requiring financial assurance for maintenance of the stormwater system. In his review, Mr Westermann suggested the Town require financial security for completion and performance of the stormwater system.

Travis said that the proposed stormwater system is a design that they have used numerous times. It is the same system that the engineers are putting in the Vikings stadium. The system requires routine inspection and cleanout of the catch basins. In the event of a heavy rain or flooding, an additional inspection and/or cleanout would be required. The engineers say that maintenance is likely to be required once a year or less and, if required, would be clean out by a vacuum truck. It will be a part of the Association Agreement that that costs will be covered by the Association.

Rondi said that there will be a fulltime salaried caretaker on the property as a part of the Association Agreement.

Sue read from the memo from the Lewis Group regarding stormwater management. The system has been installed in numerous locations and has operated without failure. There are no pumps or moving parts. The Town's attorney has said that the Town has a right to require financial assurance of completion and installation but the Lewis Group does not believe financial assurance should be required by the Town because they believe the risk that the system will be left uncompleted is low. They offer two methods for financial assurance should the Town choose to require it. Kiviranta will have a full-time caretaker who will perform inspections of the system at least four times a year. In addition, \$1000 a year will be set aside for vacuum maintenance of the system. In the unlikely event the Township will need to service the system, it will have the right to assess each property owner for the expense.

Paul asked why the Town would need a bond. Would the Town have an obligation to maintain the stormwater system if Kiviranta did not?

Jo said that the Township is required to oversee post-construction stormwater control. According to State law, if the owner doesn't do it, or the system fails, the Township is liable for it.

Rondi said that \$1000 will be assessed from the homeowners every year. The stormwater system is a simple system and there is not a lot that can go wrong with it. Her attorneys said that the Town has the right but is not obligated to require financial assurance. If for whatever reason the Kiviranta Association fails to maintain the system and the Township has to step in, it has the right to place an assessment against each of the eight property owners.

Sue said that there was a question regarding hunting at the preliminary plan hearing which is addressed in the Declaration.

Rondi said that in Section 7.15e it is stated that the common acreage will be signed no hunting.

Sue said that another thing the Commission should be aware of is that in Section 18 it states that the declarant (the Lewis Group) has the right to add additional real estate and units to a maximum of 12 units.

Rondi said that they own the adjacent 7 acre parcel and at one time they thought they might undertake a second phase and add those 7 acres and additional units to the development. She now doubts that they will do this, but wants to retain the language to allow for the possibility.

Paul said that one of his biggest concerns is that there is no final plat. No unit boundaries have been defined. He said that the exact acreage and delineation of the open space does not exist yet. The declaration refers to the plat but we don't have the plat. Because this is a final hearing, he felt that a final plat should be in place.

Rondi said that it is in process. They have the legal description of the two major pieces of land and the eight individual plats are in progress. She and Travis outlined the boundaries that are associated with each unit that they have asked to be surveyed. (See attached Photos 1 and 2.) The remaining acreage will then be owned in common.

Sue said that the corners of the open space are marked and the boundaries are marked on the ground. She suggested that the Commission could consider making it a condition that the PUD/CUP be approved based on a schematic diagram and that the final approval would be pending receipt of the survey.

Rondi said that their time line is to do the renovation of the existing building this fall and winter and begin construction of the units in the spring of 2016. Presale of the units would begin this fall. In order to sell these units they would have to have legal descriptions of them. She has surveyors working on it, but she has no idea when the County will complete its part once they have submitted the surveys.

Jo said that she is comfortable with the spatial concepts that have been presented.

Sue reviewed the bylaws of the Kiviranta Owners' Association. She then reviewed the Rules and Regulations. One thing to note is that short-term rental of the units will not be permitted.

The next item was the Stormwater Report. Approximately 2 acres will be disturbed for construction, so they will need an MPCA stormwater permit. They have calculated discharge rates for the site for a 1 inch 2-, 10-, and 100-year storm. These projections show substantial improvement in stormwater management over current conditions.

The next item was the Construction Specifications. Jo had gone through these and found a few instances where Duluth Township requirements are cited but the Township has no requirements in those instances. Section

334111 3.4E refers to a deflection test. The Township has no requirements for deflection tests and she did not find other standards for this test. Is there an ASTM standard they can reference?

Travis said that they can use the universal standard.

Jo continued. Section 331300 3.3C refers to Township requirements for watermain work and testing, but Duluth Township has no requirements, so it would be only the Department of Health. Section 331116 1.5A refers to quality assurance for site water utility distribution piping, but, again, the Town has no standards so it would revert to the State of Minnesota. Section 321216 1.6A refers to Township paving work requirements and the Town has no requirements for paving work. This would revert to MNDOT. So reference to Township requirements or standards should be removed from all of these.

It was agreed to remove these references.

Jo asked if once they get their MPCA stormwater permit, if some of the language in this document might change to comply with that permit.

Travis said that that would be the case.

Paul asked if the MPCA permit needed to be in place for approval of the Final Plan.

Sue said that the Ordinance says that the Final Plan would be approved subject to other regulatory required permits.

Jo said that only the PUD plan would be approved now. Land Use Permits would need to be applied for, approved and issued as well.

John asked what provisions there were for making alterations to the Declaration.

Rondi said that the Declaration cannot be amended. The Bylaws and the Association Agreement can be amended.

Public Testimony

Sue said that the two submitted written comments that she read into the record for the variance (see above) also apply to this part of the hearing.

Don Sitter said that one thing he was not aware of until tonight was the clause preserving the right to add additional real estate to the development. He said that he understood that the Lewis Group may not pursue it, but future owners might. He was concerned about the potential to add four additional units without adding more open space. That would be 50% more units without commensurate open space.

Sue said that to expand the PUD, they would have to go through the PUD process again.

Don asked why it needed to be in the Declaration if a new public process would be required in order to expand the development.

Rondi said that because the Declaration cannot be changed, if they created new units and wanted them to share in the open space, it would have to already be in the Declaration.

Sue read the requirements for approval of a PUD Final Plan from the Ordinance, Article XII Section 5.F.

- 1.** Before final approval of the Open Space Plan can be granted, the applicant shall have received approval from the Planning Director that the following documents demonstrate that adequate provisions have been developed, which preserve and maintain in perpetuity all open spaces and common facilities. This information shall include:
 - a.** Open space preservation: This includes all deed restrictions, covenants, permanent easements, public dedication and acceptance, or other equally effective and permanent means that have been used to ensure long-term preservation and maintenance of open space.
 - b.** Development organization and functioning: Unless an equally effective alternative community framework is established, when applicable, the plan shall identify for all residential planned unit developments the structure and bylaws of the owners' association. The association must have the following features:
 - (i)** Membership must be mandatory for each dwelling unit or site purchaser and any successive purchasers.
 - (ii)** Each member must pay a pro rata share of the association's expenses, and unpaid assessments can become liens on units or sites.
 - (iii)** Assessments must be adjustable to accommodate changing conditions.
 - (iv)** The association must be responsible for insurance, taxes, and maintenance of all commonly owned property and facilities.
- 2.** At the time of final application, planning, and scheduled development of the proposed facility shall be under unified control or ownership.
- 3.** The applicant will provide a detailed development plan to the Planning Commission that must include a detailed description of:
 - a.** The property under consideration, including property boundaries, contours, on-site features, roads, lakes, rivers, wetlands, rock outcroppings, wooded areas, and other relevant features. Property boundaries must be identified on-site by monuments, stakes or flags as described on the submitted plans.
 - b.** Building elevations, location on site, proposed uses, number of units, and commercial operations (for commercial applications).
 - c.** Parking areas and driveways for both residences and commercial activities, vehicle loading/unloading areas, proposed public road entrances, and projected traffic generation of the proposed development.
 - d.** Proposed phasing of the development.
 - e.** How the project will operate after completion.
 - f.** The nature of proposed ownership after completion.
 - g.** Proposed fire protection.
 - h.** Proposed homeowner and/or road association agreements, where applicable.
 - i.** Landscape plans including existing vegetation, proposed alterations, new plantings and landscaping that is consistent with shoreland alteration guidelines.
 - j.** Recreational space location and use.
 - k.** Open space.
 - l.** Water sources and water supply system plans.
 - m.** Proposed sewage treatment system plans.
 - n.** Stormwater runoff plans (construction and operation).
 - o.** Erosion control plan for shoreline, where applicable. Proposed public road entrances, and projected traffic generation of the proposed development.
- 4.** The applicant will also provide to the Planning Commission:
 - a.** Receipt of appropriate permits; County, State and Federal.
 - b.** Evidence of availability of necessary public utilities.
 - c.** Proposed financial plans and necessary performance bonds or escrow agreements to protect the Town's financial liability for site restoration, landscaping, erosion control measures, and sewage treatment systems.
 - d.** The property owners' association agreement (for residential PUDs) with mandatory membership, and all in accordance with the requirements of Minnesota law.
- 5.** Any other information deemed necessary by the Planning Commission will be provided by the applicant.
- 6.** The Planning Commission may require plan modifications or require special conditions or performance standards, including environmental review, as part of its approval of the project.

7. The proposed development plan will demonstrate that the development will conform with adjacent development and be screened from lakes, adjacent roads, and adjacent properties.

The requirements in item 1 are met with the addition to the CIC Declaration of 7.15 f, regarding open space, from the memo dated October 22 from the Lewis Group to Sue Lawson.

The requirement in item 2 is met.

Item 3.a is met subject to a completed Declaration containing the legal descriptions of the open space, the property in general, and the additional real estate, and a completed final CIC plat.

Requirements in 3.b and 3.c are met. For 3.d, Phase 1 will be the repurposing of the former restaurant space and Phase 2 will be the stormwater infrastructure and construction of the rest of the units.

Requirements in 3.e through 3.o are met.

For item 4.a, the Town's approval is subject to required permits from county, state and federal agencies as necessary. 4.b, c and d are met.

Requirements in 5, 6 and 7 are met.

Jo Thompson made a motion to approve the Final Plan because the proposal has met all of the requirements for approval of the Final Plan from Article XII Section 5.F.1-7 except for the following to be addressed by conditions:

Article XII Section 5.F.1.a is met with the addition on of 7.15.f of the Declaration as described by the memo submitted by the Lewis Group dated October 22, 2015: The Open Space restrictions set forth in this Section 7.15 shall be permanent, and notwithstanding any provisions of this Declaration to the contrary, may not be modified or amended in any manner that does not comply with the Open Space Requirements set forth in Article XII, Section 14 or other applicable provisions of the Duluth Township Zoning Ordinance.

Article XII Section 5.F.3.a is met subject to a completed Declaration containing the legal description of the open space, the property in general, and the additional real estate and a completed final CIC plat.

Article XII Section 5.F.4.a approval is subject to required permits from county, state and federal agencies as necessary.

For Article XII Section 5.F.6, remove references to Duluth Township requirements from Sections 334111 3.4.e, 331300 3.3.c, 331116 1.5.a, and 321216 1.6.a of the Construction Specifications for Kiviranta Planned Unit Development.

Larry Zanko seconded.

The motion was approved unanimously.

Sue read the reasoning for the approval of the CUP from the Findings of Fact from the August 23 Preliminary Concept Plan hearing:

1. The proposed eight unit residential Planned Unit Development is consistent with the Comprehensive Plan and the spirit of the Zoning Ordinance because it is considered an allowable use within the Zoning Ordinance and is similar to existing adjacent neighboring uses. The project also strives to redevelop a previously developed parcel of land that was under-utilized

rather than developing on a new untouched, natural site nearby. The development will strive to have the architecture of the buildings match the local vernacular. Buildings will be sited to minimize impact from the road and adjacent properties. Materials used for the development will meet local standards and ordinance requirements.

2. The proposed residential Planned Unit Development is compatible with the existing neighborhood because the adjacent neighboring properties consist primarily of mixed use residential and commercial; and the proposed eight single family condo units are similar in scale and size to other adjacent buildings in the area.

3. The proposed residential Planned Unit Development will not impede the normal and orderly development and improvement in the surrounding areas of uses permitted by right in the zone district. A new residential PUD is considered an acceptable Conditional Use and will blend in with the adjacent property uses. It will also help to improve property values adjacent to the development as the existing parcel is underutilized.

4. The proposed residential Planned Unit Development is consistent with the desirable pattern of development for the area. The development will strive to have the architecture of the buildings match the local vernacular. The new buildings will be positioned on site to maximize views of the lake while minimizing the impact of development along North Shore Drive.

5. The proposed residential Planned Unit Development complies with the wetland requirements of the Ordinance. To the best of our knowledge, no wetlands exist on or adjacent to the proposed development areas of the property.

6. The proposed total amount of impervious surface would be significantly less than the allowable 25% max total for this zoning district.

7. Topography, vegetation and soil conditions are adequate to accommodate the proposed residential Planned Unit Development. The development strives to utilize and redevelop an existing portion of property that had been previously developed and was under-utilized. This area has the least impact on these natural features.

8. The proposed residential Planned Unit Development will not impact public waters and/or wetlands during or after construction. Best Management Practices will be utilized for the storm water management and design. Preliminary Stormwater plans have been developed as part of this submitted application and will be utilized throughout the project development.

9. There are adequate utilities, access, drainage, stormwater retention, and supporting facilities provided or are being provided backed by appropriate financial assurance. The proposed residential Planned Unit Development will seek to utilize the existing utilities on site. Drainage and stormwater retention have been incorporated into our proposed storm water management plans for the project.

10. The proposed residential Planned Unit Development will not create any potential health or safety issues. Lighting, signage will be minimal. We do not anticipate any noise or visual problems with the proposed development.

11. The proposed development utilizes an existing parcel of the property that was previously developed with direct access to Lake Shore Drive. We do not anticipate the need for any additional future roads for access.

12. The proposed residential Planned Unit Development will not increase or affect the demand for public services. The development utilizes an existing parcel of the property that was previously developed with direct access to Lake Shore Drive limiting the needs for public services to have to extend into the site any further. The planned 8 units are consistent with adjacent land uses nearby and seek to utilize existing infrastructure already on site.

The Commission agreed that all of these criteria for the Conditional Use are still true and nothing needs to be added

John Schifsky moved that the Conditional Use as approved at the Preliminary Concept Plan hearing is still valid and that all of the required criteria for the Conditional Use were met.

Jerry Hauge seconded.

The motion was approved unanimously.

End of Public Hearing

A break was taken while the Findings of Fact were prepared.

The Commission reviewed the Findings of Fact for the variance. Jo moved to approve the variance Findings of Fact. John seconded. The variance Findings were approved unanimously.

The Commission reviewed the Findings of Fact for the Final Plan and CUP. Jo moved to approve the Final Plan/CUP Findings of Fact. John seconded. The Final Plan/CUP Findings were approved unanimously.

The minutes from September were approved as submitted.

Director's Report

Sue said that the open house and dedication for the new addition will be on November 14 at 1 pm. Every one is invited.

There will be no hearing on the gallery home-based business in November. It may be in January. This person also has an Airbnb at the same location, so Sue will meet with him to discuss this. She asked the Commission if he decides to move forward with both the gallery and a short-term rental or bed and breakfast, would the area of impact be the same? The Commission said that it would be.

Sue said that she and Jo and John Schifsky would be writing an article for the newsletter on the new Stormwater Ordinance.

New Business None

Old Business

The next trails planning meeting will be on October 26. The open house was attended by 6 or 7 people and the Committee got good input. At the October 26 meeting, James Gittemeir will have the proposed trail plan. The Commission will review the trails plan and make a recommendation to the Town Board at the November meeting.

Jo asked about off road trails.

Sue said that from the school to the Expressway was off road and Homestead Rd from the Town Hall to the Expressway would be off road. For east-west routes, from the Town Hall to the school would be to go up Shilhon Rd and then south on the Bergquist Rd to the Lismore Rd where it would become an off road trail to the school. Another suggestion was to have an off road trail from the north side of the school, across Ryan Rd up to the Paul Rd over to the McQuade Rd. Another alternative was after the Paul Rd to follow the Shilhon Rd back to the Town Hall. Another possibility for an east-west trail would be on the Old North Shore Road, replacing the bridges over the Sucker River and right before the Ryan Rd. The last option was to go down the Shilhon Rd, over a bridge over the Knife River, connect with East Shilhon Rd down to Knife River, which is out of the Township. From Ryan Rd after crossing the Expressway, there would be a wide shoulder trail on the east side of Ryan Rd. The bottom line is that if you don't have a trails plan, it is hard to pursue funding.

There will also be a proposal for signage and mileage/distance markers.

Sue thanked everyone for their work on the PUD.

Concerns from the Audience None

The meeting adjourned at 11:25.

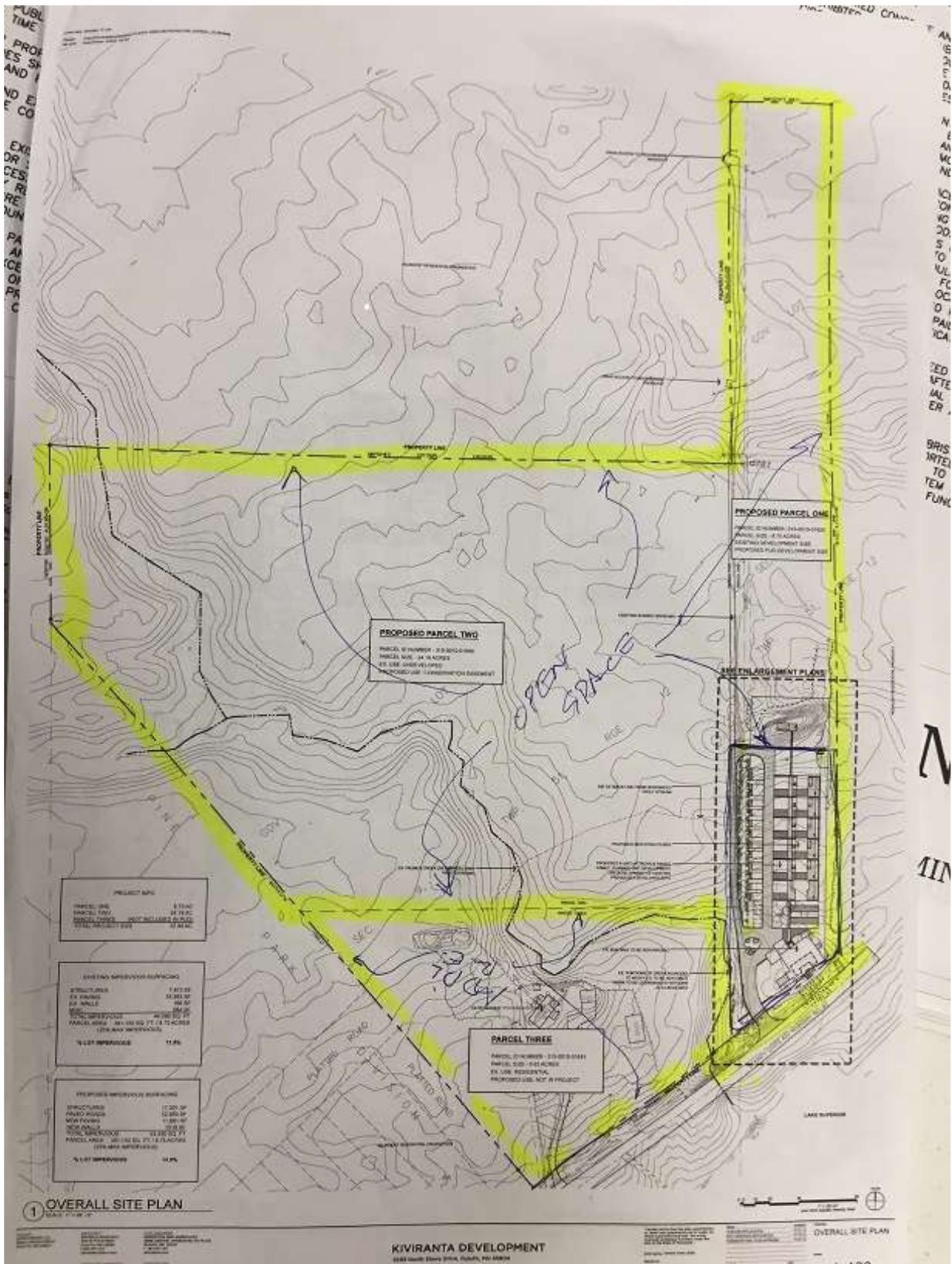


Photo 1



Photo 2

Rondi Erickson Memo Attachment